San Luis Obispo Council of Governments

Regional Housing Needs Plan

June 2013
Methodology Committee

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Housing Authority of San Luis Obispo ...................................... Scott Smith
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## SLOCOG 2013 Regional Housing Need Plan

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</table>

## Appendix

California State Government Code Sections 65580 - 65589
Regarding Housing Elements and Regional Housing Needs
Regional Housing Needs Plan

Summary

The San Luis Obispo Council of Governments (SLOCOG) Regional Housing Needs Plan (RHNP) establishes numerical targets for the development of housing units in each of its member jurisdiction’s state-mandated Housing Element updates. The total number of units required to be allocated by SLOCOG are based upon the California State Department of Housing and Community Development (HCD) Regional Housing Need Allocation of 4,090 housing units for the SLOCOG region - covering the 2014 through 2019 time frame. Each of the seven incorporated cities and the County of San Luis Obispo unincorporated area are required to update their Housing Element to accommodate adequate general plan capacity and zoning capacity for their respective allocation by income category prior to June 30, 2014 (See Table A).

Each jurisdiction is required to integrate the housing unit distribution numbers in the Housing Element update of their General Plan in order to accommodate their “fair share” of anticipated future housing demand. The ‘Unincorporated’ allocation is applied throughout the rural and unincorporated urban areas – some of which are more populated than incorporated cities.

Table A
Draft RHNA Allocation
Housing Need Allocation by Income Level:
Jan 1, 2014 - June 30, 2019 (5.5 years)

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Very Low</th>
<th>Low</th>
<th>Moderate</th>
<th>Above Moderate</th>
<th>Total Allocation</th>
<th>Percent Share</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arroyo Grande</td>
<td>24.9%</td>
<td>15.6%</td>
<td>17.6%</td>
<td>41.8%</td>
<td>242</td>
<td>5.9%</td>
</tr>
<tr>
<td>Atascadero</td>
<td>24.9%</td>
<td>15.6%</td>
<td>17.6%</td>
<td>41.8%</td>
<td>393</td>
<td>9.6%</td>
</tr>
<tr>
<td>Grover Beach</td>
<td>24.9%</td>
<td>15.6%</td>
<td>17.6%</td>
<td>41.8%</td>
<td>166</td>
<td>4.0%</td>
</tr>
<tr>
<td>Morro Bay</td>
<td>24.9%</td>
<td>15.6%</td>
<td>17.6%</td>
<td>41.8%</td>
<td>154</td>
<td>3.8%</td>
</tr>
<tr>
<td>Paso Robles</td>
<td>24.9%</td>
<td>15.6%</td>
<td>17.6%</td>
<td>41.8%</td>
<td>492</td>
<td>12.0%</td>
</tr>
<tr>
<td>Pismo Beach</td>
<td>24.9%</td>
<td>15.6%</td>
<td>17.6%</td>
<td>41.8%</td>
<td>152</td>
<td>3.7%</td>
</tr>
<tr>
<td>San Luis Obispo</td>
<td>24.9%</td>
<td>15.6%</td>
<td>17.6%</td>
<td>41.8%</td>
<td>1,144</td>
<td>28.0%</td>
</tr>
<tr>
<td>Unincorporated</td>
<td>24.9%</td>
<td>15.6%</td>
<td>17.6%</td>
<td>41.8%</td>
<td>1,347</td>
<td>32.9%</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>1020</strong></td>
<td><strong>640</strong></td>
<td><strong>720</strong></td>
<td><strong>1710</strong></td>
<td><strong>4,090</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

State law requires SLOCOG to follow a set of guidelines in preparing the Regional Housing Needs Plan. Guidelines come from two primary sources: (1) HCD who sets a housing need planning target for the region, and (2) State law, which provides guidelines on how to consider the allocation of the region’s housing need among jurisdictions (Government Code, Sections 65584 et seq – See Attachment A).
SLOCOG recognizes the importance of creating more housing opportunities for the lower end of the income-earning spectrum. The SLOCOG RHNP seeks to increase the housing supply and the mix of housing types, tenure, and affordability within the region in an equitable manner by using an adopted formula (See Table C). The RHNP formula’s 60/40 weighting toward employment centers promotes improved intraregional relationship between jobs and housing, the encouragement of efficient development patterns, infill development, the protection of environmental and agricultural resources, and socioeconomic equity.

Housing need has been allocated to the very-low and low income categories at about 40% of all units for each agency. The ability of member jurisdictions to meet the need for very low and low income units is clearly the most challenging aspect of the plan. The attractive communities along the Central Coast are in high demand for both student and retirement housing that ‘outcompetes’ most local employment for available housing stock. High land, construction and development fees provide significant hurdles to the provision of affordable housing.

**MAJOR CONSIDERATIONS**

SLOCOG has not yet adopted a Sustainable Communities Strategy (SCS) per SB 375 (Chapter 728, Statutes of 2008). SB 375 changes housing element law to synchronize the schedule and develop common land use assumptions for regional housing and transportation planning that requires the RHNA to conform to the SCS. The SCS will be incorporated into the 2014 Update of the RTP.

In December of 2010 SLOCOG did adopt a *Regional Transportation Plan and Preliminary Sustainable Communities Strategy* (2010 RTP-PSCS) that seeks to more closely integrate transportation planning and programming with land use decisionmaking as envisioned under SB 375. The allocation of units in this RHNP is intended to increase the housing supply and the mix of housing types, tenure, and affordability in all jurisdictions within the region in an equitable manner. About forty percent of each jurisdiction’s unit allocation is assigned for low and very-low income households which are primarily located in the Target Development Areas delineated in the SLOCOG 2010 RTP-PSCS.

The RHNP, in conjunction with the 2010RTP/PSCS will promote infill development and support socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns by supporting each jurisdiction in their development of the Target Development Areas within the region.

The equitable distribution of the projected housing need will help promote an improved intraregional relationship between jobs and housing. The need for more affordable housing in all jurisdictions in the region continues to be a problem. High demand for second homes, vacation rentals and retirement living compete with the need for units that serve individuals and families with limited incomes. While this has continually been a problem for the visitor serving and agricultural sectors, it has become increasingly difficult to provide and maintain an adequate housing stock that supports housing that is affordable for workforce housing serving small manufacturing, retail and other employees. The allocation formula is shown as follows:
### Table B

**Draft SLOCOG 2012 Regional Housing Need Allocation Formula**

(60 % Employment and 40% Population Based Formula)

<table>
<thead>
<tr>
<th>Employment</th>
<th>Population</th>
<th>Jurisdiction</th>
<th>Employment Share</th>
<th>Regional Housing Need</th>
<th>Unadjusted %</th>
<th>Vacancy Factor</th>
<th>Vacant Units Not Absorbed</th>
<th>Total Need</th>
<th>% Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>5,200</td>
<td>17,252</td>
<td>Arroyo Grande</td>
<td>5.5% X 0.6</td>
<td>4,090</td>
<td>241.8</td>
<td>8</td>
<td>242</td>
<td>5.9%</td>
<td></td>
</tr>
<tr>
<td>6,400</td>
<td>28,310</td>
<td>Atascadero</td>
<td>9.0% X 0.6</td>
<td>4,090</td>
<td>393.3</td>
<td>13</td>
<td>393</td>
<td>9.6%</td>
<td></td>
</tr>
<tr>
<td>3,250</td>
<td>13,156</td>
<td>Grover Beach</td>
<td>3.4% X 0.6</td>
<td>4,090</td>
<td>165.5</td>
<td>5</td>
<td>166</td>
<td>4.0%</td>
<td></td>
</tr>
<tr>
<td>3,500</td>
<td>10,234</td>
<td>Morro Bay</td>
<td>3.7% X 0.6</td>
<td>4,090</td>
<td>154.4</td>
<td>5</td>
<td>154</td>
<td>3.8%</td>
<td></td>
</tr>
<tr>
<td>11,800</td>
<td>28,793</td>
<td>Paso Robles</td>
<td>12.2% X 0.6</td>
<td>4,090</td>
<td>492.0</td>
<td>16</td>
<td>492</td>
<td>12.0%</td>
<td></td>
</tr>
<tr>
<td>4,000</td>
<td>7,655</td>
<td>Pismo Beach</td>
<td>4.30% X 0.6</td>
<td>4,090</td>
<td>151.9</td>
<td>5</td>
<td>152</td>
<td>3.7%</td>
<td></td>
</tr>
<tr>
<td>33,000</td>
<td>45,119</td>
<td>San Luis Obispo</td>
<td>35.4% X 0.6</td>
<td>4,090</td>
<td>1144.1</td>
<td>37</td>
<td>1144</td>
<td>28.0%</td>
<td></td>
</tr>
<tr>
<td>69,150</td>
<td>151,519</td>
<td>Incorporated Area</td>
<td>74.31% X 0.6</td>
<td>4,090</td>
<td>2743.0</td>
<td>88</td>
<td>2743</td>
<td>67.1%</td>
<td></td>
</tr>
<tr>
<td>23,900</td>
<td>118,118</td>
<td>SLO County Unincorporated Area</td>
<td>25.69% X 0.6</td>
<td>4,090</td>
<td>1347.0</td>
<td>43</td>
<td>1347</td>
<td>32.8%</td>
<td></td>
</tr>
<tr>
<td>93,050</td>
<td>269,637</td>
<td>County Total</td>
<td>100%</td>
<td>4090</td>
<td>100%</td>
<td>131</td>
<td>131</td>
<td>100%</td>
<td></td>
</tr>
</tbody>
</table>

Note that the overall Vacancy Factor is included in the allocation from HCD

(Estimated as Homeowner Vacancy Adjustment – 1.8% and Rental Vacancy Adjustment – 5.0%)

### Table C

**Population and Employment Data**

<table>
<thead>
<tr>
<th>San Luis Obispo County</th>
<th>Population</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residents</td>
<td>%</td>
</tr>
<tr>
<td>Arroyo Grande</td>
<td>17,252</td>
<td>6.40%</td>
</tr>
<tr>
<td>Atascadero</td>
<td>28,310</td>
<td>10.50%</td>
</tr>
<tr>
<td>Grover Beach</td>
<td>13,156</td>
<td>4.88%</td>
</tr>
<tr>
<td>Morro Bay</td>
<td>10,234</td>
<td>3.80%</td>
</tr>
<tr>
<td>Paso Robles</td>
<td>29,793</td>
<td>11.05%</td>
</tr>
<tr>
<td>Pismo Beach</td>
<td>7,655</td>
<td>2.84%</td>
</tr>
<tr>
<td>San Luis Obispo</td>
<td>45,119</td>
<td>16.73%</td>
</tr>
<tr>
<td>Incorporated Area</td>
<td>151,519</td>
<td>56.19%</td>
</tr>
<tr>
<td>SLO County Unincorporated Area</td>
<td>118,118</td>
<td>43.81%</td>
</tr>
<tr>
<td>County Totals</td>
<td>269,637</td>
<td>100.00%</td>
</tr>
</tbody>
</table>
SLOCOG PRINCIPLES FOR DEVELOPING HOUSING POLICY

Jobs / Housing Balance - People should have a reasonable opportunity to live close to where they work and each urban area should strive to achieve a better balance between housing and jobs; projects that are appropriately sited and seek to improve that balance should be encouraged through redesigned and efficient planning and development processes.

Permit Streamlining - Local, state and federal agencies should eliminate redundant policies and practices that are found to be obstacles to the production of appropriately located affordable housing, consistent with sound infill development opportunities and environmentally sensitive areas.

Mixed-Use Development - Support appropriately located mixed-use projects that encourage efficient transportation services and walkable communities.

Urban Limits - Urban areas should be efficiently developed within their respective boundaries. Support should be provided to agencies for the redevelopment of underutilized areas that can provide additional housing or employment opportunities that minimize the demands placed upon outlying agricultural or open space areas.

Wildlife/Environmental Sensitivity - Preserve and restore natural areas and open spaces in conjunction with efforts to provide appropriate housing and economic development in a manner that respects significant wildlife habitat, conserves land and preserves natural resources.

Social Equity: Housing for All Incomes and Age Levels - The long-term health of our economy and quality of life depends on maintaining a diverse population composed of a balance of income and age groups. A mixed housing stock addressing the range of housing options within communities provides the opportunity for diversity of age, lifestyle and incomes for residents.

Higher Density/Multi-Family Design - Good design is critical to community acceptance of higher density projects. Provide support for the development of design guidelines that presents attractive higher density affordable housing, which promotes responsible, efficient, and compact development to facilitate the preservation of open space.

Financing Mechanisms - Support the Affordable Housing Trust Fund as a vehicle to secure needed funds to assist in developing housing and to qualify for state matching funds. Affordable or workforce housing receiving public subsidies should be subject to restrictions that keep the housing affordable for an extended period of time or return some portion of the incremental gain in value for reinvestment in additional housing opportunities.

Regional Cooperation - Agencies (federal, state, regional and local) should work cooperatively to address the housing and development needs of the community as a whole in a manner that recognizes the common needs of the populace and the impacts to the environment.
Table D shows the methodology used by HCD to calculate the housing need for the region. It uses a RHNA Projection Period of January 1, 2014 to June 30, 2019: The start of the RHNA projection period (in effect January 1, 2014) was determined pursuant to GC 65588(e)(6), which requires the new projection period to start on June 30 or December 31 that most closely precedes the end of the current housing element period, which for the SLOCOG region is June 30, 2014. The end of the projection period was determined pursuant to GC 65588(e)(5) to be the end of the housing element planning period.

The Housing Element Planning Period of June 30, 2014 to June 30, 2019 was determined pursuant to GC 65588(e)(3)(B) and 65588 (f)(1) as a 5-year period between the due date for one housing element and the due date for the next housing element.

### Table D

<table>
<thead>
<tr>
<th>HCD Determined Population, Households, &amp; New Housing Need: January 1, 2014-June 30, 2019 (5.5 years)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SLOCOG Population: June 30, 2019 (SLOCOG)</strong></td>
</tr>
<tr>
<td><strong>less: Group Quarters Population Census 2010 estimate</strong></td>
</tr>
<tr>
<td><strong>Household (HH) Population June 30, 2019</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Household Formation Groups</th>
<th>2019 HH Population (2010 Census)</th>
<th><strong>HH Formation or Headship Rate</strong> (2010 Census)</th>
<th>2019 Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Age Groups (DOF)</td>
<td>267,093</td>
<td></td>
<td>108,772</td>
</tr>
<tr>
<td>Under 15</td>
<td>47,573</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15 - 24 years</td>
<td>34,682</td>
<td>18.22%</td>
<td>6,320</td>
</tr>
<tr>
<td>25 - 34 years</td>
<td>35,071</td>
<td>42.12%</td>
<td>14,770</td>
</tr>
<tr>
<td>35 - 44 years</td>
<td>28,910</td>
<td>51.00%</td>
<td>14,744</td>
</tr>
<tr>
<td>45 - 54 years</td>
<td>26,213</td>
<td>53.77%</td>
<td>14,095</td>
</tr>
<tr>
<td>55 - 64 years</td>
<td>39,533</td>
<td>58.56%</td>
<td>23,150</td>
</tr>
<tr>
<td>65 - 74 years</td>
<td>32,856</td>
<td>61.39%</td>
<td>20,172</td>
</tr>
<tr>
<td>75 - 84 years</td>
<td>15,892</td>
<td>68.34%</td>
<td>10,860</td>
</tr>
<tr>
<td>84+</td>
<td>6,363</td>
<td>73.26%</td>
<td>4,662</td>
</tr>
</tbody>
</table>

| **Projected Households-June 30, 2019** | 108,772 |
| **less: Households at Beginning of Projection Period (January, 2014, interpolated)** | 104,701 |

### Household Growth: 5.5 Year Projection Period

<table>
<thead>
<tr>
<th><strong>Vacancy Allowance</strong></th>
<th>Owner</th>
<th>Renter</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenure Percentage per 2010 Census</td>
<td>59.72%</td>
<td>40.28%</td>
<td></td>
</tr>
<tr>
<td>HH Growth by Tenure</td>
<td>2,431</td>
<td>1,640</td>
<td>4,071</td>
</tr>
<tr>
<td>Healthy Vacancy Rate</td>
<td>2.00%</td>
<td>5.00%</td>
<td></td>
</tr>
<tr>
<td>Vacancy Allowance</td>
<td>49</td>
<td>82</td>
<td>131</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Replacement Allowance (minimum)</th>
<th>0.50%</th>
<th>4,201</th>
<th>21</th>
</tr>
</thead>
</table>

| **Replacement Allowance (minimum)** | 4,223 |

### Less: Adjustment for Absorption of Existing Excess Vacant Units

<table>
<thead>
<tr>
<th>Estimate 80% Absorbed, 20% Not Absorbed by 2014</th>
<th>Effective Vacant Units</th>
<th>Healthy Market Units</th>
<th>Differential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Derived (2010 Census, HH Growth, &amp; Vacancy Rate)</td>
<td>(3,735)</td>
<td>3,444</td>
<td>-292</td>
</tr>
<tr>
<td>Total 2012 Housing Stock</td>
<td>118,075</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Existing Vacant Unit (Others) Adjustment</td>
<td>1.57%</td>
<td>1.27%</td>
<td></td>
</tr>
<tr>
<td>Total Adjusted Existing Vacant Units (Others)</td>
<td>(1,856)</td>
<td>1,500</td>
<td>-356</td>
</tr>
<tr>
<td>Estimated Vacant Units Not Absorbed by 2014</td>
<td>20%</td>
<td>-648</td>
<td>-130</td>
</tr>
</tbody>
</table>

(Rounded down by HCD) **REGIONAL HOUSING NEED DETERMINATION** | 4,090
Notes regarding Table E:

1. Population: Pursuant to Government Code Section 65584.01(b) and in consultation with the council of government, June 30, 2019 population projection was extrapolated based on Department of Finance (DOF) Interim Projections published in May 2012 for July 2020 and July 2015, and DOF’s E5 estimate for January 2012.

2. Group Quarter Population: Figure is an estimate of persons residing either in a group home, institution, military, or dormitory using 2010 Census data for group quarters. As this population doesn’t constitute a "household" population generating demand for a housing unit, the group quarter population is excluded from the calculation of the household population, and is not included in the housing need.

3. Household (HH) Population: The portion of population projected to reside in housing units after subtracting the group quarter population from total projected population.

4. Projected 2019 Households (HHs): The June 2019 number of households is derived by applying (to 2019 HH population) household formation rates calculated based on 2010 Census, as provided by DOF. HH formation or headship rates reflect the propensity of different population groups (age, racial and ethnic) to form households.

5. Households at Beginning of Projection Period: The baseline number of households at the beginning of the projection period (January 2014) must be projected, as a direct effect of amendment to Section 65588(e)(6) specifying the new projection period to start on either June 30 or December 31 whichever date most closely precedes the end of the current housing element period (June 30, 2014 for the county). As such, the 2014 household number was calculated based on 2014 population as an interpolation between DOF’s E5 2012 estimate of households and the DOF’s 2015 projected population.

6. Household (HH) Growth: This figure reflects projected HH growth and need for new units.

7. Vacancy Allowance: An allowance (unit increase) is made to facilitate availability and mobility among owner and renter units. Owner/Renter % is based on Census 2010 data. A smaller rate is applied to owner units due to less frequent mobility than for renter households. Information from a variety of authoritative sources supports an acceptable range of 1 to 4% for owner units and 4 to 8% for renter units depending on market conditions.

8. Replacement Allowance: Rate (0.5%) reflects the average housing losses that localities annually reported to DOF each January for years 2002-2011 multiplied by the number of years in the projection period (5.5), or 0.5%, whichever is higher.

9. Adjustment for Absorption of Existing Excess Vacant Units: For this RHNA cycle only (due to extraordinary uncertainty regarding conditions impacting the economy and housing market not expected to similarly impact future RHNA cycles), a new one-time adjustment was made to account for unprecedented high vacancies in existing stock due to unusual conditions including high foreclosures and economic uncertainties. An absorption rate of 80% of existing excess vacant units is assumed to occur in shrinking current excess vacant units before the start of the 2014 RHNA projection period. This results in applying a 20% adjustment to account for units not absorbed, reflected in a downward adjustment of (-130). In general, existing vacant units in housing stock consists of two components: (1) housing units for sale and rent in existing housing stock that are above the housing units required to maintain the healthy market condition, calculated as the number of units in housing stock (for sale + for rent + sold, not occupied rented, not occupied + occupied units), (2) housing units in the "vacant units others" category of existing housing stock above the simple average of 1.27% calculated based on Census data from 2000 and 2010. The Department used 2010 Census Demographic profile data (DP-1) and desirable "normal" vacancy rates by tenure, in conjunction with the region's household growth and proposed household formation rates. The vacancy adjustment is limited to not exceed the differential between the 2010 Census vacant units and the healthy market vacant units rate associated with the region's annual household growth. As the adjustment was below the differential, the adjustment was applied in calculating the RHNA determination.
POLICY FOR RHNP REDISTRIBUTION UPON ANNEXATION OR INCORPORATION

In the event of annexation or incorporation of new jurisdictions during the planning period of this RHNP, provision needs to be made for the redistribution of housing needs. The following policy establishes the conditions and process for any such redistribution:

1. Filing of Application for Annexation or Incorporation
   Upon receipt of notice of filing from LAFCO of a proposed annexation or incorporation, the county will notify SLOCOG of the proposal and resulting need for a redistribution of housing needs between the county and applicant jurisdiction.

2. Discussion with Annexing/Incorporating City
   During the course of the annexation/incorporation process, the affected county will negotiate in good faith between the annexing/incorporating city and the county the RHNP allocations to be redistributed. There cannot be a net reduction in the RHNP allocations within the county. This means that the total number of housing units by income category accepted by the applicant jurisdiction, plus the remaining number of units by income category attributable to the donor county, shall not be less than the original number of units by income category originally allocated to the county by the RHNP. Other than satisfying this requirement, the affected county and annexing/incorporating city may negotiate any redistribution of housing need that is mutually acceptable.

3. SLOCOG Mediation
   If, after negotiating in good faith, both the county and annexing/incorporating city cannot reach a mutually acceptable redistribution of housing need, either jurisdiction may request that SLOCOG mediate the redistribution of housing need. The purpose of such mediation will not be for SLOCOG to actually redistribute the housing need between the two affected jurisdictions, but to achieve mutually acceptable redistribution through negotiation. If, after mediation by SLOCOG, the affected county and annexing/incorporating city still cannot reach a mutually acceptable redistribution of housing needs, the matter will be referred to HCD.

4. Annexation/Incorporation Conditions
   The county and the annexing/incorporating city will jointly draft conditions covering the transfer of RHNP allocations from the county to the annexing/incorporating city. The county will request that the RHNP conditions are included in the LAFCO resolution approving the annexation/incorporation.

5. LAFCO Imposition of Conditions
   LAFCO imposes the proposed RHNP conditions in the resolution approving the annexation and/or incorporation.

6. Transfer of RHNA Allocations
   RHNP allocations will be transferred from the county to the city as specified in the LAFCO resolution.

7. Housing Elements
   7a. County Housing Element
   The County’s Housing Element should describe assumptions, conditions, and implications of any change in RHNP assumptions resulting from an annexation/incorporation. Following the effective date of an approved annexation/incorporation, the county may amend its Housing Element to reflect the change in RHNP allocations.

   7b. City Housing Element Amendment (annexation)
   If the annexation and accompanying redistribution of RHNP allocations between affected jurisdictions occurs after the statutory housing element amendments have been adopted, any city general plan amendment accompanying an annexation must include amendment of the city’s housing element to reflect that change.
7c. City Housing Element (incorporation)
If the incorporation and accompanying redistribution of RHNP allocations between affected jurisdictions occurs after the statutory housing element amendments have been adopted, the new city will include the RHNP transfer in the housing element adopted for the new community.

8. State HCD Review
The transfer of RHNP allocations for annexations or incorporations pursuant to this policy is subject to the review and approval of HCD prior to the implementing action.

APPEALS CRITERIA AND PROCESS

Under State law, jurisdictions are given an opportunity to comment on, and propose revisions to, their share of the RHNP within 90 days of adoption. According to the government code, any revision must meet the test of accepted methodology, readily available data, and be consistent with State-identified criteria for the RHNP.

Accordingly, appeals will not be considered by SLOCOG unless they meet the following criteria:
1. The appeal must be received within 90 days of SLOCOG Board adoption of the Draft RHNP. SLOCOG strongly encourages jurisdictions intending to appeal to submit well in advance of the deadline.
2. The appealing jurisdiction must provide evidence that:
   a) The RHNP methodology was incorrectly applied in determining the jurisdiction’s targets; or
   b) SLOCOG used incorrect or faulty numbers in determining their allocation targets.
3. Appeals must be submitted by an authorized signatory:
4. A contact person must be identified. This person should be able to respond to SLOCOG staff regarding the documentation pertinent to the appeal.

As stated previously, under State law, existing zoning ordinances, policies, building standards and other land use regulations cannot be used by local jurisdictions as a justification for a request to reduce their RHNP housing allocation targets. The only exception is in cases where a moratorium on residential construction is legally imposed for a specified period of time to preserve and protect the public health and safety that would constrain the projected housing need.

Following the end of the 90-day revision request period, SLOCOG is required to take action on any requested revision within 60 days. The SLOCOG Board will hear all appeals. SLOCOG staff will make a recommendation to the Board on the technical merits of the appeal. SLOCOG may accept the proposed revision, modify its earlier determination, or indicate, based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the regional housing need.

If the SLOCOG Board does not accept the proposed revision, then the requesting jurisdiction has 30 days to request a public hearing to review the housing allocation targets in question. SLOCOG then has 30 days to notify the requesting jurisdiction of at least one public hearing. The date established for such hearing must be within 30 days following this notification.

If, as a result of this process, SLOCOG accepts a proposed revision or modifies its earlier determination, the city or county shall use that share. If SLOCOG grants a revised allocation, it must still ensure that the current total regional housing need, as allocated by HCD, is maintained. This means that if one jurisdiction’s allocation changes, one or more other allocations must also change to insure the total regional allocation and distribution by income group remains the same. If SLOCOG determines that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by SLOCOG.
The “household income levels” are as determined by the most recent decennial census pursuant to the following code sections:

2. Lower incomes, as defined by Section 50079.5 of the Health and Safety Code.
3. Moderate incomes, as defined by Section 50093 of the Health and Safety Code.
4. Above moderate incomes are those exceeding the moderate-income level of Section 50093 of the Health and Safety Code.

**GEOGRAPHY**

The SLOCOG RHNP applies to the seven incorporated cities and the unincorporated area shown on the map in Figure 1.

**Figure 1**

Map of San Luis Obispo County
KEY CONCEPTS

When using this plan, it is important to keep in mind what the intention of the RHNP is, and is not. There are four key concepts underlying the entire RHNP process that need to be clearly understood.

1. The allocations are intended to be used by jurisdictions when updating their housing elements as the basis for assuring that adequate sites and zoning are available to accommodate at least the number of units allocated. They are not housing unit quotas that jurisdictions must achieve within the time frame of their next housing element update.

   Many jurisdictions, as well as other groups having an interest in affordable housing issues, sometimes view the housing allocations as a numerical quota that must be achieved. This is not the intent of the process, nor is it what the California State Department of Housing and Community Development (HCD) is looking for when reviewing local housing elements. The State recognizes that the provision of affordable housing is largely market-driven, and that funding, subsidies and other incentives to provide affordable housing are very limited. One of the few major tools available to local jurisdictions to influence the development of affordable housing is the power to regulate land use. Thus, breaking down development barriers, such as exclusionary zoning and growth controls, are some of the major goals of State law in the housing arena.

2. The regional allocations only address a portion of each jurisdiction’s local housing needs under the provisions of State housing law.

   The primary goal of the RHNP is to quantify each jurisdiction’s responsibility for accommodating its fair share of the regional housing need. The RHNP does not address all of the local housing needs of each jurisdiction, just the share of the regional new housing construction need. Other local needs must also be addressed in each jurisdiction’s housing element, such as housing overpayment and overcrowding, housing preservation, and the housing needs of farmworkers, students and other special-needs groups. Local needs may be greater than the regional need for one or more income categories. For example, higher than projected replacement housing needs, the loss of affordable rental housing, or local employment trends not anticipated by SLOCOG may create new housing construction needs greater than the regional allocations.

   Jurisdictions should try to ensure that adequate sites and zoning are available to accommodate whichever need is the greatest within each household income category. In addition, localities should provide more definition of their need numbers by determining housing needs by type of dwelling unit and the housing requirements of special needs groups. The RHNP indirectly deals with housing affordability by providing a starting point from which jurisdictions can ensure that adequate sites and zoning are available to accommodate their regional allocations for very low and low-income households. The RHNP does not directly assess housing affordability within each jurisdiction and the RHNP does not address the rent or mortgage payment that is affordable to households in each of the four income categories. The responsibility for assessing local housing affordability rests with each jurisdiction as part of its housing element.
3. Under state law, existing zoning ordinances, policies, building standards and other land use regulations cannot be used by local jurisdictions as a justification to reduce their RHNP housing allocation targets.

Government Code Section 65584 (d) of regional housing allocation law states that:

“(1) Except as provided in paragraph (2), any ordinance, policy, or standard of a city or county that directly limits, by number, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots that may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(2) Paragraph (1) does not apply to any city or county that imposes a moratorium on residential construction for a specified period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision pursuant to subdivision (c), adopt findings that specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.”

The California Attorney General has concluded that the availability of suitable housing sites must be considered based not only upon the existing zoning ordinances and land use restrictions of the locality, but also based upon the potential for increased residential development under alternative zoning ordinances and land use restrictions. Councils of Governments, therefore, cannot accept reductions in a local jurisdiction’s RHNP housing allocation targets based upon existing land use regulations that limit the availability of suitable sites to accommodate its fair share allocation targets.

Housing needs typically change throughout the lifecycle. The diagram illustrates how needs may shift and different housing types may serve an individual in the course of their development and maturity.

(1) Existing and projected jobs and housing relationship.

The existing and projected relationship of jobs and housing is the core of the proposed formula. The relative percentage ratios for each jurisdiction are not projected to significantly change during the planning period. A key issue during this cycle was consideration of adjusting the formula to be more heavily weighted toward an emphasis on employment. The Board maintained the previous formula which was weighted 60% toward those communities where employment occurs versus 40% toward where population is located.
(2) **Opportunities and constraints** to development of additional housing:

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

Resource issues are challenging in many areas of the region; no constraints were identified that prevents the distribution of units as proposed. While some cities and unincorporated service areas have severe service level concerns or limitations, the proposed allocation to the overall unincorporated area can be accommodated.

(B) **The availability of land suitable for urban development** or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.

The region may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.

Adequate land appears to exist within all jurisdictional areas given the size of the proposed allocations. It should be noted that Grover Beach is a “landlocked” city and has limited area for future expansion without annexing the Oceano Community Services District that is currently substantially developed as an unincorporated urban area.

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

This potential limitation does not preclude the absorption of the proposed allocation with any of the scenarios under consideration.

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

This potential limitation does not preclude the absorption of the proposed allocation with any of the scenarios under consideration. The allocation does not require the rezoning of any prime agricultural land.

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

The focus on employment centers is intended to support public transportation and existing transportation infrastructure and address demand on the US 101 corridor especially during peak commute times.

4. **The market demand** for housing.

The market demand for housing, especially in the very low, low and moderate ranges far exceeds supply. This is due to a number of factors including: the dominance of the tourism and agricultural sectors where many jobs provide relatively low pay; the disparity in the growth of housing costs and the growth in local income levels; the attractiveness of the area for retirement living and scarcity of coastal living environments with moderate climates; ongoing demand from beyond the local market that sustain relatively high housing costs in the region relative to other parts of the state and nation; and, resource capacity and other local service delivery system limitations that necessitate high development fees or increased utility costs. These factors impact all of the jurisdictions in varying degrees.
5. Agreements between a county and cities in a county to **direct growth toward incorporated areas of the county.**
   Such agreements do not currently exist. The Preliminary Sustainable Community Strategy for the region includes directing development more purposefully to urban centers called Target Development Zones that seek to direct transportation investments and more growth toward community centers and prime corridors in communities around the county.

6. The **loss of units contained in assisted housing developments** that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.
   
   This issue is not a major problem area within the region.

7. **High housing costs burdens.**
   
   High-housing costs burdens are endemic in the state of California and especially within the coastal areas south of Mendocino County. High land and housing costs represent one of the principle challenges the region faces and is problematic in every community – although particularly acute in coastal communities where resource and regulatory constraints are the greatest.

8. The **housing needs of farmworkers.**
   
   The housing needs of farmworkers are especially problematic due to the low pay afforded this segment of the workforce and the competing demand for affordable units. Many within this population double and even are known to triple-up to find shelter. Due to the year round agricultural opportunities most families reside within the urban areas to be near schools shopping and other services. The allocation formula anticipates that this segment of the population will be primarily served within the urban areas addressed in the proposed allocation

9. The housing **needs generated by the presence of a private university or a campus of the California State University** or the University of California within any member jurisdiction.
    
    The housing needs generated by the presence of Cal Poly have been significantly addressed by the expansion of on-campus housing options. No adjustments are made due to this factor.
The following table lists information derived from US Census data for San Luis Obispo cities and County and the state. Note the persons below poverty level figures, the homeownership rate and the housing units in multi-unit structures for the City of San Luis Obispo are skewed due to the large proportion of college students residing in the city.

### Table G

**Census Data Regarding San Luis Obispo County Cities and Unincorporated Areas**

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Atascadero</th>
<th>Arroyo Grande</th>
<th>Grover Beach</th>
<th>Morro Bay</th>
<th>Pismo Beach</th>
<th>Paso Robles</th>
<th>San Luis Obispo</th>
<th>SLO Co</th>
<th>California</th>
<th>City Averages</th>
<th>County/City Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mean travel time to work (minutes), workers age 16+, 2007-2011</td>
<td>21.5</td>
<td>18.9</td>
<td>18.2</td>
<td>20.2</td>
<td>18.7</td>
<td>22.6</td>
<td>14.8</td>
<td>20.5</td>
<td>27</td>
<td>19.3</td>
<td>19.4</td>
</tr>
<tr>
<td>Homeownership rate, 2007-2011</td>
<td>66.60%</td>
<td>68.50%</td>
<td>42.80%</td>
<td>54.90%</td>
<td>60.20%</td>
<td>59.70%</td>
<td>38.20%</td>
<td>60.40%</td>
<td>56.70%</td>
<td>55.84%</td>
<td>56.41%</td>
</tr>
<tr>
<td>Housing units in multi-unit structures, percent, 2007-2011</td>
<td>19.80%</td>
<td>15.20%</td>
<td>28.10%</td>
<td>18.70%</td>
<td>18.70%</td>
<td>20.80%</td>
<td>40.60%</td>
<td>18.30%</td>
<td>31%</td>
<td>23.13%</td>
<td>22.53%</td>
</tr>
<tr>
<td>Median value of owner-occupied housing units, 2007-2011</td>
<td>$427,900</td>
<td>$525,900</td>
<td>$425,500</td>
<td>$536,000</td>
<td>$645,000</td>
<td>$390,100</td>
<td>$561,700</td>
<td>$480,200</td>
<td>421,600</td>
<td>$501,729</td>
<td>$499,038</td>
</tr>
<tr>
<td>Households, 2007-2011</td>
<td>11,134</td>
<td>6,868</td>
<td>5291</td>
<td>5,002</td>
<td>3,678</td>
<td>10,670</td>
<td>18,485</td>
<td>101,993</td>
<td>12,433,172</td>
<td>8,733</td>
<td>20,390</td>
</tr>
<tr>
<td>Persons per household, 2007-2011</td>
<td>2.43</td>
<td>2.46</td>
<td>2.48</td>
<td>2</td>
<td>2.1</td>
<td>2.68</td>
<td>2.34</td>
<td>2.47</td>
<td>2.91</td>
<td>2.36</td>
<td>2.37</td>
</tr>
<tr>
<td>Median household income, 2007-2011</td>
<td>$68,502</td>
<td>$64,900</td>
<td>$47,708</td>
<td>$52,582</td>
<td>$65,682</td>
<td>$57,927</td>
<td>$42,528</td>
<td>$58,630</td>
<td>$61,632</td>
<td>$57,118</td>
<td>$57,307</td>
</tr>
<tr>
<td>Persons below poverty level, percent, 2007-2011</td>
<td>8.7%</td>
<td>7.2%</td>
<td>14.3%</td>
<td>13.9%</td>
<td>4.9%</td>
<td>10.2%</td>
<td>31.5%</td>
<td>13%</td>
<td>14.4%</td>
<td>12.96%</td>
<td>12.99%</td>
</tr>
</tbody>
</table>

Source: US Census Data 2012
SCHEDULE

The following figure shows an outline of the RHNP process and the steps involved in the development of the regional housing needs plan. By the end of the RHNP process, June 30 2013, the SLOCOG Board is required to adopt the regional plan or HCD will design and adopt a plan for the region. The final adopted Plan will then be used by the local jurisdictions in their Housing Element update process. Local housing elements must be adopted by June of 2014.

The following dates mark the major RHNA process milestones:

- July, 2012: Allocation of Regional Need by HCD
- July, 2012 – August, 2012: Regional Review of HCD assignment
- September, 2012 - December, 2013: Preparation of Draft RHNP
- January – February, 2013: Public and local review
- February 2013: RHNA adoption (start 90 day Appeal Period)
- June 2013: RHNA Final (following 90 day Appeal Period)
- July 2013 to July 2014: Housing Element preparation period for jurisdictions
- January 2014 to July 2019: Planning Period*

*Jurisdictions may take credit for housing units approved or constructed during this interim planning period, and apply the credit to their housing elements.

Figure 2

RHNA Work Plan Outline and Timeline

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>July - August 2012 - HCD issues determination to of regional need to COG.**</td>
</tr>
<tr>
<td>2</td>
<td>August 2012 - consultation between HCD and SLOCOG regarding draft allocation figures.</td>
</tr>
<tr>
<td>3</td>
<td>SLOCOG accepts HCD estimate of countywide housing need.</td>
</tr>
<tr>
<td>4</td>
<td>October 2012 – December 2012, representatives of Methodology Committee review allocation methodology and other elements of RHNP.</td>
</tr>
<tr>
<td>5</td>
<td>Preliminary Draft RHNA methodologies circulated for comment.</td>
</tr>
<tr>
<td>6</td>
<td>SLOCOG approves and authorizes Draft RHNP for comment.</td>
</tr>
<tr>
<td>7</td>
<td>End of 60-day appeal period by local jurisdictions.</td>
</tr>
<tr>
<td>8</td>
<td>Review of comments and appeals if needed by SLOCOG.</td>
</tr>
<tr>
<td>9</td>
<td>June 2013 - Final RHNA responding to SLOCOG jurisdiction’s comments and/or appeals considered and adopted by SLOCOG.</td>
</tr>
</tbody>
</table>
San Luis Obispo Council of Governments

Draft Regional Housing Needs Plan

Appendix A

California Government Code Requirements
Regarding attainment of the state housing goals

Sections 65580 - 65589
65580.
The Legislature finds and declares as follows:

(a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.

(b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.

(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.

(d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

(e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.

65581.
It is the intent of the Legislature in enacting this article:

(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.

(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.

(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.

(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

65582.
As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.
65582.1. The Legislature finds and declares that it has provided reforms and incentives to facilitate and expedite the construction of affordable housing. Those reforms and incentives can be found in the following provisions:

(a) Housing element law (Article 10.6 (commencing with Section 65580) of Chapter 3).
(b) Extension of statute of limitations in actions challenging the housing element and brought in support of affordable housing (subdivision (d) of Section 65009).
(c) Restrictions on disapproval of housing developments (Section 65589.5).
(d) Priority for affordable housing in the allocation of water and sewer hookups (Section 65589.7).
(e) Least cost zoning law (Section 65913.1).
(f) Density bonus law (Section 65915).
(g) Second dwelling units (Sections 65852.150 and 65852.2).
(h) By-right housing, in which certain multifamily housing are designated a permitted use (Section 65589.4).
(i) No-net-loss-in zoning density law limiting downzonings and density reductions (Section 65863).
(j) Requiring persons who sue to halt affordable housing to pay attorney fees (Section 65914) or post a bond (Section 529.2 of the Code of Civil Procedure).
(k) Reduced time for action on affordable housing applications under the approval of development permits process (Article 5 (commencing with Section 65950) of Chapter 4.5).
(l) Limiting moratoriums on multifamily housing (Section 65858).
(m) Prohibiting discrimination against affordable housing (Section 65008).
(n) California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3).
(o) Community redevelopment law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, and in particular Sections 33334.2 and 33413).

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

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

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:
(1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element.

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

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

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

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

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

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

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

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

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

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.
(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A local government may disapprove a housing development described in paragraph (1) if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:
(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

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

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

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

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

65583.1.

(a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for substantial compliance with this article, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. The department may also allow a city or county to identify sites for second units based on the number of second units developed in the prior housing element planning period whether or not the units are permitted by right, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors, as determined by the department. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

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

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

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

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

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

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

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

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

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

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

(B) Units that are located either on foreclosed property or in a multifamily rental or ownership housing complex of three or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

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

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

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

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

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

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

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

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to, and reserved for occupancy by, persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is within an "assisted housing development," as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

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

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

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

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

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

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

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

65583.2.

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

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

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

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

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

The city or county shall determine the number of housing units that can be accommodated on each site as follows:

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

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583.
(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

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

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

(i) For 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.

(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 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act.
A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 6558 9.5.

65584.

(a) (1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Anticipated household growth associated with projected population increases.
(B) Household size data and trends in household size.
(C) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.
(D) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.
(E) Other characteristics of the composition of the projected population.
(F) The relationship between jobs and housing, including any imbalance between jobs and housing.

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

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

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

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (b), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.
(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (c). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (c), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (c).

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

65584.02.

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

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

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

(A) Proposed data and assumptions for factors contributing to housing need beyond household growth identified in the forecast.

These factors shall include allowance for vacant or replacement units, and may include other adjustment factors.

(B) A proposed planning period that is not longer than the period of time covered by the regional transportation improvement plan or plans of the region pursuant to Section 14527, but a period not less than five years, and not longer than six years.

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

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

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

65584.03.

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

(b) Upon formation of the subregional entity, the entity shall notify the council of governments of this formation. If the council of governments has not received notification from an eligible subregional entity at least 28 months prior to the scheduled housing element update required by Section 65588, the council of governments shall implement the provisions of Sections 65584 and 65584.04. The delegate subregion and the council of governments shall enter into an agreement that sets forth the process, timing, and other terms and conditions of the delegation of responsibility by the council of governments to the subregion.

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

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

65584.04.

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

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

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

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

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

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

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

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

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:
   (A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.
   (B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.
   (C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.
   (D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

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

(4) The market demand for housing.

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

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

(7) High-housing cost burdens.

(8) The housing needs of farmworkers.

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

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

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

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

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.
(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

(i) (1) It is the intent of the Legislature that housing planning be coordinated and integrated with the regional transportation plan.

To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the sustainable communities’ strategy.

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

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

65584.05.

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

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

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

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

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

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

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

(f) The council of governments or delegate subregion, as applicable, shall issue a proposed final allocation within 45 days after the completion of the 60-day period for hearing appeals. The proposed final allocation plan shall include responses to all comments received on the proposed draft allocation and reasons for any significant revisions included in the final allocation.

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

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

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

65584.06.

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

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

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

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

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

(3) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

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

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

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

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

65584.07.

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

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

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

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

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

(b) (1) The county and cities that have executed transfers of regional housing needs pursuant to subdivision (a) shall use the revised regional housing need allocation in their housing elements and shall adopt their housing elements by the deadlines set forth in Section 65588.

(2) A city that has received a transfer of a regional housing need pursuant to subdivision (c) shall adopt or amend its housing element within 30 months of the effective date of incorporation.
(3) A county or city that has received a transfer of regional housing need pursuant to subdivision (d) shall amend its housing element within 180 days of the effective date of the transfer.

(4) A county or city is responsible for identifying sites to accommodate its revised regional housing need by the deadlines set forth in paragraphs (1), (2), and (3).

(5) All materials and data used to justify any revision shall be made available upon request to any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship. A fee may be charged to interested parties for any additional costs caused by the amendments made to former subdivision (c) of Section 65584 that reduced from 45 to 7 days the time within which materials and data were required to be made available to interested parties.

(c) (1) If an incorporation of a new city occurs after the council of governments, subregional entity, or the department for areas with no council of governments, has made its final allocation under Section 65584.03, 65584.04, 65584.06, or 65584.08, a portion of the county's allocation shall be transferred to the new city. The city and county may reach a mutually acceptable agreement for transfer of a portion of the county's allocation to the city, which shall be accepted by the council of governments, subregional entity, or the department, whichever allocated the county's share. If the affected parties cannot reach a mutually acceptable agreement, then either party may submit a written request to the council of governments, subregional entity, or to the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and determine the number of units, by income category, that should be transferred from the county's allocation to the new city.

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

(d) (1) If an annexation of unincorporated land to a city occurs after the council of governments, subregional entity, or the department for areas with no council of governments, has made its final allocation under Section 65584.03, 65584.04, 65584.06, or 65584.08, a portion of the county's allocation may be transferred to the city. The city and county may reach a mutually acceptable agreement for transfer of a portion of the county's allocation to the city, which shall be accepted by the council of governments, subregional entity, or the department, whichever allocated the county's share. If the affected parties cannot reach a mutually acceptable agreement, then either party may submit a written request to the council of governments, subregional entity, or to the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and determine the number of units, by income category, that should be transferred from the county's allocation to the city.

(2) (A) Except as provided under subparagraph (B), within 90 days after the date of annexation, either the transfer, by income category, agreed upon by the city and county, or a written request for a transfer, shall be submitted to the council of governments, subregional entity, and to the department. A mutually acceptable transfer agreement shall be effective immediately upon receipt by the council of governments, the subregional entity, or the department.

The council of governments, subregional entity, or the department for areas with no council of governments, shall make the transfer effective within 180 days after receipt of the written request. If the council of governments allocated the county's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.04 or 65584.08. If the subregional entity allocated the subregion's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.03. If the department allocated the county's
share, the transfer shall be based on the considerations specified in Section 65584.06. The transfer shall neither reduce the total regional housing needs nor change the regional housing needs allocated to other cities by the council of governments, subregional entity, or the department for areas with no council of governments. A copy of the transfer finalized by the council of governments or subregional entity shall be submitted to the department. The council of governments, the subregional entity, or the department, as appropriate, may extend the 90-day deadline if it determines an extension is consistent with the objectives of this article.

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

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

65584.09.

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

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

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

65584.1.

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

65584.2.

A local government may, but is not required to, conduct a review or appeal regarding allocation data provided by the department or the council of governments pertaining the locality's share of the regional housing need or the submittal of data or information for a proposed allocation, as permitted by this article.
65585.
(a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

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

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with the requirements of this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with the requirements of this article, the legislative body shall take one of the following actions:

1) Change the draft element or draft amendment to substantially comply with the requirements of this article.

2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with the requirements of this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

65585.2.
Notwithstanding any other provision of law, any city or county that has a housing element that has been self-certified pursuant to the requirements of Section 65585.1 shall be considered to be fully eligible to participate in any program created by, or receiving funds through, the Housing and Emergency Shelter Trust Fund Act of 2002 in an identical manner and to the same degree, as those local jurisdictions deemed in substantial compliance with the requirements of this article by the Department of Housing and Community Development pursuant to Section 65585.

65587.
(a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981, and the deadlines set by Section 65588. Except as specifically provided in subdivision (b) of Section 65361, the Director of Planning and Research shall not grant an extension of time from these requirements.

(b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article.

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

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

(2) Any interested person may bring an action to compel compliance with the deadlines and requirements of paragraphs (1), (2), and (3) of subdivision (c) of Section 65583. The action shall be brought pursuant to Section 1085 of the Code of Civil Procedure. An action may be brought pursuant to the notice and accrual provisions of subdivision (d) of Section 65009. In any such action, the city, county, or city and county shall bear the burden of proof.

65588.

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

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

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

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but no less often than required by subdivision (e), to reflect the results of this periodic review. Nothing in this section shall be construed to excuse the obligations of the local government to adopt a revised housing element in accordance with the schedule specified in this section.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Each city, county, and city and county shall revise its housing element according to the following schedule:

(1) (A) Local governments within the regional jurisdiction of the Southern California Association of Governments: June 30, 2006, for the fourth revision.
(B) Local governments within the regional jurisdiction of the Association of Bay Area Governments: June 30, 2007, for the fourth revision.

(C) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, and June 30, 2008, for the fourth revision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

65589.

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

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

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

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

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

(d) The provisions of this article shall be construed consistent with, and in promotion of, the statewide goal of a sufficient supply of decent housing to meet the needs of all Californians.
65589.3.

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

65589.4.

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

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

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

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

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

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

      (i) A general plan.
      (ii) A revision or update to the general plan that includes at least the land use and circulation elements.
      (iii) An applicable community plan.
      (iv) An applicable specific plan.

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

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

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

(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5 of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.
(c) Nothing in this section shall prohibit a local agency from applying design and site review standards in existence on the date the application was deemed complete.

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

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

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

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

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

65589.5.

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

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

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

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

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

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

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

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

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

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

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

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

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

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

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

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

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
(f) (1) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction’s share of the regional housing need pursuant to Section 65950. An extension of time pursuant to paragraph (7) of subdivision (a) of Section 65950 shall be deemed to be an extension of time permitted on the site and proposed by the development.

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

However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

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

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

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

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code.

Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

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

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

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

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

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very

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low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

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

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

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

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

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

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

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

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

65589.6.

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

65589.7.

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

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

1. Regulations and restrictions adopted pursuant to Chapter 3 (commencing with Section 350) of Division 1 of the Water Code, relating to water shortage emergencies.

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

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

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

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

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

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

4. The public agency or private entity providing sewer service is under an order issued by a regional water quality control board that prohibits new sewer connections.
(5) The applicant has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking service from the public agency or private entity, including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of a fee or charge imposed pursuant to Section 66013.

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

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

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

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

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

65589.8.

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

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