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**GOVERNMENT CODE - GOV**

**TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]** ( *Heading of Title 7 amended by Stats. 1974, Ch. 1536. )*

**DIVISION 1. PLANNING AND ZONING [65000 - 66342]** ( *Heading of Division 1 added by Stats. 1974, Ch. 1536. )*

**CHAPTER 3. Local Planning [65100 - 65763]** ( *Chapter 3 repealed and added by Stats. 1965, Ch. 1880. )*

**ARTICLE 10.6. Housing Elements [65580 - 65589.11]** ( *Article 10.6 added by Stats. 1980, Ch. 1143. )*

**65580.** The Legislature finds and declares as follows:

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

(*Amended by Stats. 2017, Ch. 375, Sec. 1. (AB 1397) Effective January 1, 2018.*)

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

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

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

**65582.** As used in this article, the following definitions apply unless specified otherwise:

- (a) "Above moderate income" means income exceeding the moderate-income level described in Section 50093 of the Health and Safety Code.
- (b) "Acutely low income" has the same meaning as in Section 50063.5 of the Health and Safety Code.
- (c) "All income levels" or "all household income levels" means lower income, moderate income, and above moderate income levels.
- (d) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.
- (e) "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.
- (f) "Department" means the Department of Housing and Community Development.

- (g) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.
- (h) "Extremely low income" means the income for households exceeding the income limit for acutely low income households, as defined in this section, and does not exceed the limit for extremely low income households, as defined in Section 50106 of the Health and Safety Code.
- (i) "Frequent user coordinated care housing services" means housing combined with other supportive services for homeless persons identified by a city or county as the most costly, frequent users of publicly funded emergency services.
- (j) "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.
- (k) "Low income" means the income for households exceeding the income limit for very low income households, as defined in this section, and does not exceed the income limit for lower income households, as defined in subdivision (a) of Section 50079.5 of the Health and Safety Code.
- (l) "Lower income" means income that is low income, very low income, extremely low income, or acutely low income.
- (m) "Moderate income" means the income for households exceeding the limit for lower income households, as defined in this section, and does not exceed the income limit for moderate-income households, as defined in Section 50093 of the Health and Safety Code.
- (n) "Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.
- (o) "Supportive services" include, but are not limited to, a combination of subsidized, permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, and benefits advocacy.
- (p) "Target population" means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.
- (q) "Transitional housing" means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.
- (r) "Very low income" means income for households exceeding the income limit for extremely low income households, as defined in this section, and does not exceed the income limit for very low income households, as defined in Section 50105 of the Health and Safety Code.

*(Amended by Stats. 2024, Ch. 282, Sec. 2. (AB 3093) Effective January 1, 2025.)*

**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) Accessory dwelling units (Sections 66310 and Article 2 (commencing with section 66314) of Chapter 13).
- (h) By-right housing, in which certain multifamily housing is 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's 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).

(p) Streamlining housing approvals during a housing shortage (Section 65913.4).

(q) Housing sustainability districts (Chapter 11 (commencing with Section 66200)).

(r) Streamlining agricultural employee housing development approvals (Section 17021.8 of the Health and Safety Code).

*(Amended by Stats. 2024, Ch. 7, Sec. 3. (SB 477) Effective March 25, 2024. Conditionally inoperative as provided in Stats. 2017, Ch. 371, Sec. 4.)*

**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 housing element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints that are 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. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

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

(3) An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites, and an analysis of the relationship of the sites identified in the land inventory to the jurisdiction's duty to affirmatively further fair housing.

(4) (A) The identification of one or more zoning designations that allow residential uses, including mixed uses, where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit and that are suitable for residential uses. The identified zoning designations shall include sufficient sites meeting the requirements of subparagraph (H) with sufficient capacity, as described in subparagraph (I), to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zoning designation or designations that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zoning designation or designations 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 zoning designations 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 that apply to emergency shelters are objective and encourage and facilitate the development of, or conversion to, emergency shelters.

(B) Emergency shelters shall only be subject to the following written, objective standards:

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

(ii) Sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than 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.

(C) For purposes of this paragraph, "emergency shelter" shall include other interim interventions, including, but not limited to, a navigation center, bridge housing, and respite or recuperative care.

(D) 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).

(E) If a local government has adopted written, objective standards pursuant to subparagraph (B), the local government shall include an analysis of the standards in the analysis of constraints pursuant to paragraph (5).

(F) 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 and the needs of the other jurisdictions that are a part of the agreement for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zoning designation where new emergency shelters are allowed with a conditional use permit.

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

(H) The zoning designation or designations where emergency shelters are allowed, as described in subparagraph (A), shall include sites that meet at least one of the following standards:

(i) Vacant sites zoned for residential use.

(ii) Vacant sites zoned for nonresidential use that allow residential development, if the local government can demonstrate how the sites with this zoning designation that are being used to satisfy the requirements of paragraph (1) are located near amenities and services that serve people experiencing homelessness, which may include health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite.

(iii) Nonvacant sites zoned for residential use or for nonresidential use that allow residential development that are suitable for use as a shelter in the current planning period, or which can be redeveloped for use as a shelter in the current planning period. A nonvacant site with an existing use shall be presumed to impede emergency shelter development absent an analysis based on substantial evidence that the use is likely to be discontinued during the planning period. The analysis shall consider current market demand for the current uses, market conditions, and incentives or standards to encourage shelter development.

(I) The zoning designation or designations shall have sufficient sites meeting the requirements of subparagraph (H) to accommodate the need for shelters identified pursuant to paragraph (7). The number of people experiencing homelessness that can be accommodated on any site shall be demonstrated by dividing the square footage of the site by a minimum of 200 square feet per person, unless the locality can demonstrate that one or more shelters were developed on sites that have fewer square feet per person during the prior planning period or the locality provides similar evidence to the department demonstrating that the site can accommodate more people experiencing homelessness. Any standard applied pursuant to this subparagraph is intended only for calculating site capacity pursuant to this section, and shall not be construed as establishing a development standard applicable to the siting, development, or approval of a shelter.

(J) Notwithstanding subparagraph (H), a local government may accommodate the need for emergency shelters identified pursuant to paragraph (7) on sites owned by the local government if it demonstrates with substantial evidence that the sites will be made available for emergency shelter during the planning period, they are suitable for residential use, and the sites are located near amenities and services that serve people experiencing homelessness, which may include health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite.

(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, local processing and permit procedures, historic preservation practices and policies and an assessment of how existing and proposed historic designations affect the locality's ability to meet its share of the housing need pursuant to paragraph (1), and any locally adopted ordinances that directly impact the cost and supply of residential development. 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).

(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, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing.

(7) (A) 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; extremely low income households; 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 the capacity necessary to accommodate the most recent homeless point-in-time count conducted before the start of the planning period, the need for emergency shelter based on number of beds available on a year-round and seasonal basis, the number of shelter beds that go unused on an average monthly basis within a one-year period, and the percentage of those in emergency shelters that move to permanent housing solutions. 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. An analysis of special housing needs by a city or county may include an analysis of the need for frequent user coordinated care housing services.

(B) For the seventh and subsequent revisions of the housing element, the analysis required in subparagraph (A) shall also include an analysis of the housing needs of acutely and extremely low income households.

(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 that 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 that 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 that have not been legally obligated for other purposes and that 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 affirmatively furthering fair housing and to the maintenance, preservation, improvement, and development of housing.

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

(c) A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that 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 all income levels 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 affirmatively further fair housing and 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, a program for rezoning of those sites, subject to the following deadlines:

(i) For the adoption of the sixth revision of the housing element, jurisdictions with an eight-year housing element planning period pursuant to Section 65588, including adoption of minimum density and development standards or, for a jurisdiction in the coastal zone, any necessary local coastal program amendments related to land use designations, changes in intensity of land use, zoning ordinances, or zoning district maps, consistent with Sections 30512, 30512.2, 30513, and 30514 of the Public Resources Code, 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 that the department has found to be in substantial compliance with this article 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 or, for a jurisdiction in the coastal zone, any necessary local coastal program amendments related to land use designations, changes in intensity of land use, zoning ordinances, or zoning district maps, consistent with Sections 30512, 30512.2, 30513, and 30514 of the Public Resources Code, shall be completed no later than one year from the statutory deadline in Section 65588 for adoption of the housing element.

(ii) For adoption of the seventh and all subsequent revisions of the housing element, rezonings shall be completed no later than one year from the statutory deadline in Section 65588 for adoption of the housing element.

(iii) Notwithstanding clause (ii), for the adoption of the seventh and all subsequent revisions of the housing element, rezonings shall be completed no later than three years and 90 days after the statutory deadline in Section 65588 for adoption of the housing element, unless the deadline is extended pursuant to subdivision (f). This clause shall apply only if the local government complies with all of the following:

(I) The local government submits a draft element or draft amendment to the department for review pursuant to paragraph (1) of subdivision (b) of Section 65585 at least 90 days before the statutory deadline established in Section 65588 for adoption of the housing element.

(II) The local government receives from the department findings that the draft element or draft amendment substantially complies with this article pursuant to paragraph (3) of subdivision (b) of Section 65585 on or before the statutory deadline set forth in Section 65588 for adoption of the housing element.

(III) The local government adopts the draft element or draft amendment that the department found to substantially comply with this article no later than 120 days after the statutory deadline set forth in Section 65588.

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

(B) For the seventh and subsequent revisions of the housing element, the program shall also assist in the development of adequate housing to meet the needs of acutely low income households.

(3) Address and, where appropriate and legally possible, remove governmental and nongovernmental 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. 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. Supportive housing, as defined in Section 65650, shall be a use by right in all zones where multifamily and mixed uses are permitted, as provided in Article 11 (commencing with Section 65650).

(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 and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law.

(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) Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in subdivision (a) of Section 66313.

(8) 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.

(9) 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.

(10) (A) Affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include all of the following components:

(i) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.

(ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty and affluence, disparities in access to opportunity, and disproportionate housing needs, including displacement risk. The analysis shall identify and examine such patterns, trends, areas, disparities, and needs, both within the jurisdiction and comparing the jurisdiction to the region in which it is located, based on race and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2) and Section 65008.

(iii) An assessment of the contributing factors, including the local and regional historical origins and current policies and practices, for the fair housing issues identified under clauses (i) and (ii).

(iv) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.

(v) Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.

(B) A jurisdiction that completes or revises an assessment of fair housing pursuant to Subpart A (commencing with Section 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal Regulations, as published in Volume 80 of the Federal Register, Number 136, page 42272, dated July 16, 2015, or an analysis of impediments to fair housing choice in accordance with the requirements of Section 91.225 of Title 24 of the Code of Federal Regulations in effect before August 17, 2015, may incorporate relevant portions of that assessment or revised assessment of fair housing or analysis or revised analysis of impediments to fair housing into its housing element.

(C) (i) The requirements of this paragraph shall apply to housing elements due to be revised pursuant to Section 65588 on or after January 1, 2021.

(ii) The assessment required pursuant to this paragraph shall be completed before the planning agency makes its first draft revision of a housing element available for public comment pursuant to subdivision (b) of Section 65585.

(D) (i) The department shall develop a standardized reporting format for programs and actions taken pursuant to this paragraph. The standardized reporting format shall enable the reporting of all of the assessment components listed in subparagraph (A) and, at a minimum, include all of the following fields:

(I) Timelines for implementation.

(II) Responsible party or parties.

(III) Resources committed from the local budget to affirmatively further fair housing.

(IV) Action areas.

(V) Potential impacts of the program.

(ii) A local government shall utilize the standardized report format developed pursuant to this subparagraph for the seventh and each subsequent revision of the housing element.

(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 toward 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 lower 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 exists:

(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.

(i) Notwithstanding any other law, the otherwise applicable timeframe set forth in paragraph (2) of subdivision (b) and subdivision (d) of Section 21080.3.1 of the Public Resources Code, and paragraph (3) of subdivision (d) of Section 21082.3 of the Public Resources Code, for a Native American tribe to respond to a lead agency and request consultation in writing is extended by 30 days for any

housing development project application determined or deemed to be complete on or after March 4, 2020, and prior to December 31, 2021.

(j) On or after January 1, 2024, at the discretion of the department, the analysis of government constraints pursuant to paragraph (5) of subdivision (a) may include an analysis of constraints upon the maintenance, improvement, or development of housing for persons with a characteristic identified in subdivision (b) of Section 51 of the Civil Code. The implementation of this subdivision is contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for this purpose.

*(Amended by Stats. 2024, Ch. 282, Sec. 3.3. (AB 3093) Effective January 1, 2025.)*

**65583.05.** (a) (1) The Department of Housing and Community Development shall publish, by December 31, 2026, advisory guidance, including, but not limited to, sample analyses and programs, pertaining to both of the following:

(A) Special housing needs for acutely low and extremely low income households, as described in paragraph (7) of subdivision (a) of Section 65583.

(B) Programs to assist in the development of adequate housing to meet the needs of acutely low income households, as described in paragraph (2) of subdivision (c) of Section 65583.

(2) The guidance described in paragraph (1) shall provide advice regarding the impact of the statutory requirements pertaining to acutely low and extremely low income households on both of the following:

(A) Compliance with the requirements in Section 65583 to analyze potential and actual governmental constraints and, where appropriate and legally possible, remove governmental constraints.

(B) Residential development project financial or other factors that impact feasibility.

(b) The Department of Housing and Community Development shall publish, by December 31, 2026, advisory guidance to be used by each council of governments, or delegate subregion, as applicable, to develop a proposed methodology for allocating the regional housing need for acutely low and extremely low income households to cities, counties, and cities and counties within the region or within the subregion pursuant to Section 65584.04.

*(Added by Stats. 2024, Ch. 282, Sec. 4. (AB 3093) Effective January 1, 2025.)*

**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 accessory dwelling units based on the number of accessory dwelling 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 lower 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 low-, very low, extremely low, and acutely 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), (C), (D), or (E) 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 lower 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 lower income at affordable housing costs for at least 55 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 lower 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 lower 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, extremely low, or acutely 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 lower 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 lower 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 lower 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 a lower income group as the current occupants for a period of at least 55 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 lower income households to any other use during the next eight 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.

(D) Units in a motel, hotel, or hostel that are converted with committed assistance from the city or county from nonresidential to residential by the 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 part of a long-term recovery response to COVID-19.
- (ii) The unit is made available for people experiencing homelessness as defined in Section 578.3 of Title 24 of the Code of Federal Regulations.
- (iii) The unit is made available for rent at a cost affordable to low- or very low income households.
- (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) This subparagraph shall remain in effect only for the sixth revision of the housing element pursuant to Section 65588.

(E) All spaces in a mobilehome park, as defined in subdivision (a) of Section 18214 of the Health and Safety Code, that is acquired with committed assistance from the city or county where any of the following apply:

- (i) The mobilehome park will be acquired with financing that includes a loan from the department pursuant to Section 50783 or 50784.5 of the Health and Safety Code.
- (ii) At least 50 percent of the current residents in the mobilehome park to be acquired are lower income households and the entity acquiring the park agrees to enter into a regulatory agreement for a minimum of 55 years that requires both of the following:
  - (I) All vacant spaces shall be rented at a space rent that does not exceed 50 percent of maximum rent limits established by the California Tax Credit Allocation Committee at 60 percent of the area median income.
  - (II) The space rent for existing residents at the time of the acquisition of the property, both during the 12 months preceding the acquisition and during the term of the regulatory agreement, shall not increase more than 5 percent in any 12-month period.

(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 third year of the planning period that obligates sufficient available funds or other in-kind services to provide the assistance necessary to make the identified units

affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.

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

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

(7) In the fourth 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), (C), (D), or (E) 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 lower income households, and it shall adequately document how each unit complies with this subdivision. If, by the end 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), (C), (D), or (E) of paragraph (2), the city or county shall, not later than the end 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), (C), (D), or (E) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

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

*(Amended by Stats. 2024, Ch. 282, Sec. 5. (AB 3093) Effective January 1, 2025.)*

**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 throughout the community, consistent with paragraph (10) of subdivision (c) of Section 65583, 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 sites that meet the standards set forth in subdivisions (c) and (g):

(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, including sites owned or leased by a city, county, or city and county.

(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.

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

(1) A listing of properties by assessor parcel number.

(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. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

(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) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(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 the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning by the applicable deadline for rezoning set forth in subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. 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, supportive housing, single-room occupancy units, emergency shelters, and transitional housing, and whether the inventory affirmatively furthers fair 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 regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

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

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience

within a zone or zones that provide housing for lower income households.

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

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

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

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

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

(4) (A) For a metropolitan jurisdiction:

(i) At least 25 percent of the jurisdiction's share of the regional housing need for moderate-income housing shall be allocated to sites with zoning that allows at least four units of housing, but not more than 100 units per acre of housing.

(ii) At least 25 percent of the jurisdiction's share of the regional housing need for above moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing.

(B) The allocation of moderate-income and above moderate-income housing to sites pursuant to this paragraph shall not be a basis for the jurisdiction to do either of the following:

(i) Deny a project that does not comply with the allocation.

(ii) Impose a price minimum, price maximum, price control, or any other exaction or condition of approval in lieu thereof. This clause does not prohibit a jurisdiction from imposing any price minimum, price maximum, price control, exaction, or condition in lieu thereof, pursuant to any other law.

(iii) The provisions of this subparagraph do not constitute a change in, but are declaratory of, existing law with regard to the allocation of sites pursuant to this section.

(C) This paragraph does not apply to an unincorporated area.

(D) For purposes of this paragraph:

(i) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(ii) "Unit of housing" does not include an accessory dwelling unit or junior accessory dwelling unit that could be approved pursuant to Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 or through a local ordinance or other provision implementing either of those articles. This paragraph shall not limit the ability of a local government to count the actual production of accessory dwelling units or junior accessory dwelling units in an annual progress report submitted pursuant to Section 65400 or other progress report as determined by the department.

(E) Nothing in this subdivision shall preclude the subdivision of a parcel, provided that the subdivision is subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land.

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

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

(2) (A) (i) Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2028, inclusive.

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

(B) A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing and Community Development, the Senate Committee on Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided three times: once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle, and a third time, on or before December 31, 2027, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.

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

(g) (1) 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, the city's or county's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by low- or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) (1) 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 lower 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 for developments in which at least 20 percent of the units are affordable to lower income households during the planning period.

(2) 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), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c), and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the lower income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the lower income housing need on sites designated for mixed use if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

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

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

(k) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(l) (1) The changes to this section made by Chapter 193 of the Statutes of 2020 shall become operative on January 1, 2022.

(2) The changes to this section made by Chapter 193 of the Statutes of 2020 shall not apply to a housing element revision that is originally due on or before January 1, 2022, regardless of the date of adoption by the local agency.

(m) This section shall remain in effect only until December 31, 2028, and as of that date is repealed.

*(Amended (as amended by Stats. 2024, Ch. 7, Sec. 5) by Stats. 2024, Ch. 282, Sec. 6.5. (AB 3093) Effective January 1, 2025. Repealed as of December 31, 2028, by its own provisions. See later operative version, as amended by Sec. 7.5 of Stats. 2024, Ch. 282.)*

**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 throughout the community, consistent with paragraph (10) of subdivision (c) of Section 65583, 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 sites that meet the standards set forth in subdivisions (c) and (g):

(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, and sites owned or leased by a city, county, or city and county.

(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county.

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

(1) A listing of properties by assessor parcel number.

(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. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

(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) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(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 the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be

accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning by the applicable deadline for rezoning set forth in subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. 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, supportive housing, single-room occupancy units, emergency shelters, and transitional housing, and whether the inventory affirmatively furthers fair 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 regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

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

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

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

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

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

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

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

(4) (A) For a metropolitan jurisdiction:

(i) At least 25 percent of the jurisdiction's share of the regional housing need for moderate-income housing shall be allocated to sites with zoning that allows at least four units of housing, but not more than 100 units per acre of housing.

(ii) At least 25 percent of the jurisdiction's share of the regional housing need for above moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing.

(B) The allocation of moderate-income and above moderate-income housing to sites pursuant to this paragraph shall not be a basis for the jurisdiction to do either of the following:

(i) Deny a project that does not comply with the allocation.

(ii) Impose a price minimum, price maximum, price control, or any other exaction or condition of approval in lieu thereof. This clause does not prohibit a jurisdiction from imposing any price minimum, price maximum, price control, exaction, or condition in lieu thereof, pursuant to any other law.

(iii) The provisions of this subparagraph do not constitute a change in, but are declaratory of, existing law with regard to the allocation of sites pursuant to this section.

(C) This paragraph does not apply to an unincorporated area.

(D) For purposes of this paragraph:

(i) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(ii) "Unit of housing" does not include an accessory dwelling unit or junior accessory dwelling unit that could be approved pursuant to Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 or through a local ordinance or other provision implementing either of those articles. This paragraph shall not limit the ability of a local government to count the actual production of accessory dwelling units or junior accessory dwelling units in an annual progress report submitted pursuant to Section 65400 or other progress report as determined by the department.

(E) Nothing in this subdivision shall preclude the subdivision of a parcel, provided that the subdivision is subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land.

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

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

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

(g) (1) 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, the city's or county's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by

low- or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) (1) 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 lower 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 for developments in which at least 20 percent of the units are affordable to lower income households during the planning period.

(2) 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), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c), and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the lower income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the lower income housing need on sites designated for mixed use if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

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

(j) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(k) This section shall become operative on December 31, 2028.

*(Amended (as amended by Stats. 2024, Ch. 7, Sec. 6) by Stats. 2024, Ch. 282, Sec. 7.5. (AB 3093) Effective January 1, 2025. Section operative December 31, 2028, by its own provisions.)*

**65583.3.** (a) For a housing element or amendment adopted on or after January 1, 2021, the planning agency shall submit to the department an electronic copy of its inventory of land suitable for residential development developed pursuant to paragraph (3) of subdivision (a) of Section 65583 and subdivision (b) of this section with the copy of its housing element or amendment submitted pursuant to subdivision (g) of Section 65585. The local government shall ensure, to the best of its knowledge, that the inventory of land submitted to the department is true and correct.

(b) Notwithstanding subdivision (a) of Section 65301, each local government shall prepare the inventory required under paragraph (3) of subdivision (a) of Section 65583 using standards, forms, and definitions adopted by the department. The department may review, adopt, amend, and repeal the standards, forms, or definitions to implement this subdivision and subdivision (a) of Section 65583. Any standards, forms, or definitions adopted to implement this subdivision and subdivision (a) of Section 65583 shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

*(Added by Stats. 2019, Ch. 667, Sec. 2. (SB 6) Effective January 1, 2020.)*

**65583.4.** (a) Notwithstanding subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583, subdivision (c) of Section 65583.2, and subparagraph (C) of paragraph (4) of subdivision (e) of Section 65588, a local government shall have three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element to complete any rezonings required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 and subdivision (c) of Section 65583.2 if all of the following apply:

(1) The statutory deadline in Section 65588 for adoption of the sixth revision of the housing element was in the 2021 calendar year.

(2) The local government failed to adopt a sixth revision of the housing element that the department had found to be in substantial compliance with this article within 120 days of the statutory deadline in Section 65588 for adoption of the housing element.

(3) The local government adopts a sixth revision of the housing element and the department finds the adopted element to be in substantial compliance with this article within one year of the statutory deadline established pursuant to Section 65588 for adoption of the housing element.

(b) (1) The deadline for completing required rezoning pursuant to subdivision (a) 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:

(A) 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.

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

(C) 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.

(2) 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.

*(Added by Stats. 2022, Ch. 70, Sec. 1. (SB 197) Effective June 30, 2022.)*

**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) 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, and reasonable actions should be taken by local and regional governments to ensure that future housing production meets, at a minimum, the regional housing need established for planning purposes. These actions shall include applicable reforms and incentives in Section 65582.1.

(3) The Legislature finds and declares that insufficient housing in job centers hinders the state's environmental quality and runs counter to the state's environmental goals. In particular, when Californians seeking affordable housing are forced to drive longer distances to work, an increased amount of greenhouse gases and other pollutants are released and puts in jeopardy the achievement of the state's climate goals, as established pursuant to Section 38566 of the Health and Safety Code, and clean air goals.

(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.

(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 further 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. The regional housing needs allocation plan shall allocate units for extremely low- and acutely low income households in a manner that is roughly proportional to, and within a range of 3 percent of, the housing need for very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.

(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

(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 American Community Survey.

(5) Affirmatively furthering fair housing.

(e) For purposes of this section, "affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

(f) (1) Subject to paragraph (2), for purposes of this section with respect to revisions of the housing element through the sixth revision, "household income levels" are as determined by the department pursuant to the following code sections:

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

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

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

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

(2) For purposes of this section with respect to the seventh and subsequent revisions of the housing element, "household income levels" are as determined by the department in accordance with the definitions of acutely low, extremely low, very low, low, moderate, and above moderate income in Section 65582.

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

*(Amended by Stats. 2024, Ch. 282, Sec. 8. (AB 3093) Effective January 1, 2025.)*

**65584.01.** 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:

(a) 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 projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year 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 projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 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 agreement is not 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.

(b) (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 percentage of households that are overcrowded within the region and the percentage of households that are overcrowded throughout the nation. For purposes of this subparagraph, the term "overcrowded" means more than one resident per room in each room in a dwelling.

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

(E) 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. For purposes of this subparagraph, the vacancy rate for a healthy rental housing market shall be considered no less than 5 percent.

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

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

(H) The percentage of households that are cost burdened within the region and the percentage of households that are cost burdened throughout the nation. For the purposes of this subparagraph, the term "cost burdened" means the share of very low, low-, moderate-, and above moderate-income households that are paying more than 30 percent of household income on housing costs.

(I) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the data request.

(J) The housing needs of individuals and families experiencing homelessness.

(i) The data utilized by the council of governments shall align with homelessness data best practices as determined by the department.

(ii) Sources of homelessness data may include the Homeless Data Integration System administered by the Interagency Council on Homelessness, the homeless point-in-time count, or other sources deemed appropriate by the department.

(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 (I), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments. The methodology submitted by the department may make adjustments based on the region's total projected households, which includes existing households as well as projected households.

(c) (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 (b). 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 (a), 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 (b). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (b), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (b).

(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.

(4) In regions in which the department is required to distribute the regional housing need pursuant to Section 65584.06, no city or county may file an objection to the regional housing need determination.

(d) Statutory changes enacted after the date the department issued a final determination pursuant to this section shall not be a basis for a revision of the final determination.

*(Amended by Stats. 2025, Ch. 22, Sec. 9. (AB 130) Effective June 30, 2025.)*

**65584.03.** (a) At least 28 months prior to the scheduled housing element update required by Section 65588, at least two or more cities and a county, or counties, may form a subregional entity for the purpose of allocation of the subregion's existing and projected need for housing among its members in accordance with the allocation methodology established pursuant to Section 65584.04. The purpose of establishing a subregion shall be to recognize the community of interest and mutual challenges and opportunities for providing housing within a subregion. A subregion formed pursuant to this section may include a single county and each of the cities in that county or any other combination of geographically contiguous local governments and shall be approved by the adoption of a resolution by each of the local governments in the subregion as well as by the council of governments. All decisions of the subregion shall be approved by vote as provided for in rules adopted by the local governments comprising the subregion or shall be approved by vote of the county or counties, if any, and the majority of the cities with the majority of population within a county or counties.

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

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

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

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

**65584.04.** (a) At least two years before a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop, in consultation with the department, 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 further the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months before 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 (e) that will allow the development of a methodology based upon the factors established in subdivision (e).

(2) With respect to the objective in paragraph (5) of subdivision (d) of Section 65584, the survey shall review and compile information that will allow the development of a methodology based upon the issues, strategies, and actions that are included, as available, in an Analysis of Impediments to Fair Housing Choice or an Assessment of Fair Housing completed by any city or county or the department that covers communities within the area served by the council of governments, and in housing elements adopted pursuant to this article by cities and counties within the area served by the council of governments.

(3) 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.

(4) 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.

(5) 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 (e) before the public comment period provided for in subdivision (d).

(c) The council of governments shall electronically report the results of the survey of fair housing issues, strategies, and actions compiled pursuant to paragraph (2) of subdivision (b). The report shall describe common themes and effective strategies employed by cities and counties within the area served by the council of governments, including common themes and effective strategies around avoiding the displacement of lower income households. The council of governments shall also identify significant barriers to

affirmatively furthering fair housing at the regional level and may recommend strategies or actions to overcome those barriers. A council of governments or metropolitan planning organization, as appropriate, may use this information for any other purpose, including publication within a regional transportation plan adopted pursuant to Section 65080 or to inform the land use assumptions that are applied in the development of a regional transportation plan.

(d) 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 as well as members of protected classes under Section 12955 and households with special housing needs under paragraph (7) of subdivision (a) of Section 65583. The proposed methodology, along with any relevant underlying data and assumptions, an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, how each of the factors listed in subdivision (e) is incorporated into the methodology, and how the proposed methodology furthers the objectives listed in subdivision (d) of Section 65584, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written or electronic request for the proposed methodology and published on the council of governments', or delegate subregion's, internet website. 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.

(e) 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 consider including the following factors in developing the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.

(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, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to nonagricultural uses.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts its conversion to nonagricultural uses.

(E) Emergency evacuation route capacity, wildfire risk, sea level rise, and other impacts caused by climate change.

(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) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of the jurisdiction that prohibits or restricts conversion to nonagricultural uses.

(5) 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.

(6) The percentage of existing households at each of the income levels listed in subdivision (f) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent.

(7) The rate of overcrowding.

(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) The housing needs of individuals and families experiencing homelessness. If a council of governments has surveyed each of its member jurisdictions pursuant to subdivision (b) on or before January 1, 2020, this paragraph shall apply only to the development of methodologies for the seventh and subsequent revisions of the housing element.

(11) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis.

(12) The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.

(13) Any other factors adopted by the council of governments, that further the objectives listed in subdivision (d) of Section 65584, provided that the council of governments specifies which of the objectives each additional factor is necessary to further. The council of governments may include additional factors unrelated to furthering the objectives listed in subdivision (d) of Section 65584 so long as the additional factors do not undermine the objectives listed in subdivision (d) of Section 65584 and are applied equally across all household income levels as described in subdivision (f) of Section 65584 and the council of governments makes a finding that the factor is necessary to address significant health and safety conditions.

(f) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (e) was incorporated into the methodology and how the methodology furthers the objectives listed in subdivision (d) of Section 65584. The methodology may include numerical weighting. This information, and any other supporting materials used in determining the methodology, shall be posted on the council of governments', or delegate subregion's, internet website.

(g) The following criteria shall not be a justification for a determination or a reduction in a jurisdiction's share of the regional housing need:

(1) 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.

(2) Prior underproduction of housing in a city or county from the previous regional housing need allocation, as determined by each jurisdiction's annual production report submitted pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(3) Stable population numbers in a city or county from the previous regional housing needs cycle.

(h) Following the conclusion of the public comment period described in subdivision (d) 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, and as a result of consultation with the department, each council of governments, or delegate subregion, as applicable, shall publish a draft allocation methodology on its internet website and submit the draft allocation methodology, along with the information required pursuant to subdivision (e), to the department.

(i) Within 60 days, the department shall review the draft allocation methodology and report its written findings to the council of governments, or delegate subregion, as applicable. In its written findings the department shall determine whether the methodology furthers the objectives listed in subdivision (d) of Section 65584. If the department determines that the methodology is not consistent with subdivision (d) of Section 65584, the council of governments, or delegate subregion, as applicable, shall take both of the following actions:

(1) Revise the methodology, in consultation with the department, to further the objectives listed in subdivision (d) of Section 65584 within 45 days.

(2) Receive department acceptance that the revised methodology furthers the objectives listed in subdivision (d) of Section 65584 and adopt a final regional, or subregional, housing need allocation methodology.

(j) If the department's findings are not available within the time limits set by subdivision (i), the council of governments, or delegate subregion, may act without them.

(k) After taking action pursuant to subdivision (i), the council of governments, or delegate subregion, shall provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion, as applicable, and to the department, and

shall publish the adopted allocation methodology, along with its resolution and any adopted written findings, on its internet website.

(l) The department may, within 45 days, review the adopted methodology and report its findings to the council of governments, or delegate subregion.

(m) (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) (A) 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.

(B) For the seventh and subsequent revisions of the housing element, the allocation to each region required under subparagraph (A) shall also include an allocation of units for acutely low and extremely 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 and furthers the objectives listed in subdivision (d) of Section 65584.

(n) This section shall become operative on January 1, 2025.

*(Amended by Stats. 2025, Ch. 22, Sec. 10. (AB 130) Effective June 30, 2025.)*

**65584.045.** Notwithstanding the requirements of subdivision (m) of Section 65584.04, the resolution approving the final housing need allocation plan for the San Diego Association of Governments' sixth revision shall use the sustainable communities strategy in the regional transportation plan adopted by the San Diego Association of Governments on October 9, 2015, to demonstrate the consistency determinations required in paragraphs (1) and (3) of subdivision (m) of Section 65584.04.

*(Added by Stats. 2019, Ch. 634, Sec. 3. (AB 1730) Effective January 1, 2020.)*

**65584.05.** (a) At least one and one-half years before 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, and the department, based on the methodology adopted pursuant to Section 65584.04 and shall publish the draft allocation on its internet website. The council of governments may additionally distribute the draft allocation plan upon adoption of the final methodology reviewed and accepted by the department pursuant to paragraph (2) of subdivision (i) of Section 65584.04. The draft allocation shall include the underlying data and methodology on which the allocation is based, and a statement as to how it furthers the objectives listed in subdivision (d) of Section 65584. It is the intent of the Legislature that the draft allocation should be distributed before 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 30 days following receipt of the draft allocation, a local government within the region or the delegate subregion, as applicable, or the department may appeal to the council of governments or the delegate subregion for a revision of the share of the regional housing need proposed to be allocated to one or more local governments. Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584. An appeal pursuant to this subdivision shall be consistent with, and not to the detriment of, the development pattern in an applicable sustainable communities strategy developed pursuant to paragraph (2) of subdivision (b) of Section 65080. Appeals shall be limited to any of the following circumstances:

(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.

(2) The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.

(3) A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

(c) At the close of the period for filing appeals pursuant to subdivision (b), the council of governments or delegate subregion, as applicable, shall notify all other local governments within the region or delegate subregion and the department of all appeals and

shall make all materials submitted in support of each appeal available on a publicly available internet website. Local governments and the department may, within 45 days, comment on one or more appeals. If no appeals are filed, the draft allocation may be adopted pursuant to subdivision (g).

(d) No later than 30 days after the close of the comment period, and after providing all local governments within the region or delegate subregion, as applicable, at least 10 days prior notice, the council of governments or delegate subregion shall conduct one public hearing to consider all appeals filed pursuant to subdivision (b) and all comments received pursuant to subdivision (c).

(e) No later than 45 days after the public hearing pursuant to subdivision (d), the council of governments or delegate subregion, as applicable, shall do all of the following:

(1) Make a final determination that either accepts, rejects, or modifies each appeal for a revised share filed pursuant to subdivision (b). Final determinations shall be based upon the information and methodology described in Section 65584.04 and whether the revision is necessary to further the objectives listed in subdivision (d) of Section 65584. The final determination shall be in writing and shall include written findings as to how the determination is consistent with this article. The final determination on an appeal may require the council of governments or delegate subregion, as applicable, to adjust the share of the regional housing need allocated to one or more local governments that are not the subject of an appeal.

(2) Issue a proposed final allocation plan.

(3) Submit the proposed final allocation plan to the department.

(4) Set a date for a public hearing to adopt a final allocation plan pursuant to subdivision (g).

(f) 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 appeals process. 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. The total distribution of housing need shall not 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.

(g) 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 and has taken into account all appeals, 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 15 days after the department's receipt of the final allocation plan adopted by the council of governments, the department shall determine if 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.

(h) 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.

(i) Any time period in subdivision (d) or (e) may be extended by a council of governments or delegate subregion, as applicable, for up to 30 days. Any time period in subdivision (b), (c), (d), (e), or (g) may be reduced by a council of governments or delegate subregion, as applicable, to facilitate earlier adoption of the final allocation plan. No time period shall be reduced to fewer than a minimum of 10 days.

(j) The San Diego Association of Governments may follow the process in this section for the draft and final allocation plan for the sixth revision of the housing element notwithstanding such actions being carried out before the adoption of an updated regional transportation plan and sustainable communities strategy.

*(Amended by Stats. 2024, Ch. 572, Sec. 1.5. (AB 2597) Effective January 1, 2025.)*

**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, Section 65584.01, as applicable, 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, the needs of individuals and families experiencing homelessness, 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, including, but not limited to, emergency evacuation route capacity, wildfire risk, sea level rise, and other impacts caused by climate change. 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.

(g) Statutory changes enacted after the date the department issued a final determination pursuant to this section shall not be a basis for a revision of the final determination.

(h) This section shall become operative on January 1, 2025.

*(Amended (as added by Stats. 2022, Ch. 948, Sec. 5) by Stats. 2024, Ch. 283, Sec. 5. (SB 7) Effective January 1, 2025.)*

**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, subregional entity, 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) (A) Except as provided in subparagraph (B), 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.

(B) For the seventh and subsequent revisions of the housing element, the county's share of low-, very low, extremely low, and acutely 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, subregional entity, 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) 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, subregional entity, or the department. The council of governments or subregional entity 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, or 65584.06, 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. 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, or 65584.06, 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. If the subregional entity allocated the subregion's share, the transfer shall be based on the methodology adopted pursuant to Section 65584.03. If the department allocated the county's share, the transfer shall be based on the considerations specified in Section 65584.06. The transfer shall neither reduce the total regional housing needs nor change the regional housing needs allocated to other cities by the council of governments, subregional entity, or the department for areas with no council of governments. A copy of the transfer finalized by the council of governments or subregional entity shall be submitted to the department. The council of governments, the subregional entity, or the department, as appropriate, may extend the 90-day deadline if it determines an extension is consistent with the objectives of this article.

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

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

*(Amended by Stats. 2024, Ch. 282, Sec. 11. (AB 3093) Effective January 1, 2025.)*

**65584.08.** (a) The Legislature finds and declares all of the following:

(1) The state faces a serious housing crisis, due in part to decades of underproduction of housing of all types, to serve all income levels. A key factor in addressing this crisis is to significantly increase housing production in all cities and counties across the state.

(2) The general plan of the County of Napa has designated significant amounts of land in the county as agricultural resources and agricultural watershed or open-space. A voter-approved initiative prohibits the redesignation of land designated as an agricultural resource or agricultural watershed or open-space without voter approval unless certain narrow exemptions apply. Due to the lack of urban services, including the provision of water and wastewater services, and infrastructure, the County of Napa has generally been concentrated in or around incorporated areas rather than in remote or rural locations in order to ensure adequate service connections.

(3) The Napa Pipe project, which has been in the planning phase for nearly a decade, was initially located on unincorporated land in the county, but the City of Napa is annexing the property in phases as development moves forward.

(4) The developer has requested an amendment to the Napa Pipe project approvals to prioritize housing in the first phase of the project. Because the first phase has already been approved by the City of Napa, these housing units cannot, under existing law, be counted toward the County of Napa's regional housing need allocation or reported on the county's annual progress report.

(5) Therefore, a unique circumstance exists wherein the County of Napa entitled the Napa Pipe project on unincorporated land, a portion of which was later annexed to the City of Napa. Since the county approved the project, the project's intent has been for the county to help fund the construction of affordable units in the project while counting any constructed affordable and moderate-income housing units toward the county's regional housing need allocation before the annexation. Because the project now envisions developing housing units on portions of the project site that have already been annexed by the city, the project cannot be realized as originally planned and approved under existing law.

(6) The Legislature recognizes the importance of the Napa Pipe project, under which at least 700 units of housing will be constructed and up to 945 units with a density bonus.

(7) Therefore, the Legislature finds a unique circumstance exists under which the County of Napa may be allowed to count housing units built on land within the jurisdiction of the City of Napa toward the county's housing production targets on the county's annual progress report.

(8) The Legislature finds that this unique circumstance is not intended to set a precedent or encourage or justify future similar actions by a county or city.

(b) The County of Napa and the City of Napa may reach a mutually acceptable agreement to allow one of those jurisdictions to report on its annual housing production report to the department, pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400, those completed entitlements, building permits, and certificates of occupancy issued by the other jurisdiction for the development of housing if all of the following conditions are met:

(1) Both jurisdictions have adopted a housing element that, pursuant to Section 65585, the department has found to be in substantial compliance with this article.

(2) Within the 12 months preceding the effective date of the agreement, both jurisdictions have submitted to the department the annual report required by paragraph (2) of subdivision (a) of Section 65400.

(3) The completed entitlements, building permits, and certificates of occupancy that are to be reported by one of the jurisdictions will not also be reported on the housing production report of the other jurisdiction.

(4) One of the following conditions applies with respect to a housing development that will be reported by a jurisdiction under an agreement pursuant to this section:

(A) The housing development is proposed to be located in an area subject to the housing element of the County of Napa at the time of the final allocation of regional housing need under Section 65584.03, 65584.04, or 65584.06, as applicable, that is subsequently annexed by the City of Napa, provided that all of the following conditions are met:

(i) The City of Napa annexed the territory after the final allocation of regional housing need.

(ii) The council of governments, the subregional entity, or the department, as applicable, provides written confirmation that the methodology used to allocate the share of the regional housing need did not account for the annexation.

(iii) There was no transfer of units from the site of the housing development pursuant to subdivision (d) of Section 65584.07 of a portion of the County of Napa's allocation of regional housing need to the City of Napa.

(B) The housing development is located on land owned by one of the jurisdictions that is located within the jurisdictional boundaries of the other jurisdiction.

(C) The housing development is located within the jurisdictional boundaries of one jurisdiction and receives funding from the other jurisdiction.

(5) Before approval of the agreement, the Board of Supervisors of the County of Napa and the City Council of the City of Napa each hold a public hearing to solicit public comment on the proposed agreement. The County of Napa and the City of Napa shall each make available copies of the proposed agreement in advance of the hearing that contain the following information:

(A) Information to show that the proposed agreement complies with the requirements of this section.

(B) Identification of the site of each proposed housing development.

(C) The total number of units to be constructed in each income category.

(D) The total number of units that will be shown in the annual housing production report of each jurisdiction.

(6) Following the hearing required by paragraph (5), the board of supervisors of the County of Napa and the City Council of the City of Napa each approve the proposed agreement. The Board of Supervisors of the County of Napa and the city council of the City of Napa shall not approve the proposed agreement unless they make written findings, based on substantial evidence, as to all of the following:

(A) The proposed agreement complies with the requirements of this section.

(B) The agreement will not cause or exacerbate racial, ethnic, or economic segregation.

(C) The housing developments that are to be reported by a jurisdiction under the agreement do not include any housing development that is located in a census tract where more than 50 percent of the population are very low income households, as defined in Section 50105 of the Health and Safety Code, unless the housing development is within one-half mile of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code.

(D) The housing developments that are to be reported by a jurisdiction under the agreement do not include any housing development the completion of which would result in a reduction in the number of housing units, or a reduction in the affordability of housing units, on the site where the housing development is proposed to be built.

(c) This section does not waive or reduce any jurisdiction's obligation pursuant to Section 65863 to ensure that its housing element inventory accommodates, at all times throughout the housing planning period, its remaining unmet share of its regional housing need. If, at any time, the site of a proposed housing development that is the subject of an agreement approved pursuant to this section is no longer adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584, the jurisdiction shall comply with the requirements of subdivision (c) of Section 65863. Failure to comply with this requirement shall constitute a violation of Section 65863 within the meaning of subdivision (j) of Section 65585, and the department shall notify the office of the Attorney General of that violation pursuant to Section 65585.3.

*(Amended by Stats. 2020, Ch. 370, Sec. 173. (SB 1371) Effective January 1, 2021.)*

**65584.09.** (a) For housing elements due pursuant to Section 65588 on or after January 1, 2006, if a city or county in the prior planning period failed to identify or make available adequate sites to accommodate that portion of the regional housing need allocated pursuant to Section 65584, then the city or county shall, within the first year of the planning period of the new housing element, zone or rezone adequate sites to accommodate the unaccommodated portion of the regional housing need allocation from the prior planning period.

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

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

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

**65584.1.** Councils of government may charge a fee to local governments to cover the projected reasonable, actual costs of the council in distributing regional housing needs pursuant to this article. Any fee shall not exceed the estimated amount required to implement its obligations pursuant to Sections 65584, 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, and 65584.07. A city, county, or city and county may charge a fee, not to exceed the amount charged in the aggregate to the city, county, or city and county by the council of governments, to reimburse it for the cost of the fee charged by the council of government to cover the council's actual costs in distributing regional housing needs. The legislative body of the city, county, or city and county shall impose the fee pursuant to Section 66016, except that if the fee creates revenue in excess of actual costs, those revenues shall be refunded to the payers of the fee.

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

**65584.2.** A local government may, but is not required to, conduct a review or appeal regarding allocation data provided by the department or the council of governments pertaining to the locality's share of the regional housing need or the submittal of data or information for a proposed allocation, as permitted by this article.

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

**65584.3.** (a) A city that is incorporated to promote commerce and industry, that is located in the County of Los Angeles, and that has no residentially zoned land within its boundaries on January 1, 1992, may elect to adopt a housing element that makes no provision for new housing or the share of regional housing needs as determined pursuant to Section 65584 for the current and subsequent revisions of the housing element pursuant to Section 65588, for the period of time that 20 percent of all tax increment revenue accruing from all redevelopment projects, and required to be set aside for low- and moderate-income housing pursuant to Section 33334.2 of the Health and Safety Code, is annually transferred to the Housing Authority of the County of Los Angeles.

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

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

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

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

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

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

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

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

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

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

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

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

**65584.6.** (a) The County of Napa may, during its current housing element planning period, identified in Section 65588, meet up to 15 percent of its existing share of the regional housing need for lower income households, as defined in Section 65584, by committing funds for the purpose of constructing affordable housing units, and constructing those units in one or more cities within the county, only after all of the following conditions are met:

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

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

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

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

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

(2) The council of governments that assigned the county's share receives and approves each proposed agreement to meet a portion of the county's fair share housing allocation within one or more of the cities within the county after taking into consideration the criteria of subdivision (a) of Section 65584. If the council of governments fails to take action to approve or disapprove an agreement between the county and the receiving city or cities within 45 days following the receipt of the agreement, the agreement shall be deemed approved.

(3) The city or cities in which the units are developed agree not to count the units towards their share of the region's affordable housing need.

(4) The county and the receiving city or cities, based on substantial evidence on the record, make the following findings:

(A) Adequate sites with appropriate zoning exist in the receiving city or cities to accommodate the units to be developed pursuant to this section. The agreement shall demonstrate that the city or cities have identified sufficient vacant or underutilized

or vacant and underutilized sites in their housing elements to meet their existing share of regional housing need, as allocated by the council of governments pursuant to subdivision (a) of Section 65584, in addition to the sites needed to construct the units pursuant to this section.

(B) If needed, additional subsidy or financing for the construction of the units is available.

(C) The receiving city or cities have housing elements that have been found by the Department of Housing and Community Development to be in compliance with this article.

(5) If the sites upon which units are to be developed pursuant to this section were previously identified in the receiving city's housing element as potential sites for the development of housing sufficient to accommodate the receiving city's share of the lower income household need identified in its housing element, then the receiving city shall have amended its housing element to identify replacement sites by street address for housing for lower-income households. Additionally, the Department of Housing and Community Development shall have received and reviewed the amendment and found that the city's housing element continues to comply with this article.

(6) The county and receiving city or cities shall have completed, and provided to the department, the annual report required by subdivision (b) of Section 65400.

(7) For a period of five years after a transfer occurs, the report required by subdivision (b) of Section 65400 shall include information on the status of transferred units, implementation of the terms and conditions of the transfer agreement, and information on any dwelling units actually constructed, including the number, type, location, and affordability requirements.

(8) The receiving city demonstrates that it has met, in the current or previous housing element cycle, at least 20 percent of its share of the regional need for housing for very low-income households allocated to the city pursuant to Section 65584.

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

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

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

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

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

**65585.** (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) (A) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

(B) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county and provide these comments to each member of the legislative body before it adopts the housing element.

(C) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision pursuant to subdivision (e) of Section 65588 or within 60 days of its receipt of a subsequent draft amendment or an adopted revision or adopted amendment to an element. The department shall not review the first draft submitted for each housing element revision pursuant to subdivision (e) of Section 65588 until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments pursuant to paragraph (1).

(2) (A) At least 90 days prior to the initial adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, and at least 7 days prior to any subsequent adoption submittal if changes have occurred to the inventory of sites, a local government shall do both of the following:

(i) Make a draft of its inventory of sites required pursuant to paragraph (3) of subdivision (a) of Section 65583 available to the department and the public and post the draft inventory on its internet website.

(ii) Send an email to all individuals and organizations that have previously requested notices notifying them that the inventory has been updated that includes a link to the draft inventory on its website.

(B) The requirements of this paragraph shall apply to the seventh and each subsequent revision of the housing element.

(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 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 this article, the legislative body shall take one of the following actions:

(1) (A) Change the draft element or draft amendment to substantially comply with this article.

(B) Any change to a draft element or draft amendment pursuant to subparagraph (A) shall be completed in accordance with subdivision (b). This subparagraph does not constitute a change in, but is declaratory of, existing law.

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

(g) (1) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy of the adopted element or amendment and any findings made pursuant to paragraph (2) of subdivision (f) to the department.

(2) This subdivision shall not be construed to excuse a legislative body from complying with subdivision (f). This paragraph does not constitute a change in, but is declaratory of, existing law.

(h) The department shall, within 60 days, review adopted housing elements or amendments and any findings pursuant to paragraph (2) of subdivision (f), make a finding as to whether the adopted element or amendment is in substantial compliance with this article, and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (C).

(B) If the department finds that the city's, county's, or city and county's action or failure to act does not substantially comply with its adopted housing element or its obligations pursuant to Section 65583, there shall be a rebuttable presumption of invalidity in any legal action challenging that action or failure to act.

(C) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

(1) Housing Accountability Act (Section 65589.5).

(2) Section 65863.

(3) Chapter 4.3 (commencing with Section 65915).

(4) Section 65008.

(5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).

(6) Section 8899.50.

(7) Section 65913.4.

(8) Article 11 (commencing with Section 65650).

(9) Article 12 (commencing with Section 65660).

(10) Section 65913.11.

(11) Section 65400.

(12) Section 65863.2.

(13) Chapter 4.1 (commencing with Section 65912.100).

(14) Section 65905.5.

(15) Chapter 13 (commencing with Section 66310).

(16) Section 65852.21.

(17) Section 65852.24.

(18) Section 66411.7.

(19) Section 65913.16.

(20) Article 2 (commencing with Section 66300.5) of Chapter 12.

(21) Section 65852.28.

(22) Section 65913.4.5.

(23) Section 66499.41.

(24) Homeless Housing, Assistance, and Prevention program (Chapter 6 (commencing with Section 50216) and Chapter 6.5 (commencing with Section 50230) of Part 1 of Division 31 of the Health and Safety Code).

(25) Encampment Resolution Funding program (Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and Safety Code).

(26) Family Homelessness Challenge Grants and Technical Assistance Program (Chapter 8 (commencing with Section 50255) of Part 1 of Division 31 of the Health and Safety Code).

(27) (A) Article 11.5 (commencing with Section 65658).

(B) This paragraph shall become operative only if Assembly Bill 3068 of the 2023–24 Regular Session of the Legislature is enacted and takes effect on or before January 1, 2025.

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after 12 months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars (\$10,000) per month, but shall not exceed one hundred thousand dollars (\$100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraphs (1) and (2) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once the court makes that determination, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision does not limit a court's discretion to apply any and all remedies in an action or special proceeding for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) Nothing in this section shall limit the authority of the office of the Attorney General to bring a suit to enforce state law in an independent capacity. The office of the Attorney General may seek all remedies available under law including those set forth in this section.

(o) Notwithstanding Sections 11040 and 11042, if the Attorney General declines to represent the department in any action or special proceeding brought pursuant to a notice or referral under subdivision (j), the department may appoint or contract with other counsel for purposes of representing the department in the action or special proceeding.

(p) Notwithstanding any other provision of law, the statute of limitations set forth in subdivision (a) of Section 338 of the Code of Civil Procedure shall apply to any action or special proceeding brought by the office of the Attorney General or pursuant to a notice or referral under subdivision (j), or by the department pursuant to subdivision (o).

(q) The amendments to this section made by the act adding this subdivision shall not be construed to limit the department's ability to enforce programmatic requirements or remedies against cities, counties, and continuums of care pursuant to the Homeless Housing, Assistance, and Prevention program (Chapter 6 (commencing with Section 50216) and Chapter 6.5 (commencing with Section 50230) of Part 1 of Division 31 of the Health and Safety Code), the Encampment Resolution Funding program (Chapter 7 (commencing with Section 50250)), and the Family Homelessness Challenge Grants and Technical Assistance Program (Chapter 8 (commencing with Section 50255)).

*(Amended by Stats. 2024, Ch. 277, Sec. 3.5. (AB 2667) Effective January 1, 2025.)*

**65585.01.** In any suit brought to enforce either this article or any state law listed under subdivision (j) of Section 65585, the department and the office of the Attorney General shall each have the unconditional right to intervene under subparagraph (A) of paragraph (1) of subdivision (d) of Section 387 of the Code of Civil Procedure. The office of the Attorney General shall have this unconditional right whether intervening in an independent capacity or pursuant to a notice or referral from the department.

*(Added by Stats. 2023, Ch. 763, Sec. 1. (AB 1485) Effective January 1, 2024.)*

**65585.03.** A housing element or amendment shall be considered to be in substantial compliance with this article when the local agency adopts the housing element or amendment for the current planning period in accordance with Section 65585 and either of the following apply:

(a) The department finds that the adopted housing element or amendment is in substantial compliance with this article and the department's compliance findings have not been superseded by subsequent contrary findings by the department or by a decision of a court of competent jurisdiction.

(b) A court of competent jurisdiction determines that the adopted housing element or amendment substantially complies with this article and the court's decision has not been overturned or superseded by a subsequent court decision or by statute.

*(Added by Stats. 2024, Ch. 267, Sec. 1. (AB 1886) Effective January 1, 2025.)*

**65585.1.** (a) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law, as provided in subdivision (j) of Section 65585, as amended by Chapter 159 of the Statutes of 2019, if the department finds that any local government has taken an action in violation of Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

(b) Subdivisions (k), (l), (m), and (n) of Section 65585, as amended by Chapter 159 of the Statutes of 2019, shall apply for any violation of Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5. Any fines imposed pursuant to subdivision (l) of Section 65585 for a violation of Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 and deposited into the Building Homes and Jobs Trust Fund shall be available for expenditure upon appropriation by the Legislature.

*(Added by Stats. 2019, Ch. 664, Sec. 17. (AB 1486) Effective January 1, 2020.)*

**65585.3.** (a) The department shall notify the office of the Attorney General that the County of Napa or the City of Napa, as applicable, is in violation of state law, as provided in subdivision (j) of Section 65585, as amended by Chapter 159 of the Statutes of 2019, if it finds that either jurisdiction has violated subdivision (c) of Section 65584.08.

(b) Subdivisions (k), (l), (m), and (n) of Section 65585, as amended by Chapter 159 of the Statutes of 2019, shall apply for any violation of subdivision (c) of Section 65584.08, except that a fine levied pursuant to paragraph (1) of subdivision (l) of Section 65585 for a violation of subdivision (c) of Section 65584.08 shall be deposited into the General Fund.

*(Added by Stats. 2019, Ch. 844, Sec. 4. (SB 235) Effective January 1, 2020.)*

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

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

compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article.

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

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

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

*(Amended by Stats. 2013, Ch. 767, Sec. 3. (AB 325) Effective January 1, 2014.)*

**65588.** (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

- (1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.
- (2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.
- (3) The progress of the city, county, or city and county in implementation of the housing element.
- (4) The effectiveness of the housing element goals, policies, and related actions to meet the community's needs, pursuant to paragraph (7) of subdivision (a) of Section 65583.

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

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

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

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

(II) A local government within the jurisdiction of the San Diego Association of Governments shall adopt the sixth revision of the housing element on or before April 30, 2021, using the final housing allocation adopted by the San Diego Association of Governments on or before November 1, 2019, although such action will not be carried out concurrently with adoption of an updated regional transportation plan and sustainable communities strategy.

(III) All local governments within the jurisdiction of the San Diego Association of Governments shall adopt the seventh revision of the housing element no later than 18 months after the San Diego Association of Governments adopts its first regional transportation plan update in 2029.

(IV) For the eighth 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) (i) Except as otherwise provided in clause (ii), 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, or as otherwise provided in law.

(ii) Notwithstanding clause (i), for local governments described in subparagraphs (A) and (C) of paragraph (2) that are within the regional jurisdiction of the Southern California Association of Governments, except the County of Orange and all local governments within the County of Orange, the County of Riverside and all local governments within the County of Riverside, the County of San Bernardino and all local governments within the County of San Bernardino, and the County of Ventura and all local governments within the County of Ventura, for the seventh revision and subsequent revisions of the housing element, 24 months after adoption of every second regional transportation plan update, or as otherwise provided in law.

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

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

(4) (A) A local government that does not adopt a housing element within 120 days of the applicable deadline described in subparagraph (A), (B), or (C) of paragraph (2) or subparagraph (A) or (C) of paragraph (3) shall revise its housing element not less than every four years until the due date for the sixth revision. The adoption of a sixth revision housing element that the department finds to be in substantial compliance with this article pursuant to Section 65585 shall be deemed to satisfy any obligation to adopt a four-year housing element, and a four-year housing element revision shall not be subsequently required.

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

(C) (i) For the adoption of the sixth revision, a local government that does not adopt a housing element that the department has found to be in substantial compliance with this article within 120 days of the applicable deadline described in subparagraph (A) or (C) of paragraph (3) shall comply with subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 and subdivision (c) of Section 65583.2 within one year of the statutory deadline to revise the housing element.

(ii) For the adoption of the seventh and each subsequent revision, a local government shall comply with subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 and subdivision (c) of Section 65583.2 no later than one year from the statutory deadline in this section for adoption of the housing element unless the local government complies with all of the following:

(I) The local government submits a draft element or draft amendment to the department for review pursuant to paragraph (1) of subdivision (b) of Section 65585 at least 90 days before the statutory deadline set forth in Section 65588 for adoption of the housing element.

(II) The local government receives from the department findings that the draft element or draft amendment substantially complies with this article pursuant to paragraph (3) of subdivision (b) of Section 65585 on or before the statutory deadline set forth in Section 65588 for adoption of the housing element.

(III) The local government adopts the draft element or draft amendment that the department found to substantially comply with this article no later than 120 days after the statutory deadline set forth in Section 65588.

(iii) If a jurisdiction subject to this subparagraph fails to complete the required rezoning within the time period required, the jurisdiction's adopted housing element shall be subject to subdivision (i) of Section 65585.

(iv) A jurisdiction that adopts a housing element more than one year after the statutory deadline described in subparagraph (A) or (C) of paragraph (3) shall not be found in substantial compliance with this article until it has completed the rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 and subdivision (c) of Section 65583.2.

(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 before the estimated adoption date. The Department of Transportation shall maintain and publish on its internet website a current schedule of the estimated regional transportation plan adoption dates. The department shall maintain and publish on its internet website a current schedule of the estimated and actual housing element due dates. Each council of governments shall publish on its internet website 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 65584.07, 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, provided that date is no more than eight years later than the deadline for adoption of the previous eight-year housing element.

(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 for each revision according to the applicable schedule described in paragraphs (2) and (3) of subdivision (e).

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

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

*(Amended by Stats. 2024, Ch. 572, Sec. 2.5. (AB 2597) Effective January 1, 2025.)*

**65589.** (a) Nothing in this article shall require a city, county, or city and county to do any of the following:

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

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

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

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

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

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

**65589.3.** In any action filed on or after January 1, 1991, taken to challenge the validity of a housing element, both of the following shall apply, as applicable:

(a) 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.

(b) There shall be a rebuttable presumption of the invalidity of the element or amendment if, pursuant to Section 65585, the department has found that the element or amendment does not substantially comply with the requirements of this article.

*(Amended by Stats. 2024, Ch. 269, Sec. 6. (AB 2023) Effective January 1, 2025.)*

**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 21061.3 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 of 1972 (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 66410)).

(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 an accessory dwelling unit, as defined in subdivision (a) of Section 66313, or the conversion of an existing structure to condominiums.

*(Amended by Stats. 2024, Ch. 7, Sec. 8. (SB 477) Effective March 25, 2024.)*

**65589.5.** (a) (1) The Legislature finds and declares all of the following:

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

(B) 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.

(C) 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.

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

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall home ownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in home ownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

(4) It is the intent of the Legislature that the amendments removing provisions from subparagraphs (D) and (E) of paragraph (6) of subdivision (h) and adding those provisions to Sections 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar as they are substantially the same as existing law, shall be considered restatements and continuations of existing law, and not new enactments.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, 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) For a housing development project for very low, low-, or moderate-income households, or an emergency shelter, a local agency shall not disapprove the housing development project or emergency shelter, or condition approval in a manner that renders the housing development project or emergency shelter infeasible, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the 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 housing development 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 housing 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. The following shall not constitute a specific, adverse impact upon the public health or safety:

(A) Inconsistency with the zoning ordinance or general plan land use designation.

(B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

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

(5) On the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction had adopted a revised housing element that was in substantial compliance with this article, and the housing development project or emergency shelter was inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan.

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

(B) 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.

(6) On the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction did not have an adopted revised housing element that was in substantial compliance with this article and the housing development project is not a builder's remedy project.

(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 of 1976 (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) Except as provided in paragraphs (6) and (8) of this subdivision, and subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development. Nothing in this section shall limit a project's eligibility for a density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to Section 65915.

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

(3) Except as provided in subdivision (o), nothing in this section shall be construed to 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 housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(5) For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(6) Notwithstanding paragraphs (1) to (5), inclusive, all of the following apply to a housing development project that is a builder's remedy project:

(A) A local agency may only require the project to comply with the objective, quantifiable, written development standards, conditions, and policies that would have applied to the project had it been proposed on a site with a general plan designation and zoning classification that allow the density and unit type proposed by the applicant. If the local agency has no general plan designation or zoning classification that would have allowed the density and unit type proposed by the applicant, the development proponent may identify any objective, quantifiable, written development standards, conditions, and policies associated with a different general plan designation or zoning classification within that jurisdiction, that facilitate the project's density and unit type, and those shall apply.

(B) (i) Except as authorized by paragraphs (1) to (4), inclusive, of subdivision (d), a local agency shall not apply any individual or combination of objective, quantifiable, written development standards, conditions, and policies to the project that do any of the following:

(I) Render the project infeasible.

(II) Preclude a project that meets the requirements allowed to be imposed by subparagraph (A), as modified by any density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to Section 65915, from being constructed as proposed by the applicant.

(ii) The local agency shall bear the burden of proof of complying with clause (i).

(C) (i) A project applicant that qualifies for a density bonus pursuant to Section 65915 shall receive two incentives or concessions in addition to those granted pursuant to paragraph (2) of subdivision (d) of Section 65915.

(ii) For a project seeking density bonuses, incentives, concessions, or any other benefits pursuant to Section 65915, and notwithstanding paragraph (6) of subdivision (o) of Section 65915, for purposes of this paragraph, maximum allowable residential density or base density means the density permitted for a builder's remedy project pursuant to subparagraph (C) of paragraph (11) of subdivision (h).

(iii) A local agency shall grant any density bonus pursuant to Section 65915 based on the number of units proposed and allowable pursuant to subparagraph (C) of paragraph (11) of subdivision (h).

(iv) A project that dedicates units to extremely low-income households pursuant to subclause (I) of clause (i) of subparagraph (C) of paragraph (3) of subdivision (h) shall be eligible for the same density bonus, incentives or concessions, and waivers or reductions of development standards as provided to a housing development project that dedicates three percentage points more units to very low income households pursuant to paragraph (2) of subdivision (f) of Section 65915.

(v) All units dedicated to extremely low-income, very low income, low-income, and moderate-income households pursuant to paragraph (11) of subdivision (h) shall be counted as affordable units in determining whether the applicant qualifies for a density bonus pursuant to Section 65915.

(D) (i) The project shall not be required to apply for, or receive approval of, a general plan amendment, specific plan amendment, rezoning, or other legislative approval.

(ii) The project shall not be required to apply for, or receive, any approval or permit not generally required of a project of the same type and density proposed by the applicant.

(iii) Any project that complies with this paragraph shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, redevelopment plan and implementing instruments, or other similar provision for all purposes, and shall not be considered or treated as a nonconforming lot, use, or structure for any purpose.

(E) A local agency shall not adopt or impose any requirement, process, practice, or procedure or undertake any course of conduct, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is a builder's remedy project.

(F) (i) A builder's remedy project shall be deemed to be in compliance with the residential density standards for the purposes of complying with subdivision (b) of Section 65912.123.

(ii) A builder's remedy project shall be deemed to be in compliance with the objective zoning standards, objective subdivision standards, and objective design review standards for the purposes of complying with paragraph (5) of subdivision (a) of Section 65913.4.

(G) (i) (I) If the local agency had a local affordable housing requirement, as defined in Section 65912.101, that on January 1, 2024, required a greater percentage of affordable units than required under subparagraph (A) of paragraph (11) of subdivision (h), or required an affordability level deeper than what is required under subparagraph (A) of paragraph (11) of subdivision (h), then, except as provided in subclauses (II) and (III), the local agency may require a housing development for mixed-income households to comply with an otherwise lawfully applicable local affordability percentage or affordability level. The local agency shall not require housing for mixed-income households to comply with any other aspect of the local affordable housing requirement.

(II) Notwithstanding subclause (I), the local affordable housing requirements shall not be applied to require housing for mixed-income households to dedicate more than 20 percent of the units to affordable units of any kind.

(III) Housing for mixed-income households that is required to dedicate 20 percent of the units to affordable units shall not be required to dedicate any of the affordable units at an income level deeper than lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(IV) A local agency may only require housing for mixed-income households to comply with the local percentage requirement or affordability level described in subclause (I) if it first makes written findings, supported by a preponderance of evidence, that compliance with the local percentage requirement or the affordability level, or both, would not render the housing development project infeasible. If a reasonable person could find compliance with either requirement, either alone or in combination, would render the project infeasible, the project shall not be required to comply with that requirement.

(ii) Affordable units in the development project shall have a comparable bedroom and bathroom count as the market rate units.

(iii) Each affordable unit dedicated pursuant to this subparagraph shall count toward satisfying a local affordable housing requirement. Each affordable unit dedicated pursuant to a local affordable housing requirement that meets the criteria established in this subparagraph shall count towards satisfying the requirements of this subparagraph. This is declaratory of existing law.

(7) (A) For a housing development project application that is deemed complete before January 1, 2025, the development proponent for the project may choose to be subject to the provisions of this section that were in place on the date the preliminary application was submitted, or, if the project meets the definition of a builder's remedy project, it may choose to be subject to any or all of the provisions of this section applicable as of January 1, 2025.

(B) Notwithstanding subdivision (c) of Section 65941.1, for a housing development project deemed complete before January 1, 2025, the development proponent may choose to revise their application so that the project is a builder's remedy project, without being required to resubmit a preliminary application, even if the revision results in the number of residential units or square footage of construction changing by 20 percent or more.

(8) A housing development project 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, that is consistent with the density specified in the most recently updated and adopted housing element, and that is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation on the date the application was deemed complete, shall be subject to the provisions of subparagraphs (A), (B), and (D) of paragraph (6) and paragraph (9).

(9) For purposes of this subdivision, "objective, quantifiable, written development standards, conditions, and policies" means criteria that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal, including, but not limited to, any standard, ordinance, or policy described in paragraph (4) of subdivision (o). Nothing herein shall affect the obligation of the housing development project to comply with the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code. In the event that applicable objective, quantifiable, written development standards, conditions, and policies are mutually inconsistent, a development shall be deemed consistent with the criteria that permits the density and unit type closest to that of the proposed project.

(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 that meet any of the following conditions:

(i) At least two-thirds of the new or converted square footage is designated for residential use.

(ii) At least 50 percent of the new or converted square footage is designated for residential use and the project meets both of the following:

(I) The project includes at least 500 net new residential units.

(II) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

(iii) At least 50 percent of the net new or converted square footage is designated for residential use and the project meets all of the following:

(I) The project includes at least 500 net new residential units.

(II) The project involves the demolition or conversion of at least 100,000 square feet of nonresidential use.

(III) The project demolishes at least 50 percent of the existing nonresidential uses on the site.

(IV) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

(C) Transitional housing or supportive housing.

(D) Farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(3) (A) "Housing for very low, low-, or moderate-income households" means housing for lower income households, mixed-income households, or moderate-income households.

(B) "Housing for lower income households" means a housing development project in which 100 percent of the units, excluding managers' units, are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable cost, as defined by Section 50052.5 of the Health and Safety Code, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee. The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

(C) (i) "Housing for mixed-income households" means any of the following:

(I) A housing development project in which at least 7 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to extremely low income households, as defined in Section 50106 of the Health and Safety Code.

(II) A housing development project in which at least 10 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to very low income households, as defined in Section 50105 of the Health and Safety Code.

(III) A housing development project in which at least 13 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(IV) A housing development project in which there are 10 or fewer total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, that is on a site that is smaller than one acre, and that is proposed for development at a minimum density of 10 units per acre.

(ii) All units dedicated to extremely low income, very low income, and low-income households pursuant to clause (i) shall meet both of the following:

(I) The units shall have 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.

(II) The development proponent shall agree to, and the local agency shall ensure, the continued affordability of all affordable rental units included pursuant to this section for 55 years and all affordable ownership units included pursuant to this section for a period of 45 years.

(D) "Housing for moderate-income households" means a housing development project in which 100 percent of the units are sold or rented to moderate-income households, as defined in Section 50093 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. The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

(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.

(5) Notwithstanding any other law, "deemed complete" means that the applicant has submitted a preliminary application pursuant to Section 65941.1 or, if the applicant has not submitted a preliminary application, has submitted a complete application pursuant to Section 65943. The local agency shall bear the burden of proof in establishing that the application is not complete.

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

(A) Votes or takes final administrative action on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(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.

(C) Fails to meet the time limits specified in Section 65913.3.

(D) Fails to cease a course of conduct undertaken for an improper purpose, such as to harass or to cause unnecessary delay or needless increases in the cost of the proposed housing development project, that effectively disapproves the proposed housing development without taking final administrative action if all of the following conditions are met:

(i) The project applicant provides written notice detailing the challenged conduct and why it constitutes disapproval to the local agency established under Section 65100.

(ii) Within five working days of receiving the applicant's written notice described in clause (i), the local agency shall post the notice on the local agency's internet website, provide a copy of the notice to any person who has made a written request for notices pursuant to subdivision (f) of Section 21167 of the Public Resources Code, and file the notice with the county clerk of each county in which the project will be located. The county clerk shall post the notice and make it available for public inspection in the manner set forth in subdivision (c) of Section 21152 of the Public Resources Code.

(iii) The local agency shall consider all objections, comments, evidence, and concerns about the project or the applicant's written notice and shall not make a determination until at least 60 days after the applicant has given written notice to the local agency pursuant to clause (i).

(iv) Within 90 days of receipt of the applicant's written notice described in clause (i), the local agency shall issue a written statement that it will immediately cease the challenged conduct or issue written findings that comply with both of the following requirements:

(I) The findings articulate an objective basis for why the challenged course of conduct is necessary.

(II) The findings provide clear instructions on what the applicant must submit or supplement so that the local agency can make a final determination regarding the next necessary approval or set the date and time of the next hearing.

(v) (I) If a local agency continues the challenged course of conduct described in the applicant's written notice and fails to issue the written findings described in clause (iv), the local agency shall bear the burden of establishing that its course of conduct does not constitute a disapproval of the housing development project under this subparagraph in an action taken by the applicant.

(II) If an applicant challenges a local agency's course of conduct as a disapproval under this subparagraph, the local agency's written findings described in clause (iv) shall be incorporated into the administrative record and be deemed to be the final administrative action for purposes of adjudicating whether the local agency's course of conduct constitutes a disapproval of the housing development project under this subparagraph.

(vi) A local agency's action in furtherance of complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), including, but not limited to, imposing mitigating measures, shall not constitute project disapproval under this subparagraph.

(E) Fails to comply with Section 65905.5. For purposes of this subparagraph, a builder's remedy project shall be deemed to comply with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete.

(F) (i) Determines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943 and includes in the determination an item that is not required on the local agency's submittal requirement checklist. The local agency shall bear the burden of proof that the required item is listed on the submittal requirement checklist.

(ii) In a subsequent review of an application pursuant to Section 65943, requests the applicant provide new information that was not identified in the initial determination and upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943. The local agency shall bear the burden of proof that the required item was identified in the initial determination.

(iii) Determines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943, a reasonable person would conclude that the applicant has submitted all of the items required on the local agency's submittal requirement checklist, and the local agency upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943.

(iv) If a local agency determines that an application is incomplete under Section 65943 after two resubmittals of the application by the applicant, the local agency shall bear the burden of establishing that the determination is not an effective disapproval of a housing development project under this section.

(G) Violates subparagraph (D) or (E) of paragraph (6) of subdivision (f).

(H) Makes a written determination that a preliminary application described in subdivision (a) of Section 65941.1 has expired or that the applicant has otherwise lost its vested rights under the preliminary application for any reason other than those described in subdivisions (c) and (d) of Section 65941.1.

(I) (i) Fails to make a determination of whether the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), or commits an abuse of discretion, as defined in subdivision (b) of Section 65589.5.1 if all of the conditions in Section 65589.5.1 are satisfied.

(ii) This subparagraph shall become inoperative on January 1, 2031.

(J) (i) Fails to adopt a negative declaration or addendum for the project, to certify an environmental impact report for the project, or to approve another comparable environmental document, such as a sustainable communities environmental assessment pursuant to Section 21155.2 of the Public Resources Code, as required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if all of the conditions in Section 65589.5.2 are satisfied.

(ii) This subparagraph shall become inoperative on January 1, 2031.

(7) (A) For purposes of this section and Sections 65589.5.1 and 65589.5.2, "lawful determination" means any final decision about whether to approve or disapprove a statutory or categorical exemption or a negative declaration, addendum, environmental impact report, or comparable environmental review document under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that is not an abuse of discretion, as defined in subdivision (b) of Section 65589.5.1 or subdivision (b) of Section 65589.5.2.

(B) This paragraph shall become inoperative on January 1, 2031.

(8) "Lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(9) "Objective" means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

(10) Notwithstanding any other law, "determined to be complete" means that the applicant has submitted a complete application pursuant to Section 65943.

(11) "Builder's remedy project" means a project that meets all of the following criteria:

(A) The project is a housing development project that provides housing for very low, low-, or moderate-income households.

(B) On or after the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction did not have a housing element that was in substantial compliance with this article.

(C) The project has a density such that the number of units, as calculated before the application of a density bonus pursuant to Section 65915, complies with all of the following conditions:

(i) The density does not exceed the greatest of the following densities:

(I) Fifty percent greater than the minimum density deemed appropriate to accommodate housing for that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.

(II) Three times the density allowed by the general plan, zoning ordinance, or state law, whichever is greater.

(III) The density that is consistent with the density specified in the housing element.

(ii) Notwithstanding clause (i), the greatest allowable density shall be 35 units per acre more than the amount allowable pursuant to clause (i), if any portion of the site is located within any of the following:

(I) One-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(II) A very low vehicle travel area, as defined in subdivision (h).

(III) A high or highest resource census tract, as identified by the latest edition of the "CTCAC/HCD Opportunity Map" published by the California Tax Credit Allocation Committee and the Department of Housing and Community Development.

(D) (i) On sites that have a minimum density requirement and are located within one-half mile of a commuter rail station or a heavy rail station, the density of the project shall not be less than the minimum density required on the site.

(I) For purposes of this subparagraph, "commuter rail" means a railway that is not a light rail, streetcar, trolley, or tramway and that is for urban passenger train service consisting of local short distance travel operating between a central city and adjacent suburb with service operated on a regular basis by or under contract with a transit operator for the purpose of transporting passengers within urbanized areas, or between urbanized areas and outlying areas, using either locomotive-hauled or self-propelled railroad passenger cars, with multitrip tickets and specific station-to-station fares.

(II) For purposes of this subparagraph, "heavy rail" means an electric railway with the capacity for a heavy volume of traffic using high speed and rapid acceleration passenger rail cars operating singly or in multicar trains on fixed rails, separate rights-of-way from which all other vehicular and foot traffic are excluded, and high platform loading.

(ii) On all other sites with a minimum density requirement, the density of the project shall not be less than the local agency's minimum density or one-half of the minimum density deemed appropriate to accommodate housing for that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2, whichever is lower.

(E) The project site does not abut a site where more than one-third of the square footage on the site has been used, within the past three years, by a heavy industrial use, or a Title V industrial use, as those terms are defined in Section 65913.16.

(12) "Condition approval" includes imposing on the housing development project, or attempting to subject it to, development standards, conditions, or policies.

(13) "Unit type" means the form of ownership and the kind of residential unit, including, but not limited to, single-family detached, single-family attached, for-sale, rental, multifamily, townhouse, condominium, apartment, manufactured homes and mobilehomes, factory-built housing, and residential hotel.

(14) "Proposed by the applicant" means the plans and designs as submitted by the applicant, including, but not limited to, density, unit size, unit type, site plan, building massing, floor area ratio, amenity areas, open space, parking, and ancillary commercial uses.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of 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 housing development project's application is complete, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, 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 a preponderance of the evidence in the record, and with the requirements of subdivision (o).

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a 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 a preponderance of the 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.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus, incentive, concession, waiver, or reduction of development standards pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(k) (1) (A) (i) The applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):

(I) The local agency, in violation of subdivision (d), disapproved a housing development 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.

(II) The local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section.

(III) The local agency, in violation of subdivision (o), required or attempted to require a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

(IV) The local agency violated a provision of this section applicable to a builder's remedy project.

(ii) If the court finds that one of the conditions in clause (i) is met, the court shall issue an order or judgment compelling compliance with this section within a time period not to exceed 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. 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, provided, however, that the court shall not award attorney's fees in either of the following instances:

(I) The court finds, under extraordinary circumstances, that awarding fees would not further the purposes of this section.

(II) (ia) In a case concerning a disapproval within the meaning of subparagraph (I) or (J) of paragraph (6) of subdivision (h), the court finds that the local agency acted in good faith and had reasonable cause to disapprove the housing development project due to the existence of a controlling question of law about the application of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or implementing guidelines as to which there was a substantial ground for difference of opinion at the time of the disapproval.

(ib) This subclause shall become inoperative on January 1, 2031.

(B) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within the time period prescribed by the court, the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Trust Fund. The fine shall be in a minimum amount of ten thousand dollars (\$10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of the fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income

households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing 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. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Trust Fund for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(C) 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 and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant 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 to be approved unless the applicant consents to a different decision or action by the local agency.

(D) Nothing in this section shall limit the court's inherent authority to make any other orders to compel the immediate enforcement of any writ brought under this section, including the imposition of fees and other sanctions set forth under Section 1097 of the Code of Civil Procedure.

(2) For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce this section.

(l) If the court finds that the local agency (1) acted in bad faith when it violated this section and (2) failed to carry out the court's order or judgment within the time period prescribed by the court, the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. If a court has previously found that the local agency violated this section within the same planning period, the court shall multiply the fines by an additional factor for each previous violation. For purposes of this section, "bad faith" includes, but is not limited to, an action or inaction that is frivolous, pretextual, intended to cause unnecessary delay, or entirely without merit.

(m) (1) 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, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, 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, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. 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.

(2) (A) A disapproval within the meaning of subparagraph (l) of paragraph (6) of subdivision (h) shall be final for purposes of this subdivision, if the local agency did not make a lawful determination within the time period set forth in paragraph (5) of subdivision (a) of Section 65589.5.1 after the applicant's timely written notice.

(B) This paragraph shall become inoperative on January 1, 2031.

(3) (A) A disapproval within the meaning of subparagraph (J) of paragraph (6) of subdivision (h) shall be final for purposes of this subdivision, if the local agency did not make a lawful determination within 90 days of the applicant's timely written notice.

(B) This paragraph shall become inoperative on January 1, 2031.

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

(o) (1) Subject to paragraphs (2), (6), and (7), and subdivision (d) of Section 65941.1, a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted.

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:

(A) In the case of a fee, charge, or other monetary exaction, to an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.

(B) A preponderance of the evidence in the record establishes that subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a preliminary application was submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, as defined in subparagraph (A) of paragraph (1) of subdivision (j), and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Subjecting the housing development project to an ordinance, policy, standard, or any other measure, beyond those in effect when a preliminary application was submitted is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(D) The housing development project has not commenced construction within two and one-half years, or three and one-half years for an affordable housing project, following the date that the project received final approval. For purposes of this subparagraph:

(i) "Affordable housing project" means a housing development that satisfies both of the following requirements:

(I) Units within the development are subject to a recorded affordability restriction for at least 55 years for rental housing and 45 years for owner-occupied housing, or the first purchaser of each unit participates in an equity sharing agreement as described in subparagraph (C) of paragraph (2) of subdivision (c) of Section 65915.

(II) All of the units within the development, excluding managers' units, are dedicated to lower income households, as defined by Section 50079.5 of the Health and Safety Code.

(ii) "Final approval" means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:

(I) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.

(II) If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

(E) The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, including any other locally authorized program that offers additional density or other development bonuses when affordable housing is provided. For purposes of this subdivision, "square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) This subdivision does not prevent a local agency from subjecting the additional units or square footage of construction that result from project revisions occurring after a preliminary application is submitted pursuant to Section 65941.1 to the ordinances, policies, and standards adopted and in effect when the preliminary application was submitted.

(4) For purposes of this subdivision, "ordinances, policies, and standards" includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

(5) This subdivision shall not be construed in a manner that would lessen the restrictions imposed on a local agency, or lessen the protections afforded to a housing development project, that are established by any other law, including any other part of this section.

(6) This subdivision shall not restrict the authority of a public agency or local agency to require mitigation measures to lessen the impacts of a housing development project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(7) With respect to completed residential units for which the project approval process is complete and a certificate of occupancy has been issued, nothing in this subdivision shall limit the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.

(p) (1) Upon any motion for an award of attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure, in a case challenging a local agency's approval of a housing development project, a court, in weighing whether a significant benefit has been conferred on the general public or a large class of persons and whether the necessity of private enforcement makes the award appropriate, shall give due weight to the degree to which the local agency's approval furthers policies of this section, including, but not limited to, subdivisions (a), (b), and (c), the suitability of the site for a housing development, and the reasonableness of the decision of the local agency. It is the intent of the Legislature that attorney's fees and costs shall rarely, if ever, be awarded if a local agency, acting in good faith, approved a housing development project that satisfies conditions established in paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.1 or paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.2.

(2) This subdivision shall become inoperative on January 1, 2031.

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

(r) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

*(Amended by Stats. 2025, Ch. 22, Sec. 11. (AB 130) Effective June 30, 2025. Inoperative January 1, 2031, pursuant to Sec. 1 of Stats. 2023, Ch. 768.)*

**65589.5.1.** (a) For the purposes of Section 65589.5, the definition of "disapprove the housing development project" may include any instance in which a local agency fails to make a determination of whether the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), or commits an abuse of discretion, as defined in subdivision (b), if all of the following conditions are satisfied:

(1) There is substantial evidence in the record before the local agency that the housing development project is not located in either of the following:

(A) On a site specified in subparagraphs (A) to (C), inclusive, or subparagraphs (E) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(B) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

(2) The housing development project is located on a legal parcel or parcels within an urbanized area and meets one or more of the following criteria:

(A) The housing development project is located within one-half mile walking distance to either a high-quality transit corridor or a major transit stop.

(B) The housing development project is located in a very low vehicle travel area.

(C) The housing development project is proximal to six or more amenities pursuant to paragraph (4) of subdivision (b) as of the date of submission of the application for the project.

(D) Parcels that are developed with urban uses adjoin at least 75 percent of the perimeter of the project site or at least three sides of a four-sided project site. For purposes of this subdivision, parcels that are only separated by a street or highway shall be considered to be adjoined.

(3) The density of the housing development project meets or exceeds 15 dwelling units per acre.

(4) Both of the following criteria are met:

(A) There is substantial evidence in the record before the local agency that the housing development project is eligible for an exemption sought by the applicant.

(B) If the exemption sought by the applicant is subject to an exception under the Guidelines for Implementation of the California Environmental Quality Act (Chapter 3 (commencing with Section 15000) of Division 6 of Title 14 of the California Code of

Regulations), there is substantial evidence in the record before the local agency that the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2 of those guidelines.

(5) (A) The applicant has given timely written notice to the local agency of the action or inaction that the applicant believes constitutes a failure to make a determination or an abuse of discretion, as defined in subdivision (b), and the local agency did not make a lawful determination within 90 days of the applicant's written notice. The applicant's written notice shall contain all of the following:

- (i) The information specified in paragraphs (1), (2), (5), and (6) of subdivision (a) of Section 15062 of Title 14 of the California Code of Regulations.
- (ii) A citation to the section of Title 14 of the California Code of Regulations or the statute under which the applicant asserts that the project is exempt.
- (iii) A brief statement of reasons supporting the assertion that the project is exempt.
- (iv) A copy of the excerpts from the record constituting substantial evidence that the criteria of paragraphs (1) to (4), inclusive, are satisfied.

(B) Within five working days of receiving the applicant's written notice required by subparagraph (A), the local agency shall post the notice on the local agency's internet website, provide a copy of the notice to any person who has made a written request for notices pursuant to subdivision (f) of Section 21167 of the Public Resources Code, and file the notice with the county clerk of each county in which the project will be located. The county clerk shall post the notice and make it available for public inspection in the manner set forth in subdivision (c) of Section 21152 of the Public Resources Code.

(C) The local agency shall consider all objections, comments, evidence, and concerns about the project or the applicant's written notice and shall not make a determination until at least 60 days after the applicant has given timely written notice to the local agency pursuant to subparagraph (A).

(D) The local agency may, by providing a written response to the applicant within 90 additional days of the applicant's written notice, extend the time period to make a lawful determination by no more than 90 days if the extension is necessary to determine if there is substantial evidence in the record that the housing development project is eligible for the exemption sought by the applicant.

(E) If the local agency has given the applicant written notice of the local agency's determination that the project is not exempt, the applicant's notice shall be deemed timely if and only if it is delivered to the local agency within 35 days of the date that the local agency gave the applicant notice of the local agency's determination.

(F) If the local agency has not given the applicant the written notice described in subparagraph (E), the applicant's notice shall be deemed timely if given after 60 days from the date on which the project application has been received and accepted as complete by the lead agency, or 60 days from the date on which the project application has been determined or deemed to be complete within the meaning of Section 65943, whichever is earlier.

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

(1) "Abuse of discretion" means that the conditions set forth in paragraphs (1) to (4), inclusive, of subdivision (a) are satisfied, but the local agency does not determine that the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). This paragraph sets forth the exclusive definition of "abuse of discretion" for purposes of this section.

(2) "High-quality transit corridor" has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(3) "Major transit stop" has the same meaning as defined in Section 21064.3 of the Public Resources Code.

(4) "Proximal" to an amenity means either of the following:

(A) Within one-half mile of either of the following amenities:

- (i) A bus station.
- (ii) A ferry terminal.

(B) Within one mile, or for a parcel in a rural area, as defined in Section 50199.21 of the Health and Safety Code, within two miles, of any of the following amenities:

- (i) A supermarket or grocery store.
- (ii) A public park.
- (iii) A community center.
- (iv) A pharmacy or drugstore.
- (v) A medical clinic or hospital.
- (vi) A public library.
- (vii) A school that maintains a kindergarten or any of grades 1 to 12, inclusive.

(5) "Urbanized area" has the same meaning as defined in Section 21071 of the Public Resources Code.

(6) (A) "Very low vehicle travel area" means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita.

(B) For purposes of subparagraph (A), "area" may include a travel analysis zone, hexagon, or grid.

(C) For the purposes of determining "regional vehicle miles traveled per capita" pursuant to subparagraph (A), a "region" is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization, or the entirety of the incorporated and unincorporated areas of an individual county that is not part of a metropolitan planning organization.

(c) This section shall not be construed to require a local agency to determine that a project is exempt if, on the record before the local agency, the project is not eligible for exemption.

(d) This section shall remain in effect only until January 1, 2031, and as of that date is repealed.

*(Added by Stats. 2024, Ch. 265, Sec. 2. (AB 1413) Effective January 1, 2025. Repealed as of January 1, 2031, by its own provisions.)*

**65589.5.2.** (a) For the purposes of Section 65589.5, the definition of "disapprove the housing development project" may include any instance in which a local agency fails to adopt a negative declaration or addendum for the project, to certify an environmental impact report for the project, or to approve another comparable environmental document, such as a sustainable communities environmental assessment pursuant to Section 21155.2 of the Public Resources Code, as required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if all of the following conditions are satisfied:

(1) There is substantial evidence in the record before the local agency that the site of the housing development project is not located on either of the following:

(A) On a site specified in subparagraphs (A) to (C), inclusive, or subparagraphs (E) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(B) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

(2) The housing development project is located on a legal parcel or parcels within an urbanized area and meets one or more of the following criteria:

(A) The housing development project is located within one-half mile walking distance to either a high-quality transit corridor or a major transit stop.

(B) The housing development project is located in a very low vehicle travel area.

(C) The housing development project is proximal to six or more amenities pursuant to paragraph (4) of subdivision (b) as of the date of submission of the application for the project.

(D) Parcels that are developed with urban uses adjoin at least 75 percent of the perimeter of the project site or at least three sides of a four-sided project site. For purposes of this paragraph, parcels that are only separated by a street or highway shall be considered to be adjoined.

(3) The density of the housing development project meets or exceeds 15 dwelling units per acre.

(4) There has been prepared a negative declaration, addendum, environmental impact report, or comparable environmental review document that, if duly adopted, approved, or certified by the local agency, would satisfy the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) with respect to the project.

(5) The local agency or a body or official to which the agency has delegated authority to adopt, approve, or certify the negative declaration, addendum, environmental impact report, or comparable environmental review document has held a meeting at which adoption, approval, or certification of the environmental review document was on the agenda and the environmental review document could have been adopted, approved, or certified, as applicable, but the agency did either of the following:

(A) Committed an abuse of discretion, as defined in subdivision (b).

(B) Failed to decide whether to require further study or to adopt, approve, or certify the environmental document.

(6) (A) The applicant has given timely written notice to the local agency of the action or inaction that the applicant believes constitutes a failure to decide or an abuse of discretion, and the local agency did not make a lawful determination about whether to adopt, approve, or certify the environmental review document within 90 days of the applicant's written notice. The applicant's written notice shall include a copy of those excerpts from the record that constitute substantial evidence that the criteria of paragraphs (1) to (4), inclusive, are satisfied.

(B) If the local agency has voted to require further study, rather than adopting, approving, or certifying the negative declaration, addendum, environmental impact report, or comparable environmental review document in the form it was presented for the agency's consideration, the applicant's notice shall be deemed timely if and only if it is delivered to the local agency within 35 days of the date that the local agency gave written notice of its decision to the applicant.

(C) If the local agency has not voted to require further study, rather than adopting, approving, or certifying the negative declaration, addendum, environmental impact report, or comparable environmental review document in the form it was presented for the agency's consideration, the applicant's notice shall be deemed timely if given after the time period specified in Section 21151.5 of the Public Resources Code or another applicable provision of that code for completing the addendum, negative declaration, environmental impact report, or other comparable environmental review document, as applicable, has passed. If the Public Resources Code does not specifically describe the deadline to complete the applicable environmental document, a 180-day deadline is the applicable time period.

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

(1) (A) "Abuse of discretion" means either of the following:

(i) If the local agency fails to adopt a negative declaration, "abuse of discretion" means that the agency, in bad faith or without substantial evidence in the record to support a fair argument that further environmental study is necessary to identify or analyze potentially significant impacts on the physical environment, decided to require further environmental study rather than adopting the negative declaration.

(ii) If the local agency fails to adopt an addendum for the project, certify an environmental impact report for the project, or approve another comparable environmental document, "abuse of discretion" means that the agency, in bad faith or without substantial evidence in the record that further environmental study is legally required to identify or analyze potentially significant impacts on the physical environment, decided to require further environmental study rather than adopting, approving, or certifying the environmental review document.

(B) This paragraph sets forth the exclusive definition of "abuse of discretion" for purposes of this section.

(2) "High-quality transit corridor" has the same meaning as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(3) "Major transit stop" has the same meaning as defined in Section 21064.3 of the Public Resources Code.

(4) "Proximal" to an amenity means either of the following:

(A) Within one-half mile of either of the following amenities:

(i) A bus station.

(ii) A ferry terminal.

(B) Within one mile, or for a parcel in a rural area, as defined in Section 50199.21 of the Health and Safety Code, within two miles, of any of the following amenities:

- (i) A supermarket or grocery store.
- (ii) A public park.
- (iii) A community center.
- (iv) A pharmacy or drugstore.
- (v) A medical clinic or hospital.
- (vi) A public library.
- (vii) A school that maintains a kindergarten or any of grades 1 to 12, inclusive.

(5) "Urbanized area" has the same meaning as defined in Section 21071 of the Public Resources Code.

(6) (A) "Very low vehicle travel area" means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita or city vehicle miles traveled per capita.

(B) For purposes of subparagraph (A), "area" may include a travel analysis zone, hexagon, or grid.

(C) For the purposes of determining "regional vehicle miles traveled per capita" pursuant to subparagraph (A), a "region" is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization, or the entirety of the incorporated and unincorporated areas of an individual county that is not part of a metropolitan planning organization.

(c) This section shall remain in effect only until January 1, 2031, and as of that date is repealed.

*(Added by Stats. 2024, Ch. 265, Sec. 3. (AB 1413) Effective January 1, 2025. Repealed as of January 1, 2031, by its own provisions.)*

**65589.55.** (a) For purposes of a local agency's approval, conditional approval, or disapproval of a housing development project pursuant to subdivision (d) of Section 65589.5, a housing element or amendment shall be considered in substantial compliance with this article only if the element or amendment was in substantial compliance, as determined by the department or a court of competent jurisdiction, when a preliminary application, including all of the information required by subdivision (a) of Section 65941.1, was submitted or, if a preliminary application was not submitted, when a complete application pursuant to Section 65943 was submitted.

(b) This section does not constitute a change in, but is declaratory of, existing law.

*(Added by Stats. 2024, Ch. 267, Sec. 2. (AB 1886) Effective January 1, 2025.)*

**65589.6.** In any action taken to challenge the validity of a decision by a city, county, or city and county to disapprove a project or approve a project upon the condition that it be developed at a lower density pursuant to Section 65589.5, the city, county, or city and county shall bear the burden of proof that its decision has conformed to all of the conditions specified in Section 65589.5.

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

**65589.7.** (a) The housing element adopted by the legislative body and any amendments made to that element shall be immediately delivered to all public agencies or private entities that provide water or sewer services for municipal and industrial uses, including residential, within the territory of the legislative body. Each public agency or private entity providing water or sewer services shall grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**65589.8.** A local government which adopts a requirement in its housing element that a housing development contain a fixed percentage of affordable housing units, shall permit a developer to satisfy all or a portion of that requirement by constructing rental housing at affordable monthly rents, as determined by the local government.

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

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

**65589.9.** (a) It is the intent of the Legislature to create incentives for jurisdictions that are compliant with housing element requirements and have enacted prohousing local policies. It is the intent of the Legislature that these incentives be in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It is the intent of the

Legislature that, in adopting regulations related to prohousing local policy criteria, the department shall create criteria that consider the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.

(b) For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585, and that have been designated prohousing pursuant to subdivision (c) based upon their adoption of prohousing local policies, shall be awarded additional points or preference in the scoring of program applications for the following programs:

(1) The Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.

(2) The Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.

(3) The qualifying infill area portion of the Infill Incentive Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.

(4) The qualifying infill area and catalytic qualifying infill area portions of the Infill Infrastructure Grant Program of 2019 established by Section 53559 of the Health and Safety Code.

(5) Additional bonus points may be awarded to other state programs when already allowable under state law.

(c) The department shall designate jurisdictions as prohousing pursuant to the emergency regulations adopted pursuant to subdivision (d) and report these designations to the Office of Planning and Research, and any other applicable agency or department, annually and upon request.

(d) (1) By July 1, 2021, the department, in collaboration with stakeholders, shall adopt emergency regulations to implement this section.

(2) Notwithstanding Section 11346.1, the emergency regulations adopted pursuant to this subdivision shall remain in effect until the date that permanent regulations to implement this section become effective.

(e) On or before January 1, 2021, and annually thereafter, the department shall publish on its internet website the list of programs included under subdivision (b).

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

(1) "Adaptive reuse" shall have the same meaning as in Section 53559.1 of the Health and Safety Code.

(2) "Compliant housing element" means an adopted housing element that has been found to be in substantial compliance with the requirements of this article by the department pursuant to Section 65585.

(3) "Prohousing local policies" means policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:

(A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.

(B) Reduced parking requirements for sites that are zoned for residential development.

(C) Adoption of zoning allowing for use by right for residential and mixed-use development.

(D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.

(E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Article 2 (commencing with Section 66314) of Chapter 13, as determined by the department.

(F) Reduction of permit processing time.

(G) Creation of objective development standards.

(H) Reduction of development impact fees.

(I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.

(J) Preservation of affordable housing units through the extension of existing project-based rental assistance covenants to avoid the displacement of affected tenants and a reduction in available affordable housing units.

(K) Facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse ordinances or other mechanisms that reduce barriers for these conversions.

*(Amended by Stats. 2024, Ch. 7, Sec. 9. (SB 477) Effective March 25, 2024.)*

**65589.11.** (a) The department shall post on its internet website each month a list of jurisdictions that have failed to adopt a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585. The department shall, on an annual basis, by July 1, or upon request, provide the most recent version of the list to the Office of Planning and Research and any other applicable agency or department.

(b) If a jurisdiction has not previously received notice of its inclusion, the department shall notify the jurisdiction of its inclusion upon the first occurrence of this inclusion. A copy of all notifications sent to a jurisdiction shall also be submitted to the legislative body of the jurisdiction.

(c) If a jurisdiction, after the effective date of this section, is included on the list described in subdivision (a), and, on the basis of that inclusion, would be denied funding under any program that is listed pursuant to subdivision (e) and under which the jurisdiction previously applied for funding, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the jurisdiction's failure to adopt a housing element that is found to be in substantial compliance with the requirements of this article pursuant to Section 65585, and shall provide the jurisdiction written findings regarding that failure. Meetings previously offered pursuant to subdivision (k) of Section 65585 shall satisfy the requirements of this subdivision.

(d) Within 30 days of a jurisdiction both appearing on the list published pursuant to subdivision (a), and also having adopted a housing element pursuant to paragraph (2) of subdivision (f) of Section 65585, a jurisdiction that, on the basis of its inclusion on the list published pursuant to subdivision (a), would be denied funding under any program that is listed pursuant to subdivision (e) and under which the jurisdiction previously applied for funding may request, in writing, that the department review de novo the jurisdiction's last housing element adopted pursuant to paragraph (2) of subdivision (f) of Section 65585. Within 90 days of receipt of the request, the department shall issue written findings as to whether the housing element has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585. If the department's written findings state that the jurisdiction's housing element is not in substantial compliance with the requirements of this article pursuant to Section 65585, then the city, county, or city and county may, within 30 days of receiving those written findings, bring an action to challenge the department's determination. Any action pursuant to this subdivision shall not impact the allocation of funds for jurisdictions not appearing on the list published pursuant to subdivision (a) for any programs identified in subdivision (e). This subdivision shall not apply if a lawsuit has been filed against that jurisdiction for housing element compliance.

(e) On or before January 1, 2023, and annually thereafter, the department shall publish on its internet website a list of programs, if any, where eligibility for funding is contingent upon a jurisdiction having adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585. The list shall not include any program where eligibility for funding is contingent upon a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585 on or before the effective date of this section.

(f) Subdivisions (c) and (d) of this section shall become operative upon the inclusion of at least one program on the list published pursuant to subdivision (e).

(g) This section shall not affect any action filed on or before the effective date of this section.

*(Amended by Stats. 2023, Ch. 40, Sec. 6. (AB 129) Effective July 10, 2023.)*