COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
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MEMORANDUM

DATE: JUNE 2, 2016

TO: MENDOCINO COUNTY PLANNING COMMISSION

FROM: PLANNING & BUILDING SERVICES

SUBJECT: OA_2015-0001 – AMENDMENTS TO THE INLAND AND COASTAL ZONING ORDINANCES TEXT TO IMPLEMENT 2014 HOUSING ELEMENT

REQUEST: Amend Chapter 20, Divisions I and II of the Mendocino County Code to modify the definitions of "Family," "Supportive Housing," "Transitional Housing," "Emergency Shelter;" and the "Group Care" use type to allow Supportive and Transitional Housing the same rights as other residential units of the same type; and to allow Emergency Shelters in C-1 and C-2 zoning districts by right, consistent with the 2014-2019 Housing Element Updates and in accordance with California Senate Bill 2 (2007) – *Local Planning and Approval for Emergency Shelters and Transitional and Supportive Housing* ("SB 2").

BACKGROUND: On August 4, 2015, the 2014-2019 Housing Element Update was adopted by the Board of Supervisors. The purpose of the Housing Element is to identify current and projected housing needs, including addressing special needs groups, fair housing, improving the housing stock, etc. The Housing Element also defines the policies and programs that the County will implement to achieve its housing goals and objectives. Cities and counties without compliant Housing Elements may be subject to legal challenges pursuant to Housing Element law and/or fair housing law. The 2014 Housing Element includes a number of implementing actions that propose amendments to the County's Inland Zoning Code (Division I) and Coastal Zoning Code (Division II) in order to bring the County into compliance with State law concerning the definition of "Family" as it relates to residential uses, and SB 2 (See Attachment B).

SB 2 requires all cities and counties ("localities") to provide at least one zoning district in which emergency shelters can be located without discretionary approval from the local government. The zoning district must be identified in the locality's Housing Element, and include sites with sufficient capacity to meet the local need for Emergency Shelter. It also expands the Housing Accountability Act, to prohibit localities from denying a proposal to build an Emergency Shelter, Transitional Housing or Supportive Housing if it is needed and otherwise consistent with the locality's zoning and development standards.

SB 2 requires that California jurisdictions consider Transitional and Supportive Housing as residential uses, subject only to the permitting requirements applicable to other residential uses of the same type in any given area or zoning district. While not required by SB 2, staff is proposing to change the County's definition of "Emergency Shelter" to more closely match language used in Section 50801 of the California Health and Safety Code. The change proposed is relatively minor, but staff feels it is an appropriate amendment that will make compliance with any future changes in State law a simple process.

PROPOSED AMENDMENTS:

1. Amendment of the definition of "Family"

Goal 4 of the 2014 Housing Element focuses on housing issues of the vulnerable and those with special needs, and includes Policy 4.1 which seeks to facilitate the resolution of housing discrimination complaints and promote fair housing programs throughout the County. Action Item 4.1d of this policy reads:

> *The County shall revise the definition of the word "family" to preclude the possibility that a residential group home could be prevented from locating in a single family area due to the inconsistency of that use and the existing definition. The revised definition shall only reference one or more individuals living together in a dwelling unit with common access and use of all areas of the dwelling unit.*

This Action Item will bring the County's definition of "Family" to the standard set by *The City of Santa Barbara v. Adamson* (1980), which ruled that local ordinances that define a "Family" in terms of blood, marriage, or adoption, and that treating unrelated groups differently from "families," violates California law. California localities cannot limit the number of unrelated people who live together while allowing an unlimited number of family members to live in a dwelling.

Currently, Mendocino County Code Chapter 20.008 of Division I defines "Family" as either:

(1) A single person or two (2) or more persons related by blood, marriage or adoption living in a dwelling unit; or

(2) Two (2) or more persons living together who bear the generic character of a family unit as a relatively permanent household.

Chapter 20.308 of Division II defines "Family" as "*a person living alone, or two (2) or more persons related by blood, marriage or adoption, or a group of unrelated persons living together who bear the generic character of a single nonprofit housekeeping unit in a dwelling unit, as distinguished from a group occupying a boardinghouse, inn, motel, hotel, or bed and breakfast inn.*"

The proposed new definition of family for each of the Divisions reads as follows:

> *"Family" means one or more persons occupying premises and living as a single nonprofit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use. "Family" does not include a fraternal, religious, social or business group. "Family" shall be deemed to include domestic servants employed by a family.*

The proposed definition is consistent with State law.

2. "Supportive" and "Transitional" housing definition amendments

Also included in Policy 4.3 are several Action Items addressing SB 2 (2007). Action Item 4.3h of the 2014 Housing Element Update states the County will "Provide planning assistance to address homelessness in the County by…[t]reating applications for transitional and supportive housing applications similar to other residential applications within that zone." To satisfy this item, staff recommends amending the County Code to add the following definitions to Chapter 20.008 of Division I and Chapter 20.308 of Division II, as follows:

> *"Supportive Housing" means housing with no limit on length of stay, that is occupied by the target population, as defined in California Government Code Section 65582, and*

that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community, as defined in Section 50675.14 of the California Health and Safety Code. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

And:

"Transitional Housing" means rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months, and in no case more than two years, as defined in Section 50675.2 of the California Health and Safety Code. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

3. Equal treatment of "Supportive" and "Transitional" housing

To ensure that Supportive Housing and Transitional Housing types are not treated any differently than other residential use types, staff recommends adding new sections to the "General Provisions and Exceptions District" within Chapter 20.152 (Division I) as follows:

Upon issuance of an Administrative Permit, in accordance with Chapter 20.192, *Supportive and Transitional housing shall be permitted and held to the same development standards as any other like-type residential use in the same zoning district provided:*

1) *Supportive Housing is linked to on or off site services to assist the occupant(s) in retaining housing, improving his/ her health status and maximizing his/ her ability to live and work in the community, as defined in Section 50675.14 of the California Health and Safety Code, without limits on length of stay.*

2) *Transitional Housing is rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted-living unit to another eligible occupant at some predetermined future point in time, which shall be no less than six (6) months and no more than twenty four (24) months, as defined in Section 50675.2 of the California Health and Safety Code.*

The issuance of an Administrative Permit would help to ensure that this type of residential use complies with the applicable State definition. In addition, "transitional housing" would be removed from the list of "typical uses" under the "Group Care" use type as it is currently defined (see below).

Likewise, staff recommends adding a similar section to Chapter 20.444 (Division II) as follows:

Upon issuance of a Coastal Development Permit, in accordance with Chapter 20.532, Supportive and Transitional Housing shall be permitted and held to the same development standards as any other like-type residential use in the same zoning district provided:

1) *Supportive Housing is linked to on or off site services to assist the occupant(s) in retaining housing, improving his/ her health status and maximizing his/ her ability to live and work in the community, as defined in Section 50675.14 of the California Health and Safety Code, without limits on length of stay.*

2) *Transitional Housing is rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted-living unit to another*

eligible occupant at some predetermined future point in time, which shall be no less than six (6) months and no more than twenty four (24) months, as defined in Section 50675.2 of the California Health and Safety Code.

The issuance of a Coastal Development Permit would also help to ensure that the use complies with the applicable State definition.

4. "Group Care" use type definition amendment

In order for the above modifications to be consistent with the "Group Care" use type definition, staff recommends amending the Inland County Code (Division I) to have "transitional housing" removed from the list of typical uses in the current definition. In addition, "halfway houses" is recommended for removal as it is not a well-defined type of housing. "Group Care" is currently defined in Section 20.020.060 of the Mendocino County Code as follows:

> *"Group care" means services provided in facilities authorized, certified or licensed by the State to provide board, room and personal care to seven (7) or more, but not to exceed twenty-five (25) elderly, or mentally impaired or otherwise handicapped persons or dependent and neglected children, but excluding those uses classified under major impact services and utilities. Typical uses include halfway houses, emergency shelters, transitional housing, intermediate care facilities and rest homes.*

Removal of "transitional housing" and "halfway houses" from the definition will help to avoid any potential conflicts or other confusion regarding the defined typical uses under the "Group Care" use type. As for the Coastal Zoning Code (Division II), only the term "halfway houses" would need to be removed as "transitional housing" is not included in the current use type as defined in 20.320.060.

5. Allowance of Group Care (emergency shelters) by right in C-1 and C-2 zoning districts

In regards to Emergency Shelters, Action Item 4.3j instructs the County to:

> *Amend the Commercial (C-1, C-2) zones to allow for emergency and transitional housing by right without a conditional use or other discretionary action, provided that the site is:*
>
> *(1) located in a water and sewer district,*
> *(2) located more than 300 feet from industrial uses,*
> *(3) not located in Airport Zones A-1, A-2 or B-1 and*
> *(4) not located in an Alquist-Priolo Fault zone.*

Staff recommends amending the Inland County Code to allow Civic Use Type "Group Care," which includes Emergency Shelters, by right in C-1 and C-2 zoning. Again, "Group Care" is currently defined in Section 20.020.060 of the Mendocino County Code as follows:

> *"Group care" means services provided in facilities authorized, certified or licensed by the State to provide board, room and personal care to seven (7) or more, but not to exceed twenty-five (25) elderly, or mentally impaired or otherwise handicapped persons or dependent and neglected children, but excluding those uses classified under major impact services and utilities. Typical uses include halfway houses, emergency shelters, transitional housing, intermediate care facilities and rest homes.*

These proposed amendments will bring the County into compliance with State housing law.

6. Amendment of the definition of "Emergency Shelter"

The final amendment proposal, amending the definition of "Emergency Shelters", while not required by SB 2 would mirror the language used by the State, potentially making any future changes in State law easier to comply with. The County currently defines an Emergency Shelter as "a facility for the temporary shelter and feeding of indigents or disaster victims, operated by a public or non-profit agency." Staff proposes the new definition within both Division I and Division II to read as follows:

> *"Emergency Shelter" means a facility for the temporary shelter and feeding of indigents, disaster victims, or homeless persons that is limited to occupancy of six months or less, as defined in Section 50801(e) of the California Health and Safety Code.*

These proposed amendments will bring the County into compliance with SB 2.

ENVIRONMENTAL DETERMINATION: Under the general rule of the California Environmental Quality Act (CEQA), these Zoning Code amendments are not subject to environmental review because these amendments could not possibly impact the environment. Pursuant to Section 15061(b)(3) of the State CEQA Guidelines, a project is exempt from the CEQA when it can be seen with certainty that there is no possibility that the proposed project may have a significant effect on the environment. The project involves changes to definitions and amendments to regulations in the County zoning codes that are intended to define a "family" unit and to facilitate special needs housing in Mendocino County in compliance with State Law. The proposed amendments will not result in a project nor an increase in intensified allowable development. Therefore, since the project will not result in any new construction or development, it will not have an adverse effect on the environment, and is not subject to environmental review under CEQA.

RECOMMENDATION: Recommend the Board of Supervisors adopt the attached ordinances amending both Division I and Division II of the Zoning Code to:

1) Revise the definition of "Family" and "Supportive Housing"
2) Add the definition of "Transitional Housing"
3) Ensure equal treatment of "Supportive" and "Transitional" housing
4) Amend the Group Care use type
5) Allow Group Care facilities by right in C-1 and C-2 zoning districts (Inland only)
6) Revise the definition of "Emergency Shelter"

ATTACHMENTS:
A) Draft Ordinance for Division I (Strikeout/underline)
B) Draft Ordinance for Division I (Clean)
C) Draft Ordinance for Division II (Strikeout/underline)
D) Draft Ordinance for Division II (Clean)
E) Senate Bill 2 (2007)

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTIONS WITHIN DIVISION I OF TITLE 20 OF THE MENDOCINO COUNTY CODE

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1. On August 4, 2015, the Board of Supervisors adopted the 2014-2019 Housing Element Update of the General Plan. The Housing Element contained Action Item 4.1d, which calls for the County to amend its definition of "Family" in Chapter 20 of the Mendocino County Code, Action Item 4.3h, which includes "Treating applications for transitional and supportive housing applications similar to other residential applications within that zone", and Action Item 4.3j, which calls for the County to permit emergency shelters by right in commercial zoning areas. It is the intent of this Ordinance to fulfill this requirement.

Section 2. The purpose of this Ordinance is to facilitate the resolution of housing discrimination complaints and promote fair housing programs and to encourage a range of housing types to address the housing needs of the County's special needs populations. This Ordinance encourages these goals by bringing the County into compliance with Senate Bill 2 (2007) and the State's definition of "Family" in regards to housing. By eliminating unreasonable barriers and expanding the possibilities to provide a wider range of emergency shelters, supportive and transitional housing, this Ordinance allows the County to achieve these goals while protecting the public health and safety.

Section 3. Chapter 20, Division I of the Mendocino County Code is hereby amended to read as follows:

1) Section 20.008.027 - Definitions (E) of the Mendocino County Inland Zoning Code is amended to revise the existing definition of "Emergency Shelter" as follows:

(A) "Emergency shelter" means a facility for the temporary shelter and feeding of indigents, disaster victims, or homeless persons that is limited to occupancy of six months or less, as defined in Section 50801(b) of the California Health and Safety Code.

2) Section 20.008.028 - Definitions (F) of the Mendocino County Inland Zoning Code is amended to revise the definition of "Family" as follows:

(A) "Family" means ~~either:~~

~~(1)A single person or two (2) or more persons related by blood, marriage or adoption living in a dwelling unit; or~~

~~(2)Two (2) or more persons living together who bear the generic character of a family unit as a relatively permanent household.~~ one or more persons occupying premises and living as a single nonprofit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use. "Family" does not include a fraternal, religious, social or business group. "Family" shall be deemed to include domestic servants employed by a family.

3) Section 20.008.052- Definitions (S) of the Mendocino County Inland Zoning Code is amended with the addition of the definition of "Supportive Housing" as follows:

(30) **"**Supportive housing" means housing with no limit on length of stay, that is occupied by the target population and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community, as defined in Section 50675.14 of the California Health and Safety Code. Supportive housing units are residential uses subject only to those requirements and restrictions

that apply to other residential uses of the same type in the same zone.

~~(30)~~(31) "Swap lot" means a building, structure, enclosure lot or other area into which persons are admitted to display, exchange, barter, sell or bargain for new or used merchandise.

~~(31)~~(32) "Swimming pool" means a pool, pond, or open tank, capable of containing water to a depth greater than one and one-half (1½) feet at any point and designed or used for wading or swimming.

4) Section 20.008.054 - Definitions (T) of the Mendocino County Inland Zoning Code is amended to revise the existing definition of "Transitional Housing" as follows:

(D) "Transitional housing" means ~~a shelter provided for the homeless for an extended period, often as long as eighteen (18) months, and generally integrated with other social services and counseling programs to assist in the transition to self-sufficiency through the acquisition of a stable income and permanent housing~~ rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months, and in no case more than two years, as defined in Section 50675.2 of the California Health and Safety Code. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

5) Section 20.020.060 of the Mendocino County Inland Zoning Code is amended to remove "halfway houses" and "transitional housing" from the definition of "Group Care" as follows:

"Group care" means services provided in facilities authorized, certified or licensed by the State to provide board, room and personal care to seven (7) or more, but not to exceed twenty-five (25) elderly, or mentally impaired or otherwise handicapped persons or dependent and neglected children but excluding those uses classified under major impact services and utilities. Typical uses include ~~halfway houses,~~ emergency shelters, ~~transitional housing~~, intermediate care facilities and rest homes.

6) Chapter 20.088 C-1 Limited Commercial District is amended to revise Sections 20.088.010(B) and 20.088.015(A) allowing Group Care as a permitted use as follows:

Section 20.088.010- Permitted Uses

(B) Civic Use Types (See Chapter 20.020).

Administrative services, government;
Ambulance services;
Clinic services;
Community recreation;
Cultural exhibits and library services;
Essential services;
Fire and police protection services;
Group care*
Lodge, fraternal and civic assembly;
Minor impact utilities;
Religious assembly.

*Group care use shall be allowed provided
that the site is:
(1) located in a water and sewer district,
(2) located more than 300 feet from industrial uses,
(3) not located in Airport Zones A-1, A-2 or B-1 and
(4) not located in an Alquist-Priolo Fault zone.
(5) meets development standards to which other residential and commercial structures in

this zone are subject to.

Section 20.088.015- Uses Subject to a Minor Use Permit

The following use types are permitted in the C-2 District upon issuance of a Minor Use Permit:

(B) Civic Use Types (See Chapter 20.020).

Day care facilities/small schools;
~~Group care~~.

7) Chapter 20.092 C-2 General Commercial District is amended to revise Sections 20.092.010(B) and 20.092.015(A) allowing Group Care as a permitted use as follows:

Section 20.092.10-Permitted Uses

(B) Civic Use Types (See Chapter 20.020).

Administrative services, government;
Ambulance services;
Clinic services;
Community recreation;
Cultural exhibits and library services;
Essential services;
Fire and police protection services;
Group care*
Lodge, fraternal and civic assembly;
Minor impact utilities;
Religious assembly.

*Group care use shall be allowed provided
that the site is:
(1) located in a water and sewer district,
(2) located more than 300 feet from industrial uses,
(3) not located in Airport Zones A-1, A-2 or B-1 and
(4) not located in an Alquist-Priolo Fault zone.
(5) meets development standards to which other residential and commercial structures in this zone are subject to.

Sec. 20.092.015 - Uses Subject to a Minor Use Permit

The following use types are permitted in the C-2 District upon issuance of a Minor Use Permit:

(B) Civic Use Types (See Chapter 20.020).

Day care facilities/small schools;
~~Group care~~.

8) Chapter 20.152- General Provisions and Exceptions Districts of the Mendocino County Inland Zoning Code is amended to add Section 20.152.040, to read as follows:

Sec. 20.152.040- Supportive and Transitional Housing

Upon issuance of an Administrative Permit, in accordance with Chapter 20.192, Supportive and Transitional housing shall be permitted and held to the same development standards as any other like-

type residential use in the same zoning district provided:

1) Supportive housing is linked to on or off site services to assist the occupant(s) in retaining housing, improving his/ her health status and maximizing his/ her ability to live and work in the community, as defined in Section 50675.14 of the California Health and Safety Code, without limits on length of stay.

2) Transitional housing is rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted-living unit to another eligible occupant at some predetermined future point in time, which shall be no less than six (6) months and no more than twenty four (24) months, as defined in Section 50675.2 of the California Health and Safety Code.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2016, by the following vote:

AYES

NOES:

ABSENT:

WHEREUPON, the Chairman declared said Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT, County Counsel

_____
Deputy

_____
DAN GJERDE, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

CASE#: OA_2015-0001

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTIONS WITHIN DIVISION I OF TITLE 20 OF THE MENDOCINO COUNTY CODE

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1. On August 4, 2015, the Board of Supervisors adopted the 2014-2019 Housing Element Update of the General Plan. The Housing Element contained Action Item 4.1d, which calls for the County to amend its definition of "Family" in Chapter 20 of the Mendocino County Code, Action Item 4.3h, which includes "Treating applications for transitional and supportive housing applications similar to other residential applications within that zone," and Action Item 4.3j, which calls for the County to permit emergency shelters by right in commercial zoning districts. It is the intent of this Ordinance to fulfill this requirement.

Section 2. The purpose of this Ordinance is to facilitate the resolution of housing discrimination complaints and promote fair housing programs and to encourage a range of housing types to address the housing needs of the County's special needs populations. This Ordinance encourages these goals by bringing the County into compliance with Senate Bill 2 (2007) and the State's definition of "Family" in regards to housing. By eliminating unreasonable barriers and expanding the possibilities to provide a wider range of emergency shelters, supportive and transitional housing, this Ordinance allows the County to achieve these goals while protecting the public health and safety.

Section 3. Chapter 20, Division I of the Mendocino County Code is hereby amended to read as follows:

1) Section 20.008.027 - Definitions (E) of the Mendocino County Inland Zoning Code is amended to revise the existing definition of "Emergency Shelter" as follows:

(A) "Emergency shelter" means a facility for the temporary shelter and feeding of indigents, disaster victims, or homeless persons that is limited to occupancy of six months or less, as defined in Section 50801(b) of the California Health and Safety Code.

2) Section 20.008.028 - Definitions (F) of the Mendocino County Inland Zoning Code is amended to revise the definition of "Family" as follows:

(A) "Family" means one or more persons occupying premises and living as a single nonprofit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use. "Family" does not include a fraternal, religious, social or business group. "Family" shall be deemed to include domestic servants employed by a family.

3) Section 20.008.052- Definitions (S) of the Mendocino County Inland Zoning Code is amended with the addition of the definition of "Supportive Housing" as follows:

(30) **"**Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, as defined in California Government Code Section 65582, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community, as defined in Section 50675.14 of the California Health and Safety Code. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

(31) "Swap lot" means a building, structure, enclosure lot or other area into which persons are admitted to display, exchange, barter, sell or bargain for new or used merchandise.

(32) "Swimming pool" means a pool, pond, or open tank, capable of containing water to a depth greater than one and one-half (1½) feet at any point and designed or used for wading or swimming.

4) Section 20.008.054 - Definitions (T) of the Mendocino County Inland Zoning Code is amended to revise the existing definition of "Transitional Housing" as follows:

(D) "Transitional housing" means rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months, and in no case more than two years, as defined in Section 50675.2 of the California Health and Safety Code. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

5) Section 20.020.060 of the Mendocino County Inland Zoning Code is amended to remove transitional housing from the definition of "Group Care" as follows:

"Group care" means services provided in facilities authorized, certified or licensed by the State to provide board, room and personal care to seven (7) or more, but not to exceed twenty-five (25) elderly, or mentally impaired or otherwise handicapped persons or dependent and neglected children but excluding those uses classified under major impact services and utilities. Typical uses include emergency shelters, intermediate care facilities and rest homes.

6) Chapter 20.088 C-1 Limited Commercial District is amended to revise Sections 20.088.010(B) and 20.088.015(A) allowing Group Care as a permitted use as follows:

Section 20.088.010- Permitted Uses

(B) Civic Use Types (See Chapter 20.020).

Administrative services, government;
Ambulance services;
Clinic services;
Community recreation;
Cultural exhibits and library services;
Essential services;
Fire and police protection services;
Group care*
Lodge, fraternal and civic assembly;
Minor impact utilities;
Religious assembly.

*Group care use shall be allowed provided
that the site is:
(1) located in a water and sewer district,
(2) located more than 300 feet from industrial uses,
(3) not located in Airport Zones A-1, A-2 or B-1 and
(4) not located in an Alquist-Priolo Fault zone.
(5) meets development standards to which other residential and commercial structures in this zone are subject to.

Section 20.088.015- Uses Subject to a Minor Use Permit

The following use types are permitted in the C-2 District upon issuance of a Minor Use Permit:

(B) Civic Use Types (See Chapter 20.020).

Day care facilities/small schools.

7) Chapter 20.092 C-2 General Commercial District is amended to revise Sections 20.092.010(B) and 20.092.015(A) allowing Group Care as a permitted use as follows:

Section 20.092.10-Permitted Uses

(B) Civic Use Types (See Chapter 20.020).

Administrative services, government;
Ambulance services;
Clinic services;
Community recreation;
Cultural exhibits and library services;
Essential services;
Fire and police protection services;
Group care*
Lodge, fraternal and civic assembly;
Minor impact utilities;
Religious assembly.

*Group care use shall be allowed provided
that the site is:
(1) located in a water and sewer district,
(2) located more than 300 feet from industrial uses,
(3) not located in Airport Zones A-1, A-2 or B-1 and
(4) not located in an Alquist-Priolo Fault zone.
(5) meets development standards to which other residential and commercial structures in this zone are subject to.

Sec. 20.092.015 - Uses Subject to a Minor Use Permit

The following use types are permitted in the C-2 District upon issuance of a Minor Use Permit:

(B) Civic Use Types (See Chapter 20.020).

Day care facilities/small schools.

8) Chapter 20.152- General Provisions and Exceptions Districts of the Mendocino County Inland Zoning Code is amended to add Section 20.152.040, to read as follows:

Sec. 20.152.040- Supportive and Transitional Housing

Upon issuance of an Administrative Permit, in accordance with Chapter 20.192, Supportive and Transitional housing shall be permitted and held to the same development standards as any other like-type residential use in the same zoning district provided:

1) Supportive housing is linked to on or off site services to assist the occupant(s) in retaining housing, improving his/ her health status and maximizing his/ her ability to live and work in the community, as defined in Section 50675.14 of the California Health and Safety Code, without limits on length of stay.

2) Transitional housing is rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted-living unit to another eligible occupant at some predetermined future point in time, which shall be no less than six (6) months and no more than twenty four (24) months, as defined in Section 50675.2 of the California Health and Safety Code.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2016, by the following vote:

AYES
NOES:
ABSENT:

WHEREUPON, the Chairman declared said Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT, County Counsel

_____
Deputy

_____
DAN GJERDE, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

CASE#: OA_2015-0001

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTIONS WITHIN DIVISION II OF TITLE 20 OF THE MENDOCINO COUNTY CODE

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1. On August 4, 2015, the Board of Supervisors adopted the 2014-2019 Housing Element Update of the General Plan. The Housing Element contained Action Item 4.1d, which calls for the County to amend its definition of "Family" in Chapter 20 of the Mendocino County Code, Action Item 4.3h, which includes "Treating applications for transitional and supportive housing applications similar to other residential applications within that zone", and Action Item 4.3j, which calls for the County to permit emergency shelters by right in commercial zoning areas. It is the intent of this Ordinance to fulfill this requirement.

Section 2. The purpose of this Ordinance is to facilitate the resolution of housing discrimination complaints and promote fair housing programs and to encourage a range of housing types to address the housing needs of the County's special needs populations. This Ordinance encourages these goals by bringing the County into compliance with Senate Bill 2 (2007) and the State's definition of "Family" in regards to housing. By eliminating unreasonable barriers and expanding the possibilities to provide a wider range of emergency shelters, supportive and transitional housing, this Ordinance allows the County to achieve these goals while protecting the public health and safety.

Section 3. Chapter 20, Division II of the Mendocino County Code is hereby amended to read as follows:

1) Section 20.308.040 - Definitions (E) of the Mendocino County Coastal Zoning Code is amended with the addition of the definition of "Emergency Shelter" as follows:

(C) "Emergency Shelter" means a facility for the temporary shelter and feeding of indigents, disaster victims, or homeless persons that is limited to occupancy of six months or less, as defined in Section 50801(b) of the California Health and Safety Code.

~~(C)~~ (D) "Endangered Species" means a species of animal or plant whose survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat over-exploitation, predation, competition, disease, or other factors; or a species of animal or plant shall be presumed to be endangered as it is listed in (1) Sections 670.2 or 670.5, Title 14, California Administrative Code; or (2) Title 50, Code of Federal Regulations Sections 17.11 or 17.12 pursuant to the Federal Endangered Species Act as endangered.

~~(D)~~ (E) "Energy, Alternate" means alternate energy sources including energy from solar, wind, waves, biomass and cogeneration sources.

~~(E)~~ (F) "Energy Facility" means any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.

~~(F)~~ (G) "Environmentally Sensitive Habitat Area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered

plants, and habitats of rare and endangered plants and animals.

~~(G)~~ (H) "Estuary" means a coastal water body usually semi-enclosed by land, but which has open, partially obstructed, or intermittent exchange with the ocean and in which ocean water is at least occasionally diluted by fresh water runoff from the land.

3) Section 20.308.045- Definitions (F) of the Mendocino County Coastal Zoning Code is amended to revise the existing definition of "Family" as follows:

(A) "Family means ~~a person living alone, or two (2) or more persons related by blood, marriage or adoption, or a group of unrelated persons living together who bear the generic character of a single nonprofit housekeeping unit in a dwelling unit, as distinguished from a group occupying a boardinghouse, inn, motel, hotel, or bed and breakfast inn~~ one or more persons occupying premises and living as a single nonprofit housekeeping unit, as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use. "Family" does not include a fraternal, religious, social or business group. "Family" shall be deemed to include domestic servants employed by a family.

2) Section 20.308.110- Definitions (S) of the Mendocino County Coastal Zoning Code is amended with the addition of the definition of "Supportive Housing" as follows:

(37) **"**Supportive Housing" means housing with no limit on length of stay, that is occupied by the target population and that is linked to on-site or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community, as defined in Section 50675.14 of the California Health and Safety Code. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

~~(37)~~(38) "Swimming Pool" means a pool, pond, or open tank, capable of containing water to a depth greater than one and one-half (1½) feet at any point and designed or used for wading, swimming, bathing, soaking or therapeutic purposes.

3) Section 20.308.115 - Definitions (T) of the Mendocino County Coastal Zoning Code is amended with the addition of the definition of "Transitional Housing" as follows:

(G) "Transitional Housing" means rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months, and in no case more than two years, as defined in Section 50675.2 of the California Health and Safety Code. Transitional Housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

4) Section 20.320.060 of the Mendocino County Coastal Zoning Code is amended to remove "halfway houses" from the definition of Civic Use Type "Group Care" as follows:

Services provided in facilities authorized, certified or licensed by the state to provide board, room and personal care to seven (7) or more, but not to exceed twenty-five (25) elderly, or mentally impaired or otherwise handicapped persons or dependent and neglected children but excluding those uses classified under Major Impact Services and Utilities. Typical uses include ~~halfway houses,~~ intermediate care facilities and rest homes.

5) Chapter 20.444- General Provisions and Exceptions Districts of the Mendocino County Coastal Zoning Code is amended to add Section 20.444.040, to read as follows:

Sec. 20.444.040- Supportive and Transitional Housing

Upon issuance of a Coastal Development Permit, in accordance with Chapter 20.532, Supportive and Transitional Housing shall be permitted and held to the same development standards as any other like-type residential use in the same zoning district provided:

1) Supportive Housing is linked to on or off site services to assist the occupant(s) in retaining housing, improving his/ her health status and maximizing his/ her ability to live and work in the community, as defined in Section 50675.14 of the California Health and Safety Code, without limits on length of stay.

2) Transitional Housing is rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted-living unit to another eligible occupant at some predetermined future point in time, which shall be no less than six (6) months and no more than twenty four (24) months, as defined in Section 50675.2 of the California Health and Safety Code.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2016, by the following vote:

AYES

NOES:

ABSENT:

WHEREUPON, the Chairman declared said Ordinance passed and adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT, County Counsel

_____
Deputy

_____
DAN GJERDE, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

CASE#: OA_2015-0001

ORDINANCE NO._____

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PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2016, by the following vote:

AYES

NOES:

ABSENT:

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ATTEST: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT, County Counsel

_____
Deputy

_____
DAN GJERDE, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO
Clerk of the Board

_____
Deputy

CASE#: OA_2015-0001

STATE OF CALIFORNIA -BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177
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MEMORANDUM

Updated: April 10, 2013

DATE: May 7, 2008

TO: Planning Directors and Interested Parties
.

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

SUBJECT: **Senate Bill 2 -- Legislation Effective January 1, 2008:**
Local Planning and Approval for Emergency Shelters and Transitional and Supportive Housing

Chapter 633, Statutes of 2007 (SB 2) clarifies and strengthens housing element law to ensure zoning encourages and facilitates emergency shelters and limits the denial of emergency shelters and transitional and supportive housing under the Housing Accountability Act. The law will facilitate efforts to address the critical needs of homeless populations and persons with special needs throughout all communities in California. Generally, SB 2 amends housing element law regarding planning and approval for emergency shelters and transitional and supportive housing as follows:

Planning (Government Code Section 65583)

- At least one zone shall be identified to permit emergency shelters without a conditional use permit or other discretionary action.
- Sufficient capacity must be identified to accommodate the need for emergency shelters and at least one year-round emergency shelter.
- Existing or proposed permit procedures, development and management standards must be objective and encourage and facilitate the development of or conversion to emergency shelters.
- Emergency shelters shall only be subject to development and management standards that apply to residential or commercial within the same zone.
- Written and objective standards may be applied as specified in statute, including maximum number of beds, provision of onsite management, length of stay and security.
- Includes flexibility for jurisdictions to meet zoning requirements with existing ordinances or demonstrate the need for emergency shelters can be accommodated in existing shelters or through a multi-jurisdictional agreement.

- Transitional and supportive housing shall be considered a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone.

Local Approval (Government Code Section 65589.5: Housing Accountability Act)

- Limits denial of emergency shelters, transitional housing or supportive housing by requiring specific findings.
- Some findings shall not be utilized if new planning requirements of SB 2 are not met; such as identifying a zone without a conditional use permit,

Attached is a briefing paper informing local governments of SB 2, providing assistance in evaluating these new provisions to effectively implement this important new State law; in addition to a copy of the legislation. Electronic copies of these can be found on the Department's website at ***www.hcd.ca.gov*** or the Senate's website at ***www.senate.ca.gov***. You may also obtain copies of published bills from the Legislative Bill Room by calling (916) 445-2323. If you have any questions, or seek additional technical assistance, please contact Paul McDougall, HPD Manager, at (916) 445-4728.

Attachments

Chapter 633, Statutes of 2007 (Senate Bill 2)

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Introduction

Homeless Needs

Homelessness in California is a continuing and growing crisis. On any given day, there are at least 361,000 homeless individuals in California – or 1.1 percent of the State's total population. Of this number, two-thirds are estimated to be single adults, while the other third are families. Some 30 percent of California's homeless – 108,000 – are so-called "chronic" homeless who have been homeless for six months or more. This population tends to be comprised of single adults who face such obstacles as mental illness, substance abuse problems and chronic physical health problems or disabilities that prevent them from working. Homeless individuals and families are without permanent housing largely because of a lack of affordable housing, often compounded by limited education or skills, mental illness and substance abuse issues, domestic violence and the lack of family or other support networks.[1]

California's homelessness crisis demands the effective involvement of both the public and private sectors. A housing element can be an effective and powerful tool in combating homelessness. Passage of SB 2 strengthened the law to increase its effectiveness in addressing the needs of California's homeless population. The upcoming housing element update presents an important opportunity to make ending homelessness a critical priority.

Purpose and Objectives of SB 2

The framework of SB 2 resulted from a collaborative effort by key stakeholders including housing and homeless advocates and providers, local governments, planners, and the building industry. SB 2 strengthens existing housing element requirements to provide the opportunity for the development of emergency shelters and transitional and supportive housing. SB 2 ensures zoning, development and management standards and permit procedures encourage emergency shelters while allowing flexibility for existing local strategies and cooperative efforts.

SB 2 focuses on the impacts of zoning requirements on the development of emergency shelters. While the new statute requires that every local government zone for the development of emergency shelters, it does not restrict how local governments allocate resources to address local priority needs. For example, nothing in SB 2 prohibits communities from also adopting a "Housing First" strategy to provide homeless persons with housing immediately and then providing services as needed.

[1] *Governor's Interagency Task Force on Homelessness, Progress Report and Work Plan for 2003*. Health and Human Services Agency and Business, Transportation and Housing Agency, December 2002

Section 1

Planning

(Government Code Section 65583)

Identifying and Analyzing Needs and Resources

Current law, Government Code Section 65583(a)(7), requires an identification and analysis of the needs of homeless persons and families. The analysis is an essential component of an effective housing element; however data sources can be limited and vary in estimates of need. As a result, an analysis should consider a variety of data sources and include proactive outreach with service providers to examine the degree and characteristics of homeless needs in the community and surrounding communities. A thorough analysis includes:

- An estimate or count of the daily average number of persons lacking shelter. Wherever possible, and to better describe the characteristics of needs, this figure could be divided into single males, single females and families (one or more adults with children) as the needs of each subgroup differ significantly.

- As local data or other existing sources permit (see list below), a description of the percentage of the homeless population who are mentally ill, developmentally disabled, veterans, runaway or emancipated foster youth, substance abusers, survivors of domestic violence, and other subpopulations of homeless considered significant by the jurisdiction.

- An inventory of the resources available within the community including shelters, transitional housing and supportive housing units by type. The analysis should estimate the number and type of existing shelter beds, and units of transitional and supportive housing available.

- Assess the degree of unmet homeless needs, including the extent of need for emergency shelters. As part of this analysis, SB 2 now clarifies the need assessment for emergency shelters must consider seasonal <u>and</u> year-round need. In recognition of local efforts to encourage supportive housing, SB 2 allows jurisdictions with 10 Year Plans to End Chronic Homelessness to reduce the need for emergency shelters by the number of supportive housing units identified in an adopted 10-year plan **<u>and</u>** that are either vacant or funding has been identified to allow construction in the housing element planning period.

Resources to identify and analyze homeless needs, include:

- Consolidated plans
- Continuum of care plans
- 10 Year Plans to End Chronic Homelessness
- Interagency Council on Homelessness, Guide to Developing Plans and Examples (*http://www.ich.gov/slocal/index.html*)

- Local service providers such as continuum of care providers, local homeless shelter and service providers, food programs, operators of transitional housing programs, local drug and alcohol program service providers, county mental health and social service departments, local Salvation Army, Goodwill Industries, churches and schools, and
- 15 countywide Designated Local Boards certified by the Department's Emergency Housing and Assistance Program (*http://www.hcd.ca.gov/fa/ehap/cntys-with-dlb.html*).

Identifying Zoning for Emergency Shelters

Prior to enactment of SB 2, housing element law required local governments to identify zoning to encourage and facilitate the development of emergency shelters. SB 2 strengthened these requirements. Most prominently, housing element law now requires the identification of a zone(s) where emergency shelters are permitted without a conditional use permit or other discretionary action. To address this requirement, a local government may amend an existing zoning district, establish a new zoning district or establish an overlay zone for existing zoning districts. For example, some communities may amend one or more existing commercial zoning districts to allow emergency shelters without discretionary approval. The zone(s) must provide sufficient opportunities for new emergency shelters in the planning period to meet the need identified in the analysis and must in any case accommodate at least one year-round emergency shelter (see more detailed discussion below).

Cloverfield Services Center – Emergency Shelter by OPCC in Santa Monica, CA
Photo courtesy of OPCC in Santa Monica

When identifying a zone or analyzing an existing zone for emergency shelters, the element should address the compatibility and suitability of the zone. The element should consider what other uses are permitted in the zone and whether the zone is suitable for residential or emergency shelters. For example, an industrial zone with heavy manufacturing may have environmental conditions rendering it unsuitable for residential or shelter uses. In some localities, manufacturing or industrial zones may be in transition, where older industrial uses are redeveloping to residential, office or commercial. Transitioning zones may be compatible

with residential uses and suitable for emergency shelters. Also, a commercial zone allowing residential or residential compatible services (i.e., social services, offices) would be suitable for shelters. For example, Sacramento County permits emergency shelters in its commercial zone along with other residential uses and uses such as retail that are compatible with residential.

SB 2 clarifies existing law by requiring zoning identified for emergency shelters to include sufficient capacity to accommodate the need. The identified zone(s) must have sufficient capacity, when taken as a whole, to meet the need for shelters identified in the housing element, and have a realistic potential for development or reuse opportunities in the planning period. Further, capacity for emergency shelters must be suitable and available and account for physical features (flooding, seismic hazards, chemical contamination, other environmental constraints, and slope instability or erosion) and location (proximity to transit, job centers, and public and community services). The element should also address available acreage (vacant or underutilized) and the realistic capacity for emergency shelters in the zone. For example, if a jurisdiction identifies the public institution zoning district as the zone where emergency shelters will be allowed without a conditional use permit, the element should demonstrate sufficient acreage within the zoning district that could accommodate the actual development of an emergency shelter. The element could also discuss the potential for reuse or conversion of existing buildings to emergency shelters.

SB 2 ensures that each local government shares the responsibility to provide opportunities for the development of emergency shelters. Regardless of the extent of need identified in the element, local governments must provide zoning to allow at least one year round emergency shelter, unless the need for emergency shelters is accommodated through existing shelters or a multi-jurisdictional agreement (see discussion below). This is especially important given the fact that the homeless population is not always visible in the community; is sometimes transitory; data resources are frequently inadequate and the availability and adequacy of services and programs vary significantly by community and can impact the homeless count.

If a local government's existing zoning does not allow emergency shelters without a conditional use permit or other discretionary action, the housing element must include a program to identify a specific zone(s) and amend the zoning code *within one year of adoption of the housing element (*65583(a)(4)). The only exceptions permitted to the non-discretionary zoning requirement are where a jurisdiction demonstrates their homeless needs can be accommodated in existing shelters; or where the jurisdiction meets all of its need through a multi-jurisdictional agreement (discussed in later sections).

Where a local government has identified a zone and sufficient capacity to encourage emergency shelters consistent with the provisions of SB 2, a local government may also identify additional zones for the development of emergency shelters that require a conditional use permit.

Permitting Emergency Shelters without Discretionary Action

To comply with SB 2, localities must have or adopt a zoning classification that permits emergency shelters in a non-discretionary manner (localities may however apply development standards pursuant to Section 65583(a)(4)). In such zones, permitted uses, development standards and permit procedures must include*:*

- Objective development standards that encourage and facilitate the approval of emergency shelters.
- Decision-making criteria such as standards that do not require discretionary judgment.
- Standards that do not render emergency shelters infeasible, and only address the use as an emergency shelter, not the perceived characteristics of potential occupants.

Requiring a variance, minor use permit, special use permit or any other discretionary process does not constitute a non-discretionary process. However, local governments may apply non-discretionary design review standards.

Emergency Shelter – Jackson, California
Photo courtesy of Amador-Tuolumne Community Action

A local government should not require public notice of its consideration of emergency shelter proposals unless it provides public notice of other non-discretionary actions. For example, if a local government permits new construction of a single-family residence without discretionary action and public notice is not given for these applications, then a local government should employ the same procedures for emergency shelter applications. The appropriate point for public comment and discretionary action is when zoning is being amended or adopted for emergency shelters, not on a project-by-project basis.

Development Standards to Encourage and Facilitate Emergency Shelters

SB 2 requires that emergency shelters only be subject to those development and management standards that apply to residential or commercial use within the same zone, except the local government may apply certain objective standards discussed on the next page (Government Code Section 65583(a)(4)). For example, a light commercial zone might permit a range of wholesaler, service repair and business services subject to buildable area and lot area requirements. In this case, the emergency shelter may be subject only to the same buildable area and lot area requirements. The same zone might permit residential uses subject to certain development standard (i.e., lot area, heights, and setbacks) requirements. In this case, emergency shelters should only be subject to the same development standards.

To demonstrate that processing procedures and standards are objective and encourage and facilitate development of emergency shelters, the housing element must address how:

- zoning explicitly allows the use (meaning the use is specifically described in the zoning code);
- development standards and permit procedures do not render the use infeasible;
- zoning, development and management standards, permit procedures and other applicable land-use regulations promote the use through objective; and predictable standards.

SB 2 allows flexibility for local governments to apply written, objective development and management standards for emergency shelters as described in statue and below.

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

These standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. For example, a standard establishing the maximum number of beds should act to encourage the development of an emergency shelter; local governments should establish flexible ranges for hours of operation; length of stay provision should be consistent with financing programs or statutory definitions limiting occupancy to six months (Health and Safety Code Section 50801) and should not unduly impair shelter operations. Appropriate management standards are reasonable and limited to ensure the operation and maintenance of the property.

Encouraging Multi-Jurisdictional Cooperation and Coordination

SB 2 recognizes and encourages multi-jurisdictional coordination by allowing local governments to satisfy all or part of their obligation to zone for emergency shelters by adopting and implementing a multi-jurisdictional agreement, with a maximum of two adjacent communities. The agreement must commit the participating jurisdictions to develop at least one year-round shelter within two years of the beginning of the housing element planning period. For example, jurisdictions in Southern California Association of Governments (SCAG) region with a statutory due date of June 30, 2008 would need to ensure the development of shelter(s) by June 30, 2010. To utilize this provision, local governments must adopt an agreement that allocates a portion of the new shelter capacity to each jurisdiction as credit towards the jurisdiction's emergency shelter need. The housing element for each participating local government must describe how the capacity was allocated. In addition, the housing element of each participating jurisdiction must describe:

- How the joint facility will address the local governments need for emergency shelters.
- The local government's contribution for both the development and ongoing operation and management of the shelter.
- The amount and source of the funding to be contributed to the shelter.
- How the aggregate capacity claimed by all of the participating jurisdictions does not exceed the actual capacity of the shelter facility.

Quinn Cottages, Transitional Housing in Sacramento, CA
Photo courtesy of Cottage Housing, Inc.

If the local government can demonstrate that the multi-jurisdictional agreement can accommodate the jurisdiction's need for emergency shelter, the jurisdiction is authorized to comply with the zoning requirements for emergency shelters by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit.

Existing Ordinances and Existing Shelters that Accommodate Need

Existing Ordinances Permitting Emergency Shelters

Hendley Circle Apartments – Supportive SRO Housing in Burbank
Photo courtesy of Burbank Housing

Many local governments have a record of effective actions to address the homeless needs in their community. SB 2 recognizes and provides flexibility for jurisdictions that have already adopted an ordinance(s) that complies with the new zoning requirements. For those local governments with existing ordinances and zoning consistent with requirements of SB 2, no further action will be required to identify zones available for emergency shelters. The housing element must however, describe how the existing ordinance, policies and standards are consistent with the requirements of SB 2.

Existing Shelters That Accommodate the Need for Emergency Shelters

Local governments that can demonstrate, to the satisfaction of the Department, the existence of one or more emergency shelters either within the jurisdiction or pursuant to a multi-jurisdictional agreement that can accommodate the need for emergency shelters identified in the housing element may comply with the zoning requirements of SB 2 by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit. To demonstrate homeless needs can be accommodated in existing shelters, an element must at minimum list existing shelters including the total number of beds and the number vacant. The analysis should support and document the estimate of vacant beds and must consider seasonal fluctuations in the need for emergency shelters.

Transitional and Supportive Housing

Transitional housing is defined in Section 50675.2 of the Health & Safety Code as rental housing for stays of at least six months but where the units are re-circulated to another program recipient after a set period. Transitional housing may be designated for a homeless individual or family transitioning to permanent housing. This housing can take several forms,

such as single family or multifamily units, and may include supportive services to allow individuals to gain necessary life skills in support of independent living. *Supportive housing* as defined at Section 50675.14 of the Health & Safety Code has no limit on the length of stay, is linked to onsite or offsite services, and is occupied by a target population as defined in Health & Safety Code Section 53260. Services typically include assistance designed to meet the needs of the target population in retaining housing, living and working in the community, and/or improving health and may include case management, mental health treatment, and life skills.

The housing element must demonstrate that transitional housing and supportive housing are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone (Government Code Section 65583(a)(5)). In other words, transitional housing and supportive housing are permitted in all zones allowing residential uses and are not subject to any restrictions (e.g., occupancy limit) not imposed on similar dwellings (e.g., single family home, apartments) in the same zone in which the transitional housing and supportive housing is located. For example, transitional housing located in an apartment building in a multifamily zone is permitted in the same manner as an apartment building in the same zone and supportive housing located in a single family home in a single family zone is permitted in the same manner as a single family home in the same zone.

If jurisdictions do not explicitly permit transitional and supportive housing as previously described, the element must include a program to ensure zoning treats transitional and supportive housing as a residential use, subject only to those restrictions on residential uses contained in the same type of structure.

Housing Element Policies and Programs

Gish Apartments – Supportive Housing, San Jose, CA
Photo courtesy of First Community Housing and Bernard Andre

Effective programs reflect the results of the local housing need analyses, identification of available resources, including land and financing, and the mitigation of identified governmental and nongovernmental constraints. Programs consist of specific action steps the locality will take to implement its policies and achieve goals and objectives. Programs must include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, and describe the jurisdiction's specific role in implementation.

Where a jurisdiction does not provide an analysis demonstrating compliance with the provisions of SB 2 through existing zoning, the element must have a program(s) to address the results of that analysis. For example, if the element does not identify an existing zone to

permit emergency shelters without a conditional use permit or other discretionary action, the element must include a program to establish the appropriate zoning, unless the jurisdiction has satisfied its needs through existing emergency shelters or a multi-jurisdictional agreement. If development and management standards do not encourage and facilitate emergency shelters or zoning does not treat transitional and supportive housing as a residential use, the element must include a program(s) to amend existing zoning or processing requirements to comply with SB 2.

Programs to address the requirements of SB 2 for emergency shelters must be implemented within one year of adoption of the housing element. Programs to address requirements for transitional and supportive housing should be implemented early in the planning period. Further, since the program for emergency shelters must be implemented within one year of adoption, the housing element should provide analysis to support and assure effective implementation of the program. For example, the analysis should examine the suitability of zones to be included in the program and whether sufficient and suitable capacity is available. The same type of analysis could evaluate development and management standards that will be considered as part of establishing or amending zoning. This analysis should demonstrate the necessary commitment to ensure zoning, permit procedures and development standards encourage and facilitate emergency shelters.

******* UPDATED*******

Please be aware, if the adopted housing element from the previous cycle (4th cycle) included a program to address the requirements of SB 2 for emergency shelters, and the required timeframe has lapsed, the Department will not be able to find future housing elements in compliance until the required rezoning is complete and the element is amended to reflect that rezoning.

Timing: When SB 2 Applies

In accordance with Government Code Section 65583(e), any draft housing element submitted to the Department after March 31, 2008 will be required to comply with SB 2.

Section 2

Local Approval

(Government Code Section 65589.5)

The Housing Accountability Act

To promote predictability for the development of housing affordable to lower- and moderate-income households, the Housing Accountability Act (Government Code Section 65589.5) prohibits a jurisdiction from disapproving a housing development project, including housing for farmworkers and for very low-, low-, or moderate-income households, or conditioning approval in a manner that renders the project infeasible for development for the use of very low-, low-, or moderate-income households, including through the use of design review standards, unless it makes at least one of five specific written findings based on substantial evidence in the record (Government Code Section 65589.5).

SB 2 adds emergency shelters to the list of uses protected under the Housing Accountability Act. In addition, SB 2 clarifies that the definition of a housing development project includes transitional or supportive housing (see Attachment 1: SB 2 - changes are underlined).

Zoning Inconsistency

Pursuant to the Housing Accountability Act, a local government is prohibited from making the finding regarding zoning and general plan inconsistency (Section 65589.5(d)(5)) to disapprove a development if the jurisdiction identified the site in its general plan (e.g., housing or land-use element) as appropriate for residential use at the density proposed or failed to identify adequate sites to accommodate its share of the regional housing need for all income groups. In addition to extending these provisions to emergency shelters and transitional housing, SB 2 prohibits the use of the zoning and general plan inconsistency finding to disapprove an emergency shelter if the jurisdictions have:

- not identified a zone(s) where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit,
- not demonstrated the identified zone(s) include sufficient capacity to accommodate the need for emergency shelter, or
- not demonstrated the identified zone(s) can accommodate at least one emergency shelter.

This provision applies to any site identified in any element of the general plan for industrial, commercial, or multifamily residential uses. In any court action, the burden of proof is on the local jurisdiction to demonstrate its housing element satisfies the above requirements of SB 2.

Attachment 1

Statutory Changes to Housing Element Law *(underline version)*

Attachment 1

Changes to State Housing Element Law
Chapter 633, Statutes of 2007 (SB 2)

(changes indicated in strikeouts and underlines)

65582. As used in this article, the following definitions apply:
(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.
(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.
(c) "Department" means the Department of Housing and Community Development.
(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.
(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.
(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.
(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, ~~and~~ mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:
(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:
(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.
(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.
(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:
(i) The maximum number of beds or persons permitted to be served nightly by the facility.
(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
(iii) The size and location of exterior and interior onsite waiting and client intake areas.
(iv) The provision of onsite management.
(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.
(vi) The length of stay.
(vii) Lighting.
(viii) Security during hours that the emergency shelter is in operation.
(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.
(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.
(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in

the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph Transitional housing and supportive housing shall be (5considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

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

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

(8) An analysis of opportunities for energy conservation with respect to residential development.

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

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

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

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

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.
(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.
(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.
(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and ~~the~~ 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 of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.
(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.
(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.
(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.
(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.
(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.
(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (~~8~~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 (~~8~~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) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.
(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.
(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.
(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:
(A) How the joint facility will meet the jurisdiction's emergency shelter need.
(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.
(C) The amount and source of the funding that the jurisdiction contributes to the facility.
(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.
(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:
(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, ~~where~~when a city, county, or city and county submits a ~~first~~ 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, ~~where~~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.

Housing Accountability Act

65589.5. (a) The Legislature finds and declares all of the following:
(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California. (2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.
(3) Among the consequences of those actions are discrimination against low income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.
(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.
(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the ~~housing~~ need determined pursuant to this article without a thorough analysis of the economic, social, and Environmental effects of the action and without complying with subdivision (d).
(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.
(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate- income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:
(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional

housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.
(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.
(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderateincome households or rendering the development of the emergency shelter financially infeasible.
(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.
(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.
(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.
(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

~~(c) This section does not relieve the local agency~~ (C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.
(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). ~~This~~Neither shall anything in this section ~~also does not~~be construed to relieve the local agency ~~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) ~~This~~(1) Nothing in this section ~~does not~~shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development ~~project. This~~. (2) Nothing in this section ~~does not~~shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.
(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.
(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.
(h) The following definitions apply for the purposes of this section:
(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.
(2) "Housing development project" means a use consisting of ~~either~~ any of the following:
(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.
(C) Transitional housing or supportive housing.
(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.
(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.
(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:
(A) Votes on a proposed housing development project application and the application is disapproved.
(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.
(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.
(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.
(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.
(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in ~~paragraph~~ subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.
(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of

preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.
(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.
(o) This section shall be known, and may be cited, as the Housing Accountability Act.

Attachment 2

Definitions

Attachment 2

Definitions

Emergency Shelters (Health and Safety Code Section 50801(e)

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

Transitional Housing (Health and Safety Code Section 50675.2)(h)

"Transitional housing" and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

Supportive Housing (Health and Safety Code 50675.14(b))

Housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260, and that is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Target Population Definition per HSC 53260(d)

(d) "Target population" means adults with low-income having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with *Section 4500) of the Welfare and Institutions Code*) and may, among other populations, include families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, or homeless people.

Attachment 3

Helpful Links

Attachment 3

Helpful Links

National Alliance to End Homelessness

http://www.endhomelessness.org/section/tools/tenyearplan

Interagency Council on Homelessness

http://www.ich.gov/

Interagency Council on Homelessness, Guide to Developing Plans and Examples

http://www.ich.gov/slocal/index.html

U.S. Department of Health and Human Services, Homelessness Resource Center

http://www.nrchmi.samhsa.gov/(X(1)S(axpyp555dhn54z45qhpgvnj4))/Default.aspx?AspxAutoDetectCookieSupport=1

The National Coalition for the Homeless – Local Resources in California

http://www.nationalhomeless.org/resources/local/california.html

HCD Selected Bibliography on Homeless Issues

http://www.hcd.ca.gov/hpd/biblio.html

Building Blocks for Effective Housing Elements
(links to funding resources, data, policy and research on homelessness)

http://www.hcd.ca.gov/hpd/housing_element/index.html