

AMENDED IN SENATE JULY 14, 2017

AMENDED IN SENATE JULY 3, 2017

AMENDED IN ASSEMBLY MAY 26, 2017

AMENDED IN ASSEMBLY MAY 17, 2017

AMENDED IN ASSEMBLY APRIL 20, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1397

Introduced by Assembly Member Low
(Coauthors: Assembly Members Bloom and Chiu)
(Coauthor: Senator Wiener)

February 17, 2017

An act to amend Sections 65580, 65583, and 65583.2 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1397, as amended, Low. Local planning: housing element: inventory of land for residential development.

Existing law, the Planning and Zoning Law, requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element. Existing law requires the housing element to contain, among other things, an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment.

This bill would require the inventory of land to be available for residential development in addition to being suitable for residential development and to include vacant sites and sites that have realistic and

demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

Existing law requires the inventory of land to include, among other things, a *listing of properties by parcel number or other unique reference and a general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities*. Existing law specifies that this information does not need to be identified on a site-specific basis.

This bill would instead require *the listing of properties to be by assessor parcel number and require* parcels included in the inventory to have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan to secure sufficient water, sewer, and dry utilities supply to support housing development. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

Existing law requires the housing element to contain a program that sets forth a schedule of actions during the planning period that the local government is undertaking, or intends to undertake, to implement the policies and achieve the goals and objectives of the housing element. Existing law requires a city or county, based on the inventory of land, to determine whether each site in the inventory can accommodate some portion of its share of the regional housing need, as specified.

This bill would also require the inventory to specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower-income housing, moderate-income housing, or above moderate-income housing, as specified. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

Existing law requires a city or county, for specified sites, to specify additional development potential for each site within the planning and period and to provide an explanation of the methodology used to determine the development potential. Existing law requires the methodology to consider specified factors, including the extent to which existing uses may constitute an impediment to additional residential

development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

This bill would ~~instead require the methodology to demonstrate that the existing use identified does not constitute an impediment to additional residential development during the period covered by the element~~, *to consider, among other things, the city's or county's past experience with converting existing uses to higher density residential development, the current demand for the existing use, and an analysis of existing leases or other contracts that would perpetuate the existing use or prevent redevelopment*, as specified. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

Existing law requires the program to accommodate 100% of the allocated very low and low-income housing need for which site capacity has not been identified. Existing law requires these sites to be zoned to permit owner-occupied and rental multifamily residential use by right and to be zoned with specified minimum density and development standards.

This bill would restrict the use by right of these sites to developments ~~that are 100% affordable to lower income households~~, *in which at least 20% of the units are affordable to lower income households during the planning period* and require these sites to have sufficient water, sewer, and other dry utilities available and accessible or be included in an existing general plan program or other mandatory program or plan to secure sufficient water, sewer, dry utilities supply to support housing development. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

This bill would also make legislative findings and declarations.

This bill would incorporate additional changes to Section 65583 of the Government Code proposed by AB 879 to be operative only if this bill and AB 879 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 65583.2 of the Government Code proposed by SB 106 to be operative only if this bill and SB 106 are enacted and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65580 of the Government Code is
2 amended to read:

3 65580. The Legislature finds and declares as follows:

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

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

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

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

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

25 (f) Designating and maintaining a supply of land and adequate
26 sites suitable, feasible, and available for the development of
27 housing sufficient to meet the locality's housing need for all income
28 levels is essential to achieving the state's housing goals and the
29 purposes of this article.

30 SEC. 2. Section 65583 of the Government Code is amended
31 to read:

32 65583. The housing element shall consist of an identification
33 and analysis of existing and projected housing needs and a

1 statement of goals, policies, quantified objectives, financial
2 resources, and scheduled programs for the preservation,
3 improvement, and development of housing. The housing element
4 shall identify adequate sites for housing, including rental housing,
5 factory-built housing, mobilehomes, and emergency shelters, and
6 shall make adequate provision for the existing and projected needs
7 of all economic segments of the community. The element shall
8 contain all of the following:

9 (a) An assessment of housing needs and an inventory of
10 resources and constraints relevant to the meeting of these needs.

11 The assessment and inventory shall include all of the following:

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

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

33 (3) An inventory of land suitable and available for residential
34 development, including vacant sites and sites having realistic and
35 demonstrated potential for redevelopment during the planning
36 period to meet the locality's housing need for a designated income
37 level, and an analysis of the relationship of zoning and public
38 facilities and services to these sites.

39 (4) (A) The identification of a zone or zones where emergency
40 shelters are allowed as a permitted use without a conditional use

1 or other discretionary permit. The identified zone or zones shall
2 include sufficient capacity to accommodate the need for emergency
3 shelter identified in paragraph (7), except that each local
4 government shall identify a zone or zones that can accommodate
5 at least one year-round emergency shelter. If the local government
6 cannot identify a zone or zones with sufficient capacity, the local
7 government shall include a program to amend its zoning ordinance
8 to meet the requirements of this paragraph within one year of the
9 adoption of the housing element. The local government may
10 identify additional zones where emergency shelters are permitted
11 with a conditional use permit. The local government shall also
12 demonstrate that existing or proposed permit processing,
13 development, and management standards are objective and
14 encourage and facilitate the development of, or conversion to,
15 emergency shelters. Emergency shelters may only be subject to
16 those development and management standards that apply to
17 residential or commercial development within the same zone except
18 that a local government may apply written, objective standards
19 that include all of the following:

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

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

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

28 (iv) The provision of onsite management.

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

31 (vi) The length of stay.

32 (vii) Lighting.

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

35 (B) The permit processing, development, and management
36 standards applied under this paragraph shall not be deemed to be
37 discretionary acts within the meaning of the California
38 Environmental Quality Act (Division 13 (commencing with Section
39 21000) of the Public Resources Code).

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

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

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

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

36 (7) An analysis of any special housing needs, such as those of
37 the elderly; persons with disabilities, including a developmental
38 disability, as defined in Section 4512 of the Welfare and
39 Institutions Code; large families; farmworkers; families with female
40 heads of households; and families and persons in need of

1 emergency shelter. The need for emergency shelter shall be
2 assessed based on annual and seasonal need. The need for
3 emergency shelter may be reduced by the number of supportive
4 housing units that are identified in an adopted 10-year plan to end
5 chronic homelessness and that are either vacant or for which
6 funding has been identified to allow construction during the
7 planning period. An analysis of special housing needs by a city or
8 county may include an analysis of the need for frequent user
9 coordinated care housing services.

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

17 (9) An analysis of existing assisted housing developments that
18 are eligible to change from low-income housing uses during the
19 next 10 years due to termination of subsidy contracts, mortgage
20 prepayment, or expiration of restrictions on use. “Assisted housing
21 developments,” for the purpose of this section, shall mean
22 multifamily rental housing that receives governmental assistance
23 under federal programs listed in subdivision (a) of Section
24 65863.10, state and local multifamily revenue bond programs,
25 local redevelopment programs, the federal Community
26 Development Block Grant Program, or local in-lieu fees. “Assisted
27 housing developments” shall also include multifamily rental units
28 that were developed pursuant to a local inclusionary housing
29 program or used to qualify for a density bonus pursuant to Section
30 65916.

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

39 (B) The analysis shall estimate the total cost of producing new
40 rental housing that is comparable in size and rent levels, to replace

1 the units that could change from low-income use, and an estimated
2 cost of preserving the assisted housing developments. This cost
3 analysis for replacement housing may be done aggregately for
4 each five-year period and does not have to contain a
5 project-by-project cost estimate.

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

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

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

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

35 (c) A program which sets forth a schedule of actions during the
36 planning period, each with a timeline for implementation, which
37 may recognize that certain programs are ongoing, such that there
38 will be beneficial impacts of the programs within the planning
39 period, that the local government is undertaking or intends to
40 undertake to implement the policies and achieve the goals and

1 objectives of the housing element through the administration of
2 land use and development controls, the provision of regulatory
3 concessions and incentives, the utilization of appropriate federal
4 and state financing and subsidy programs when available, and the
5 utilization of moneys in a low- and moderate-income housing fund
6 of an agency if the locality has established a redevelopment project
7 area pursuant to the Community Redevelopment Law (Division
8 24 (commencing with Section 33000) of the Health and Safety
9 Code). In order to make adequate provision for the housing needs
10 of all economic segments of the community, the program shall do
11 all of the following:

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

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

1 including adoption of minimum density and development standards,
2 shall be completed no later than three years and 120 days from the
3 statutory deadline in Section 65588 for adoption of the housing
4 element.

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

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

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

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

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

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

37 (6) Preserve for lower income households the assisted housing
38 developments identified pursuant to paragraph (9) of subdivision
39 (a). The program for preservation of the assisted housing
40 developments shall utilize, to the extent necessary, all available

1 federal, state, and local financing and subsidy programs identified
2 in paragraph (9) of subdivision (a), except where a community has
3 other urgent needs for which alternative funding sources are not
4 available. The program may include strategies that involve local
5 regulation and technical assistance.

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

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

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

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

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

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

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

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

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

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

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

6 (2) Any housing element or housing element amendment
7 prepared pursuant to subdivision (e) of Section 65588 or Section
8 65584.02, when the city, county, or city and county fails to submit
9 the first draft to the department before the due date specified in
10 Section 65588 or 65584.02.

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

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

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

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

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

35 (g) (1) If a local government fails to complete the rezoning by
36 the deadline provided in subparagraph (A) of paragraph (1) of
37 subdivision (c), as it may be extended pursuant to subdivision (f),
38 except as provided in paragraph (2), a local government may not
39 disapprove a housing development project, nor require a
40 conditional use permit, planned unit development permit, or other

1 locally imposed discretionary permit, or impose a condition that
2 would render the project infeasible, if the housing development
3 project (A) is proposed to be located on a site required to be
4 rezoned pursuant to the program action required by that
5 subparagraph and (B) complies with applicable, objective general
6 plan and zoning standards and criteria, including design review
7 standards, described in the program action required by that
8 subparagraph. Any subdivision of sites shall be subject to the
9 Subdivision Map Act (Division 2 (commencing with Section
10 66410)). Design review shall not constitute a “project” for purposes
11 of Division 13 (commencing with Section 21000) of the Public
12 Resources Code.

13 (2) A local government may disapprove a housing development
14 described in paragraph (1) if it makes written findings supported
15 by substantial evidence on the record that both of the following
16 conditions exist:

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

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

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

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

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

13 *SEC. 2.5. Section 65583 of the Government Code is amended*
14 *to read:*

15 65583. The housing element shall consist of an identification
16 and analysis of existing and projected housing needs and a
17 statement of goals, policies, quantified objectives, financial
18 resources, and scheduled programs for the preservation,
19 improvement, and development of housing. The housing element
20 shall identify adequate sites for housing, including rental housing,
21 factory-built housing, mobilehomes, and emergency shelters, and
22 shall make adequate provision for the existing and projected needs
23 of all economic segments of the community. The element shall
24 contain all of the following:

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

28 (1) An analysis of population and employment trends and
29 documentation of projections and a quantification of the locality’s
30 existing and projected housing needs for all income levels,
31 including extremely low income households, as defined in
32 subdivision (b) of Section 50105 and Section 50106 of the Health
33 and Safety Code. These existing and projected needs shall include
34 the locality’s share of the regional housing need in accordance
35 with Section 65584. Local agencies shall calculate the subset of
36 very low income households allotted under Section 65584 that
37 qualify as extremely low income households. The local agency
38 may either use available census data to calculate the percentage
39 of very low income households that qualify as extremely low
40 income households or presume that 50 percent of the very low

1 income households qualify as extremely low income households.
2 The number of extremely low income households and very low
3 income households shall equal the jurisdiction's allocation of very
4 low income households pursuant to Section 65584.

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

9 (3) An inventory of land suitable *and available* for residential
10 development, including vacant sites and sites having ~~potential for~~
11 ~~redevelopment~~, *realistic and demonstrated potential for*
12 *redevelopment during the planning period to meet the locality's*
13 *housing need for a designated income level*, and an analysis of the
14 relationship of zoning and public facilities and services to these
15 sites.

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

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

39 (ii) Off-street parking based upon demonstrated need, provided
40 that the standards do not require more parking for emergency

1 shelters than for other residential or commercial uses within the
2 same zone.

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

5 (iv) The provision of onsite management.

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

8 (vi) The length of stay.

9 (vii) Lighting.

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

12 (B) The permit processing, development, and management
13 standards applied under this paragraph shall not be deemed to be
14 discretionary acts within the meaning of the California
15 Environmental Quality Act (Division 13 (commencing with Section
16 21000) of the Public Resources Code).

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

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

31 (5) An analysis of potential and actual governmental constraints
32 upon the maintenance, improvement, or development of housing
33 for all income levels, including the types of housing identified in
34 paragraph (1) of subdivision (c), and for persons with disabilities
35 as identified in the analysis pursuant to paragraph (7), including
36 land use controls, building codes and their enforcement, site
37 improvements, fees and other exactions required of developers,
38 ~~and local processing and permit procedures.~~ *procedures, and any*
39 *locally adopted ordinances that directly impact the cost and supply*
40 *of residential development.* The analysis shall also demonstrate

1 local efforts to remove governmental constraints that hinder the
2 locality from meeting its share of the regional housing need in
3 accordance with Section 65584 and from meeting the need for
4 housing for persons with disabilities, supportive housing,
5 transitional housing, and emergency shelters identified pursuant
6 to paragraph (7). Transitional housing and supportive housing shall
7 be considered a residential use of property, and shall be subject
8 only to those restrictions that apply to other residential dwellings
9 of the same type in the same zone.

10 (6) An analysis of potential and actual nongovernmental
11 constraints upon the maintenance, improvement, or development
12 of housing for all income levels, including the availability of
13 financing, the price of land, ~~and the cost of construction.~~
14 *construction, the requests to develop housing at densities below*
15 *those anticipated in the analysis required by subdivision (c) of*
16 *Section 65583.2, and the length of time between receiving approval*
17 *for a housing development and submittal of an application for*
18 *building permits for that housing development that hinder the*
19 *construction of a locality's share of the regional housing need in*
20 *accordance with Section 65584. The analysis shall also*
21 *demonstrate local efforts to remove nongovernmental constraints*
22 *that create a gap between the locality's planning for the*
23 *development of housing for all income levels and the construction*
24 *of that housing.*

25 (7) An analysis of any special housing needs, such as those of
26 the elderly; persons with disabilities, including a developmental
27 disability, as defined in Section 4512 of the Welfare and
28 Institutions Code; large families; farmworkers; families with female
29 heads of households; and families and persons in need of
30 emergency shelter. The need for emergency shelter shall be
31 assessed based on annual and seasonal need. The need for
32 emergency shelter may be reduced by the number of supportive
33 housing units that are identified in an adopted 10-year plan to end
34 chronic homelessness and that are either vacant or for which
35 funding has been identified to allow construction during the
36 planning period. An analysis of special housing needs by a city or
37 county may include an analysis of the need for frequent user
38 coordinated care housing services.

39 (8) An analysis of opportunities for energy conservation with
40 respect to residential development. Cities and counties are

1 encouraged to include weatherization and energy efficiency
2 improvements as part of publicly subsidized housing rehabilitation
3 projects. This may include energy efficiency measures that
4 encompass the building envelope, its heating and cooling systems,
5 and its electrical system.

6 (9) An analysis of existing assisted housing developments that
7 are eligible to change from low-income housing uses during the
8 next 10 years due to termination of subsidy contracts, mortgage
9 prepayment, or expiration of restrictions on use. “Assisted housing
10 developments,” for the purpose of this section, shall mean
11 multifamily rental housing that receives governmental assistance
12 under federal programs listed in subdivision (a) of Section
13 65863.10, state and local multifamily revenue bond programs,
14 local redevelopment programs, the federal Community
15 Development Block Grant Program, or local in-lieu fees. “Assisted
16 housing developments” shall also include multifamily rental units
17 that were developed pursuant to a local inclusionary housing
18 program or used to qualify for a density bonus pursuant to Section
19 65916.

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

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

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

39 (D) The analysis shall identify and consider the use of all federal,
40 state, and local financing and subsidy programs which can be used

1 to preserve, for lower income households, the assisted housing
2 developments, identified in this paragraph, including, but not
3 limited to, federal Community Development Block Grant Program
4 funds, tax increment funds received by a redevelopment agency
5 of the community, and administrative fees received by a housing
6 authority operating within the community. In considering the use
7 of these financing and subsidy programs, the analysis shall identify
8 the amounts of funds under each available program which have
9 not been legally obligated for other purposes and which could be
10 available for use in preserving assisted housing developments.

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

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

24 (c) A program which sets forth a schedule of actions during the
25 planning period, each with a timeline for implementation, which
26 may recognize that certain programs are ongoing, such that there
27 will be beneficial impacts of the programs within the planning
28 period, that the local government is undertaking or intends to
29 undertake to implement the policies and achieve the goals and
30 objectives of the housing element through the administration of
31 land use and development controls, the provision of regulatory
32 concessions and incentives, the utilization of appropriate federal
33 and state financing and subsidy programs when available, and the
34 utilization of moneys in a low- and moderate-income housing fund
35 of an agency if the locality has established a redevelopment project
36 area pursuant to the Community Redevelopment Law (Division
37 24 (commencing with Section 33000) of the Health and Safety
38 Code). In order to make adequate provision for the housing needs
39 of all economic segments of the community, the program shall do
40 all of the following:

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

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

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

1 include all components specified in ~~subdivision (b)~~ of Section
2 65583.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (2) Any housing element or housing element amendment
38 prepared pursuant to subdivision (e) of Section 65588 or Section
39 65584.02, when the city, county, or city and county fails to submit

1 the first draft to the department before the due date specified in
2 Section 65588 or 65584.02.

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

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

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

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

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

27 (g) (1) If a local government fails to complete the rezoning by
28 the deadline provided in subparagraph (A) of paragraph (1) of
29 subdivision (c), as it may be extended pursuant to subdivision (f),
30 except as provided in paragraph (2), a local government may not
31 disapprove a housing development project, nor require a
32 conditional use permit, planned unit development permit, or other
33 locally imposed discretionary permit, or impose a condition that
34 would render the project infeasible, if the housing development
35 project (A) is proposed to be located on a site required to be
36 rezoned pursuant to the program action required by that
37 subparagraph and (B) complies with applicable, objective general
38 plan and zoning standards and criteria, including design review
39 standards, described in the program action required by that
40 subparagraph. Any subdivision of sites shall be subject to the

1 Subdivision Map Act (Division 2 (commencing with Section
2 66410)). Design review shall not constitute a “project” for purposes
3 of Division 13 (commencing with Section 21000) of the Public
4 Resources Code.

5 (2) A local government may disapprove a housing development
6 described in paragraph (1) if it makes written findings supported
7 by substantial evidence on the record that both of the following
8 conditions exist:

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

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

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

33 (4) For purposes of this subdivision, “housing development
34 project” means a project to construct residential units for which
35 the project developer provides sufficient legal commitments to the
36 appropriate local agency to ensure the continued availability and
37 use of at least 49 percent of the housing units for very low, low-,
38 and moderate-income households with an affordable housing cost
39 or affordable rent, as defined in Section 50052.5 or 50053 of the

1 Health and Safety Code, respectively, for the period required by
2 the applicable financing.

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

6 SEC. 3. Section 65583.2 of the Government Code, as amended
7 by Section 1 of Chapter 460 of the Statutes of 2016, is amended
8 to read:

9 65583.2. (a) A city’s or county’s inventory of land suitable
10 for residential development pursuant to paragraph (3) of
11 subdivision (a) of Section 65583 shall be used to identify sites that
12 can be developed for housing within the planning period and that
13 are sufficient to provide for the jurisdiction’s share of the regional
14 housing need for all income levels pursuant to Section 65584. As
15 used in this section, “land suitable for residential development”
16 includes all of the following sites that meet the standards set forth
17 in subdivisions (c) and (g):

18 (1) Vacant sites zoned for residential use.
19 (2) Vacant sites zoned for nonresidential use that allows
20 residential development.

21 (3) Residentially zoned sites that are capable of being developed
22 at a higher density, including sites owned or leased by a city,
23 county, or city and county.

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

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

30 (1) A listing of properties by *assessor parcel number* or ~~other~~
31 ~~unique reference~~: *number*.

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

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

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

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

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

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

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

21 (c) Based on the information provided in subdivision (b), a city
22 or county shall determine whether each site in the inventory can
23 accommodate the development of some portion of its share of the
24 regional housing need by income level during the planning period,
25 as determined pursuant to Section 65584. The inventory shall
26 specify for each site the number of units that can realistically be
27 accommodated on that site and whether the site is adequate to
28 accommodate lower-income housing, moderate-income housing,
29 or above moderate-income housing. A *nonvacant* site identified
30 pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing
31 element *and a vacant site that has been included in two or more*
32 *consecutive planning periods* that was not approved to develop a
33 portion of the locality's housing need shall not be deemed adequate
34 to accommodate a portion of the housing need for lower income
35 households that must be accommodated in the current housing
36 element planning period unless the site is zoned at residential
37 densities consistent with paragraph (3) of this subdivision and the
38 site is subject to a program in the *housing* element requiring
39 rezoning within three years of the beginning of the planning period
40 to allow residential use by right for housing developments ~~that are~~

1 ~~100 percent~~ *in which at least 20 percent of the units are affordable*
2 ~~to lower income households except for a manager's unit.~~
3 *households. A city that is an unincorporated area in a*
4 *nonmetropolitan county pursuant to clause (ii) of subparagraph*
5 *(B) of paragraph (3) shall not be subject to the requirements of*
6 *this subdivision to allow residential use by right.* The analysis shall
7 determine whether the inventory can provide for a variety of types
8 of housing, including multifamily rental housing, factory-built
9 housing, mobilehomes, housing for agricultural employees,
10 *supportive housing, single room occupancy units, emergency*
11 *shelters, and transitional housing.* The city or county shall
12 determine the number of housing units that can be accommodated
13 on each site as follows:

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

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

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

37 ~~(B) The capacity of a site zoned for development at densities~~
38 ~~that exceed the maximum density of existing or approved~~
39 ~~multifamily residential development shall be calculated at the~~
40 ~~densities required by paragraph (3) unless a development at a~~

1 greater density has been proposed and approved for development
2 on the site.

3 ~~(C)~~

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

14 ~~(D) A site described in paragraph (3) of subdivision (b) shall~~
15 ~~not be deemed realistic for development to accommodate lower~~
16 ~~income housing need unless subject to a program in the housing~~
17 ~~element requiring the site to be rezoned within three years of the~~
18 ~~beginning of the planning period to residential densities consistent~~
19 ~~with paragraph (3) of this subdivision and to allow residential use~~
20 ~~by right for housing developments that are 100 percent affordable~~
21 ~~to lower income households, except for a manager’s unit.~~

22 ~~(E)~~

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

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

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

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

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

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

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

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

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

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

26 (2) (A) (i) Notwithstanding paragraph (1), if a county that is
27 in the San Francisco-Oakland-Fremont California MSA has a
28 population of less than 400,000, that county shall be considered
29 suburban. If this county includes an incorporated city that has a
30 population of less than 100,000, this city shall also be considered
31 suburban. This paragraph shall apply to a housing element revision
32 cycle, as described in subparagraph (A) of paragraph (3) of
33 subdivision (e) of Section 65588, that is in effect from July 1,
34 2014, to December 31, 2023, inclusive.

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

39 (B) A jurisdiction that is classified as suburban pursuant to this
40 paragraph shall report to the Assembly Committee on Housing

1 and Community Development, the Senate Committee on
2 Transportation and Housing, and the Department of Housing and
3 Community Development regarding its progress in developing
4 low- and very low income housing consistent with the requirements
5 of Section 65400. The report shall be provided twice: once, on or
6 before December 31, 2019, which report shall address the initial
7 four years of the housing element cycle, and a second time, on or
8 before December 31, 2023, which report shall address the
9 subsequent four years of the housing element cycle and the cycle
10 as a whole. The reports shall be provided consistent with the
11 requirements of Section 9795.

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

17 (g) (1) For sites described in paragraph (3) of subdivision (b),
18 the city or county shall specify the additional development potential
19 for each site within the planning period and shall provide an
20 explanation of the methodology used to determine the development
21 potential. The methodology shall ~~demonstrate that the existing use~~
22 ~~identified pursuant to paragraph (3) of subdivision (b) does not~~
23 ~~constitute an impediment to additional residential development~~
24 ~~during the period covered by the element. An existing use shall~~
25 ~~be presumed to impede additional residential development, absent~~
26 ~~findings based on substantial evidence that the use is likely to be~~
27 ~~discontinued during the planning period. This shall include an~~
28 ~~analysis of the jurisdiction’s past experience with converting~~
29 ~~existing uses to higher density residential development, the current~~
30 ~~market demand for the existing use, an analysis of any existing~~
31 ~~leases or other contracts that would perpetuate the existing use or~~
32 ~~prevent redevelopment of the site for~~ *consider factors including*
33 *the extent to which existing uses may constitute an impediment to*
34 *additional residential development, the city’s or county’s past*
35 *experience with converting existing uses to higher density*
36 *residential development, the current market demand for the existing*
37 *use, an analysis of any existing leases or other contracts that would*
38 *perpetuate the existing use or prevent redevelopment of the site*
39 *for additional residential development, development trends, market*

1 conditions, and regulatory or other incentives or standards to
2 encourage additional residential development on these sites.

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

15 (2)

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

30 (h) The program required by subparagraph (A) of paragraph (1)
31 of subdivision (c) of Section 65583 shall accommodate 100 percent
32 of the need for housing for very low and low-income households
33 allocated pursuant to Section 65584 for which site capacity has
34 not been identified in the inventory of sites pursuant to paragraph
35 (3) of subdivision (a) on sites that shall be zoned to permit
36 owner-occupied and rental multifamily residential use by right for
37 developments ~~that are 100 percent~~ *in which at least 20 percent of*
38 *the units are* affordable to lower income households during the
39 planning period. These sites shall be zoned with minimum density
40 and development standards that permit at least 16 units per site at

1 a density of at least 16 units per acre in jurisdictions described in
2 clause (i) of subparagraph (B) of paragraph (3) of subdivision (c),
3 shall be at least 20 units per acre in jurisdictions described in
4 clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of
5 subdivision (c), and shall meet the standards set forth in
6 subparagraph (B) of paragraph (5) of subdivision (b). At least 50
7 percent of the very low and low-income housing need shall be
8 accommodated on sites designated for residential use and for which
9 nonresidential uses or mixed uses are not permitted, except that a
10 city or county may accommodate all of the very low and
11 low-income housing need on sites designated for mixed uses if
12 those sites allow 100 percent residential use and require that
13 residential use occupy 50 percent of the total floor area of a
14 mixed-use project.

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

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

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

36 (l) This section shall remain in effect only until December 31,
37 2023, and as of that date is repealed, unless a later enacted statute,
38 that is enacted before December 31, 2023, deletes or extends that
39 date.

1 *SEC. 3.5. Section 65583.2 of the Government Code, as amended*
 2 *by Section 1 of Chapter 460 of the Statutes of 2016, is amended*
 3 *to read:*

4 65583.2. (a) A city's or county's inventory of land suitable
 5 for residential development pursuant to paragraph (3) of
 6 subdivision (a) of Section 65583 shall be used to identify sites that
 7 can be developed for housing within the planning period and that
 8 are sufficient to provide for the jurisdiction's share of the regional
 9 housing need for all income levels pursuant to Section 65584. As
 10 used in this section, "land suitable for residential development"
 11 includes all of the following: *sites that meet the standards set forth*
 12 *in subdivisions (c) and (g):*

13 (1) Vacant sites zoned for residential use.

14 (2) Vacant sites zoned for nonresidential use that allows
 15 residential development.

16 (3) Residentially zoned sites that are capable of being developed
 17 at a higher density, including ~~the airspace above~~ sites owned or
 18 leased by a city, county, or city and county.

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

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

25 (1) A listing of properties by ~~assessor parcel number or other~~
 26 ~~unique reference:~~ *number.*

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

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

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

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

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

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

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

18 (c) Based on the information provided in subdivision (b), a city
19 or county shall determine whether each site in the inventory can
20 accommodate *the development of* some portion of its share of the
21 regional housing need by income level during the planning period,
22 as determined pursuant to Section 65584. *The inventory shall*
23 *specify for each site the number of units that can realistically be*
24 *accommodated on that site and whether the site is adequate to*
25 *accommodate lower-income housing, moderate-income housing,*
26 *or above moderate-income housing. A nonvacant site identified*
27 *pursuant to paragraph (3) or (4) of subdivision (a) in a prior*
28 *housing element and a vacant site that has been included in two*
29 *or more consecutive planning periods that was not approved to*
30 *develop a portion of the locality's housing need shall not be*
31 *deemed adequate to accommodate a portion of the housing need*
32 *for lower income households that must be accommodated in the*
33 *current housing element planning period unless the site is zoned*
34 *at residential densities consistent with paragraph (3) of this*
35 *subdivision and the site is subject to a program in the housing*
36 *element requiring rezoning within three years of the beginning of*
37 *the planning period to allow residential use by right for housing*
38 *developments in which at least 20 percent of the units are*
39 *affordable to lower income households. A city that is an*
40 *unincorporated area in a nonmetropolitan county pursuant to*

1 *clause (ii) of subparagraph (B) of paragraph (3) shall not be*
2 *subject to the requirements of this subdivision to allow residential*
3 *use by right.* The analysis shall determine whether the inventory
4 can provide for a variety of types of housing, including multifamily
5 rental housing, factory-built housing, mobilehomes, housing for
6 agricultural employees, *supportive housing, single room occupancy*
7 *units*, emergency shelters, and transitional housing. The city or
8 county shall determine the number of housing units that can be
9 accommodated on each site as follows:

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

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

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

34 (B) *A site larger than 10 acres shall not be deemed adequate*
35 *to accommodate lower income housing need unless the locality*
36 *can demonstrate that sites of equivalent size were successfully*
37 *developed during the prior planning period for an equivalent*
38 *number of lower income housing units as projected for the site or*
39 *unless the locality provides other evidence to the department that*
40 *the site can be developed as lower income housing. For purposes*

1 of this subparagraph, “site” means that portion of a parcel or
2 parcels designated to accommodate lower income housing needs
3 pursuant to this subdivision.

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

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

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

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

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

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

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

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

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

36 (e) (1) Except as provided in paragraph (2), a jurisdiction shall
37 be considered suburban if the jurisdiction does not meet the
38 requirements of clauses (i) and (ii) of subparagraph (B) of
39 paragraph (3) of subdivision (c) and is located in a Metropolitan
40 Statistical Area (MSA) of less than 2,000,000 in population, unless

1 that jurisdiction's population is greater than 100,000, in which
2 case it shall be considered metropolitan. A county, not including
3 the City and County of San Francisco, shall be considered suburban
4 unless the county is in an MSA of 2,000,000 or greater in
5 population in which case the county shall be considered
6 metropolitan.

7 (2) (A) (i) Notwithstanding paragraph (1), if a county that is
8 in the San Francisco-Oakland-Fremont California MSA has a
9 population of less than 400,000, that county shall be considered
10 suburban. If this county includes an incorporated city that has a
11 population of less than 100,000, this city shall also be considered
12 suburban. This paragraph shall apply to a housing element revision
13 cycle, as described in subparagraph (A) of paragraph (3) of
14 subdivision (e) of Section 65588, that is in effect from July 1,
15 2014, to December 31, ~~2023~~, 2028, inclusive.

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

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

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

1 (g) (1) For sites described in paragraph (3) of subdivision (b),
2 the city or county shall specify the additional development potential
3 for each site within the planning period and shall provide an
4 explanation of the methodology used to determine the development
5 potential. The methodology shall consider factors including the
6 extent to which existing uses may constitute an impediment to
7 additional residential development, *the city's or county's past*
8 *experience with converting existing uses to higher density*
9 *residential development, the current market demand for the existing*
10 *use, an analysis of any existing leases or other contracts that would*
11 *perpetuate the existing use or prevent redevelopment of the site*
12 *for additional residential development, development trends, market*
13 *conditions, and regulatory or other incentives or standards to*
14 *encourage additional residential development on these sites.*

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

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

1 (h) The program required by subparagraph (A) of paragraph (1)
2 of subdivision (c) of Section 65583 shall accommodate 100 percent
3 of the need for housing for very low and low-income households
4 allocated pursuant to Section 65584 for which site capacity has
5 not been identified in the inventory of sites pursuant to paragraph
6 (3) of subdivision (a) on sites that shall be zoned to permit
7 owner-occupied and rental multifamily residential use by right *for*
8 *developments in which at least 20 percent of the units are*
9 *affordable to lower income households* during the planning period.
10 These sites shall be zoned with minimum density and development
11 standards that permit at least 16 units per site at a density of at
12 least 16 units per acre in jurisdictions described in clause (i) of
13 subparagraph (B) of paragraph (3) of subdivision ~~(e)~~ and (c), *shall*
14 *be* at least 20 units per acre in jurisdictions described in clauses
15 (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision
16 ~~(e)~~: (c), *and shall meet the standards set forth in subparagraph*
17 *(B) of paragraph (5) of subdivision (b)*. At least 50 percent of the
18 very low and low-income housing need shall be accommodated
19 on sites designated for residential use and for which nonresidential
20 uses or ~~mixed-uses~~ *mixed uses* are not permitted, except that a city
21 or county may accommodate all of the very low and low-income
22 housing need on sites designated for mixed uses if those sites allow
23 100 percent residential use and require that residential use occupy
24 50 percent of the total floor area of a mixed-use project.

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

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

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

7 (l) This section shall remain in effect only until December 31,
8 2023; 2028, and as of that date is repealed, unless a later enacted
9 statute, that is enacted before December 31, 2023, deletes or
10 extends that date. *repealed.*

11 SEC. 4. Section 65583.2 of the Government Code, as amended
12 by Section 2 of Chapter 460 of the Statutes of 2016, is amended
13 to read:

14 65583.2. (a) A city’s or county’s inventory of land suitable
15 for residential development pursuant to paragraph (3) of
16 subdivision (a) of Section 65583 shall be used to identify sites that
17 can be developed for housing within the planning period and that
18 are sufficient to provide for the jurisdiction’s share of the regional
19 housing need for all income levels pursuant to Section 65584. As
20 used in this section, “land suitable for residential development”
21 includes all of the following sites that meet the standards set forth
22 in subdivisions (c) and (g):

23 (1) Vacant sites zoned for residential use.

24 (2) Vacant sites zoned for nonresidential use that allows
25 residential development.

26 (3) Residentially zoned sites that are capable of being developed
27 at a higher density, including sites owned or leased by a city,
28 county, or city and county.

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

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

35 (1) A listing of properties by *assessor parcel number* or other
36 ~~unique reference.~~ *number.*

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

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

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

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

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

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

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

26 (c) Based on the information provided in subdivision (b), a city
 27 or county shall determine whether each site in the inventory can
 28 accommodate the development of some portion of its share of the
 29 regional housing need by income level during the planning period,
 30 as determined pursuant to Section 65584. The inventory shall
 31 specify for each site the number of units that can realistically be
 32 accommodated on that site and whether the site is adequate to
 33 accommodate lower-income housing, moderate-income housing,
 34 or above moderate-income housing. A *nonvacant* site identified
 35 pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing
 36 element *and a vacant site that had been included in two or more*
 37 *consecutive planning periods* that was not approved to develop a
 38 portion of the locality’s housing need shall not be deemed adequate
 39 to accommodate a portion of the housing need for lower income
 40 households that must be accommodated in the current housing

1 element planning period unless the site is zoned at residential
2 densities consistent with paragraph (3) of this subdivision and the
3 site is subject to a program in the *housing* element requiring
4 rezoning within three years of the beginning of the planning period
5 to allow residential use by right for housing developments ~~that are~~
6 ~~100 percent~~ *in which at least 20 percent of the units are* affordable
7 ~~to lower income households, except for a manager's unit.~~
8 *households. A city that is an unincorporated area in a*
9 *nonmetropolitan county pursuant to clause (ii) of subparagraph*
10 *(B) of paragraph (3) shall not be subject to the requirements of*
11 *this subdivision to allow residential use by right. The analysis shall*
12 *determine whether the inventory can provide for a variety of types*
13 *of housing, including multifamily rental housing, factory-built*
14 *housing, mobilehomes, housing for agricultural employees,*
15 *supportive housing, single room occupancy units, emergency*
16 *shelters, and transitional housing. The city or county shall*
17 *determine the number of housing units that can be accommodated*
18 *on each site as follows:*

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

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

35 (A) A site smaller than half an acre shall not be deemed adequate
36 to accommodate lower income housing need unless the locality
37 can demonstrate that sites of equivalent size were successfully
38 developed during the prior planning period for an equivalent
39 number of lower income housing units as projected for the site or

1 unless the locality provides other evidence to the department that
2 the site is adequate to accommodate lower income housing.

3 ~~(B) The capacity of a site zoned for development at densities~~
4 ~~that exceed the maximum density of existing or approved~~
5 ~~multifamily residential development shall be calculated at the~~
6 ~~densities required by paragraph (3) unless a development at a~~
7 ~~greater density has been proposed and approved for development~~
8 ~~on the site.~~

9 ~~(C)~~

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

20 ~~(D) A site described in paragraph (3) of subdivision (b) shall~~
21 ~~not be deemed realistic for development to accommodate lower~~
22 ~~income housing need unless subject to a program in the housing~~
23 ~~element requiring the site to be rezoned within three years of the~~
24 ~~beginning of the planning period to residential densities consistent~~
25 ~~with paragraph (3) of this subdivision and to allow residential use~~
26 ~~by right for housing developments that are 100 percent affordable~~
27 ~~to lower income households, except for a manager's unit.~~

28 ~~(E)~~

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

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

37 (A) Provide an analysis demonstrating how the adopted densities
38 accommodate this need. The analysis shall include, but is not
39 limited to, factors such as market demand, financial feasibility, or

1 information based on development project experience within a
2 zone or zones that provide housing for lower income households.

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

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

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

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

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

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

22 (e) A jurisdiction shall be considered suburban if the jurisdiction
23 does not meet the requirements of clauses (i) and (ii) of
24 subparagraph (B) of paragraph (3) of subdivision (c) and is located
25 in a Metropolitan Statistical Area (MSA) of less than 2,000,000
26 in population, unless that jurisdiction's population is greater than
27 100,000, in which case it shall be considered metropolitan. A
28 county, not including the City and County of San Francisco, shall
29 be considered suburban unless the county is in an MSA of
30 2,000,000 or greater in population in which case the county shall
31 be considered metropolitan.

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

37 (g) (1) For sites described in paragraph (3) of subdivision (b),
38 the city or county shall specify the additional development potential
39 for each site within the planning period and shall provide an
40 explanation of the methodology used to determine the development

1 potential. The methodology shall demonstrate that the existing use
 2 identified pursuant to paragraph (3) of subdivision (b) does not
 3 constitute an impediment to additional residential development
 4 during the period covered by the element. An existing use shall
 5 be presumed to impede additional residential development, absent
 6 findings based on substantial evidence that the use is likely to be
 7 discontinued during the planning period. This shall include an
 8 analysis of the jurisdiction's past experience with converting
 9 existing uses to higher density residential development, the current
 10 market demand for the existing use, an analysis of any existing
 11 leases or other contracts that would perpetuate the existing use or
 12 prevent redevelopment of the site for additional residential
 13 development; *consider factors including the extent to which*
 14 *existing uses may constitute an impediment to additional residential*
 15 *development, the city's or county's past experience with converting*
 16 *existing uses to higher density residential development, the current*
 17 *market demand for the existing use, an analysis of any existing*
 18 *leases or other contracts that would perpetuate the existing use*
 19 *or prevent redevelopment of the site for additional residential*
 20 *development, development trends, market conditions, and*
 21 *regulatory or other incentives or standards to encourage additional*
 22 *residential development on these sites.*

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

35 (2)

36 (3) Notwithstanding any other law and in addition to the
 37 requirements in ~~paragraph (1)~~, paragraphs (1) and (2), sites that
 38 currently have residential uses, or within the past five years have
 39 had residential uses that have been vacated or demolished, that are
 40 or were subject to a recorded covenant, ordinance, or law that

1 restricts rents to levels affordable to persons and families of low
2 or very low income, subject to any other form of rent or price
3 control through a public entity’s valid exercise of its police power,
4 or occupied by low or very low income households, shall be subject
5 to a policy requiring the replacement of all those units affordable
6 to the same or lower income level as a condition of any
7 development on the site. Replacement requirements shall be
8 consistent with those set forth in paragraph (3) of subdivision (c)
9 of Section 65915.

10 (h) The program required by subparagraph (A) of paragraph (1)
11 of subdivision (c) of Section 65583 shall accommodate 100 percent
12 of the need for housing for very low and low-income households
13 allocated pursuant to Section 65584 for which site capacity has
14 not been identified in the inventory of sites pursuant to paragraph
15 (3) of subdivision (a) on sites that shall be zoned to permit
16 owner-occupied and rental multifamily residential use by right for
17 developments ~~that are 100 percent~~ *in which at least 20 percent of*
18 *the units are* affordable to lower income households during the
19 planning period. These sites shall be zoned with minimum density
20 and development standards that permit at least 16 units per site at
21 a density of at least 16 units per acre in jurisdictions described in
22 clause (i) of subparagraph (B) of paragraph (3) of subdivision (c),
23 shall be at least 20 units per acre in jurisdictions described in
24 clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of
25 subdivision (c), and shall meet the standards set forth in
26 subparagraph (B) of paragraph (5) of subdivision (b). At least 50
27 percent of the very low and low-income housing need shall be
28 accommodated on sites designated for residential use and for which
29 nonresidential uses or mixed uses are not permitted, except that a
30 city or county may accommodate all of the very low and
31 low-income housing need on sites designated for mixed uses if
32 those sites allow 100 percent residential use and require that
33 residential use occupy 50 percent of the total floor area of a
34 mixed-use project.

35 (i) For purposes of this section and Section 65583, the phrase
36 “use by right” shall mean that the local government’s review of
37 the owner-occupied or multifamily residential use may not require
38 a conditional use permit, planned unit development permit, or other
39 discretionary local government review or approval that would
40 constitute a “project” for purposes of Division 13 (commencing

1 with Section 21000) of the Public Resources Code. Any subdivision
 2 of the sites shall be subject to all laws, including, but not limited
 3 to, the local government ordinance implementing the Subdivision
 4 Map Act. A local ordinance may provide that “use by right” does
 5 not exempt the use from design review. However, that design
 6 review shall not constitute a “project” for purposes of Division 13
 7 (commencing with Section 21000) of the Public Resources Code.
 8 Use by right for all rental multifamily residential housing shall be
 9 provided in accordance with subdivision (f) of Section 65589.5.

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

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

14 *SEC. 4.5. Section 65583.2 of the Government Code, as amended*
 15 *by Section 2 of Chapter 460 of the Statutes of 2016, is amended*
 16 *to read:*

17 65583.2. (a) A city’s or county’s inventory of land suitable
 18 for residential development pursuant to paragraph (3) of
 19 subdivision (a) of Section 65583 shall be used to identify sites that
 20 can be developed for housing within the planning period and that
 21 are sufficient to provide for the jurisdiction’s share of the regional
 22 housing need for all income levels pursuant to Section 65584. As
 23 used in this section, “land suitable for residential development”
 24 includes all of the following: *sites that meet the standards set forth*
 25 *in subdivisions (c) and (g):*

- 26 (1) Vacant sites zoned for residential use.
- 27 (2) Vacant sites zoned for nonresidential use that allows
 28 residential development.
- 29 (3) Residentially zoned sites that are capable of being developed
 30 at a higher density, including ~~the airspace above~~ sites owned or
 31 leased by a city, county, or city and county.
- 32 (4) Sites zoned for nonresidential use that can be redeveloped
 33 ~~for, and,~~ *for residential use, and for which the housing element*
 34 *includes a program to rezone the sites, as necessary, rezoned for,*
 35 *to permit residential use, including ~~above~~ sites owned or leased*
 36 *by a city, county, or city and county.*

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

- 38 (1) A listing of properties by *assessor parcel number or other*
 39 *unique reference: number.*

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

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

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

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

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

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

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

31 (c) Based on the information provided in subdivision (b), a city
32 or county shall determine whether each site in the inventory can
33 accommodate *the development of* some portion of its share of the
34 regional housing need by income level during the planning period,
35 as determined pursuant to Section 65584. *The inventory shall*
36 *specify for each site the number of units that can realistically be*
37 *accommodated on that site and whether the site is adequate to*
38 *accommodate lower-income housing, moderate-income housing,*
39 *or above moderate-income housing. A nonvacant site identified*
40 *pursuant to paragraph (3) or (4) of subdivision (a) in a prior*

1 *housing element and a vacant site that had been included in two*
2 *or more consecutive planning periods that was not approved to*
3 *develop a portion of the locality's housing need shall not be*
4 *deemed adequate to accommodate a portion of the housing need*
5 *for lower income households that must be accommodated in the*
6 *current housing element planning period unless the site is zoned*
7 *at residential densities consistent with paragraph (3) of this*
8 *subdivision and the site is subject to a program in the housing*
9 *element requiring rezoning within three years of the beginning of*
10 *the planning period to allow residential use by right for housing*
11 *developments in which at least 20 percent of the units are*
12 *affordable to lower income households. A city that is an*
13 *unincorporated area in a nonmetropolitan county pursuant to*
14 *clause (ii) of subparagraph (B) of paragraph (3) shall not be*
15 *subject to the requirements of this subdivision to allow residential*
16 *use by right. The analysis shall determine whether the inventory*
17 *can provide for a variety of types of housing, including multifamily*
18 *rental housing, factory-built housing, mobilehomes, housing for*
19 *agricultural employees, supportive housing, single room occupancy*
20 *units, emergency shelters, and transitional housing. The city or*
21 *county shall determine the number of housing units that can be*
22 *accommodated on each site as follows:*

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

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

39 (A) *A site smaller than half an acre shall not be deemed*
40 *adequate to accommodate lower income housing need unless the*

1 *locality can demonstrate that sites of equivalent size were*
2 *successfully developed during the prior planning period for an*
3 *equivalent number of lower income housing units as projected for*
4 *the site or unless the locality provides other evidence to the*
5 *department that the site is adequate to accommodate lower income*
6 *housing.*

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

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

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

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

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

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

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

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

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

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

9 (e) A jurisdiction shall be considered suburban if the jurisdiction
10 does not meet the requirements of clauses (i) and (ii) of
11 subparagraph (B) of paragraph (3) of subdivision (c) and is located
12 in a Metropolitan Statistical Area (MSA) of less than 2,000,000
13 in population, unless that jurisdiction's population is greater than
14 100,000, in which case it shall be considered metropolitan. A
15 county, not including the City and County of San Francisco, shall
16 be considered suburban unless the county is in an MSA of
17 2,000,000 or greater in population in which case the county shall
18 be considered metropolitan.

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

24 (g) (1) For sites described in paragraph (3) of subdivision (b),
25 the city or county shall specify the additional development potential
26 for each site within the planning period and shall provide an
27 explanation of the methodology used to determine the development
28 potential. The methodology shall consider factors including the
29 extent to which existing uses may constitute an impediment to
30 additional residential development, *the city's or county's past*
31 *experience with converting existing uses to higher density*
32 *residential development, the current market demand for the existing*
33 *use, an analysis of any existing leases or other contracts that would*
34 *perpetuate the existing use or prevent redevelopment of the site*
35 *for additional residential development, development trends, market*
36 *conditions, and regulatory or other incentives or standards to*
37 *encourage additional residential development on these sites.*

38 (2) *In addition to the analysis required in paragraph (1), when*
39 *a city or county is relying on nonvacant sites described in*
40 *paragraph (3) of subdivision (b) to accommodate 50 percent or*

1 *more of its housing need for lower income households, the*
2 *methodology used to determine additional development potential*
3 *shall demonstrate that the existing use identified pursuant to*
4 *paragraph (3) of subdivision (b) does not constitute an impediment*
5 *to additional residential development during the period covered*
6 *by the housing element. An existing use shall be presumed to*
7 *impede additional residential development, absent findings based*
8 *on substantial evidence that the use is likely to be discontinued*
9 *during the planning period.*

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

23 (h) *The program required by subparagraph (A) of paragraph (1)*
24 *of subdivision (c) of Section 65583 shall accommodate 100 percent*
25 *of the need for housing for very low and low-income households*
26 *allocated pursuant to Section 65584 for which site capacity has*
27 *not been identified in the inventory of sites pursuant to paragraph*
28 *(3) of subdivision (a) on sites that shall be zoned to permit*
29 *owner-occupied and rental multifamily residential use by right for*
30 *developments in which at least 20 percent of the units are*
31 *affordable to lower income households during the planning period.*
32 *These sites shall be zoned with minimum density and development*
33 *standards that permit at least 16 units per site at a density of at*
34 *least 16 units per acre in jurisdictions described in clause (i) of*
35 *subparagraph (B) of paragraph (3) of subdivision ~~(e)~~ and (c), shall*
36 *be at least 20 units per acre in jurisdictions described in clauses*
37 *(iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision*
38 *~~(e)~~: (c), and shall meet the standards set forth in subparagraph*
39 *(B) of paragraph (5) of subdivision (b). At least 50 percent of the*
40 *very low and low-income housing need shall be accommodated*

1 on sites designated for residential use and for which nonresidential
 2 uses or ~~mixed-uses~~ *mixed uses* are not permitted, except that a city
 3 or county may accommodate all of the very low and low-income
 4 housing need on sites designated for mixed uses if those sites allow
 5 100 percent residential use and require that residential use occupy
 6 50 percent of the total floor area of a mixed-use project.

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

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

25 (k) This section shall become operative on December 31, ~~2023~~.
 26 2028.

27 *SEC. 5. Section 2.5 of this bill incorporates amendments to*
 28 *Section 65583 of the Government Code proposed by both this bill*
 29 *and Assembly Bill 879. That section shall only become operative*
 30 *if (1) both bills are enacted and become effective on or before*
 31 *January 1, 2018, (2) each bill amends Section 65583 of the*
 32 *Government Code, and (3) this bill is enacted after Assembly Bill*
 33 *879, in which case Section 2 of this bill shall not become operative.*

34 *SEC. 6. Section 3.5 of this bill incorporates amendments to*
 35 *Section 65583.2 of the Government Code, as amended by Section*
 36 *1 of Chapter 460 of the Statutes of 2016, proposed by both this*
 37 *bill and Senate Bill 106. That section shall only become operative*
 38 *if (1) both bills are enacted and become effective on or before*
 39 *January 1, 2018, (2) each bill amends Section 65583.2 of the*
 40 *Government Code, as amended by Section 1 of Chapter 460 of the*

1 *Statutes of 2016, and (3) this bill is enacted after Senate Bill 106,*
2 *in which case Section 3 of this bill shall not become operative.*

3 *SEC. 7. Section 4.5 of this bill incorporates amendments to*
4 *Section 65583.2 of the Government Code, as amended by Section*
5 *2 of Chapter 460 of the Statutes of 2016, proposed by both this*
6 *bill and Senate Bill 106. That section shall only become operative*
7 *if (1) both bills are enacted and become effective on or before*
8 *January 1, 2018, (2) each bill amends Section 65583.2 of the*
9 *Government Code, as amended by Section 2 of Chapter 460 of the*
10 *Statutes of 2016, and (3) this bill is enacted after Senate Bill 106,*
11 *in which case Section 4 of this bill shall not become operative.*

12 ~~SEC. 5.~~

13 *SEC. 8. No reimbursement is required by this act pursuant to*
14 *Section 6 of Article XIII B of the California Constitution because*
15 *a local agency or school district has the authority to levy service*
16 *charges, fees, or assessments sufficient to pay for the program or*
17 *level of service mandated by this act, within the meaning of Section*
18 *17556 of the Government Code.*