

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**



STAFF REPORT

TO Members of the Ordinance Review Advisory Committee
RE Transitional and Supportive Housing
MEETING DATE January 24, 2012

GENERAL INFORMATION

The following is an overview of policies pertaining to transitional and supportive housing and amendments to the Alameda County Zoning Ordinance regarding such housing necessary to comply with State law.

STAFF RECOMMENDATION

Staff requests that the Committee hear the staff presentation on the topic and provide feedback on the proposed Zoning Ordinance amendments

STAFF ANALYSIS

Background and Rationale for Proposed Amendments

With the passage of Senate Bill 2 (SB 2) local jurisdictions must ensure that transitional and supportive housing is regulated consistent with comparable residential uses. The law requires that such developments be subject only to those restrictions that apply to residential uses of the same type in the same zone. Alameda County's Zoning Ordinance contains no definition for transitional or supportive housing, nor does it include guidelines addressing their development. In order to comply with SB 2, staff recommends that the County amend its Zoning Ordinance to include definitions for both transitional and supportive housing and provide appropriate standards for their development.

Residential and medical care facilities are defined in the County's Zoning Ordinance; however, the Ordinance is silent as to where the use is permitted. Although uncodified in the Zoning Ordinance, residential and medical care facilities for six or fewer persons are a permitted use in all residential zones (See the section entitled "Standards from Statute" for more information); facilities for seven or more persons require a Conditional Use Permit. The proposed amendments are intended to clarify the County's administration of its Zoning Ordinance with respect to residential and medical care facilities. The proposed language change includes updates to definitions of assisted living facilities. Assisted living facilities of six or fewer persons would continue to be exempted from local regulation per State statute. Those facilities with seven or more residents would continue to require Conditional Use Permits. Also, certain performance standards would be added to the findings required to approve facilities subject to Conditional Use Permits. Although the following amendments are required per statute, staff does not believe

that these changes will result in an increase in the number of group care facilities within unincorporated Alameda County.

Definitions from Statute

Transitional housing is designed to assist individuals and families in developing the skills necessary to achieve independent living. California Health and Safety Code Section 50675.2(h) defines “transitional housing” and “transitional housing development” as:

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

Supportive housing is permanent rental housing linked to a range of support services designed to enable residents to maintain stable housing and lead fuller lives. Typically, a part of the housing is targeted to people who have risk factors such as homelessness or health challenges, such as mental illness or substance addiction. California Health and Safety Code Section 53260(c) defines “supportive housing” as:

Housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the tenant to retain the housing, improve his or her health status, maximize their ability to live and, when possible, to work in the community. This housing may include apartments, single-room occupancy residences, or single-family homes.

Standards from Statute

The following statutes require that small (serving six or fewer persons) licensed group homes be treated like other single family uses occurring within the same zone. Included are facilities for persons with disabilities and other facilities (Welfare & Inst. Code 5116), residential health care facilities (Health & Safety Code 1267.8, 1267.9, & 1267.16), residential care facilities for the elderly (Health & Safety Code 1568.083 - 1568.0831, 1569.82 – 1569.87), community care facilities (Health & Safety Code 1518, 1520.5, 1566 - 1566.8, 1567.1), pediatric day health facilities (Health & Safety Code 1267.9;1760 – 1761.8), and facilities for alcohol or drug treatment (Health & Safety Code 11834.23).

Also contained within the Health and Safety Code are requirements intended to limit the overconcentration of such facilities within a certain area. Specifically, Health and Safety Code Sections 1520.5 and 1267.9 address that concern. These sections both provide for a 300 foot separation between facilities of a similar type.

Draft Ordinance Amendments

In preparing the following amendments to the Alameda County Zoning Code, staff conducted a review of existing and planned policies for each of the cities located in Alameda County and analyzed the work of several other jurisdictions including the cities of Cathedral City and Agoura Hills, and the counties of Ventura and Monterey. In reviewing the work of these other jurisdictions, staff found that many jurisdictions permitted transitional and supportive housing for up to six persons by right in all of their residential zones. Facilities for more than six persons were allowed in certain zones subject to a Conditional Use Permit. While many jurisdictions

chose to forgo development standards, several did draft regulations. These regulations generally covered the following items:

- Placement to avoid overconcentration of the proposed use
- Management
- Security

The advantage of having such regulations is that they provide for a more uniform and efficient review process as development and performance expectations are clear to all parties involved. Please note that, for facilities of seven or more residents, these requirements are in addition to the findings required for all Conditional Use Permit applications, and that a Board of Zoning Adjustments retains the authority to impose additional conditions of approval as it deems necessary to ensure that the project would not be detrimental to surrounding properties/uses.

Proposed Additional Definitions and Revisions to Chapter 17.04

"Medical or residential care facility" means ~~a nursing and convalescent home as licensed by State Department of Public Health, and includes~~ residential care homes as licensed by State Department of Social Welfare Services, Community Care Licensing Division ~~and the Alameda County Welfare Department~~. This term also includes group living quarters housing persons placed by an authorized agency for rehabilitation purposes and is funded by or licensed by or is operated under the auspices of an appropriate federal, state or county governmental agency.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the "target population", and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

"Target population" means persons with Low Income having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (California Welfare and Institutions Code, section 4500 et seq.) and may include, among other populations, adults, emancipated youth, families, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

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

Proposed Permitted Uses to be Added in All Residential Zones

- Residential or medical care facility for up to six (6) persons
- Transitional housing for up to six (6) persons
- Supportive housing for up to six (6) persons

Proposed Conditional Uses to be Added in All Residential Zones

- Residential or medical care facility for seven (7) or more persons
- Transitional housing for seven (7) or more persons
- Supportive housing for seven (7) or more persons

Proposed Performance Standards

Chapter 17.## - RESIDENTIAL OR MEDICAL CARE FACILITIES, TRANSITIONAL OR SUPPORTIVE HOUSING

17.##.010 – Residential or Medical Care Facilities, Transitional Housing Facilities, and Supportive Housing Facilities — Purpose.

The purpose of this Section is to establish the development standards for residential or medical care facilities, transitional housing facilities, and supportive housing facilities.

17.##.020 –Residential or Medical Care Facilities, Transitional Housing Facilities, and Supportive Housing Facilities — Regulations.

In addition to the findings required of the Board of Zoning Adjustments under Sections 17.54.130 (Conditional Uses) and 17.54.140 (Conditional Uses--Action), a conditional use permit for any conditionally permitted residential or medical care facility, transitional housing facility, or supportive housing facility may only be granted upon determination that the proposal conforms to all of the following additional use permit criteria:

- A. Staffing of the facility shall at all times remain in compliance with any State Licensing Agency requirements;
- B. The operation of buses or vans to transport residents to or from off-site activities shall not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area;
- C. The on-street parking demand generated by the facility due to visitors shall not be substantially greater than that normally generated by the surrounding residential activities;
- D. Arrangements for delivery of goods shall be made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties;
- E. That the facility’s program shall not generate noise at levels that will adversely affect the livability of the surrounding properties, and shall at all times maintain compliance with the County Noise Ordinance;
- F. Onsite management shall be provided twenty-four (24) hours a day, seven days per week. Prior to operation, all facilities must provide to the Planning Director a management plan that shall contain policies, maintenance plans, rental procedures, tenant rules, and security procedures;
- G. In accordance with sections 1267.9 and 1520.5 of the California Health and Safety Code, no facility shall be closer than three hundred (300) feet from other similar activities or facilities unless findings can be made that such an additional facility would not have a negative impact upon residential activities in the surrounding area;
- H. Parking shall be provided in accordance with Section 17.52.910 (Parking Spaces required— Residential buildings);
- I. The facilities shall provide exterior lighting in the parking lot, on building exteriors, and pedestrian accesses. All exterior lighting shall be down-cast and shall not illuminate above the horizontal. No light source shall be exposed above the horizontal, nor visible from neighboring residential use properties; and
- J. Yards shall conform to the zoning requirements established for the district in which it is located.

Proposed Revisions to Parking Regulations

Table <u>17.52.910</u> Parking Spaces Required for Residential Buildings	
Use	Number of Spaces Required
Medical or residential care facility, and transitional and supportive housing developments	2 plus 1 for each 6 beds for persons not related to the resident family or manager

CONCLUSION

Based upon a review of SB 2, staff recommends that transitional housing facilities and supportive housing facilities for up to six persons be permitted by right in all residential zones.

Facilities for seven or more persons would be allowed with an approved Conditional Use Permit in all residential zones and would be subject to additional performance standards. Similarly, staff recommends that the Zoning Ordinance be revised to state that residential and medical care facilities for six or fewer persons are permitted by right and that those facilities serving seven or more persons require a Conditional Use Permit and be subjected to the same performance standards as supportive housing and transitional housing developments. Staff requests that the Committee focus its review upon the draft findings required for a conditional use permit, and provide guidance as to what changes, if any, are needed.

Please note that any facilities serving 6 or fewer persons are currently permitted and the primary change is a textual amendment intended to demonstrate compliance with SB 2. Staff does not believe that the proposed amendment would allow for any additional opportunities in than currently exist in unincorporated Alameda County.

RELEVANT STATUTES

Excerpted from the Health and Safety Code:

1267.9. (a) The Legislature hereby declares it to be the policy of the state to prevent overconcentrations of intermediate care facilities/developmentally disabled habilitative, intermediate care facilities/developmentally disabled-nursing, congregate living health facilities, or pediatric day health and respite care facilities, as defined in Section 1760.2, which impair the integrity of residential neighborhoods. Therefore, the director shall deny an application for a new intermediate care facility/developmentally disabled habilitative license, a new intermediate care facility/developmentally disabled-nursing license, a congregate living health facility, or a pediatric day health and respite care facility license if the director determines that the location is in such proximity to an existing intermediate care facility/developmentally disabled habilitative, an intermediate care facility/developmentally disabled-nursing, a congregate living health facility, or a pediatric day health and respite care facility as would result in overconcentration.

(b) As used in this section, "overconcentration" means that if a new license is issued, either of the following will occur:

(1) There will be intermediate care facilities/developmentally disabled habilitative, intermediate care facilities/developmentally disabled-nursing, residential care facilities, as defined in Section 1502, or pediatric day health and respite care facilities which are separated by a distance of less than **300 feet**, as measured from any point upon the outside walls of the structures housing the facilities.

(2) There will be congregate living health facilities serving persons who are terminally ill, diagnosed with a life-threatening illness, or catastrophically and severely disabled, as defined in Section 1250, which are separated by a distance of less than **1,000 feet**, as measured from any point upon the outside walls of the structures housing the facilities.

Based on special local needs and conditions, the director may approve a separation distance of less than **300 feet** or **1,000 feet**, whichever is applicable, with the approval of the city or county in which the proposed facility will be located.

(c) At least 45 days prior to approving any application for a new intermediate care facility/developmentally disabled habilitative, a new intermediate care facility/developmentally disabled-nursing, a

congregate living health facility, or a pediatric day health and respite care facility, the director shall notify, in writing, the city or county planning authority in which the facility will be located, of the proposed location of the facility.

(d) Any city or county may request denial of the license applied for on the basis of overconcentration of intermediate care facilities/developmentally disabled habilitative, intermediate care facilities/developmentally disabled-nursing, a congregate living health facility, or a pediatric day health and respite care facility.

(e) Nothing in this section authorizes the director, on the basis of overconcentration, to refuse to renew an intermediate care facility/developmentally disabled habilitative license, an intermediate care facility/developmentally disabled-nursing license, a congregate living health facility license, or a pediatric day health and respite care facility license, or to refuse to grant a license upon a change of ownership of an existing intermediate care facility/developmentally disabled habilitative, intermediate care facility/developmentally disabled-nursing, a congregate living health facility, or a pediatric day health and respite care facility where there is no change in the location of the facility.

(f) Foster family homes and residential care facilities for the elderly shall not be considered in determining overconcentration of intermediate care facilities/developmentally disabled-habilitative, intermediate care facilities/developmentally disabled-nursing, residential care facilities, as defined in Section 1502, congregate living health facilities, or pediatric day health and respite care facilities.

1520.5. (a) The Legislature hereby declares it to be the policy of the state to prevent overconcentrations of residential care facilities that impair the integrity of residential neighborhoods. Therefore, the director shall deny an application for a new residential care facility license if the director determines that the location is in a proximity to an existing residential care facility that would result in overconcentration.

(b) As used in this section, "overconcentration" means that if a new license is issued, there will be residential care facilities that are separated by a distance of **300 feet** or less, as measured from any point upon the outside walls of the structures housing those facilities. Based on special local needs and conditions, the director may approve a separation distance of less than **300 feet** with the approval of the city or county in which the proposed facility will be located.

(c) At least 45 days prior to approving any application for a new residential care facility, the director, or county licensing agency, shall notify, in writing, the planning agency of the city, if the facility is to be located in the city, or the planning agency of the county, if the facility is to be located in an unincorporated area, of the proposed location of the facility.

(d) Any city or county may request denial of the license applied for on the basis of overconcentration of residential care facilities.

(e) Nothing in this section authorizes the director, on the basis of overconcentration, to refuse to grant a license upon a change of ownership of an existing residential care facility where there is no change in the location of the facility.

(f) Foster family homes and residential care facilities for the elderly shall not be considered in determining overconcentration of residential care facilities, and license applications for those

facilities shall not be denied upon the basis of overconcentration.

(g) Any transitional shelter care facility as defined in paragraph (11) of subdivision (a) of Section 1502 shall not be considered in determining overconcentration of residential care facilities, and license applications for those facilities shall not be denied upon the basis of overconcentration.

ATTACHMENTS

- A. [HCD: SB2 Technical Assistance Paper addressing new statutory requirements of GC 65583\(a\)\(4\) et seq](#)
- B. Standards for Development of Hospitals and Medical or Residential Care Facilities, November 3, 1969

PREPARED BY:	Angela C. Robinson Piñon, Planner
REVIEWED BY:	Elizabeth McElligott, Assistant Planning Director

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**



STAFF REPORT

TO Members of the Ordinance Review Advisory Committee
RE Single Room Occupancy Facilities
MEETING DATE January 24, 2012

GENERAL INFORMATION

The following is an overview of policies pertaining to Single Room Occupancy (SRO) facilities and amendments to the Alameda County Zoning Ordinance regarding such housing necessary to comply with State law.

STAFF RECOMMENDATION

Staff requests that the Committee hear the staff presentation on the topic and provide feedback on the proposed Zoning Ordinance amendments

STAFF ANALYSIS

Background and Rationale for Proposed Amendments

With the passage of Assembly Bill 2634 local jurisdictions are now required to make provisions for Single Room Occupancy (SRO) Facilities. Alameda County's Planning Code does not define, nor does it address the development of SRO Facilities, and so in order to comply with this requirement the County committed to amending its Planning Code, specifically that it would draft development and performance standards to regulate the development of SRO Facilities.

SROs contain units, generally 150 to 450 feet in size, occupied by no more than two persons. Units may or may not have kitchen facilities in the unit. The units are used by their occupant(s) as a primary residence for a fixed period of time. SROs may be constructed in a manner similar to, or occupy existing, multi-family buildings, motels, or hotels. As a result, parcels zoned for higher densities (21 or more units to the acre) are the appropriate locations for SRO Facilities. Under this zoning proposal, SROs would require review/approval via a Conditional Use Permit and be subject to several performance standards.

Draft Ordinance Amendments

In preparing the following amendments to the Alameda County Planning Code, staff conducted a review of existing and planned policies for each of the cities located in Alameda County and analyzed the work of several other jurisdictions including the cities of Santa Rosa, San Jose, and Agoura Hills, and the County of Monterey. In reviewing the work of these other jurisdictions,

staff found that many jurisdictions chose to make Single Room Occupancy Facilities a conditional use in either a high density residential or commercial zone. In addition staff observed that many chose to draft development standards for these facilities. These regulations generally covered the following items:

- Unit size
- Management
- Security
- Common Space
- Kitchen and Bath Facilities

Staff addressed each of these issues in preparing the draft Ordinance amendment and believes that these standards are consistent with the County’s goals of providing affordable housing opportunities and creating safe, vibrant, and livable communities.

Proposed Definitions to be added to Chapter 17.04

“SRO (single room occupancy) facility” means a building containing six or more SRO units or guestrooms, designed for occupancy of no more than two persons, and which is intended, designed, or is used as a primary residence by guests.

“SRO (single room occupancy) unit” means a room that is used, intended or designed to be used by no more than two persons as a primary residence, but which lacks either or both a self-contained kitchen or bathroom.

Proposed Performance Standards

Chapter 17.## - SINGLE ROOM OCCUPANCY (SRO) FACILITIES

17.##.010 – Single Room Occupancy (SRO) Facilities—Purpose.

The purpose of this Section is to establish the development standards for Single Room Occupancy (SRO) Facilities.

17.##.010 – Single Room Occupancy (SRO) Facilities—Regulations.

Single Room Occupancy Facilities shall be subject to the following regulations and development standards:

- A.** Excluding the bathroom area and closet(s), the Single Room Occupancy unit must be a minimum of one hundred and fifty (150) square feet in floor area and the maximum size shall be not more than four hundred (400) square feet. Each unit shall be designed to accommodate a maximum of two people.
- B.** Each Single Room Occupancy Unit must include a closet and may contain either kitchen facilities or bath facilities but not both.
- C.** Complete common cooking facilities/kitchens must be provided if any unit within the SRO Facility does not have a kitchen. One complete cooking facility/kitchen shall be provided within the SRO Facility for every twenty (20) SRO units or portion thereof that do not have kitchens, or have one kitchen on any floor where SRO Units without kitchens are located.
- D.** Common bathrooms must be located on any floor with any unit that does not have a full bathroom. Common bathrooms shall be either single occupant use with provisions for privacy or multi-occupant use with separate provisions for men and women. Common bathrooms shall have shower or bathtub facilities at a ratio of one for every seven (7) units or fraction thereof. Each shared shower or bathtub facility shall be provided with an interior lockable door.

- E. Each SRO Facility shall have at least ten (10) square feet of common usable area per unit; however no SRO facility shall provide less than two hundred (200) square feet of common outdoor area and two hundred (200) square feet of common indoor area. Maintenance areas, laundry facilities, storage (including bicycle storage), and common hallways shall not be included as usable indoor common space. Landscape areas that are less than eight (8) feet wide shall not be included as outdoor common space.
- F. A SRO Facility with twelve (12) or more units shall provide twenty-four (24) hour on-site management, and include a dwelling unit designated for the manager. All SRO Facilities must have a management plan approved prior to occupation by the Alameda County Department of Housing and Community Development. The management plan shall contain management policies, maintenance plans, rental procedures, tenant rules, and security procedures.
- G. Single Room Occupancy Facilities shall include laundry facilities.
- H. A cleaning supply storeroom and/or utility closet with at least one (1) laundry tub with hot and cold running water must be provided on each floor of the SRO facility.
- I. Parking shall be provided in accordance with Section 17.52.910.

Proposed Revisions to Parking Regulations

Table 17.52.910 Parking Spaces Required for Residential Buildings	
Use	Number of Spaces Required
Hotel, motel, boarding house, clubhouse, fraternity or sorority, and single room occupancy facilities	2 plus 1 for each bedroom available for severity ; accommodating guests a paying guest

Possible Zoning Districts for Consideration by the Committee Where SROs May Be Permitted Subject To a Conditional Use Permit

District	Density (du/ac)	Comments
R-4	34.85 (1,250 MBSA)	High Density; predominantly CalTrans properties adjacent to I238 and I580
ACBDSP-TA	50	TA (Transit Access): Access to transit and services
ACBDSP-TC	Unspecified	TC (Transit Corridor): Mixed use encouraged; access to transit and services
ACBDSP-FA	Subject to a CUP	FA (Freeway Access): Access to transit and services
ACBDSP-RC	15-25	RC (Residential Commercial): Access to transit and services
C1	N/A	Hotel, motels and boarding house is a conditional use; access to transit and other services

CONCLUSION

Based upon a review of AB 2634, staff recommends that SRO units be conditionally permitted in at least one zoning district, and subject to specific performance standards. At this time, staff requests that the Committee recommend a district where SRO facilities might be conditionally permitted, and provide comments on the proposed regulations and development standards prepared by staff.

RELEVANT STATUTES

Excerpted from the Government Code:

65583(c) (1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

Excerpted from the Health and Safety Code:

17958.1. Notwithstanding Sections 17922, 17958, and 17958.5, a city or county may, by ordinance, permit efficiency units for occupancy by no more than two persons which have a minimum floor area of 150 square feet and which may also have partial kitchen or bathroom facilities, as specified by the ordinance. In all other respects, these efficiency units shall conform to minimum standards for those occupancies otherwise made applicable pursuant to this part.

"Efficiency unit," as used in this section, has the same meaning specified in the Uniform Building Code of the International Conference of Building Officials, as incorporated by reference in Chapter 2-12 of Part 2 of Title 24 of the California Code of Regulations.

50519(b) (1). "Residential hotel" means any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests, but does not mean any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, which is primarily used by transient guests who do not occupy that building as their primary residence.

Excerpted for the California Code of Regulations:

Title 25, Division 1, Chapter 7, Subchapter 4, Article 1, Section 7301

(q) "Residential Hotel" means any building that contains 6 or more Residential Hotel Units, where a majority of the Units are Residential Hotel Units. Single-family houses are not considered Residential Hotels.

(r) "Residential Hotel Unit," also referred to as a single room occupancy Unit or an SRO, means an Efficiency Unit that: (1) is occupied as a primary residence, and (2) is subject to state landlord-tenant law pursuant to Chapter 2 (commencing with [Section 1940](#)) of Title 5 of Part 4 of Division 3 of the Civil Code. The term also includes a Unit in an "SRO Project" as described in [California Code of Regulations, Title 4, Section 10325](#)(g) (3).

Title 25, Division 1, Chapter 7, Subchapter 15, Article 1, Section 8076

(aa) "Residential hotel" means any building which contains six or more residential hotel units where a majority of the units are residential hotel units.

(bb) "Residential hotel unit", also referred to as a "single room occupancy" unit or an SRO, means a room used for sleeping purposes that:

- (1) is occupied as a primary residence,
- (2) lacks, in the unit itself, either or both a kitchen or bathroom, and
- (3) is subject to state landlord-tenant law pursuant to chapter 2 (commencing with [section 1940](#)) of title 5 of part 4 of division 3 of the Civil Code.

...

(ee) "Single room occupancy" unit or "SRO" means the same as "residential hotel unit."

PREPARED BY:	Angela C. Robinson Piñon, Planner
REVIEWED BY:	Elizabeth McElligott, Assistant Planning Director

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**



STAFF REPORT

TO Members of the Ordinance Review Advisory Committee
RE Emergency Shelters
MEETING DATE January 24, 2012

GENERAL INFORMATION

The following is an overview of policies pertaining to emergency shelters and amendments to the Alameda County Zoning Ordinance regarding such housing necessary to comply with State law.

STAFF RECOMMENDATION

Staff requests that the Committee hear the staff presentation on the topic and provide feedback on the proposed Zoning Ordinance amendments.

STAFF ANALYSIS

Background and Rationale for Proposed Amendments

With the passage of Senate Bill 2 (SB 2) in 2007, local jurisdictions must identify a zone where a year-round emergency shelter is permitted by right. The County has yet to identify such a zone. Therefore, in accordance with SB 2, the County must select a zone where such shelters are permitted by right.

As part of the implementation of the 2003 Housing Element, the R-4, Multiple Residence district, was previously selected as the appropriate zone to conditionally permit emergency shelters; however, per State statute, emergency shelters have to be permitted by right. In addition, the terms “Family Emergency Homeless Shelter” and “General Emergency Homeless Shelter” were added to the Zoning Ordinance. Each of the terms is defined below.

“Family Emergency Homeless Shelter” means a short-term residential facility adequately staffed during operating hours with minimal supportive services providing lodging and meals for up to six months to homeless families with minor children, pending attempts to find more permanent housing and referred to the shelter by partner social service agencies or similar organizations the offices of which are not located on premises of the shelter, and where no meals or other services are provided to non-residents of the shelter. Such shelters shall be located within ¼ mile of transit lines and no closer than 500 feet, measured from property line to property line, from schools, parks and day care facilities, nor closer than 1000 feet from :

- Alcohol outlets
- Medical marijuana dispensaries
- Other Emergency Homeless Shelters

“General Emergency Homeless Shelter” means a short-term residential facility adequately staffed during operating hours with minimal supportive services providing lodging and meals for up to six

months to homeless persons, not including families with minor children, pending attempts to find more permanent housing and referred to the shelter by partner social service agencies or similar organizations the offices of which are not located on the premises of the shelter, and where no meals or other services are provided to non-residents of the shelter. Such shelters shall be located within ¼ mile of transit lines and no closer than 1000 feet, measured from property line to property line, of the following uses:

- Schools
- Day care facilities
- Parks
- Alcohol outlets
- Medical marijuana dispensaries
- Other Emergency Homeless Shelters

As they are currently written, these terms are more restrictive than what is permitted under statute. Specifically, per Government Code Section 65583 (4) (a) local jurisdictions may apply the following development standards:

The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

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

The County should also draft and adopt objective performance standards consistent with SB 2 to evaluate emergency shelters. Furthermore, staff recommends that the County strike the definitions of “General Emergency Homeless Shelter” and “Family Emergency Homeless Shelter” and use the definition provided in Section 50801 of the Health and Safety Code:

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person.

Draft Ordinance Amendments

In preparing the following amendments to the Alameda County Planning Code, staff conducted a review of existing and planned policies for each of the cities located in Alameda County and analyzed the work of several other jurisdictions including the cities of Cathedral City, Agoura Hills, and the counties of Ventura and Monterey. In reviewing the work of these other

jurisdictions, staff found that each jurisdiction adhered to the requirements of SB 2 in developing their development standards. Staff will also draft performance standards that align with SB 2.

In analyzing the SB 2 compliance of various localities, staff also looked at which zones were selected for emergency shelters. Some jurisdictions chose commercial zones, others residential, and others chose light industrial zones as the appropriate location for an emergency shelter. As there is no consistent location, staff recommends the R-4, Multiple Residence district, as the appropriate location for such facilities. The R-4 district is zoned at an appropriate density such that the development of emergency shelters is feasible. In addition, the R-4 areas are well served by public transit, and the zone currently permits emergency shelters as a conditional use.

Proposed Definition to be added to Chapter 17.04

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person.

Proposed Use to be Added to at Least One Zone

- Emergency Shelters

Proposed Performance Standards

Chapter 17.## - EMERGENCY SHELTERS

17.##.010 – Standards for Emergency Shelters —Purpose.

The purpose of this Section is to establish the development standards for Emergency Shelters

17.##.020 – Emergency Shelter —Regulations.

Emergency Shelters shall be subject to the following regulations and development standards:

- A.** An Emergency Shelter shall obtain and maintain in good standing all required licenses, permits, and approvals from County and State agencies or departments. An Emergency Shelter shall comply with all County and State health and safety requirements for food, medical, and other supportive services provided on-site;
- B.** No Emergency Shelter facility shall have more than sixty (60) beds;
- C.** Each resident shall be provided a minimum of fifty (50) gross square feet of personal living space, not including space for common areas;
- D.** Bathing facilities shall be provided in quantity and location as required in the California Plumbing Code (Title 24 Part 5), as amended, and shall comply with the accessibility requirements of the California Building Code (Title 24 Part 2), as amended;
- E.** No individual or family shall reside in an Emergency Shelter for more than 180 consecutive days;
- F.** The operation of buses or vans to transport residents to or from off-site activities shall not generate vehicular traffic substantially greater than that normally generated by residential activities in the surrounding area, to the satisfaction of the Planning Director;
- G.** The on-street parking demand generated by the facility due to visitors shall not be substantially greater than that normally generated by the surrounding residential activities, to the satisfaction of the Planning Director;
- H.** Arrangements for delivery of goods shall be made within the hours that are compatible with and will not adversely affect the livability of the surrounding properties;
- I.** The facility's program shall not generate noise at levels that will adversely affect the livability of the surrounding properties, and shall at all times maintain compliance with the County Noise Ordinance;
- J.** Onsite management shall be provided twenty-four (24) hours a day, seven (7) days per week. All facilities must provide a management plan to the satisfaction of the Planning

- Director that shall contain policies, maintenance plans, intake procedures, tenant rules, and security procedures;
- K. The facility is no closer than three hundred (300) feet from other emergency shelters unless findings can be made that such an additional facility would not have a negative impact upon residential activities in the surrounding area;
 - L. On-site parking shall be provided in accordance with Section 17.52.910;
 - M. The facilities shall provide exterior lighting in the parking lot, on building exteriors, and pedestrian accesses. All exterior lighting shall be down-cast and shall not illuminate above the horizontal. No light source shall be exposed above the horizontal, nor visible from neighboring residential use properties.
 - N. Required yards shall conform with the R-4 zoning district yard requirements; and
 - O. A waiting and client intake area of not less than one hundred (100) square feet shall be provided inside the main building.
 - P. Violations of this section shall be subject to enforcement, penalties and abatement under Chapters 17.58 and 17.59 of this title.

Table <u>17.52.910</u> Parking Spaces Required for Residential Buildings	
Use	Number of Spaces Required
Emergency shelter	3 plus 1 per each 10 individual beds.

CONCLUSION

Based upon a review of SB 2, staff recommends that emergency shelters be permitted “by right” in at least one zoning district, and subject to specific performance standards. At this time, staff recommends that the R-4 Multi-family district is the appropriate zone for emergency shelters. It is also requested that the Committee provide comments on the proposed regulations and development standards prepared by staff.

ATTACHMENTS

[HCD: SB2 Technical Assistance Paper addressing new statutory requirements of GC 65583\(a\)\(4\) et seq](#)

PREPARED BY:	Angela C. Robinson Piñon, Planner
REVIEWED BY:	Elizabeth McElligott, Assistant Planning Director


**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177
FAX (916) 327-2643

**MEMORANDUM**

DATE: May 7, 2008

TO: Planning Directors and Interested Parties

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

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

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

Planning (Government Code Section 65583)

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

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

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

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

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

Attachments

Chapter 633, Statutes of 2007 (Senate Bill 2)

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Introduction

Homeless Needs

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

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

Purpose and Objectives of SB 2

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

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

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

Section 1

Planning

(Government Code Section 65583)

Identifying and Analyzing Needs and Resources

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

- An estimate or count of the daily average number of persons lacking shelter. Wherever possible, and to better describe the characteristics of needs, this figure could be divided into single males, single females and families (one or more adults with children) as the needs of each subgroup differ significantly.
- As local data or other existing sources permit (see list below), a description of the percentage of the homeless population who are mentally ill, developmentally disabled, veterans, runaway or emancipated foster youth, substance abusers, survivors of domestic violence, and other subpopulations of homeless considered significant by the jurisdiction.
- An inventory of the resources available within the community including shelters, transitional housing and supportive housing units by type. The analysis should estimate the number and type of existing shelter beds, and units of transitional and supportive housing available.
- Assess the degree of unmet homeless needs, including the extent of need for emergency shelters. As part of this analysis, SB 2 now clarifies the need assessment for emergency shelters must consider seasonal and year-round need. In recognition of local efforts to encourage supportive housing, SB 2 allows jurisdictions with 10 Year Plans to End Chronic Homelessness to reduce the need for emergency shelters by the number of supportive housing units identified in an adopted 10-year plan and that are either vacant or funding has been identified to allow construction in the housing element planning period.

Resources to identify and analyze homeless needs, include:

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

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

Identifying Zoning for Emergency Shelters

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



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

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

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

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

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

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

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

Permitting Emergency Shelters without Discretionary Action

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

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

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



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

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

Development Standards to Encourage and Facilitate Emergency Shelters

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

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

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

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

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



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

Encouraging Multi-Jurisdictional Cooperation and Coordination

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

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

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



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

Existing Ordinances and Existing Shelters that Accommodate Need

Existing Ordinances Permitting Emergency Shelters

Many local governments have a record of effective actions to address the homeless needs in their community. SB 2 recognizes and provides flexibility for jurisdictions that have already adopted an ordinance(s) that complies with the new zoning requirements. For those local governments with existing ordinances and zoning consistent with



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

requirements of SB 2, no further action will be required to identify zones available for emergency shelters. The housing element must however, describe how the existing ordinance, policies and standards are consistent with the requirements of SB 2.

Existing Shelters That Accommodate the Need for Emergency Shelters

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

Transitional and Supportive Housing

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

individuals to gain necessary life skills in support of independent living. *Supportive housing* as defined at Section 50675.14 of the Health & Safety Code has no limit on the length of stay, is linked to onsite or offsite services, and is occupied by a target population as defined in Health & Safety Code Section 53260 (i.e., low income persons with mental disabilities, AIDS, substance abuse or chronic health conditions or persons whose disabilities originated before the person turned 18). Services typically include assistance designed to meet the needs of the target population in retaining housing, living and working in the community, and/or improving health and may include case management, mental health treatment, and life skills.

SB 2 provides that transitional and supportive housing constitute a residential use. SB 2 requires zoning to treat transitional and supportive housing as a proposed residential use and subject only to those restrictions that apply to other residential uses of the same type in the same zone. For example, if the transitional housing is a multifamily use proposed in a multifamily zone, then zoning should treat the transitional housing the same as other multifamily uses proposed in the zone.

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

Housing Element Policies and Programs

Effective programs reflect the results of the local housing need analyses, identification of available resources, including land and financing, and the mitigation of identified governmental and nongovernmental constraints.

Programs consist of specific action steps the locality will take to implement its policies and achieve goals and objectives. Programs must

include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, and describe the jurisdiction's specific role in implementation.

Where a jurisdiction does not provide an analysis demonstrating compliance with the provisions of SB 2 through existing zoning, the element must have a program(s) to address the results of that analysis. For example, if the element does not identify an existing zone to permit emergency shelters without a conditional use permit or other discretionary action, the element must include a program to establish the appropriate zoning, unless the jurisdiction has satisfied its needs through existing emergency shelters or a multi-jurisdictional



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

agreement. If development and management standards do not encourage and facilitate emergency shelters or zoning does not treat transitional and supportive housing as a residential use, the element must include a program(s) to amend existing zoning or processing requirements to comply with SB 2.

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

Timing: When SB 2 Applies

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

Section 2

Local Approval

(Government Code Section 65589.5)

The Housing Accountability Act

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

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

Zoning Inconsistency

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

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

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

Attachment 1

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

Attachment 1

Changes to State Housing Element Law **Chapter 633, Statutes of 2007 (SB 2)** *(changes indicated in strikeouts and underlines)*

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

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

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

- (a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:
 - (1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.
 - (2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

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

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

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

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

(iv) The provision of onsite management.

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

(vi) The length of stay.

(vii) Lighting.

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

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

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

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

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in

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

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

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

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

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

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

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

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

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

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

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

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, ~~the~~ provision of regulatory concessions and incentives, and ~~the the~~ utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

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

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

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

- (2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.
- (3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, **and** provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.
- (4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.
- (5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.
- (6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (89) of subdivision (a).
The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (89) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.
- (7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.
- (d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.
(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.
(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:
(A) How the joint facility will meet the jurisdiction's emergency shelter need.
(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.
(C) The amount and source of the funding that the jurisdiction contributes to the facility.
(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.
- (e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:
- (1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, **wherewhen** a city, county, or city and county submits a **first** draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

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

Housing Accountability Act

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

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California. (2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

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

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

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

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

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

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional

housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

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

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

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

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

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

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

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

~~(e) Nothing in this section shall be construed to relieve the local agency~~ from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). ~~This~~ Neither shall anything in this section also does not be construed to relieve the ~~local agency~~ local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) ~~This~~ (1) Nothing in this section ~~does not~~ shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development project. ~~This.~~ (2) Nothing in this section ~~does not~~ shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

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

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

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

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

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

(A) Residential units only.

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

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

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

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

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

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

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

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

preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

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

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

Attachment 2

Definitions

Attachment 2

Definitions

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

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

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

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

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

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

Target Population Definition per HSC 53260(d)

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

Attachment 3

Helpful Links

Attachment 3

Helpful Links

National Alliance to End Homelessness

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

Interagency Council on Homelessness

<http://www.ich.gov/>

Interagency Council on Homelessness, Guide to Developing Plans and Examples

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

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

[http://www.nrchmi.samhsa.gov/\(X\(1\)S\(axpyp555dhn54z45qhpqvnj4\)\)/Default.aspx?AspxAutoDetectCookieSupport=1](http://www.nrchmi.samhsa.gov/(X(1)S(axpyp555dhn54z45qhpqvnj4))/Default.aspx?AspxAutoDetectCookieSupport=1)

The National Coalition for the Homeless – Local Resources in California

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

HCD Selected Bibliography on Homeless Issues

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

Building Blocks for Effective Housing Elements

(links to funding resources, data, policy and research on homelessness)

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

**STANDARDS FOR DEVELOPMENT OF HOSPITALS
AND MEDICAL OR RESIDENTIAL CARE FACILITIES**

Adopted by the Alameda County Planning Commission on November 3, 1969

STANDARDS FOR DEVELOPMENT OF HOSPITALS AND MEDICAL OR RESIDENTIAL CARE FACILITIES

PART I

Applicable Sections of the Zoning Ordinance of the County of Alameda

I. Definitions:

1. Hospital: General Hospital as licensed by the State Department of Public Health or Psychiatric or alcoholism Hospital as licensed by the State Department of Mental Hygiene. (Sec. 8-21.1)
2. Medical or Residential Care Facility: A Nursing and Convalescent Home as licensed by State Department of Public Health; includes Residential Care Homes as licensed by State Department of Social Welfare and the Alameda County Welfare Department. (Sec. 8-22.5A)

II. Zoning Districts in which Permitted, subject to a Conditional Use Permit:

1. Hospitals:

A (Agriculture) 8-25.3(a)

R-S-D-15 (Suburban Residence -- 1,500 sq. ft. minimum building site area per dwelling unit) District not requiring more than 1,500 sq. ft. building site area per dwelling unit) 8-28.3(b)

R-3 (Four Family Residence) 8-29.2(c)

R-4 (Multiple Residence) 8-30.2(e)

C-O (Administrative Office) 8-46.2(a)

C-1 (Retail Business) 8-48.2(a)

2. Medical or Residential Care Facility:

A (Agriculture) 8-25.3(b)

R-1 (Single Family Residence) 8-26.3(e)

R-2 (Two Family Residence) 8-27.2(e)

R-S (Suburban Residence)	8-28.3(e)
R-3 (Four Family Dwelling)	8-2g.2(d)
R-4 (Multiple Residence)	8-30.2(d)

III. District Requirements:

	Site Area	Height	MLW	Frontage	Front Yard	Side Yard	Corner Lots	Rear Yards
1.	A 5 acres	25'		300'	30'	10'		20'
2.	R-1 5,000 sq. ft.	25'	50'	½ mlw min. 25'	20'	5'	10'	20'
3.	R-2 5,000 sq. ft.	25'	50'	½ mlw min. 25'	20'	5'	10'	20'
4.	R-S 5,000 sq. ft.	25'	50'	½ mlw min. 25'	20'	10' min. 30' comb.		20'
5.	R-3 5,000 sq. ft.	25'	50'	½ mlw min. 25'	20'	5'	10'	20'
6.	R-4 6,000 sq. ft.	45'	60'	½ mlw min. 30'	20'	10'		20'
7.	C-O 10,000 sq. ft. ^a	35'	70'		20'	10'		10'
8.	C-1 ^b	45'						

a. Max. lot coverage 50%

b. 10' (Sec. 8-48.7) SDR required for any facility requiring 15 or more off-street parking spaces

"B" Combining Districts: Minimum Site Area and yard requirements of a combining district shall be met for any Hospital and Medical or Residential Care Facility use in that district, greater yards may be required as conditions of approval.

IV. Off-Street Parking Requirements for Hospital and Medical or Residential Care Facility:

1. Access driveway minimum width:
 - A. to 4 or less spaces - 12'
 - B. to 5 or more spaces - 20'
 - C. 10' setback from any access drive to any dwelling except In A, R-1 and R-2 (from Sec. 8-63.6; 8-28.11)
2. Number of Parking Spaces:
 - A. Hospital:
 - a. Two plus one for each four patient beds, (except that those patient beds designated as "long term care beds" by the State Dept. of Public Health may be computed on one parking space per each six patient beds);
 - b. Plus one for each staff doctor;
 - c. Plus one for each 1,000 sq. ft. of gross floor area in the main building(s).
 - B. Medical or Residential Care Facility:
 - a. Two;
 - b. Plus one for each six beds for persons not related to the resident family or manager.

PART II

RECOMMENDED POLICIES - to be guidelines for evaluating Conditional Use Permits for hospitals and medical or residential care facilities:

I. Open Space and Yards:

1. Yards: All yards shall meet or exceed the minimum required by the zoning district and/or site area and yards as governed by a combining district;

its policy that Conditional Use Permits for new medical or residential care facilities exceeding a six-bed capacity not be approved if located in low density residential zoning districts".

- A. One to 15 beds:
 - a. R-1, R-S (5,000): 1,500 sq. ft. site area per bed;
 - b. A, R-2, R-3, R-S, R-4: 1,000 sq. ft. per bed.
- B. Over 15 beds:
 - a. R-3, R-S with D combining district, R-4: 1,000.

III. Locational Criteria:

1. Hospitals:

- A. Centrally located to the full range of community facilities with direct access from a major thoroughfare;
- B. Located and developed so as not to disrupt, hinder, or alter the character or intent of the district in which it is proposed to be located and at a scale compatible with adjacent uses.

2. Residential Care Facilities:

- A. Residential Care Homes for the Aging (ambulatory aged, not requiring of professional nursing care and related medical services).
 - a. Residential atmosphere
 - b. Safety, comfort of residents by being located in a quiet residential district
 - c. Adjacent to uses that are compatible
 - d. A site area large enough to provide at least the minimum required yards and suitable usable open space.

3. Medical Care Facilities: (those facilities licensed by the Bureau of Hospitals providing convalescent or long term medical care)
 - A. Located convenient to required services
 - B. Shall be compatible with adjacent uses
 - C. Scale of facility shall be in character with adjacent residential neighborhood

IV. Material to be Submitted:

1. Plot Plan: 15 copies, including:
 - A. Site dimensions, distance from street;
 - B. Floor plan: to scale Min: 1" = 20'; Max. 1/8" = 1'0";
 - C. Location of walks, patios;
 - D. All exterior exits and entries;
 - E. Parking: location, dimension; driveway - location, dimension and width; distances from lot line or wall of residence;
 - F. Label use of all major exterior and interior spaces ("bedroom, # per room;
 - G. Adjacent uses and distances to adjacent dwelling; garage, parking or other accessory uses.