Senate Bill 2 (2007):
Affirmatively Advancing Solutions to Homelessness
Los Angeles County Title 22
Analysis & Recommendations

Prepared for
Los Angeles County
Department of Regional Planning
by
Public Counsel
Community Development Project

October 23, 2017
# Table of Contents

I. INTRODUCTION & PURPOSE ............................................................................................ 2

II. EMERGENCY SHELTER ..................................................................................................... 3  
   A. Defining emergency (homeless) shelter. .......................................................................... 3  
   B. Designating by-right emergency shelter zones. ............................................................... 6  
   C. Encouraging and facilitating development. .................................................................... 14

III. TRANSITIONAL & SUPPORTIVE HOUSING ................................................................. 20  
   A. Removing zoning barriers to transitional and supportive housing. ................................ 21  
   B. Avoiding “hidden” constraints. ...................................................................................... 24  
   C. Other ways to advance siting of transitional and supportive housing........................... 26

IV. CONCLUSION AND SUMMARY OF RECOMMENDATIONS ..................................... 29  
   A. Required actions to achieve compliance with SB 2. ...................................................... 29  
   B. Opportunities to further advance emergency shelter and transitional and supportive  
      housing ..................................................................................................................................... 30

APPENDIX A: Selected California Code Provisions ............................................................... 32
APPENDIX B: Zones That Permit Shelters ............................................................................. 46
APPENDIX C: Description of Review Requirements for Homeless Shelters ......................... 48
APPENDIX D: Recommended Fee Waiver or Reduction for Development of Homeless  
Shelters by Nonprofit Developers and Public Agencies ........................................................... 49
APPENDIX E: Recommended Definitions for Transitional and Supportive Housing ............ 50
I. INTRODUCTION & PURPOSE

Senate Bill 2 (SB 2)\(^1\) lifts zoning barriers that have historically stood in the way of adequate housing opportunities for individuals and families experiencing homelessness, the elderly, persons with disabilities, veterans, and other target populations. SB 2 amended California’s State Housing Element law in 2008 to require local governments to analyze the needs of homeless individuals and families, zone for emergency shelters, and reduce constraints on the siting of supportive and transitional housing,\(^2\) recognizing that shelters, transitional and supportive housing often face community opposition and discrimination in the land use approvals process because they house vulnerable populations. Although SB 2 does not require jurisdictions to fund or build shelters, transitional housing or supportive housing, the Legislature’s objective in enacting SB 2 was to ensure that these uses are permitted in the zoning codes of each jurisdiction in the state in a manner that advances their “realistic potential for development.”\(^3\)

This purpose of this memo is to:

(1) Analyze the effectiveness of Los Angeles County’s (the “County”) existing Planning and Zoning Code (“Zoning Code”) to meet the requirements of SB 2; and

(2) Identify opportunities to strengthen existing provisions of the Zoning Code to reduce barriers to, and further incentivize, the development of emergency shelters, transitional housing, and supportive housing.

Section II of this memo reviews the emergency shelter requirements of SB 2, evaluates the Zoning Code’s compliance with SB 2, and makes specific recommendations to strengthen the Zoning Code’s treatment of emergency shelters. Section III of this memo reviews the supportive and transitional housing requirements of SB 2, evaluates the Zoning Code’s compliance with SB 2, and makes specific recommendations to incorporate provisions relating to these uses.

This analysis reviews the existing Zoning Code (Title 22 of the County of Los Angeles Code), and the proposed Technical Update to Title 22 (“Technical Update”). The Technical Update is pending Board of Supervisors’ approval and is expected to be complete by the end of 2017.\(^4\)


\(^2\) SB 2 also expanded the scope of the Housing Accountability Act (Gov. Code § 65589.5) to specifically include emergency shelters, transitional and supportive housing, thereby clarifying that jurisdictions may not disapprove or unreasonably condition shelters, transitional or supportive housing without making certain findings. While no amendments to the Zoning Code are required to ensure compliance with the Act, the County should keep its broadened scope in mind as it processes applications, as discussed in greater detail in Section III.C.2.


\(^4\) See L.A. County Dept. of Regional Planning website, Technical Update.
II. EMERGENCY SHELTER

SB 2 has two clear mandates with respect to emergency shelters. First, a local government must designate one or more zones with sufficient capacity to meet the need for shelter in the jurisdiction where emergency shelters may operate without a conditional use or other discretionary permit. Second, emergency shelter development and management standards are limited to those that apply to other developments within the same zone and certain written, objective standards outlined in the Government Code.

The following sections evaluate the existing emergency shelter provisions in the Zoning Code against SB 2, and identify opportunities to strengthen these provisions to reduce barriers and further incentivize the development of emergency shelters. This analysis begins with a review of how emergency (homeless) shelter is defined, followed by the need for shelter in the County, the County zones where emergency shelters are permitted without discretionary review, and finally, the County’s development standards applicable to emergency shelters.

A. Defining emergency (homeless) shelter.

1. State law definition.

SB 2 defines “emergency shelter” as:

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.

2. Zoning code definition.

The Zoning Code defines “homeless shelter” as:

a residential facility, other than a community care facility, operated by either a governmental agency or private nonprofit organization, which offers temporary accommodations to the homeless. As used herein, “temporary accommodations” means that persons may reside at the shelter for a period of time not to exceed six months.

5 Note that domestic violence shelters are distinct from emergency shelters and are not addressed in this analysis.
8 Gov. Code § 65582, subd. (d); Health & Saf. Code § 50801, subd. (e).
9 L.A. County Code § 2.205.030 (“Definitions”). The Technical Update modifies this definition slightly, though substantively it remains the same: “A residential facility, other than a community care facility, operated by either a governmental agency or private nonprofit organization, which offers temporary accommodations to the homeless. Such temporary accommodations mean that persons may reside at the shelter for a period not to exceed six months.” (Technical Update, ch. 22.14 (“Definitions”). See also L.A. COUNTY 2014-2021 HOUSING ELEMENT at 98 (describing “homeless shelters” as “residential uses operated by a governmental agency or non-profit, which provide temporary accommodations for up to six months per individual.”)(available at Los Angeles County Department of Regional Planning website.)
The County’s definition of homeless shelter differs from the SB 2 definition of emergency shelter in a number of ways, and could be viewed as limiting the types of shelter that would be permitted by right under SB 2. First, the Zoning Code definition limits operation of homeless shelters to governmental agencies or private nonprofit organizations. A review of homeless shelter project application files confirms that Department of Regional Planning staff requires private, nongovernmental applicants to provide proof of nonprofit status as a condition of proceeding with the application process.

Second, the Zoning Code fails to include a clause that no individual or household may be denied shelter because of inability to pay.

Third, the Zoning Code makes no reference to provision of services while state law defines emergency shelter as “housing with minimal supportive services.” The state law definition does not elaborate on what constitutes “minimal” supportive services and some jurisdictions have taken advantage of the perceived limitation by rejecting proposed emergency shelters because their services would be too extensive. In our view, the SB 2 definition does not limit services, but clarifies that services are ancillary to the housing use.

Finally, the Zoning Code uses the word “facility” in its definition of shelter, while SB 2 states that emergency shelters are a type of “housing.” While the Merriam-Webster definition of “facility” – *something (as a hospital) that is built, installed, or established to serve a particular purpose* seems to be innocuous, the term itself when used to describe an emergency shelter could raise undue concerns in communities regarding institutional uses near residential homes. Referring to shelters as facilities implies a clinical approach requiring licensing, as opposed to simply housing. For example, the term “adult residential facility” is defined in the Zoning Code as “[a]ny facility that provides 24-hours-a-day nonmedical care and supervision to adults, as defined and licensed under the regulations of the State of California.” One developer we surveyed advised us that staff coining a project as a “facility” increased public opposition to the project. Note that describing emergency shelter as a type of “housing” does not require shelter to be configured as dwelling units.

3. **Recommendation: Amend the zoning code definition.**

As set forth below, we recommend that the County conform the current definition of “homeless shelter” in the Zoning Code to the requirements of SB 2 by: (1) referring to shelter as housing, rather than as a facility; (2) removing the limitation on types of entities that may operate shelters; (3) including provision of services; and (4) making explicit that inability to pay is not a

---

10 As used in this memo, “by right” means that the local government’s review of the use may not require a conditional use permit or other discretionary local government review or approval, consistent with the requirement in Government Code section 65583, subdivision (a)(4)(A).
13 In March 2017, Corporation for Supportive Housing (“CSH”) and Public Counsel conducted an online survey of nonprofit organizations developing and siting supportive housing, transitional housing and emergency shelters throughout Los Angeles County in order to determine the extent to which cities are affirmatively advancing these uses in their zoning codes. There were 28 responses.
barrier to service. Also, consider adding “emergency shelter” to the definitions, and cross-referencing it with “homeless shelter” in the Zoning Code to ensure that it is understood these terms are interchangeable.

**Emergency Shelter (See Homeless Shelter.)**

**Homeless Shelter (See Emergency Shelter.)**

Homeless shelter is a residential facility, other than a community care facility, housing operated by either a governmental agency or private nonprofit organization, which offers temporary accommodations and services to the homeless. As used herein, “temporary accommodations” means that persons may reside at the shelter for a period of time not to exceed six months. No individual or household may be denied shelter because of inability to pay.

In addition, the County might consider affirmatively permitting nonprofits (including religious organizations) and government agencies to maintain emergency shelters as accessory or appurtenant uses, and not require any further approvals. This would ensure that mission-oriented organizations able to provide shelter could easily do so. One way to accomplish this goal would be to exempt such uses from definitions and development standards otherwise applicable to shelters (development standards are further discussed in Section II.C. below).

For example, Santa Clara County permits any County-authorized religious or nonprofit institution to establish a small-scale emergency shelter (serving between 7 and 14 clients) by right as an ancillary use, and these ancillary shelters are exempted from development standards otherwise applicable to emergency shelters. Santa Clara does not limit operation of such ancillary shelters to any specific period of time.

The City of San Jose recently amended its zoning code to make it easier for religious institutions and assembly use buildings to provide shelter as an incidental (i.e. accessory) use. The amended ordinance eliminates the need for a CUP or special permit. Incidental shelters are subject to several requirements such as a maximum occupancy of 50 persons (or as set forth by the city’s Fire Code); a minimum lot size of 3,000 square feet; registration with the Housing Department; and must be located within the city’s Urban Service Area. The sites envisioned for incidental shelter include religious assemblies, gymnasiums, libraries, theaters, schools, and community centers.

---

14 Title 22 defines “accessory use” as “a use customarily incidental to, related, and clearly subordinate to a principal use established on the same lot, which accessory use does not alter said principal use nor serve property other than the lot on which the principal use is located. ‘Appurtenant use’ means the same as accessory use.” L.A. County Code § 22.08.010 (“Definitions”); Technical Update, ch. 22.14 (“Definitions”).

15 Santa Clara County Code ch. 4.10 (Supplemental Use Classifications), § 4.10.115 (Emergency Shelters).

16 Incidental shelter is defined as providing shelter inside an assembly building as an incidental use to an existing primary assembly use, which occupies less than 50% of the usable square footage of the assembly building. See the draft ordinance at: http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2690&meta_id=643038


18 Id. at 6-7.
Another example is the City of Los Angeles, which recently amended its shelter ordinance to, among other things, streamline provisions regarding the establishment of emergency shelter when a crisis is declared, permitting emergency shelter “without regard to the number of beds or number of persons served, if the shelter is operated by a religious institution or a non-profit, charitable organization and the shelter is located on property owned or leased by that institution or organization.”

If the County chooses to affirmatively permit nonprofit and government agencies to maintain emergency shelter as accessory or appurtenant uses, one option is to add the following clause to the recommended homeless shelter definition above:

A government institution or non-profit organization is permitted to establish emergency shelter by-right as an accessory use if the shelter is located on property owned or leased, or otherwise controlled, by that institution or organization regardless of zone. Such accessory shelters are exempted from development standards otherwise applicable to emergency shelters where the entity serves 15 or fewer persons nightly.

Note that the suggested language does not include a time limit on the operations of such emergency shelters. The County may choose to impose such limitations; however, we recommend that the County refrain from imposing a time limitation on the operation of emergency shelters in order to provide flexibility and encourage government institutions and non-profit organizations to help address shelter need.

B. Designating by-right emergency shelter zones.

SB 2 added subdivision (a)(4)(A) to Government Code section 65583, requiring local governments to identify:

*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.*

Based on the above, the County must (1) calculate the need for emergency shelter, (2) identify a zone or zones that permit emergency shelters without discretionary approval, and (3) demonstrate that the zones have sufficient capacity to accommodate that need.

---

1. **Calculating the emergency shelter need.**

A jurisdiction must perform:

[n] an analysis of any special housing needs [including] those of...families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period. An analysis of special housing needs by a city or county may include an analysis of the need for frequent user coordinated care housing services.  

The HCD SB 2 Memo breaks this statutory requirement down into components that a local government must consider to ensure accurate identification and thorough analysis of the shelter and housing needs of homeless persons and families. For the purpose of analyzing emergency shelter need, a local government must estimate the following:

- **Homeless Count:** the total daily average number of persons experiencing homelessness, including, if possible, a breakdown of the number of single males, single females, and families with children.

- **Inventory of Available Resources:** Provide information about the inventory of existing resources available to persons experiencing homelessness in the community, including shelter beds, transitional housing and supportive housing units. Availability is evaluated by the number of vacant beds or units in the community. A local government may also show that it is a party to a multijurisdictional agreement with a maximum of two other adjacent communities that can accommodate the jurisdiction’s unmet need for emergency shelter.

- **Calculate The Unmet Need:** Assess how many shelter beds are necessary to meet the unmet need of persons experiencing homelessness in the jurisdiction. SB 2 clarifies that the jurisdiction must consider not only seasonal (i.e., winter) emergency shelter need but also its year-round need. Jurisdictions that have adopted a 10-year plan to end chronic homelessness may reduce the number of shelter beds necessary to fill the unmet need by the number of supportive housing units identified in that plan and that are vacant or in the pipeline for production during the housing element planning period.

2. **The County’s emergency shelter need.**

As set forth above, Government Code section 65583, subdivision (a)(7) requires a specific identification and analysis of housing needs and resources for the County’s homeless special needs population, and HCD specifies that this also requires an inventory of resources and calculation of unmet need.

---

21 Gov. Code § 65583, subd. (a)(7).
22 HCD SB 2 memo at 7, clarifying that to comply with SB 2, a local government’s housing element should include: (a) homeless count: the total daily average number of persons experiencing homelessness in the jurisdiction; (b) description of subpopulations and service needs; (c) inventory of available resources, i.e., vacant and unused shelter beds; and (d) calculation of unmet need, determined by subtracting the inventory of available resources from number of unsheltered homeless determined by the homeless count.
The County’s Housing Element, adopted in 2014, includes data from the 2011 and 2013 Los Angeles Homeless Services Authority (LAHSA)’s Greater Los Angeles Homeless Count reports. These reports provide a total number of persons observed during point in time counts conducted throughout the Los Angeles Continuum of Care, consisting of eight Service Planning Areas (SPAs). Each SPA consists of cities and unincorporated areas. Although the Housing Element notes that an estimated 64% of homeless persons in the County may be unsheltered, the Element does not appear to include a calculation of number of homeless persons in unincorporated County that are unsheltered.

The Housing Element also does not appear to include information about the number of available shelter beds or supportive/transitional housing units either countywide or in unincorporated areas. Indeed, the only quantification of shelter beds is in the description of the Winter Shelter Program, which describes 1,491 beds across 19 sites. There is no indication of the number of beds that remain available. The Housing Element also does not appear to include an assessment of how many shelter beds are necessary to meet the remaining, unmet need of persons experiencing homelessness in the jurisdiction, either seasonally or year-round.

Because the County is responsible for planning and development within the unincorporated areas, we believe that under SB 2, the County would be permitted to reduce its estimated number of unsheltered homeless to reflect individuals that physically reside in unincorporated areas. Two options for determining this number are set forth in the next section.

3. **Recommendation: Calculate the unmet need in unincorporated areas.**

Subdivision (a)(7) of Government Code section 65583 does not provide a formula to determine the need for emergency shelter. However, we have confirmed with HCD its view that an appropriate methodology involves subtracting the number of available/vacant shelter beds or available/vacant transitional or supportive housing units from the total number of unsheltered persons. Additional deductions are allowed under specific circumstances as referenced in the HCD SB2 Memo, and described in the following table. The resulting figure would be a realistic representation of the unmet need for emergency shelter beds.

---

24 L.A. COUNTY 2014-2021 HOUSING ELEMENT at 68-70
25 L.A. COUNTY 2014-2021 HOUSING ELEMENT at 68 and L.A. COUNTY 2014-2021 HOUSING ELEMENT, APPENDICES at 30 (Table E.11 Homeless Count Estimates by Service Planning Area)(appendices available on Los Angeles County Department of Regional Planning website). The Greater LA Homeless County does not include the incorporated cities of Pasadena, Glendale and Long Beach. Aside from general information, the Housing Element also does not further provide the percentage of the persons experiencing homelessness by subpopulation or service needs, including but not limited to mental disability, developmental disability, substance use disorder, foster youth, veterans, and survivors of domestic violence in unincorporated areas.
26 L.A. COUNTY 2014-2021 HOUSING ELEMENT at 69 (“In 2013, an estimated 64% of homeless people in Los Angeles County were unsheltered.”)
<table>
<thead>
<tr>
<th>Number of Unsheltered Homeless People</th>
<th>Number of Available, Vacant Beds and Units</th>
<th>Deductions for Pipeline SH Units(^{28}) or Pipeline Beds in a Multijurisdictional Agreement(^{29})</th>
<th>Unmet Need for Shelter Beds</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>Y</td>
<td>Z</td>
<td>=X-Y-Z</td>
</tr>
</tbody>
</table>

In this table, the “Number of Unsheltered Homeless People” is the number of unsheltered homeless people within unincorporated areas during the year of the Greater Los Angeles Homeless Count for which data is most recently available. Data sets are available for the 2017 Greater LA Homeless Count that break down the number of unsheltered homeless persons by census tract.\(^{30}\) The number of unsheltered homeless persons should account for both seasonal and year-round need.\(^{31}\)

The “Number of Available, Vacant Beds and Units” is the total number of available (i.e., vacant and unused) homeless shelter beds, transitional beds and supportive housing units within unincorporated areas. In tallying this number, the County should take into consideration whether available beds/units match the needs of the homeless population. For example, if vacant beds are available for single men, and the unmet need relates to homeless families, the vacant beds could not be counted for the portion of the unmet need related to homeless families.

4. Recommendation: Calculate the unmet need by neighborhood.

The County may take the further step of isolating the number of homeless persons and number of available shelter beds by neighborhood for unincorporated areas. While far more granular than SB 2 requires, this analysis will lead to a more accurate picture of the concentrations of homelessness. The County may be better equipped to identify whether persons experiencing homelessness are geographically near or far from resources, and whether additional resources are necessary in specific neighborhoods. Related to SB 2, the County could also assess by-right capacity to accommodate the unmet shelter need by neighborhood. The Greater Los Angeles Homeless Count breaks down the County by census tract area. The County can therefore compile the total number of homeless persons in each neighborhood through their corresponding census tracts.

\(^{28}\) If the jurisdiction has adopted a 10-year plan to end chronic homelessness, it may further reduce its unmet need for emergency shelter beds by the number of supportive housing units identified in the 10-year plan and that are either vacant, or in the pipeline for development in the housing element planning period (i.e., funding has been identified for construction). (Gov. Code § 65583, subds. (a)(7); HCD SB 2 Memo at 7.) Los Angeles County adopted a homelessness strategy plan in February 2016. To use this plan to further reduce its unmet need for emergency shelter beds, the County could adopt an amendment or appendix that specifically identifies supportive housing resources in unincorporated areas to justify such reduction, and obtain approval from HCD for any such reduction.

\(^{29}\) Gov. Code § 65583, subds. (a)(4)(C), (d)(1).

\(^{30}\) Los Angeles Homeless Services Authority 2017 Data and Reports, [Homeless Count 2017 Result by Census Tract](https://www.hhs.lacounty.gov/about-us/our-programs/homeless-services/2017-homeless-count).

\(^{31}\) Gov. Code § 65583, subd. (a)(7) (“The need for emergency shelter shall be assessed based on annual and seasonal need.”); HCD SB 2 Memo at 7 (“SB 2 now clarifies the need assessment for emergency shelters must consider seasonal and year-round need”).
5. Identification of zones with sufficient capacity.

SB 2 clarifies existing law by requiring zoning identified for emergency shelters to include sufficient capacity to accommodate the need. The “identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter.”

The sufficient capacity requirement is explained in the HCD SB 2 Memo: “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 proposed zone(s) must have enough space to accommodate the number of shelter beds identified in the assessment of unmet need. There is no established standard for square footage or acreage per shelter bed.”

To understand if there is sufficient capacity within the identified zone or zones, the County may take the following steps:

1. Calculate the total acreage of sites in the by-right zones;
2. Subtract sites within the by-right zones that do not have realistic potential for development or are not suitable for shelter development to determine the realistic and suitable by-right acreage;
3. Determine an average or ideal beds per acre;
4. Multiply the realistic and suitable by-right acreage by the beds per acre;
5. Compare the capacity to the unmet need.

6. The County’s designated emergency shelter zones.

The Zoning Code permits homeless shelters in the following zones subject to Director’s Review and without a public hearing (under the proposed Title 22 Technical Update, homeless shelters will be permitted in the following zones subject to Site Plan Review and without a public hearing):

---

33 HCD SB 2 Memo at 9.
Emergency Shelters are permitted with a Conditional Use Permit in the following zones:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Existing Title 22 – with Director’s Review</th>
<th>Technical Update – with Site Plan Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-3, Limited Density Multiple Residence</td>
<td>§ 22.20.280</td>
<td>Table 22.18.030-B</td>
</tr>
<tr>
<td>R-4, Medium Density Multiple Residence</td>
<td>§ 22.20.360</td>
<td>Table 22.18.030-B</td>
</tr>
<tr>
<td>R-5, High Density Multiple Residence</td>
<td>§ 22.20.510</td>
<td>Table 22.18.030-B</td>
</tr>
<tr>
<td>C-1, Restricted Business</td>
<td>§ 22.28.100</td>
<td>Table 22.20.030-B</td>
</tr>
<tr>
<td>C-2, Neighborhood Business</td>
<td>§ 22.28.150</td>
<td>Table 22.20.030-B</td>
</tr>
<tr>
<td>C-3, General Commercial</td>
<td>§ 22.28.200</td>
<td>Table 22.20.030-B</td>
</tr>
<tr>
<td>C-M, Commercial Manufacturing</td>
<td>§ 22.28.250</td>
<td>Table 22.20.030-B</td>
</tr>
<tr>
<td>C-RU, Rural Commercial</td>
<td>§ 22.28.380</td>
<td>Table 22.24.030-B</td>
</tr>
<tr>
<td>M-1, Light Manufacturing</td>
<td>§ 22.32.060</td>
<td>Table 22.22.030-B</td>
</tr>
<tr>
<td>M-1.5, Restricted Heavy Manufacturing</td>
<td>§ 22.32.130</td>
<td>Table 22.22.030-B</td>
</tr>
<tr>
<td>M-2, Heavy Manufacturing</td>
<td>§ 22.32.180</td>
<td>Table 22.22.030-B</td>
</tr>
<tr>
<td>MXD, Mixed Use Development</td>
<td>§ 22.40.470</td>
<td>Table 22.26.030-B</td>
</tr>
<tr>
<td>MXD-RU (Mixed Use in Rural Zone)</td>
<td>§ 22.40.815</td>
<td>Table 22.24.030-B</td>
</tr>
</tbody>
</table>

Based on the above, the County has already designated several zones in the unincorporated areas where emergency shelters are permitted without discretionary review: emergency shelters are permitted in limited, medium and high density residential zones, most commercial zones, and most industrial zones. This equates to at least twelve (12) zones where homeless shelters may be developed without a discretionary review, and is a good first step well in line with SB 2’s requirement to identify “a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit.”

7. The County is likely to be able to demonstrate it has sufficient capacity to meet unmet need in existing by-right zones and should engage in the required analysis.

As stated above, the County must demonstrate that the by-right zones have sufficient capacity to meet the unmet shelter need, that the sites in the zones have realistic potential for shelter development and that the sites are suitable for such use. A review of the County’s 2014-2021 Housing Element indicates that it does not describe the realistic potential for homeless shelter

---

35 HCD SB 2 Memo at 9.
development, the capacity or suitability of these zones (either in terms of proximity to the need or the physical space these zones occupy), or the number of beds that may be available.\textsuperscript{36}

The Land Use Element describes the total acreage of general land use categories so it is difficult to identify how many of the 51,480 residential acres are within the R-3 and R-4 Zones. It does appear that most of the 5,268 commercial acres and 7,304 industrial acres are available for homeless shelter development. Notably, however, the Land Use Element shows that specific plans cover 13,556 acres.\textsuperscript{37} Specific plans may be overly restrictive. For example, Newhall Ranch Specific Plan appears to require a CUP for shelters in mixed use and business park land use designations only.\textsuperscript{38}

However, even conservatively estimating that only 5,000 of the residential acres are suitable and have realistic potential for development (and do not overlap with any more restrictive specific plans), and that 5,000 of the commercial and industrial are suitable and have realistic potential for development, it is clear that the County has generously designated sites with significant by-right acreage for shelters. Based on the above, and assuming the sites are available and suitable, we believe that it is highly likely that the County will be able to demonstrate sufficient capacity to meet its need pursuant to the recommended formulas set forth in the next section.

8. \textit{Recommendation: Demonstrate that sites zoned for emergency shelter have sufficient capacity to address the unmet need.}

To demonstrate the required “sufficient capacity,” the County should first determine the total acreage of zoning that currently permits shelters without discretionary review and that are not overlapping with potentially conflicting specific plans that might override the by-right requirement. It should then deduct any sites that do not have realistic potential for development or are not suitable for development of shelters.

Realistic potential means that emergency shelter development is actually feasible. Sites occupied exclusively by existing, thriving uses (such as a stadium, occupied firehouse, or newly constructed luxury loft building) are unlikely to have realistic potential for emergency shelter development unless the jurisdiction can show a likelihood of redevelopment. Other constraints that might hinder realistic potential for development include areas that are designated open space or designated and actively utilized for other uses. Suitability of a zone for emergency shelter uses is determined by examining what other uses are permitted in that zone, and whether those uses are generally compatible with residential and shelter use. Industrial zones are likely not suitable for residential uses due to potential environmental impacts. However, areas within the zone that are in the process of being redeveloped to include residential uses and where industrial uses are being phased out may be compatible.\textsuperscript{39}

\textsuperscript{36} Also, while two zones added to the Zoning Code in 2015, Zones R-5 C-MJ, permit emergency shelters without discretionary review, they are not actually mapped at this time. See \url{http://planning.lacounty.gov/generalplan/zoning}.

\textsuperscript{37} \textit{LAND USE ELEMENT OF L.A. COUNTY GENERAL PLAN} (Oct 6, 2015) at 66-67, Table 6.1: General Land Use Categories, by Acreage.

\textsuperscript{38} \textit{NEWHALL RANCH SPECIFIC PLAN} at 3-17, Table 3.4-2 (Permitted Uses Matrix).

\textsuperscript{39} HCD Technical Assistance Memo at 9.
Next, the County should determine the number of shelter beds that may be accommodated within the total realistic and suitable by-right acreage. Based on previous shelter developments built in unincorporated County, the County could determine an average beds per acre. Then, the County could take its total realistic and suitable by-right acreage and multiply it by the average beds per acre. The resulting figure is the number of beds that can be accommodated under the existing zoning. That figure, if greater than, or equal to the unmet need figure, would indicate sufficient capacity. And given the several thousands of acres the County has dedicated to by-right acreage for shelters, even after deducting acreage that may not be realistic or suitable, the County should be able to easily demonstrate that it has sufficient capacity.

<table>
<thead>
<tr>
<th>Realistic and Suitable By-Right Acreage</th>
<th>Average Beds per Acre</th>
<th>Capacity (Number of People that can be Accommodated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1000</td>
<td>30</td>
<td>30,000</td>
</tr>
</tbody>
</table>

9. **Recommendation: Reconsider allowing emergency shelters in industrial zones.**

The County currently allows emergency shelter without discretionary review in three industrial zones: M-1 (light manufacturing), M-1.5 (restricted heavy manufacturing), and M-2 (heavy manufacturing). Emergency shelters are also permitted without discretionary review in three residential zones, five commercial zones, and the mixed use development zone. Residential uses and schools are prohibited in M-1, M-1.5, and M-2 zones.40

In its SB 2 guidance on identifying by-right zones for emergency shelters, HCD cautions that jurisdictions should address the compatibility and suitability of the zone for residential or emergency shelters, noting, for example, “an industrial zone with heavy manufacturing may have environmental conditions rendering it unsuitable for residential or shelter uses.”41

Provided there is sufficient capacity in the already-designated residential and commercial zones, the County should consider not permitting emergency shelters in industrial zones at all. It would be inconsistent with SB 2 (which requires identification of zones permitting shelter that are suitable for residential uses) to allow emergency shelter but to prohibit virtually all other residential uses in these zones, presumably on the basis that industrial uses permitted in these zones are hazardous and incompatible with housing. As an alternative, the County could consider permitting emergency shelter as a discretionary use in light manufacturing, restricted heavy manufacturing and heavy manufacturing zones, allowing the County to evaluate whether environmental conditions at the site of proposed emergency shelter operation are suitable for employees, volunteers, and residents of the shelter.

---

40 Municipal Code section 22.32.032 outlines prohibited uses in all industrial zones except Zone D-2, including adult day-care facilities; adult residential facilities; business and professional schools; colleges and universities; dwelling units with discreet exceptions; family child care homes; farmworker housing; foster family homes; group homes for children; hospitals; hotels; mobilehomes or recreations vehicles for sleeping or residential purposes; mobilehome parks; motels, rooming and boarding houses; schools, public or private, up to grade 12; and small family homes for children.

41 HCD SB 2 Memo at 8.
10. **Recommendation: Amend specific plan provisions.**

As stated above in Section II.B.7., to the extent that specific plan acreage overlaps with the acreage that is available for homeless shelter development, it may undermine the availability of emergency shelter sites not subject to discretionary review because the Specific Plans may be more restrictive.

To address this issue, the County should consider amending Title 22 to ensure that Specific Plans do not override emergency shelter by right:

<table>
<thead>
<tr>
<th>Proposed Amendments to Facilitate Emergency Shelters Within Specific Plan Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Existing Title 22</strong></td>
</tr>
<tr>
<td>Add to 22.46.030 – Administration</td>
</tr>
<tr>
<td>Notwithstanding any language to the contrary in any specific plan, no specific plan shall require discretionary review of emergency shelter uses in zones that otherwise permit emergency shelter with director’s review under Title 22.</td>
</tr>
</tbody>
</table>

The County should further clarify that emergency shelters are permitted in a manner consistent with Title 22 in Specific Plan areas by amending each Specific Plan to include a provision that affirmatively states that the plan shall not be interpreted to require discretionary review of emergency shelter uses in zones that would otherwise permit emergency shelter use subject to Director’s Review (or Ministerial Site Plan Review).

**C. Encouraging and facilitating development.**

The second key requirement of SB 2 with respect to emergency shelters is outlined in subdivision (a)(4)(A) of Government Code section 65583, which states:

“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.”

The HCD SB 2 Memo further explains that the jurisdiction must address how the “zoning explicitly allows the use;” that “development standards and permit procedures do not render the use infeasible;” and that “zoning, development and management standards, permit procedures and other applicable land-use regulations promote the use through objective and predictable standards.”42 In addition to ensuring that the zoning classification permits emergency shelters in a non-discretionary manner pursuant to 65583 subdivision (a)(4)(A), as discussed in the previous

---

42 HCD SB 2 Memo at 11.
sections, 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.43

1. **The Zoning Code currently allows room for discretion.**

As described and detailed in **Appendix B**, there are a number of zones that permit homeless shelters subject to a type of “nondiscretionary” review that appear to be consistent with the requirement that “emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit.”44 The existing Zoning Code refers to this review as “Director’s Review” which consists of a site plan application submitted to the Regional Planning Director or designee, who determines whether the use conforms to required standards within the zone as well as homeless shelter principles and standards described in section 22.56.1760. The Technical Update does not make substantive changes to the approval process, but utilizes different terms and reorganizes the Zoning Code to clarify the process. Rather than “Director’s Review,” the Technical Update characterizes the process as “Ministerial Site Plan Review.” A more detailed description of the review requirements for shelters is contained in **Appendix C**. Generally, based on our review of the Zoning Code, we found that as long as objective standards are employed, the review requirements are likely to comport with SB 2’s requirement that the existing processing of applications be done in a non-discretionary manner that “facilitates” shelter development. However, we also found some room for subjectivity in the Zoning Code standards for homeless shelter development, as discussed in Section II.C.5.

2. **Recommendations to further encourage and facilitate emergency shelter development.**

In a previous section, we recommend that the County change its definition of homeless shelter so it does not limit emergency shelter operators to nonprofits and government agencies (see recommendation set forth in Section II.A.3). One method to incentivize or further reduce barriers for nonprofits is to offer a fee waiver or fee reduction. The County already reduces fees for nonprofits for certain uses, e.g., large childcare facilities, and waives fees for development of affordable housing. Offering a fee waiver or fee reduction for development of homeless shelters would serve to encourage development by nonprofit developers.45 Proposed language for a fee waiver or reduction is set forth in Appendix D.

In the existing Zoning Code, it is unclear whether Director’s Review applies to all of the zones that permit shelters by-right.46 This appears to be resolved in the Technical Update, which makes clear when a Ministerial Site Plan Review or when a discretionary review is required to permit a shelter.

---

43 HCD SB 2 Memo at 10. Our review of the Zoning Code suggests that no public notice is required for uses subject to Director’s Review (or Ministerial Site Plan Review, as described in the Technical Update) unless the applicant is seeking a deviation from development standards that requires discretionary action.
45 See for example, L.A. County Code §22.60.135; Technical Update § 22.222.080, subd. (B)(2)(e).
46 If updating the existing Zoning Code, for clarity and consistency, “submitted to and approved by the Director pursuant to Part 12 of Chapter 22.56” should appear in sections 22.20.280 subdivision (R-3), 22.20.360 subdivision (R-4-(j)U), 22.28.100 subdivision (C-1), 22.28.150 subdivision (C-2), 22.28.200 subdivision (C-3), and 22.28.250 subdivision (C-M).
To alleviate any confusion about the process after the Technical Update, the County should consider developing a Site Plan Review application specific to homeless shelters and making this document available to applicants on its website.

3. **Written, objective standards.**

SB 2 reduces development barriers for emergency shelters by requiring equal treatment to commercial or residential uses and permitting only certain written objective standards as follows:

“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.”

If a jurisdiction chooses to apply any of these additional eight standards, they must be applied in a manner that encourages and facilitates emergency shelter development, and not in a manner that would render emergency shelter development infeasible. When setting standards, the focus should be on the use as an emergency shelter, and not the perceived characteristics of potential occupants. Standards that are not specifically permitted by section 65583 subdivision (a)(4)(A), and that do not otherwise apply to residential or commercial development within the same zone, are not permitted and would conflict with SB 2. For example, common standards that jurisdictions require, but that are not permitted by SB 2, include proximity restrictions to schools and parks, and requiring shelters to provide specific amenities.

4. **Recommendation: Revise existing homeless shelter standards.**

The Zoning Code sets forth standards for approval of shelters, as described below. We analyze each of them against Section 65583(a)(4)(A).

---

i. **Maximum occupancy** - No more than 30 individuals, excluding staff, shall be allowed at one time if such proposed shelter is located on a lot of less than one acre.\(^48\)

While SB 2 allows jurisdictions to impose a cap on the number of persons “served nightly” by a shelter, any limit imposed must not discourage development of shelters. Low maximum bed limits may make it difficult to obtain adequate funding to maintain and administer the shelter. Generally, a higher number (or no limit) is preferable to encourage and facilitate development. For example, the City of Oakland has a 100-bed limit per shelter in its by-right zones. The County currently has no occupancy restriction on sites greater than one acre. This is consistent with best practices in SB 2 implementation.

However, on sites less than one acre, the County limits occupancy to 30 persons “allowed at one time.” Because this restriction is not limited to number of beds or persons permitted to be served “nightly,” the restriction appears to be overbroad and inconsistent with subsection (a)(4)(A)(i) of Government Code section 65583 (local government permitted to regulate “the maximum number of beds or persons permitted to be served nightly by the facility”).

If the County chooses to retain any occupancy restriction on sites less than one acre, it should consider increasing the numerical 30 person limit, and must base any maximum occupancy limit on number of beds or persons “served nightly” instead of “allowed at one time.” Any occupancy limit should also be supported with rational and objective reasons demonstrating that the standard does not discourage development of shelters. These modifications should be made at subsection (B) of section 22.56.1760 in the existing Zoning Code and at subsection (B) of section 22.140.300 of the Technical Update.

ii. **Concentration** - There shall not be an over-concentration of homeless shelters in the surrounding area.\(^49\)

While it is permissible for the County to restrict the proximity of one homeless shelter to another, this provision does not set out an objective standard and leaves room for discretionary decision-making. Reasonable people could differ as to what an undefined “over-concentration” is.\(^50\) In contrast, SB 2 allows jurisdictions to require a separation of up to, but no more than, 300 feet between emergency shelters at subsection (a)(4)(A)(v) of Government Code section 65583. While the County is not required to use this maximum standard, if it chooses to retain any separation requirement, it should quantify the development standard regarding “over-concentration” in order to prevent arbitrary decisions and to confirm compliance with the 300 feet standard in the statute.\(^51\) These modifications should be made at subsection (A) of section

---

\(^{48}\) L.A. County Code §22.56.1760, subd. (B); Technical Update § 22.140.300, subd. (B).

\(^{49}\) L.A. County Code, §22.56.1760, subd. (A); Technical Update § 22.140.300, subd..(C)

\(^{50}\) In fact, when we reviewed planning records, we found that staff reviewing an emergency shelter application made a note by this standard asking, “How can we verify? What is an over-concentration?”

22.56.1760 in the existing Zoning Code and at subsection (C) of section 22.140.300 of the Technical Update.

iii. **Vicinity** - The land uses and developments in the immediate vicinity of the site shall not constitute an immediate or potential hazard to occupants of the shelter.\(^{52}\)

The intent of the vicinity standard is a good one: it acknowledges that not every parcel may be suitable for homeless shelter development due to surrounding pollution and other factors. However, this standard is technically not included within the list of permissible standards allowed by subdivisions (i)-(viii) in Government Code section 65883 subdivision (a)(4)(A).\(^{53}\) Still, emergency shelters may also be subject to development and management standards that apply to residential or commercial use within the same zone.

Our recommendation is to remove the vicinity standard from section 22.56.1760 (Technical Update § 22.140.300, subd. (D)) and incorporate it into the general principles and standards for consideration as part of Director’s Review Determination at 22.56.1690, subdivision (B) (Technical Update section 22.226.040) so that such standard is applicable to all uses subject to such review, rather than just to shelters.\(^{54}\)

iv. **Parking** - The number of parking spaces to be provided on the property shall be sufficient to mitigate any adverse impacts on persons or properties in the surrounding area.\(^{55}\)

This parking regulation likewise leaves room for interpretation and discretion, and there is a risk that the parking regulation could be interpreted to require more parking for emergency shelters than for other uses permitted within the same zone. Part 11 of the Zoning Code, Chapter 22.52, outlines parking space standards for specified uses (in the Technical Update, minimum parking standards required for specified uses are set forth at Table 22.112.060-A). The number of parking spaces for homeless shelters is not specified, and therefore section 22.52.1220 applies: “Where parking requirements for any use are not specified, parking shall be provided in an amount which the director finds adequate to prevent traffic congestion and excessive on-street parking. Whenever practical, such determination shall be based upon the requirements for the most

---

\(^{52}\) L.A. County Code §22.56.1760, subd. (C); Technical Update §22.140.300, subd. (D)

\(^{53}\) SB 2 requires that when identifying a zone or analyzing an existing zone for emergency shelters, the local government address the compatibility and suitability of the zone in its element, rather than on a case-by-case basis. As HCD clarifies, “[t]he 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.” (HCD SB 2 Memo at 8.)

\(^{54}\) The Director’s Review Procedures outlined in Part 12 of the Zoning Code show that the Director, in acting upon any site plan offered for review, may approve, approve with conditions, or deny the proposed use on certain principles and standards, including suitability of the site for the particular use or development intended. Note that this provision already includes accounting for public health, safety and general welfare. See L.A. County Code §22.56.1690, subd. (B).

\(^{55}\) L.A. County Code §22.56.1760, subd. (D); Technical Update §22.140.300, subd. (E).
comparable use specified in this Part 11.” Here, again, the parking regulation calls for interpretation and discretion.\textsuperscript{56}

To ensure consistency with SB 2, which permits “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,”\textsuperscript{57} the County should specify objective standards based on need, to be drafted in a manner to ensure that the parking standards required for shelters are not greater than those required of residential or commercial development in the same zone. Showing demonstrated need means that a jurisdiction should take into account parking needs of shelters generally, and factor in specific population types. For example, shelters that serve people experiencing chronic homelessness will likely have lower parking needs.

The County has three options. First, it could create a comparable parking standard based on the commercial or residential uses within the zone. However, because “comparable” is undefined, this standard may be challenging. Second, the County could designate a parking standard for shelters, informed by what other local jurisdictions require. Our review of local jurisdictions demonstrated a median requirement of 1 parking space per 5 beds; the highest at 1 space per 3 beds; and the lowest at 1 space per 50 beds. Other jurisdictions, like the City of Los Angeles, authorize a waiver process to cut parking down to zero if needed. Third, and perhaps the simplest, most effective approach supporting the goal of promoting the fewest barriers to emergency shelter development is to institute a requirement for zero onsite parking spaces for shelters.

In sum, the County should amend Part 11 of the Zoning Code (Technical Update - Chapter 22.112) to add a standard for parking spaces for homeless shelters based on number of spaces for staff, and/or number of spaces per bed that affirmatively states that the parking standard for emergency shelters shall not be greater than those required of residential or commercial development in the same zones. The greater clarity and specificity provided eliminate confusion and the potential for discretionary decision-making. Any standard that is set for parking should not be so onerous that it discourages shelter development.

v. Other regulations - The proposed shelter shall meet all operational and maintenance standards set forth in Title 25 (Housing and Community Development) of the California Code of Regulations, relating to shelters.\textsuperscript{58}

Title 25 of the California Code of Regulations (CCR) contains state regulations governing the numerous programs under HCD’s purview. The Zoning Code does not specify a section of this title; however, operational and maintenance standards relating to shelters appear in section 7959. It sets forth general requirements for government agencies, nonprofit corporations, or community

\textsuperscript{56} The Technical Update, at section 22.112.060(B) therein, states that for unspecified uses, “upon receipt of an application for a use for which no parking ratio is established by this Subsection A, above, the Director shall apply the parking ratio that applies to the most similar use.” This would still call for interpretation and discretion, and applying the parking requirement for the most similar use may be inconsistent with SB 2 if it requires more parking than the demonstrated need.

\textsuperscript{57} Gov. Code § 65583, subd. (a)(4)(A)(ii).

\textsuperscript{58} L.A. County Code § 22.56.1760, subd. (E); Technical Update § 22.140.300, subd. (F).
organizations that provide emergency shelter or transitional housing that receive funding from HCD’s Emergency Housing and Assistance Program. These requirements include: (1) providing shelter or services on a first-come, first served basis; (2) not denying services to any client due to the inability to pay; (3) not conditioning the provision of emergency shelter on receipt of vouchers or cash payments; and (4) not discriminating on the basis of race, religion, age, sex, marital status, ethnicity, place of origin, disability, or any arbitrary basis. Additionally, the shelter must establish rules for client occupancy and conspicuously post a statement of the maximum number of consecutive days a client is eligible to occupy the shelter.

These section 7959 requirements appear to be good operational standards. In particular, prohibiting denial of services due to inability to pay and prohibiting the conditioning of shelter on receipt of vouchers or cash payment are consistent with SB 2. However, since emergency shelter providers receiving funds under the Emergency Housing and Assistance Program are obliged to follow the standards in Title 25 as a condition of funding, as to these providers, these requirements would be unnecessarily duplicative. The County should therefore remove this requirement to meet all operational and maintenance standards set forth in Title 25 in its entirety.

Operating procedures are not appropriate to imbed in zoning regulations. However, the County may wish to establish minimum operational standards in a separate document as part of a “quality assurance” program that could be linked to funding, rather than zoning. For example, San Mateo County developed such standards together with service providers and other interested parties.

III. TRANSITIONAL & SUPPORTIVE HOUSING

Emergency shelter addresses an immediate need. However, housing is the key to ending homelessness. SB 2 removes land use barriers not only for emergency shelters but also for the development of transitional and supportive housing. Below is a discussion of the importance of these uses as resources for people who are homeless.

Transitional housing serves as a short-term stay when an individual or household is either waiting to secure permanent housing, or has secured permanent housing that is not immediately available. In the homeless services field, the current model for this type of intermediary housing is called ‘bridge housing’ or ‘interim housing.’ Most ‘bridge’ or ‘interim housing’ falls under SB2’s definition of ‘transitional housing.’ The target population for transitional housing may be those with special needs, including people with substance abuse problems, people with mental health issues, domestic violence survivors, veterans, or people with HIV/AIDS. Transitional housing programs typically provide residents with services (often geared toward fostering

59 Gov. Code § 65582, subd. (d); Health & Saf. Code § 50801, subd. (e)(“No individual or household may be denied emergency shelter because of an inability to pay.”).
60 Zoning in the Wake of SB 2: Best Practices for Emergency, Supportive and Transitional Housing
61 California Housing and Community Development- Building Blocks, People Experiencing Homelessness, found at: http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/people-experiencing-homelessness.shtml
independent living) through a housing provider directly and/or through coordination with local nonprofit and government agencies. Because the intent is to prepare residents to transition to permanent housing, residential stay is limited to two years (24 months). Living in transitional housing is not a prerequisite to obtaining permanent housing or permanent supportive housing. Transitional housing is typically in multi-family residences, but can also be single-family residences, and may be provided at no cost to residents, or at an affordable cost.

Supportive housing offers deeply affordable rents where the tenant pays no more than 30 to 40 percent of his/her household income on housing costs and the tenant has easy access to a comprehensive array of individualized and flexible services, either on-site or in proximity to the housing site. Tenants have a lease offering an indefinite length of stay as long as the tenant complies with lease requirements. Supportive housing provides access to health and social services, such as mental health and addiction therapy, medical care, and case management to help tenants achieve stability and lead productive lives in the community. Supportive housing can include apartments and single-family homes. The term “single-site” housing refers to people living together in a building or complex of buildings, while “scattered-site” housing refers to residents living in apartments or houses located throughout the community.

A. Removing zoning barriers to transitional and supportive housing.

1. State law definitions.

Subdivision (a)(5) of Government Code section 65583 requires jurisdictions to analyze governmental constraints upon the maintenance, improvement, or development of housing for all income levels. SB 2 amended this subdivision to include a specific affirmative mandate regarding transitional and supportive housing:

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

Transitional and supportive housing are residential uses intended for certain vulnerable populations, including individuals and families experiencing homelessness. These uses, and the populations they are intended to serve, are defined in state housing element law:

(g) “Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

62 Outcome From Housing High Cost Homeless Hospital Patients, found at: https://economicrt.org/publication/getting-home/
64 Gov. Code § 65582, subds. (g), (i), (j). As described in the HCD SB 745 memo, in 2014, the legislature amended section 65582 of the Government Code to replace prior Health and Safety Code definitions of “supportive housing,” “target population,” and “transitional housing” with definitions within the Government Code (in housing element law). Section 65582 was subsequently amended to add other definitions; while there are no substantive changes to the definitions used herein, the citations were changed. (Assem. Bill No. 1403 (2015-2016 Reg. Sess.)).
(i) “Target population” means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

(j) “Transitional housing” means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.

2. Transitional and supportive housing are not defined in the Zoning Code.

The Los Angeles County Housing Element acknowledges that “[c]ertain County rules and regulations may constrain the development of housing for low and moderate income households and those with special needs,” and includes a program to update the County’s zoning ordinance that would “[a]dd clarification policies and procedures for transitional and supportive housing, homeless shelters, and residential care facilities to facilitate the implementation, and to ensure continued consistency with the State Housing Element Law, the Health and Safety Code, and state and federal fair housing laws” and “[a]ddress other possible policies and procedures in the zoning ordinance that are inconsistent with the Housing Accountability Act, the Housing Element Law, and state and federal fair housing laws.”

The Housing Element also acknowledges that transitional and supportive housing are not specifically defined in the County’s zoning ordinance. As far as how such uses are evaluated, the element states, “[w]hen the transitional or supportive housing is operated as group quarters, it is permitted or conditionally permitted as residential facilities. When the transitional or supportive housing is operated as apartments, it is permitted or conditionally permitted as apartments.”

A review of the Zoning Code in February 2017 shows no definitions in Chapter 22.08 for “supportive housing,” “permanent supportive housing,” or “transitional housing.” In the Technical Update, Chapter 22.14 Definitions also fails to include definitions of “supportive housing,” “permanent supportive housing,” and “transitional housing.” However, permanent supportive housing is defined in Title 8, “Consumer Protection, Business and Wage Regulations,” as relating to Public Health Licenses:

---

66 The Housing Element describes transitional housing as housing that “provides stay from six months to two years, and includes a service component to help residents gain independent living skills and transition into permanent housing.” Supportive housing is briefly described as “permanent housing with a service component.” The Housing Element sets objectives to amend the zoning ordinance in 2015 and 2016.
67 L.A. COUNTY 2014-2021 HOUSING ELEMENT at 100.
“Permanent supportive housing” means housing which is available to, and intended for, persons who are homeless, or at-risk of homelessness, and have multiple barriers to employment and housing stability, which barriers include mental illness, chemical dependency, or other disabling or chronic health conditions. To qualify as “permanent supportive housing” each tenant household must have a lease, or a similar form of occupancy agreement, without a limit on length of tenancy, as long as the terms and conditions of the lease or occupancy agreement are met. Additionally, all members of tenant households must have facilitated access to case managers who provide access to supportive services, including intensive case management, information and referral to services to health and dental care, mental health services, substance abuse services, transportation coordination, and linkage to potential out-placements for tenants.68

Thereafter, permanent supportive housing is referenced in regard to fee exemptions for activities “for which a public health license or permit is required.”69 This allows exemption for public health license or permit fees where a 501(c)(3) nonprofit organization provides housing without charge to the recipient or at reduced rents through permanent supportive housing, as defined in section 8.04.345.

Having a definition of permanent supportive housing in Title 8, Consumer Protection, and no other definition in the Zoning Code is problematic because it indicates a potential for supportive housing to be treated as a service or commercial use for which a public health license or permit is necessary, and not as a residential use. This could be in conflict with SB 2, as well as Health and Safety Code section 1504.5, which specifically exempts supportive housing meeting certain criteria from community care licensing requirements, based in part on the “urgent need to increase access to supportive housing.”

In addition, the definition in Title 8 itself does not conform to the Government Code definition in the following ways: (a) the description of the population the housing is intended for is more limiting than the state law defined term “target population”; and (b) the requirement that “all members of tenant households must have facilitated access to case managers who provide access to supportive services” is too specific and therefore overly restrictive as compared to SB 2’s definition, which simply describes supportive housing as being “linked to an onsite or offsite service that assists the supportive housing resident.” The existing definition in Title 8 would conflict with SB 2 if adopted in the Zoning Code and is not recommended for SB 2 purposes.

The County should consider whether a definition of permanent supportive housing is necessary in Title 8 (and delete the definition in Title 8 if it is not necessary). If the County chooses to retain a definition in Title 8 (separate from a definition for SB 2 purposes), it should make very clear within such definition that permanent supportive housing is not required to be licensed simply because it fits within the technical definition of permanent supportive housing in SB 2 or the Zoning Code.

68 L.A. County Code § 8.04.345 (“Permanent supportive housing.”).
3. **Recommendation: Adopt Zoning Code definitions of transitional and supportive housing.**

The County should specifically adopt the SB 2 definitions of transitional and supportive housing in the Zoning Code, and have an affirmative statement following each definition that such use “may be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.” See Appendix E.

In addition, the County should explicitly include supportive and transitional housing as permitted uses in all residential zones, subject only to the same development standards applicable to residential uses of the same type in the same zone, in order to comply with the requirements at Government Code section 65583 subdivision (a)(5).

**B. Avoiding “hidden” constraints.**

1. **Subject to no greater restrictions.**

   SB 2 explicitly eliminates a specific constraint to the development of supportive and transitional housing by mandating that these uses be treated as residential uses, “subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.” Once the County incorporates the definitions recommended above, it must still ensure that in practice, the process of approving supportive and transitional housing does not subject these uses to greater restrictions when compared to other residential uses of the same type in the same zone. For example, if a developer chooses to convert a duplex into transitional or supportive housing, then that project is subject only to development standards applied to any other duplex within that zone. Likewise, if a developer chooses to build an apartment building, then standards for multi-family apartment buildings in that zone will apply. And, while transitional and supportive housing are typically configured as multi-family housing, they can also be configured as single-family residences. To comply with SB 2, jurisdictions must not prohibit transitional and supportive in any zone that allows single-family residences.

2. **Recommendations: Avoiding unintended constraints.**

   First, the County should evaluate uses that may be confused with transitional or supportive housing and that are potentially subject to additional restrictions. For example, the following uses could be confused with transitional or supportive housing:

   - **Adult residential facility.** Any facility that provides 24-hours-a-day nonmedical care and supervision to adults, as defined and licensed under the regulations of the State of California.\(^\text{70}\)

---

\(^{70}\) Los Angeles County Code § 22.08.010 (“A”); Technical Update ch. 22.14 (“Definitions”).
**Boarding house.** As defined in section 7.50.010 in Title 7 (Business Licenses) of the County Code, a lodging house or other facility maintained, advertised or held out to the public as a place where sleeping or rooming accommodations are available, with or without meals. This term includes “rooming house.”71

**Disability rehabilitation and training center.** A facility that provides specialized services for a person with a disability such as, but not limited to, developmental, orthopedic, or sensory motor disability, or for the social, personal, or economic habilitation or rehabilitation of a person with such disability. Such services may include, but are not limited to: day and residential facilities, personal, psychological, and socio-legal counseling, physical and special education, employment, job placement, speech therapy, vocational training, and transportation.72

Where the Zoning Code includes definitions that could be construed as overlapping in part with the definitions for supportive and transitional housing, it may raise unintended barriers, especially where those other uses are subject to more stringent siting and other requirements. For example, adult residential facilities occupied by seven (7) or more persons are subject to a CUP in all residential zones.73 Disability rehabilitation and training centers, likewise, are subject to a CUP in R-3 and R-4 zones, and not permitted at all in R-A, R-1 and R-2 Zones.74 The County may want to consider how to clarify that these other uses are in fact distinct from transitional or supportive housing. One way to do that would be to incorporate a specific exclusion within the definition of each of those uses for transitional and supportive housing (e.g. state affirmatively that adult residential care facilities do not include transitional and supportive housing).

Second, after adopting the recommended definitions in the Zoning Code for transitional and supportive housing, the County should also ensure that such definitions are not implemented in a manner that provides additional requirements beyond what is required for other residential uses of the same type in the same zone. For example, some jurisdictions require staff to review a management plan for transitional housing approval, but do not apply the same or similar requirements to other types of residential development. Others require planning review of house rules and specific service provider referrals and quotas. Unless also required of other residential uses in the same zone, these requirements would likely be prohibited by SB 2.75

Finally, where the County permits residential development in mixed-use zones, including transit oriented districts and specific plans, it should make explicit in these districts and plans that transitional and supportive housing are permitted and applications for such uses will be processed and treated equally to applications for other permitted residential development.

---

71 Los Angeles County Code § 22.08.180 (“R”); Technical Update ch. 22.14 (“Definitions”).
72 Los Angeles County Code § 22.08.040 (“D”); Technical Update ch. 22.14 (“Definitions”).
73 Technical Update Table 22.18.030-B (“Principal Use Regulations for Residential Zones”).
74 Id.
75 Gov. Code § 65583, subd. (a)(5) (“Transitional housing and supportive housing…shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone”).
C. Other ways to advance siting of transitional and supportive housing.

1. Recommendation: Train staff and decision-makers on Housing Accountability Act requirements.

The Housing Accountability Act specifically protects shelters and transitional and supportive housing during the land use approval process. The Act states that it “is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters.” Under the Act, therefore, the County ultimately has limited bases upon which to deny shelters, transitional and supportive housing, particularly if there is evidence to indicate a failure to identify adequate sites for housing or by-right zoning for shelter required by SB 2 and State Housing Element law. Staff and decision-maker familiarity with the Housing Accountability Act and education on its provisions may help prevent unfounded denials of projects and should be considered an appropriate strategy to help advance development of shelters and transitional and supportive housing.

2. Recommendation: Affirmatively permit transitional and supportive housing in all residential zones.

One way to address barriers associated with the permitting process is to affirmatively permit transitional and supportive housing in all residential zones, as long as it complies with the underlying requirements of the zone. For example, while multi-family housing in the C-3 zone currently requires a Conditional Use Permit, the County could amend the code to allow transitional and supportive housing in the C-3 zone with a Site Plan Review in order to further encourage development of both.

The City of Los Angeles is poised to go further than this if it adopts a recently proposed ordinance to streamline supportive housing development. The ordinance would allow supportive housing in all multifamily zones, and reduce development standards, including removal of the minimum lot area per dwelling unit requirement in some zones (or reduction in others), and removing minimum parking requirements for units restricted to people who are formerly homeless.

\[76 \text{ SB 2 amended the Housing Accountability Act to specifically add emergency shelters to the list of uses protected under the Act, and to clarify that the definition of housing development project includes transitional and supportive housing. The Act permits denial of such projects only if certain findings can be made. Accordingly, under the Act, there are extremely limited bases to deny such projects. Generally, a jurisdiction would have to find one of the following: (1) Jurisdiction is in compliance with its housing element and has met its share of the regional housing need for the income category proposed to be built, or for emergency shelter, as the case may be; (2) Development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety with no feasible method to mitigate; (3) Denial of project is required to comply with state or federal law; (4) Development is proposed in agricultural area or area with insufficient water or wastewater facilities; (5) Development is inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation (except if development is proposed on a site identified in housing element as suitable for affordable housing). Additionally, the Act puts further restrictions on jurisdictions’ ability to deny qualifying projects if the jurisdiction fails to identify adequate sites for housing development or adequate zones for emergency shelter. (Gov. Code § 65589.5, subd. (d)).}

\[77 \text{ Gov. Code § 65589.5, subd. (b).} \]
3. **Recommendation:** Examine development standards for multi-family housing generally.

As stated above, under SB 2, transitional and supportive housing configured as multi-family dwellings are required to be subject only to the same standards as other apartments or multi-family developments. It is important to remember, however, that even if the County adds the explicit language required by SB 2 to ensure supportive and transitional housing are treated like any other residential use of the same type in the same zone (as recommended above), this language will only be helpful if multi-family housing is not prohibited and unreasonable constraints are not put on multi-family housing in the Zoning Code.

An examination of general barriers to multi-family housing, including a detailed review of the County’s specific plans, is beyond the scope of this memo. However, the County’s Housing Element describes certain barriers to housing development generally, which include development standards such as minimum lot sizes, floor area, height, parking requirements and setbacks. Generally, according to the County’s Housing Element, apartments and townhomes are primarily permitted in the R-3 and R-4 zones, but are also conditionally permitted in R-1 (townhomes only) and R-2 zones, as well as in certain commercial zones. Densities per acre range between a maximum of 30 and 50 units per acre in R-3 and R-4. Through implementation of the General Plan Update, adopted in 2015, the County expects to increase densities in transit corridors to a maximum of 150 units per acre. In its Housing Element, the County also states that “future housing development in the unincorporated areas are focused primarily in existing specific plan areas, such as Newhall Ranch, and urban, high density residential and mixed use areas.” Accordingly, it would be important to understand how the specific plans treat supportive and transitional housing and to confirm that they specifically permit such uses consistent with recommendations set forth in Section III.A.3 of this memo.

As another example, the definition of apartment house in the Zoning Code appears to incorporate a definition of “family” that may prohibit shared living arrangements, and as such, could indirectly act as a barrier to transitional and supportive housing. We understand that the County is in the process of amending some of these definitions.

---

78 **Los Angeles County 2014-2021 Housing Element** at 97.  
79 **Los Angeles County 2014-2021 Housing Element** at 136.  
80 The Zoning Code defines “family” as “a person or persons related by blood, marriage or adoption living together as a single housekeeping unit in a dwelling unit. ‘Family’ shall also include a group of not more than five persons, including roomers but not servants, unrelated by blood, marriage or adoption, when living together as a single housekeeping unit in a dwelling unit.” (Muni. Code § 22.08.060.) Under this definition, the size of a “family” is limited to five or fewer unrelated persons, or an unlimited number of persons related by blood, marriage, or adoption. In *City of Santa Barbara v. Adamson*, the California Supreme Court held that a nearly identical “rule-of-five” in the Santa Barbara Zoning Code was invalid as violating the right to privacy guaranteed by Article I of the California Constitution. (27 Cal. 3d 123 (1980); see also *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725 (1995)(holding that a similar definition of “family” was not exempt from the Fair Housing Act’s prohibition against discrimination based on disability).) This issue appears to be resolved in the Technical Update. (Ch 22.14, Def., “family.”) However, even the proposed definition of family may still act as a barrier to transitional or supportive housing because it requires all occupants to be under a single lease in situations where residents may jointly occupy the entire dwelling.  
81 **Los Angeles County 2014-2021 Housing Element** at 8. Per Department of Regional Planning Staff, the definition proposed in the Technical Update is:  

27
4. **Recommendation:** Educate staff on laws and policies intended to promote housing opportunities for target populations, including reasonable accommodation requirements.

Finally, Federal and State law place an affirmative duty on local governments to provide persons with disabilities reasonable accommodations to zoning and land use rules, policies or practices when such accommodations may be necessary to afford such persons equal opportunity to housing.\(^82\) Housing Element Law further requires local governments to provide reasonable accommodations for housing for persons with disabilities.\(^83\) The Zoning Code addresses reasonable accommodations in land use at Part 19, Section 22.56.3000 et seq. The County defines “reasonable accommodation” as “a waiver or modification to regulations, policies, procedures, and standards that is both reasonable and necessary for a person with a disability to have an equal opportunity to use and enjoy a residential use,” and enumerates a few examples: “allowing a wheelchair ramp in a required setback, allowing an increase in building height to permit an elevator installation, or allowing an applicant additional time to submit material.” While it is appropriate for the County to codify reasonable accommodation processes in its Zoning Code, reasonable accommodations are fact-sensitive and must be reviewed on a case-by-case basis. Staff and decision-maker education and training on reasonable accommodation law, particularly on privacy and confidentiality issues where the applicant is an individual or household with disabilities, generally may help prevent unintended discrimination against people with disabilities and should be considered an appropriate strategy to help advance development of shelters, transitional and supportive housing.

---

\(^{82}\) 42 U.S.C. §3604(f)(3); 28 C.F.R. § 35.130(b)(7), implementing Title II of the Americans with Disabilities Act (ADA), 42 U.S.C.A. § 12132 and implementing regulations (see e.g., Pierce v. County of Orange, 526 F.3d 1190, 1215 (9th Cir.2008),) Cal. Gov. Code, §§ 12927(c)(1), 12955(1). In 2001, the California Attorney General urged California Mayors to amend their zoning codes to include reasonable accommodation procedure, found at: http://ag.ca.gov/civilrights/pdf/reasonab_1.pdf.

\(^{83}\) Cal. Gov. Code §65583(c)(3).
IV. **CONCLUSION AND SUMMARY OF RECOMMENDATIONS.**

As described in detail herein, the County can take the following further actions both to comply with SB 2 and to further ease barriers to, and affirmatively encourage and facilitate, development of shelters, transitional and supportive housing.

**A. Required actions to achieve compliance with SB 2.**

1. Amend the zoning code definition of homeless shelter as follows:

   Homeless shelter. *Housing that offers temporary accommodations and services to the homeless.* As used herein, “temporary accommodations” means that persons may reside at the shelter for a period of time not to exceed six months. *No individual or household may be denied shelter because of inability to pay.*

2. Calculate the unmet need in unincorporated areas by taking the number of unsheltered homeless persons and subtracting the number of available shelter beds and available transitional and supportive housing units.

3. Identify a zone or zones where shelters are permitted by-right, and demonstrate the capacity of that zone or those zones to accommodate the unmet need. Demonstrating sufficient capacity requires a qualitative analysis of sites within the zone to ensure that the sites are in fact suitable for residential use and have realistic potential for development. It also requires a quantitative analysis to assess whether there is enough space to accommodate the unmet need.

4. Amend Title 22 to ensure that specific plans do not override emergency shelter by-right.

5. Revise existing homeless shelter standards to be no more restrictive than standards outlined in SB 2 and to require application of objective, as opposed to discretionary standards:
   
   a. Maximum occupancy: If the County chooses to retain any occupancy restriction on sites less than one acre, it should consider increasing the numerical limit (currently set at 30), and must base any maximum occupancy limit on number of beds or persons “served nightly” instead of “allowed at one time.” Any occupancy limit should also be supported with rational and objective reasons demonstrating that the standard does not discourage development of shelters.
   
   b. Concentration: Quantify the development standard regarding “over-concentration” in order to prevent arbitrary decisions and to confirm compliance with the 300 feet standard in the statute.
c. Vicinity: Remove the vicinity standard and incorporate it into the general principles and standards for consideration as part of Director’s Review determination so that such standard is applicable to all uses subject to such review, rather than just to shelters.

d. Parking: To promote the fewest barriers to operating emergency shelters, require zero onsite parking spaces for shelters. Or, add a standard for parking spaces for homeless shelters based on number of spaces per bed, and/or number of spaces for staff, and that affirmatively states that the parking standard for emergency shelters shall not be greater than those required of residential or commercial development in the same zones.

e. Other regulations: Remove requirement to meet all operational and maintenance standards set forth in Title 25 in its entirety.

6. Adopt the SB 2 definitions of transitional and supportive housing in the Zoning Code, and include the statement following each definition that such use “may be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.” Ensure that in implementation, transitional and supportive housing are treated as residential uses. See Appendix E. In addition, explicitly include supportive and transitional housing as permitted uses in all residential zones, subject only to the same development standards applicable to residential uses of the same type in the same zone.

7. Clarify that uses that may be confused with transitional or supportive housing (e.g., adult residential facility, boarding house, disability rehabilitation center) are distinct from transitional or supportive housing by explicitly excluding transitional and supportive housing within the definition of each of those uses.

8. Amend definitions that indirectly impact siting of transitional and supportive housing, such as the definition of “family.”

9. Explicitly permit transitional and supportive housing in mixed-use zones, including transit oriented districts and specific plans. Process applications for such uses in an equal manner to (or more favorably than) applications for other permitted residential development.

B. Opportunities to further advance emergency shelter and transitional and supportive housing.

1. Add “emergency shelter” as a defined term in the Zoning Code and cross-reference it with the definition of “homeless shelter.”

2. Allow nonprofits (including religious organizations) and government agencies to maintain emergency shelters as accessory or appurtenant uses by-right.
3. Calculate the unmet need for shelter by neighborhood to enable an analysis of the concentration of homelessness and a geographically-specific portrait of shelter need within unincorporated areas of the County.

4. Prohibit emergency shelter use in M-1, M-1.5, and M-2 if existing residential and commercial “by-right” zones meet or exceed the unmet shelter need. Alternately, allow as a discretionary use.

5. Amend each specific plan to include a statement that the plan shall not be interpreted to require discretionary review of emergency shelters in zones that would otherwise permit emergency shelter use.

6. Offer non-profit organizations a fee waiver or fee reduction when applying to operate an emergency shelter. Proposed language for a fee waiver or reduction is set forth in Appendix D.

7. Develop a Site Plan Review application specific to homeless shelters and make this document available to applicants on the County’s website.

8. Establish minimum operational standards for shelters as part of a “quality assurance” program linked to funding, rather than zoning.

9. Delete the definition of “permanent supportive housing” in Title 8 of the Municipal Code or amend it to make explicit that supportive housing is not required to be licensed simply by virtue of being supportive housing.

10. Allow transitional and supportive housing by-right in all zones that allow residential uses, as long as it complies with requirements of the zone.

11. Train and educate staff and decision-makers on the provisions of the Housing Accountability Act and on reasonable accommodations in zoning and land use rules, policies and practices.

For reference, relevant California code provisions are included in this appendix and are current as of March 29, 2017. SB 2 provisions, as amended, indicated in blue.

California Government Code Section 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) “Frequent user coordinated care housing services” means housing combined with other supportive services for homeless persons identified by a city or county as the most costly, frequent users of publicly funded emergency services.

(f) “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.

(g) “Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

(h) “Supportive services” include, but are not limited to, a combination of subsidized, permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, and benefits advocacy.

(i) “Target population” means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

(j) “Transitional housing” means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.
California 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.

California Government Code Section 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, mobile homes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

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

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

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

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

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

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

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

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

(iv) The provision of onsite management.

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

(vi) The length of stay.

(vii) Lighting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.
(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.
California Government Code Section 65589.5

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

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

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

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

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

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

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

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 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 are sufficient to provide for the jurisdiction’s share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency’s share of the regional housing need for the very low and low-income categories.
(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction’s share of the regional housing need pursuant to Section 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.

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction’s need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate 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 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 persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

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

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

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

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

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very 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) (1) The applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that 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.

(2) For purposes of this subdivision, “housing organization” means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court’s order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds.

APPENDIX A
44
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.
APPENDIX B: Zones That Permit Shelters

B1. Existing Zoning Code

<table>
<thead>
<tr>
<th>Title 22 Section</th>
<th>Zone</th>
<th>Director’s Review</th>
<th>Site Plan</th>
<th>Subject to Homeless Shelter Principles &amp; Standards (§ 22.56.1760)</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 22.20.280</td>
<td>R-3</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>§ 22.20.360</td>
<td>R-4</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>§ 22.20.510</td>
<td>R-5</td>
<td>Yes, Pursuant to Part 12 of Chapter 22.56</td>
<td>Yes</td>
<td>Yes</td>
<td>§ 22.28.050 (Zone C-H)</td>
</tr>
<tr>
<td>§ 22.28.100</td>
<td>C-1</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>§ 22.28.150</td>
<td>C-2</td>
<td>Yes</td>
<td>Yes</td>
<td>§ 22.28.050 (Zone C-H)</td>
<td></td>
</tr>
<tr>
<td>§ 22.28.200</td>
<td>C-3</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>§ 22.28.250</td>
<td>C-M</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>§ 22.28.380</td>
<td>C-RU</td>
<td>Yes, Pursuant to Part 12 of Chapter 22.56</td>
<td>Yes</td>
<td>Yes</td>
<td>§ 22.28.050 (Zone C-H)</td>
</tr>
<tr>
<td>§ 22.32.060</td>
<td>M-1</td>
<td>Yes, Pursuant to Part 12 of Chapter 22.56</td>
<td>Yes</td>
<td>Yes</td>
<td>§ 22.28.050 (Zone C-H)</td>
</tr>
<tr>
<td>§ 22.32.130</td>
<td>M-1.5</td>
<td>Yes, Pursuant to Part 12 of Chapter 22.56</td>
<td>Yes</td>
<td>Yes</td>
<td>§ 22.28.050 (Zone C-H)</td>
</tr>
<tr>
<td>§ 22.32.180</td>
<td>M-2</td>
<td>Yes, Pursuant to Part 12 of Chapter 22.56</td>
<td>Yes</td>
<td>Yes</td>
<td>§ 22.28.050 (Zone C-H)</td>
</tr>
<tr>
<td>§ 22.40.470</td>
<td>MXD</td>
<td>Yes, Pursuant to Part 12 of Chapter 22.56</td>
<td>Yes</td>
<td>Yes</td>
<td>§ 22.28.050 (Zone C-H)</td>
</tr>
<tr>
<td>§ 22.40.815</td>
<td>MXD-RU</td>
<td>Yes, Pursuant to Part 12 of Chapter 22.56</td>
<td>Yes</td>
<td>Yes</td>
<td>§ 22.28.050 (Zone C-H)</td>
</tr>
</tbody>
</table>

B2. Technical Update

TABLE 22.18.030-B: PRINCIPAL USE REGULATIONS FOR RESIDENTIAL ZONES

<table>
<thead>
<tr>
<th>Zone</th>
<th>Existing Title 22</th>
<th>Title 22 Technical Update</th>
</tr>
</thead>
<tbody>
<tr>
<td>C-H, Commercial Highway</td>
<td>§ 22.28.260</td>
<td>Table 22.20.030-B</td>
</tr>
<tr>
<td>C-MJ, Major Commercial</td>
<td>§ 22.28.450</td>
<td>Table 22.20.030-B</td>
</tr>
<tr>
<td>M-2.5, Aircraft, Heavy Industrial</td>
<td>§ 22.32.250</td>
<td>Table 22.20.030-B</td>
</tr>
</tbody>
</table>

Table 22.20.030-B: PRINCIPAL USE REGULATIONS FOR COMMERCIAL ZONES

<table>
<thead>
<tr>
<th>Zone</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homeless shelters</td>
<td>Section 22.140.300</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Zone</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homeless shelters</td>
<td>CUP</td>
</tr>
</tbody>
</table>

APPENDIX B 46
### Table 22.22.030-B: PRINCIPAL USE REGULATIONS FOR INDUSTRIAL ZONES

<table>
<thead>
<tr>
<th>Zone</th>
<th>M-1</th>
<th>M-1.5</th>
<th>M-2</th>
<th>M-2.5</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homeless shelters</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>CUP</td>
<td>Section 22.140.300</td>
</tr>
</tbody>
</table>

### Table 22.24.030-B: PRINCIPAL USE REGULATIONS FOR RURAL ZONES

<table>
<thead>
<tr>
<th>Zone</th>
<th>C-RU</th>
<th>MXD-RU</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homeless shelters</td>
<td>SPR</td>
<td>SPR</td>
<td>Section 22.140.300</td>
</tr>
</tbody>
</table>

### TABLE 22.26.030-B: PRINCIPAL USE REGULATIONS FOR ZONE MXD

<table>
<thead>
<tr>
<th>Permit/Review</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homeless shelters</td>
<td>SPR</td>
</tr>
</tbody>
</table>
APPENDIX C: Description of Review Requirements for Homeless Shelters

C1. Existing Zoning Code: Director’s Review

Director’s Review is described as “an administrative, staff-level procedure for uses subject to a Director’s Review in the zoning ordinance and does not require a public hearing. The staff follows a checklist to verify that the proposed uses meet the development standards and performance standards that are specified in the zoning ordinance.” (L.A. COUNTY 2014-2021 HOUSING ELEMENT at 98, 103.)

Part 12 of Chapter 22.56 of the Zoning Code describes the Director’s Review process in greater detail. Section 22.56.1680 outlines the information and documents required, including a site plan “drawn to a scale … indicating the use, location, and size of all buildings and structures, yards, driveways, access areas, vehicle and bicycle parking areas, pedestrian facilities, landscaping, walls or fences, and other similar features” (§ 22.56.1680(F)) and fee for Site Plan Review (§ 22.56.1680(H)).

While every zone permitting emergency shelters includes reference to Director’s Review, only the Zoning Code provisions for Zones C-RU, M-1, M-1.5, M-2, MXD, MXD-RU clarify that Director’s Review is pursuant to Part 12 of Chapter 22.56.

C2. Technical Update: Ministerial Site Plan Review

Procedures for Ministerial Site Plan Review are found in Chapters 22.188 (Site Plan Review, Ministerial) and 22.226 (Type I Review – Ministerial). Type I Review is a ministerial process to verify that a proposed use, structure, development of land, or application of development standards is in compliance with all applicable provisions of the Zoning Code. An applicant’s Site Plan Review application would be evaluated using a Ministerial Site Plan Review Checklist by the Director or staff designee. The Director has review authority to approve or deny the application.

C3. Site Plan Review: Fee

A review of publicly available information on the LA County Department of Regional Planning website indicates that there is a general site plan application that is presumably the application required of homeless shelter developers. No application specifically related to homeless shelter development was found. Our review of the site plan application indicates that is made up of a series of checklists that instruct the developer to show conformity with standards derived from the Zoning Code.

A review of the site plan fee schedule (§ 22.60.100(A)) indicates that there is no specified fee for Site Plan Review for homeless shelters; presumably, general site plan fees would apply.
APPENDIX D: Recommended Fee Waiver or Reduction for Development of Homeless Shelters by Nonprofit Developers and Public Agencies

D1. Existing Zoning Code:

Fee Exemption: Incorporate provisions that would exempt nonprofit organizations developing emergency shelter from fees within existing §22.60.135 (“Fee exemption—Affordable housing.”)

OR

Fee Reduction: Add to §22.60.100 - Filing Fees and Deposits, the following: Site Plan Review, Ministerial, Homeless Shelters — $[X], except that a reduced fee of $[Y] shall be imposed where the applicant is a nonprofit organization. As used herein, "nonprofit organization" means an organization formed under the Nonprofit Public Benefit Corporation Law (Corporations Code section 5110 et seq.) and as described in section 501(c) of the Internal Revenue Code of 1986; provided, however that a corporation or any body organized for the private gain of any person, or for which any part of the net earnings inures to the benefit of any private shareholder or individual is not a nonprofit organization as used herein.

D2. Technical Update:

Fee Exemption: §22.222.080 (C)(3) Fee Exemption for Homeless Shelter.

OR

Fee Reduction: §22.222.080 (B)(2)(g) Site Plan Review, Ministerial, Homeless Shelters. Where the applicant is a nonprofit organization having an annual operating budget of less than $[amount], the fee shall be reduced by [X] percent.
E1. Adopt a Definition of Supportive Housing Consistent with State Law.

At Municipal Code section 22.08.190 (“S”) [or within Technical Update, Chapter 22.14 (“Definitions”)], adopt the state law definition at Government Code section 65582(g) incorporating the definition of “target population” at section 65582(i) as follows. Include same definitions and affirmative statements ensuring residential treatment in specific plans.

<table>
<thead>
<tr>
<th>State Law – Cal. Gov. Code § 65582</th>
<th>Recommendation</th>
</tr>
</thead>
</table>
| (g) “Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. | “Supportive housing” is defined in California Government Code 65582(h) and means housing: (a) with no limit on length of stay; (b) that is linked to an onsite or offsite service that assists 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; and (c) that is occupied by the following target population (as defined in subdivision (g) of Government Code Section 65582):

A. Adults with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions and may, among other populations, include adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people; or

B. 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 include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. |

Supportive housing shall be considered a residential use of property, and may be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.
E2. Adopt a Definition of Transitional Housing Consistent with State Law.

At Section 22.08.200 (“T”) [or within Technical Update, Chapter 22.14 (“Definitions”)], adopt the state law definition at Government Code section 65582(j). Include same definitions and affirmative statements ensuring residential treatment in specific plans.

<table>
<thead>
<tr>
<th>State Law – Cal. Gov. Code § 65582</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(j) “Transitional housing” means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.</td>
<td>“Transitional housing” is defined in California Government Code 65582(h) and means housing 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 (6) months from beginning of assistance. Transitional housing shall be considered a residential use of property, and may be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.</td>
</tr>
</tbody>
</table>