



STAFF REPORT

SAN CLEMENTE PLANNING COMMISSION

Meeting Date: March 19, 2014

PLANNER: Denise Obrero, Housing Programs Planner and Jeff Hook, Principal Planner

SUBJECT: Senate Bill 2

BACKGROUND

At its February 5th, 2014 meeting, the Planning Commission heard an introduction to Senate Bill 2 (SB 2) and provided direction to staff, as described in the Commission's minutes, **Attachment 1**. The Commission directed staff to report back on homeless shelter case studies, draft development standards, and on Commission questions, and continued consideration to tonight's meeting. These items, plus an evaluation of additional suggested SB 2 sites, are discussed in this report. Since the Commission's last meeting, Community Development staff attended a meeting held by the Rancho San Clemente Business Park (RSCBP) Association. The meeting's results are also attached and discussed.

Adopted in 2007, SB 2 took effect January 1, 2008 and requires cities and counties to designate at least one zone where emergency shelters, transitional and supportive housing are permitted by right. "Emergency shelters", more commonly called homeless shelters, are not currently allowed in any of the City's zones. SB 2 does not require cities and counties to actually build, fund or provide emergency shelters. The General Plan Housing Element, adopted in July 2011, calls for the City to "review and amend the Zoning Code to implement State requirements to remove barriers to the development of special needs housing, including emergency shelters and transitional/supportive housing, consistent with the requirements of Senate Bill 2 of 2007 (Program # 21, Page V-12). City-initiated Zoning Ordinance, Zoning Map and specific plan amendments will be needed to implement this program and comply with State law.

In 2012, Community Development staff researched San Clemente's homeless and related social service needs with the assistance of the Orange County Sheriff's Department, Human Affairs Committee (HAC), and the San Clemente Homeless Task Force (SCHTF). As a result of this input, staff analyzed areas for potential SB 2 zoning and prepared a whitepaper documenting SB 2 issues, opportunities and constraints, as shown in **Attachment 2**.

Council Sub-committee. In April 2013, an SB 2 Sub-committee was formed by the City Manager. The Sub-committee included Mayor Bob Baker, Mayor Pro Tem Tim Brown, City Attorney Jeff Goldfarb, Community Development Director Jim Holloway, Chief John Coppock and Housing Programs Planner Denise Obrero. The Sub-committee directed

staff to further research how Orange County cities have implemented SB 2, and the results are included as **Attachment 3**. The Sub-committee also directed staff to identify and evaluate areas for SB 2 zoning suitability. In September 2013, the Sub-committee analyzed areas that most closely met site selection criteria, which included Los Molinos, Rancho San Clemente Business Park and the Talega Business Park. After considering the options, the Sub-committee concluded that the Rancho San Clemente Business Park appeared to be the most appropriate area because of its location, lot size, availability of public transportation, and proximity to existing social services available through Family Assistance Ministries (FAM), The Friendship Center (AA meetings), Talega Life Church, Heritage Christian Fellowship Church, and The Shoreline Church.

ANALYSIS

Case Studies

Based on Commission direction at the last meeting, City staff contacted the management staff for the two homeless shelters closest to San Clemente: The Brother Benno Center in Oceanside and the City of Laguna Beach's Homeless Shelter. Staff, along with Deputy Bull, visited the Laguna Beach shelter on February 26th. Here's what we learned:

City of Laguna Beach Homeless Shelter. In 2009, The Alternative Sleeping Location (ASL) in Laguna Beach was established by The City of Laguna Beach in response to a lawsuit settlement. It is a year round overnight shelter for homeless adults located at 20652 Laguna Canyon Road. Friendship Shelter staff, under a court ordered contract with the City, operate the program every day from 5 pm to 10 am, providing a safe alternative for Laguna's chronically homeless. ASL did not become a "magnet" for transient homeless; the data shows a stable and consistent population over the past four years. As part of the second phase, they are planning to build a 40-unit, permanent, supportive housing project in partnership with Jamboree Housing Inc. on the same City owned lot, next door to the ASL emergency shelter module. At the ASL shelter, meal service is provided by over 35 churches and civic organizations which rotate on a monthly basis to cook dinner off site. They provide meals for forty-five clients every night at 6:30 pm. In addition, Mission Hospital provides a daily "to go" sack lunch for ASL clients to take in the morning. The City supports a shuttle van that pick ups and drops off clients at the main bus stop in Downtown Laguna Beach every day, including weekends. Pursuant to the court settlement, the City of Laguna Beach allocates \$320,100 annually from the General Fund to cover the ASL shelter expenses. According to Deputy City Manager Ben Siegel, this cost does not include administrative and City staff overhead (i.e. Director of Community Services time, Community Outreach Officer, etc.).

ASL staff are not on-site during the daytime, which can cause loitering issues. However, because the ASL location is regularly monitored by the Sheriff's Deputies, is isolated in the Canyon, and does not have neighboring property owners, potential loitering issues are not considered significant by the City of Laguna Beach. In San Clemente, loitering would not be allowed under City-required shelter management plans.

Oceanside Homeless Shelter: The Brother Benno Center, 3260 Production Avenue. This North San Diego County agency has been helping the underserved for the past thirty years. In January 2014, the center provided 854 nights of lodging to homeless individuals. There are additional residence facilities for men, one sober-living house for women, one for homeless women and women with small children. In the same month, the Center served 13,550 meals to the homeless and prepared 2,536 food packs for needy clients and their families. It also provides on-site, “wrap around” services at their 12,000-foot warehouse in Oceanside, including dining facility, full kitchen, children’s reading room, administrative offices, restrooms, showers, a computer lab, chapel, and a large storage space. Hot meals and sack lunches are provided to homeless clients six days a week. Meals are served on-site, Monday through Friday, 6:30 pm to 8 pm, and on Saturdays at 10 am. Laundry facilities are available and clothing and blankets are also available at the center. There’s also a one-chair barbershop open at varying times. Homeless clients may use the center as their mailing address and message center. Local telephone calls may be made free of charge. Bus passes are provided on a case-by-case basis for medical and other appointments. In addition, there are social services representatives such as staff from the Veteran’s Affairs (VA) who come to the center to help clients with their specific needs. The most comprehensive and successful homeless services offer “wrap around” daytime resources and services in conjunction with nighttime lodging.

Preliminary Draft Development Standards

SB 2 allows local governments to adopt written, objective development and management standards to regulate emergency shelters by establishing: 1) a nightly maximum number of beds or persons, 2) on-site parking and site lighting requirements, 3) size and location of exterior/interior on-site waiting and client intake areas, 4) on-site management and security requirements, 5) spacing from other emergency shelters in the same zone, 6) and maximum length of stay. The development standards “must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter” and may not be so restrictive as to “unduly impair shelter operations.” (California State Department of Housing and Community Development, “HCD”). Based on Commission direction, comments from case study managers, standards used in other cities and on our community’s needs, staff recommends the following development standards:

17.08.110 Homeless Shelters. Development Standards.

The requirements of this section are for homeless shelters within the Business Park and Industrial Park zones in the Rancho San Clemente Specific Plan Area (or other SB 2 areas/zones as determined through this process). In these zones, Emergency shelters that comply with development standards may be established without use permit review.

A. **Location.** A homeless shelter shall be not less than three hundred feet from another homeless shelter or facility providing homeless services.

Comment: This is the maximum spacing allowed under SB 2.

B. Number of Homeless Shelters. The number and capacity of homeless shelters allowed without use permit review shall be limited to that required to meet community needs, as established by the most recent Citywide homeless enumeration count.

Comment: This requirement flows from the SB 2 ordinance itself, which requires local governments to identify a zone or zones which allows at least one year round emergency shelter (unless the need is met with existing shelters), and the identified zone(s) “must have sufficient capacity, when taken as a whole, to meet the need for shelters identified in the housing element..” (HCD) Once a jurisdiction has identified a zone with sufficient capacity to meet its needs, it may identify additional zones where emergency shelters are allowed with a conditional use permit.

C. Maximum Number of Beds and Building Area. Maximum number of beds per facility shall not exceed 65 beds.

Comment: According to the most recent estimates, San Clemente’s average, year round homeless population ranges from 65 to 70 persons. The General Plan Housing Element, adopted in July 2011, estimated 65 homeless persons at any given time.

D. On-Site Waiting and Intake Areas. An on-site waiting and client intake area shall be provided within the shelter building. Outdoor patios or entry areas shall be located and screened so as to not be visible from a public street.

Comment: This follows Planning Commission direction.

E. Parking. On-site parking shall be supplied at a ratio of not less than one vehicle space per five beds plus one space per staff. Enclosed, secure bicycle parking area shall be provided on-site at the ratio of not less than one bicycle parking space per ten beds.

Comment: In Orange County, the adopted, SB 2 on-site parking requirements range from a high of 1 parking space per 3 beds (Lake Forest), to a low (least restrictive) of one parking space per 15 beds plus one space per staff. The most common requirement is one parking space per 4 beds plus 1 space per staff. Bicycle parking is usually not mentioned, but staff recommends it be included to address a broader range of transportation modes, consistent with the new General Plan.

F. Site Lighting. Shielded site lighting shall be provided for safety and security and compatible with the neighborhood, to the approval of the Community Development Director.

G. Architectural Review. Homeless shelters shall comply with the Design Guidelines, and with the Rancho San Clemente Specific Plan architectural and development standards to ensure the shelter is compatible with its surroundings, provides for adequate privacy between uses and minimizes potential impacts to adjacent uses.

Comment: SB 2 requires that homeless center use be allowed by right. However, it allows local governments to “apply non-discretionary design review standards” provided these are no more restrictive than standards applied to other uses in the same area.

17.08.115 Homeless Shelters. Management Standards.

Emergency shelters shall be operated and managed in conformance with these standards:

A. **Shelter Operator.** The shelter shall be operated by a responsible social service provider with experience in managing or providing social services.

Comment: This follows Planning Commission Direction and is included in many other cities’ adopted SB 2 ordinances.

B. **Supervision.** The shelter shall provide at least one qualified on-site supervisor at all times, plus one attendant for each twenty occupants.

Comment: This follows Planning Commission Direction and is included in many other cities’ adopted SB 2 ordinances.

C. **Management Plan.** A management plan shall be submitted to the City prior to shelter operation. Said Plan shall address site security, case management procedures, length of stay, in-take requirements, facility operation standards, parking requirements, hours of operation, services provided (including showers, laundry and storage), neighborhood relations plan, monitoring and oversight program, and any other information the Community Development Director and Chief of Police may determine is necessary to ensure compliance with the provisions of this section.

Comment: This follows Planning Commission direction and is consistent with SB 2.

Planning Commission Questions

The Planning Commission raised several questions at its February 5th meeting. Following is a summary of those questions and staff responses.

- 1) *Can/should on-site security be required? An appropriate amount of security must be provided on site?* There are 34 cities in Orange County. Of these, 31 have adopted SB 2 ordinances. All of these cities require management plans. Typically, the plans address site safety and security concerns, require “good neighbor” measures (e.g. complaint resolution process), and ensure 24/7 monitoring and oversight of a shelter’s programs and services. In discussions with the City of Laguna Beach and Alternative Sleeping Location, the managers stated they do not have paid security on site because they have found that homeless clients self-regulate or self-monitor their own behavior.

- 2) *Should/can Alcohol and Drug testing be required as a prerequisite to use homeless facilities.* This can be specified as part of the management plan and required by the City. Homeless shelters typically do not admit clients who are visibly “under the influence,” however staff did not find a Southern California homeless shelter that uses drug testing during its intake process. Testing is costly and time consuming to conduct; nevertheless, sobriety is a common requirement for shelter admission.
- 3) *Can the City require an emergency response plan?* This is a common requirement in management plans throughout OC. Our local Sheriff’s office has assigned a Deputy Officer for community homeless issues who is very knowledgeable and committed to serving homeless clients, the City and social service providers to protect public safety.
- 4) *Can Shelter preference be given to local San Clemente homeless?* This question was referred to the City Attorney and is as yet, undetermined. Size and location of homeless facilities may, in effect, give local homeless persons “preference” over transients. For example, San Clemente’s setting near the beach and along a main coastal highway is similar to that of Laguna Beach. Based on that City’s records the majority of homeless clients served are locally-based individuals who are not “transients.” According to Friendship Shelter’s Executive Director Mrs. Dawn Price, the annual average number of ASL clients has remained relatively constant during the past four years of their Laguna Beach shelter opening:

2010: 428 clients served
2011: 288 clients served
2012: 315 clients served
2013: 326 clients served
- 5) *How to establish appropriate shower/toilet ratios per bed.* Staff recommends a standard of 1 toilet and 1 shower per 8 beds (per gender). At the ASL shelter, there are three separate toilet/shower units per 45 clients; the director stated that in retrospect, they would have preferred dormitory style toilets/showers over their current one person bathroom-shower stall. This is not a development standard allowed by SB 2, however, and will be determined by Building Codes.
- 6) *On-site parking should be provided; no inoperable or non-registered cars shall be allowed.* Staff recommends on-site parking shall be supplied at a ratio of not less than one vehicle space per five beds. Thus, if the shelter has a maximum of 65 beds then the requirement would be 13 parking spaces plus one space per staff member. Parking restrictions and enforcement provisions would be required in a management plan.
- 7) *Shelter staff should be trained, certified and have a support system; staff and management need ability to transition people and work with organizations to help the homeless.* In researching this, staff has not been able to identify a recognized,

emergency shelter certification. As part of any management plan, a provision shall be included which describes required experience and/or training.

- 8) *Staff to provide recommendations regarding waiting area, smoking, proximity to other shelters, lighting, and meal service.*

Staff recommends that on-site waiting and intake areas be provided within the shelter building. Family Assistance Ministries (“FAM”), located in the RSC Business Park, serves approximately 2,000 clients per month needing social services and food donations. FAM utilizes an enclosed lobby and all of the intake forms are processed within the interior of their building. This layout has proven to be a successful model for both FAM staff and their neighbors, Nicoll Racing Company on one side of their facility and The Talega Life Church on the other side. FAM has been operating at this RSCBP location for the past three years with no neighboring complaints or loitering issues

- 9) *Must showers and laundry services be provided on site?* This is not an SB 2 requirement, but is a common service for homeless shelters. More than half of the cities have specified this provision in their management plan. Staff recommends these services be addressed as a management plan requirement.

- 10) *Intake and waiting areas should be inside, not just screened from outside.* Staff recommends this provision and covered this concern in Item #8.

- 11) *Rules should be established to govern waiting/loitering at the shelter; no loitering on site or in the vicinity until the shelter opens.* Staff researched this concern and found that most shelters had on-site supervision to prevent loitering. Whether the facility is a soup kitchen serving 300 clients a day, or Homeless Day Resource Center serving 75 clients a day, non-profits with a successful record of operating such facilities did not have loitering issues. The City should require that the shelter be managed by an experienced and responsible operator by including this requirement in the shelter’s “management plan.” In addition, a 24-hour hotline where neighbors or the public can call to get action on safety and security issues may also be required.

- 12) *Research whether other cities have certification of volunteers, and how the volunteers’ safety is addressed.* Staff researched this issue and found that homeless shelter volunteers are typically required to complete safety and security training, as well as a Volunteer Orientation, before being allowed to assist homeless clients on site. It is ultimately up to individual homeless shelter program directors to approve and train new volunteers.

- 13) *There is a need to establish shelter standards so that potential clients know what is expected.* ASL and other comparable overnight homeless shelters have client rules and regulations which are typically signed by all clients before the non-profit provides services.

SB 2 Suggested Site Evaluations

At its February 5, 2014 meeting, the Planning Commission supported the staff, Subcommittee and task force recommendation that the RSCBP be considered as an appropriate zoned area for a homeless shelter. RSCBP was identified as meeting several site selection criteria in that it is:

- Separated from residential uses by streets, open space or substantial landscape buffers;
- Consists of mid- to large-sized lots, fully served by utilities;
- Served by public transportation (OCTA Bus Route 191); and
- Near other social service facilities, including FAM and several churches.

On March 4, 2014, City staff attended a meeting hosted by the RSCBP Association and attended mostly by Business Park business and property owners. Many of those in attendance expressed concerns with SB 2 in general, and in particular, allowing a homeless shelter in the Business Park. Alternative locations for an SB 2 zoning designation were suggested, and these are summarized briefly below:

1. *RSCBP Association Property.* The Association owns a 7.2 acre parcel, located on the north side of Avenida Pico (Pico Canyon), roughly between Calle Amanecer and Calle del Cerro. The Association Board suggested a triangular portion of the property be designated to meet SB 2 requirements, as shown in Figure 1.

Figure 1

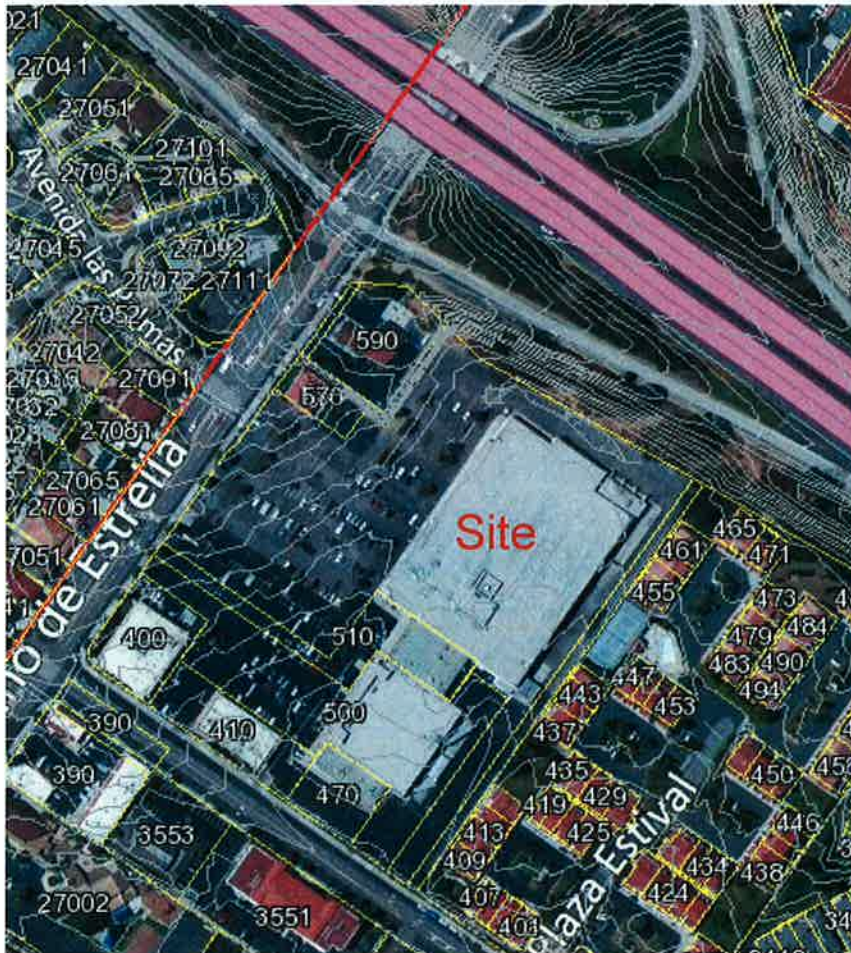


Planning considerations for this property include:

- Property is designated Open Space, Private (OS 2 Zone)
- Large enough to accommodate 65-person shelter (approximately five acres)
- Property already used by homeless for unauthorized camping
- Located near small neighborhood commercial center, across Avenida Pico
- Site slopes gently, at approximately 10 percent
- Located in a mapped Seismic Landslide area
- Development likely to require utilities installation, sewer lift station, extension of Calle de Cerro
- Close to public transit

2. **“Big Lots/K-Mart Retail Center”** (NE corner of Camino de Estrella and Camino Mira Costa). This development, an approximately 12 acre retail center, was suggested as a possible SB 2 site because it is an older shopping center with redevelopment potential. The Centennial General Plan designates this center as Community Commercial, with a Medical Office Overlay zone to promote expansion of medical facilities. Planning considerations include:

Figure 2



- Large enough to accommodate a 65-person shelter (approximately 12 acres)
- Property developed with various retail and service uses
- Location is bordered by Interstate 5 to the north, adjacent residential uses to the southeast, retail uses to the south, and office and residential uses to the north, across Camino de Estrella
- Close to public transit

3. **Heritage Church Property, 190 Avenida La Pata.** This vacant site, adjacent to and owned by Heritage Church, was suggested as a possible SB 2 site because of its location at the edge of the Business Park, near the City Limits and adjacent to the Church. Planning considerations include:

- Property is designated “Business Park” in the RSCBP
- Large enough to accommodate 65-person shelter (approximately 2 acres)
- Property is vacant, served by utilities and public street
- Served by public transit

Figure 3



Public Participation

In November 2013, the City, in partnership with the Heritage Christian Fellowship Church hosted a SB 2 public workshop in which RSC Business Park owners and social service providers participated. In the meeting, non-profits and faith based organizations offered to assist the community in supporting a homeless shelter in town. Property owners objected to the State law requirements and to the proposal to designate a limited area of RSC Business Park as a suitable zone. Several Business Park participants requested that the City expand the boundaries to include the entire Industrial and Business Park area (**Attachment 4**).

On March 4th, 2014, staff attended a Rancho San Clemente Business Park Association meeting, with about 45 persons in attendance, mostly Business Park property and business owners. Many voiced concerns about the proposed SB 2 overlay designation. Concerns seem to focus on four main issues: 1) what other areas did the City research and analyze, 2) what is the City's strategy or tools to ensure that loitering will be addressed and managed (if/when a shelter is developed), 3) why does the PC-endorsed zone include the entire RSC Business Park? and 4) members and owners took a straw vote to request that City staff further research the feasibility of designating the Association's property located along the Avenida Pico canyon near Calle del Cerro to meet SB 2 requirements.

Noticing

Public notification was completed in accordance with State Law and Municipal Code regulations. All property owners in Rancho San Clemente Business Park, and property owners within 300 feet of the suggested alternative properties, were notified by mail.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission consider the Draft SB Development Standards and suggested SB 2 site alternatives, provide direction to staff and continue the item to a date certain to: 1) review a draft Zoning ordinance, map and specific plan amendment, and 2) make a recommendation to the City Council regarding SB 2 compliance.

ATTACHMENTS

1. Planning Commission Minutes
2. SB 2 Whitepaper
3. Summary of Emergency Shelter Ordinance provisions in Orange County
4. Potential Emergency Shelter Zone - Rancho San Clemente Business and Industrial Park Map
5. SB 2 Law

IT WAS MOVED BY COMMISSIONER KAUPP, SECONDED BY COMMISSIONER EGGLESTON AND UNANIMOUSLY CARRIED TO ADOPT RESOLUTION NO. PC 14-003, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING DISCRETIONARY SIGN PERMIT 13-298, PRESIDIO PLAZA SIGN PROGRAM AMENDMENT, A REQUEST TO MODIFY THE MASTER SIGN PROGRAM OF THE PRESIDIO PLAZA SHOPPING CENTER LOCATED AT 401 SOUTH EL CAMINO REAL.

[DECISION FINAL. SUBJECT TO APPEAL OR CALL UP BY COUNCIL]

B. Senate Bill 2 Emergency Shelter Ordinance (Obrero)

Senate Bill 2, the Emergency Shelter Ordinance (SB 2), requires that cities adopt an ordinance allowing the establishment of emergency shelters to accommodate emergency shelters, by right, in at least one land use zone. This would include at least one year round shelter and other seasonal or year round shelters for homeless persons, threatened or abused women and children, and transitional housing for persons transitioning into permanent housing. The ordinance does not require cities to build or provide funding for such uses. It allows cities to establish standards to regulate and provide emergency shelters' location, size, parking, proximity to other emergency shelters, length of stay, lighting, security and management. The City completed an evaluation of possible zones to meet SB 2 requirements and based on that evaluation, is considering amendments to the Rancho San Clemente Specific Plan and the Zoning Ordinance to allow such uses in the Specific Plan Area's Business Park and Industrial Park zones.

Denise Obrero, Housing Programs Planner, narrated a PowerPoint Presentation entitled, "Senate Bill 2, dated February 5, 2014." Senate Bill 2 (SB 2) requires cities and counties to designate at least one zone or overlay zone where emergency shelters, transitional housing and supportive housing are allowed as permitted uses without a conditional use permit or other discretionary use permit. Included in the staff report was a Summary of Emergency Shelter Ordinances Provisions in Orange County for all cities in Orange County as well as brief summaries of provisions/actions of four neighboring cities to address SB 2 requirements. Following research and comparison studies, a task force composed of community members and City staff concluded that the Rancho San Clemente Business Park (RSCBP) was the most appropriate area to accommodate emergency shelters. Staff recommended the Commission consider the staff report, hear public testimony, and provide direction on 1) the proposed district boundaries where SB 2 would be applied, and on 2) the HCD-recommended performance standards for emergency shelters, listed in Attachment 5, and then continue this item to a date certain.

On a question from Commissioner Eggleston, Ms. Obrero explained that Deputy Joseph Bull was not part of the task force. In addition, Ms. Obrero described standard notification procedures and offered to provide copies of mailing labels of those notified.

Jeff Hook advised that SB 2 guidelines are very specific regarding what the City is allowed to regulate. Specifically, these are: number of beds, off street parking, size and location of exterior and interior waiting areas, provisions of on-site management, proximity to other shelters, length of stay, lighting, and security during hours of operation. Development standards for emergency shelters may not be applied in such a way that would frustrate efforts to establish an emergency shelter use. The number of beds needed is based on the best estimate of the number of homeless persons in the community. If the City has already met the need, they can set discretionary requirements for additional shelters that go beyond the minimum required to meet the recognized need. In addition, he noted that the City of San Clemente will probably not be able to participate in a "regional solution" with adjoining cities, as allowed under State law, since Dana Point, San Juan Capistrano and Mission Viejo have already established their own ordinances and there is no incentive for them to partner with San Clemente. He also described the differences between emergency shelters, transitional and emergency housing.

Chair Darden opened the public hearing.

Father Patrick Crenar, resident, commended staff for their hard work with this challenging issue. No matter what location is approved, he believes there will be people that challenge the decision. He supported the staff report recommendation and noted the faith community can be counted on to help set up and run the emergency shelter. He ran a similar type of shelter on the East coast and there were no negative impacts on the surrounding community. He believes a shelter can be perceived as a great asset to the City and advised that a community is judged by how they treat their most vulnerable members. In response to questions, he noted that the shelter back East was developed in partnership with the City and the faith community. The City handled transportation issues, while the faith community banded together to provide food and shelter.

Nancy McIntyre, resident, spoke on behalf of the Board of Directors of a group called IHope that serves the homeless in South Orange County. She commended the City of Laguna Beach for its friendship shelter, which is primarily intended for use by Laguna Beach homeless, and recommended the City follow Laguna Beach's lead. She is confident IHope volunteers, the faith community, families, and churches in town can create partnerships with the City to make an emergency shelter feasible. During the years she has helped the homeless find shelter, she has seen many success stories. In response to questions, she noted construction of

a kitchen on site is not necessary as meals can be brought in and served on benches; advised inclusion of bathrooms and showers is very important. In addition to chronic homeless, IHope has helped families move into motel rooms, sent loved ones home via the Greyhound Bus service, provided laundry services, provided case management, medical care, and a computer lab training to help the homeless secure employment and get back to self sufficiency. She has records indicating the number of those helped over the years. IHope staff uses signs, websites, flyers and work with Officer Bull to promote their services. Drug testing is not required for use of IHope services, and they have security personnel and a security system to ensure the safety of volunteers. If a situation occurs, they call the police, or the mental health unit if necessary. She estimates the City does not have a large number of transients; speculated that over 50 percent of the homeless persons she has helped have drug and/or alcohol dependency issues and noted case management helps the mentally ill stay on their medications. Those using the shelter cannot be falling down drunk or unruly. It is most important that shelter visitors are not a danger to staff, the volunteers, or themselves. Security on site takes care of the occasionally unruly visitor, and calls to Officer Bull result in immediate response. She noted that homeless people often police themselves so they don't lose the facility. A now shuttered facility in Capistrano Beach totally staffed by volunteer security did not experience any problems in this regard. She agreed to research whether the staff and security personnel at the Laguna Beach shelter are all volunteers and report back.

Cathy Domenichini, resident and IHope Board Member, described physical design techniques that can be used to create a secure environment. She endorsed the recommended location as it will have the lowest impact on the community and encouraged the Commission to follow the guidelines and not make an emergency shelter prohibitively difficult or costly to establish. She endorsed the need for a facility to serve the homeless and opined that many in the community would be willing to support and contribute to this project.

Ed Conner, San Juan Capistrano resident and IHope Board member, commended City staff as they are exemplary and working hard to establish a suitable area to establish an emergency shelter. Although he would have preferred a shelter location closer to Downtown, where the homeless prefer to congregate, there is potential to provide a bus or shuttle to the subject location. It is important to have a shelter in South County to protect the homeless from the elements, feed them, get them off the street, and hopefully help them find jobs. If the shelter is not established, the homeless will just stay in the Downtown area and there will be no positive changes. He noted that IHope is currently looking at a location outside of the City to establish a shelter. As a lawyer, he has represented homeless people pro bono to try and improve the situation in Santa Ana. His wife runs the food bank at the Mission in San Juan

Capistrano. IHope works with HUD, the County, cities and other organizations to provide shelter and food for the homeless and try to get them back on their feet. He noted that because the homeless will need transport to get to the shelter, they can be screened before allowed on the transport to ensure they are not a danger to themselves or others.

Chair Darden closed the public hearing.

Deputy Bull noted he attended many of the subcommittee and/or task force meetings and feels involved in the effort. He encouraged as much security as possible at the shelter site, and commented that the volunteers at the shelter act as eyes and ears of law enforcement. Although the majority of the City's homeless congregate in the middle of the City, he has found them all over town and some prefer to live on the outskirts. Some will bike or walk to the shelter, and some will just appear if it is built. He agreed with the estimate of an average of 60 to 65 homeless persons annually. He noted this has been consistent over the years, and added that the number can fluctuate dependent on season. He sees new homeless people on a weekly basis; some just stay a few days and move on, while others may stay for a while. A large number of homeless people are on drugs or alcohol or both. Also mental health issues are of consideration. He estimated over 50 percent are abusing alcohol.

Commissioner Eggleston acknowledged the need for the City to abide by State law and expressed concern that relevant stakeholders in the RSCBP may not be aware of tonight's meeting and the proposal before the Commission. He recounted a personal experience he had with some homeless people last summer. At Park Semper Fi, where there was a problem with homeless people camping out, drinking, smoking etc., and there was over \$3,000 in damage. He called the police himself and the police have come out in response to calls from others as well. Drug dealing at the park has also been documented. The Sheriff's Department has provided great support, and Marines living in the area also monitor the location. Homeless people from Los Angeles told him they came to the City in response to a flyer from IHope. After contacting IHope, he attended a meeting with Officer Bull and IHope members. Most of the meeting involved strategies to protect IHope volunteers from the homeless. He stressed that San Clemente cannot become a magnet for homeless with chronic drug, alcohol and mental health problems.

Commissioner Kaupp also expressed concern that no property owners, business owners or residents were present this evening to address this proposal, and endorsed personal notification of the president of the business park association and other stakeholders. He supported the proposed SB 2 boundaries while acknowledging drawbacks due to its distance from where the homeless congregate; he noted nearby access to bus stop important for easy access.

Vice Chair Brown supported the location as it complies with the newly-adopted General Plan goals; agreed enhanced outreach is in order.

Commissioner Ward stressed importance of reaching out to 24-Hour Fitness, other businesses, and a nearby church to ensure they are aware of the proposed SB 2 ordinance. She expressed concern that some chronically homeless will choose not go to this location, or to any shelter, but agreed this will be a suitable area for an emergency shelter for others in need. She noted issues between 24-Hour Fitness and the homeless in general that are well documented on the internet.

Commissioner Crandell commented that although this location satisfies SB 2 requirements, it is important that the City also considers other locations, even those that may require zoning changes to make it work. He established from staff that homeless shelters currently are not allowed in any zone within the City, with or without a CUP.

Chair Darden endorsed enhanced notification of nearby business/property owners; pointed out that this evening they were just considering potential, and did not have an application; asked for additional information on such facilities in other cities, especially with regard to issues such as security and practical considerations.

In response to questions, Deputy Bull described standard procedures when dealing with intoxicated persons. The jail facility will not hold them, and ultimately a deputy must be taken off the street to monitor their behavior until they are sober and can take care of themselves.

The Commissioners agreed that they needed additional information and time to ensure notification of stakeholders. The Commissioners, either individually or in agreement, requested staff provide additional information/guidelines regarding the following issues:

- An appropriate amount of security must be provided on site.
- Alcohol and narcotics possession will be prohibited; research whether drug testing is allowed/necessary.
- Management strategies established with immediate response from deputies when needed.
- Preference given to local San Clemente homeless.
- Establish appropriate shower/toilet ratios.
- Parking provided; no inoperable or non-registered cars allowed.
- Staff should be certified and have a support system; staff and management need ability to transition people, work with organizations to help the homeless, not just volunteers.
- Staff to provide recommendations regarding waiting area, smoking, proximity to other shelters, lighting, and meal service.
- Showers and laundry services must be provided on site.



CITY OF SAN CLEMENTE SENATE BILL 2 (SB 2) WHITEPAPER

Introduction to Senate Bill 2 (SB 2)

Senate Bill 2 (SB 2) refers to a State law adopted in 2007. The law took effect January 1, 2008 and requires cities and counties to designate at least one zone or overlay zone where emergency shelters, transitional/supportive housing are allowed by right as permitted uses without a Conditional Use Permit or other discretionary permit. Program 21 of San Clemente's adopted Housing Element calls for the City to "review and amend the Zoning Code to implement State requirements to remove barriers to the development of special needs housing, including emergency shelters and transitional/supportive housing, consistent with the requirements of Senate Bill 2 of 2007." The proposed, City-initiated amendments would implement a key Housing Element program and bring the City into compliance with State law.

This amendment would allow such uses to be established by right, subject to compliance with specific performance standards and with Zoning Ordinance standards, such as parking, building, setbacks, and height. Architectural review would be required to help ensure architectural compatibility with surrounding uses. SB 2 does not require cities and counties to actually build or provide emergency shelters. Rather, it helps non-private organizations to find suitably-zoned property, develop and operate emergency shelters or transitional/supportive housing. Such uses could include shelters for residents displaced by civil disasters like fires or floods (e.g. Red Cross center), for homeless persons, abused women and children, disabled veterans, and persons recovering from substance abuse or other health issues.

What We're Doing Now

Emergency shelters and transitional/supportive housing are not explicitly defined in the Municipal Code. However, the City has administratively permitted such uses by right, provided they do not exceed four dwelling units and are located in a Residential zoning district. New development projects with five or more dwelling units require a Conditional Use Permit. This approach is no longer consistent with State law and can result in uncertainty and land use compatibility issues.

The City of San Clemente financially assists three emergency or transitional shelters: Gilchrist House, Henderson House, and Laura's House (Attachment 1). Gilchrist House, owned and operated by Family Assistance Ministries, offers transitional housing with a 26-bed capacity for single women and women with children 12-years-old and younger. Gilchrist House requires their clients to be clean and sober for 120 days prior to admission.

Henderson House, operated by Friendship Shelter, provides a 24-bed, transitional housing facility. It also offers counseling and life skills training programs. Henderson House residents pay a modest rent for shared apartments.

Laura's House provides shelter and services to women and children who are victims of domestic violence. Laura's House originally provided 28 beds, but in 2010 to 2011, Laura's House invested \$4.5 million to improve and expand their facility to provide 44 beds and 10 cribs. This increased their annual capacity by 93%, allowing them to accommodate an existing need. Like the other facilities, Laura's House offers counseling, employment, and life-training in conjunction with the shelter.

How Have Nearby Communities Addressed SB 2?

The County of Orange supports three emergency shelters that open their doors to anyone in need as opposed to serving a specific group of people in need. Friendship Shelter's Alternative Sleeping Location (ASL) in Laguna Beach is the closest emergency shelter program. The only other overnight option for San Clemente homeless clients is at the Orange County Cold Weather Armory Program, which provides up to 400 beds per night from December to March, depending on funding. There are two Armory locations: 612 East Warner Santa Ana and 400 South Brookhurst Fullerton. There are no other year-round shelters in South Orange County other than ASL. Emergency shelters accommodate certain group of people in need. ASL, for example, cannot accommodate families. There is limited help for people who are homeless and who fall into certain subcategories of need.

The City of San Juan Capistrano amended their Zoning Ordinance for SB 2 compliance, which included development standards for emergency shelter establishments. Their ordinance set the capacity standard of "no more than one bed per 250 square feet of gross building space." The City of San Juan Capistrano claims that under their ordinance, more than 20 properties are suitable for emergency shelters and transitional housing facilities. Ed Connor, iHope Director, noted that the locations the City identified for use as shelters are not suitable because most are schools and churches surround by residential areas. Connor added that limiting shelters to one bed per 250 square feet is too restrictive. For non-private organizations, one bed per 250 square feet is not a realistic number to efficiently run an emergency shelter establishment. It is not cost-possible to have an ordinance that requires eight beds for a 2,000-square-foot warehouse.

The City of Dana Point designated zones and later took an extra step to add a 10-bed limit to their Zoning Code for churches setting up shelters as an accessory use. Facilities in community facilities zone have a 20-bed capacity. Although those numbers were approved by the State, the City did not survey neighboring cities when it chose its limit, but a consultant informed staff that 10 is a sufficient number.

In 2009, American Civil Liberties Union of Southern California sued the City of Laguna Beach for its treatment of mentally and physical disabled homeless people. As a result, the City of Laguna Beach financially supports Friendship Shelter's ASL, which is an emergency shelter with 45 beds. They adhere to a first-come, first-serve basis but exercise a local preference policy for homeless

persons originally from the local area or based there. ASL abides by development standards set up by the City and enforced by the staff. In the development process, an ad hoc committee composed of City of Laguna Beach City Manager, two City Council members, police officer responsible for the homeless in town, and Friendship Shelter representatives met monthly. Three years after ASL's opening, the group still meets on an as-needed basis to ensure that stakeholders and other interested parties are at a mutual understanding. They can also collectively develop rules and regulations as well as address specific circumstances or areas of concern.

The City of Mission Viejo designated the Business Park District for emergency shelters. Although the City of Mission Viejo designated a zone for emergency shelters, it determined that their homeless population of approximately 10 individuals is not significantly enough to provide additional shelter within the City. "If adequate existing facilities are not available, the law requires jurisdictions to identify areas where new facilities are permitted 'by-right' (i.e., without requiring discretionary approval such as a use permit). A jurisdiction could also satisfy its shelter needs through a multi-jurisdictional agreement with up to two adjacent communities to develop at least one year-round shelter within two years of the beginning of the planning period" (City of Mission Viejo, 2012). The Housing Element continues with a table showing the emergency shelters serving Mission Viejo: CSP Youth Shelter (Laguna Beach), Cold Weather Shelter (Laguna Beach), Friendship Shelter (Laguna Beach), Gilchrist Housing (San Clemente), Human Options (Irvine), and Laura's House (San Clemente). There is also a table for transitional/supportive housing facilities serving Mission Viejo. As a result, the City of Mission Viejo faced a lawsuit, which cost them \$375,634 (\$285,629 settlement, \$80,690 legal services, and \$9,315 court and related costs).

What If We Do Not Comply With SB 2?

Failure to comply with SB 2 has several potential, possibly serious consequences:

1. City will not implement an adopted Housing Element program, which, in turn, can result in loss of state certification and legal changes to the validity of the City's General Plan;
2. loss of State housing funds or tax credits, which could affect the City's ability to assist much-needed affordable housing developments in San Clemente;
3. continued uncertainty as to where and how emergency shelters are allowed, since the Zoning Ordinance is silent on this question;
4. noncompliance with State law, leaving the City vulnerable to legal action; or
5. inability to plan for and manage a community land use.

CONCLUSION

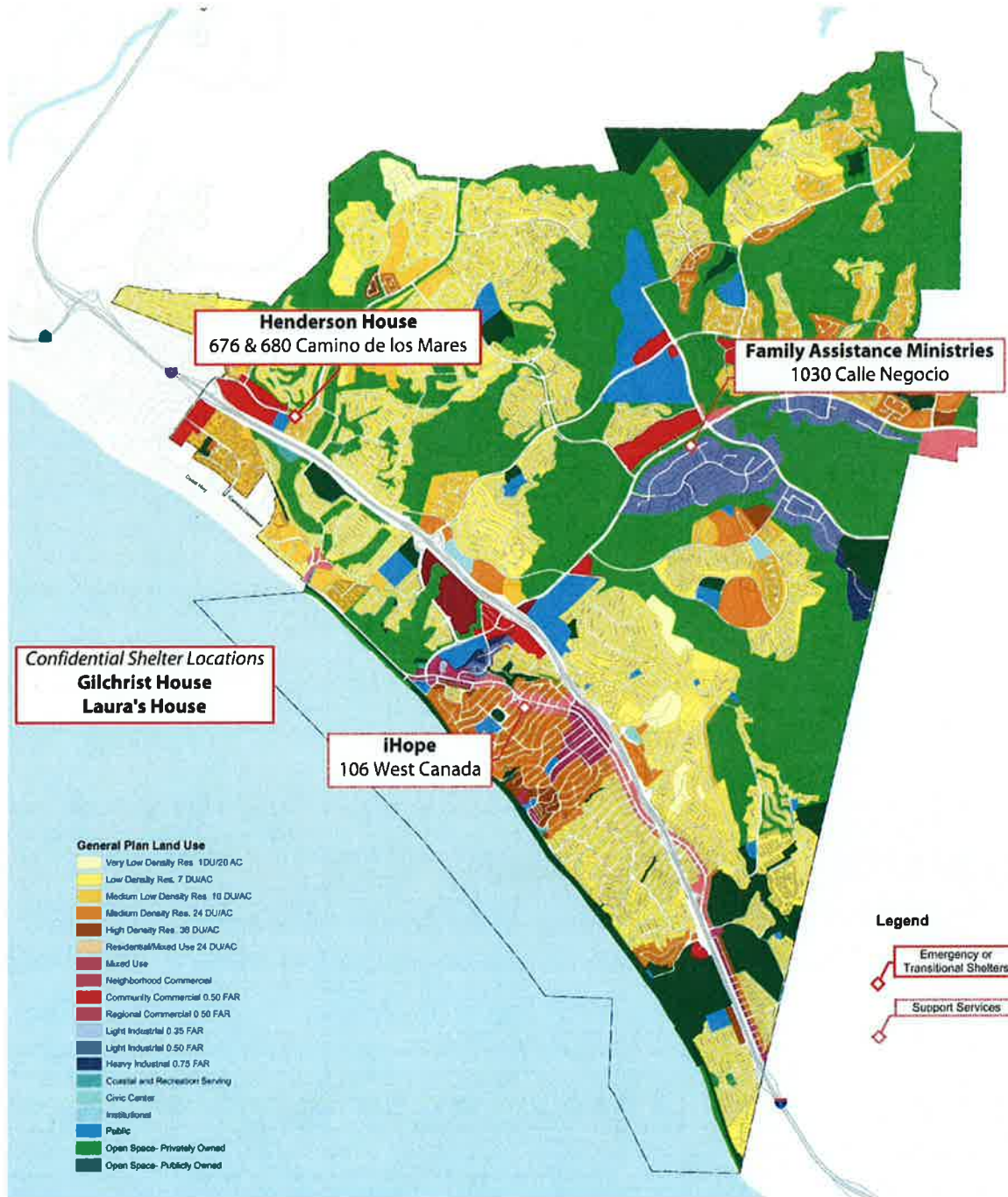
Bringing the Zoning Ordinance into compliance with Senate Bill 2 addresses community housing needs, implementation of our State-certified Housing Element, and compliance with State law. Although emergency shelters and transitional/supportive housing will be a permitted use by right, it does not exempt facilities from abiding Zoning Code and performance standards. Emergency shelters may pose land use compatibility issues, which are best addressed proactively, economically, and equitably. The City is not being asked to develop, fund, or

operate an emergency shelter; on the contrary, the City is establishing reasonable standards for their placement and design for private and non-profit community interests without discouraging or deterring the use.

ATTACHMENTS

1. Location of shelters and services

LOCATION MAP OF SHELTERS AND SERVICES



Summary of Emergency Shelter Ordinances Provisions in Orange County

	Alliso Viejo	Anaheim	Brea	Buena Park	Costa Mesa	Cypress
Code Reference (Date of Adoption)	8.12.050 10/2/2013	18.38.125 (7/28/12)	20.252.020 (10/20/09)	19.348.070 (7/9/13)	13.200.79 (3/19/13)	3.17.240 (10/26/09)
Zone	Business Park 1 and Business Park 2	1 & SP 94-1 (Industrial & Northeast Area Specific Plan)	M-1 (Light Industrial)	RS-6 (Single Family Residential)	PDI (Planned Development Industrial)	PS (Public and Semi-Public Zone)
Maximum beds	N/A ¹	50	30 ²	30	30	30
Parking	N/A ¹	1 per 4 beds + 1 per staff	1 per 4 beds + 1 per staff and/or 1/2 parking space per bedroom designated for family units with children	1 per 4 beds + 1 per staff and/or 1/2 parking space per bedroom designated for family units with children	1 per 4 beds + 1 per staff	1 per 4 beds + 1 per staff
Waiting/Intake	N/A ¹	10 sf./bed	10 sf./bed	Located internally if feasible. Outdoor area shall be screened	Interior or exterior (must be screened)	10 sf./bed
Management plan req'd?	N/A ¹	Yes	Yes	Yes	Yes	Yes
Minimum separation	N/A ¹	1 staff per 15 beds	1 staff per 15 beds	1 staff per 15 beds	Yes	1 staff per 15 beds
Maximum length of stay	N/A ¹	300 ft. from another shelter & 1,000 ft. from any residential zone, school, day care facility, or assisted living facility	500 ft. from another shelter, residential district, or school	300 ft. from another shelter	300 ft.	500 ft. from another shelter
Site Development Standards (subject to same standards as other)	N/A ¹	180 days	120 days	180 days in a 360 day period	120 days	120 days
Hours of Operation	N/A ¹	N/A ¹	Per M-1 zone	Required to be incidental to religious assembly use	N/A ¹	N/A ¹
Other requirements	N/A ¹	Admitted between 6pm-5am Checkout at 8am	Admitted between 6pm-8am PDT, 5am-8am PST Checkout at 8am	Not specified	Admitted between 5am-8am	Admitted between 6pm-8am PDT, 5am-8am PST
		<ul style="list-style-type: none"> ▶ Bike rack/locker required ▶ Ext. lighting plan review req'd ▶ Screening of storage & waiting areas ▶ 1 toilet & 1 shower per 8 beds per gender & for family areas ▶ Kitchen & dining hall req'd. ▶ Religious contributions may be established for a max of 50 occupants 	<ul style="list-style-type: none"> ▶ Shelter must be within 1/4 mile of bus stop ▶ Bike rack required ▶ Exterior lighting shall be provided for outdoor areas ▶ Outdoor storage areas must be screened ▶ 1 toilet & 1 shower per 8 beds per gender, private shower/toilet for individual families ▶ May provide dining, kitchen, laundry, recreation area, counseling & social services 	<ul style="list-style-type: none"> ▶ Shelter must be within 1/4 mile of bus stop ▶ Bike rack parking ▶ Exterior lighting for entire outdoor area ▶ Waiting area visually separated from public view by min. 6' tall ▶ Decorative masonry wall ▶ Shade/rain provisions ▶ Min 1 toilet + shower per 8 beds per gender ▶ Private shower + toilet for individual families 		

Summary of Emergency Shelter Ordinances Provisions in Orange County

	Dana Point	Fountain Valley	Fullerton	Garden Grove	Huntington Beach	Irvine
Code Reference (Date of Adoption)	9.19.040(b) 6/13/10	21.10.050 (12/8/10)	15.55.020 (5/21/13)	9.16.020.050 (1/11/11)	230.52 (1/29/10)	N/A
Zone	CFZ (Community Facility Zone) ¹	C1 & C-2 (General Commercial)	CW (Commercial Manuf.) and M-P or M-G (Manuf. Park or General)	M1 (Light Industrial, Emergency Shelter Overlay Zone)	IG & IL (General & Limited Industrial)	IBC (Multi-Use, Gen. Industrial, Med/Science, Bus. Part. Institutional)
Maximum beds	20 in CFZ, 10 at churches	30 ²	50	60	50	TBD
Parking	1 per 10 beds	1 per 4 beds+1 per staff ⁴	1 per 15 beds +1 per staff	1 per 4 beds + 1 per staff	1 per 5 beds+1 per staff	1 per 4 beds+1 per staff
Waiting/queue	Provided on-site and screened from public view.	10 sf./bed	Screened from right-of-way and sufficient Hqs.	10 sf./bed	10 sf./bed	10 sf./bed
Management plan reqd?	Yes	Yes	Yes	Yes	Yes	No
On-site supervision	N/A ¹	1 staff per 15 beds	Yes	1 staff per 15 beds	1 staff per 15 beds	Yes
Minimum separation	300 ft. from another shelter	500 ft. from another shelter	250 ft. from another shelter; ½ mile from residential use, public school or public park	300 ft. from another shelter	300 ft. from another shelter	300 ft. from another shelter
Maximum consecutive length of stay	N/A ¹	120 days	180 days	120 days	120 days	Not specified
Site Development Standards (subject to same standards as other uses)	Per CFZ	Per C-2 zone	Facility shall comply with the development standards of the zone in which it is located	Per M1 Emergency Shelter Overlay Zone	Per IG/IL zones	Not specified
Hours of Operation	Admitted between 8pm-8pm Discharge between 8am-10am	Admitted between 5pm-8pm Discharge by 8am	TBD ³	Admitted between 6pm-8am PD ⁴ , 5pm-8am PST	Discharge by 8am	Not specified
Other requirements	<ul style="list-style-type: none"> ➤ Central cooking & dining room(s) ➤ Recreation Rooms ➤ Counseling Center ➤ Laundry facilities ➤ Organized outdoor activities limited to 8am - 10pm 	<ul style="list-style-type: none"> ➤ Shelter must be within ½ mile of bus stop ➤ Bike rack required ➤ Screening of storage & waiting areas ➤ On-site trash enclosure 	<ul style="list-style-type: none"> ➤ May provide cooking and eating facilities; outdoor areas; laundry facilities; secured storage; showers; covered bicycle parking. Located within ½ mile of transit stop 	<ul style="list-style-type: none"> ➤ Bike rack required ➤ Client storage area must be separate from sleeping area 	<ul style="list-style-type: none"> ➤ Considered "Community & Social Service Facilities" ➤ Screening of storage & waiting areas ➤ ½ mile within transit stop 	

Summary of Emergency Shelter Ordinances Provisions in Orange County

	La Habra	La Palmita	Laguna Beach	Laguna Hills	Laguna Niguel	Laguna Woods
Code Reference (Date of Adoption)	18.48 (05/6/13)	26-29 (7/2/13)	25.28.020 (12/4/12)	9-64.040.D (11/13/12)	(6/5/12)	13.23.030 (1/19/11)
Zone	Emergency Shelter Overlay Zone	Public and Institutional (PI) Zone and Transitional/Supportive Housing as permitted by-right use within residential (R-1) and (R-2) zoning districts	Institutional, C-1, CN, LBP, SIV and R-3	MXU (Mixed-Use District)	CN, CC, CO, BB, PI Districts and CS District of Gateway Specific Plan	CC, CF-7, & CF-P by CUP (Community Commercial; Community Facility Public/Institutional, & Community Facility Private)
Maximum beds	3 times max units permitted in zone	10 beds or persons/night	N/A'	20	N/A'	20
Parking	1 per 4 beds	1 space per 5 beds and/or 0.5 spaces per bedroom designated as family unit with children and 1 space for every employee/volunteer	N/A'	1 per 3 beds + 1 per staff	TBD by Comm. Dev. Director	N/A'
Waiting/trunks	N/A'	No larger than 10 square feet of 1 bed; not adjacent to the public right-of-way	N/A'	200 sq. min.	N/A'	All intake & screening shall be conducted off-site
Management plan req'd?	Yes	Security and Safety Plan	N/A'	Yes	N/A'	Yes
On-site supervision	Yes	1 manager, 1 supporting staff for every 5 beds	N/A'	Yes	N/A'	Yes
Minimum separation	N/A'	300 feet from another shelter	N/A'	300 ft. from another shelter Emergency shelter shall be located at least 500 ft. from any residential use, public or private park, public or private K-12 school, church, or other religious institution.	N/A'	300 ft. from another shelter, min 1,000 ft. from public park, public/private K-12 school, indoor/outdoor rec facility designed to serve under 18 yr. olds/child facility
Maximum consecutive length of stay	180 days	180 days/365-day period	N/A'	180 days	N/A'	180 days, min. 28 days
Site Development Standards (subject to same standards as other uses)	Development specified for the underlying zone over which the ES Zone is applied	6 or less persons/Permitted Use 7 or more persons - Subject to conditional use permit	Residential Housing/Special Needs (including homeless facilities and transitional/supportive housing) are subject to Conditional Use Permit	N/A'	Varies by Zone (LNUC Section 9-1.43.1, Table 4.2)	N/A'
Hours of Operation	N/A'	6:00PM to 8:00AM PDT 5:00PM to 8:00AM PST	N/A'	N/A'	N/A'	N/A'
Other requirements	<ul style="list-style-type: none"> ➤ Common kitchen and dining area ➤ Bathroom and lavatory, toilet, and showers adequate for the number of residents serviced. 	<ul style="list-style-type: none"> ➤ Health permit ➤ Smoke detectors, fire extinguishers, evacuation plan ➤ 1 toilet and 1 shower per gender for every 3 beds and min. of 1 private shower and toilet facility for each area designated for use by individual families 	N/A'	<ul style="list-style-type: none"> ➤ Lighting pursuant to code 9-40.170 and 9-44.060 	N/A'	<ul style="list-style-type: none"> ➤ At least 1 room of 120 sq. ft., other habitable rooms area not less than 70 sq. ft. ➤ No more than 2 persons occupy a room used for sleeping purposes

Summary of Emergency Shelter Ordinances Provisions in Orange County

	Lake Forest	Los Alamitos	Mission Viejo	Newport Beach	Orange	Placentia
Code Reference (Date of Adoption)	N/A	17.38.170 (7/29/13)	9.12.020(d) (9/8/09)	20.48.100 (2010)	17.20.050 (3/27/10)	23.47.130 (4/15/13)
Zone	Urban Activity Zone (Baker Ranch Planned Community) and Business Park (Pacific Commuter Centre Planned Community)	P-M & C-O (Planned Light Industrial/ Commercial-Professional Office)	BP (Business Park/Industrial)	PI & OA (Private Institution & Office Airport)	M-1 & M-2 (Light Industrial & Industrial)	M-District (Manufacturing)
Maximum beds	10	P-M up to 20; 20 or more CUP C-O requires CUP	10 ⁸	40	100	30
Parking	1 per 3 beds	1 per 500 sf.	1 per 250 sf. gross floor area	1 per 4 beds + 1 per staff	1 per 6 beds + 1 per staff	1 per 4 beds + 1 per staff
Whitening/Intake	N/A ¹	10 sf./bed, min. 100 sf.	At least 500 sf. gross floor area	10 sf./bed	N/A ¹	Min. 10 sf. per bed. Min. 6 ft tall
Management plan req'd?	N/A ¹	Yes	Yes	Yes	Yes	Yes
On-site supervision	Yes	Yes	Yes	Yes	1 staff per 25 beds	1 staff per 15 beds & 2 staff when facility is open
Minimum separation	300 ft. from another shelter	300 ft. from another shelter	250 ft. from another shelter	N/A ¹	300 ft. from another shelter	300 ft. from another shelter
Minimum consecutive length of stay	180 days	180 days	180 days	14 days	180 days	45 days
Site Development Standards (subject to some standards as other uses)	N/A ¹	Shelters subject to multi-jurisdictional agreements may not be subject to criteria	Per Business Park/Industrial Zone	N/A ¹	Per M-1/M-2 zone	Conform to all "M" Manufacturing District
Hours of Operation	Admitted between 5pm-8am	N/A ¹	N/A ¹	N/A ¹	Residents must vacate shelter between 9am-5pm	Admitted between 5pm-8am
Other requirements	<ul style="list-style-type: none"> ➤ Min. 250 sq. ft. Intake and waiting area for administrative purposes ➤ Restrooms ➤ General storage ➤ Bicycle storage ➤ Beds ➤ Smoking area not visible from street ➤ Adequate lighting 	N/A ¹	<ul style="list-style-type: none"> ➤ Shelter must be within 1/2 mile of transit ➤ Traditional and supportive housing shall be considered a residential use subject to the same standards and procedures as other residential uses of the same type in the same zone. 	<ul style="list-style-type: none"> ➤ Patrol area for 1hr after closing 	<ul style="list-style-type: none"> ➤ Bike rack required ➤ 1 bathroom & shower per 20 clients ➤ Laundry, kitchen, dining room, storage permitted 	<ul style="list-style-type: none"> ➤ Exterior lighting shall be provided for the entire outdoor and parking area of the property. The lighting shall be stationary/directed away from adjacent properties and public rights-of-way. ➤ Separation of male/female/s/family sleeping areas.

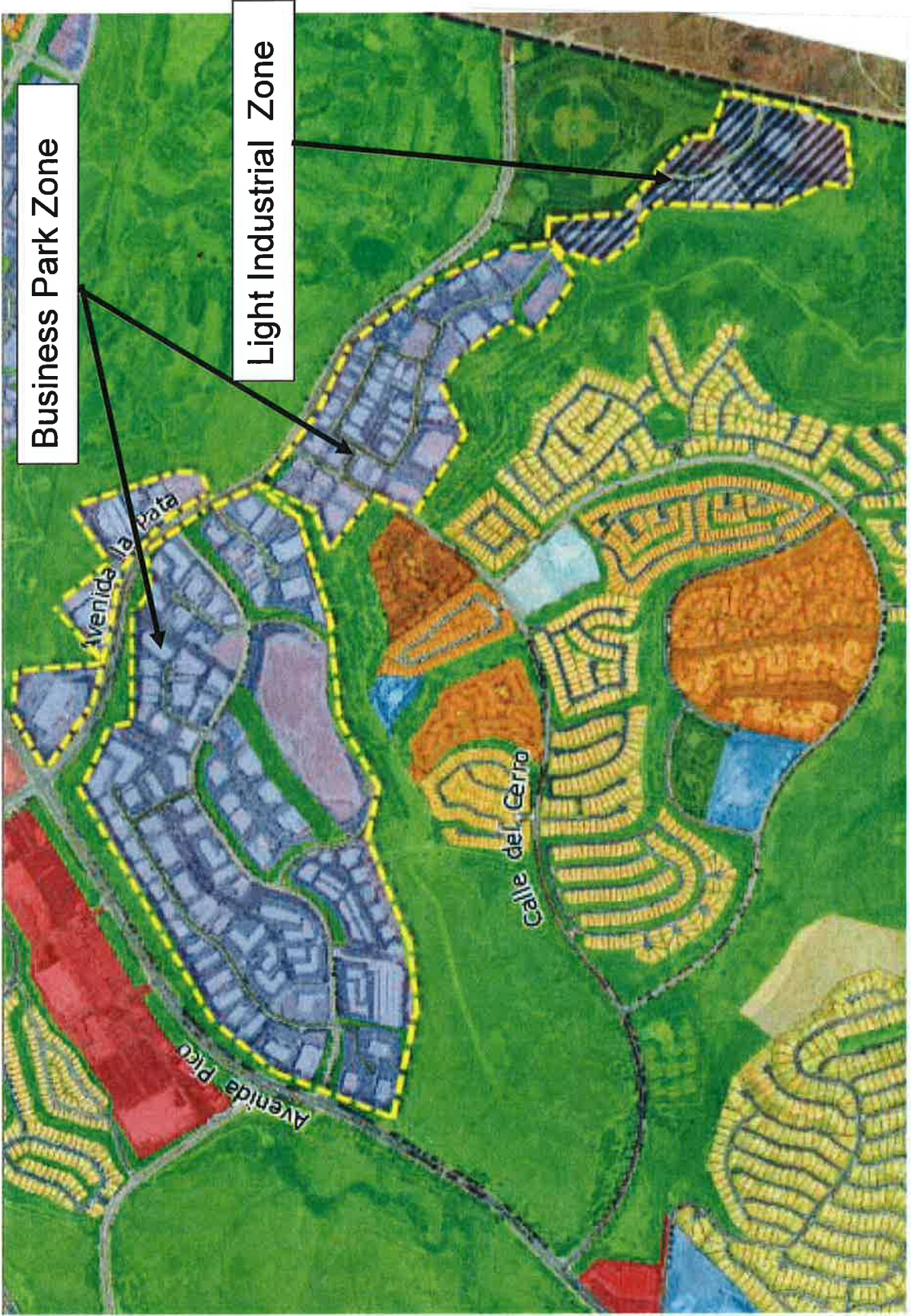
Summary of Emergency Shelter Ordinances Provisions in Orange County

	Rancho Santa Margarita	San Clemente	San Juan Capistrano	Santa Ana	Seal Beach	Stanton
Code Reference (Date of Adoption)	9.04.170 (1/5/11)	N/A'	9.3.550 (5/1/12)	42-1200.1201 (9/3/13)	11.4.05.140 (06/10/13)	20.400.160 (6/11/13)
Zone	PQ (Public/Quasi-Public)	N/A'	P&I (Public and Institutional)	M-1 (Light Industrial), M2 (Heavy Industrial) or Industrial Specific Development (ISD)	Boeing Specific Plan (BIDS)	IG (General Industrial)
Maximum beds	10	N/A'	1 bed per 250 sq. ft.	Up to 30 beds, no permit; 30-150 beds, permit required*	25	20
Parking	1 per 3 beds	N/A'	1 per 3 beds	1 per 5 beds	N/A'	Off-street parking comply with Ch. 20.329
Waiting/queue	250 sq. ft. (waiting/client intake area)	N/A'	2 sq. ft. per bed	10 sq. ft. per bed	N/A'	Ext. waiting area 110sq. per bed
Management plan req'd?	Yes	N/A'	Yes	Yes	Yes	N/A'
On-site supervision	24 hour on-site supervision	N/A'	All least 1 on-site manager during all hours of operation, accompanied by one supporting staff member; 1 staff per 20 beds	N/A'	N/A'	Yes
Minimum separation	N/A'	N/A'	200 ft. from existing emergency shelter	500 ft. from residential use/zone 300 ft. from other shelter or multiservice center	300 ft.	300 ft.
Maximum consecutive length of stay	180 days	N/A'	180 consecutive days or 240 days within any 12 month period	180 days within a 12 month period	180 days	N/A'
Site Development Standards (subject to same standards as other uses)	N/A'	N/A'	Per Public and Institutional District	Per underlying district standards	BIDS Specific Plan	Applicable Bldg. Code, Fire Code, and State Department of Social Services Licensing requirements.
Hours of Operation	N/A'	N/A'	Hours of operation shall be limited, based on the scope of services to be provided	Multiservice Center – 24 hours Emergency Shelters – Not required to be open 24 hours	N/A'	4pm and 8am
Other requirements	<ul style="list-style-type: none"> All lighting shall be subject to Section 9.5.080 Lighting Standards. 	N/A'	<ul style="list-style-type: none"> Strategic plan for handling complaints or concerns from neighboring properties No loitering of facility residents and other near housing units Implementation of a security plan with appropriate security measures 	<ul style="list-style-type: none"> Must be 1/2 mile from transit stop No less than 8 bike spaces Must provide food prep and dining areas, laundry facilities, restrooms, showers, storage, recreational facilities, areas to provide client services 	N/A'	<ul style="list-style-type: none"> Living, dining & kitchen areas separated from sleeping area 35 sq. ft. of sleeping area per bed Bathroom & shower facilities Landline Telephone service separate from office. Regular patrol around shelter within 800 ft Supplemental services (food, counseling, access to social programs, etc.)

Summary of Emergency Shelter Ordinances Provisions in Orange County

	Tustin	Villa Park	Westminster	Yorba Linda	County of Orange
Code Reference (Date of Adoption)	MCAS Tustin Specific Plan	2012-567 (2/28/12)	17.250.018 (10/9/13)	18.14.050 (10/04/11)	Proposed Ordinance
Zone	Planning Areas 1C and 3 of the MCAS Tustin Specific Plan	E-4, R-1 with CUP (SF Residential Estate District; Single Family Residential Zone)	Emergency Shelter (ES) Overlay; M2 (Medium Industrial)	Light Manufacturing (M-1) Zone	All commercial and industrial zoned areas within Housing Opportunities Overlay Zone
Maximum beds	192 in PA 3; no max. in PA1C	N/A ¹	Shelters within Emergency Shelter Overlay District shall not exceed 70; Shelters outside Emergency Shelter Overlay District shall not exceed 30	Based on individual capacity of the building and overall facility and shall not be less than 50 sf, per bed	Up to 50 beds with no use permit required. Over 50 to a maximum of 150 beds with a use permit. ⁹
Parking	1 per 4 beds	N/A ¹	1 space for staff; 1 space for each 5 beds; ½ space for each room designated for families with children	1 per 4 beds or ¼ for each bedroom designated for family units with children ¹⁰	1 per 4 beds plus 1 for each staff and volunteer on duty
Waiting/intake	N/A ¹	N/A ¹	Minimum area shall be no less than 10 square feet of floor area for each bed provided; not be located within required yard area; Fully screened from view from all public streets adjoining emergency shelter facility	Located internally when feasible. If not feasible external waiting area provided	10 sf. per bed. Exterior waiting shall be separated/screened from right-of-way
Management plan reqd?	No	N/A ¹	Safety, Security, and Operational Plan	Operations Plan	Management and Operations Plan
On-site supervision	N/A ¹	N/A ¹	1 employee per 15 beds	1 employee per 15 beds	1 manager on-site at all times; additional staff as necessary
Minimum separation	None	N/A ¹	No less than 300 feet from another shelter	500 ft. from other shelter, residentially zoned property, and any public or private school as measured by the property line.	300 ft. from another shelter
Maximum consecutive length of stay	No Maximum	N/A ¹	Cannot exceed 120 days/365-day period	180/365 days for clients w/ yearlong residency 90/365 days for all others	180 days
Site Development Standards (subject to same standards as other uses)	Per MCAS Tustin Specific Plan	N/A ¹	N/A ¹	N/A ¹	Comply with base district standards
Hours of Operation	N/A ¹	N/A ¹	5:00PM to 8:00AM PST	5:00pm to 8:00pm PDT 5:00pm to 8:00pm PST	24 hours per day unless granted an exemption
Other requirements	None	N/A ¹	<ul style="list-style-type: none"> ➤ Exterior light for safety 	<ul style="list-style-type: none"> ➤ Min. 1 toilet for every 8 beds per gender ➤ Min. 1 shower every 8 beds per gender ➤ Private shower and toilet facility for each gender ➤ Area designated for use by indiv. Families. ➤ Adequate exterior lighting. ➤ Prohibit alcohol, tobacco, narcotics. 	<ul style="list-style-type: none"> ➤ 1 toilet for every 10 beds per gender ➤ 1 shower for every 10 beds per gender ➤ Bike racks ➤ May provide kitchen, dining area, laundry and storage ➤ On-site trash enclosure ➤ Trash removed from premises daily

**Rancho San Clemente Business Park
Consideration of Possible SB 2 Area**




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

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**MEMORANDUM**

DATE: May 7, 2008

TO: Planning Directors and Interested Parties

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

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

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

Planning (Government Code Section 65583)

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

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

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

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

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

Attachments

Chapter 633, Statutes of 2007 (Senate Bill 2)

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Introduction

Homeless Needs

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

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

Purpose and Objectives of SB 2

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

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

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

Section 1

Planning

(Government Code Section 65583)

Identifying and Analyzing Needs and Resources

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

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

Resources to identify and analyze homeless needs, include:

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

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

Identifying Zoning for Emergency Shelters

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

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



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

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

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

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

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

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

Permitting Emergency Shelters without Discretionary Action

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

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

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



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

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

Development Standards to Encourage and Facilitate Emergency Shelters

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

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

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

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

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



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



Encouraging Multi-Jurisdictional Cooperation and Coordination

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

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

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



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

Existing Ordinances and Existing Shelters that Accommodate Need

Existing Ordinances Permitting Emergency Shelters

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



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

Existing Shelters That Accommodate the Need for Emergency Shelters

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

Transitional and Supportive Housing

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

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

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

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

Housing Element Policies and Programs

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

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

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

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



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

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

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

Timing: When SB 2 Applies

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

Section 2

Local Approval

(Government Code Section 65589.5)

The Housing Accountability Act

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

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

Zoning Inconsistency

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

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

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

Attachment 1

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

Attachment 1

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

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

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

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

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

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

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

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

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

(i) The maximum number of beds or persons permitted to be served nightly by the facility.
(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

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

(iv) The provision of onsite management.

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

(vi) The length of stay.

(vii) Lighting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Housing Accountability Act

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Residential units only.

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

(C) Transitional housing or supportive housing.

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

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

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

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

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

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

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

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

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

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in paragraph subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of

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

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

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

Attachment 2

Definitions

Attachment 2

Definitions

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

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

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

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

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

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

Target Population Definition per HSC 53260(d)

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

Attachment 3

Helpful Links

Attachment 3

Helpful Links

National Alliance to End Homelessness

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

Interagency Council on Homelessness

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

Interagency Council on Homelessness, Guide to Developing Plans and Examples

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

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

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

The National Coalition for the Homeless – Local Resources in California

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

HCD Selected Bibliography on Homeless Issues

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

Building Blocks for Effective Housing Elements

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

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