

AMENDED IN SENATE JANUARY 13, 2010

AMENDED IN SENATE MAY 4, 2009

AMENDED IN SENATE APRIL 14, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 812

Introduced by Senator Ashburn

February 27, 2009

An act to amend Section 65583 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 812, as amended, Ashburn. Developmental services: housing.

The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. Existing law requires the local government to make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element.

This bill would require ~~the needs of persons with autism spectrum disorders to be assessed, in consultation with specified groups, in developing the housing element~~ *the local government, as part of the above-described effort, to obtain, assess, and analyze appropriate information on the housing needs of individuals with developmental disabilities within the community.* By expanding the duties of local jurisdictions in relation to the general plans, this bill would impose a state-mandated local program.

~~Under existing law, the Department of Housing and Community Development has various duties relating to goals and policy objectives concerning housing in the state.~~

~~This bill would require the department, with the cooperation of the State Department of Developmental Services, to prepare a report to the Legislature that evaluates and identifies the housing needs of persons who receive services from either the state department or a regional center and who have been diagnosed with an autism spectrum disorder.~~

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. *Section 65583 of the Government Code is*
2 *amended to read:*

3 65583. The housing element shall consist of an identification
4 and analysis of existing and projected housing needs and a
5 statement of goals, policies, quantified objectives, financial
6 resources, and scheduled programs for the preservation,
7 improvement, and development of housing. The housing element
8 shall identify adequate sites for housing, including rental housing,
9 factory-built housing, mobilehomes, and emergency shelters, and
10 shall make adequate provision for the existing and projected needs
11 of all economic segments of the community. The element shall
12 contain all of the following:

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

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

16 (1) An analysis of population and employment trends and
17 documentation of projections and a quantification of the locality's
18 existing and projected housing needs for all income levels,
19 including extremely low income households, as defined in
20 subdivision (b) of Section 50105 and Section 50106 of the Health

1 and Safety Code. These existing and projected needs shall include
2 the locality's share of the regional housing need in accordance
3 with Section 65584. Local agencies shall calculate the subset of
4 very low income households allotted under Section 65584 that
5 qualify as extremely low income households. The local agency
6 may either use available census data to calculate the percentage
7 of very low income households that qualify as extremely low
8 income households or presume that 50 percent of the very low
9 income households qualify as extremely low income households.
10 The number of extremely low income households and very low
11 income households shall equal the jurisdiction's allocation of very
12 low income households pursuant to Section 65584.

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

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

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

1 that a local government may apply written, objective standards
2 that include all of the following:

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

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

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

11 (iv) The provision of onsite management.

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

14 (vi) The length of stay.

15 (vii) Lighting.

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

18 (B) The permit processing, development, and management
19 standards applied under this paragraph shall not be deemed to be
20 discretionary acts within the meaning of the California
21 Environmental Quality Act (Division 13 (commencing with Section
22 21000) of the Public Resources Code).

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

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

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

1 as identified in the analysis pursuant to paragraph (7), including
2 land use controls, building codes and their enforcement, site
3 improvements, fees and other exactions required of developers,
4 and local processing and permit procedures. The analysis shall
5 also demonstrate local efforts to remove governmental constraints
6 that hinder the locality from meeting its share of the regional
7 housing need in accordance with Section 65584 and from meeting
8 the need for housing for persons with disabilities, supportive
9 housing, transitional housing, and emergency shelters identified
10 pursuant to paragraph (7). Transitional housing and supportive
11 housing shall be considered a residential use of property, and shall
12 be subject only to those restrictions that apply to other residential
13 dwellings of the same type in the same zone.

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

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

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

35 (9) An analysis of existing assisted housing developments that
36 are eligible to change from low-income housing uses during the
37 next 10 years due to termination of subsidy contracts, mortgage
38 prepayment, or expiration of restrictions on use. "Assisted housing
39 developments," for the purpose of this section, shall mean
40 multifamily rental housing that receives governmental assistance

1 under federal programs listed in subdivision (a) of Section
2 65863.10, state and local multifamily revenue bond programs,
3 local redevelopment programs, the federal Community
4 Development Block Grant Program, or local in-lieu fees. “Assisted
5 housing developments” shall also include multifamily rental units
6 that were developed pursuant to a local inclusionary housing
7 program or used to qualify for a density bonus pursuant to Section
8 65916.

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

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

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

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

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

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

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

31 (1) Identify actions that will be taken to make sites available
32 during the planning period of the general plan with appropriate
33 zoning and development standards and with services and facilities
34 to accommodate that portion of the city's or county's share of the
35 regional housing need for each income level that could not be
36 accommodated on sites identified in the inventory completed
37 pursuant to paragraph (3) of subdivision (a) without rezoning, and
38 to comply with the requirements of Section 65584.09. Sites shall
39 be identified as needed to facilitate and encourage the development
40 of a variety of types of housing for all income levels, including

1 multifamily rental housing, factory-built housing, mobilehomes,
2 housing for agricultural employees, supportive housing,
3 single-room occupancy units, emergency shelters, and transitional
4 housing.

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

24 (B) Where the inventory of sites, pursuant to paragraph (3) of
25 subdivision (a), does not identify adequate sites to accommodate
26 the need for groups of all household income levels pursuant to
27 Section 65584, the program shall identify sites that can be
28 developed for housing within the planning period pursuant to
29 subdivision (h) of Section 65583.2. The identification of sites shall
30 include all components specified in subdivision (b) of Section
31 65583.2.

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

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

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

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

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

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

27 ~~The program shall include~~ *Include* an identification of the
28 agencies and officials responsible for the implementation of the
29 various actions and the means by which consistency will be
30 achieved with other general plan elements and community goals.
31 ~~The local government shall make a diligent effort to~~

32 *(8) Include a diligent effort by the local government to achieve*
33 *public participation of all economic segments of the community*
34 *in the development of the housing element, and the program shall*
35 *describe this effort. As part of this diligent effort, the local*
36 *government shall obtain, assess, and analyze appropriate*
37 *information on the housing needs of individuals with developmental*
38 *disabilities within the community.*

39 (d) (1) A local government may satisfy all or part of its
40 requirement to identify a zone or zones suitable for the

1 development of emergency shelters pursuant to paragraph (4) of
2 subdivision (a) by adopting and implementing a multijurisdictional
3 agreement, with a maximum of two other adjacent communities,
4 that requires the participating jurisdictions to develop at least one
5 year-round emergency shelter within two years of the beginning
6 of the planning period.

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

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

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

15 (B) The jurisdiction's contribution to the facility for both the
16 development and ongoing operation and management of the
17 facility.

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

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

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

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

31 (2) Any housing element or housing element amendment
32 prepared pursuant to subdivision (e) of Section 65588 or Section
33 65584.02, when the city, county, or city and county fails to submit
34 the first draft to the department before the due date specified in
35 Section 65588 or 65584.02.

36 (f) The deadline for completing required rezoning pursuant to
37 subparagraph (A) of paragraph (1) of subdivision (c) shall be
38 extended by one year if the local government has completed the
39 rezoning at densities sufficient to accommodate at least 75 percent
40 of the units for low- and very low income households and if the

1 legislative body at the conclusion of a public hearing determines,
2 based upon substantial evidence, that any of the following
3 circumstances exist:

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

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

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

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

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

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

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

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

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

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

34 (h) An action to enforce the program actions of the housing
35 element shall be brought pursuant to Section 1085 of the Code of
36 Civil Procedure.

37 ~~SECTION 1. Section 65583 of the Government Code is~~
38 ~~amended to read:~~

39 ~~65583. The housing element shall consist of an identification~~
40 ~~and analysis of existing and projected housing needs and a~~

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

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

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

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

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

37 ~~(4) (A) The identification of a zone or zones where emergency~~
38 ~~shelters are allowed as a permitted use without a conditional use~~
39 ~~or other discretionary permit. The identified zone or zones shall~~
40 ~~include sufficient capacity to accommodate the need for emergency~~

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

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

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

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

26 ~~(iv) The provision of onsite management.~~

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

29 ~~(vi) The length of stay.~~

30 ~~(vii) Lighting.~~

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

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

38 ~~(C) A local government that can demonstrate to the satisfaction~~
39 ~~of the department the existence of one or more emergency shelters~~
40 ~~either within its jurisdiction or pursuant to a multijurisdictional~~

1 agreement that can accommodate that jurisdiction's need for
2 emergency shelter identified in paragraph (7) may comply with
3 the zoning requirements of subparagraph (A) by identifying a zone
4 or zones where new emergency shelters are allowed with a
5 conditional use permit.

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

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

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

33 (7) An analysis of any special housing needs, such as those of
34 the elderly, persons with disabilities, including persons with autism
35 spectrum disorders, large families, farmworkers, families with
36 female heads of households, and families and persons in need of
37 emergency shelter. The need for emergency shelter shall be
38 assessed based on annual and seasonal need. The need for
39 emergency shelter may be reduced by the number of supportive
40 housing units that are identified in an adopted 10-year plan to end

1 ~~chronic homelessness and that are either vacant or for which~~
2 ~~funding has been identified to allow construction during the~~
3 ~~planning period.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~(8) The local government shall make a diligent effort to achieve~~
2 ~~public participation of all economic segments of the community~~
3 ~~in the development of the housing element, and the program shall~~
4 ~~describe this effort. The needs of persons with autism spectrum~~
5 ~~disorders shall be assessed in consultation with the local regional~~
6 ~~centers, the Area Board on Developmental Disabilities, and other~~
7 ~~relevant stakeholders.~~

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

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

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

22 ~~(A) How the joint facility will meet the jurisdiction's emergency~~
23 ~~shelter need.~~

24 ~~(B) The jurisdiction's contribution to the facility for both the~~
25 ~~development and ongoing operation and management of the~~
26 ~~facility.~~

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

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

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

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

1 ~~(2) Any housing element or housing element amendment~~
2 ~~prepared pursuant to subdivision (e) of Section 65588 or Section~~
3 ~~65584.02, when the city, county, or city and county fails to submit~~
4 ~~the first draft to the department before the due date specified in~~
5 ~~Section 65588 or 65584.02.~~

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

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

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

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

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

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

1 plan and zoning standards and criteria, including design review
2 standards, described in the program action required by that
3 subparagraph. Any subdivision of sites shall be subject to the
4 Subdivision Map Act. Design review shall not constitute a “project”
5 for purposes of Division 13 (commencing with Section 21000) of
6 the Public Resources Code.

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

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

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

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

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

1 or affordable rent, as defined in Section 50052.5 or 50053 of the
2 Health and Safety Code, respectively, for the period required by
3 the applicable financing.

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

7 ~~SEC. 2. The Department of Housing and Community~~
8 ~~Development, with the cooperation of the State Department of~~
9 ~~Developmental Services, shall prepare a report to the Legislature~~
10 ~~that evaluates and identifies the housing needs of persons who~~
11 ~~receive services from either the State Department of Developmental~~
12 ~~Services or a regional center and who have been diagnosed with~~
13 ~~an autism spectrum disorder.~~

14 ~~SEC. 3.~~

15 ~~SEC. 2. If the Commission on State Mandates determines that~~
16 ~~this act contains costs mandated by the state, reimbursement to~~
17 ~~local agencies and school districts for those costs shall be made~~
18 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
19 ~~4 of Title 2 of the Government Code.~~