

# Building Blocks for Effective Housing Elements

## Adequate Sites Inventory and Analysis

### Zoning For Emergency Shelters and Transitional Housing

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*Government Code Section 65583(a)(4) and requires 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 shelters identified in paragraph (7) of Government Code Section 65583(a), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. Government Code Section 65583(c)(1) requires "As part of the analysis of available sites, a jurisdiction must include an analysis of zoning that encourages and facilitates a variety of housing types...including emergency shelters and transitional housing."*

#### I. REQUISITE ANALYSIS

##### Emergency Shelters

Every locality must identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones must include sufficient capacity to accommodate the need for emergency shelter as identified in the housing element, EXCEPT that all local governments must identify a zone or zones to accommodate at least one year-round shelter. Adequate sites/zones can include existing facilities that can be converted to accommodate the need for emergency shelters.

##### Transitional Housing

Transitional housing is a type of supportive housing used to facilitate the movement of homeless individuals and families to permanent housing. A homeless person may live in a transitional apartment for up to two-years while receiving supportive services that enable independent living. Every locality must identify zones that will allow the development of transitional housing. Appropriate sites for transitional housing have the following characteristics:

- **Zoning:** Transitional housing should be subject to the same permitting processes as other housing in the zone without undue special regulatory requirements.

- **Location:** The zoning should include sites located within the boundaries of the jurisdiction and close to public services and facilities, including transportation.
- **Development Standards:** Parking requirements, fire regulations, and design standards should not impede the efficient use of the site as transitional housing.

## **New Amendment to State Housing Element Law – SB2 (Government Code Section 65582, 65583, and 65589.5, Chapter 614, Statutes of 2007)**

### **Effective January 1, 2008:**

Generally, SB 2 strengthens planning requirements to identify zones where emergency shelters will be allowed without requiring a conditional use permit. If such zoning does not exist, a local government is required to designate zoning within one year of the adoption of the housing element. In addition, SB 2 amended the Housing Accountability Act (formerly known as anti-NIMBY law) to include emergency shelters, transitional housing, and supportive housing.

These amendments are applicable to all local governments submitting draft housing elements for review to the Department after 90 days from the effective date of January 1, 2008.

An SB 2 technical assistance paper describing the new requirements added to Government Code Sections 65582, 65583(a), and 65589.5 will be added to the webpage.

### **Specifically, housing element law, as amended by SB 2, requires:**

- **Needs Assessment**
  - The analysis of the need for emergency shelter must consider the seasonal need **in addition to** the year-round need.
  - Estimate the daily average number of persons lacking permanent shelter. Where possible, the element should estimate the number of single males and females, families with children and youth.
  - As data allow, describe the percentage of homeless population who are veterans, runaway youth, mentally ill, with substance abuse problems, survivors of domestic violence or any other categories considered significant by the locality.

- **Identify Existing Resources to Address Needs**
  - Identify number and capacity of current emergency shelters and transitional and supportive housing units.
  - Compare number and characteristics of homeless with current available resources to provide a general estimate of unmet need.
  - The need for emergency shelters may be reduced by the number of supportive housing units identified in an adopted 10-year plan and for which funding has been identified to allow construction in planning period or are vacant.
  
- **Identify Zoning**
  - All cities and counties must identify zone or zones that allow emergency shelters as a permitted use, without a conditional use permit or other discretionary permit.
  - All local governments must identify zoning to allow at least one year-round emergency shelter, regardless of the need identified.
  - The zone or zones must include sufficient capacity to accommodate the need identified in the special needs analysis.
  
- **Analysis of Constraints**
  - The element must demonstrate that existing or proposed permit processing, development, and management standards encourage and facilitate the development of, or conversion to, emergency shelters.
  
  - Shelters may only be subject only to development and management standards that apply to residential or commercial development in the same zone except that local governments may apply written and objective standards that include all of the following:
    - maximum number of beds;
    - off-street parking based upon demonstrated need;
    - size and location of on-site waiting and intake areas;
    - provision of on-site management;
    - proximity to other shelters;
    - length of stay;
    - lighting; and
    - security during hours when the shelter is open.

- Transitional and supportive housing are to be considered as residential uses and must only be subject to the same restrictions that apply to similar housing types in the same zone.
  - The permit procedures, development and management standards complying with the above standards are not to be considered discretionary acts for the purposes of the California Environmental Quality Act (CEQA, Public Resources Code, Section 21080).
- **Recognition of Good Actors**
    - Cities and counties with existing ordinances consistent with the requirements of SB 2, are not required to take any additional action to identify zones for emergency shelters, but their housing elements must describe how these existing ordinances, policies, and standards comply with the requirements.
    - Cities and counties may fully or partially meet the emergency shelter zoning requirements by adopting and implementing a multi-jurisdictional agreement, with no more than two adjacent jurisdictions, to develop at least one year-round emergency shelter within two years of the planning period.
    - The multijurisdictional agreement must divide the emergency shelter capacity among the participating jurisdictions. Allocations can then be credited by the participating jurisdictions toward their local emergency shelter need. The aggregate allocations must not exceed the total capacity of the emergency shelter.
    - All participating jurisdictions must include in their housing element the following:
      - Description of how the emergency shelter capacity was allocated.
      - How the joint shelter will meet the jurisdiction's emergency shelter need.
      - Description of the jurisdiction's participation in the shelter's development and in its daily operation and management.
      - The jurisdiction's financial contribution and source of funding.

Where the joint shelter accommodates only a portion of the jurisdictions' local need, the housing element must comply with the other requirements of the Chapter to meet the remaining need.

- **Development of Programs and Policies**

- If the jurisdiction **cannot** identify zones with sufficient capacity, it must **include a program** amending the zoning ordinance to meet the above requirements within one year from the adoption of the housing element.

### **Housing Accountability Act (GC Section 65589.5)**

- Apply the provisions of the act to emergency shelters.
- Specify that the Housing Accountability Act does not prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies, as long as the standards, conditions, and policies are applied to facilitate and accommodate the development of the shelter.
- Strengthen the Housing Accountability Act to provide that if the local agency has failed to identify a zone where emergency shelters are allowed as a permitted use or has failed to show that the identified zones are sufficient to accommodate the need for emergency shelters (or at least one emergency shelter): The local agency shall not disapprove or conditionally approve an emergency shelter on the basis that the emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. The jurisdiction would have the burden of proving that it has appropriately identified zones for emergency shelter.
- Include transitional housing and supportive housing within the definition of "housing development project" under the Housing Accountability Act.

### **KEY IDEAS**

#### **II. HELPFUL HINTS**

#### **Definitions applicable to Chapter 633 of Statutes 2007 (SB 2) as per Health and Safety Code 50801(e):**

Emergency Shelter: *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.*

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

Transitional Housing: *Transitional housing and transitional housing development mean rental housing 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.*

### III. MODEL ANALYSES

***UNDER CONSTRUCTION***

### IV. LINKS ***UNDER CONSTRUCTION***

[Link to Senate Bill 2 \(Chapter 633, Statutes of 2007\)](#)

[HCD Homelessness Issues Bibliography](#)

**Examples of Homeless Shelter Ordinances:** - Under construction  
[City of Santa Monica Development Standards for Homeless Shelters](#) – Search for “homeless”

[City of Los Angeles Development Standards for Homeless Shelters](#) – Search for “homeless”

[City of Santa Monica website dedicated to Homeless Issues](#)

[United States Interagency Council on Homelessness \(ICH\)](#)

[USICH link to access local governments' 10-year plans](#)

[USICH link to Innovative Initiatives](#)

[Homelessness Resource Center \(HRC\) website \(U.S. Dept. of Health and Human Services SAMHSA program\)](#)

[National Alliance to End Homelessness](#)

[HomeBase – Legal and Technical Assistance on Homelessness](#)

[City of Ventura Homeless Count 2007](#)