

# *City of Brisbane*

## *Planning Commission Agenda Report*

TO: Planning Commission For the Meeting of 8/25/11

FROM: Tim Tune, Senior Planner, and Ken Johnson, Associate Planner, via John Swiecki, Community Development Director

SUBJECT: **Zoning Text Amendment RZ-4-11** to Amend Brisbane Municipal Code Title 17: Chapter 17.02, various definitions related to housing; Chapter 17.16, SCRO-1 Southwest Bayshore Commercial District standards to allow for convalescent homes, large family day care homes and dwelling groups by use permit and emergency shelters by-right, to change the setback standards, and to change the lighting performance standards; Chapter 17.42, Design Permits provisions on Requirements and Findings for housing development projects for market rate and lower income units; and Section 17.56.030, Zoning Administrator Action on Applications for solar energy systems, accessibility improvement and large family day care.

**Request:** Amendments to the Zoning Ordinance are proposed to implement Housing Element Programs H.B.1.c, H.B.1.f, H.B.1.g, H.B.3.e, H.B.3.i, H.D.1.c and H.E.1.a. These include amendments to Brisbane Municipal Code Chapters 17.02, Definitions, 17.16, SCRO-1, Southwest Bayshore Commercial District, 17.42, Design Permits, and 17.56, Administration. Specifically, the draft ordinance would allow for emergency shelters, convalescent homes and supportive single-room-occupancy units, and would change the setback requirements in the SCRO-1 Southwest Bayshore Commercial District. Also included are changes to a number of definitions related to housing and amending the provisions for Design Permits and Zoning Administrator action on applications, which will have City-wide implications.

**Recommendation:** Recommend that the City Council adopt the draft ordinance, via adoption of Resolution RZ-4-11.

**Environmental Determination:** A Negative Declaration was adopted by the City Council on January 18, 2011, for the 2007-2014 Housing Element, including Programs H.B.1.c, H.B.1.f, H.B.1.g, H.B.3.e, H.B.3.i, H.D.1.c and H.E.1.a which the proposed ordinance would implement. For minor zoning amendments where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to the California Environmental Quality Act (CEQA). This general rule is contained in State CEQA Guidelines Section 15061(b)(3).

**Background:** Under the Housing Element's adopted timelines and California Government Code Section 65583(a)(4), certain programs are to be implemented within 1 year of adoption of the Housing Element (by January 2012), these include Program H.B.1.c to amend the Design Permits chapter of the Municipal Code, Program H.B.1.f to amend the definition of dwelling to include transitional housing, supportive housing, manufactured housing and mobilehomes, Program H.B.3.i to include emergency shelters as a permitted use in the Southwest Bayshore subarea (the new R-SWB district).

Since the establishment of the new R-SWB District will be a complex process, and will not be completed in time to comply with the State's January 2012 deadline for designating a zoning district for emergency shelters, staff has recommended that the Planning Commission move forward to amend the current SCRO-1 District regulations to provide for emergency shelters and other special-needs housing (convalescent homes and single-room occupancy units) at this time. Then once the district is divided, with establishment of the R-SWB district (as well as the new R-MHP residential mobile home park district), the regulations for the retained portion of the SCRO-1 District can be amended as appropriate.

**Staff Analysis:** The staff analysis is presented in the same order as the attached draft ordinance, beginning with amendments to the definitions, followed by SCRO-1 District provisions (inclusion of emergency shelters and revision of the setback standards), changes to the design permit findings and finally Zoning Administrator actions.

Definitions— Please refer to the attached preliminary draft zoning text amendments for each of the following definitions:

*Transitional and Supportive Housing:* Housing Element Program H.B.1.f calls for amendment of the Zoning Ordinance's definition of "dwelling" to specifically include "transitional housing" and "supportive housing" as examples.

California Health & Safety Code Section 50675.2(h) defines transitional housing as "buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months." Health & Safety Code Sections 50675.14(b)(2) & (3) define supportive housing as "housing with no limit on length of stay, that is occupied by ... persons with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, ... 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."

Government Code Section 65583(a)(5) requires that transitional housing and supportive housing be treated like any other residential use, subject only to those restrictions that apply to other residential uses in the same zoning district. This can be accomplished by simply including the terms under the definition of "dwelling."

*Group Care Home and Single Family Dwelling:* To avoid confusion with “group care home” (BMC Section 17.02.370), the definition of “single-family dwelling” is proposed to be amended to note that residential care facilities serving 6 or fewer persons are included under this term, as required by California Welfare & Institutions Code Section 5116 and Health & Safety Code Sections 1267.8(c), 1566.3, 1568.0831, 1761.4 & 11834.23. The definition of group care home is also proposed to be clarified accordingly.

*Single-room-occupancy units:* Government Code Section 65583 requires that the City provide zoning to accommodate a variety of housing types, including single-room-occupancy units. According to the California Department of Housing and Community Development’s website, “SROs can provide a valuable form of affordable private housing for lower-income individuals, seniors and persons with disabilities.” Such units need not provide supportive services.

Occupancy limits are set by Section 503(b) of the Uniform Housing Code (as adopted by the City per BMC Section 15.04.050.K) based upon the square footage of the unit, but because such units may share a bathroom down the hall with a number of other units, they are typically not considered suitable for families. So as not to be too restrictive, the definition of single-room-occupancy dwelling units proposed to be included in Section 17.02.235.C would simply include an occupancy restriction of not more than two persons. So, a single parent and child would not be prohibited from occupying a single room occupancy unit.

Also, to clarify that this type of housing is distinct from hotels (a permitted use in the SP-CRO Sierra Point Commercial District), the definition of hotel would be revised to specifically exclude single-room occupancy dwelling units.

*Manufactured Housing and Mobilehomes:* Housing Element Program H.B.1.f also carries over a program from the previous Housing Element calling for manufactured housing (referred to as “factory-built housing” in Government Code Section 65583) and mobilehomes to be specifically listed as dwellings that would be treated the same as a conventionally-constructed single-family homes, as required by Government Code Section 65852.3(a). This is proposed to be accomplished by amending the definition of “dwelling” to include them as examples.

*Dwelling and Family:* In its review of the draft Housing Element, the California Department of Housing & Community Development (HCD) recommended that the terms “dwelling” and “family” also should be clarified so as to comply with fair housing laws by not discriminating against unrelated adults living as one household. While this has not actually been an issue in Brisbane, this is an opportune time to amend the definitions of those two terms to avoid any concerns in the future. The definition of “family” would also be updated to use the term “convalescent home” (instead of “nursing home”) to be consistent with the rest of the Zoning Ordinance. The definition of “convalescent home” would then be clarified.

*Small Versus Large Family Day Care Home:* The terms “small family day care home” and “large family day care home” need to be updated to reflect the new size limits adopted by the

State per Health & Safety Code Sections 1596.78 & 1597.46(3). This is also be a good opportunity to update the Zoning Administrator provisions regarding the approval process for large family day care homes as required by Health and Safety Code Section 1597.46(a)(3), as well as for administrative permits for solar energy systems and accessibility improvements per recently adopted Ordinance No. 558. This is discussed further at the end of this section.

*Emergency Shelter:* The term “emergency shelter” also needs to be defined. It is proposed that the definition match that provided in the Health and Safety Code 50801(e).

Emergency Shelters – Emergency shelters are intended to provide temporary housing with minimal supportive services for persons who are homeless. These may include victims of domestic violence, individuals and households made temporarily homeless due to natural disasters (e.g., fires, earthquakes, etc.), or other persons requiring temporary housing.

Homelessness is an issue of national, statewide and local concern. According to San Mateo County’s Housing Our People Effectively (HOPE): The Plan to Prevent and End Homelessness in San Mateo County, “Every year within San Mateo County, an estimated 4,000 children, men and women are homeless and another 26,000 are just one paycheck or medical emergency away from losing their home”. The Housing Element included a discussion on the homeless in Brisbane and referenced a 2007 San Mateo County Homeless Census and Survey, conducted on the night of January 30, 2007. That survey identified 11 single adults as homeless within Brisbane or identifying themselves as being from Brisbane. Other recent surveys have been consistent with the 2007 survey, but none have indicated a higher number of homeless identified with Brisbane at any one time.

As previously indicated, one of the State’s responses to homelessness has been to require each local government to designate a district where emergency shelters will be zoned as a permitted use (allowed “by right”) without a discretionary permit, such as a use permit or design permit. Accordingly, Housing Element Program H.B.3.i calls for inclusion of emergency shelters as a permitted use in the newly designated R-SWB Southwest Bayshore Residential District. Pending establishment of the new R-SWB District, zoning the SCRO-1 Southwest Bayshore Commercial District to allow for emergency shelters by right is included in the draft ordinance.

Government Code Section 65583(4) also establishes the objective parameters that may be included in the local ordinance for emergency shelters. These standards are outlined in the attached Department of Housing & Community Development Memorandum on Senate Bill (SB) 2 regarding local planning and approval for emergency shelters, dated May 7, 2008. Note that placing additional standards in the proposed emergency shelter ordinance, adding to the standards allowed by Government Code, would place further limitations on the potential development of emergency shelters. The standards allowed in the ordinance are as follows:

*“Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone*

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

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

Note also that the length of stay is limited to a maximum of 6 months by the California Health and Safety Code Section 50801 definition of Emergency Shelter.

SB 2 served as the foundation for development of Brisbane's draft emergency shelter ordinance. Staff also reviewed other city ordinances, including the City of Santa Monica, which is featured on the State's website as an example ordinance (see attached). Santa Monica's ordinance also requires laundry facilities or services adequate for the number of residents, enclosure of refuse areas, staff and services to assist residents to obtain permanent shelter and income, and that the provider shall have a written management plan. Brisbane's preliminary draft ordinance includes these same provisions (screening of refuse is already provided for under BMC Section 17.16.040.I), but staff added a provision for bathrooms and bathing facilities. Allowing for the basic necessities of hygiene (both laundry and bathing facilities) are considered critical requirements for an emergency shelter; however, the line was drawn at including other requirements, such as on-site kitchen facilities. Based on staff's interview with the director of the Samaritan House (the manager for the Safe Harbor Emergency Shelter in South San Francisco, among others) delivery of meals, provision of medical care and counseling from centralized resources, that serve a number of shelters, is the common practice throughout San Mateo County, rather than onsite facilities or staff to attend to these needs. The draft ordinance addresses provision for these needs as part of the management plan without specifically identifying how these needs are to be met. So, within the management plan, a prospective emergency shelter operator may simply refer to how these needs will be met by outside resources.

The specific standards included in the draft ordinance are outlined as follows:

- The maximum number of people that would be accommodated by a single facility, allowed by right, would be 12. Larger facilities would be subject to use permit and design permit approval.

- If more than one emergency shelter were proposed, it would not be allowed to be located within 300 feet of an existing shelter, as allowed by State law.
- As required by State law, the maximum stay would be 6 months.
- On site bathing facilities and laundry facilities or services would be required, as well as personal living space, outdoor security lighting, and staff and services to assist residents to obtain permanent shelter and income.
- A management plan would be required prior to commencing the operation. As requested by the Planning Commission, this would include the requirement for plans to help secure other provisions for those who may not be part of the shelter's target population.

In addition, emergency shelters may include kitchen facilities, dining area, recreation room, support services (e.g., training, counseling), and child care facilities, or the provision for such is to be included in the management plan.

It is estimated that the individual living space and common areas would total approximately 100 to 150 sq ft per person. Therefore, a 12-bed facility would be approximately 1,200 to 1,800 sq ft, similar to the size of a modest single family home. Parking requirements for emergency shelters are not included in the Municipal Code, and a draft amendment to BMC Chapter 17.34 "Off-Street Parking" is being brought before the Planning Commission separately.

As indicated by State law, emergency shelters may only be subject to the same development standards as residential or commercial development. So the residential development standards, such as setbacks, height, lot coverage, landscaping and Habitat Conservation Plan (HCP) requirements would also apply to emergency shelters.

SCRO-1 District setback standards - Housing Element Program H.D.1.c calls for revision of the SCRO-1 District setback standards, which currently require 5 ft. front setbacks; 0 ft. side setbacks, except when located adjacent to any residential use, where 10 ft. would be required; and 10 ft. rear setbacks. These were last updated in 2000 in an attempt to accommodate mixed uses, but the side setback exception resulted in unintended consequences for residential uses next to residential uses. Instead, Program H.D.1.c calls for a new approach that regulates side setback standards by the use on site, not the adjoining use.

For residential and mixed uses, 5 ft. side setbacks would be required, the same as in the R-3 District. For all other commercial uses, 10 ft. side setbacks would apply, as is the case in the TC-1 District. Per Program H.D.1.c, it is suggested that exceptions to the side setback standards be granted through Use Permit approval, rather than the more onerous Variance process, in order to accommodate unforeseen combinations of uses that might result in a mixed use district. The findings for Use Permit approval (BMC Section 17.40.060) will allow the Planning Commission to consider whether the proposed exception will be "detrimental to the health, safety, comfort

and general welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city.”

As for front setbacks, 10 ft. is suggested for residential and mixed uses, which is the requirement in the R-3 District for properties with at least 15% slope. For all other commercial uses, the 25 ft. front setback, the same as required in the TC-1 District, is suggested. In cases where a portion of the front of the property will be dedicated to public right-of-way for a frontage access road (per General Plan Program 239a), it is suggested that an exception be provided to allow the front setback from the new resulting property line be reduced to 0 ft. This is similar to the front setback exception allowed for garages and carports on sites with at least 15% slope per BMC Section 17.32.070.A.3.a.

No change to the current 10 ft. rear setback is necessary. This is the same as the required minimum rear setback in both the R-3 and TC-1 Districts.

Lighting Performance Standard - The Planning Commission expressed a concern about light glare and requested amendments to BMC Section 17.16.050.E, the SCRO-1 District lighting performance standard. The performance standard is proposed to be revised, per the attached draft ordinance, to reflect this concern by requiring that lighting is to be shielded or otherwise directed away from direct view of the light source from adjacent properties and public rights of way, as well as requiring that the intensity is to be compatible with the neighborhood. The revised lighting standard would also include a reference to *California Green Building Standards Code*. The applicable sections of the CalGreen Code are attached.

Design Permit Findings — As noted by Housing Element Program H.B.1.c, Government Code Section 65589.5(j) requires that specific findings be made if the City were to deny a proposed housing development project or impose conditions of approval that would require that it be developed at a lower density, even though the project complied with applicable general plan and zoning standards and design review criteria in effect at the time the application was determined to be complete. It must be found that the project would have a specific, adverse impact upon the public health or safety that is not feasible to mitigate except by disapproving the project or approving it at a lower density.

In addition, Government Code Sections 65589.5(d) & (i) require that specific findings be made if the City were to deny a proposed housing development project for very low, low or moderate-income households or if the City were to impose conditions of approval that would render such a project infeasible. These findings include that the City has met or exceeded its share of the regional housing need allocation for the project’s income category, or that the project would have specific, adverse impacts upon public health and safety that cannot be mitigated.

The findings required by the Government Code in these instances are suggested to be included in BMC Chapter 17.42, Design Permits, in a new Section 17.42.045 (see attached draft text amendments).

The findings required by the Government Code in these instances are suggested to be included in BMC Chapter 17.42, Design Permits, in a new Section 17.42.045 (see attached draft text amendments).

To address specific concerns expressed by HCD staff regarding the lack of certainty provided in Design Permit Findings A and C due to the use of vague phrases such as “maintains a balance” and “maintains the quality,” revisions are proposed in BMC Section 17.42.040. Also, Finding D has been added to address sustainable development issues per Housing Element Policy H.F.4 and Program H.F.4.a. The proposed changes are reflected in the Design Permit Findings in the attached preliminary draft text amendments.

Zoning Administrator - Amendments to BMC Section 17.56.030, Zoning Administrator—Action on Applications, are proposed. These include a follow-up to the adoption of Ordinance 558 to allow for processing permits as a Zoning Administrator action for solar energy improvements (BMC Section 17.32.060.C) and accessibility improvements (BMC Sections 17.32.060.D, 17.32.070.A.1.f and 17.32.080) that exceed the district height standards. These amendments are also to include processing permits for large family day care homes as a Zoning Administrator action, per State Health and Welfare Code Sections 1597.46(a)(3) and 1597.465. Finally, applications for amendments or modifications to a design permit are included, per BMC Section 17.42.070.

**Attachments:**

Draft Resolution RZ-4-11  
Preliminary Draft Zoning Text Amendments  
2007 – 2014 Housing Element Programs Addressed by the Draft Ordinance  
5/7/08 Department of Housing & Community Development Memorandum on  
SB 2 regarding Local Planning and Approval for Emergency Shelters  
City of Santa Monica Ordinance – Example  
CalGreen Code Excerpts



draft  
RESOLUTION NO. RZ-4-11

RESOLUTION OF INTENTION TO CONSIDER AMENDMENTS TO  
THE CITY OF BRISBANE MUNICIPAL CODE TITLE 17, ZONING,  
REGARDING DEFINITIONS, DESIGN PERMITS AND  
THE SCRO-1 SOUTHWEST BAYSHORE COMMERCIAL DISTRICT

WHEREAS, on January 18, 2011, the City Council adopted the 2007-2014 Housing Element; and

WHEREAS, the Planning Commission has determined that amending the Zoning Ordinance's definitions would be consistent with Housing Element Program H.B.1.f; and

WHEREAS, the Planning Commission has determined that amending the SCRO-1 District regulations would be consistent with Housing Element Programs H.B.1.g and H.D.1.c; and

WHEREAS, the Planning Commission has also determined that amending the SCRO-1 District regulations to permit emergency shelters and convalescent homes on an interim basis would be consistent with the intent of the Government Code as cited in Housing Element Program H.B.3.i, as well as Program H.B.3.e; and

WHEREAS, amending the Zoning Ordinance's Design Permits chapter to comply with the California Government Code would be consistent with Housing Element Program H.B.1.c; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Brisbane Planning Commission intends to consider amendments to the Title 17, Zoning, of the Brisbane Municipal Code.

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JAMEEL MUNIR  
Chairman

I hereby certify that the foregoing Resolution No. RZ-4-11 was duly and regularly passed and adopted by the Brisbane Planning Commission at a regular meeting thereof held on August 25, 2011, by the following roll call vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JOHN SWIECKI  
Community Development Director

PRELIMINARY DRAFT TEXT AMENDMENTS  
(New text is shown in *italics*, deleted text is shown in ~~strikethrough~~.)

**Chapter 17.02**

**DEFINITIONS**

**Sections:**

- 17.02.005 - Application of definitions.
- 17.02.010 - Abandon.
- 17.02.015 - Abutting.
- 17.02.017 - Active records management services.
- 17.02.020 - Addition.
- 17.02.025 - Adjacent.
- 17.02.030 - Adult entertainment facility.
- 17.02.040 - Alley.
- 17.02.045 - Approving authority.
- 17.02.050 - Articulation.
- 17.02.060 - Attached.
- 17.02.065 - Outside wall.
- 17.02.070 - Automotive repair shop.
- 17.02.080 - Bar.
- 17.02.085 - Bay.
- 17.02.090 - Block.
- 17.02.100 - Building.
- 17.02.105 - Reserved.
- 17.02.110 - Canopy.
- 17.02.115 - Cantilever.
- 17.02.120 - Carport.
- 17.02.130 - CEQA.
- 17.02.140 - Chimney-Chimney box.
- 17.02.142 - Commercial parking lot.
- 17.02.145 - Commercial recreation-Commercial gym and health facilities.
- 17.02.150 - Condominium.
- 17.02.155 - Contiguous.
- 17.02.160 - Contractor's yard.

17.02.165 - Convalescent home.  
17.02.170 - Cornice.  
17.02.175 - Covered parking.  
17.02.180 - Cultural facility.  
17.02.185 - Cupola.  
17.02.190 - Day care center.  
17.02.195 - Day care home.  
17.02.200 - Deck-Parking deck.  
17.02.205 - Detached.  
17.02.210 - District.  
17.02.220 - Driveway.  
17.02.230 - Duplex.  
17.02.235 - Dwelling.  
~~17.02.240 - Dwelling group.~~  
17.02.250 - Eave.  
17.02.255 - Educational facility.  
17.02.260 - Emergency access.  
*17.02.265 - Emergency shelter.*  
17.02.270 - Establishment.  
17.02.285 - Family.  
17.02.290 - Family day care home.  
17.02.300 - Fence.  
17.02.310 - Financial institution.  
17.02.315 - Floor area-Floor area ratio.  
17.02.320 - Food production.  
17.02.330 - Freight forwarder.  
17.02.340 - Garage.  
17.02.345 - Gasoline service station.  
17.02.350 - General plan.  
17.02.360 - Grade.  
17.02.370 - Group care home.  
17.02.380 - Habitat Conservation Plan (HCP).  
17.02.385 - Heavy equipment repair.  
17.02.390 - Hedge.

17.02.400 - Height.  
17.02.410 - Home occupation.  
17.02.420 - Hotel.  
17.02.430 - Infrastructure.  
17.02.440 - Invasive.  
17.02.450 - Kennel.  
17.02.460 - Kitchen.  
17.02.470 - Landing.  
17.02.475 - Landscaping.  
17.02.480 - Light fabrication.  
17.02.485 - Live/work development.  
17.02.490 - Lot.  
17.02.495 - Lot coverage.  
17.02.500 - Lot dimensions.  
17.02.505 - Lot line.  
17.02.510 - Map Act.  
17.02.515 - Marina.  
17.02.520 - Means of access.  
17.02.525 - Media studio.  
17.02.530 - Medical facility.  
17.02.535 - Meeting hall.  
17.02.540 - Mixed use.  
17.02.545 - Mobilehome-Mobilehome park.  
17.02.550 - Motel.  
17.02.560 - Nonconforming.  
17.02.570 - Occupant.  
17.02.575 - Office.  
17.02.580 - Off-street parking facility.  
17.02.590 - Open area.  
17.02.595 - Open space.  
17.02.598 - Organics reload operations.  
17.02.600 - Outdoor sales and rental.  
17.02.610 - Personal services.  
17.02.620 - Place of worship.

17.02.625 - Planning commission.  
17.02.627 - Plastic pipe sales.  
17.02.630 - Principal place of residence.  
17.02.635 - Printing.  
17.02.640 - Product showroom.  
17.02.645 - Property line.  
17.02.650 - Protected tree.  
17.02.655 - Public utility facilities.  
17.02.660 - Rare plants.  
17.02.665 - Record owner.  
17.02.670 - Recycling facility.  
17.02.675 - Research and development.  
17.02.680 - Restaurant.  
17.02.685 - Retail sales and rental.  
17.02.690 - Retaining wall.  
17.02.695 - Ridgeline.  
17.02.700 - Right-of-way.  
17.02.710 - Scale.  
17.02.715 - Setback-Setback area.  
17.02.720 - Sign.  
17.02.725 - Site.  
17.02.730 - Slope.  
17.02.740 - Stock-in-trade.  
17.02.745 - Storage.  
17.02.746 - Storefront.  
17.02.750 - Street.  
17.02.755 - Structure.  
17.02.760 - Subdivision ordinance.  
17.02.770 - Use.  
17.02.780 - Veterinary clinic.  
17.02.790 - Warehousing.  
17.02.800 - Wholesale.  
17.02.810 - Wildland interface.

**§17.02.165 – Convalescent home.** “Convalescent home” means an establishment licensed by the state providing residential and health care services, for compensation, for persons recovering from illness, or injury, or *for persons with chronic illness or disability, such as the elderly who require assistance with basic daily activities suffering from the infirmities of old age.*

**§17.02.235 – Dwelling.** “Dwelling” means a place that is used as the personal residence of the occupants thereof, *including transitional housing as defined in California Health and Safety Code Section 50675.2(h) and supportive housing as defined in California Health and Safety Code Sections 50675.14(b)(2) & (3). The term includes factory-built or manufactured housing, such as mobilehomes, but excludes excluding trailers, campers, tents, recreational vehicles, hotels, motels, boarding houses and temporary structures.*

A. ~~17.02.240~~ *“Dwelling group” means a group of two or more detached buildings located upon the same site, each of which contains one or more dwelling units.*

B. “Dwelling unit” means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis.

C. “Multiple-family dwelling” means a building or site containing three (3) or more dwelling units *(also see “Duplex”). The term includes single-room-occupancy dwelling units, typically comprised of one or two rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two persons.*

D. “Secondary dwelling unit” means a separate dwelling unit created upon a site within the R-1 or R-BA district that contains a single-family dwelling and for which a use permit has been granted pursuant to Chapter 17.43 of this title. Subject to the restrictions of this title, the secondary dwelling unit may be attached to or detached from the single-family dwelling.

**EB.** “Single-family dwelling” means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established secondary dwelling unit that may be located within the same structure on upon the same site). *The term includes residential care facilities, licensed by the state to provide twenty-four (24) hour nonmedical care, serving six (6) or fewer persons (not including the operator, the operator’s family or persons employed as staff) in need of supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Also see “Group care home” for seven (7) or more persons.*

~~**§17.02.240 – Dwelling group.** “Dwelling group” means a group of two or more detached buildings located upon the same site, each of which contains one or more dwelling units.~~

**§17.02.265 – Emergency shelter.** “Emergency shelter” is the same defined in subdivision (e) of Section 50801 of the California Health and Safety Code, and means housing with minimal supportive services that is limited to occupancy of up to six months by persons who are homeless, victims of domestic violence, individuals and households made temporarily homeless due to natural disasters (e.g., fires, earthquakes, etc.), or other persons requiring temporary housing, and no individual or household shall be denied emergency shelter because of inability to pay..

**§17.02.285 – Family.** “Family” means one or more persons, *related or unrelated*, occupying a dwelling unit and living together as a single housekeeping unit. The term shall not include a group of persons occupying a fraternity or sorority house, club, hotel, motel, *convalescent nursing* home, group care home or institution of any kind.

**§17.02.285 – Family day care home.** “Family day care home” means an establishment operated by the provider in the provider’s own home as a accessory use incidental to the residential occupancy and licensed by the state to provide care, protection and supervision to children for periods of less than twenty-four (24) hours per day while the parents or guardians are away, and includes the following:

A. “Small family day care home” means a family day care home for *eight (8) six (6)* or fewer children, including children under the age of ten (10) years who reside at the home;

B. “Large family day care home” means a family day care home for *nine (9) seven (7) to fourteen (14) twelve (12)* children, including children under the age of ten (10) years who reside at the home.

**§17.02.370 – Group care home.** “Group care home” means an establishment licensed by the state to provide twenty-four (24) hour nonmedical care for seven (7) or more persons (*not including the operator, the operator's family or persons employed as staff*) in need of supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of the individual. *Also see “dwelling, single-family” for six (6) or fewer persons.*

**§17.02.420 – Hotel.** “Hotel” means a building or group of buildings containing guest rooms or suites offered, for compensation, to the general public as transient lodging accommodations. The term includes motel, inn, motor court, bed and breakfast establishment or similar use, *but excludes single-room-occupancy dwelling units operated as supportive housing.*

## Chapter 17.16

### SCRO-1 SOUTHWEST BAYSHORE COMMERCIAL DISTRICT

#### Sections:

- 17.16.010 - Purposes of chapter.
- 17.16.020 - ~~No p~~ Permitted uses.
- 17.16.030 - Conditional uses.
- 17.16.040 - Development regulations.
- 17.16.050 - Performance standards.
- 17.16.060 - Special findings.
- 17.16.070 - Night operations.
- 17.16.080 - Parking.

17.16.090 - Signs.

17.16.100 – Design Review.

17.16.110 - Visual impact analysis.

**§17.16.010 - Purposes of chapter.** The general plan designates several areas of the city for subregional commercial/retail/office use (SCRO). The SCRO-1 Southwest Bayshore commercial district (hereinafter referred to as the Southwest Bayshore district) is one of such planning areas and is included in the zoning ordinance codified in this title to achieve the following purposes:

- A. To create a zoning district for the Southwest Bayshore area that provides for orderly development consistent with the land use policies for that area as set forth in the city's general plan;
- B. To encourage a mix of subregional uses and the opportunity to include mixed-uses and residential uses when appropriate;
- C. To ensure that future development will be conducted in a manner that will adequately address the environmental constraints in the Southwest Bayshore district, as identified in the general plan;
- D. To address historical issues of incompatible land uses; and
- E. To protect the community health and safety by establishing permit requirements, performance standards, and special findings for the establishment of uses in the Southwest Bayshore district.

~~§17.16.020 – No permitted uses. There are no permitted uses in the Southwest Bayshore district. Only those uses designated as conditional uses in Section 17.16.030 may be established, subject to the issuance of a use permit in accordance with the requirements of this chapter.~~

~~A. The following are permitted uses in the SCRO-1 district:~~

- ~~1. Emergency shelters in compliance with Section 17.16.040.~~

**§17.16.030 - Conditional uses.**

A. Allowable Conditional Uses. The following conditional uses, *not otherwise permitted per Section 17.16.020.A*, may be allowed in the Southwest Bayshore district, upon the granting of a use permit pursuant to Chapter 17.40 of this title and if conducted in accordance with the performance standards set forth in Section 17.16.050 of this chapter:

- 1. Commercial recreation/commercial gym and health facilities;
- 2. Contractor's yards;
- 3. *Convalescent homes;*
- ~~4~~3. Cultural facilities;
- ~~5~~4. Duplex dwelling units;
- ~~6~~5. Educational facilities;
- ~~7~~\*. *Emergency Shelters with more than 12 beds*



- ~~86.~~ Financial institutions;
- 9. Food production;
- ~~108.~~ Group care homes;
- ~~119.~~ Hotels;
- ~~12.~~ *Large family day care homes;*
- 13. Light fabrication;
- ~~144.~~ Live/work developments;
- ~~1512.~~ Media studios;
- ~~1613.~~ Medical facilities;
- ~~1744.~~ Meeting halls;
- ~~1815.~~ Mobilehome parks *in compliance with Section 17.32.110;*
- ~~1916.~~ Motels;
- ~~2047.~~ Multiple-family dwellings *and dwelling groups;*
- ~~2148.~~ Offices;
- ~~2249.~~ Outdoor sales and rental;
- ~~2320.~~ Personal services;
- ~~2421.~~ Places of worship;
- ~~2522.~~ Printing;
- ~~2623.~~ Product showrooms;
- ~~2724.~~ Research and development, where the planning director determines, as a result of a risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will not constitute a major component of the research and development activities to be conducted on the site;
- ~~2825.~~ Restaurants;
- ~~2926.~~ Retail sales and rental;
- ~~3027.~~ Single-family dwellings;
- ~~3128.~~ Storage;
- ~~3229.~~ Veterinary clinics;
- ~~3330.~~ Warehousing;
- ~~31. Wholesale sale and distribution.~~

B. Mixed Uses. A combination of any residential and nonresidential uses listed in subsection A of this section, or in Section 17.16.020, may be allowed as a mixed use within the same structure or upon the same site when specifically authorized by the use permit granted for each individual conditional use and upon such additional conditions as the approving authority may deem necessary or appropriate to insure the compatibility of such mixed uses.

C. Night Operations. Night operations associated with the conduct of any uses listed in subsection A of this section (except residential uses) shall require a use permit when subject to the provisions of Section 17.16.070 of this chapter.

**§17.16.040 - Development regulations.** Development regulations in the Southwest Bayshore district are as follows:

A. Lot Area. The minimum area of any lot shall be seven thousand five hundred (7,500) feet.

B. Density of Development. The minimum lot area for each dwelling unit on a site shall be as follows:

1. Single-family dwellings: seven thousand five hundred (7,500) square feet;
2. Duplex dwellings: three thousand seven hundred fifty (3,750) square feet;
3. Multiple-family dwellings *and dwelling groups*: one thousand five hundred (1,500) square feet;
4. Mixed use or live/work development: dwelling unit density shall be determined by the use permit.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

1. Width: *fifty (50) feet*;
2. Depth: no requirement.

D. Setbacks. The minimum required setbacks for any lot shall be as follows:

1. Front setback: ~~five (5) feet~~.
  - a. *Residential/ Mixed Use: ten (10) feet*
  - b. *Commercial Uses: twenty-five (25) feet for commercial uses;*
  - c. *Exception: The setbacks may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the City Engineer and Fire Department.*
2. Side setback: ~~None, except a ten (10) foot setback shall be required when the site is adjacent to any residential use.~~
  - a. *Residential/ Mixed Use: five (5) feet*
  - b. *Commercial Uses: fifteen 15 feet*
  - c. *Exception: The Planning Commission may approve exceptions to the side setback regulations through the granting of a Use Permit.*

3. Rear setback: ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be seventy percent (70%).

F. Height of Structures. The maximum height of any structure shall be thirty-five (35) feet.

G. Landscaping Requirements.

1. Not less than ten percent (10%) of the lot area shall be improved with landscaping.

2. Plant materials shall be drought resistant and non-invasive as required by the planning director. Where landscaping is located adjacent to unimproved hillside
3. Landscaping required under this section, including replacement landscaping, shall be installed according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:
  - a. Use of plants that are not invasive;
  - b. Use of water conserving plants; and
  - c. Use of plants and other landscape features that are appropriate to the context.
4. New and replacement, irrigated landscapes of 1,000 square feet, or more, shall be subject to the Water Conservation in Landscaping Ordinance. Refer to Chapter 15.70.

#### H. Screening Requirements.

1. Outside storage of pallets or containers used for transportation and delivery of items related to the uses conducted on the site shall not be located in any required setback from a street and shall be screened from off-site view to the extent it is reasonable to do so.
2. The off-site visibility of exterior equipment such as heating and ventilation units, above-ground storage tanks, compactors and compressors, shall be mitigated through such measures as may be reasonable under the circumstances, including, but not limited to, the installation of screening, fencing, painting, or landscaping, or any combination of the foregoing.
3. The screening requirements set forth in subsections 1 and 2 of this section are not intended to be exclusive and the approving authority may require, as a condition of the use permit, such other and additional screening measures as it deems necessary or appropriate to mitigate any potential adverse visual and audible impacts created by the intended use.

#### I. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five or more living units, and City facilities (including buildings, structures, and outdoor recreation areas owned by the City) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a 12-month period collectively adding 30 percent or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications

submitted by any tenant within a 12-month period collectively adding 30 percent or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

*J. Emergency shelters:*

*Development standards for emergency shelters shall be the same as for residential development in the district, except density of development regulations, and emergency shelters that meet the following requirements are exempt from the requirement of a design permit and use permit:*

- 1. No emergency shelter shall be allowed to be located within 300 feet of another emergency shelter.*
- 2. The required setbacks for new development shall be:*
  - a. Front setback: ten (10) feet; except that the front setback may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the City Engineer and Fire Department.*
  - c. Side setback: five (5) feet; except that the Planning Commission may approve exceptions to the side setback regulations through the granting of a Use Permit.*
  - e. Rear setback: ten (10) feet.*
- 3. A maximum of 12 persons (12 beds) to be served nightly.*
- 4. Each resident shall be provided personal living space.*
- 5. Bathrooms and bathing facilities shall be provided, adequate for the number of residents.*
- 6. Laundry facilities or services shall be provided on site, adequate for the number of residents.*
- 7. The length of stay for individual clients shall not exceed 6 months, or as allowed by state law.*
- 8. Staff and services shall be provided to assist residents to obtain permanent shelter and income.*
- 9. For security, the facility shall provide outdoor lighting of common areas, entries, parking areas, pathways, in compliance with BMC Section 17.16.050.E.*
- 10. For security, the shelter shall be adequately staffed 24 hours a day, 7 days a week.*
- 11. Parking shall be as specified in BMC Chapter 17.34.*
- 12. Outdoor activities, such as recreation, eating, and staging for drop-off, intake, and pick-up, may be conducted at the facility, between the hours of 5 am and 10 pm. A night operations use permit is required for outdoor activities between the hours of 10 pm and 5 am, as provided for in BMC Section 17.16.070.*
- 13. The facility may provide the following:*
  - a. Kitchen facilities;*
  - b. Dining area;*
  - c. Recreation room;*

- d. Training and counseling support services;*
- e. Child care facilities*
- f. Other facilities or services that are accessory to an emergency shelter.*

*14. Prior to commencing operation, the emergency shelter provider must have a written management plan, which shall be provided to the Planning Director. The management plan must include provisions for staff training, resident identification process, neighborhood outreach, policies regarding pets, the timing and placement of outdoor activities, provisions for residents' meals (including special dietary needs), medical care, mental health care, dental care, temporary storage of residents' personal belongings, safety and security, provisions in case of area-wide emergencies, screening of residents to ensure compatibility with services provided at the facility, plans to help secure other provisions for those who may not be part of the shelter's target population, computer access for residents, and training, counseling and social service programs for residents, as applicable.*

**§17.16.050 – Performance Standards.** All uses in the Southwest Bayshore district shall be conducted in accordance with the following performance standards:

A. All routine aspects of the day-to-day operations of a business, including the storage of materials and products, shall be conducted entirely within an enclosed structure, with the exception of the following:

- 1. Outdoor activities specifically authorized by the use permit;
- 2. Parking of operable vehicles related to the authorized uses conducted on the site;
- 3. Shipments and deliveries incidental to the conduct of the primary use on the site.

*4. Emergency shelter outdoor activities as set forth in Section 17.16.040.J.12.*

B. The site shall be kept free of trash and debris and all receptacles for collection and recycling shall be completely screened from view at street level.

C. Sound insulation housing or baffles, or other reasonable measures, shall be installed in conjunction with heating and ventilating equipment or other machinery when necessary to effectively mitigate sound emissions distinctly detectable from any off-site location.

D. Odors from any use shall not be generally or distinctly detectable from any off-site location.

E. Lighting shall be designed to avoid excessive glare as viewed from offsite locations *and in compliance with the California Green Building Standards Code. Lighting shall also be stationary, shielded or otherwise directed away from direct view of the light source as viewed from adjacent properties and public rights of way, and of intensity compatible with the neighborhood.*

*F. Site development shall minimize disturbance of existing natural slopes to the extent feasible, maintain public view corridors of the San Francisco Bay and San Bruno Mountain, minimize rooftop glare, and screen exterior mechanical equipment.*

**§17.16.060 – Special findings.** In addition to the findings required for approval of a use permit as set forth in Section 17.40.060, no use permit shall be granted for any conditional use in the Southwest Bayshore district unless the approving authority also makes such of the following findings as may be applicable to the application:

- A. Adequate measures have been taken to protect workers and residents from the twenty-four (24) hour noise generated by traffic on Bayshore Boulevard.
- B. The design for projects with residential uses has incorporated measures to buffer the units from potential adverse impacts from nearby and adjacent non-residential uses.
- C. The design for projects with residential uses includes outdoor areas, such as courts, yards or decks, securely separated from the street.
- D. The improvements have been designed in a manner that will make adequate provision for on-site parking and traffic circulation and safe ingress to and egress from the site.
- E. The improvements have been designed to be compatible with the topography and soils of the hillside.

**§17.16.070 – Night operations.**

A. Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as set forth below:

- 1. "Existing business" means a business or other use that is legally operating within the Southwest Bayshore district as of February 9, 2000, in accordance with all zoning regulations applicable thereto, and pursuant to a business license duly issued by the city.
- 2. "Night operations" means any activity conducted between the hours of ten (10:00) p.m. and five (5:00) a.m. of the following day.

B. Requirement for Use Permit to Conduct Night Operations. Except as otherwise provided in subsection C of this section, no business or other use, with the exception of residential uses, shall engage in the conduct of night operations at any location within the Southwest Bayshore district unless a use permit for such night operations has been granted pursuant to this chapter.

C. Continuation of Night Operations by Existing Businesses. An existing business which has lawfully been conducting night operations prior to February 9, 2000, may continue to conduct such night operations on the same site and shall be exempted from the requirement to obtain a use permit pursuant to this section. This exemption shall not apply to any relocation of the night operations to a different site, nor may the exemption be assigned or transferred by the existing business to a different business establishment or use, whether conducted on the same site or elsewhere.

D. Approving Authority. Applications for a use permit to conduct night operations shall be acted upon by the planning commission and shall be governed by the provisions of Chapter 17.40 of this title, as supplemented by this section.

E. Findings for Use Permit Approval. In addition to the findings required for approval of a use permit, as set forth in Section 17.40.060 and elsewhere in this section, no use permit shall be granted for the conduct of night operations in the Southwest Bayshore district unless the planning commission also finds and determines that the night operations conducted by the applicant will not create noise, glare or other effects that are likely to create a sleep disturbance for the occupants of neighboring residential properties.

F. Use Permit Conditions. Without limiting the authority of the Planning Commission to impose conditions on the granting of a use permit pursuant to Section 17.40.070, a use permit authorizing the conduct of night operations in the Southwest Bayshore district may contain limitations on the days and hours of operation, restrictions on the nightly volume of vehicle trips, restrictions on the type of vehicles or equipment that may be operated at night, requirements for special devices and measures for abatement of noise and glare, and requirements for mitigation monitoring and periodic mandatory review. The planning commission shall have continuing jurisdiction over every use permit issued pursuant to this section and may at any time, if the original findings required for issuance of the use permit can no longer be made, modify or amend any of the use permit conditions, or impose new and additional conditions, or revoke the use permit.

**§17.16.080 - Parking.**

Off-street parking facilities shall be provided for each use on the site in accordance with the requirements set forth in Chapter 17.34 of this title.

**§17.16.090 - Signs.** Signs allowed in the Southwest Bayshore district are as specified in Chapter 17.36 of this title.

**§17.16.100 - Design review.** The construction of any principal structure in the Southwest Bayshore district, except a single-family or duplex dwelling *or emergency shelter as set forth in Section 17.16.040.J*, shall be subject to the granting of a design permit in accordance with the provisions of Chapter 17.42 of this title and any applicable design guidelines adopted by the city.

**§17.16.110- Visual impact analysis.** All projects, including single-family and duplex dwellings, *but excluding emergency shelters as set forth in Section 17.16.040.J*, shall submit a visual impact analysis, in accordance with guidelines approved by the planning commission, to address the following design issues: relationship to steep slopes; public view corridors; view of San Francisco Bay and San Bruno Mountain; material and lighting, especially as pertains to light and glare; treatment of roofs and the screening of mechanical equipment.



## Chapter 17.42

### DESIGN PERMITS

#### Sections:

- 17.42.010 – Requirement for design permit.
- 17.42.020 – Application for design permit.
- 17.42.030 – Public hearing by planning commission--Notice.
- 17.42.040 – Findings required for issuance of design permit.
- 17.42.045 – Special findings.*
- 17.42.050 – Action by planning commission.
- 17.42.060 – Expiration of design permit--Extensions.
- 17.42.070 – Amendment of design permit—Minor modifications.
- 17.42.080 – Appeals to city council.

**§17.42.010 – Requirement for design permit.** A. Except as otherwise provided in subsection B of this section, a design permit shall be required for the construction of any new principal structure or the substantial modification of an existing principal structure for which no design permit has previously been issued. As used herein, the term "substantial modification" means an alteration or expansion of the exterior and/or interior of the structure to the extent of significantly modifying its basic design, elevations, size, appearance, or relationship to adjacent properties or structures, as determined by the planning director.

B. No design permit shall be required for the construction or substantial modification of any single-family dwelling, secondary dwelling unit, duplex, or accessory structure, unless *part of a dwelling group totaling three (3) or more units or part of a mixed use development, or a design permit for such structure has been required as a condition of a development approval granted by the city. No design permit shall be required for the construction or substantial modification of an emergency shelter of twelve (12) beds or less, as set forth in Section 17.16.040.J.*

**§17.42.020 – Application for design permit.** A. Contents of Application. Application for a design permit shall be filed with the planning director on such form as the planning director shall prescribe. The application shall be accompanied by legible and reproducible sets of completely dimensioned, scaled site development and architectural plans, with bar scales, showing such of the following items as the planning director deems appropriate in order to evaluate and process the application:

1. Existing and/or proposed structures with floor plans (with the use of each room/space labeled), roof plans, and elevations of all sides of the existing and/or proposed structures, identifying colors and materials as appropriate, indicating the



height from natural grade on each elevation of the tallest points of the structure (cross-sections may also be required based upon the complexity of the design), and including UBC type of construction;

2. For covered projects as defined by Section 15.80.030, green building documentation per Section 15.80.060(A) sufficient to be approved per Section 15.80.060(C).

3. Accurately dimensioned property lines, setbacks, structures on adjacent properties (and their uses), streets, easements, existing and proposed utilities, and building coverage and lot area calculations;

4. Location of existing trees by size (circumference measured twenty-four (24) inches above grade) and type, indicating those proposed for removal;

5. Conceptual landscaping plans showing species, common name, size and number of plantings, with description of proposed plantings (height at maturity, time to maturity, color, drought/wind/salt tolerance, and deciduousness), calculation of the total square footage of proposed irrigated landscaped area and explanation of proposed method of irrigation;

6. Existing and proposed parking facilities, including the dimensions of parking spaces, number and location of spaces designated as compact or handicapped spaces, and a calculation of the number of parking spaces required by this title or any other applicable regulations;

7. Paving details, improved street width (curb-to-curb), sidewalks, and driveway cuts;

8. Existing and proposed topography of the property (at five (5) foot intervals), clearly indicating any proposed grading and filling and the amounts in cubic yards of proposed excavation, fill and removal from the site. If requested by the planning director, a soils report and/or geotechnical study shall also be furnished;

9. Drainage details, exterior lighting, trash enclosures, signs, fences and method of screening exterior mechanical equipment (including rooftop air-conditioning units, transformers and public utilities);

10. Material and color samples and colored rendering of the project;

11. Photographs of the Site. Photomontages of the proposal may also be required dependent upon the visual significance of the proposal.

B. Application Fee. The application shall be accompanied by the payment of a processing fee in such amount as established from time to time by resolution of the city council. In addition to the processing fee, the applicant shall also deposit such amounts as the planning director may require from time to time to cover the cost of any environmental investigations or reports, geotechnic and engineering reports, review of green building documentation, and such other investigations and reports that may be required by the city in connection with the processing of the application.

**§17.42.030 – Public hearing by planning commission.** The planning commission shall conduct a public hearing on the application for a design permit. Notice of the public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by mailing, postage prepaid, a notice of the time and place of the hearing to the applicant

and to all persons whose names appear on the latest available assessment roll of the county as owning property within three hundred (300) feet of the boundaries of the site which is the subject of the permit application. Notice of the public hearing shall also be posted at each location within the city where agendas for planning commission meetings are routinely posted.

**§17.42.040 – Findings required for issuance of design permit.** The planning commission may grant a design permit as applied for or in modified form if, on the basis of the application and the evidence submitted, the commission finds and determines that the proposed development is consistent with the general plan and any applicable specific plan and the commission also makes such of the following findings as may be applicable to the proposed development:

A. The proposal ~~s maintains a balance of~~ scale, form and proportion, ~~and uses design components that~~ are harmonious, and ~~the~~ materials and colors *used that* complement the project. ~~The proposal integrates well with elements of the site plan and of surrounding areas.~~

B. The orientation and location of buildings, structures, open spaces and other features *integrate well with each other and* maintain a compatible relationship to adjacent development.

C. *Proposed buildings and structures are designed and located to mitigate potential impacts to adjacent land uses. Where a proposal abuts or is in close proximity to uses other than that proposed, the plan takes into account its effect on and maintains the quality of the other land uses.*

~~\*—D.~~ *The project design takes advantage of natural heating and cooling opportunities through building placement, landscaping and building design to the extent practicable, given site constraints, to promote sustainable development and to address long term affordability.*

~~ED.~~ For hillside development, the proposal respects the topography of the site and is designed to minimize its visual impact. Significant public views of San Francisco Bay, the Brisbane Lagoon and San Bruno Mountain State and County Park are preserved.

~~FE.~~ The site plan minimizes the effects of traffic on abutting streets through careful layout of the site with respect to location, dimensions of vehicular and pedestrian entrances and exit drives, and through the provision of adequate off-street parking. There is an adequate circulation pattern within the boundaries of the development. Parking facilities are adequately surfaced, landscaped and lit.

~~GF.~~ The proposal encourages alternatives to travel by automobile where appropriate, through the provision of facilities for pedestrians and bicycles, public transit stops and access to other means of transportation.

~~HG.~~ The site provides open areas and landscaping to complement the buildings and structures. Landscaping is also used to separate and screen service and storage areas, break up expanses of paved area and define areas for usability and privacy. Landscaping is generally water conserving and is appropriate to the location. Attention is given to habitat protection and wildland fire hazard as appropriate.

~~IH.~~ The proposal takes reasonable measures to protect against external and internal noise.

**J.** Consideration has been given to avoiding off-site glare from lighting and reflective building materials.

**K.** Attention is given to the screening of utility structures, mechanical equipment, trash containers and rooftop equipment.

**L.** Signage is appropriate in location, scale, type and color, and is effective in enhancing the design concept of the site.

**M.** Provisions have been made to meet the needs of employees for outdoor space.

**§17.42.045 – Special findings.** *A. The planning commission may deny a design permit for a proposed housing development project, or approve it upon the condition that the project be developed at a lower density, even though the project complies with applicable general plan and zoning standards and design review criteria in effect at the time the application is determined to be complete, subject to both of the following findings, supported by substantial evidence in the record:*

*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.*

*2. There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than through disapproval or approval upon the condition that the project be developed at a lower density.*

*B. In addition to the findings above, the planning commission may deny a design permit for a proposed housing development project for very low, low-, or moderate-income households or condition approval in a manner that renders development of such a project infeasible, subject to at least one of the following findings, supported by substantial evidence in the record:*

*1. The city has met or exceeded its share of the regional housing need allocation for the planning period for each of the income categories proposed for the housing development project as identified in the housing element.*

*2. The development project 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.*

*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.*

*4. The development project is proposed on land which does not have adequate water or wastewater facilities to serve the project.*

*5. The development project is inconsistent with both the zoning ordinance and general plan land use designation as of the date the application was deemed complete, and the project is not proposed for a site that is identified as suitable for very low, low-, or moderate-income households in the housing element and is inconsistent with the density specified in the housing element.*

*C. As used in this section, 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 of 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.*

*D. Any disapproval or conditional approval of a design permit for a proposed housing development project for very low, low-, or moderate-income households shall not discriminate on the basis of any of the reasons prohibited by California Government Code Section 65008.*

**§17.42.050 – Action by planning commission.** A. The planning commission may either grant or deny the application for design permit and may grant the permit subject to such conditions as the planning commission deems necessary or appropriate in order to make the findings prescribed by Section 17.42.040.

B. The design permit shall become effective upon the expiration of fifteen (15) days following the date on which the design permit was granted by the planning commission, unless an appeal has been taken to the city council pursuant to Chapter 17.52 of this title.

**§17.42.060 – Expiration of design permit--Extensions.** A. A design permit granted pursuant to this chapter shall expire twenty-four (24) months from the date on which such permit became effective, unless prior to such expiration date a building permit for the structure which is the subject of the permit is issued and construction is commenced.

B. A design permit may be extended by the planning commission for a period or periods of time not exceeding thirty-six (36) months. The application for extension shall be filed prior to the expiration date of the permit and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council. A public hearing shall be conducted on the application for extension and notice thereof shall be given in the same manner as prescribed in Section 17.42.030 of this chapter. Extension of a design permit is not a matter of right and the approving authority may deny the application or grant the same subject to conditions.

**§17.42.070 – Amendment of design permit—Minor modifications.** A.

Amendments or modifications to a design permit shall require approval by the planning commission, except that the zoning administrator shall have authority to approve the following matters:

1. Any items which, under the terms of the design permit, have been delegated to the zoning administrator for approval, either as a condition for issuance of the permit or at any time thereafter;
2. Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project.

B. The application requirements, public hearing procedures and findings required for amendments or modifications to a design permit shall be as prescribed in Sections 17.42.020, 17.42.030 and 17.42.040 of this chapter.

**§17.42.080 – Appeals to city council.** Any determination or decision by the planning commission under this chapter may be appealed to the city council in accordance with the procedure set forth in Chapter 17.52 of this title.

## Chapter 17.56

### ADMINISTRATION

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**§17.56.030 – Zoning administrator—Action on applications.** A. Except as otherwise provided in this chapter, the zoning administrator shall hear and decide the following:

1. Applications for zoning conformance;
2. Applications for variances;
3. Applications for minor modifications;
4. Applications for certain sign permits, in accordance with the provisions of Chapter 17.36 of this title; ~~and~~
5. Applications for administrative permits for wireless telecommunication facilities, in accordance with the provisions of Section 17.32.032 of this title;
6. *Applications for administrative permits for solar energy systems, in accordance with the provisions of Section 17.32.060.C; and*
7. *Applications for accessibility improvement permits, in accordance with the provisions of Sections 17.32.060.D, 17.32.070.A.1.f and 17.32.080; and*
8. *Applications for large family day care homes, per State Health and Welfare Code Sections 1597.46(a)(3) and 1597.465*
9. *Applications for amendments or modifications to a design permit, per Section 17.42.070.*

B. In connection with the applications provided for in this section, the zoning administrator shall have all the duties and responsibilities set forth in this title for the planning commission.

## 2007 – 2014 Housing Element Programs Addressed by the Draft Ordinance

*Program H.B.3.i Include emergency shelters as a permitted use in the Southwest Bayshore R-SWB district, not subject to discretionary action or to any development or management standards that would not apply to other allowed uses within the zone, except as provided by Government Code Section 65583(a)(4)(A).*

*Program H.B.1.f Amend the definition of “dwelling” in BMC Section 17.02.235 to specifically include “transitional housing” and “supportive housing” as examples (per SB 2), along with “manufactured housing and mobilehomes” (per 1999-2006 Housing Element Program H1e).*

*Program H.B.1.c Amend the Design Permits chapter of the Municipal Code to include the findings required by Government Code Section 65589.5(d), (i) & (j) & Section 65583.2(i) regarding proposed housing developments for very low, low or moderate-income households and emergency shelters; and clarify in the Design Permit subsections under the applicable zoning district chapters that any design review for those districts intended to accommodate affordable housing would comply with the restrictions set by AB 2348 (also see Program H.D.1.d). Also amend the Design Permits chapter to provide more certainty in the permitting process by eliminating any vague phrasing in the findings.*

*Program H.B.3.e Include convalescent homes as a conditional use in the R-SWB District.*

*Program H.B.1.g Allow “supportive housing single-room occupancy units” as a conditional use in the SCRO-1 District (per AB 2634).*

*Program H.D.1.c Revise the SCRO-1 District setback requirements to be similar to the R-3 District standards for residential uses, while specifying appropriate setbacks for commercial uses similar to those for the TC-1 District, with exceptions possible through Use Permit approval.*


**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.

**Chapter 633, Statutes of 2007 (SB 2)**  
**Page 2**

- 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](http://www.hcd.ca.gov) or the Senate's website at [www.senate.ca.gov](http://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.<sup>1</sup>

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.

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

# Section 1

## Planning

*(Government Code Section 65583)*

## Identifying and Analyzing Needs and Resources

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

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

Resources to identify and analyze homeless needs, include:

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

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

## Identifying Zoning for Emergency Shelters

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



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

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

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

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

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

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

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

## Permitting Emergency Shelters without Discretionary Action

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

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

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



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

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

## Development Standards to Encourage and Facilitate Emergency Shelters

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



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

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

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

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



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

## Encouraging Multi-Jurisdictional Cooperation and Coordination

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

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

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



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

## Existing Ordinances and Existing Shelters that Accommodate Need

### Existing Ordinances Permitting Emergency Shelters

Many local governments have a record of effective actions to address the homeless needs in their community. SB 2 recognizes and provides flexibility for jurisdictions that have already adopted an ordinance(s) that complies with the new zoning requirements. For those local governments with existing ordinances and zoning consistent with 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~~ 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](http://www.hcd.ca.gov/hpd/housing_element/index.html)

**Santa Monica Municipal Code****Up****Previous****Next****Main****Search****Print****No Frames**[Article 9 PLANNING AND ZONING](#)[Chapter 9.04 ZONING REGULATIONS](#)[Subchapter 9.04.10 Project Design and Development Standards](#)[Part 9.04.10.02 General Requirements](#)**9.04.10.02.061 Homeless shelters.**

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Homeless shelters located in any district shall comply with the following development standards:

(a) **Lighting.** Adequate external lighting shall be provided for security purposes. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity compatible with the neighborhood.

(b) **Laundry Facilities.** The development shall provide laundry facilities or services adequate for the number of residents.

(c) **Common Facilities.** The development may provide one or more of the following specific common facilities for the exclusive use of the residents and staff:

- (1) Central cooking and dining room(s).
- (2) Recreation room.
- (3) Counseling center.
- (4) Child care facilities.
- (5) Other support services.

(d) **Security.** Parking and outdoor facilities shall be designed to provide security for residents, visitors and employees.

(e) **Outdoor Activity.** For the purposes of noise abatement in residential districts, organized outdoor activities may only be conducted between the hours of eight a.m. and ten p.m.

(f) **Refuse.** Homeless shelters shall provide a refuse storage area that is completely enclosed with masonry walls not less than five feet high with a solid-gated opening and that is large enough to accommodate a standard-sized trash bin adequate for use on the parcel, or other enclosures as approved by the Director of General Services and the Architectural Review Board. The refuse enclosure shall be accessible to refuse collection vehicles.

(g) **Homeless Shelter Provider.** The agency or organization operating the shelter shall comply with the following requirements:

- (1) Temporary shelter shall be available to residents for no more than six months.
- (2) Staff and services shall be provided to assist residents to obtain permanent shelter and income.
- (3) The provider shall have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents.

(h) **Maximum Unit Density.** Homeless shelters located in residential districts, when not developed in an individual dwelling unit format, shall not be subject to the underlying zoning district's maximum unit density standard, but the number of beds shall be limited to three times the maximum number of dwelling units which would otherwise be permitted. (Ord. No. 1687CCS § 10, adopted 6/22/93; amended by Ord. No. 1750CCS § 28, adopted 6/28/94)

H.2.64



**Santa Monica Municipal Code**

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[Article 9 PLANNING AND ZONING](#)

[Chapter 9.04 ZONING REGULATIONS](#)

[Subchapter 9.04.02 General Provisions](#)

**9.04.02.030.400 Homeless shelter.**

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A residential facility, other than a community care facility, operated by a provider which provides temporary accommodations to persons or families with low income. The term "temporary accommodations" means that a person or family will be allowed to reside at the shelter for a time period not to exceed six months. For purpose of this definition, a "provider" shall mean a government agency or private non-profit organization which provides or contracts with recognized community organizations to provide emergency or temporary shelter, and which may also provide meals, counseling and other services, as well as common areas for residents of the facility. Such a facility may have individual rooms, but is not developed with individual dwelling units, with the exception of a manager's unit. (Added by Ord. No. 1826CCS § 1 (part), adopted 11/7/95)

H.2.65

**FINDING OF EMERGENCY  
OF THE  
DIVISION OF THE STATE ARCHITECT – STRUCTURAL SAFETY (DSA-SS)**

**REGARDING THE CALIFORNIA GREEN BUILDING STANDARDS CODE  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11**

The adoption of these regulations or is necessary for the immediate preservation of the public peace, health and safety, or general welfare, as follows:

**FINDING OF EMERGENCY:**

California Building Standards Commission (CBSC) has received and accepted a petition concerning modifications to mandatory Section 5.106.8, Light Pollution Reduction, in the 2010 California Green Building Standards (CAL Green) Code. The petitioner alleges that compliance with the section would reduce nighttime illumination of building sites to a level that does not meet minimum safety requirements. The petitioner contends that the regulations are unreasonable, arbitrary and capricious and likely to result in muggings and rapes, with victims seeking legal redress from CBSC and individual commissioners. Despite the exceptions for emergency and security lighting in the section, DSA and CBSC staff are in agreement that modifications are needed, and that they should be considered on an emergency basis to avert any danger to public safety that the petitioner has claimed.

**BACKGROUND:**

The section in question contains mandatory provisions for reducing light pollution from nighttime nonresidential building and site lighting. It makes reference to outdoor lighting regulations of the California Energy Commission, requires additional measures including prohibition of light trespass beyond site boundaries, and provides exceptions for security and emergency lighting. It underwent review by the CBSC Green Building Focus Group, the Green Building Code Advisory Committee, and the public during its development and rulemaking in the 2009 code adoption cycle.

Despite the exposure, the regulations were contested initially by the petitioner to CBSC staff informally and only late in 2010, and staff made changes to language in errata it believed were editorial in nature and would offer temporary mitigation of problems the petitioner identified. CBSC staff has also proposed the regulations for further improvement in this proposed emergency, including making them voluntary now and mandatory for the 2010 code adoption cycle. The Green Building Code Advisory Committee recommended that DSA and CBSC work with the petitioner on the proposal, and subsequent drafts were reviewed by California Energy Commission staff.

At the January 19, 2011 CBSC hearing and in the petition, the petitioner also alleged that the errata published for the code provision were regulatory in nature and thus should be considered "underground regulations." Issued only this month by the publisher, the errata will be rendered moot by the emergency adoption and publication of the modifications proposed in this rulemaking.

**AUTHORITY AND REFERENCE**

The California Building Standards Commission proposes to adopt these building standards on behalf of DSA-SS under the authority granted by Health and Safety Code Section 18928. The purpose of these building standards is to implement, interpret, and make specific the provisions of Education Code Sections 17280-17317 and 81130-81147.

The Division of the State Architect is proposing this regulatory action based on Education Code Sections 17310 and 81142.

**INFORMATIVE DIGEST**

Summary of Existing Laws

Education Code, Section 17310 and 81142 authorize the State Architect to establish building standards for the design, construction and inspection of public elementary and secondary schools, and community colleges.

Government Code 14617 authorizes CBSC and the Division of State Architect to establish a standard of lighting for parking lots at the University of California, California State University, and California Community Colleges.

Summary of Existing Regulations

California Code of Regulations (CCR), Title 24, also referred to as the 2010 California Building Standards Code incorporates the following:

- Part 1, the California Administrative Code, with administrative regulations for CBSC and the California Energy Commission (CEC)
- Part 2, the California Building Code, includes standards for lighting for campus parking lots pursuant to Government Code 14617
- Part 6, the California Energy Code, which contains minimum energy efficiency standards for buildings in California promulgated by the CEC

- Part 11, the California Green Building Standards Code (CGBSC), also known as the CAL Green Code, which contains mandatory and voluntary green building standards for residential, nonresidential, and medical facilities

Summary of Effect

This proposed action will make effective, upon adoption and approval by the commissioners, emergency modifications to mandatory Section 5.106.8 in Title 24, Part 11 for buildings within DSA-SS authority, with necessary amendments in the interest of public safety as claimed in a recent petition to CBSC.

Comparable Federal Statute or Regulations

There currently are no federal laws or regulations for light pollution reduction, but the EPA has been petitioned to consider "atmospheric discoloration" caused by nighttime lighting in regulations related to the Clean Air Act.

Small Business Effect

DSA has made an initial determination of no adverse impact on small business, because the modifications to the code are proposed for facilitation of understanding and compliance by the code user.

Plain English Policy Statement:

In 2009, DSA, among other things, adopted mandatory standards for light pollution reduction, incorporating public comments received in the last code cycle as well as during the 2009 code development process. The standards, published in the 2010 California Green Building Standards (CAL Green) Code, apparently did not come to the attention of the petitioner during public participation in code development. The petitioner only now is raising potential public safety issues that DSA cautions should be addressed immediately.

**MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS**

DSA has determined that there are no other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations.

**MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

DSA has determined that projects following this regulation would not impose any new mandate on school districts. Additionally, the mandate does not require reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4, Government Code.

**FISCAL IMPACT STATEMENT**

- A. Cost or Savings to any state agency: **None**
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **Not Applicable**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None**
- E. Cost or savings in federal funding to the state: **None**

**CALIFORNIA GREEN BUILDING STANDARDS CODE – MATRIX ADOPTION TABLE  
CHAPTER 5 – NONRESIDENTIAL MANDATORY MEASURES  
DIVISION 1 – PLANNING AND DESIGN**

Adopting agency	BSC	SFM	HCD			DSA		OSHPD				CSA	DPH	AGR	DWR	CEC	CA	SL	SLC
			1	2	1-AC	AC	SS	1	2	3	4								
Adopt entire CA chapter	<b>X</b>																		
Adopt entire chapter as amended (amended sections listed below)																			
Adopt only those sections that are listed below							<b>X</b>												
Chapter/Section																			
5.101							<b>X</b>												
5.102 Definitions							<b>X</b>												
<b>5.106.8</b>							<b>X</b>												
<b>5.106.10</b>							<b>X</b>												

**CHAPTER 5  
NONRESIDENTIAL MANDATORY MEASURES**

*Division 5.1 – PLANNING AND DESIGN*

**SECTION 5.101  
GENERAL**

**5.101 Purpose.** The provisions of this chapter outline planning, design and development methods that include environmentally responsible site selection, building design, building siting and development to protect, restore and enhance the environmental quality of the site and respect the integrity of adjacent properties.

**SECTION 5.102  
DEFINITIONS**

**5.102 Definitions.** The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

**CUTOFF LUMINAIRES.** Luminaires whose light distribution is such that the candela per 1000 lamp lumens does not numerically exceed 25 (2.5 percent) at an angle of 90° above nadir, and 100 (10 percent) at a vertical angle of 80° above nadir. This applies to all lateral angles around the luminaire.

**LOW-EMITTING AND FUEL EFFICIENT VEHICLES.** Eligible vehicles are limited to the following:

1. Zero emission vehicle (ZEV), including neighborhood electric vehicles (NEV), partial zero emission vehicle (PZEV), advanced technology PZEV (ATZEV) or CNG fueled (Original equipment manufacturer only) regulated under Health and Safety Code section 43800 and CCR, Title 13, Sections 1961 and 1962.

2. High-efficiency vehicles, regulated by U.S. EPA, bearing High-Occupancy Vehicle (HOV) car pool lane stickers issued by the Department of Motor Vehicles.

**NEIGHBORHOOD ELECTRIC VEHICLE (NEV).** A motor vehicle that meets the definition of “low-speed vehicle” either in Section 385.5 of the Vehicle Code or in 49 CFR571.500 (as it existed on July 1, 2000), and is certified to zero-emission vehicle standards.

**PZEV.** Any vehicle certified by the California Air Resources Board as a Partial Credit Zero Emission Vehicle.

**TENANT-OCCUPANTS.** Building occupants who inhabit a building during its normal hours of operation as permanent occupants, such as employees, as distinguished from customers and other transient visitors.

**VANPOOL VEHICLE.** Eligible vehicles are limited to any motor vehicle, other than a motortruck or truck tractor, designed for carrying more than 10 but not more than 15 persons including the driver, which is maintained and used primarily for the nonprofit work-related transportation of adults for the purposes of ridesharing.

**Note:** Source: Vehicle Code, Division 1, Section 668

**ZEV.** Any vehicle certified to zero-emission standards.

**SECTION 5.103  
SITE SELECTION  
(Reserved)**

**SECTION 5.104  
SITE PRESERVATION  
(Reserved)**

H.2.68

**EMERGENCY EXPRESS TERMS  
FOR  
PROPOSED BUILDING STANDARDS  
OF THE  
CALIFORNIA BUILDING STANDARDS COMMISSION (CBCS)  
IN THE  
2010 CALIFORNIA GREEN BUILDING STANDARDS CODE  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11**

**LEGEND FOR EXPRESS TERMS**

1. Existing California amendments or code language being modified appears in *italics*, with modified language underlined.
2. Repealed text appears in ~~strikeout~~.

**EXPRESS TERMS**

**SECTION A5.106  
SITE DEVELOPMENT**

**A5.106.8 Light pollution reduction.** Outdoor lighting systems shall be designed and installed to comply with the following:

1. The minimum requirements in the California Energy Code for Lighting Zones 1-4 as defined in Chapter 10 of the California Administrative Code; and
2. Backlight, Uplight and Glare (BUG) ratings as defined in IESNA TM-15-07; and
3. Allowable BUG ratings not exceeding those shown in Table A5.106.8, or

Comply with a local ordinance lawfully enacted pursuant to Section 101.7, whichever is more stringent.

**Exceptions:**

1. Luminaires that qualify as exceptions in the California Energy Code
2. Emergency lighting

Note: See also California Building Code, Chapter 12, Section 1205.6 for college campus lighting requirements for parking facilities and walkways.

**TABLE A5.106.8**  
**Maximum Allowable Backlight, Uplight and Glare (BUG) Ratings<sup>1</sup>**

<u>Allowable Rating</u>	<u>Lighting Zone 1</u>	<u>Lighting Zone 2</u>	<u>Lighting Zone 3</u>	<u>Lighting Zone 4</u>
<b><u>Allowed Backlight Rating</u></b>				
<u>Greater than 2 mounting heights from property line</u>	<u>B3</u>	<u>B4</u>	<u>B5</u>	<u>B5</u>
<u>1 – 2 mounting heights from property line and oriented with B towards the property line</u>	<u>B2</u>	<u>B3</u>	<u>B4</u>	<u>B4</u>
<u>0.5 – 1 mounting height from property line and oriented with B towards the property line</u>	<u>B1</u>	<u>B2</u>	<u>B3</u>	<u>B3</u>
<u>Less than 0.5 mounting height from property line adjacent to a street and oriented with B towards the property line<sup>2</sup></u>	<u>B0</u>	<u>B1</u>	<u>B2</u>	<u>B3</u>
<u>Less than 0.5 mounting height from property line and oriented with B towards the property line</u>	<u>B0</u>	<u>B0</u>	<u>B1</u>	<u>B2</u>
<b><u>Allowed Uplight Rating</u></b>	<u>U0</u>	<u>U1</u>	<u>U2</u>	<u>U3</u>
<b><u>Allowed Glare Rating<sup>4</sup></u></b>	<u>G1</u>	<u>G2</u>	<u>G3</u>	<u>G4</u>
<b><u>Allowed Glare Rating, Building Mounted Luminaires<sup>3</sup></u></b>				
<u>Greater than 2 mounting heights to any property line</u>	<u>G1</u>	<u>G2</u>	<u>G3</u>	<u>G4</u>
<u>1 – 2 mounting heights to any property line</u>	<u>G0</u>	<u>G1</u>	<u>G1</u>	<u>G2</u>
<u>0.5 – 1 mounting heights to any property line</u>	<u>G0</u>	<u>G0</u>	<u>G1</u>	<u>G1</u>

Less than 0.5 mounting height to any property line	G0	G0	G0	G1
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<sup>1</sup> IESNA Lighting Zones 0 and 5 are not applicable; refer to Lighting Zones as defined in the California Energy Code and Chapter 10 of the California Administrative Code.

<sup>2</sup> For purposes of compliance with this section, the property line may be considered to be the centerline of a public roadway or transit line. For properties adjacent to public walkways, bikeways, plazas and parking lots, the property line may be considered to be five feet beyond the site boundary.

<sup>3</sup> Building-mounted luminaires that cannot be mounted with their backlight to the property line shall meet the Allowed Glare rating for all luminaires. Light from a building-mounted luminaire shall not exceed the Backlight rating in the direction of the property line.

...

Notation

Authority: Health and Safety Code Sections 18930.5, 18934.5, 18938(b) and Government Code 14617.

Reference: Health and Safety Code Sections 18930.5, 18934.5, 18937 and 18938.