



**ORANGE COUNTY
COUNCIL OF GOVERNMENTS
Technical Advisory Committee**

Meeting Date / Location

**Tuesday, October 6, 2020
9:30 A.M. – 12:00 P.M.**

<https://yorbalinga.zoom.us/j/98573530975?pwd=dktua0JHbmJhVDIqOTdsOW16ZUxvUj09>

Meeting ID: 985 7353 0975
Passcode: OCCOGTAC
One tap mobile
+16699006833,,98573530975# US (San Jose)

<u>Agenda Item</u>	<u>Staff</u>	<u>Page</u>
INTRODUCTIONS	(Chair Nate Farnsworth, City of Yorba Linda)	
PUBLIC COMMENTS	(Chair Farnsworth)	

The agenda descriptions are intended to give members of the public a general summary of items of business to be transacted or discussed. The posting of the recommended actions does not include what action will be taken. The Technical Advisory Committee may take any action which it deems appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

At this time members of the public may address the TAC regarding any items within the subject matter jurisdiction, which are not separately listed on this agenda. Members of the public will have an opportunity to speak on agendized items at the time the item is called for discussion. NO action may be taken on items not listed on the agenda unless authorized by law. Comments shall be limited to three minutes per person and an overall time limit of twenty minutes for the Public Comments portion of the agenda.

Any person wishing to address the TAC on any matter, whether or not it appears on this agenda, is requested to complete a "Request to Speak" form available at the door. The completed form is to be submitted to the TAC Chair prior to an individual being heard. Whenever possible, lengthy testimony should be presented to the TAC in writing and only pertinent points presented orally. A speaker's comments shall be limited to three minutes.

ADMINISTRATION

1. **OCCOG TAC Meeting Minutes** (Chair Farnsworth) TAC 6
 - Draft OCCOG TAC minutes for the September 1, 2020 meeting

Recommended Action: Approve OCCOG TAC minutes for the September 1, 2020 meeting, as presented or amended

Agenda Item	Staff	Page
PRESENTATIONS, DISCUSSION AND ACTION ITEMS, REPORTS		
2. SCAG’s Climate Adaptation Framework	(Ms. Kim Clark and Lorianne Esturas, SCAG) – 15 minutes	TAC 10
<i>Recommended Action:</i> Receive report. Discussion.		
3. Center of Demographic and Research Update <ul style="list-style-type: none"> • Housing Inventory System (HIS) Data Collection • 2020 Census Data & Geographies Expected Timeline 	(Ms. Deborah Diep, Center for Demographic Research) 15 Minutes	TAC 41
<i>Recommended Action:</i> Receive report. Discussion.		
4. SoCal Freight Strategic Plan	Ms. Susan DeSantis, Arellano Associates) 15 minutes	TAC 42
<i>Recommended Action:</i> Receive report. Discussion		
5. Sustainable Communities Program	(Ms. Hannah Brunelle, SCAG) 15 minutes	TAC 43
<i>Recommended Action:</i> Receive report. Discussion		
6. ADU Technical Assistance Handbook	Chair Farnsworth) 10 minutes	TAC 56
<i>Recommended Action:</i> Receive report. Discussion		
7. Housing Accountability Act - Technical Assistance Advisory	(Chair Farnsworth) 5 minutes	TAC 98
<i>Recommended Action:</i> Receive report. Discussion		
8. RHNA Update	(Chair Farnsworth) 15 minutes	TAC 141
<i>Recommended Action:</i> Receive report. Discussion		
9. REAP Grant Update	(Ms. Primmer, Executive Director)	
<i>Recommended Action:</i> Receive report. Discussion		

REPORT FROM THE OCCOG EXECUTIVE DIRECTOR

MATTERS FROM OCCOG TAC MEMBERS

ANNOUNCEMENTS FROM NON-MEMBERS

ITEMS FOR NEXT MEETING

IMPORTANT DATES OR UPCOMING EVENTS

- October 26, 2020 – RHNA Appeals Deadline
-

Adjourn to: NOVEMBER 3, 2020
LOCATION: TBD



OCCOG GLOSSARY

ACS- American Community Survey, U.S. Census Bureau
ADU- Accessory Dwelling Units
AQMD/SCAQMD - (South Coast) Air Quality Management District
AQMP- Air Quality Management Plan
ARB/CARB- (California) Air Resources Board
CAA- Community Analysis Area
CDR- Center for Demographic Research
CEQA- California Environmental Quality Act
COUNTY- County of Orange
CPAD- California Protected Areas Database
CSUF- California State University, Fullerton
DOF- California State Department of Finance
EDD- California State Employment Development Dept.
ESRI- Environmental Systems Research Institute, GIS Software maker: ArcGIS, ArcInfo, ArcPro...
GHG- Greenhouse gas (emissions, typically in reference to SB 375 & RTP/SCS)
GIS- Geographic Information Systems (generic mapping software reference)
HCD- California State Dept. of Housing & Community Development
HIS- Housing Inventory System (CDR)
HOV- high occupancy vehicle
IGR- Inter-governmental review
IRB- Institutional Review Board
ISDOC- Independent Special Districts of Orange County
LEAP- Local Early Action Planning Grants (HCD)
LOCC/League, The- League of California Cities, Orange County Division
LU- Land Use
LUS- Land Use Survey
MOU- Memorandum of Understanding
MWDOC- Municipal Water District of Orange County
NCCP- Natural Community Conservation Planning (preservation of open space)
NOP- Notice of Preparation
OCCOG- Orange County Council of Governments
OCP- Orange County Projections
OCSD- Orange County Sanitation District
OCTA- Orange County Transportation Authority
OCTAM- Orange County Transportation Analysis Model
OCWD- Orange County Water District
PHE- Population, housing, and employment
RCP- (SCAG's) Regional Comprehensive Plan
REAP- Regional Early Action Program Grants (HCD)
RFP- Request for Proposal
RFQ- Request for Quote
RHNA- Regional Housing Needs Assessment
RSA- Regional Statistical Area
RTIP- Regional Transportation Improvement Program
RTP- Regional Transportation Plan
SCAG- Southern California Association of Governments
SCS- Sustainable Communities Strategy (from Senate Bill 375)
SIP- State Implementation Plan
SPM- (SCAG's) Scenario Planning Model
SWQA- State Water Quality Assessment



Orange County Council of Governments

OCCOG Technical Advisory Committee

TAC- Technical Advisory Committee

TAZ- Traffic Analysis Zones

TCA- Transportation Corridor Agencies

TWG- SCAG Technical Working Group

VMT- Vehicle Miles Traveled

WEROC- Water Emergency Response Organization of Orange County



**ORANGE COUNTY
COUNCIL OF GOVERNMENTS
Technical Advisory Committee**

Draft Action Minutes

Meeting of October 6, 2020

The Orange County Council of Governments Technical Advisory Committee (OCCOG TAC) meeting of September 1, 2020, was called to order by Chair Nate Farnsworth, City of Yorba Linda. The meeting was held through video and telephone conferencing.

PUBLIC COMMENT:

There were no public comments at this time.

ADMINISTRATION

1. OCCOG TAC Meeting Minutes

The OCCOG meeting minutes of September 1, 2020 were unanimously approved by the TAC as moved by Vice Chair Equina, City of Irvine, and a second by Derek Bingham, City of Rancho Santa Margarita.

PRESENTATIONS, DISCUSSION AND ACTION ITEMS, REPORTS

2. Center for Demographic Research – Housing Inventory System (HIS) Data Collection and EDD Labor Force Data by Jurisdiction

Housing Inventory System (HIS) Data Collection

January 1 – June 30, 2020 housing construction and demolition data was due on July 24, 2020.

HIS submission forms were updated in 2020 to include additional sample entries, clarifications in the instructions, and an updated HIS unit flow chart to better explain how to record unit activity when attached ADUs are involved. This is similar to DOF's new housing survey flow chart DOF, but is tailored to CDR's 4 ADU types. An additional optional column was added "Building Permit Date Issued" to assist in compiling HIS, DOF and HCD APR data.

Please submit data to CDR using the new 2020 HIS form located at <http://www.fullerton.edu/cdr/HISform.xls> . Revisions to prior years may use either the new or old form. Please verify that the same data reported to CDR is also provided to DOF in their annual Housing Unit Change Survey. For HIS questions, please contact Tania Torres at 657-278-3417 or tatorres@fullerton.edu.

2020 Census Data & Geographies Expected Timeline

<https://www.census.gov/programs-surveys/decennial-census/about/rdo/summary-files.2020.html>

2020 Census P.L. 94-171 Redistricting Data Summary Files
Posting February 2021 through March 2021
2020 Census P.L. 94-171 Geographic Support Products
Posting December 2020 through January 2021

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- Shapefiles
- Maps (.pdf)
- Block Assignment Files/Name Look-up Tables
- 2010 to 2020 tabulation block crosswalk

3. Connect SoCal and RHNA

Chair Farnsworth updated the OCCOG TAC members about Connect SoCal and RHNA. Stakeholders have raised concerns that the traffic analysis zones (TAZs) within Connect SoCal may be used or relied upon as the prescriptive pattern of future development for any purpose related to the Regional Housing Needs Assessment (RHNA) process, General Plan amendment, or approval process. The Board is asked to consider sending SCAG a letter requesting clarification that the TAZ maps are only advisory and not mandatory.

On September 3, 2020, SCAG staff will present the SCS to the Regional Council for approval. After the adoption of Connect SoCal, each local jurisdiction will receive formal notification from SCAG on their draft RHNA allocation. The period to file appeals is expected to commence on the eighth day after the Regional Council adopts the Connect SoCal in its entirety. The appeals process will then follow the adopted RHNA Appeals Procedures with timelines updated to reflect the delay of the Connect SoCal Plan adoption. It is anticipated that the RHNA appeals hearing will commence around late 2020 or early 2021.

Action: Received Report. Discussion.

4. ADU

Chair Farnsworth updated the OCCOG TAC members on ADU capacity. According to HCD, ADU capacity will be based on one of the three methods:

- 1) Average jurisdictional or regional ADU production since 2018.
- 2) Five times the jurisdictional or regional ADU production between 2013 and 2017
- 3) Use of aggressive projections supported by aggressive policies

Additionally, at the August 27, 2020 SCAG's Housing Element Workshop, SCAG staff presented a pre-certified affordability analysis for the SCAG region. At the meeting, CDR also presented an ADU activity spreadsheet from 2013-2019. A copy of SCAG's presentation will be available at <http://scag.ca.gov/programs/Pages/Housing-Elements-2020.aspx>

It should be noted that jurisdictions are also able to propose their own analysis to HCD for consideration.

Action: Received Report. Discussion.

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Meeting of October 6, 2020
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5. REAP

Executive Director Marnie Primmer presented to the OCCOG TAC the results of the REAP survey. The survey was sent to the OCCOG Board, OCCOG TAC, OCCOG Board ex-officios, and more. Based on the results, over half of the respondents ranked the OC Housing Trust as a very high priority. Second was the ADU toolkit and RHNA support.

The proposed allocations for each task are as follows:

Housing Production Planning Support – \$210k
OC Housing Trust – \$987k
RHNA Support – \$2M

Once the Regional Council approves the REAP program guidelines, OCCOG will work with SCAG to develop an MOU. The REAP grant is provided on a reimbursement basis; however, if reimbursements are not feasible for OCCOG, SCAG may take on the responsibility to be directly invoiced. This option comes at a 5% additional cost.

Action: Received Report. Discussion.

REPORT FROM CHAIR/VICE CHAIR

There was no additional report from the Chair or Vice Chair.

REPORT FROM THE EXECUTIVE DIRECTOR

Executive Director Marnie Primmer notified the OCCOG TAC members that the General Assembly has been cancelled for this year.

MATTERS FROM OCCOG TAC MEMBERS

There were no items to report from OCCOG TAC Members.

ANNOUNCEMENTS FROM OCCOG TAC NON-MEMBERS

There were no items to report from OCCOG TAC Non-Members.

ITEMS FOR NEXT MEETING

Jonathan Hughes, SCAG, would like to add SCAG's Climate Adaptation Framework as an item for the next OCCOG TAC meeting.

IMPORTANT DATES OR UPCOMING EVENTS

ADJOURNMENT

The meeting was adjourned by Chair Farnsworth until Tuesday, October 6, 2020 via video and teleconferencing.

OCCOG TAC Minutes
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Submitted by:

Justin Equina, City of Irvine
OCCOG TAC Vice Chair

ATTENDANCE:

Melanie McCann, City of Santa Ana
Nate Farnsworth, City of Yorba Linda
Deborah Diep, Center of Demographic Research
Marnie Primmer, Executive Director of OCCOG
Justin Equina, City of Irvine
Laura Stokes, City of San Juan Capistrano
Scott Reekstin, City of Tustin
Justin Arios, City of Costa Mesa
Joanna Chang, County of Orange
Brian James, City of Fountain Valley
Virginia Gomez, TCA
Minoo Ashabi, City of Costa Mesa
Ben Zdeba, City of Newport Beach
Lisa Telles, OCCOG
Steven Giang, County of Orange
Jonathan Hughes, SCAG
Ron Santos, City of Lake Forest

Regional Climate Adaptation Framework

Presentation to Orange County COG

SCAG Sustainability Department, Cambridge Systematics, HereLA, and ESA

October 6, 2020

www.scag.ca.gov



- SoCal Climate Adaptation Framework
 - Kicked off in February 2019
 - Funded by Caltrans SB 1 Adaptation Planning Grant
 - Consultant team led by Cambridge Systematics, with ESA, Here LA, and Urban Economics
 - Focus on developing tools and resources for local jurisdictions
 - Outreach and communications strategies
 - Planning guidance and policy model language
 - Vulnerability mapping and assessment tools
 - Transportation and land use scenarios and modeling
 - Wildfire risk, sea level rise, extreme heat, and inland flooding
 - Finance and funding guidance
 - Project ideas, prioritization and tracking

Tools for Adaptation Planning



Public Engagement Tools (all phases)

- Templates
- Communication Strategies

Phase 1 Tools:

- Status of Vulnerability Assessments
- Decision Tree

Phase 2 Tools:

- Interactive Exposure Map

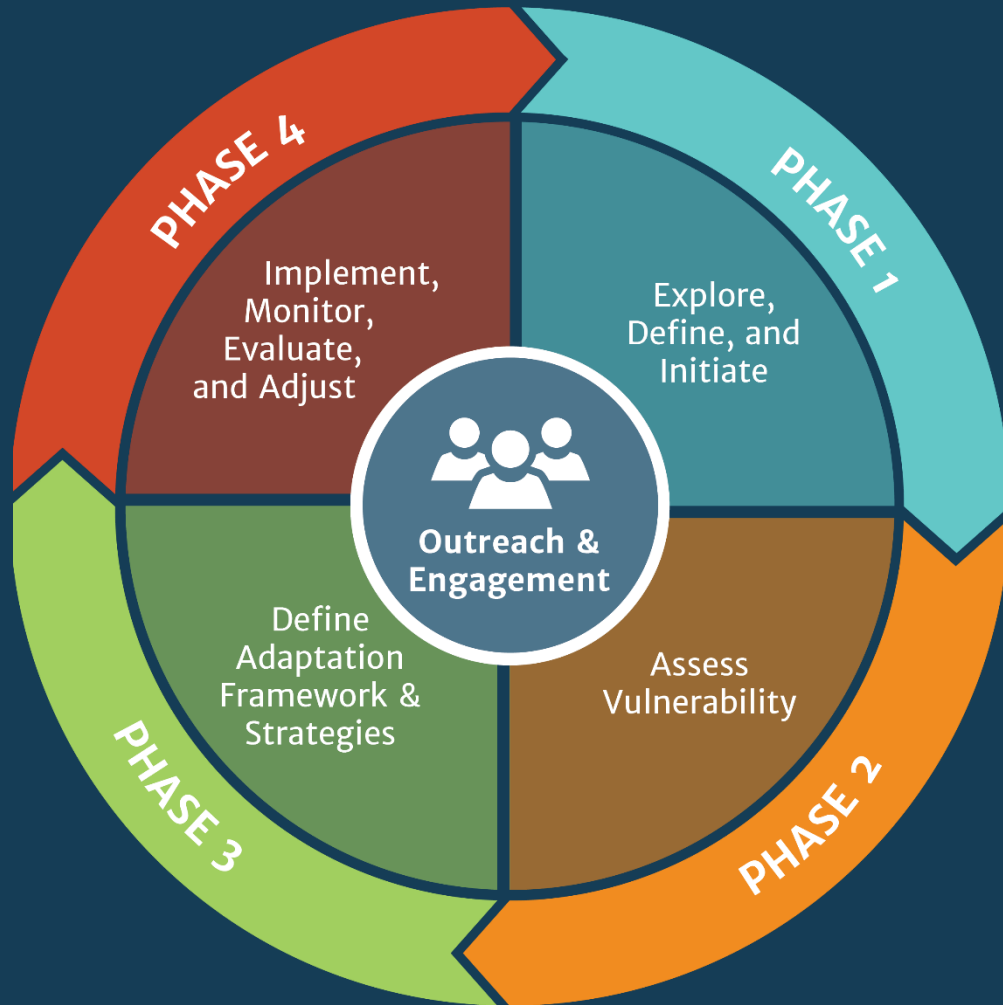
Phase 3 Tools:

- Adaptation strategies worksheet

Phase 4 Tools:

- Status of General Plans
- Model policies
- Project checklist
- Metrics to track progress
- Adaptation project tracking

Southern California Adaptation Planning Guide



- Aligned with phases and steps in the California Adaptation Planning Guide (Draft 2020)
- Highlights content from other key resource documents
- Incorporates examples from within the SCAG region
- Identifies tools and resources for each phase and step

SoCal Adaptation Planning Guide

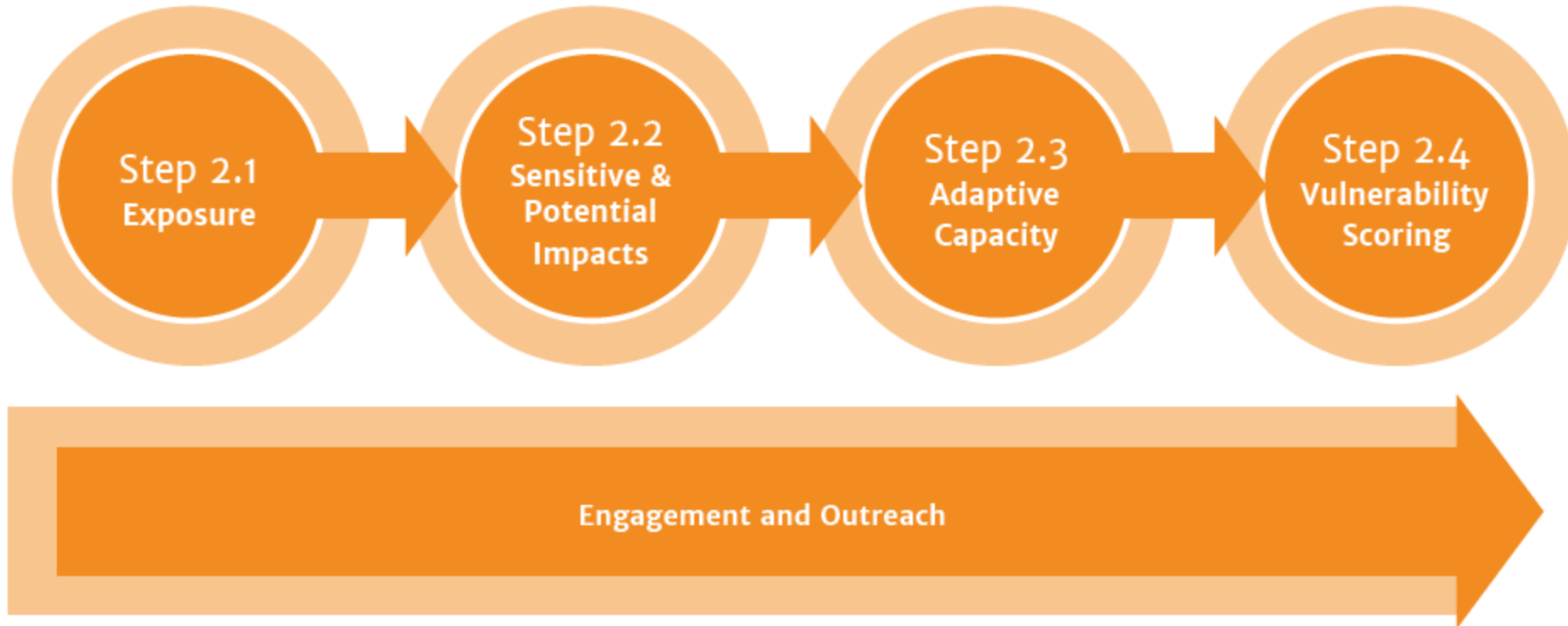


Figure 2.1 – Steps in Phase 2



Step 2.1: Exposure

EXPOSURE	
Materials to Prepare (as suggested by the California APG)	
1	A final list of climate change hazards of concern.
2	An overview of major historical hazard events and the consequences to the community.
3	A description of how each identified climate change hazard is projected to change over the analysis period.
4	Map of projected change in each identified climate change hazard.

Goal: Characterize the community's exposure to current and projected climate hazards.

The California APG provides detailed guidance on assessing how, where and when community assets will be exposed to climate hazards. A brief summary of the guidance is provided here.

For this step, use the same tools and resources identified in Phase 1 for identifying climate hazards to develop a more detailed understanding of climate change effects on the community, including a close look at critical assets and the most vulnerable populations.

Confirm the list of climate change hazards and their effects identified under Step 1.3 by engaging with community asset managers and key stakeholders, including emergency managers and municipal operations and maintenance staff who have knowledge of areas most frequently affected. See Phase 2 Outreach Considerations for different approaches to soliciting input.

Document major climate-related historical events, including when they occurred, where they occurred, and their magnitude. Understanding the historical record of hazards in the community provides context for public engagement concerning the impacts of climate change, and provides insights on how climate change might exacerbate existing hazards in the future. This step may also reveal important trends that can inform interpretation of current conditions and future projections. *See Barstow example.*

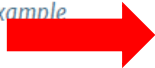
DIFFERENT LEVELS OF DETAIL FOR DIFFERENT PLANS

Exposure assessments have varying levels of detail. An LHMP effort should collect data for location, extent, and previous occurrences for each hazard. For other reporting efforts, such as a safety element, a qualitative description of the community's hazard history may be more appropriate.

Evaluate and describe how each climate hazard is projected to change over the time horizon identified under Step 1.1. The tools available for this task provide future projections of climate hazards at various scales. Some present a range of projection scenarios based on results of various climate models and global emissions scenarios.¹ Often, it is useful to look at a range of projections or multiple scenarios in order to get a full understanding of future climate effects on the community. *See South Bay COG example.*

For many climate change hazards, particularly wildfire, coastal flooding and erosion, and inland flooding, mapping is an important technique for visualizing the exposure of community assets to climate hazards. For large areas over which the effects of climate can vary substantially, mapping helps identify populations and areas of concern, and can help identify where vulnerabilities exist because of asset interdependencies. At a more localized scale, mapping can reveal overlapping hazards that could result in interconnected or cascading impacts, such as coastal flooding events making emergency access roads impassable in the event of an unrelated disaster such as a wildfire. *See Ventura County and Long Beach examples.*

¹ For a discussion of different emissions scenarios and how they affect adaptation planning, see Climate Change Projections in Chapter 2: Background and Setting. Additional information can be found in the California APG and CalAdapt.





Tools and Resources for Determining Climate Change Exposure:

CLIMATE-RELATED HISTORICAL EVENTS

Review your local hazard mitigation plan for a description of historical events.

Step 2.1B in the California APG lists state and federal resources that provide information about historical trends and events related to coastal and storm hazards, temperature, precipitation and snowpack, drought, and wildfires.

CLIMATE HAZARD PROJECTIONS

CalAdapt [<https://cal-adapt.org/>] is an online resource for viewing and downloading data at the census tract scale about projected changes in climate conditions and associated natural hazards, including extreme precipitation, extreme heat, wildfire, sea level rise, inland flooding, and extended drought. In addition to maps, Cal-Adapt includes a variety of visualizations to inform an exposure analysis and provides downloadable data to allow visualizations in other software (e.g., Excel charts).

SCAG MULTIMODAL TRANSPORTATION AND LAND USE ANALYSIS TOOLKIT - PLACEHOLDER

California Heat Assessment Tool (CHAT) is an online tool (<https://www.cal-heat.org/>) that provides detailed information about future extreme heat conditions across California.

Coastal hazards. [https://www.usgs.gov/centers/pcm/science/coastal-storm-modeling-system-cosmos?qt-science_center_objects=0#qt-science_center_objects] The U.S. Geological Survey's Coastal Storm Modeling System (CoSMoS) has detailed maps of coastal flooding under various sea level rise scenarios, storm conditions, and erosion conditions. Use this resource to understand projected changes associated with sea-level rise.

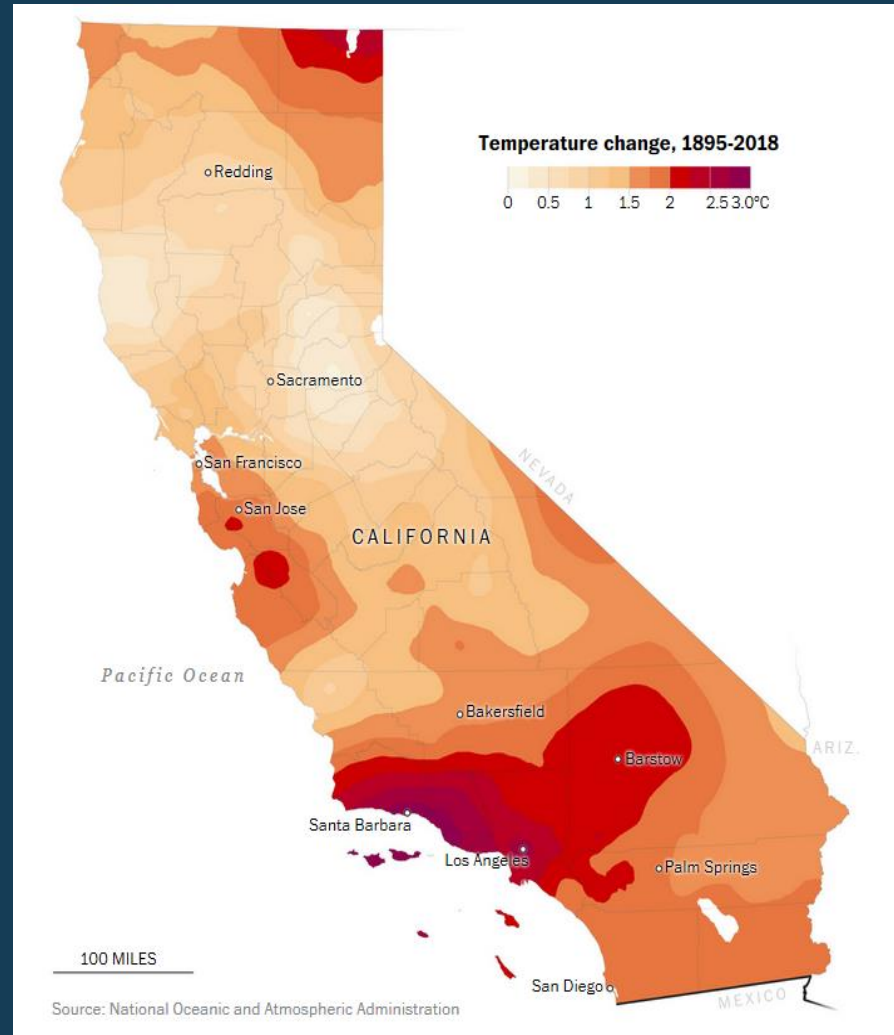
EXPOSURE WORKSHEETS

Regional Resilience Framework. The framework has a worksheet to assist in crafting narrative descriptions of climate hazards. See Appendix B, Worksheet 2.2 Develop Hazard Impact Statements.

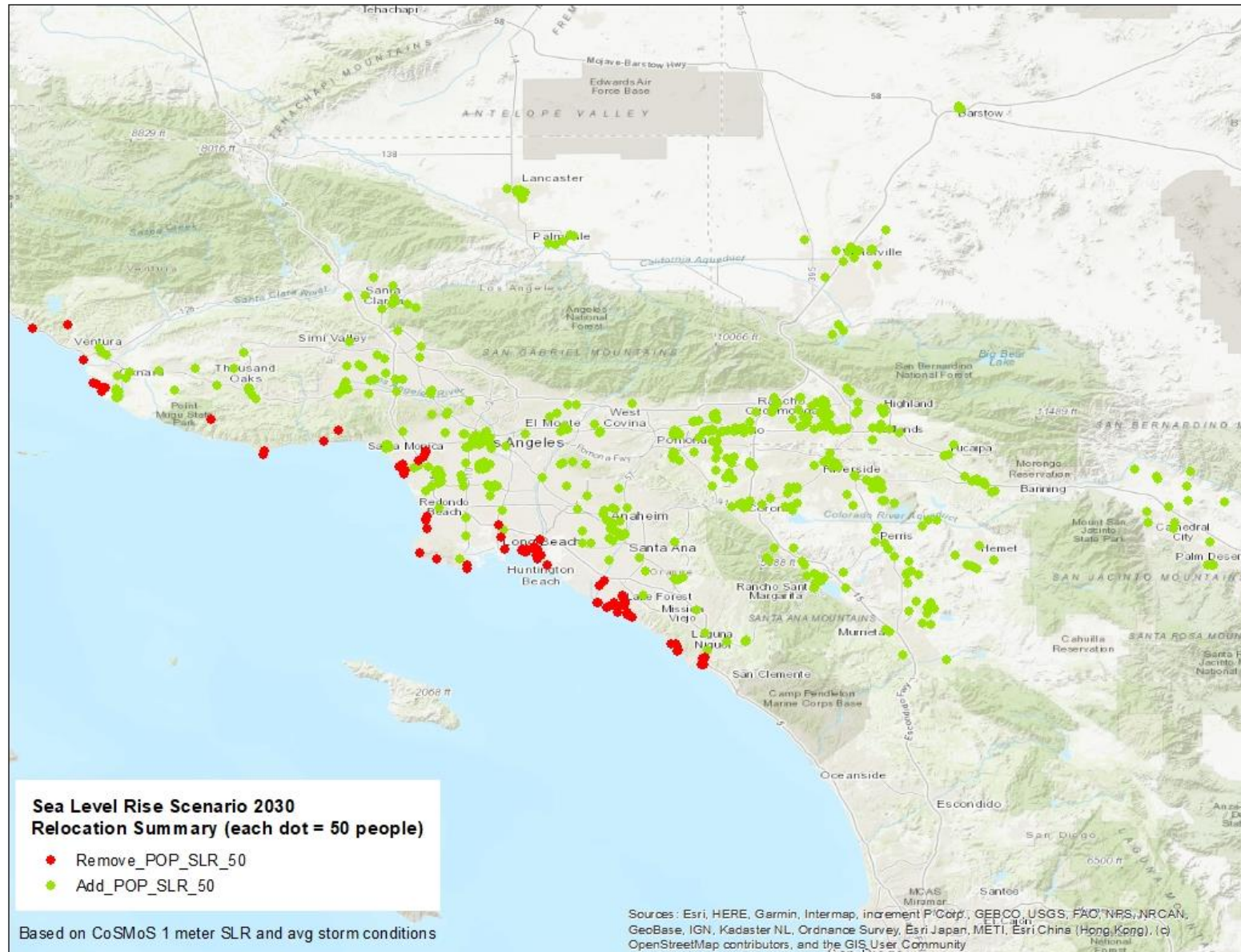
SoCal Adaptation Planning Guide

Summarize Climate Change Impacts Specific to SCAG Region

-  *Extreme Heat*
-  *Sea Level Rise/Coastal Flooding and Erosion*
-  *Severe Storms/Wind*
-  *Inland Flooding*
-  *Drought*
-  *Wildfire*
-  *Air Quality and Vector Borne Diseases*
-  *Landslides*
-  *Pests and Ecological Hazards*



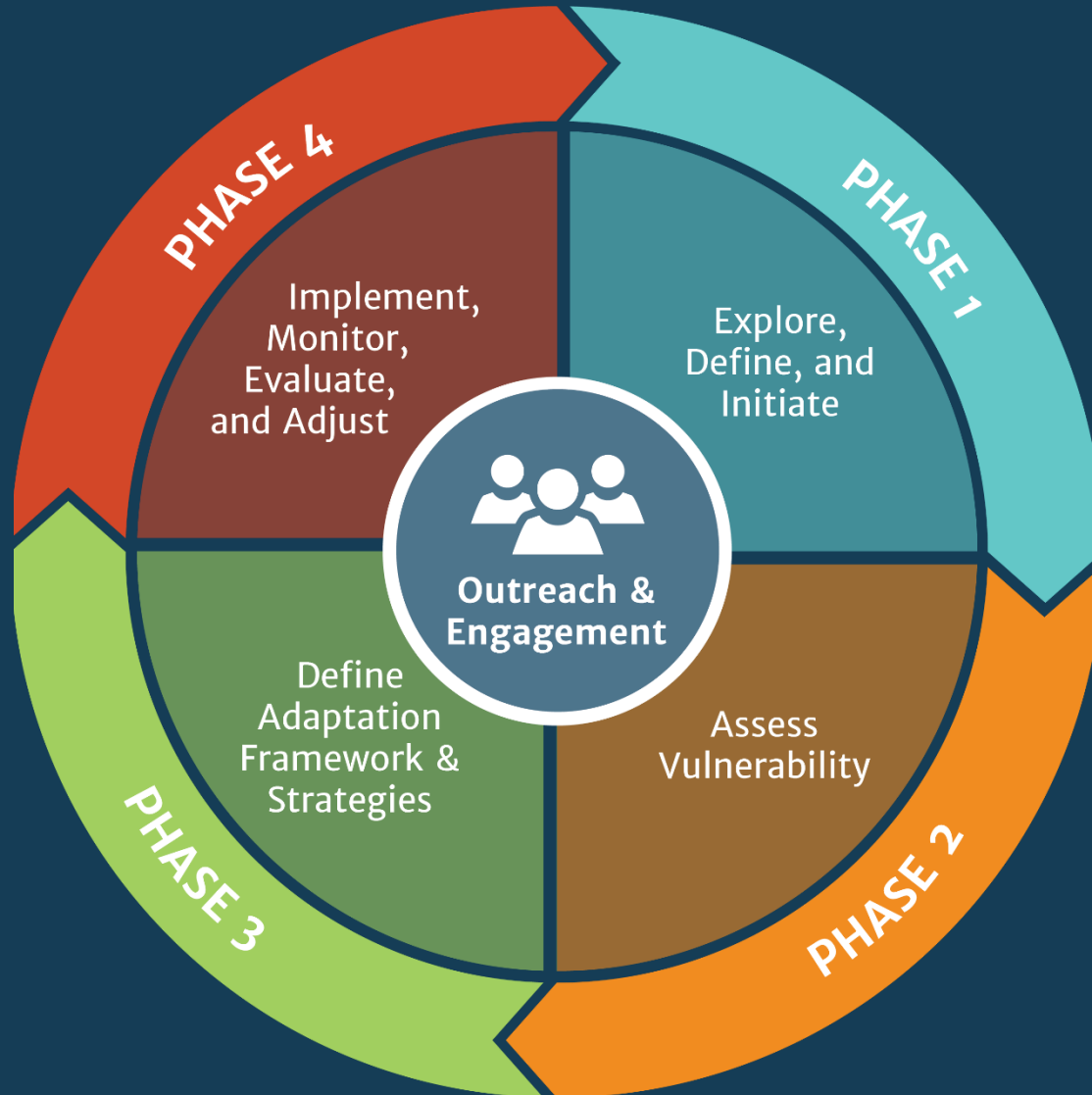
Sea Level Rise 2030 – “Business as Usual” Scenario



Sea Level Rise Events 2030 “Business as Usual” Scenario

Code	County	Base				Sea Level Rise				Numeric Difference				Difference			
		Trips	VMT	VHT	VHD	Trips	VMT	VHT	VHD	Trips	VMT	VHT	VHD	Trips	VMT	VHT	VHD
1	Imperial	524,487	6,755,364	120,182	3,519	522,838	6,726,450	119,652	3,479	(1,649)	(28,914)	(530)	(40)	0%	0%	-0.44%	-1.14%
2	Los Angeles	22,544,031	234,673,126	7,195,893	2,251,895	22,534,716	233,902,147	7,279,139	2,350,402	(9,315)	(770,979)	83,246	98,507	0%	0%	1.16%	4.37%
3	Orange	8,097,287	79,600,042	2,091,159	549,667	8,191,865	78,894,779	2,083,734	555,020	94,577	(705,263)	(7,425)	5,353	1%	-1%	-0.36%	0.97%
4	Riverside	6,293,669	77,764,585	1,994,026	575,835	6,311,715	77,438,304	1,999,881	587,010	18,046	(326,281)	5,856	11,176	0%	0%	0.29%	1.94%
5	San Bernardino	5,560,880	75,639,862	1,572,418	210,823	5,576,604	75,692,642	1,578,361	215,759	15,724	52,780	5,943	4,936	0%	0%	0.38%	2.34%
6	Ventura	2,180,683	19,718,820	465,617	88,599	2,172,050	19,660,788	478,095	102,192	(8,633)	(58,032)	12,478	13,593	0%	0%	2.68%	15.34%
Total		45,201,037	494,151,800	13,439,295	3,680,338	45,309,788	492,315,111	13,538,862	3,813,862	108,751	(1,836,689)	99,567	133,524	0.24%	-0.37%	0.74%	3.63%

Tools for Adaptation Planning



Public Engagement Tools (all phases)

- Templates
- Communication Strategies

Phase 1 Tools:

- Status of Vulnerability Assessments
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Phase 2 Tools:

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Phase 3 Tools:

- Adaptation strategies worksheet

Phase 4 Tools:

- Status of General Plans
- Model policies
- Project checklist
- Metrics to track progress
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What is the Climate Talks Box?

An immersive pop-up experience, crafted with sustainable materials, educating the public about climate change and climate adaptation strategies.

Goal

Test four different messaging strategies about climate change to understand what resonates with people who live in the SCAG region.

Messaging Strategies

1. How climate change causes personal, monetary & health-related harm
2. How trusted leaders are speaking about climate change
3. How climate change is affecting California's natural resources
4. How climate change will affect the region surrounding the pop-up





Redondo Beach Pier Summer
Concert Series, 08/24



Taste of Baldwin Park, 08/29



Climate Resolve Keep LA Cool Day @
Hansen Dam, 09/07



Open Arts & Music Festival, 09/15



Urban Hive Market Long Beach, 09/28

WHAT IS INCLUDED IN THE WORKSHOP TEMPLATE

This workshop template includes three customizable components:

- 1 A presentation slide deck tailored to SCAG jurisdictions who would like to engage constituents in a conversation about climate adaptation and/or mitigation.
- 2 Materials for an interactive activity, in both group and individual formats.
- 3 Corresponding meeting announcements and invites that you can change for your event

All template components provide you with a flexible base. Add to and change them as you see fit.

HOW TO USE THIS TEMPLATE

- 1 Read through this Guide to help orient yourself to the materials included, messaging strategies, and best practices as you craft your communications approach.
- 2 Open up the presentation slide deck in either InDesign or PowerPoint and start to move things around, add your content, and customize the presentation as you see fit.
- 3 Modify the template invitations/notices and send them to your constituents to announce your upcoming workshop.
- 4 Print out the final materials or project them digitally at your workshop to start the conversation!

Communication Strategies

1) Make it personal

Use a personal "risk-based" messaging strategy that identifies the monetary costs and health impacts of climate change for your constituency.

- This strategy ranked as the most effective during SCAG's community outreach.
- Use facts that can apply to an individual's or family's life and phrase the risk so that the effects are tangible. A utility bill increasing by hundreds of dollars is an experience that is easy to grasp; it is much more difficult to grasp a change in millions of dollars to a government's budget.
- *As an example, we have included four such facts in the "How the Climate Affects You" section of the slide deck.*

2) Localize and concretize

Use a before and after visualization of a familiar and beloved resource.

- In this strategy, you can direct your audience's feelings of attachment towards a place, into collective support. Use a visual (photographs, videos, renderings) to show the before and after effects of our changing climate. This allows attendees to see the effects for themselves.
- A good subject is nearby nature that has been affected by extreme weather events.
- As an additional note, the literature shows that conservative audiences respond more favorably to changes that are framed as the "past & present," whereas liberal audiences preferred a "present & future" framing.
- *See the examples in the "How the Climate Affects California" section of the slide deck.*

3) Map the risk

Use a chronological map to show the proximity of risk and change over time.

- This strategy uses mapping visualization to help participants understand the future effects of climate change.
- It is important to keep in mind that map-reading is a special skill. Aid participant understanding by ensuring your visualizations are focused on your immediate locality, and that familiar landmarks are called out.
- Connecting the familiar (local places) to the hard-to-grasp (future climate effects) builds a kind of support grounded in personal affection.
- *See the examples in the "How Climate Changes at Home" section of the slide deck.*

4) Bring in a trusted advisor:

Use the words and stature of someone your community already trusts.

- This strategy requires the identification of a leader or authority figure with whom your community has a rapport and finding a values-based message that will resonate with them.
- This can occur as quotes, a video message, or an in-person appearance. The literature says this strategy can work especially well with older, and more conservative constituencies.
- However, appropriate advisor selection can align this strategy with a wide range of ideologies. Notably, this strategy was reported as slightly less impactful than the other strategies explained here.
- *See the examples in the "How the Climate Affects Us" section of the slide deck.*

Tools for Adaptation Planning



Public Engagement Tools (all phases)

- Templates
- Communication Strategies

Phase 1 Tools:

- Status of Vulnerability Assessments
- **Decision Tree**

Phase 2 Tools:

- Interactive Exposure Map

Phase 3 Tools:

- Adaptation strategies worksheet
- Decision tree

Phase 4 Tools:

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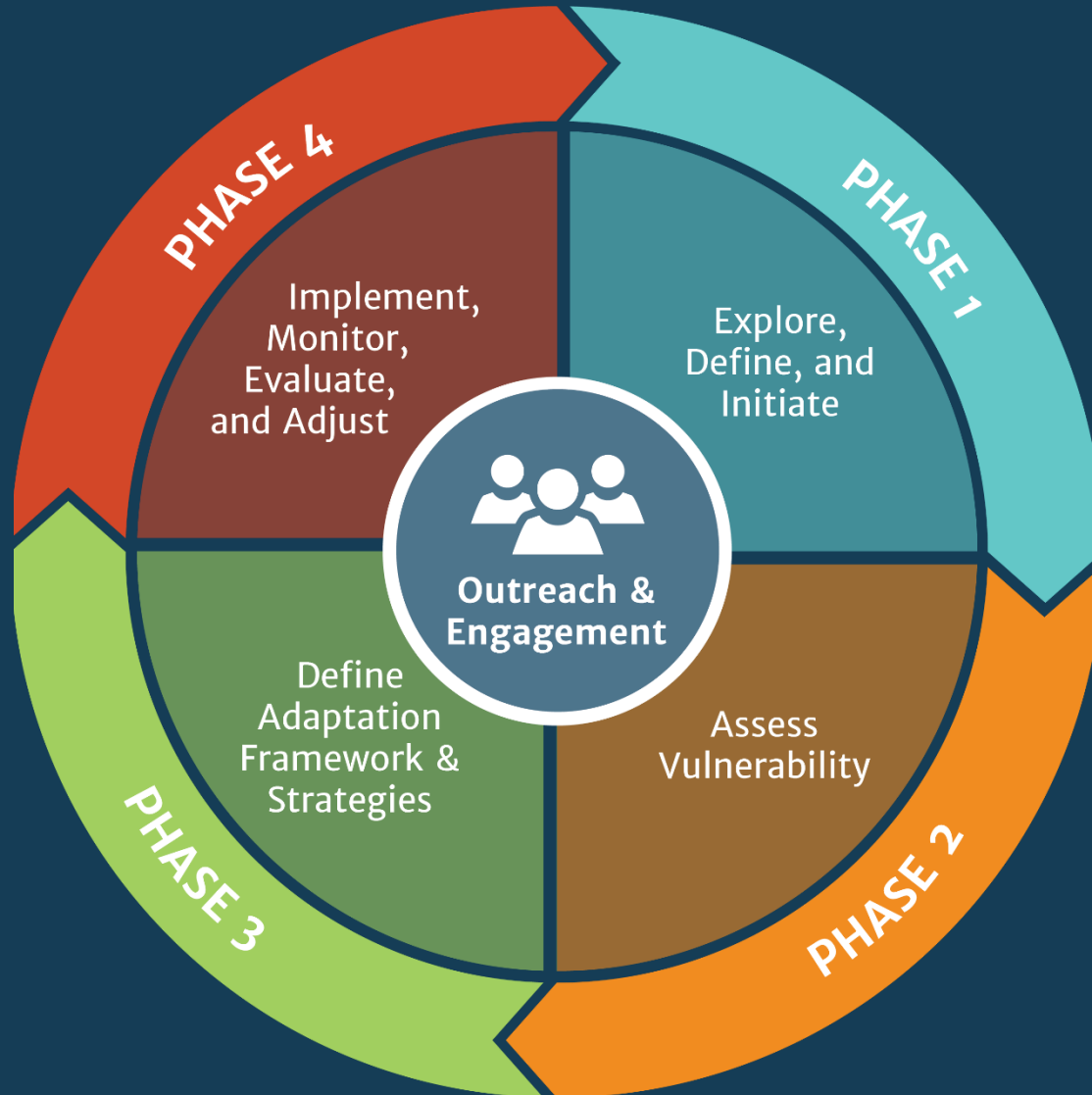
Decision Tree Tool



AGENCY INFO				
Select the County you represent	San_Bernardino			
Select City you represent	Needles			
Total	Population	Employment	Households	Housing Units
County	2,258,662	828,692	700,095	2,587,070
City	7,828	3,264	3,151	10,959
Wildfire	Population	Employment	Households	Housing Units
County	494,946	176,782	155,171	573,404
City	1	0	0	1
Sea Level Rise	Population	Employment	Households	Housing Units
County	-	-	-	-
City	-	-	-	-
Flood	Population	Employment	Households	Housing Units
County	68,514	24,007	21,336	78,842
City	708	295	285	991
Extreme Heat	Population	Employment	Households	Housing Units
County	88,885	20,662	33,587	124,116
City	7,828	3,264	3,151	10,959

PROJECT INFO	
Questions	Project
Which hazard category do you want to look for projects in?	Extreme_Heat
If selected "Other", please mention hazard name	
Asset protected in said project	Vulnerable_Populations
If selected "Other", please mention protected asset name you are interested in	
Desired strategy	Improve access to air conditioning and cooling centers by vulnerable populations
If selected "Other", please mention your desired strategem	
Action item interested in	Encourage partnerships between local emergency responders and local health departments to identify and reach vulnerable populations in need of access to cooling centers or personal cooling resources
If selected "Other", please mention your desired action item	TAC 26

Tools for Adaptation Planning



Public Engagement Tools (all phases)

- Templates
- Communication Strategies

Phase 1 Tools:

- Status of Vulnerability Assessments
- Decision Tree

Phase 2 Tools:

- **Interactive Exposure Map**

Phase 3 Tools:

- Adaptation strategies worksheet

Phase 4 Tools:

- Status of General Plans
- Model policies
- Project checklist
- Metrics to track progress
- Adaptation project tracking

Interactive Mapping Tools

- Under development using ArcGIS Online and StoryMaps tools
- One-stop shop for exploring all risk hazard layers
- Includes demographics (pop, HHs, emp) as dot density layers
 - Able to search and query overlays in your jurisdiction by risk layer
 - Wildfire Risk, Sea Level Rise, Inland Flooding, Extreme Heat Health Events
 - Select by jurisdiction or by spatial area user-determined
 - Summarize vulnerability data to input to other tools

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Adaptation Actions

- Excel Spreadsheet
- Over 275 actions
- Filter by climate change hazard type (e.g., extreme heat, air quality)
- Filter by asset type (e.g., vulnerable populations, public health)
- Strategies and actions can be incorporated into Climate Adaptation Plans or as implementation programs for the General Plan

Adaptation Actions

Climate Change Hazard	Asset	Strategy	Action
Sea Level Rise/Coastal Flooding and Erosion	Buildings and Facilities	Account for climate change impacts when designing and approving future projects and retrofitting existing projects	Require accounting of sea level rise in all applications for new development in shoreline areas. Ensure that all applications for new development account for projected sea level rise and provide adequate protection or design accommodations.
Sea Level Rise/Coastal Flooding and Erosion	Multiple Assets	Build or expand flood defenses	Install seawalls and rock revetments to protect beachfront properties and infrastructure when consistent with the Coastal Act and where natural or green solutions are not feasible.
Sea Level Rise/Coastal Flooding and Erosion	Stormwater	Design and utilize green infrastructure to provide adaptation benefits	Prioritize low-impact development (LID) stormwater practices in areas where storm sewers may be impaired by high water due to sea level rise.
Sea Level Rise/Coastal Flooding and Erosion	Buildings and Facilities	Design buildings and facilities to minimize vulnerability to flood hazards	Elevate the first floor up to elevations above target flood levels accounting for increased flooding due to sea-level rise
Sea Level Rise/Coastal Flooding and Erosion	Buildings and Facilities	Design buildings and facilities to minimize vulnerability to flood hazards	Modify building design standards so that the second floor is above the target flood level and contains flood-sensitive features, while the first floor is used for parking and/or storage and is designed to be durable and resilient to flood damage. Target flood level should account for sea-
Sea Level Rise/Coastal Flooding and Erosion	Multiple Assets	Design buildings and facilities to minimize vulnerability to flood hazards	Raise buildings and roads by placing fill to rebuild the grades at higher elevations. Rebuild all connecting roads, trails, and utilities to slope up to the new grade. Elevation should be determined based on project sea-level rise.
Sea Level Rise/Coastal Flooding and Erosion	Ocean and Coastal Resources	Design restoration of riparian corridors and wetlands in floodplains to be resilient to climate change	Choose plant species for restoration sites that are less vulnerable to flooding
Sea Level Rise/Coastal Flooding and Erosion	Ocean and Coastal Resources	Design restoration of riparian corridors and wetlands in floodplains to be resilient to climate change	Establish transitional and upland habitat in restoration sites where feasible
Sea Level Rise/Coastal Flooding and Erosion	Ocean and Coastal Resources	Design restoration of riparian corridors and wetlands in floodplains to be resilient to climate change	Require adaptive management plans for restoration/mitigation sites within projected sea-level rise hazard zones to consider increased flooding and erosion potential
Sea Level Rise/Coastal Flooding and Erosion	Multiple Assets	Discourage development in areas vulnerable to climate change impacts	Utilize zoning and subdivision practices that restrict/limit development in flood prone and erosion hazard areas, including downzoning, establishing hazard overlay zones, requiring setbacks and conservation easements, and prohibiting new lot creation in hazard areas.
Sea Level Rise/Coastal Flooding and Erosion	Multiple assets	Establish local early warning systems	Establish an early warning system for sea level rise events

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Model Policies for Local Coastal Programs and General Plans



Model policies organized by general plan element and climate hazard type

- Elements:

1. Environmental Justice
2. Circulation
3. Land Use
4. Safety
5. Housing

- Hazards:

- Multiple hazards
- Extreme heat
- Sea-level rise
- And other climate-related hazards

Improve Drainage on Bluffs to Reduce Erosion

- **Bluff Drainage and Erosion.** The City will evaluate and research feasible new funding mechanisms to investigate areas that may be significantly contributing to groundwater flows to the bluffs and determine whether improving drainage and/or reducing irrigation could reduce bluff erosion. Measures to improve drainage and reduce overwatering shall be communicated to the public and property owners as part of existing water conservation outreach programs, and included as conditions on new development where applicable. (Pacifica Draft LCP Policies 2018)

Repetitive Loss

- **Damage to Existing Development.** When the structural components of existing, lawfully-constructed structures, including roofs, foundations, and/or interior areas, are damaged by more than 30%, due to coastal hazards, or continuously exposed to storm flooding for a tide cycle (6 hours) more than 1 time a year for a 3-year consecutive period, or meets the FEMA definition for repetitive loss, then that existing development becomes legally non-conforming and subject to applicable restrictions. (Santa Monica Draft Land Use Plan 2018)

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Project Checklists

**TABLE 1
PROJECT SCREENING THRESHOLDS FOR CLIMATE HAZARDS (FOR PROJECT PROPONENT TO COMPLETE)**

Climate Hazard	Screening Threshold Questions <i>(If the answer to any of the following questions is "Yes", then the checklist for that hazard must be completed)</i>	Links or Sources of Information
 Drought	<ul style="list-style-type: none"> Would project consume water resources in its construction or operation and if so, are the water sources supplying the project at risk from drought? Yes <input type="checkbox"/> No <input type="checkbox"/>	Urban Water Management Plan applicable to the project's location
 Extreme Heat	<ul style="list-style-type: none"> Is the area where your project is located expected to experience more than 30 heat health days per year over the project lifetime? Yes <input type="checkbox"/> No <input type="checkbox"/>	Maps based on California Heat Assessment Tool (CHAT): https://www.cal-heat.org/
 Inland Flooding	<ul style="list-style-type: none"> Is the project located in the 100-year or larger FEMA floodplain, otherwise known as the 1% annual chance flood? Using Cal-Adapt, will the project watershed be subject to an increase of extreme precipitation events? Yes <input type="checkbox"/> No <input type="checkbox"/>	FEMA Flood Maps: https://msc.fema.gov/portal/home
 Landslides	<ul style="list-style-type: none"> Is the project located in area of moderate or high susceptibility to landslide hazards? Yes <input type="checkbox"/> No <input type="checkbox"/>	USGS landslide susceptibility map: https://maps.conservation.ca.gov/cgs/lsi/
 Sea Level Rise/ Coastal Flooding	<ul style="list-style-type: none"> Is the project in a SLR vulnerability zone, or will any infrastructure or resources that the project relies upon be affected by SLR (e.g., beaches, groundwater)? Yes <input type="checkbox"/> No <input type="checkbox"/>	Use detailed local SLR maps, if available. Alternatively, use Our Coast Our Future tool: http://data.pointblue.org/apps/ocof/cms/index.php?page=flood-map
 Wildfire	<ul style="list-style-type: none"> Is the project located in a high or very high fire hazard zone? Yes <input type="checkbox"/> No <input type="checkbox"/>	CalFIRE Maps - https://osfm.fire.ca.gov/divisions/wildfire-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/

Template for incorporating climate change adaptation elements into local project approval process:

- Residential and commercial development
- Infrastructure projects

Two-step process:

1. Suggested screening thresholds for 6 hazards
2. Detailed checklist for each hazard

Extreme Heat Checklist

Over the coming decades the SCAG region can expect longer and hotter heat waves. Average maximum temperatures are projected to increase around 4-5 degrees F by the mid-century, and 5-8 degrees F by the late-century. Extreme temperatures are also expected to increase in duration and intensity.

Exposure

1. **Historical exposure:** Has the site historically experienced extreme heat events? (Provide supporting evidence; If yes, please describe past events or conditions: e.g., long heat spells, hot nights, etc.)

Yes No Basis for conclusion:

2. **Future Conditions over Project Lifetime:**

- Extreme heat events are expected to increase in duration and/or intensity.
 Extreme heat events are not expected to increase in duration and/or intensity.
 Extreme heat events are expected to remain about the same.
 Unknown.

3. **Identify data source(s) or map(s)/modeling used for assessing past and future exposure of the asset** (check all that apply):

- California Heat Assessment Tool (CHAT) found at <https://www.cal-heat.org/>
 Cal-Adapt
 Site Specific Modeling (please provide date and source of information):

Sensitivity

1. **Human Health:** Using the CHAT (www.cal-heat.org), determine the Heat Vulnerability Index (HVI) for the census tract where the project is located: _____.

Areas with HVI values over 50 are considered highly vulnerable to heat-related health impacts.

2. **Physical Asset:** Assess sensitivity to the climate hazard based on the following criteria:

- Low Sensitivity:** Climate hazard would have little or no impact on the asset's physical components or how the project functions.
 Moderate Sensitivity: Climate hazard would have an impact on the project's physical components and/or its functionality, but the project would recover quickly once hazard subsides. The project would retain some ability to function while exposed.
 High Sensitivity: Climate hazard would have a significant impact on the project/asset(s) physical components and/or its functionality, and the project would not recover quickly once the hazard subsides. The project would lose major functionality while exposed.

- For each hazard of potential concern:
- Assess project's vulnerability based on exposure and sensitivity
 - Assess potential consequences based on:
 - Estimated level of asset damage
 - Level of disruption of asset service or function
 - Cost to replace and/or repair and cost of losing the service/function of the asset

Project Checklists

Adaptation Assessment

Project Adaptation Measures:

From the following list of adaptation measures, identify those that the project will incorporate to increase adaptive capacity to extreme heat. For all “no” answers provide additional explanatory information, including whether the measure is not applicable to the project.

Robustness	<p>1. Would project expand and maintain the urban tree canopy? (e.g., by increasing tree cover for large parking lots) <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>2. Would the project expand the use of cool roofs and reflective building materials? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>3. Would the project use alternative vegetative solutions to alleviate urban heat island: for example, green walls and green roofs where trees are not possible? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>4. Would the project expand the use of cool, porous, high-reflectivity pavement or sustainable materials in pavements? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/></p>
Resilience	<p>5. Would the project use alternatives to grid-powered air conditioners for cooling, such as propane air conditioners, fans and cold water systems? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/></p>
Adaptability	<p>6. Would the project limit or remove impervious surfaces to help combat urban heat island effects? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>7. Does the project expand access to cooling centers for vulnerable populations to use during heat health events? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/></p>
Redundancy	<p>8. Would the project have at least 2 routes for emergency vehicle access to allow for emergency services/first responders to access people at project site in the event of an emergency? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/></p>

- c. Assess project’s adaptive capacity, based on the adaptation measures incorporated into its design
- i. Suggested measures: customize to local needs
 - ii. Utilize the Strategy Matrix

Tools for Adaptation Planning



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- **Adaptation project tracking**

Project Tracking Tool



AGENCY INFO						
Select the County you represent	San_Bernardino			Population	Employment	Households
Do you represent a County Agency, a City Agency or Other Agency?	City		County	2,258,662	828,692	700,095
If selected Other Agency, please select Agency Name from the list			City	7,828	3,264	3,151
If selected "Other", please mention the name of the agency you represent						
Select City you represent	Needles					
PROJECT INFO						
Metrics	Project 1	Project 2	Project 3	Project 4	Project 5	Project 6
Climate Change Hazard combating through existing, planned or proposed projects (can mention as many as you know)	Extreme_Heat	Inland_Flood	Wildfire	Extreme_Heat	Severe_Storms Or_Wind	
<i>Affected Population</i>	7,828	708	1	7,828	Unknown	Unknown
<i>Affected Employment</i>	3,264	295	0	3,264	Unknown	Unknown
<i>Affected Households</i>	3,151	285	0	3,151	Unknown	Unknown
If selected "Other", please mention hazard name						
Asset protected in said project	Public Transit	Multiple Assets	Public Health	Vulnerable Pop	Buildings and Facilities	
If selected "Other", please mention protected asset name						
Scale of project (SED protected) by this effort (in % ??)	0.05	0.35	0.9	0.2		
<i>Protected Population</i>	391	248	1	1,566	Unknown	Unknown
<i>Protected Employment</i>	163	103	0	653	Unknown	Unknown
<i>Protected Households</i>	158	100	0	630	Unknown	Unknown
Additional Description						
Stage of the project	Construction	Proposed	Planning	Engineering/De	No Action	
Timeline						
Cost						
Funding	Partially funded	Unfunded	Partially funded	Fully funded	Unfunded	
Contact Info for PM						

Contact the project team

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Item 3: Center for Demographic Research (CDR) Updates
Recommended Action: Receive reports.

Reports

1. Housing Inventory System (HIS) Data Collection

The following cities have not provided the January 1 – June 30, 2020 housing construction and demolition data:

- Cypress
- Fountain Valley
- Fullerton
- Laguna Niguel
- Santa Ana
- Seal Beach
- Villa Park
- Westminster

HIS submission forms were updated in 2020 to include additional sample entries, clarifications in the instructions, and an updated HIS unit flow chart to better explain how to record unit activity when attached ADUs are involved. This is similar to DOF’s new housing survey flow chart DOF, but is tailored to CDR’s 4 ADU types. An additional optional column was added “Building Permit Date Issued” to assist in compiling HIS, DOF and HCD APR data.

Please submit data to CDR using the new 2020 HIS form located at <http://www.fullerton.edu/cdr/HISform.xls> . Revisions to prior years may use either the new or old form. Please verify that the same data reported to CDR is also provided to DOF in their annual Housing Unit Change Survey. For HIS questions, please contact Tania Torres at 657-278-3417 or tatorres@fullerton.edu.

2. 2020 Census Data & Geographies Expected Timeline

<https://2020census.gov/en/news-events/operational-adjustments-covid-19.html?>

Process Redistricting Data: Census Bureau experts run and review programs to populate any missing demographic data for each household, run differential privacy programs to ensure confidentiality and run tabulation programs for each state delivery. The statutory deadline to provide redistricting data is March 31, 2021.

<https://www.census.gov/programs-surveys/decennial-census/about/psap.html>

Last checked: 9/29/2020

- February 2021 – March 2021: 2020 geographic support products available for public use.

Contact: Ms. Deborah Diep, Director, Center for Demographic Research
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Employment data: Ms. Ruby Zaman, Assistant Director, CDR
657/278-4709 ruzaman@fullerton.edu

For GIS: Mr. Ian Boles, GIS Analyst, CDR
657/278-4670 iboles@fullerton.edu

For HIS: Ms. Tania Torres, Demographic Analyst, CDR
657/278-3417 tatorres@fullerton.edu

Item 4: **Southern California Freight Strategy**
Recommended Action: Receive reports.

Reports

Caltrans is currently preparing the Southern California Freight Strategy Plan (SCFS). The SCFS provides a regional perspective on goods movement travel demands, freight sustainability challenges, and opportunities for innovative solutions in San Bernardino, Riverside, Los Angeles, Orange, and Ventura counties. The consultant team has conducted a comprehensive review of previous studies and conducted a draft analysis of freight flows across the trucking, rail, marine, and air cargo modes. Work in process includes an analysis of multimodal supply chains and preliminary land use needs for future freight facilities. The initial work indicates the following four themes:

- Truck and Traffic Safety
- Green freight innovations
- AB 617 local community emission reduction plans
- Future freight studies

The presentation will include a summary of work completed to date, a review of what will be analyzed within each of the four themes, a discussion of how the project can assist with current and future freight-related efforts, and live polling. Live polling questions will focus on the following areas of interest:

- prioritizing top safety concerns;
- planning for clusters of warehouses and fulfillment centers; and
- economic development and ecommerce (e.g. options for increasing sales tax revenues)



Item 5: SCAG's Sustainable Communities Program
Recommended Action: Receive reports.

Reports

The Sustainable Communities Program provides planning resources and technical assistance to local agencies to support the implementation of Connect SoCal, a long-range vision for transportation and land use planning for the region. SCAG has issued a Call for Applications, which includes three specific project types, each with a unique application, to fund planning and quick build projects that result in increased rates of walking and biking, promote traffic safety, expand opportunities for multimodal transportation options, and better position local jurisdictions to be competitive for implementation funds. SCAG staff will be providing a presentation with more details at the TAC meeting.

Attachment 1: Sustainable Communities Program PowerPoint Slides

Attachment 2: Sustainable Communities Program Fact Sheet



2020-2021

Sustainable Communities Program

CALL FOR APPLICATIONS



Active Transportation & Safety Call for Applications



SCAG Sustainable Communities Program (SCP) Timeline



2020/21 Sustainable Communities Program (SCP)



- Supports implementation of the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), *Connect SoCal*
- Provides **multiple opportunities** to seek funding and resources to meet the needs of communities, address recovery and resiliency strategies considering COVID-19, and support regional goals
 - **Active Transportation & Safety (ATS) Call for Applications open now**
 - Details and guidelines for subsequent Calls will be released as they become available
- Successful applicants receive technical assistance from SCAG
 - **SCAG will complete procurement for the proposed scope of work for the AT&S Call**

2020/21 SCP Active Transportation & Safety Goals



- Prioritize historically disinvested and communities of color, which comprise the majority of the Regional High Injury Network to strategically invest resources;
- Increase the proportion of trips accomplished by biking, walking, and rolling;
- Increase safety and mobility of people walking, biking, and rolling;
- Continue to foster jurisdictional support and promote implementation of the goals, objectives, and strategies of Connect SoCal;
- Seed active transportation concepts and produce plans that provide local agencies with the project prioritization, conceptual renderings, and cost estimates required for future ATP applications;
- Prioritize alignment and integration of Key Connections outlined in Connect SoCal, including Shared Mobility and Mobility as a Service, Smart Cities and Job Centers, Accelerated Electrification, Go Zones, and Housing Supportive Infrastructure;
- Integrate multiple funding streams to increase the overall budget for active transportation planning and capacity building projects.

SCP Active Transportation & Safety Project Types



Active Transportation & Safety Project Types	
Project Type	Project Examples
Community or Area Wide Plans	<ul style="list-style-type: none">• Active Transportation Focused Plans<ul style="list-style-type: none">• City-wide Active Transportation Plan• Transportation Safety Focused Plans<ul style="list-style-type: none">• Vision Zero Action Plan
Quick Build Projects	<p>Pilot Projects (Interim Capital Improvement Projects)</p> <ul style="list-style-type: none">• Protected bike lanes• Scramble cross-walks• Bulb outs and curb extensions
Network Visioning & Implementation	<ul style="list-style-type: none">• Active Transportation Network Vision Planning• Quick Build Project Implementation

Active Transportation & Safety Example Project Types



**Transportation Safety
Focused Plans**



**City-wide
Active Transportation
Plans**



**First/Last Mile
Plans**



**Local Road Safety or
Safe Systems Plans**



**Network Visioning &
Implementation**



**Pedestrian Master
Plans**



Quick Build Projects

Active Transportation & Safety Project Examples



Active Transportation & Safety Eligible Applicants



Agency/Organization	Eligible Applicants
Cities/Counties	X
Transit Agencies	X
Councils of Governments	X
Regional Transportation Planning Agency	X
County Public Health Department	X
Transit Agencies (eligible for funds under the FTA)	X
Natural Resources or Public Land Agencies	X
Public Schools or School Districts	X
Tribal Governments	X
Non-Profit Organizations	

Active Transportation & Safety Schedule



Call for Applications Opens	September 8, 2020
Application Workshops	October 7, 2020 October 21, 2020
Application Deadline	November 13, 2020
Regional Council Approval of 2020 SCP Projects	May 2021
California Transportation Commission Approval of ATP Projects	June 2021
Projects Begin	2021-2022

Additional Resources & Upcoming Webinars

- SCP Active Transportation & Safety Application Webinars

- Wed., Oct. 7, 1 – 3 p.m.
- Wed., Oct. 21, 10 a.m. – Noon

- Program Fact Sheet & Toolkit
- One-to-one application support



2020-2021
Sustainable Communities Program
ACTIVE TRANSPORTATION & SAFETY TOOLKIT

How to Use this Toolkit

This toolkit provides an overview of the Southern California Association of Governments' (SCAG) 2020-2021 Sustainable Communities Program (SCP) and provides information for eligible applicants to learn about project types and program areas for upcoming funding opportunities through SCAG, as well as a suite of resources to learn how this program can benefit your community.



Questions?

Hannah Brunelle

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(213) 236-1907





2020-2021

Sustainable Communities Program

Overview

The Southern California Association of Governments' (SCAG) Sustainable Communities Program (SCP) is a technical assistance program that provides direct resources for jurisdictions and agencies for local planning and serves as a key implementation tool for Connect SoCal, SCAG's 2020-2045 Regional Transportation Plan and Sustainable Communities Strategy (RTP/SCS). The SCP strengthens local partnerships and implements strategies outlined in Connect SoCal to promote healthy, connected, and equitable communities.

The FY 2020/2021 program will fund projects in the following areas that support and implement the policies and initiatives of Connect SoCal: Active Transportation & Safety; Housing and Sustainable Development; Smart Cities, Mobility Innovation & Transportation Demand Management; and Green Region, among others. The first Call for Applications, prioritizing active transportation and safety, opened in **September 2020**. More details and guidelines for subsequent Calls will be released as they become available.

Program Goals & Community Benefits

Encourage planning strategies to reduce motorized vehicle miles traveled (VMT) and greenhouse gas (GHG) emissions, particularly in areas with the highest need for air quality improvements.

Promote, address, and ensure health and equity in regional land use, housing production, and transportation planning and to close the gap of racial injustice and better serve our communities of color.

Increase competitiveness for federal and state funds, including the California Active Transportation Program and Greenhouse Gas Reduction Funds.

Example Active Transportation & Safety Project Types



City-wide Active Transportation Plans



Pedestrian Master Plans



Quick Build Projects



Network Visioning & Implementation



Transportation Safety Focused Plans



First/Last Mile Plans



Local Road Safety Plans or Safe Systems Plans

To learn more, visit SCAG's [SCP website](#) to access the Program Toolkit, including example projects, communication templates, and more information about resource opportunities.

For questions, please contact Hannah Brunelle, brunelle@scag.ca.gov.

Item 6: **ADU Handbook**
Recommended Action: Receive reports.

Reports

On September 15, 2020, the California Department of Housing and Community Development (HCD) released the updated “Accessory Dwelling Unit (ADU) Handbook.”

The handbook reflects the latest state laws governing ADUs, including:

- Allowing ADUs and junior ADUs to be built concurrently with a single-family dwelling
- Opening areas where ADUs can be created to include all zoning districts that allow single-family and multifamily uses
- Modifying fees from utilities, such as special districts and water corporations
- Limited exemptions or reductions in impact fees
- Reduced parking requirements

Attachment: ADU Handbook



Images courtesy of PrefabADU and HCD

California Department of Housing and
Community Development

Accessory Dwelling Unit Handbook

September 2020



Where foundations begin

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Understanding Accessory Dwelling Units (ADUs) and Their Importance



California's housing production is not keeping pace with demand. In the last decade, less than half of the homes needed to keep up with the population growth were built. Additionally, new homes are often constructed away from job-rich areas. This lack of housing that meets people's needs is impacting affordability and causing average housing costs, particularly for renters in California, to rise significantly. As affordable housing becomes less accessible, people drive longer distances between housing they can afford and their workplace or pack themselves into smaller shared spaces, both of which reduce the quality of life and produce negative environmental impacts.

Beyond traditional construction, widening the range of housing types can increase the housing supply and help more low-income Californians thrive. Examples of some of these housing types are Accessory Dwelling Units (ADUs - also referred to as second units, in-law units, casitas, or granny flats) and Junior Accessory Dwelling Units (JADUs).

What is an ADU?

An ADU is an accessory dwelling unit with complete independent living facilities for one or more persons and has a few variations:

- Detached: The unit is separated from the primary structure.
- Attached: The unit is attached to the primary structure.
- Converted Existing Space: Space (e.g., master bedroom, attached garage, storage area, or similar use, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.
- Junior Accessory Dwelling Unit (JADU): A specific type of conversion of existing space that is contained entirely within an existing or proposed single-family residence.

ADUs tend to be significantly less expensive to build and offer benefits that address common development barriers such as affordability and environmental quality. Because ADUs must be built on lots with existing or proposed housing, they do not require paying for new land, dedicated parking or other costly infrastructure required to build a new single-family home. Because they are contained inside existing single-family homes, JADUs require relatively

modest renovations and are much more affordable to complete. ADUs are often built with cost-effective one or two-story wood frames, which are also cheaper than other new homes. Additionally, prefabricated ADUs can be directly purchased and save much of the time and money that comes with new construction. ADUs can provide as much living space as apartments and condominiums and work well for couples, small families, friends, young people, and seniors.

Much of California's housing crisis comes from job-rich, high-opportunity areas where the total housing stock is insufficient to meet demand and exclusionary practices have limited housing choice and inclusion. Professionals and students often prefer living closer to jobs and amenities rather than spending hours commuting. Parents often want better access to schools and do not necessarily require single-family homes to meet their needs. There is a shortage of affordable units, and the units that are available can be out of reach for many people. To address our state's needs, homeowners can construct an ADU on their lot or convert an underutilized part of their home into a JADU. This flexibility benefits both renters and homeowners who can receive extra monthly rent income.

ADUs also give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care, thus helping extended families stay together while maintaining privacy. The space can be used for a variety of reasons, including adult children who can pay off debt and save up for living on their own.

New policies are making ADUs even more affordable to build, in part by limiting the development impact fees and relaxing zoning requirements. A 2019 study from the Turner Center on Housing Innovation noted that one unit of affordable housing in the Bay Area costs about \$450,000. ADUs and JADUs can often be built at a fraction of that price and homeowners may use their existing lot to create additional housing, without being required to provide additional infrastructure. Often the rent generated from the ADU can pay for the entire project in a matter of years.

ADUs and JADUs are a flexible form of housing that can help Californians more easily access job-rich, high-opportunity areas. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education, and services for many Californians.

Summary of Recent Changes to Accessory Dwelling Unit Laws



In Government Code Section 65852.150, the California Legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in zones that allow single-family and multifamily uses provides additional rental housing, and is an essential component in addressing California's housing needs. Over the years, ADU law has been revised to improve its effectiveness at creating more housing units. Changes to ADU laws effective January 1, 2020, further reduce barriers, better streamline approval processes, and expand capacity to accommodate the development of ADUs and junior accessory dwelling units (JADUs).

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing

options for family members, friends, students, the elderly, in-home health care providers, people with disabilities, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the California Department of Housing and Community Development (HCD) has prepared this guidance to assist local governments, homeowners, architects, and the general public in encouraging the development of ADUs. Please see Attachment 1 for the complete statutory changes. The following is a summary of legislation since 2019 that amended ADU law and became effective as of January 1, 2020.

AB 68 (Ting), AB 881 (Bloom), and SB 13 (Wieckowski)

Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Government Code Sections 65852.2, 65852.22 and further address barriers to the development of ADUs and JADUs) (Attachment A includes the combined ADU statute updates from SB 13, AB 68 and AB 881.)

This recent legislation, among other changes, addresses the following:

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lot size (Gov. Code, § 65852.2, subd. (a)(1)(B)(i)).
- Clarifies areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services as well as impacts on traffic flow and public safety (Gov. Code, § 65852.2, subd. (a)(1)(A)).
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1, 2020 and January 1, 2025 ((Gov. Code, § 65852.2, subd. (a)(6)).
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and requires approval of a permit to build an ADU of up to 800 square feet ((Gov. Code, § 65852.2, subd. (c)(2)(B) & (C)).

- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement off-street parking spaces cannot be required by the local agency (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi)).
- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Gov. Code, § 65852.2, subd. (a)(3) and (b)).
- Clarifies that “public transit” includes various means of transportation that charge set fees, run on fixed routes and are available to the public (Gov. Code, § 65852.2, subd. (j)(10)).
- Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees (Government Code Section 65852.2, Subdivision (f)(3)); ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit (Gov. Code, § 65852.2, subd. (f)(3)).
- Defines an “accessory structure” to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Gov. Code, § 65852.2, subd. (j)(2)).
- Authorizes HCD to notify the local agency if HCD finds that their ADU ordinance is not in compliance with state law (Gov. Code, § 65852.2, subd. (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs (Gov. Code § 65583.1, subd. (a), and § 65852.2, subd. (m)).
- Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them (Gov. Code, § 65852.2, subd. (a)(3), (b), and (e)).
- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code § 65852.22, subd. (a)(4); Former Gov. Code § 65852.22, subd. (a)(5)).
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five (5) years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency (Gov. Code, § 65852.2, subd. (n); Health and Safety Code § 17980.12).

AB 587 (Friedman), AB 670 (Friedman), and AB 671 (Friedman)

In addition to the legislation listed above, AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019) also have an impact on state ADU law, particularly through Health and Safety Code Section 17980.12. These recent pieces of legislation, among other changes, address the following:

- AB 587 creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separately from the primary dwelling by allowing deed-restricted sales to occur if the local agency adopts an ordinance. To qualify, the primary dwelling and the ADU are to be built by a qualified nonprofit corporation whose mission is to provide units to low-income households (Gov. Code § 65852.26).
- AB 670 provides that covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civil Code Section 4751).

- AB 671 requires local agencies' housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs. (Gov. Code § 65583; Health and Safety Code § 50504.5)

Frequently Asked Questions: Accessory Dwelling Units¹

1. Legislative Intent

- **Should a local ordinance encourage the development of accessory dwelling units?**

Yes. Pursuant to Government Code Section 65852.150, the California Legislature found and declared that, among other things, California is facing a severe housing crisis and ADUs are a valuable form of housing that meets the needs of family members, students, the elderly, in-home health care providers, people with disabilities and others. Therefore, ADUs are an essential component of California's housing supply.

ADU law and recent changes intend to address barriers, streamline approval, and expand potential capacity for ADUs, recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment, and implementation of local ADU

Government Code 65852.150:

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

(1) Accessory dwelling units are a valuable form of housing in California.

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

(7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

¹ Note: Unless otherwise noted, the Government Code section referenced is 65852.2.

ordinances must be carried out consistent with Government Code, Section 65852.150 and must not unduly constrain the creation of ADUs. Local governments adopting ADU ordinances should carefully weigh the adoption of zoning, development standards, and other provisions for impacts on the development of ADUs.

In addition, ADU law is the statutory minimum requirement. Local governments may elect to go beyond this statutory minimum and further the creation of ADUs. Many local governments have embraced the importance of ADUs as an important part of their overall housing policies and have pursued innovative strategies. (Gov. Code, § 65852.2, subd. (g)).

2. Zoning, Development and Other Standards

A) Zoning and Development Standards

- **Are ADUs allowed jurisdiction wide?**

No. ADUs proposed pursuant to subdivision (e) must be considered in any residential or mixed-use zone. For other ADUs, local governments may, by ordinance, designate areas in zones where residential uses are permitted that will also permit ADUs. However, any limits on where ADUs are permitted may only be based on the adequacy of water and sewer service, and the impacts on traffic flow and public safety. Further, local governments may not preclude the creation of ADUs altogether, and any limitation should be accompanied by detailed findings of fact explaining why ADU limitations are required and consistent with these factors.

Examples of public safety include severe fire hazard areas and inadequate water and sewer service and includes cease and desist orders. Impacts on traffic flow should consider factors like lesser car ownership rates for ADUs and the potential for ADUs to be proposed pursuant to Government Code section 65852.2, subdivision (e). Finally, local governments may develop alternative procedures, standards, or special conditions with mitigations for allowing ADUs in areas with potential health and safety concerns. (Gov. Code, § 65852.2, subd. (e))

Residential or mixed-use zone should be construed broadly to mean any zone where residential uses are permitted by-right or by conditional use.

- **Can a local government apply design and development standards?**

Yes. A local government may apply development and design standards that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. However, these standards shall be sufficiently objective to allow ministerial review of an ADU. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i))

ADUs created under subdivision (e) of Government Code 65852.2 shall not be subject to design and development standards except for those that are noted in the subdivision.

What does objective mean?

“objective zoning standards” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. Gov Code § 65913.4, subd. (a)(5)

ADUs that do not meet objective and ministerial development and design standards may still be permitted through an ancillary discretionary process if the applicant chooses to do so. Some jurisdictions with compliant ADU ordinances apply additional processes to further the creation of ADUs that do not otherwise comply with the minimum standards necessary for ministerial review. Importantly, these processes are intended to provide additional opportunities to create ADUs that would not otherwise be permitted, and a discretionary process may not be used to review ADUs that are fully compliant with ADU law. Examples of these processes include areas where additional health and safety concerns must be considered, such as fire risk.

- **Can ADUs exceed general plan and zoning densities?**

Yes. An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning that does not count toward the allowable density. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Further, local governments could elect to allow more than one ADU on a lot, and ADUs are automatically a residential use deemed consistent with the general plan and zoning. (Gov. Code, § 65852.2, subd. (a)(1)(C))

- **Are ADUs permitted ministerially?**

Yes. ADUs must be considered, approved, and permitted ministerially, without discretionary action. Development and other decision-making standards must be sufficiently objective to allow for ministerial review. Examples include numeric and fixed standards such as heights or setbacks or design standards such as colors or materials. Subjective standards require judgement and can be interpreted in multiple ways such as privacy, compatibility with neighboring properties or promoting harmony and balance in the community; subjective standards shall not be imposed for ADU development. Further, ADUs must not be subject to a hearing or any ordinance regulating the issuance of variances or special use permits and must be considered ministerially. (Gov. Code, § 65852.2, subd. (a)(3))

- **Can I create an ADU if I have multiple detached dwellings on a lot?**

Yes. A lot where there are currently multiple detached single-family dwellings is eligible for creation of one ADU per lot by converting space within the proposed or existing space of a single-family dwelling or existing structure and a new construction detached ADU subject to certain development standards.

- **Can I build an ADU in a historic district, or if the primary residence is subject to historic preservation?**

Yes. ADUs are allowed within a historic district, and on lots where the primary residence is subject to historic preservation. State ADU law allows for a local agency to impose standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. However, these standards do not apply to ADUs proposed pursuant to Gov. Code § 65852.2, subd. (e).

As with non-historic resources, a jurisdiction may impose objective and ministerial standards that are sufficiently objective to be reviewed ministerially and do not unduly burden the creation of ADUs. Jurisdictions are encouraged to incorporate these standards into their ordinance and submit these standards along with their ordinance to HCD. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i) & (a)(5))

B) Size Requirements

- **Is there a minimum lot size requirement?**

No. While local governments may impose standards on ADUs, these standards shall not include minimum lot size requirements. Further, lot coverage requirements cannot preclude the creation of a statewide exemption ADU (800 square feet ADU with a height limitation of 16 feet and 4 feet side and rear yard setbacks). If lot coverage requirements do not allow such an ADU, an automatic exception or waiver should be given to appropriate development standards such as lot coverage, floor area or open space requirements. Local governments may continue to enforce building and health and safety standards and may consider design, landscape, and other standards to facilitate compatibility.

What is a Statewide Exemption ADU?

A statewide exemption ADU is an ADU of up to 800 square feet, 16 foot in height and with 4-foot side and rear yard setbacks. ADU law requires that no lot coverage, floor area ratio, open space, or minimum lot size will preclude the construction of a statewide exemption ADU. Further, ADU law allows the construction of a detached new construction statewide exemption ADU to be combined with a JADU within any zone allowing residential or mixed uses regardless of zoning and development standards imposed in an ordinance. See more discussion below.

- **Can minimum and maximum unit sizes be established for ADUs?**

Yes. A local government may, by ordinance, establish minimum and maximum unit size requirements for both attached and detached ADUs. However, maximum unit size requirements must be at least 850 square feet and 1,000 square feet for ADUs with more than one bedroom. For local agencies without an ordinance, maximum unit sizes are 1,200 square feet for a new detached ADU and up to 50 percent of the floor area of the existing primary dwelling for an attached ADU (at least 800 square feet). Finally, the local agency must not establish by ordinance a minimum square footage requirement that prohibits an efficiency unit, as defined in Health and Safety Code § 17958.1.

The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to size requirements. For example, an existing 3,000 square foot barn converted to an ADU would not be subject to the size requirements, regardless if a local government has an adopted ordinance. Should an applicant want to expand an accessory structure to create an ADU beyond 150 square feet, this ADU would be subject to the size maximums outlined in state ADU law, or the local agency's adopted ordinance.

- **Can a percentage of the primary dwelling be used for a maximum unit size?**

Yes. Local agencies may utilize a percentage (e.g., 50 percent) of the primary dwelling as a maximum unit size for attached or detached ADUs but only if it does not restrict an ADU's size to less than the standard of at least 850 sq. ft (or at least 1000 square feet. for ADUs with more than one bedroom). Local agencies must not, by ordinance, establish any other minimum or maximum unit sizes, including based on a percentage of the primary dwelling, that precludes a statewide exemption ADU. Local agencies utilizing

percentages of primary dwelling as maximum unit sizes could consider multi-pronged standards to help navigate these requirements (e.g., shall not exceed 50 percent of the dwelling or 1,000 square feet, whichever is greater).

- **Can maximum unit sizes exceed 1,200 square feet for ADUs?**

Yes. Maximum unit sizes, by ordinance, can exceed 1,200 square feet for ADUs. ADU law does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ADUs (Gov. Code, § 65852.2, subd. (g)).

Larger unit sizes can be appropriate in a rural context or jurisdictions with larger lot sizes and is an important approach to creating a full spectrum of ADU housing choices.

C) Parking Requirements

- **Can parking requirements exceed one space per unit or bedroom?**

No. Parking requirements for ADUs shall not exceed one parking space per unit or bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway. Guest parking spaces shall not be required for ADUs under any circumstances.

What is Tandem Parking?

Tandem parking means two or more automobiles that are parked on a driveway or in any other location on a lot, lined up behind one another. (Gov. Code, § 65852.2, subd. (a)(1)(D)(x)(l) and (j)(11))

Local agencies may choose to eliminate or reduce parking requirements for ADUs such as requiring zero or half a parking space per each ADU.

- **Is flexibility for siting parking required?**

Yes. Local agencies should consider flexibility when siting parking for ADUs. Offstreet parking spaces for the ADU shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made. Specific findings must be based on specific site or regional topographical or fire and life safety conditions.

When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU, the local agency shall not require that those offstreet parking spaces for the primary unit be replaced. (Gov. Code, § 65852.2, subd. (a)(D)(xi))

- **Can ADUs be exempt from parking?**

Yes. A local agency shall not impose ADU parking standards for any of the following, pursuant to Gov. Code § 65852.2, subd. (d)(1-5) and (j)(10))

- (1) Accessory dwelling unit is located within one-half mile walking distance of public transit.
- (2) Accessory dwelling unit is located within an architecturally and historically significant historic district.

- (3) Accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

Note: For the purposes of state ADU law, a jurisdiction may use the designated areas where a car share vehicle may be accessed. Public transit is any location where an individual may access buses, trains, subways and other forms of transportation that charge set fares, run on fixed routes and are available to the general public. Walking distance is defined as the pedestrian shed to reach public transit. Additional parking requirements to avoid impacts to public access may be required in the coastal zone.

D) Setbacks

- **Can setbacks be required for ADUs?**

Yes. A local agency may impose development standards, such as setbacks, for the creation of ADUs. Setbacks may include front, corner, street, and alley setbacks. Additional setback requirements may be required in the coastal zone if required by a local coastal program. Setbacks may also account for utility easements or recorded setbacks. However, setbacks must not unduly constrain the creation of ADUs and cannot be required for ADUs proposed pursuant to subdivision (e). Further, a setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU. (Gov. Code, § 65852.2, subd. (a)(1)(D)(vii))

A local agency may also allow the expansion of a detached structure being converted into an ADU when the existing structure does not have four-foot rear and side setbacks. A local agency may also allow the expansion area of a detached structure being converted into an ADU to have no setbacks, or setbacks of less than four feet, if the existing structure has no setbacks, or has setbacks of less than four feet. A local agency shall not require setbacks of more than four feet for the expanded area of a detached structure being converted into an ADU.

A local agency may still apply front yard setbacks for ADUs, but front yard setbacks cannot preclude a statewide exemption ADU and must not unduly constrain the creation of all types of ADUs. (Gov. Code, § 65852.2, subd. (c))

E) Height Requirements

- **Is there a limit on the height of an ADU or number of stories?**

Not in state ADU law, but local agencies may impose height limits provided that the limit is no less than 16 feet. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i))

F) Bedrooms

- **Is there a limit on the number of bedrooms?**

State ADU law does not allow for the limitation on the number of bedrooms of an ADU. A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs.

G) Impact Fees

- **Can impact fees be charged for an ADU less than 750 square feet?**

No. An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if less than 750 square feet. Should an ADU be 750 square feet or larger, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit.

What is “Proportionately”?

“Proportionately” is some amount that corresponds to a total amount, in this case, an impact fee for a single-family dwelling. For example, a 2,000 square foot primary dwelling with a proposed 1,000 square foot ADU could result in 50 percent of the impact fee that would be charged for a new primary dwelling on the same site. In all cases, the impact fee for the ADU must be less than the primary dwelling. Otherwise, the fee is not calculated proportionately. When utilizing proportions, careful consideration should be given to the impacts on costs, feasibility, and ultimately, the creation of ADUs. In the case of the example above, anything greater than 50 percent of the primary dwelling could be considered a constraint on the development of ADUs.

For purposes of calculating the fees for an ADU on a lot with a multifamily dwelling, the proportionality shall be based on the average square footage of the units within that multifamily dwelling structure. For ADUs converting existing space with a 150 square foot expansion, a total ADU square footage over 750 square feet could trigger the proportionate fee requirement. (Gov. Code, § 65852.2, subd. (f)(3)(A))

- **Can local agencies, special districts or water corporations waive impact fees?**

Yes. Agencies can waive impact and any other fees for ADUs. Also, local agencies may also use fee deferrals for applicants.

- **Can school districts charge impact fees?**

Yes. School districts are authorized but do not have to levy impact fees for ADUs greater than 500 square feet pursuant to Section 17620 of the Education Code. ADUs less than 500 square feet are not subject to school impact fees. Local agencies are encouraged to coordinate with school districts to carefully weigh the importance of promoting ADUs, ensuring appropriate nexus studies and appropriate fees to facilitate construction or reconstruction of adequate school facilities.

- **What types of fees are considered impact fees?**

Impact fees charged for the construction of ADUs must be determined in accordance with the Mitigation Fee Act and generally include any monetary exaction that is charged by a local agency in connection with the approval of an ADU, including impact fees, for the purpose of defraying all or a portion of the cost of public facilities relating to the ADU. A local agency, special district or water corporation shall not consider ADUs as a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer services. However, these provisions do not apply to ADUs that are constructed concurrently with a new single-family home (Gov. Code, § 65852.2, subd. (f) and Government Code § 66000)

- **Can I still be charged water and sewer connection fees?**

ADUs converted from existing space and JADUs shall not be considered by a local agency, special district or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed with a new single-family dwelling. The connection fee or capacity charge shall be proportionate to the burden of the proposed ADU, based on its square footage or plumbing fixtures as compared to the primary dwelling. State ADU law does not cover monthly charge fees. (Gov. Code, § 65852.2, subd. (f)(2)(A))

H) Conversion of Existing Space in Single Family, Accessory and Multifamily Structures and Other Statewide Permissible ADUs (Subdivision (e))

- **Are local agencies required to comply with subdivision (e)?**

Yes. All local agencies must comply with subdivision (e). This subdivision requires the ministerial approval of ADUs within a residential or mixed-use zone. The subdivision creates four categories of ADUs that should not be subject to other specified areas of ADU law, most notably zoning and development standards. For example, ADUs under this subdivision should not have to comply with lot coverage, setbacks, heights, and unit sizes. However, ADUs under this subdivision must meet the building code and health and safety requirements. The four categories of ADUs under subdivision (e) are:

- a. One ADU or JADU per lot within the existing space of a single-family dwelling, or an ADU within an accessory structure that meets specified requirements such as exterior access and setbacks for fire and safety.
- b. One detached new construction ADU that does not exceed four-foot side and rear yard setbacks. This ADU may be combined on the same lot with a JADU and may be required to meet a maximum unit size requirement of 800 square feet and a height limitation of 16 feet.
- c. Multiple ADUs within the portions of multifamily structures that are not used as livable space. Local agencies must allow at least one of these types of ADUs and up to 25 percent of the existing multifamily structures.
- d. Up to two detached ADUs on a lot that has existing multifamily dwellings that are subject to height limits of 16 feet and 4-foot rear and side yard setbacks.

The above four categories are not required to be combined. For example, local governments are not required to allow (a) and (b) together or (c) and (d) together. However, local agencies may elect to allow these ADU types together.

Local agencies shall allow at least one ADU to be created within the non-livable space within multifamily dwelling structures, or up to 25 percent of the existing multifamily dwelling units within a structure and may also allow not more than two ADUs on the lot detached from the multifamily dwelling structure. New detached units are subject to height limits of 16 feet and shall not be required to have side and rear setbacks of more than four feet.

The most common ADU that can be created under subdivision (e) is a conversion of proposed or existing space of a single-family dwelling or accessory structure into an ADU, without any prescribed size limitations, height, setback, lot coverage, architectural review, landscape, or other development standards. This would enable the conversion of an accessory structure, such as a 2,000 square foot garage, to an ADU without any additional requirements other than compliance with building standards for dwellings. These types of ADUs are also eligible for a 150 square foot expansion (see discussion below).

ADUs created under subdivision (e) shall not be required to provide replacement or additional parking. Moreover, these units shall not, as a condition for ministerial approval, be required to correct any existing or created nonconformity. Subdivision (e) ADUs shall be required to be rented for terms longer than 30 days, and only require fire sprinklers if fire sprinklers are required for the primary residence. These ADUs

shall not be counted as units when calculating density for the general plan and are not subject to owner-occupancy.

- **Can I convert my accessory structure into an ADU?**

Yes. The conversion of garages, sheds, barns, and other existing accessory structures, either attached or detached from the primary dwelling, into ADUs is permitted and promoted through the state ADU law. These conversions of accessory structures are not subject to any additional development standard, such as unit size, height, and lot coverage requirements, and shall be from existing space that can be made safe under Building and Safety Codes. A local agency should not set limits on when the structure was created, and the structure must meet standards for Health & Safety. Finally, local governments may also consider the conversion of illegal existing space and could consider alternative building standards to facilitate the conversion of existing illegal space to minimum life and safety standards.

- **Can an ADU converting existing space be expanded?**

Yes. An ADU within the existing or proposed space of a single-family dwelling can be expanded 150 square feet beyond the physical dimensions of the structure but shall be limited to accommodating ingress and egress. An example of where this expansion could be applicable is for the creation of a staircase to reach a second story ADU. These types of ADUs shall conform to setbacks sufficient for fire and safety.

A local agency may allow for an expansion beyond 150 square feet, though the ADU would have to comply with the size maximums as per state ADU law, or a local agency's adopted ordinance.

As a JADU is limited to being created within the walls of a primary residence, this expansion of up to 150 square feet does not pertain to JADUs.

I) Nonconforming Zoning Standards

- **Does the creation of an ADU require the applicant to carry out public improvements?**

No physical improvements shall be required for the creation or conversion of an ADU. Any requirement to carry out public improvements is beyond what is required for the creation of an ADU, as per state law. For example, an applicant shall not be required to improve sidewalks, carry out street improvements, or access improvements to create an ADU. Additionally, as a condition for ministerial approval of an ADU, an applicant shall not be required to correct nonconforming zoning conditions. (Gov. Code, § 65852.2, subd. (e)(2))

J) Renter and Owner-occupancy

- **Are rental terms required?**

Yes. Local agencies may require that the property be used for rentals of terms longer than 30 days. ADUs permitted ministerially, under subdivision (e), shall be rented for terms longer than 30 days. (Gov. Code, § 65852.2, subd. (a)(6) & (e)(4))

- **Are there any owner-occupancy requirements for ADUs?**

No. Prior to recent legislation, ADU laws allowed local agencies to elect whether the primary dwelling or ADU was required to be occupied by an owner. The updates to state ADU law removed the owner-occupancy allowance for newly created ADUs effective January 1, 2020. The new owner-occupancy exclusion is set to expire on December 31, 2024. Local agencies may not retroactively require owner occupancy for ADUs permitted between January 1, 2020 and December 31, 2024.

However, should a property have both an ADU and JADU, JADU law requires owner-occupancy of either the newly created JADU, or the single-family residence. Under this specific circumstance, a lot with an ADU would be subject to owner-occupancy requirements. – (Gov. Code, § 65852.2, subd. (a)(2))

K) Fire Sprinkler Requirements

- **Are fire sprinklers required for ADUs?**

No. Installation of fire sprinklers may not be required in an ADU if sprinklers are not required for the primary residence. For example, a residence built decades ago would not have been required to have fire sprinklers installed under the applicable building code at the time. Therefore, an ADU created on this lot cannot be required to install fire sprinklers. However, if the same primary dwelling recently undergoes significant remodeling and is now required to have fire sprinklers, any ADU created after that remodel must likewise install fire sprinklers. (Gov. Code, § 65852.2, subd. (a)(1)(D)(xii) and (e)(3))

Please note, for ADUs created on lots with multifamily residential structures, the entire residential structure shall serve as the “primary residence”. Therefore, if the multifamily structure is served by fire sprinklers, the ADU can be required to install fire sprinklers.

L) Solar Panel Requirements

- **Are solar panels required for new construction ADUs?**

Yes, newly constructed ADUs are subject to the Energy Code requirement to provide solar panels if the unit(s) is a newly constructed, non-manufactured, detached ADU. Per the California Energy Commission (CEC), the panels can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide solar panels.

Please refer to the CEC on this matter. For more information, see the CEC’s website www.energy.ca.gov. You may email your questions to: title24@energy.ca.gov, or contact the Energy Standards Hotline at 800-772-3300. CEC memos can also be found on HCD’s website at <https://www.hcd.ca.gov/policy-research/AccessoryDwellingUnits.shtml>.

3. Junior Accessory Dwelling Units (JADUs) – Government Code Section 65852.22

- **Are two JADUs allowed on a lot?**

No. A JADU may be created on a lot zoned for single-family residences with one primary dwelling. The JADU may be created within the walls of the proposed or existing single-family residence, including attached garages, as attached garages are considered within the walls of the existing single-family

residence. Please note that JADUs created in the attached garage are not subject to the same parking protections as ADUs and could be required by the local agency to provide replacement parking.

JADUs are limited to one per residential lot with a single-family residence. Lots with multiple detached single-family dwellings are not eligible to have JADUs. (Gov. Code, § 65852.22, subd. (a)(1))

- **Are JADUs allowed in detached accessory structures?**

No, JADUs are not allowed in accessory structures. The creation of a JADU must be within the single-family residence. As noted above, attached garages are eligible for JADU creation. The maximum size for a JADU is 500 square feet. (Gov. Code, § 65852.22, subd. (a)(1), (a)(4), and (h)(1))

- **Are JADUs allowed to be increased up to 150 square feet when created within an existing structure?**

No. Only ADUs are allowed to add up to 150 square feet “beyond the physical dimensions of the existing accessory structure” to provide for ingress. (Gov. Code, § 65852.2, subd. (e)(1)(A)(i).)

This provision extends only to ADUs and excludes JADUs. A JADU is required to be created within the single-family residence.

- **Are there any owner-occupancy requirements for JADUs?**

Yes. There are owner-occupancy requirements for JADUs. The owner must reside in either the remaining portion of the primary residence, or in the newly created JADU. (Gov. Code, § 65852.22, subd. (a)(2))

4. Manufactured Homes and ADUs

- **Are manufactured homes considered to be an ADU?**

Yes. An ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes a manufactured home (Health and Safety Code §18007).

Health and Safety Code section 18007, subdivision (a) “**Manufactured home,**” for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

5. ADUs and the Housing Element

- **Do ADUs and JADUs count toward a local agency's Regional Housing Needs Allocation?**

Yes. Pursuant to Gov. Code § 65852.2 subd. (m) and Government Code section 65583.1, ADUs and JADUs may be utilized towards the Regional Housing Need Allocation (RHNA) and Annual Progress Report (APR) pursuant to Government Code Section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally an ADU, and a JADU with shared sanitation facilities, and any other unit that meets the census definition and is reported to DOF as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. The housing element or APR must include a reasonable methodology to demonstrate the level of affordability. Local governments can track actual or anticipated affordability to assure ADUs and JADUs are counted towards the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit or other applications.

- **Is analysis required to count ADUs toward the RHNA in the housing element?**

Yes. To calculate ADUs in the housing element, local agencies must generally use a three-part approach: (1) development trends, (2) anticipated affordability and (3) resources and incentives. Development trends must consider ADUs permitted in the prior planning period and may also consider more recent trends. Anticipated affordability can use a variety of methods to estimate the affordability by income group. Common approaches include rent surveys of ADUs, using rent surveys and square footage assumptions and data available through the APR pursuant to Government Code section 65400. Resources and incentives include policies and programs to encourage ADUs, such as prototype plans, fee waivers, expedited procedures and affordability monitoring programs.

- **Are ADUs required to be addressed in the housing element?**

Yes. The housing element must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs as appropriate to address identified constraints. In addition, housing elements must include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires the California Department of Housing and Community Development to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs. (Gov. Code § 65583 and Health and Safety Code § 50504.5.)

6. Homeowners Association

- **Can my local Homeowners Association (HOA) prohibit the construction of an ADU?**

No. Assembly Bill 670 (2019) amended Section 4751 of the Civil Code to preclude planned developments from prohibiting or unreasonably restricting the construction or use of an ADU on a lot zoned for single-family residential use. Covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or reasonably restrict the construction or use of an ADU or JADU on such lots are void and unenforceable. Applicants who encounter issues with creating ADUs within CC&Rs are encouraged to reach out to HCD for additional guidance.

7. Enforcement

- **Does HCD have enforcement authority over ADU ordinances?**

Yes. After adoption of the ordinance, HCD may review and submit written findings to the local agency as to whether the ordinance complies with state ADU law. If the local agency's ordinance does not comply, HCD must provide a reasonable time, no longer than 30 days, for the local agency to respond, and the local agency shall consider HCD's findings to amend the ordinance to become compliant. If a local agency does not make changes and implements an ordinance that is not compliant with state law, HCD may refer the matter to the Attorney General.

In addition, HCD may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify ADU law.

8. Other

- **Are ADU ordinances existing prior to new 2020 laws null and void?**

No. Ordinances existing prior to the new 2020 laws are only null and void to the extent that existing ADU ordinances conflict with state law. Subdivision (a)(4) of Government Code Section 65852.2 states an ordinance that fails to meet the requirements of subdivision (a) shall be null and void and shall apply the state standards (see attachment 3) until a compliant ordinance is adopted. However, ordinances that substantially comply with ADU law may continue to enforce the existing ordinance to the extent it complies with state law. For example, local governments may continue the compliant provisions of an ordinance and apply the state standards where pertinent until the ordinance is amended or replaced to fully comply with ADU law. At the same time, ordinances that are fundamentally incapable of being enforced because key provisions are invalid -- meaning there is not a reasonable way to sever conflicting provisions and apply the remainder of an ordinance in a way that is consistent with state law -- would be fully null and void and must follow all state standards until a compliant ordinance is adopted.

- **Do local agencies have to adopt an ADU Ordinance?**

No. Local governments may choose not to adopt an ADU ordinance. Should a local government choose to not adopt an ADU ordinance, any proposed ADU development would be only subject to standards set in state ADU law. If a local agency adopts an ADU ordinance, it may impose zoning, development, design, and other standards in compliance with state ADU law. (See Attachment 4 for a state standards checklist.)

- **Is a local government required to send an ADU Ordinance to the California Department of Housing and Community Development (HCD)?**

Yes. A local government, upon adoption of an ADU ordinance, must submit a copy of the adopted ordinance to the California Department of Housing and Community Development (HCD) within 60 days after adoption. After the adoption of an ordinance, the Department may review and submit written findings to the local agency as to whether the ordinance complies with this section. (Gov. Code, § 65852.2, subd. (h)(1))

Local governments may also submit a draft ADU ordinance for preliminary review by the HCD. This provides local agencies the opportunity to receive feedback on their ordinance and helps to ensure compliance with the new state ADU law.

- **Are charter cities and counties subject to the new ADU laws?**

Yes. ADU law applies to a local agency which is defined as a city, county, or city and county, whether general law or chartered (Gov. Code, § 65852.2, subd. (j)(5)).

Further, pursuant to Chapter 659, Statutes of 2019 (AB 881), the Legislature found and declared ADU law as “...a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution” and concluded that ADU law applies to all cities, including charter cities.

- **Do the new ADU laws apply to jurisdictions located in the Coastal Zone?**

Yes. ADU laws apply to jurisdictions in the Coastal Zone, but do not necessarily alter or lessen the effect or application of Coastal Act resource protection policies. - (Gov. Code, § 65852.22, subd. (l)).

Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, where appropriate, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new ADU laws. For more information, see the [California Coastal Commission 2020 Memo](#) and reach out to the locality’s local Coastal Commission district office.

- **What is considered a multifamily dwelling?**

For the purposes of state ADU law, a structure with two or more attached dwellings on a single lot is considered a multifamily dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of state ADU law.

Resources



Attachment 1: Statutory Changes (Strikeout/Italics and Underline)

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2 (AB 881, AB 68 and SB 13 Accessory Dwelling Units) (Changes noted in strikeout, underline/italics)

Effective January 1, 2020, Section 65852.2 of the Government Code is amended to read:

65852.2.

- (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily *dwelling residential* use. The ordinance shall do all of the following:
- (A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on ~~criteria that may include, but are not limited to,~~ the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. *A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.*
- (B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, ~~lot coverage,~~ landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic ~~Places.~~ *Resources. These standards shall not include requirements on minimum lot size.*
- (ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
- (C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
- (D) Require the accessory dwelling units to comply with all of the following:
- (i) The *accessory dwelling* unit may be rented separate from the primary residence, ~~but~~ *but* may not be sold or otherwise conveyed separate from the primary residence.
- (ii) The lot is zoned to allow single-family or multifamily *dwelling residential* use and includes a proposed or existing ~~single-family dwelling.~~
- (iii) The accessory dwelling unit is either attached ~~to,~~ or located ~~within the living area of the~~ *within, the* proposed or existing primary ~~dwelling or dwelling, including attached garages, storage areas or similar uses, or an accessory structure or~~ detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
- (iv) ~~The total area of floorspace of~~ *If there is an existing primary dwelling, the total floor area of* an attached accessory dwelling unit shall not exceed 50 percent of the ~~proposed or existing primary dwelling living area or 1,200 square feet.~~ *existing primary dwelling.*
- (v) The total *floor* ~~area of floorspace~~ for a detached accessory dwelling unit shall not exceed 1,200 square feet.
- (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (vii) No setback shall be required for an existing ~~garage living area or~~ *accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure* that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than ~~five~~ *four* feet from the side and rear lot lines shall be required for an accessory dwelling unit that is ~~constructed above a garage.~~ *not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.*
- (viii) Local building code requirements that apply to detached dwellings, as appropriate.
- (ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per *accessory dwelling* unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
- (II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
- (III) This clause shall not apply to a an accessory dwelling unit that is described in subdivision (d).
- (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an

accessory dwelling unit or converted to an accessory dwelling unit, and- the local agency requires- shall not require that those ~~offstreet~~ offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d); replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) ~~When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application-~~ A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001-02 Regular Session of the Legislature; incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency ~~subsequent to the effective date of the act adding this paragraph-~~ shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. ~~In the event that-~~ If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph- and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the ~~delay~~ or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot ~~zoned for residential use-~~ that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be ~~utilized~~ used or imposed, including any owner-occupant requirement, except that a local agency may require an applicant for a permit ~~issued pursuant to this subdivision to be an owner-occupant or-~~ that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) ~~within 120 days after receiving the application.~~ (a) The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted

with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

~~(c) (C) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, shall be established by ordinance or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.~~

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) ~~Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner-occupancy for either the primary or the accessory dwelling unit created through this process. within a residential or mixed-use zone to create any of the following:~~

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not

used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) ~~Accessory-~~ An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service. service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

~~(A)~~ (4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge. charge, unless the accessory dwelling unit was constructed with a new single-family home.

~~(B)~~ (5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size ~~square feet~~ or the number of its plumbing fixtures, drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

~~(h) Local (1) agencies-~~ A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. The department may review and comment on this submitted ordinance. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) (i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) (1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which that provides complete independent living facilities for one or more persons. ~~persons and is located on a lot with a proposed or existing primary residence.~~ It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(A) (3) An efficiency unit. ~~"Efficiency unit" has the same meaning~~ as defined in Section 17958.1 of the Health and Safety Code.

(B) (4) A manufactured home, as defined in Section 18007 of the Health and Safety Code. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(5) (8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(6) (11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(j) (l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2).

below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Becomes operative on January 1, 2025)

Section 65852.2 of the Government Code is amended to read (changes from January 1, 2020 statute noted in underline/italic):

65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines

shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, ~~including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.~~ imposed except that, *subject to subparagraph (B)*, a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.
- (e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:
- (A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
- (i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
- (ii) The space has exterior access from the proposed or existing single-family dwelling.
- (iii) The side and rear setbacks are sufficient for fire and safety.
- (iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.
- (B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:
- (i) A total floor area limitation of not more than 800 square feet.
- (ii) A height limitation of 16 feet.
- (C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
- (ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.
- (D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
- (2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
- (3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
- (4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).
- (5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.
- ~~(5)~~ (6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.
- ~~(6)~~ (7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1,

2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall ~~remain in effect only until January 1, 2025, and as of that date is repealed~~ become operative on January 1, 2025.

Effective January 1, 2020, Section 65852.22 of the Government Code is amended to read (changes noted in ~~strikeout~~, underline/italics) (AB 68 (Ting)):

65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence ~~already built~~ built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the ~~existing~~ walls of the ~~structure,~~ and require the inclusion of an existing bedroom. *proposed or existing single-family residence.*

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the ~~structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.~~ *proposed or existing single-family residence.*

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

~~(A) A sink with a maximum waste line diameter of 1.5 inches.~~

~~(B) (A) A cooking facility with appliances that do not require electrical service greater than 120 volts, or natural or propane gas.~~ *appliances.*

~~(C) (B)~~ *(B)* A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine ~~whether~~ if the junior accessory dwelling unit ~~is in compliance~~ complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. ~~A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section.~~ *The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing*

single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For ~~the~~ purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For ~~the~~ purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

~~(g)~~ (h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within ~~an existing~~ a single-family structure. residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

Effective January 1, 2020 Section 17980.12 is added to the Health and Safety Code, immediately following Section 17980.11, to read (changes noted in underline/italics) (SB 13 (Wieckowski)):

17980.12.

(a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:

(A) The accessory dwelling unit was built before January 1, 2020.

(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).

(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2
AB 587 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020, Section 65852.26 is added to the Government Code, immediately following Section 65852.25, to read (AB 587 (Friedman)):

65852.26.

(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The property was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the property as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

CIVIL CODE: DIVISION 4, PART 5, CHAPTER 5, ARTICLE 1
AB 670 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020, Section 4751 is added to the Civil Code, to read (AB 670 (Friedman)):

4751.

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6
AB 671 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020, Section 65583(c)(7) of the Government Code is added to read (sections of housing element law omitted for conciseness) (AB 671 (Friedman)):

65583(c)(7).

Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Effective January 1, 2020, Section 50504.5 is added to the Health and Safety Code, to read (AB 671 (Friedman)):

50504.5.

(a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.

(b) The list shall be posted on the department's internet website by December 31, 2020.

(c) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.

Attachment 2: State Standards Checklist

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains a proposed or existing, dwelling.	65852.2(a)(1)(D)(ii)
	The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing dwelling and located on the same lot as the proposed or existing primary dwelling.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing primary dwelling but shall be allowed to be at least 800/850/1000 square feet.	65852.2(a)(1)(D)(iv), (c)(2)(B) & C
	Total area of floor area for a detached accessory dwelling unit does not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.	65852.2(a)(1)(D)(vii)
	Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(viii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)(I)

Attachment 3: Bibliography

[ACCESSORY DWELLING UNITS: CASE STUDY](#) (26 pp.)

By the United States Department of Housing and Urban Development, Office of Policy Development and Research. (2008)

Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats — are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities and can be either attached or detached from the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

[THE MACRO VIEW ON MICRO UNITS](#) (46 pp.)

By Bill Whitlow, et al. – Urban Land Institute (2014)
Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013 to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

[SECONDARY UNITS AND URBAN INFILL: A Literature Review](#) (12 pp.)

By Jake Wegmann and Alison Nemirow (2011)
UC Berkeley: IURD
Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

[RETHINKING PRIVATE ACCESSORY DWELLINGS](#) (5 pp.)

By William P. Macht. Urbanland online. (March 6, 2015)
Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

One of the large impacts of single-use, single-family detached zoning has been to severely shrink the supply of accessory dwellings, which often were created in or near primary houses. Detached single-family dwelling zones—the largest housing zoning category—typically preclude more than one dwelling per lot except under stringent regulation, and then only in some jurisdictions. Bureaucratically termed “accessory dwelling units” that are allowed by some jurisdictions may encompass market-derived names such as granny flats, granny cottages, mother-in-law suites, secondary suites, backyard cottages, casitas, carriage flats, sidekick houses, basement apartments, attic apartments, laneway houses, multigenerational homes, or home-within-a-home.

[Regulating ADUs in California: Local Approaches & Outcomes](#) (44 pp.)

By Deidra Pfeiffer
Terner Center for Housing and Innovation, UC Berkeley

Accessory dwelling units (ADU) are often mentioned as a key strategy in solving the nation's housing problems, including housing affordability and challenges associated with aging in place. However, we know little about whether formal ADU practices—such as adopting an ordinance, establishing regulations, and permitting—contribute to these goals. This research helps to fill this gap by using data from the Terner California Residential Land Use Survey and the U.S. Census Bureau to understand the types of communities engaging in different kinds of formal ADU practices in California, and whether localities with adopted ordinances and less restrictive regulations have more frequent applications to build ADUs and increasing housing affordability and aging in place. Findings suggest that three distinct approaches to ADUs are occurring in California: 1) a more restrictive approach in disadvantaged communities of color, 2) a moderately restrictive approach in highly advantaged, predominately White and Asian communities, and 3) a less restrictive approach in diverse and moderately advantaged communities. Communities with adopted ordinances and less restrictive regulations receive more frequent applications to build ADUs but have not yet experienced greater improvements in housing affordability and aging in place. Overall, these findings imply that 1) context-specific technical support and advocacy may be needed to help align formal ADU practices with statewide goals, and 2) ADUs should be treated as one tool among many to manage local housing problems.

[ADU Update: Early Lessons and Impacts of California's State and Local Policy Changes](#) (8 p.)

By David Garcia (2017)
Terner Center for Housing and Innovation, UC Berkeley

As California's housing crisis deepens, innovative strategies for creating new housing units for all income levels are needed. One such strategy is building Accessory Dwelling Units (ADUs) by private homeowners. While large scale construction of new market rate and affordable homes is needed to alleviate demand-driven rent increases and displacement pressures, ADUs present a unique opportunity for individual homeowners to create more housing as well. In particular, ADUs can increase the supply of housing in areas where there are fewer opportunities for larger-scale developments, such as neighborhoods that are predominantly zoned for and occupied by single-family homes.

In two of California's major metropolitan areas -- Los Angeles and San Francisco -- well over three quarters of the total land area is comprised of neighborhoods where single-family homes make up at least 60 percent of the community's housing stock. Across the state, single-family detached units make up 56.4 percent of the overall housing stock. Given their prevalence in the state's residential land use patterns, increasing the number of single-family homes that have an ADU could contribute meaningfully to California's housing shortage.

[Jumpstarting the Market for Accessory Dwelling Units: Lessons Learned from Portland, Seattle and Vancouver](#) (29pp.)

By Karen Chapple et al (2017)
Terner Center for Housing and Innovation, UC Berkeley

Despite government attempts to reduce barriers, a widespread surge of ADU construction has not materialized. The ADU market remains stalled. To find out why, this study looks at three cities in the Pacific Northwest of the United States and Canada that have seen a spike in construction in recent years: Portland, Seattle, and Vancouver. Each city has adopted a set of zoning reforms, sometimes in combination with financial incentives and outreach programs, to spur ADU construction. Due to these changes, as well as the acceleration of the housing crisis in each city, ADUs have begun blossoming.

[Accessory Dwelling Units as Low-Income Housing: California's Faustian Bargain \(37 pp.\)](#)

By Darrel Ramsey-Musolf (2018)

University of Massachusetts Amherst, ScholarWorks@UMass Amherst

In 2003, California allowed cities to count accessory dwelling units (ADU) towards low-income housing needs. Unless a city's zoning code regulates the ADU's maximum rent, occupancy income, and/or effective period, then the city may be unable to enforce low-income occupancy. After examining a stratified random sample of 57 low-, moderate-, and high-income cities, the high-income cities must proportionately accommodate more low-income needs than low-income cities. By contrast, low-income cities must quantitatively accommodate three times the low-income needs of high-income cities. The sample counted 750 potential ADUs as low-income housing. Even though 759 were constructed, no units were identified as available low-income housing. In addition, none of the cities' zoning codes enforced low-income occupancy. Inferential tests determined that cities with colleges and high incomes were more probable to count ADUs towards overall and low-income housing needs. Furthermore, a city's count of potential ADUs and cities with high proportions of renters maintained positive associations with ADU production, whereas a city's density and prior compliance with state housing laws maintained negative associations. In summary, ADUs did increase local housing inventory and potential ADUs were positively associated with ADU production, but ADUs as low-income housing remained a paper calculation.



Item 7: **Housing Accountability Act Technical Assistance**
Recommended Action: Receive report.

Reports

The Housing Accountability Act (HAA), Government Code section 65589.5, establishes limitations to a local government’s ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need. The Legislature first enacted the HAA in 1982 and recently amended the HAA to expand and strengthen its provisions as part of the overall recognition of the critically low volumes of housing stock in California. In amending the HAA, the Legislature made repeated findings that the lack of housing and the lack of affordable housing, is a critical problem that threatens the economic, environmental, and social quality of life in California. This Technical Assistance Advisory provides guidance on implementation of the HAA.

—
Attachment 1 – Housing Accountability Act Technical Assistance

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

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September 15, 2020

MEMORANDUM FOR: Planning Directors and Interested Parties

FROM: Megan Kirkeby, Deputy Director
Division of Housing Policy Development

SUBJECT: **Housing Accountability Act Technical Assistance
Advisory (Government Code Section 65589.5)**

The Housing Accountability Act (HAA), Government Code section 65589.5, establishes limitations to a local government's ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need. The Legislature first enacted the HAA in 1982 and recently amended the HAA to expand and strengthen its provisions as part of the overall recognition of the critically low volumes of housing stock in California. In amending the HAA, the Legislature made repeated findings that the lack of housing and the lack of affordable housing, is a critical problem that threatens the economic, environmental, and social quality of life in California. This Technical Assistance Advisory provides guidance on implementation of the HAA, including the following amendments.

Chapter 368, Statutes of 2017 (Senate Bill 167), Chapter 373, Statutes of 2017 (Assembly Bill 678) - Strengthens the HAA by increasing the documentation necessary and the standard of proof required for a local agency to legally defend its denial of low-to-moderate-income housing development projects, and requiring courts to impose a fine of \$10,000 or more per unit on local agencies that fail to legally defend their rejection of an affordable housing development project.

Chapter 378, Statutes of 2017 (Assembly Bill 1515) – Establishes a reasonable person standard for determining conformance with local land use requirements.

Chapter 243, Statutes of 2018 (Assembly Bill 3194) -Expands the meaning of zoning consistency to include projects that are consistent with general plan designations but not zoning designation on a site if that zone is inconsistent with the general plan.

Chapter 654, Statutes of 2019 (Senate Bill 330) - Defined previously undefined terms such as objective standards and complete application and set forth vesting rights for projects that use a new pre-application process. Most of these provisions sunset on January 1, 2025, unless extended by the Legislature and Governor.

If you have any questions, or would like additional information or technical assistance, please contact the Division of Housing Policy Development at (916) 263-2911.

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What is the Housing Accountability Act?

The Housing Accountability Act (HAA) (Government Code Section 65589.5), establishes the state's overarching policy that a local government may not deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards. Before doing any of those things, local governments must make specified written findings based upon a preponderance of the evidence that a specific, adverse health or safety impact exists. Legislative intent language indicates that the conditions that would give rise to such a specific, adverse impact upon the public health and safety would occur infrequently.

Subdivision (d) of the HAA describes requirements applicable to housing development projects that include units affordable to very- low, low- and moderate-income households (including transitional and supportive housing) as well as emergency shelters and farmworker housing. Subdivision (j) describes requirements applicable to all housing development projects, including both market-rate and affordable housing developments. Subdivisions (k), (l), and (m) expand the potential consequences for violations of the HAA. In 2017, the Legislature also granted the California Department of Housing and Community Development (HCD) authority to refer HAA violations to the Office of the Attorney General in Government Code section 65585.

The HAA was originally enacted in 1982 to address local opposition to growth and change. Communities resisted new housing, especially affordable housing, and, consequently, multiple levels of discretionary review often prevented or delayed development. As a result, developers had difficulty ascertaining the type, quantity, and location where development would be approved. The HAA was intended to overcome the lack of certainty developers experienced by limiting local governments' ability to deny, make infeasible, or reduce the density of housing development projects.

Recognizing that the HAA was falling short of its intended goal, in 2017, 2018, and again in 2019, the Legislature amended the HAA no less than seven times to expand and strengthen its provisions. Key restrictions on local governments' ability to take action against housing development projects are set out in Government Code section 65589.5, subdivisions (d) and (j). The law was amended by Chapter 368 Statutes of 2017 (Senate Bill 167), Chapter 373 Statutes of 2017 (Assembly Bill 678) and Chapter 378 Statutes of 2017 (Assembly Bill 1515), as part of the California 2017 Housing Package. The law was further amended by Chapter 243, Statutes of 2018 (Assembly Bill 3194) and Chapter 654, Statutes of 2019 (Senate Bill 330).

Why Do We Need the Housing Accountability Act?

The Housing Accountability Act has been in effect since 1982. Since that time, California's housing supply has not kept up with population and job growth, and the affordability crisis has grown significantly due to an undersupply of housing, which compounds inequality and limits economic and social mobility. Housing is a fundamental component of a healthy, equitable community. Lack of adequate housing hurts millions of Californians, stifles economic opportunities for workers and businesses, worsens poverty and homelessness, and undermines the state's environmental and climate goals and compounds the racial equity gaps faced by many communities across the state.

The legislative intent of the HAA was to limit local governments' ability to deny, make infeasible, or reduce the density of housing development projects. After determining that implementation of the HAA was not meeting the intent of the statute, the Legislature has amended the HAA to expand its provisions, strengthening the law to meaningfully and effectively curb the capacity of local governments to deny, reduce the density or render housing development projects infeasible.

Legislative Housing Accountability Act Interpretation Guidance

"It is the policy of the state that this section (HAA) should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing." Government Code Section 65589.5 (a)(2)(L)

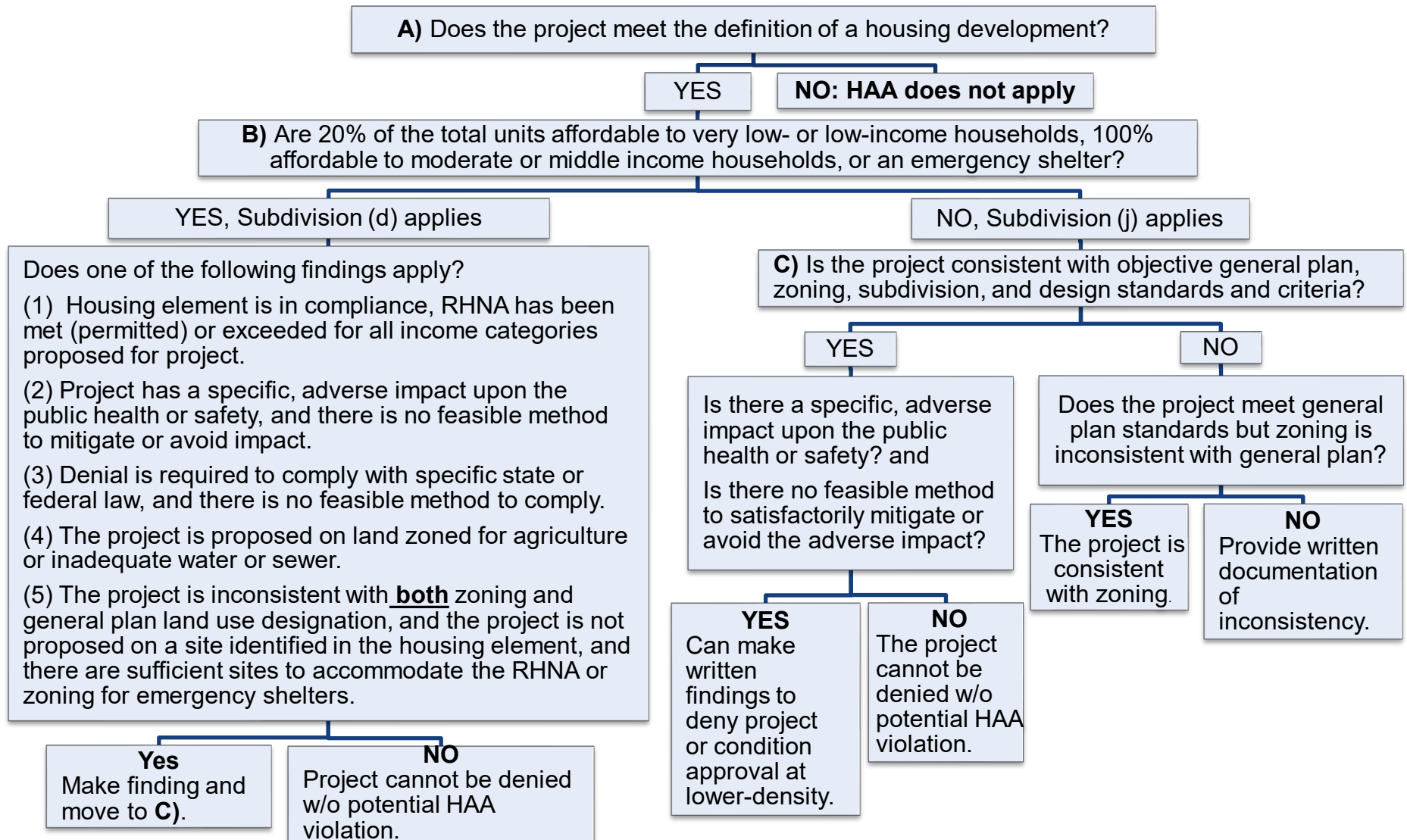
The following are findings and declarations found in the HAA pursuant to Government Code sections 65589.5(a):

- The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.
- 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.
- 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.
- Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.
- California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

- While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.
- The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.
- According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.
- California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.
- Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.
- The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.
- When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.
- An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.
- California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

Housing Accountability Act Decision Matrix

This decision tree generally describes the components of the HAA. Both affordable and market-rate developments are protected by components of the HAA. The statute contains detailed requirements that affect the applicability of the HAA to a specific housing project based on its characteristics.



Key Provisions of the Housing Accountability Act

The HAA sets out restrictions on local governments' ability to take action against housing development projects in Government Code section 65589.5, subdivisions (d) and (j). Subdivision (d) describes requirements applicable to housing development projects that include units affordable to very-low, low-, and moderate-income households (including transitional and supportive housing) as well as emergency shelters and farmworker housing. Subdivision (j) describes requirements applicable to all housing development projects, including both market-rate and affordable housing developments¹. In sum, the HAA significantly limits the ability of a local government to deny an affordable or market-rate housing project that is consistent with planning and zoning requirements. This table describes the various component parts of the HAA for ease of reference.

Topic	Subdivisions of Government Code Section 65589.5
Declarations and legislative intent	(a), (b), (c)
Provisions for housing affordable to very low, low-, or moderate-income households, or an emergency shelter	(d), (i)
Applicability of the statute to coastal zones, local laws, and charter cities	(e), (f), (g)
Definitions	(h)
Provisions relating to all housing developments	(j)
Consequences for violation	(k), (l), (m), (n)
Vesting rights for pre-applications (SB 330)	(o)

The following is an overview of key provisions of the HAA focusing on project qualifications, applicability of local standards, provisions that relate to all housing projects, provisions that relate just to housing affordable to lower- and moderate-income households and emergency shelters, and consequences for violation of the HAA. Appendix A includes a list of definitions of terms referenced throughout the HAA and Appendix B includes information related to the Preliminary Application Process pursuant to Senate Bill 330.

Housing Development Project Qualifications

In order for a development to qualify for the protections under the HAA it must meet the definition of a "housing development project". Furthermore, for a project to qualify for the affordable housing protections, it must also meet the definition of "Housing for very low-, low-, or moderate-income households".

¹ *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1072-1073

Housing Development Project Definition

Government Code, § 65589.5, subdivision (h)(2).

A “housing development project” means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term “units” is plural, a development must consist of more than one unit to qualify under the HAA. The development can consist of attached or detached units and may occupy more than one parcel, so long as the development is included in the same development application.

Housing for Very Low, Low-, or Moderate-Income Households

Government Code, § 65589.5, subdivision (h)(3).

In order to qualify as a housing development affordable to lower- or moderate- income households, the project must meet one of the following two criteria:

- At least 20 percent of the total units shall be sold or rented to lower income households. Lower-income households are those persons and families whose income does not exceed that specified by Health and Safety Code, § 50079.5, 80 percent of area median income.
- 100 percent of the units shall be sold or rented to persons and families of moderate income, or persons and families of middle income. Moderate-income households are those persons and families whose incomes are 80 percent to 120 percent of area median income (Health and Safety Code, § 50093.) Middle-income households are those persons and families whose income does not exceed 150 percent of area median income (Gov. Code, § 65008 subd. (c).)

In addition, the rental or sales prices of that housing cannot exceed the following standards:

- 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.

Housing Developments Applying for the Streamlined Ministerial Approval Process Pursuant to Government Code Section 65913.4.

To facilitate and expedite the construction of housing, Chapter 366, Statutes of 2017 (SB 35, Wiener) established the availability of a Streamlined Ministerial Approval Process for developments in localities that have not yet made sufficient progress towards their allocation of the regional housing need (RHNA). Recent amendments to the law clarified that projects utilizing the Streamlined Ministerial Approval Process qualify for the protections under the HAA (Gov. Code, § 65913.4, subd. (g)(2).)

Applicability of Local Standards

In addition to limiting the conditions for which a housing development project can be denied, the HAA also sets parameters around aspects of the approval process. Specifically, it defines:

- The type of development standards, conditions, and policies with which a housing development or emergency shelter can be required to comply
- Parameters for fees and exactions that can be imposed
- Standards that can be applied once an application is deemed complete
- Actions by a local government that would constitute a denial of a project or impose development conditions

These requirements are intended to provide developers with greater transparency and clarity in the entitlement process.

Objective Development Standards, Conditions, Policies, Fees, and Exactions

Government Code, § 65589.5, subdivision (f)

Local governments are not prohibited from requiring a housing development project or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies (subject to the vesting provisions of the HAA and other applicable laws). However, those standards, conditions, and policies must meet the following criteria:

- Be appropriate to, and consistent with, meeting the local government's share of the RHNA or meeting the local government's need for emergency shelters as identified in the housing element of the general plan.
- Be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development or to facilitate and accommodate the development of the emergency shelter project.
- Meet the definition of "objective". Objective standards are those that involve no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

The intent of these provisions of the HAA is that developers are given certainty in what standards, conditions, and policies apply to their project and how those standards can be met. Local governments that deny a project due to a failure to meet subjective standards (those standards that are not objective as defined) could be in violation of the HAA. In addition, objective standards that do apply should make it feasible for a developer to build to the density allowed by the zoning and not constrain a local government's ability to achieve its RHNA housing targets.

Nothing in the statute generally prohibits a local government from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter. However, the HAA does impose limitations on the fees and exactions that can be imposed on a specific housing development project once a preliminary application is submitted (see Appendix C).

Determination of Application Completeness

Government Code, § 65589.5, subdivisions (d)(5), (h)(5) and (9), and (j)(1).

The process of submitting an application for a housing development project can be iterative. For example, applications that are missing information cannot be fully evaluated by a local government for compliance with local objective standards. Therefore, an application is not typically processed until it is “determined to be complete”. The HAA currently uses two terms related to completeness, “deemed complete” and “determined to be complete.”

Deemed Complete: For the purposes of the HAA, until January 1, 2025, “deemed complete” means the date on which a preliminary application was submitted under the provisions of Government Code section 65941.1. Submittal of a preliminary application allows a developer to provide a specific subset of information on the proposed housing development before providing the full information required by the local government for a housing development application. Submittal of this information allows a housing developer to “freeze” the applicable standards for their project while they assemble the rest of the material necessary for a full application submittal. This ensures development requirements do not change during this time, potentially adding costs to a project. No affirmative determination by a local government regarding the completeness of a preliminary application is required. (See Appendix C).

The term “deemed complete” triggers the “freeze date” for applicable development standards, criteria, or condition that can be applied to a project. Changes to the zoning ordinance, general plan land use designation, standards, and criteria, subdivision ordinance, and design review standards, made subsequent to the date the housing development project preliminary application was “deemed complete”, cannot be applied to a housing development project or used to disapprove or condition approval of the project.

However, if the developer does not submit a preliminary application, the standards that must be applied are those that are in effect when the project is determined to be complete under the Permit Streamlining Act (Gov. Code § 65943).

Determined to be complete: Until January 1, 2025, the full application is “determined to be complete” when it is found to be complete under the Permit Streamlining Act (Gov. Code § 65943). This phrase triggers the timing provisions for the local government to provide written documentation of inconsistency with any applicable plan, program, policy, ordinance, standard, requirement, or other similar provision (see page 10 below for inconsistency determinations).

Completeness Determination of Development Application

Government Code section 65943 states that local governments have 30 days after an application for a housing development project is submitted to inform the applicant whether or not the application is complete. If the local government does not inform the applicant of any deficiencies within that 30-day period, the application will be “deemed complete”, even if it is deficient.

If the application is determined to be incomplete, the local government shall provide the applicant with an exhaustive list of items that were not complete pursuant to the local government’s submittal requirement checklist. Information not included in the initial list of deficiencies in the application cannot be requested in subsequent reviews of the application.

A development applicant who submitted a preliminary application has 90 days to complete the application after receiving notice that the application is incomplete, or the preliminary application will expire. Each time an applicant resubmits new information, a local government has 30 calendar days to review the submittal materials and to identify deficiencies in the application.

Please note, Government Code section 65943 is triggered by an application submitted with all of the requirements on lists compiled by the local government and available when the application was submitted that specifies in detail the information that will be required from any applicant for a development project pursuant to Government Code section 65940. This is not the “preliminary application” referenced in Government Code section 65941.1.

Triggers for a Disapproval of a Housing Development Project

Government Code, § 65589.5, subdivisions (h)(6)

The HAA does not prohibit a local government from exercising its authority to disapprove a housing development project, but rather provides limitations and conditions for exercising that authority. The HAA defines disapproval as when the local government takes one of the following actions:

- Votes on a proposed housing development project application and the application is disapproved. This includes denial of other required land use approvals or entitlements necessary for the issuance of a building permit. Examples include, but are not limited to, denial of the development application, tentative or final maps, use permits, or design review. If the project is using the Streamlined Ministerial Approval Process, disapproval of the application would trigger the provisions of the HAA.
- Fails to comply with decision time periods for approval or disapproval of a development application². Until 2025, the following timeframes apply:
 - 90 days after certification of an environmental impact report (prepared pursuant to the California Environmental Quality Act) by the lead agency for a housing development project.
 - 60 days after certification of an environmental impact report (prepared pursuant to the California Environmental Quality Act) by the lead agency for a housing development project where at least 49 percent of the units in the development project are affordable to very low or low-income households³, and where rents for the lower income units are set at an affordable rent⁴ for at least 30 years and owner-occupied units are available at an affordable housing cost⁵, among other conditions (see Gov Code § 65950).
 - 60 days from the date of adoption by the lead agency of a negative declaration.
 - 60 days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act.

² Timeframes are pursuant to Government Code section 65950

³ As defined by Health and Safety Code sections 50105 and 50079.5

⁴ Pursuant to Section 50053 of the Health and Safety Code

⁵ Pursuant to Section 50052.5 of the Health and Safety Code

Imposition of Development Conditions

Government Code, § 65589.5, subdivisions. (d), (h)(7), and (i)

Like the ability to deny a project, the HAA does not prohibit a local government from exercising its authority to condition the approval of a project, but rather provides limitations and conditions for the application of certain conditions. Specifically, the HAA limits the application of conditions that lower the residential density of the project, and, for housing affordable to lower- and moderate-income households and emergency shelters, conditions that would have a substantial adverse impact on the viability or affordability of providing those units unless specific findings are made and supported by a preponderance of the evidence in the record⁶.

For purposes of the HAA, “lower density” includes any conditions that have the same effect or impact on the ability of the project to provide housing. This could include a condition that directly lowers the overall number of units proposed (e.g., the development proposes 50 units, but the local government approves only 45 units). It could also include indirect conditions that result in a lower density (e.g., a development proposes 50 units at 800 square feet per unit but the local government conditions the approval on the provision of 850 square feet per unit, resulting in the project having to provide fewer units to accommodate the increase in square footage). Another example would be a reduction in building height that would result in the project being able to provide fewer units than originally proposed.

Local governments must also consider if imposed conditions of approval would have an adverse effect on a project’s ability to provide housing for very low-, low-, or moderate-income households at the affordability levels proposed in the housing development project. This includes provisions that would render the project for very low-, low-, or moderate-income households infeasible or would have a substantial adverse effect on the viability or affordability of the proposed housing. For example, project approval for an affordable housing development might be conditioned on the need to use specific materials that significantly increase the cost of the project. This additional cost could either render the project financially infeasible altogether or require substantial changes to the affordability mix of the units where fewer very low-income units could be provided. In these cases, it is possible that the conditions would violate the HAA.

Conditions that should be analyzed for their effect on density and project feasibility (for affordable projects) include, but are not limited to, the following:

- Design changes
- Conditions that directly or indirectly lower density
- Reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning.

⁶ See Page13 for more information on the preponderance of the evidence standard.

Housing Accountability Act Provisions That Apply to All Housing Projects

The following provisions apply to all housing development projects regardless of affordability.

Determination of Consistency with Applicable Plans, Standards, or Other Similar Provision Based on the Reasonable Person Standard

Government Code, § 65589.5, subdivision (f)(4)

A key component of the HAA is the determination as to whether or not the proposed housing development project is consistent, compliant and in conformity with all applicable plans, programs, policies, ordinances, standards, requirements, and other similar provisions.

Traditionally, this determination is made by local government, which is given significant deference to interpret its own plans, programs, policies, ordinances, standards, requirements, and other similar provisions. In most planning and zoning matters, courts traditionally uphold an agency's determination if there is "substantial evidence" to support that determination. If substantial evidence supports the agency's decision, an agency can reach a conclusion that a development project is inconsistent with applicable provisions, even if there is evidence to the contrary.

Departing from these traditional rules, the HAA sets forth its own standard for determining consistency with local government rules for housing development projects and emergency shelters. A housing development project or emergency shelter is deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that could allow *a reasonable person* to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity with applicable standards and requirements. The intent of this provision is to provide an objective standard and increase the likelihood of housing development projects being found consistent, compliant and in conformity.

Applicability of Density Bonus Law

Government Code, § 65589.5, subdivision (j)(3)

The receipt of a density bonus pursuant to Density Bonus Law (Government Code § 65915) does not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision. Receipt of a density bonus can include a bonus in number of units, incentives, concessions, or waivers to development standards allowed under Density Bonus Law.⁷

General Plan and Zoning Consistency Standard

Government Code, § 65589.5, subdivision (j)(4)

For various reasons, there is at times inconsistency between standards in a general plan and zoning standards. For example, a local government may have amended the general plan, but

⁷ Please note pursuant to Government Code § 65915, subd. (f) a receipt of a density bonus does not require an increase in density. An applicant can elect to ask for just the concessions, incentives, and waivers that the project qualifies for under State Density Bonus Law.

has not yet amended all of its municipal ordinances to assure vertical consistency⁸. Recognizing this, the HAA clarifies that if the zoning standards and criteria are inconsistent with applicable, objective general plan standards, but the development project is consistent with the applicable objective general plan standards for the site, then the housing development project cannot be found inconsistent with the standards and criteria of the zoning. Further, if such an inconsistency exists, the local agency may not require rezoning prior to housing development project approval.

However, the local agency may require the proposed housing development project to comply with the objective standards and criteria contained elsewhere in the zoning code that are consistent with the general plan designation. For example, if a site has a general plan land use designation of high density residential, but the site is zoned industrial, then a local government can require the project to comply with objective development standards in zoning districts that are consistent with the high density residential designation, such as a multifamily high density residential zone.

However, under the HAA, the standards and criteria determined to apply to the project must facilitate and accommodate development at the density allowed the general plan on the project site and as proposed by the housing development project.

Written Notification of Inconsistency

Government Code, § 65589.5, subdivision (j)(2)

If a local government considers a proposed housing development project to be inconsistent, non-compliant, or not in conformity with any applicable plan, program, policy, ordinance, standard, requirement, or other similar provision, the local government must provide written notification and documentation of the inconsistency, noncompliance, or inconformity. This requirement applies to all housing development projects, regardless of affordability level. The documentation must:

- Identify the specific provision or provisions and provide an explanation of the reason or reasons why the local agency considers the housing development to be inconsistent, non-compliant, or non-conformant with identified provisions.
- Be provided to the applicant within 30 days of a project application being deemed complete for projects containing 150 or fewer housing units.
- Be provided to the applicant within 60 days of a project application being deemed complete for projects containing over 150 units.

Consequence for Failure to Provide Written Documentation

If the local government fails to provide the written documentation within the required timeframe, the housing development project is deemed consistent, compliant and in conformity with applicable plans, programs, policies, ordinances, standards, requirements, or other similar provisions.

⁸ Pursuant to Government Code § 65860, city and county, including a charter city, zoning ordinances must be consistent with the adopted general plan. This is known as vertical consistency.

Denial of a Housing Project that is Consistent with Applicable Plans, Standards, or Other Similar Provisions Based on the Preponderance of the Evidence Standard

Government Code, § 65589.5, subdivision (j)(1)

When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a 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 a preponderance of the evidence on the record that both of the following conditions exist:

- 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.

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. Pursuant to Government Code section 65589.5 (a)(3) it is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety arise infrequently.

An example of a condition that does not constitute a specific, adverse impact would be criteria that requires a project to conform with “neighborhood character”. Such a standard is not quantifiable and therefore would not meet the conditions set forth under the HAA.

- There is no feasible method to satisfactorily mitigate or avoid the adverse impact, 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. 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.

Preponderance of the Evidence Standard

In most actions, a local government is tasked with making findings or determinations based on “substantial evidence.” Under the substantial evidence standard, local government is merely required to find reasonable, adequate evidence in support of their findings, even if the same or *even more* evidence supports a finding to the contrary.

Findings or determinations based on a “preponderance of the evidence” standard require that local governments weigh the evidence and conclude that the evidence on one side outweighs, preponderates over, is more than the evidence on the other side, not necessarily in the number or quantity, but in its convincing force upon those to whom it is addressed⁹. Evidence that is substantial, but not a preponderance of the evidence, does not meet this standard.

⁹ People v. Miller (1916) 171 Cal. 649, 652. Harris v. Oaks Shopping Center (1999) 70 Cal.App.4th 206, 209 (“Preponderance of the evidence’ means evidence that has more convincing force than that opposed to it.”).

Provisions Related to Housing Affordable to Very Low-, Low-, or Moderate-Income Household, Emergency Shelters, and Farmworker Housing

State Policy on Housing Project Approval

“It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article (RHNA) without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d)” Government Code, § 65589.5, subdivision (b).

The HAA provides additional protections for projects that contain housing affordable to very low-, low- or moderate-income households, including farmworker housing, or emergency shelters. State policy prohibits local governments from rejecting or otherwise making infeasible these types of housing development projects, including emergency shelters, without making specific findings.

Denial or Conditioning of Housing Affordable to Very Low-, Low- or Moderate-Income Households, Including Farmworker Housing, or Emergency Shelters

Government Code, § 65589.5, subdivision (d) and (i)

The HAA specifies findings that local governments must make, in addition to those in the previous section, if they wish to deny a housing development affordable to very low-, low-, or moderate-income housing (including farmworker housing) or emergency shelters. These requirements also apply when a local government wishes to condition such a project in a way that it would that render it infeasible or would have a substantial adverse effect on the viability or affordability of a housing development project for very low-, low-, or moderate-income households. In addition to the findings, described above, that apply to all housing development projects, a local government must also make specific findings based upon the preponderance of the evidence of one of the following:

- (1) The local government has an adopted housing element in substantial compliance with California’s Housing Element Law, contained in Article 10.6 of Government Code, *and* has met or exceeded development of its share of the RHNA in all income categories proposed in the housing development project. In the case of an emergency shelter, the local government shall have met or exceeded the need for emergency shelters as identified in the housing element. This requirement to meet or exceed its RHNA is in relationship to units built in the local government, not zoning. A local government’s housing element Annual Progress Report pursuant to Government Code section 65400 can be used to demonstrate progress towards RHNA goals.
- (2) The housing development project would have a specific, adverse impact upon public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the housing development project unaffordable or financially infeasible. Specific to housing development projects affordable to very low-, low-, or moderate-income housing (including farmworker housing) or emergency shelters, specific, adverse impacts do not include inconsistency with the zoning ordinance or general plan land use designation or eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.
- (3) Denial of the housing development project or the imposition of conditions is required 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 housing development project is proposed on land zoned for agriculture or resource preservation that is either: (a) surrounded on two sides by land being used for agriculture or resource preservation; or (b) does not have adequate water or wastewater facilities to serve the housing development project.
- (5) The housing development project meets both the following conditions:
- Is inconsistent with both the local government's zoning ordinance and the 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. This means this finding cannot be used in situations where the project is inconsistent with one (e.g., the general plan designation), but is consistent with the other (e.g., zoning ordinance).
 - The local government has an adopted housing element in substantial compliance with housing element Law.

Finding (5) *cannot* be used when any of the following occur:

- The housing development project is proposed for a site identified as suitable or available for very low-, low-, or moderate-income households within a housing element and the project is consistent with the specified density identified in the housing element.
- The local government has failed to identify sufficient adequate sites in its inventory of available sites to accommodate its RNHA, and the housing development project is proposed on a site identified in any element of its general plan for residential use or in a commercial zone where residential uses are permitted or conditionally permitted.
- The local government has failed to identify a zone(s) where emergency shelters are allowed without a conditional use or other discretionary permit, or has identified such zone(s) but has failed to demonstrate that they have sufficient capacity to accommodate the need for emergency shelter(s), and the proposed emergency shelter is for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses.

Any of these findings must be based on a preponderance of the evidence. For details, see "Preponderance of the evidence standard" on page 12 for further information.

Violations of Housing Accountability Act

The courts are the primary authority that enforces the HAA. Actions can be brought by eligible plaintiffs and petitioners to the court for potential violations of the law. Similarly, HCD under Government Code section 65585 (j), can find that a local government has taken an action in violation of the HAA. In that case, after notifying a local government of the violation, HCD would refer the violation to the Office of the Attorney General who could file a petition against a local government in the Superior Court.

Eligible Plaintiffs and Petitioners

Government Code, § 65589.5, subdivision (k)(1)(A) and (k)(2)

The applicant, a person eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring action to enforce the HAA. A housing organization, however, may only file an action to challenge the disapproval of the housing development project and must have filed written or oral comments with the local government prior to its action on the housing development project.

“Housing organizations” means a trade or industry group engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households. A housing organization is entitled to reasonable attorney fees and costs when prevailing in an action. Labor unions, building associations, multifamily apartment management companies, and legal aid societies are examples of housing organizations.

Remedies

Government Code, § 65589.5, subdivision (k)(1)(A)

If the plaintiff or petitioner prevails, the court must issue an order compelling compliance with the HAA within 60 days. The court’s order would at a minimum require the local agency to take action on the housing development project or emergency shelter during that time period. The court is further empowered to issue an order or judgment that actually directs the local government to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA. “Bad faith” includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

If the plaintiff or petitioner prevails, the court shall award reasonable attorney fees and costs of the suit to the plaintiff or petitioner for both affordable and market-rate housing development projects,¹⁰ except in the “extraordinary circumstances” in which the court finds that awarding fees would not further the purposes of the HAA.

Local Agency Appeal Bond

Government Code, § 65589.5, subdivision (m)

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. In this provision, the Legislature has waived, to some degree, the immunity from damages that normally extends to local agencies, recognizing that the project applicant incurs costs due to the delay of its project when a local agency appeals. (Contrast Gov. Code, § 65589.5, subd. (m), with Code Civ. Proc., § 995.220, subd. (b) [local public entities do not have to post bonds].)

¹⁰ / *Honchariw v. County of Stanislaus* (2013) 218 Cal.App.4th 1019, 1023–1024, which ruled to the contrary, was superseded by statutory changes in Senate Bill 167 (Stats. 2017, ch. 368, § 1), Assembly Bill 678 (Stats. 2017, ch. 373, § 1), and Senate Bill 330 (Stats. 2019, ch. 654, § 3).

Failure to Comply with Court Order

Government Code, § 65589.5, subdivision (k)(1)(B)(i), (k)(1)(C), and (l)

If the local government fails to comply with the order or judgment within 60 days of issuance, the court must impose a fine on the local government. The *minimum* fine that may be imposed is \$10,000 per housing unit in the housing development project as proposed on the date the application was deemed complete. Please note, the use of the term “deemed complete” in this instance has the same meaning as “determined to be complete” as referenced on page 7. The monies are to be deposited into the State’s Building Homes and Jobs fund or the Housing Rehabilitation Loan fund. In calculating the amount of the fine in excess of the minimum, the court is directed to consider the following factors:

- The local government’s progress in meeting its RHNA and any previous violations of the HAA.
- Whether the local government acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA. If the court finds that the local government acted in bad faith, the total amount of the fine must be multiplied by five.

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 and an order to approve the housing development project.

Court-Imposed Fines

Court-imposed fines begin at \$10,000 per housing unit and could be much higher. If the court determines the local government acted in bad faith, the fine is multiplied by five. This equates to a minimum fine of \$50,000 per unit.

Bad faith includes, but is not limited to, an action that is frivolous or otherwise entirely without merit. For example, in a recent Los Altos Superior Court order, the court issued an order directing the local agency to approve the housing development project and found that the local agency acted in bad faith when it disapproved the housing development because its denial was entirely without merit. The city’s denial letter did not reflect that the city made a benign error in the course of attempting, in good faith, to follow the law by explaining to the developer how the project conflicted with objective standards that existed at the time of application; instead, the city denied the application with a facially deficient letter, employed strained interpretations of statute and local standards, and adopted a resolution enumerating insufficient reasons for its denial¹¹. Bad faith can be demonstrated through both substantive decisions and procedural actions. In the Los Altos case, the court found that demanding an administrative appeal with less than a days’ notice revealed bad faith. Repeated, undue delay may likewise reveal bad faith.

¹¹ Order Granting Consolidated Petitions for Writ of Mandate, 40 Main Street Offices, LLC v. City of Los Altos et al. (Santa Clara Superior Court Case No. 19CV349845, April 27, 2020), p. 38

APPENDIX A: Frequently Asked Questions

What types of housing development project applications are subject to the Housing Accountability Act (HAA)?

The HAA applies to both market rate and affordable housing development projects. (*Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1073.) It applies to housing development projects that consist of residential units and mixed-use developments when two-thirds or more of the square footage is designated for residential use. It also applies to transitional housing, supportive housing, farmworker housing, and emergency shelters. (Gov. Code, § 65589.5, subs. (d) and (h)(2).)

Does the Housing Accountability Act apply to charter cities?

Yes, the HAA applies to charter cities (Gov. Code, § 65589.5, subd. (g).)

Does the Housing Accountability Act apply to housing development projects in coastal zones?

Yes. However, local governments must still comply with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code) (Gov. Code, § 65589.5, subd. (e).)

Are housing developments still subject to the California Environmental Quality Act (CEQA) if they qualify for the protections under the Housing Accountability Act?

Yes. Jurisdictions are still required to comply with CEQA (Division 13 (commencing with Section 21000) of the Public Resources Code) as applicable to the project. (Gov. Code, § 65589.5, subd. (e).)

Does the California Department of Housing and Community Development have enforcement authority for the Housing Accountability Act?

Yes. HCD has authority to find that a local government's actions do not substantially comply with the HAA (Gov. Code, § 65585, subd. (j)(1).) In such a case, HCD may notify the California State Attorney General's Office that a local government has taken action in violation of the HAA.

If approval of a housing development project triggers the No-Net Loss Law, may a local government disapprove the project?

No. Triggering a required action under the No-Net Loss Law is not a valid basis to disapprove a housing development project. (Gov. Code, § 65863, subd. (c)(2).) The only valid reasons for disapproving a housing development project are defined in the HAA under subdivisions (d) and (j). Subdivision (j) contains requirements that apply to all housing development projects; subdivision (d) contains additional requirements for housing development projects for very low-, low- or moderate-income households or emergency shelters.

Does the Housing Accountability Act apply to a residential development project on an historic property?

Yes. The HAA does not limit the applicability of its provisions based on individual site characteristics or criteria. The local government may apply objective, quantifiable, written development standards, conditions, and policies related to historic preservation to the housing development project, so long as they were in effect when the application was deemed

complete¹². The standards should be appropriate to, and consistent with, meeting the local government's regional housing need and facilitate development at the permitted density. (Gov. Code, § 65589.5, subd. (f)(1).) However, it should be noted that compliance with historic preservation laws may otherwise constrain the approval of a housing development.

Under the Housing Accountability Act, is the retail/commercial component of a mixed-use project subject to review when the housing component must be approved?

Yes. The local government may apply objective, quantifiable, written development standards, conditions and policies to the entirety of the mixed-use project, so long as they were in effect when the application was deemed complete. (Gov. Code, § 65589.5, subd. (f)(1).)

Does the Housing Accountability Act apply to subdivision maps and other discretionary land use applications?

Yes. The HAA applies to denials of subdivision maps and other discretionary land use approvals or entitlements necessary for the issuance of a building permit (Gov. Code, § 65589.5, subd (h)(6).)

Does the Housing Accountability Act apply to applications for individual single-family residences or individual Accessory Dwelling Units (ADUs)?

No. A “housing development project” means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term “units” is plural, a development has to consist of more than one unit to qualify under the HAA (Gov. Code, § 65589.5, subd. (h)(2).)

Does the Housing Accountability Act apply to an application that includes both a single-family residence and an Accessory Dwelling Unit?

Yes. Since an application for both a single-family residence and an ADU includes more than one residential unit, the HAA applies (Gov. Code, § 65589.5, subd. (h)(2).)

Does the Housing Accountability Act apply to an application for a duplex?

Yes. Since an application for a duplex includes more than one residential unit, the HAA applies. (Gov. Code, § 65589.5, subd. (h)(2).)

Does the Housing Accountability Act apply to market-rate housing developments?

Yes. Market-rate housing developments are subject to the HAA (Gov. Code, § 65589.5, subd. (h)(2).) In *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, the court found the definition of “housing development project” was not limited to projects involving affordable housing and extended to market-rate projects. Market-rate housing development projects are subject to the requirements of paragraph (j) (Gov. Code, § 65589.5, subd. (j).)

¹² For purposes of determination of whether a site is historic, “deemed complete” is used with reference to Government Code §65940. See Government Code § 65913.10.

Under the Housing Accountability Act, if a housing development project is consistent with local planning rules, can it be denied or conditioned on a density reduction?

Yes. However, a local government may deny a housing development that is consistent with local planning rules, or condition it on reduction in density, only under very specific circumstances. (Gov. Code, § 65589.5, subds. (j)(1)(A), (B).) The local government must make written findings based on a preponderance of the evidence that both:

- (1) The housing development project would have a specific, adverse impact upon public health or safety unless disapproved or approved at a lower density; and
- (2) There is no feasible method to satisfactorily mitigate or avoid the impact.

(See definition of and specific requirements for finding of “specific, adverse impact” discussed below.)

Under the Housing Accountability Act, can a housing development project affordable to very low-, low-, or moderate-income households (including farmworker housing) or emergency shelter that is inconsistent with local planning requirements be denied or conditioned in a manner that renders it infeasible for the use proposed?

Yes, but only under specific circumstances. The local government must make written findings based on a preponderance of the evidence as to specific criteria. However, inconsistency with zoning does not justify denial or conditioning if the project is consistent with the general plan. (See Page 11 for more details). See also Gov. Code, § 65589.5, subds. (d)(1)-(5).)

Is there a definition for “specific, adverse impact” upon public health and safety?

Yes. The HAA provides that 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 is not such a specific, adverse impact upon the public health or safety. (Gov. Code, § 65589.5, subds. (d)(2) and (j)(1)(A).)

The HAA considers that such impacts would be rare: “It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.” (Gov. Code, § 65589.5, subd. (a)(3).)

Appendix B: Definitions

Area median income means area median income as periodically established by the HCD 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. (Gov. Code, § 65589.5, subd. (h)(4).)

Bad faith includes, but is not limited to, an action that is frivolous or otherwise entirely without merit. (Gov. Code, § 65589.5, subd. (l).) This definition arises in the context of the action a local government takes when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA.

Deemed complete means that the applicant has submitted a preliminary application pursuant to Government Code section 65941.1 (Gov. Code, § 65589.5, subd. (h)(5).) However, in Government Code section 65589.5(k)(1)(B)(i) deemed complete has the same meaning as “Determined to be Complete”.

Determined to be complete means that the applicant has submitted a complete application pursuant to Government Code section 65943 (Gov. Code, § 65589.5, subd. (h)(9).)

Disapprove the housing development project means a local government either votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit, or fails to comply with specified timeframes in the Permit Streamlining Act. (Gov. Code, § 65589.5, subd. (h)(5).)

Farmworker housing means housing in which at least 50 percent of the units are available to, and occupied by, farmworkers and their households.

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. (Gov. Code, § 65589.5, subd. (h)(1).)

Housing development project means a use consisting of any of the following: (1) development projects with only residential units, (2) mixed-use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, (3) transitional or supportive housing.

Housing organization means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. (Gov. Code, § 65589.5, subd. (k)(2).) This definition is relevant to the individuals or entities that have standing to bring an HAA enforcement action against a local agency.

Housing for very low-, low-, or moderate-income households means that either:

- 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

- One hundred (100) percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code.

Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based. (Gov. Code, § 65589.5, subd. (h)(3).)

Lower density (as used in the sense of “to lower density”) means a reduction in the units built per acre. It includes conditions that directly lower density and conditions that effectively do so via indirect means. (Gov. Code, § 65589.5, subd. (h)(7).)

Mixed use means a development consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use. (Gov. Code, § 65589.5, subd. (h)(2)(B).)

Objective means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. (Gov. Code, § 65589.5, subd. (h)(2)(B).)

Regional housing needs allocation (RHNA) means the share of the regional housing needs assigned to each jurisdiction by income category pursuant to Government Code section 65584 through 65584.6.

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. (Gov. Code, § 65589.5, subds. (d)(2), (j)(1)(A).) This definition is relevant to the written findings that a local agency must make when it disapproves or imposes conditions on a housing development project or an emergency shelter that conforms with all objective standards. It is the express intent of the Legislature that the conditions that would give rise to a specific, adverse impact upon the public health and safety occur infrequently. (Gov. Code, § 65589.5, subd. (a)(3).)

Appendix C: Preliminary Application (Senate Bill 330, Statutes of 2019)

The Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019 (SB 330)) strengthens protections for housing development projects under the Housing Accountability Act (HAA), Planning and Zoning Law, and the Permit Streamlining Act. The provisions set forth under SB 330 sunset in 2025.

Among other provisions, to increase transparency and certainty early in the development application process, SB 330 allows a housing developer the option of submitting a “preliminary application” for any housing development project. Submittal of a preliminary application allows a developer to provide a specific subset of information on the proposed housing development before providing the complete information required by the local government. Upon submittal of an application and a payment of the permit processing fee, a housing developer is allowed to “freeze” the applicable standards to their project early while they assemble the rest of the material necessary for a full application submittal. This ensures development requirements do not change during this time, adding costs to a project due to potential redesigns due to changing local standards.

Benefits of a Preliminary Application

Government Code, § 65589.5, subdivision (o)

The primary benefit of a preliminary application is that a housing development project is subject only to the ordinances, policies, standard, or any other measure (standards) adopted and in effect when a preliminary application was submitted. “Ordinances, policies, and standards” includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

However, there are some circumstances where the housing development project can be subjected to a standard beyond those in effect when a preliminary application is filed:

- In the case of a fee, charge, or other monetary exaction, an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.
- A preponderance of the evidence in the record establishes that the standard is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.
- The standard is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
- The housing development project has not commenced construction within two and a-half years following the date that the project received final approval. “Final approval” means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:
 - The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition,

request for reconsideration, or legal challenge have been filed. If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

- The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision. “Square footage of construction” means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations). However, a local government is not prevented from applying the standards in effect at the time of the preliminary application submittal.
- Once a residential project is complete and a certificate of occupancy has been issued, local governments are not limited in the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.

Contents of a Preliminary Application

Government Code, § 65941.1

Each local government shall compile a checklist and application form that applicants for housing development projects may use for submittal of a preliminary application. However, HCD has adopted a standardized form that may be used to submit a preliminary application if a local agency has not developed its own application form. The preliminary application form can be found on HCD’s [website](#).

The following are the items that are contained in the application form. Local government checklists or forms cannot require or request any information beyond these 17 items.

1. The specific location, including parcel numbers, a legal description, and site address, if applicable.
2. The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.
3. A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.
4. The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.
5. The proposed number of parking spaces.
6. Any proposed point sources of air or water pollutants.
7. Any species of special concern known to occur on the property.
8. Whether a portion of the property is located within any of the following:
 - A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178.
 - Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

- A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.
 - A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.
 - A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
 - A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.
9. Any historic or cultural resources known to exist on the property.
10. The number of proposed below market rate units and their affordability levels.
11. The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.
12. Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.
13. The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.
14. For a housing development project proposed to be located within the coastal zone, whether any portion of the property contains any of the following:
- Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.
 - Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.
 - A tsunami run-up zone.
 - Use of the site for public access to or along the coast.
15. The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.
16. A site map showing a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code and an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.
17. The location of any recorded public easement, such as easements for storm drains, water lines, and other public rights of way.

Timing Provisions from Filing of a Preliminary Application to Determination of Consistency with Applicable Standards under the Housing Accountability Act

Step 1: Preliminary Application Submittal GC 65941.1

- Applicant submits preliminary application form.
- Applicant pays permit processing fees.
- No affirmative determination by local government regarding the completeness of a preliminary application is required.

Step 2: Full Application Submittal

- Applicant submits full application within 180 days of preliminary application submittal.
- Application contains all information required by the local government application checklist pursuant to Government Code Sections 65940, 65941, and 65941.5¹³.

Step 3: Determination of Application Completeness GC 65943

- Local government has 30 days to determine application completeness and provide in writing both the determination of whether the application is complete and, when applicable, a list of items that were not complete. This list is based on the agency's submittal requirement checklist. If written notice is not provided within 30 days, the application is deemed complete.
- An applicant that has submitted a preliminary application has 90 days to correct deficiencies and submit the material needed to complete the application¹⁴.
- Upon resubmittal, local government has 30 days to evaluate. Evaluation is based on previous stated items and the supplemented or amended materials. If still not correct, the local agency must specify those parts of the application that were incomplete and indicate the specific information needed to complete the application.
- Upon a third determination of an incomplete application, an appeals process must be provided.

Step 4: Application Consistency with Standards (HAA) GC 65589.5

- Identify the specific provision or provisions and provide an explanation of the reason or reasons why the local agency considers the housing development to be inconsistent, non-compliant, or non-conformant with identified provisions.

¹³ Government Codes § 65940, 65941, and 65941.5 require, among other things, a local government to compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Copies of the information shall be made available to all applicants for development projects and to any person who requests the information.

¹⁴ The statute is silent on applications that did not use the preliminary application process. There is no statutory timeline for resubmittal in those instances.

- 30 days of a project application being deemed complete for projects containing 150 or fewer housing units.
- 60 days of a project application being deemed complete for projects containing over 150 units.

Step 5: Other Entitlement Process Requirements Pursuant to SB 330

- Pursuant to Government Code section 65905.5, if a proposed housing development project complies with the applicable, objective general plan and zoning standards, the local government can conduct a maximum of five hearings, including hearing continuances, in connection with the approval of the project. Compliance with applicable, objective general plan and zoning standards has the same meaning and provisions as in the HAA, including circumstances when there is inconsistency between the general plan and zoning.

A “hearing” includes any public hearing, workshop, or similar meeting conducted by the local government with respect to the housing development project, whether by the legislative body of the city or county, the planning agency, or any other agency, department, board, commission, or any other designated hearing officer or body of the city or county, or any committee or subcommittee thereof. A “hearing” does not include a hearing to review a legislative approval required for a proposed housing development project, including, but not limited to, a general plan amendment, a specific plan adoption or amendment, or a zoning amendment, or any hearing arising from a timely appeal of the approval or disapproval of a legislative approval.

However, it should be noted nothing in this requirement supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to CEQA.

- Pursuant to Government Code section 65950, a local government must make a final decision on a residential project within 90 days after certification of an environmental impact report (or 60 days after adoption of a mitigated negative declaration or an environment report for an affordable housing project).

Appendix D: Housing Accountability Act Statute (2020)

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]

DIVISION 1. PLANNING AND ZONING [65000 - 66301]

CHAPTER 3. Local Planning [65100 - 65763]

ARTICLE 10.6. Housing Elements [65580 - 65589.11]

65589.5.

(a) (1) The Legislature finds and declares all of the following:

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

(B) 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.

(C) 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.

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

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per

capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

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

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

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the housing development 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 a preponderance of the evidence in the record, as to one of the following:

(1) The local government 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 local government 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 local government 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 housing development project. The share of the regional housing need met by the local government shall be calculated consistently with the forms and definitions that may be adopted by HCD pursuant to Section 65400. In the case of an emergency shelter, the local government 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 housing 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. The following shall not constitute a specific, adverse impact upon the public health or safety:

(A) Inconsistency with the zoning ordinance or general plan land use designation.

(B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

(3) The denial of the housing development 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 housing 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 housing development project or emergency shelter is inconsistent with both the local government'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 local government has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

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

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the local government'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, low-, and moderate-income categories.

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

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

(f) (1) Except as provided in subdivision (o), nothing in shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the local government's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Except as provided in subdivision (o), nothing in 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 local government'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) Except as provided in subdivision (o), nothing in this section shall be construed to 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 housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

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

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

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

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

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this

code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) “Area median income” means area median income as periodically established by the HCD 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) Notwithstanding any other law, until January 1, 2025, “deemed complete” means that the applicant has submitted a preliminary application pursuant to Section 65941.1.

(6) “Disapprove the housing 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, including any required land use approvals or entitlements necessary for the issuance of a building permit.

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

(7) “Lower density” includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(8) Until January 1, 2025, “objective” means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

(9) Notwithstanding any other law, until January 1, 2025, “determined to be complete” means that the applicant has submitted a complete application pursuant to Section 65943.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of 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 housing development project’s the application is complete, 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 conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, 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 a preponderance of the evidence in the record, and with the requirements of subdivision (o).

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a 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 a preponderance of the evidence on the record that both of the following conditions exist:

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

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

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and

accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(k) (1) (A) (i) The applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):

(I) The local agency, in violation of subdivision (d), disapproved a housing development 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 findings supported by a preponderance of the evidence.

(II) The local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence.

(III) (ia) Subject to sub-subclause (ib), the local agency, in violation of subdivision (o), required or attempted to require a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

(ib) This subclause shall become inoperative on January 1, 2025.

(ii) If the court finds that one of the conditions in clause(i) is met, 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 housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. 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, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section.

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars (\$10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated

to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing 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. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(ii) If any money derived from a fine imposed pursuant to this subparagraph is deposited in the Housing Rehabilitation Loan Fund, then, notwithstanding Section 50661 of the Health and Safety Code, that money shall be available only upon appropriation by the Legislature.

(C) 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 and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant 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 to be approved unless the applicant consents to a different decision or action by the local agency.

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

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court’s order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. For purposes of this section, “bad faith” includes, but is not limited to, 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, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any

other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, 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, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. 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) (1) Subject to paragraphs (2), (6), and (7), and subdivision (d) of Section 65941.1, a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted.

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:

(A) In the case of a fee, charge, or other monetary exaction, to an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.

(B) A preponderance of the evidence in the record establishes that subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a preliminary application was submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, as defined in subparagraph (A) of paragraph (1) of subdivision (j), and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Subjecting the housing development project to an ordinance, policy, standard, or any other measure, beyond those in effect when a preliminary application was submitted is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(D) The housing development project has not commenced construction within two and one-half years following the date that the project received final approval. For purposes of this subparagraph, "final approval" means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:

(i) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.

(ii) If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

(E) The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision. For purposes of this subdivision, "square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) This subdivision does not prevent a local agency from subjecting the additional units or square footage of construction that result from project revisions occurring after a preliminary application is submitted pursuant to Section 65941.1 to the ordinances, policies, and standards adopted and in effect when the preliminary application was submitted.

(4) For purposes of this subdivision, "ordinances, policies, and standards" includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

(5) This subdivision shall not be construed in a manner that would lessen the restrictions imposed on a local agency, or lessen the protections afforded to a housing development project, that are established by any other law, including any other part of this section.

(6) This subdivision shall not restrict the authority of a public agency or local agency to require mitigation measures to lessen the impacts of a housing development project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(7) With respect to completed residential units for which the project approval process is complete and a certificate of occupancy has been issued, nothing in this subdivision shall limit the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.

(8) This subdivision shall become inoperative on January 1, 2025.

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



Item 8: **RHNA**
Recommended Action: Receive report.

Reports

With the approval of Connect SoCal, the RHNA appeals filing period began on September 11, 2020, and runs through October 26, 2020. Attachment 1 includes a copy of the form that must be included with a RHNA appeal. Additionally, Attachment 2 contains a detailed presentation on the RHNA methodology and appeals process. A recording of the technical workshop can be viewed at the following link: https://yorbalinda.zoom.us/rec/play/FmL_VUm6VErdc58ESjbyi83P9qu-IpnmAbi6dYG6vkPqbHC4XpdqtMHQSfTgnOtSlyuWhd-FmJOxUPfg.4RVGp98LnDWqRokG.

On September 18, 2020, the Orange County Mayors sent a letter to SCAG President Rex Richardson supporting Yorba Linda Councilmember Peggy Huang’s request to reconvene SCAG’s RHNA Litigation Study Team. The letter cites concerns that HCD did not follow the law when calculating the 1.34 million housing unit regional determination for RHNA and that there are other credible data sources demonstrating that this regional determination includes double counting and incorrect data, which has resulted in an exaggeration of SCAG’s housing need. A copy of this letter and its attachments has been included as Attachment 3.

- Attachment 1 – RHNA Appeals Form
- Attachment 2 – RHNA Technical Workshop on Methodology and Appeals
- Attachment 3 – OC Mayors Letter Dated September 28, 2020

Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form
All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.
Appeals and supporting documentation should be submitted to housing@scaq.ca.gov.
Late submissions will not be accepted.

Date: _____ Jurisdiction Subject to This Appeal Filing: _____
(to file another appeal, please use another form)

Filing Party (Jurisdiction or HCD)

Filing Party Contact Name _____ Filing Party Email: _____

APPEAL AUTHORIZED BY:

Name: _____

PLEASE SELECT BELOW:

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: _____

BASES FOR APPEAL

- Application of the adopted Final RHNA Methodology for the 6th Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
 - Existing or projected jobs-housing balance
 - Sewer or water infrastructure constraints for additional development
 - Availability of land suitable for urban development or for conversion to residential use
 - Lands protected from urban development under existing federal or state programs
 - County policies to preserve prime agricultural land
 - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
 - County-city agreements to direct growth toward incorporated areas of County
 - Loss of units contained in assisted housing developments
 - High housing cost burdens
 - The rate of overcrowding
 - Housing needs of farmworkers
 - Housing needs generated by the presence of a university campus within a jurisdiction
 - Loss of units during a state of emergency
 - The region's greenhouse gas emissions targets
 - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

FOR STAFF USE ONLY:

Date _____ Hearing Date: _____ Planner: _____

Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form

All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.

Appeals and supporting documentation should be submitted to housing@scaq.ca.gov.

Late submissions will not be accepted.

Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):

Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.

Brief Description of Appeal Request and Desired Outcome:

Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):

Reduced _____ Added _____

List of Supporting Documentation, by Title and Number of Pages

(Numbers may be continued to accommodate additional supporting documentation):

- 1.
- 2.
- 3.

FOR STAFF USE ONLY:

Date _____

Hearing Date: _____

Planner: _____

RHNA Allocation Methodology

SCAG RHNA Calculator

www.scag.ca.gov/RHNA - Scroll down to RHNA Draft Allocation Calculator

AutoSave SCAG_RHNA_MethodologyWorksheet_4Sept20 - Saved Search Nate Farnsworth

File Home Insert Draw Page Layout Formulas Data Review View Help Acrobat Share Comments

Clipboard Font Alignment Number Styles Cells Editing

E5 Adelanto city

1 SCAG 6TH CYCLE DRAFT RHNA ALLOCATION BASED ON FINAL RHNA METHODOLOGY For complete descriptions of values below, see "metadata" tab or www.scag.ca.gov/rhna

2 9/3/20

3

4 **What is this?** This spreadsheet tool provides input data as well as draft RHNA allocations for each local jurisdiction. Following the adoption of Connect SoCal (2020 RTP/SCS) by SCAG's Regional Council on 9/4/2020, draft allocations were formally issued to each local jurisdiction.

5 Select Jurisdiction (drop-down menu)

6 Adelanto city

7 Total regional housing need

8 1,341,827

9

10 **Adelanto city statistics:**

11 Regional Percentile:

12 Forecasted household (HH) growth, RHNA period: 3451 86%

13 Percent of households who are renting: 51% 74%

14 Housing unit loss from demolition (2009-18): 37 73%

15 Adj. forecasted household growth, 2020-2045:* 10,691 -

16 Pct. of regional jobs accessible in 30 mins (2045):** 1.51% 11%

17 Share of region's job accessibility (pop-weighted): 0.04% 18%

18 Share of region's HQT population (2045) 0.00% 0%

19 Share of pop. in low/very low-resource tracts: 100.00% -

20 Share of pop. in very high-resource tracts: 0.00% -

21 Social equity adjustment: 180% -

22

23

24

25

26

27

28

29

30

31

32 *Local input/growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast (+4%)

33 **For the jurisdiction's median TAZ

34

35

RHNA Allocation inputs for Adelanto city

Forecasted household (HH) growth, RHNA period: 3451

Vacancy Adjustment 113

Replacement Need 37

TOTAL PROJECTED NEED: 3601

Existing need due to job accessibility (50%) 154

Existing need due to HQT pop. share (50%) 0

Net residual factor for existing need^ 0

TOTAL EXISTING NEED 154

TOTAL RHNA FOR ADELANTO CITY 3756 Pct of total

Very-low income (<50% of AMI) 394 10.5%

Low income (50-80% of AMI) 565 15.0%

Moderate income (80-120% of AMI) 650 17.3%

Above moderate income (>120% of AMI) 2147 57.2%

^Negative values represent a lower-resourced community with good job and/or transit access having its allocation capped. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.

output metadata RHNA_data

SCAG RHNA Calculator

www.scag.ca.gov/RHNA - Scroll down to RHNA Draft Allocation Calculator

SCAG 6TH CYCLE DRAFT RHNA ALLOCATION BASED ON FINAL RHNA METHODOLOGY

9/3/20

What is this? This spreadsheet tool provides input data as well as draft RHNA allocations for each local jurisdiction. Following the adoption of Connect SoCal (2020 RTP/SCS) by SCAG's Regional Council on 9/4/2020, draft allocations were formally issued to each local jurisdiction.

Instructions: Select jurisdiction from drop-down menu. Green boxes will populate based on data in "RHNA_data" tab. For more information, please see www.scag.ca.gov/rhna or email housing@scag.ca.gov.

Forecasted household (HH) growth, RHNA period:	3451	86%
Percent of households who are renting:	51%	74%
Housing unit loss from demolition (2009-18):	37	73%
Adj. forecasted household growth, 2020-2045:*	10,691	-
Pct. of regional jobs accessible in 30 mins (2045):**	1.51%	11%
Share of region's job accessibility (pop-weighted):	0.04%	18%
Share of region's HQT population (2045)	0.00%	0%
Share of pop. in low/very low-resource tracts:	100.00%	-
Share of pop. in very high-resource tracts:	0.00%	-
Social equity adjustment:	180%	-

**Local input/growth forecast total adjusted by the difference between the RHNA determination and SCAG's regional 2020-2045 forecast (+4%)*
***For the jurisdiction's median TAZ*

RHNA Allocation inputs for Adelanto city

Forecasted household (HH) growth, RHNA period:	3451	
Vacancy Adjustment	113	
Replacement Need	37	
TOTAL PROJECTED NEED:	3601	
Existing need due to job accessibility (50%)	154	
Existing need due to HQT pop. share (50%)	0	
Net residual factor for existing need^	0	
TOTAL EXISTING NEED	154	
TOTAL RHNA FOR ADELANTO CITY	3756	
Very-low income (<50% of AMI)	394	10.5%
Low income (50-80% of AMI)	565	15.0%
Moderate income (80-120% of AMI)	650	17.3%
Above moderate income (>120% of AMI)	2147	57.2%

^Negative values represent a lower-resourced community with good job and/or transit access having its allocation capped. Positive values represent this amount being redistributed to higher-resourced communities based on their job and/or transit access.

Overall Approach: Primary Allocation Factors

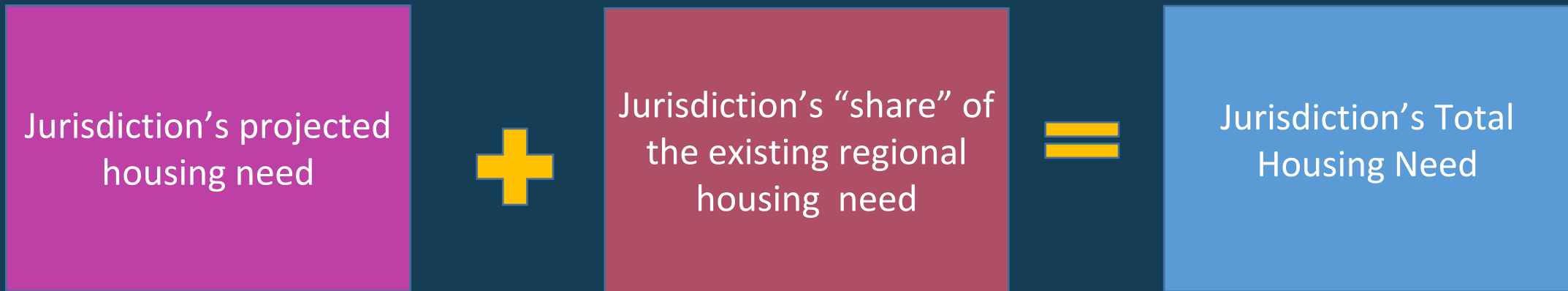


Growth Forecast

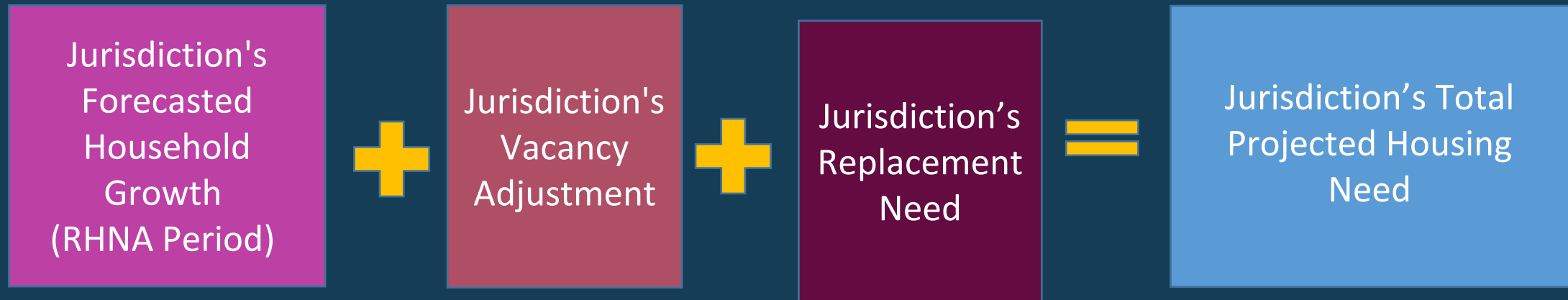
Transit Accessibility

Job Accessibility

Overall Approach: Allocation Framework



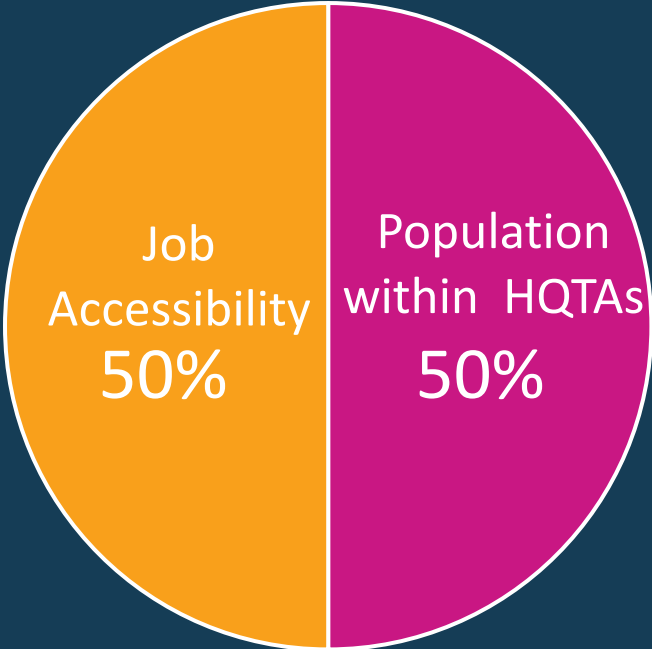
Determining Projected Housing Need: Step 1



Determining Existing Housing Need: Step 2a

Job Accessibility and Transit Accessibility

Regional Existing Need
836,857 Housing Units

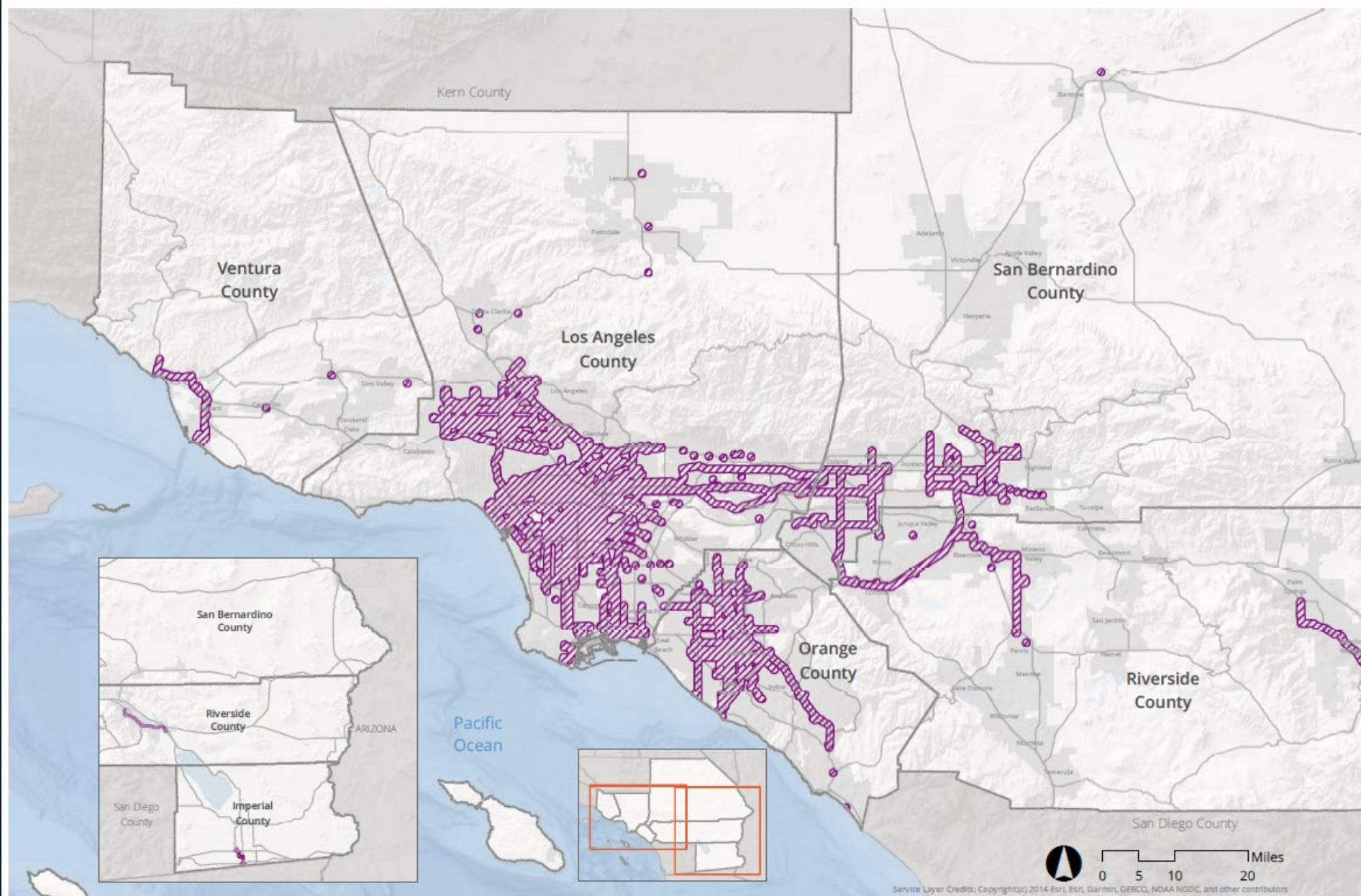


Baseline Jurisdiction
Existing Need



Transit Accessibility

Share of Population within High Quality Transit Areas



High Quality Transit Area (2045)

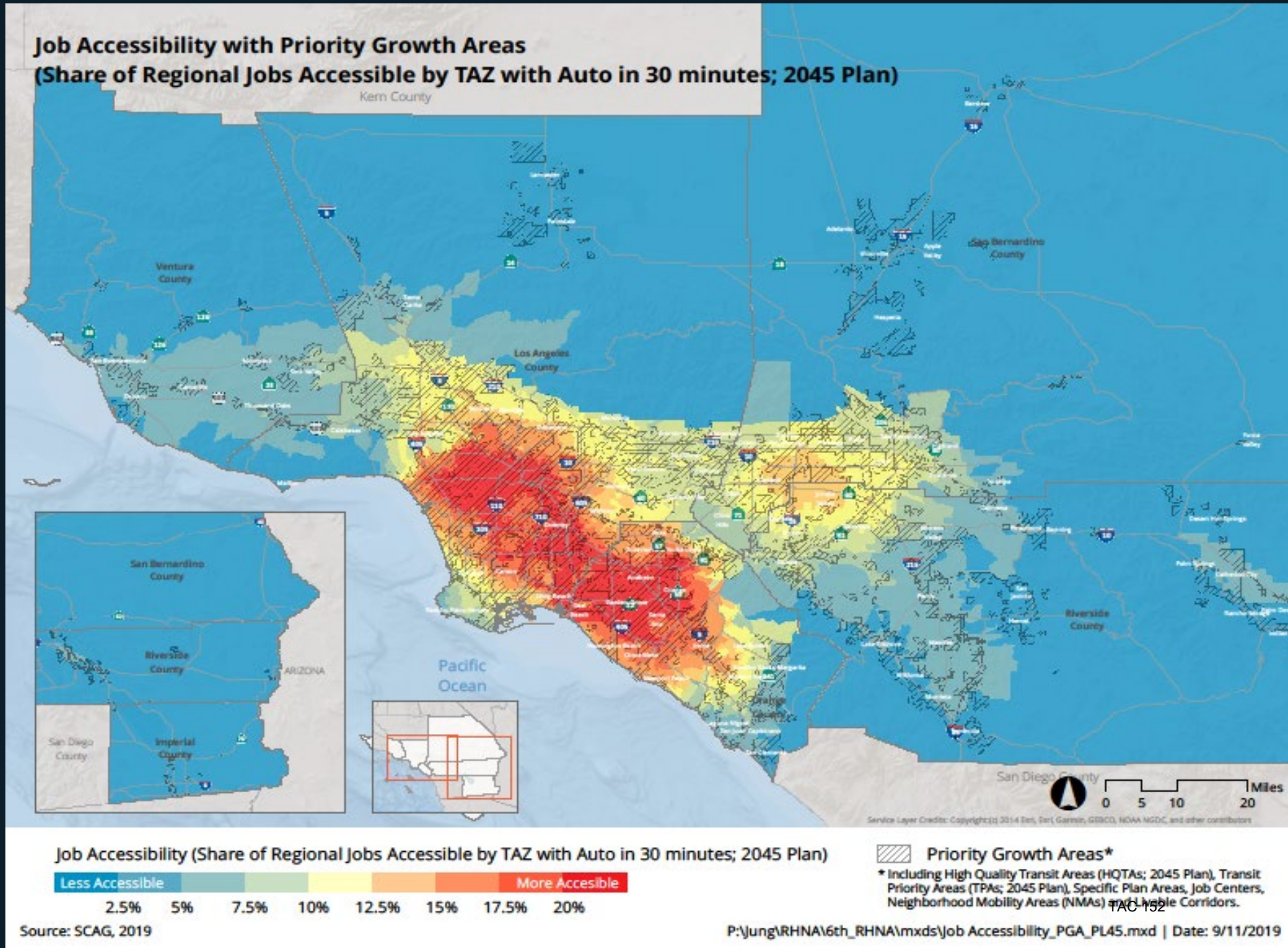
 HQTA

Note: To assist in identifying transit priority project areas, SCAG identifies Major Transit Stops and High Quality Transit Corridors (HQTAs), and their surrounding areas in one-half mile radius distance, as specified in Section 21155.(b)(3). Major transit stops and HQTAs are extracted from 2045 plan year data of the Draft Connect SoCal. SCAG's High Quality Transit Area (HQTA) is within one-half mile from Major Transit Stops and HQTAs and developed based on the language in SB375. Please note that this map may undergo changes as SCAG continues to update its transportation network as part of the Connect SoCal development process and SCAG shall not be responsible for local jurisdiction's use of this map. Updates to this information will be forthcoming as information becomes available.

Source: SCAG, 2019

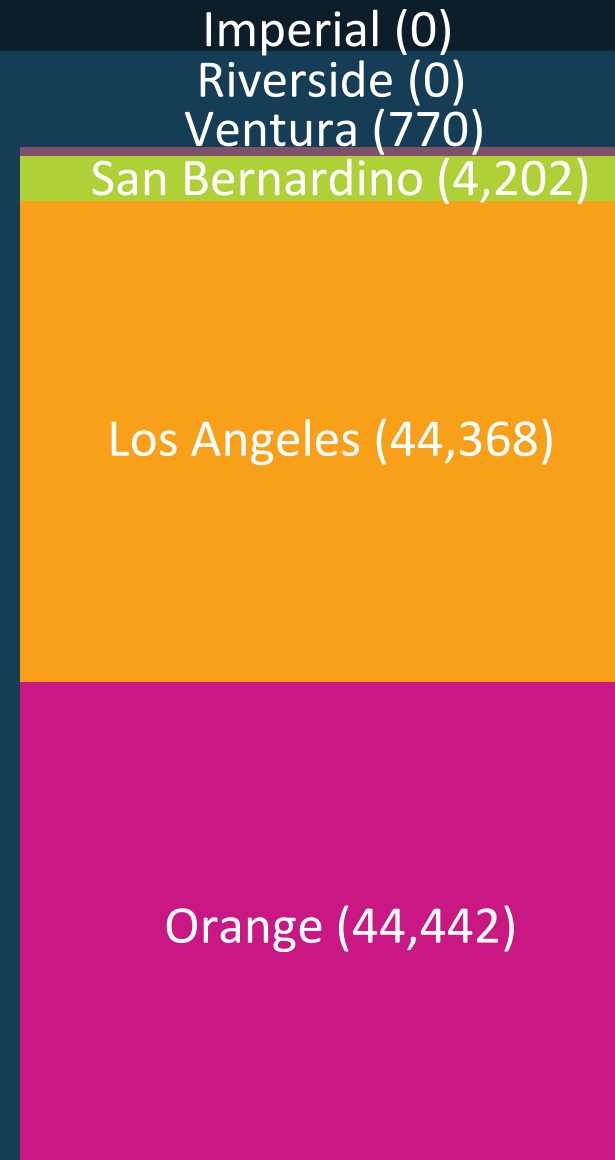
Job Accessibility

Share of Regional Jobs Accessible by Auto in 30 minutes



Determining Existing Housing Need: Step 2b Extremely Disadvantaged Communities (DAC)

- DACs are jurisdictions where more than 50% of the population lives in high segregation and poverty areas or low resource areas*
 - SCAG has identified 54 DACs (5 in Orange County)
- Total RHNA is capped for DACs at their 2045 projected growth
- Any additional RHNA over that cap are redistributed to non - DAC jurisdictions within the county of origin based on Step 2a
 - Total of 93,781 redistributed units



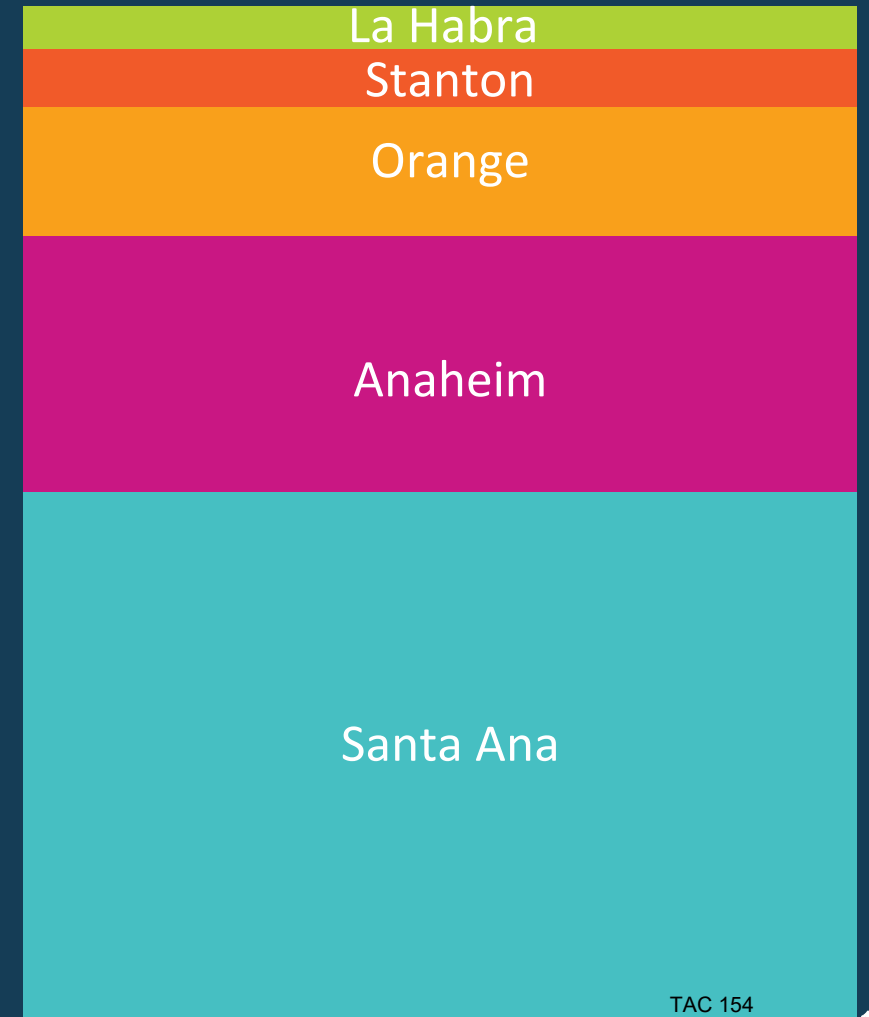
* As defined by the California Tax Credit Allocation Committee (TCAC)/HCD Opportunity Index Scores 10

Determining Existing Housing Need: Step 2b

Extremely Disadvantaged Communities

City	Baseline RHNA Assigned	Redistributed RHNA Units	Final RHNA
La Habra	2,684	1,881	803
Stanton	3,768	2,540	1,228
Orange	9,533	5,606	3,927
Anaheim	28,669	11,257	17,412
Santa Ana	26,256	23,168	3,087

Orange County Residual Total
44,442



Determining Existing Housing Need: Step 2c

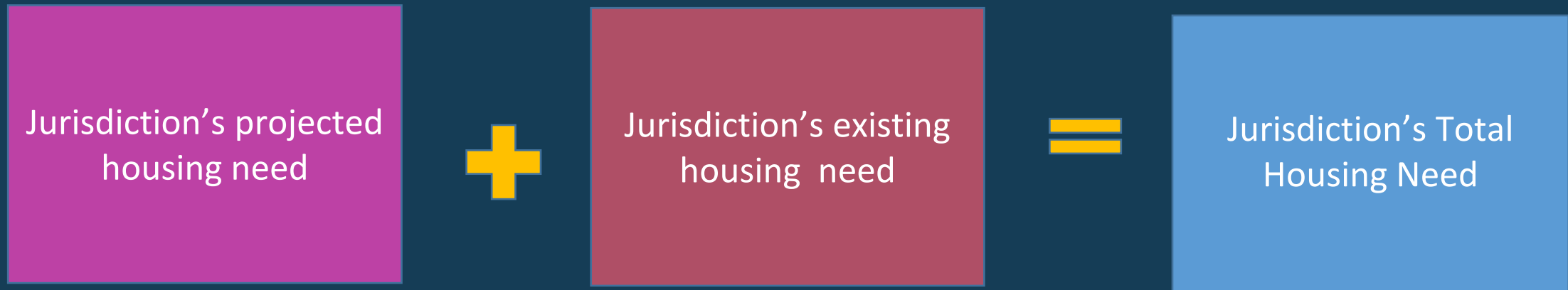


* Labeled as “Net Residual Factor for Existing Need”

- Negative values represent a DAC with good job and/or transit access having its allocation capped
- Positive values represent this amount being redistributed from DACs to higher communities based on their job and/or transit access

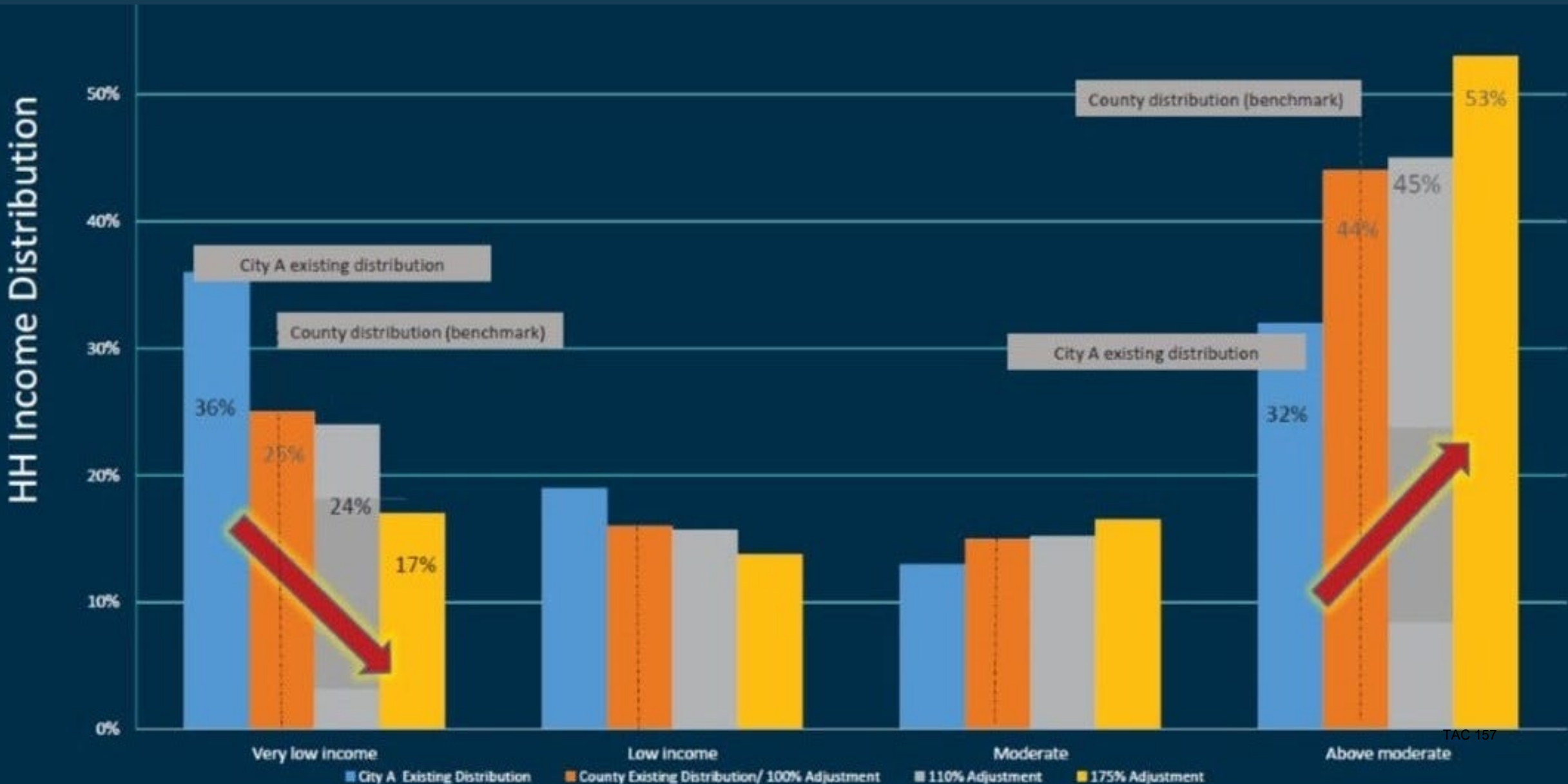
- resourced

Determine Total Housing Need: Step 3



Social Equity Adjustment: Step 4

What is Social Equity Adjustment?



Social Equity Adjustment: Step 4a

Determine Social Equity Adjustment

Total RHNA Allocation



- Very low income
- Low income
- Moderate income
- Above moderate income

Minimum social equity
adjustment: 150%

County median income
will be used as
benchmark for distribution

Increased adjustment (up to
an addition 30%) for the very
highest and very lowest
resourced jurisdictions, as
defined by the State

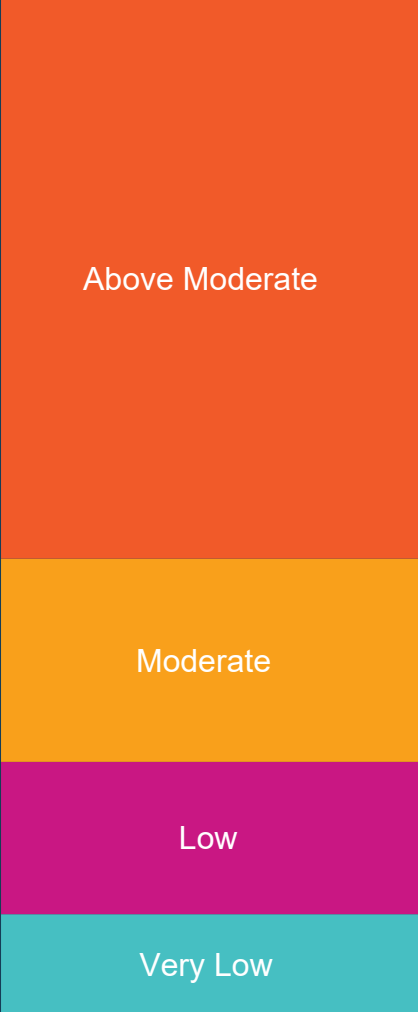
Social Equity Adjustment: Step 4a

Determine Social Equity Adjustment



Social Equity Adjustment: Step 4b

Apply Social Equity Adjustment to RHNA



Current Household
Income Distribution



Social Equity
Adjustment

RHNA Appeals Procedures

RHNA Appeals Timeline

Filing period

45 days

*September 11– October 26,
2020*



Comment period

45 days

*October 26– December 9,
2020*



Public Hearing

30 days

*December 10– January 10,
2021**

**This deadline may be extended for 30 additional days to February 9, 2021, in order to ensure that a Final RHNA Allocation Plan can be considered by SCAG's Regional Council at its February 4, 2021 meeting.*

Who Can File an Appeal?

- Jurisdiction



- Other jurisdictions



- California Department of Housing and Community Development (HCD)

Bases for Appeal

From Government Code Section 65584.05(b):

1. Local planning factors and information on affirmatively furthering fair housing (AFFH)
2. Application of final methodology
3. Change in circumstance

Must include statement why the revision is necessary to further the objectives of RHNA law

- See Government Code Section 65584

Bases for Appeal: Local Planning Factors and AFFH

1. SCAG failed to adequately consider the information submitted in a jurisdiction's local planning factors:
 - Existing and projected jobs and housing relationship
 - Water/sewer service based on decisions by provider other than the jurisdiction
 - Open space protected by federal or State programs
 - Rate of overcrowding
 - Presence of a four- year college or university
 - Full listing in Government Code Section 65584.04(b) and (e)



Affirmatively furthering fair housing

Bases for Appeal: Methodology and Change in Circumstance

2. SCAG failed to determine the share of the regional housing need in accordance with state housing law and the approved RHNA methodology
3. Change in circumstance
 - Can only be used by jurisdiction where change occurred

Bases for Appeal

- Appeals cannot be based on:
 - Any local ordinance, policy, voter - approved measure, or standard limiting residential development
- Prior underproduction of housing from the previous RHNA
- Stable population numbers



New!



New!

Appeals Public Hearing: Day-of Procedure

Initial Arguments

- Appeal applicants
- Subject jurisdiction
- 5- minute limit



Staff Response

- 5- minute limit



Rebuttal

- Appeal applicants
- Subject jurisdiction
- 3- minute limit



Questions and Determination

- RHNA Appeals Board

Successful Appeals Reallocation Plan

- If fewer than 93,928 units (7% of total RHNA) are granted, they will be reallocated back proportionally to all jurisdictions based on share of “regional need” (your share of the total RHNA minus successful appeals)
- If more than 93,928 units are granted:
 - First 93,928 units are redistributed as described above
 - Any additional units will be reallocated using a methodology similar to adopted final methodology existing need formula above that amount
 - Proportional to county origination
 - 50% based on transit access
 - 50% based on job access
 - Disadvantaged communities exempt from reallocation amount above 93,928 units

Final RHNA Allocation

- Appeal decisions by the RHNA Appeals Board are final and not subject to review by CEHD and Regional Council
- Reallocation of successful units cannot be appealed
- All appeals will be included in the proposed final RHNA allocation
- Public Hearing to adopt final RHNA allocation
 - February 2021

For more information:

Email: nfarnsworth@yorbalindaca.gov

www.scag.ca.gov/rhna

Email: housing@scag.ca.gov



September 18, 2020

The Honorable Rex Richardson,
President
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90017

RE: Request to Reconvene the SCAG President's RHNA Litigation Study Team to Re-Assess State HCD's RHNA Allocation of 1.34 Million Housing Units to the SCAG Region

Dear President Richardson:

On behalf of thirty-two cities in Orange County, we, the mayors respectfully support the request of our colleague – City of Yorba Linda Council Member Peggy Huang – that the SCAG President promptly reconvene the SCAG President's RHNA Litigation Study Team.

We have a deep respect for Council Member Huang and her stewardship of the SCAG RHNA Subcommittee these past two years. We all agree with Council Member Huang that the starting point – the 1.34 million RHNA housing units that the State Department of Housing and Community Development (State HCD) issued for the 6-county SCAG region – must be re-examined.

At the September 3, 2020 SCAG Regional Council meeting, Council Member Huang explained that new and recent housing shortage information has been issued by Freddie Mac, which states that the housing shortage for the entire State of California, not just the SCAG region, is 820,000 units (Attachment 1: Page 6, February 2020 Freddie Mac Insights Report: "The Housing Supply Shortage: State of the States."). Further, the Embarcadero Institute, a non-profit policy analysis organization, just released a September 2020 Report – "Double Counting in the Latest Housing Needs Assessment" – that questions whether State HCD's use of an incorrect vacancy rate and double counting has exaggerated the RHNA for the SCAG region, San Diego, the Bay Area and Sacramento area by more than 900,000 units (Attachment 3).

Clearly, this new and credible data should be explored with the members of the President's RHNA Litigation Study Team. It is our hope that upon examination of the new data, that the President's RHNA Litigation Study Team could deliberate on options to require State HCD to:

- 1) consider this and other new information from credible agencies;
- 2) justify how its 1.34 million housing unit determination is defensible in light of the new information and should be fittingly revised; and,
- 3) justify how its 1.34 million housing unit determination is consistent with State Statute provisions.

A prompt assessment of this information, and options to pursue resolution with State HCD, would be invaluable and timely to SCAG's member agencies, many of which are currently exploring appeals of their individual RHNA allocations.

Moreover, if the SCAG President's RHNA Litigation Study Team is reconvened, we would strongly urge SCAG to revisit the critical issue that State HCD did not follow housing statute, when it determined SCAG's 1.34 million housing units need. We appreciate that SCAG raised this concern to State HCD. We object, however, that State HCD has chosen to not adhere to the provisions of our Government Code, and we have provided a detailed, technical assessment of such noncompliance in Attachment 2.

We thus respectfully seek your support and follow-through of your verbal commitment to Council Member Huang, that the President's RHNA Litigation Study Team be reconvened to undertake this important discussion. We look forward to your response, with the desire that the RHNA Litigation Study Team be reconvened prior to the next SCAG Regional Council meeting, October 1, 2020.

With sincere respect and appreciation,



Mike Munzing
Mayor
City of Aliso Viejo



Harry Sidhu
Mayor
City of Anaheim



Marty Simonoff
Mayor
City of Brea



Fred Smith
Mayor
City of Buena Park



Katrina Foley
Mayor
City of Costa Mesa



Rob Johnson
Mayor
City of Cypress



Cheryl Brothers
Mayor
City of Fountain Valley



Jennifer Fitzgerald
Mayor
City of Fullerton



Steven R. Jones
Mayor
City of Garden Grove



Lyn Semeta
Mayor
City of Huntington Beach



Christina Shea
Mayor
City of Irvine



Tom Beamish
Mayor
City of La Habra



Peter Kim
Mayor
City of La Palma



Bob Whalen
Mayor
City of Laguna Beach



Janine Heft
Mayor
City of Laguna Hills



Laurie Davies
Mayor
City of Laguna Niguel



Noel Hatch
Mayor
City of Laguna Woods



Neeki Moatzedi
Mayor
City of Lake Forest



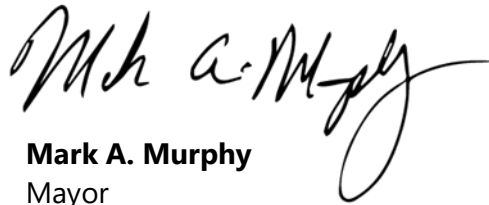
Richard D. Murphy
Mayor
City of Los Alamitos



Brian Goodell
Mayor
City of Mission Viejo



Will O'Neill
Mayor
City of Newport Beach



Mark A. Murphy
Mayor
City of Orange



Ward Smith
Mayor
City of Placentia



Bradley J. McGirr
Mayor
City of Rancho Santa Margarita



Troy Bourne
Mayor
City of San Juan Capistrano



Miguel A. Pulido
Mayor
City of Santa Ana



Schelly Sustarsic
Mayor
City of Seal Beach



David J. Shawver
Mayor
City of Stanton



Allan Bernstein
Mayor
City of Tustin



Robbie Pitts
Mayor
City of Villa Park



Tri Ta
Mayor
City of Westminster



Beth Haney
Mayor
City of Yorba Linda

Attachments:

1. Freddie Mac Economic and Housing Research Insight: February 2020
2. Orange County Technical Analysis: State Government Code Requirements to Calculate Regional Housing Need
3. Embarcadero Institute Report: Updated September 2020

cc: Council Member Peggy Huang, City of Yorba Linda and SCAG RHNA Subcommittee Chair
Council Member Trevor O'Neil, Chair, OCCOG Board of Directors
Council Member Wendy Bucknum, Vice-Chair, OCCOG Board of Directors
Mayor Pro Tem Michael Carroll, OC Representative SCAG's RHNA Litigation Study Team
Orange County Representatives on SCAG Policy Committees and Regional Council
Kome Ajise, SCAG Executive Director
Orange County City Managers Association
Orange County Mayors
Marnie O'Brien Primmer, OCCOG Executive Director
Nate Farnsworth, OCCOG TAC Chair



FEBRUARY 2020

The Housing Supply Shortage: State of the States

The United States suffers from a severe housing shortage. In a recent study, [The Major Challenge of Inadequate U.S. Housing Supply](#), we estimated that 2.5 million additional housing units will be needed to make up this shortage. Our earlier study used national statistics, treating the United States as a single market. What happens when we look closer, basing the analysis at the state level?

When we account for state-level variations, the estimated housing deficit is even greater in some states because housing is a fixed asset. A surplus of housing in one area can do little to help faraway places. For example, vacant homes in Ohio make little difference to the housing markets in Texas. We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.

Unsurprisingly, the states with the most severe housing shortage are the states that have recently attempted to loosen zoning policy regulations. States like California, Oregon, and others have undertaken policy action to address this issue. California, for example, has been working on chipping away at single-use zoning while Texas has passed a density bonus program, an ordinance which amends the city code by loosening site restrictions and promoting construction of more units in affordable and mixed-income housing developments. Oregon was one of the first states to pass legislation to eliminate exclusive single-family zoning in much of the state. The Minneapolis City Council voted to get rid of single-family zoning and started allowing residential structures with up to three dwelling units in every neighborhood. We took a deep dive into the supply/demand dynamics to analyze state-level variations.

We estimate that there are currently 29 states that have a housing deficit, and when we consider only these states, the housing shortage grows from 2.5 million units to 3.3 million units.



Accounting for housing supply/demand conditions

To estimate housing supply, we rely on U.S. Census Bureau estimates of the total number of housing units in each state. These estimates include single-family homes, apartments, and manufactured housing. We compare supply to our estimates of housing demand. We first focus on static estimates of housing demand, and then we consider the impact of interstate migration.

Our estimate of housing demand relies on two components. First, we need an estimate of long-term vacancy rates (v^*). Second, we need an estimate of the target number of households (h^*).¹ The estimates of v^* and h^* give an estimate of housing demand (k^*) using the formula:

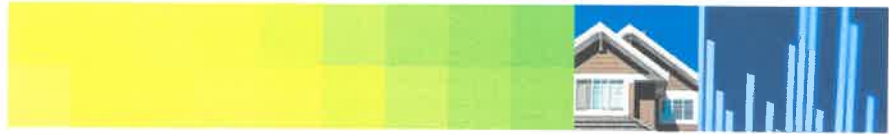
$$k^* = \frac{h^*}{1 - v^*} \text{ Eq(1)}$$

Vacancy rates

As we discussed in our earlier [study](#), for the housing market to function smoothly, year-round vacant units are needed. Vacancy rates are often used to track the vitality of the housing market. Too high of a vacancy rate reflects a moribund market, while too low of a rate means demand is outstripping supply. Our previous research estimated the average U.S. vacancy rate to be around 13%.

For long-term vacancy rates (v^*), we use historical estimates of vacancy rates in each state as well as the share of the state in the housing stock to obtain the state weight. We compute the weighted average national vacancy rate for the U.S. and then estimate the deviation of the state vacancy rate from the average national vacancy rate (see **Appendix 1.1** for a detailed methodology). We use each state's average from 1970 to 2000 as the estimate for v^* because this was the period before the boom and the bust in the housing market began. Historical vacancy rates vary dramatically by state. States like Vermont and Maine tend to have high vacancy rates because a large fraction of the housing stock serves as vacation/second homes. On the other hand, states like California tend to have very low vacancy rates.

¹ The target number of households is the number of unconstrained households that would have formed if households did not face any constraints related to housing costs.

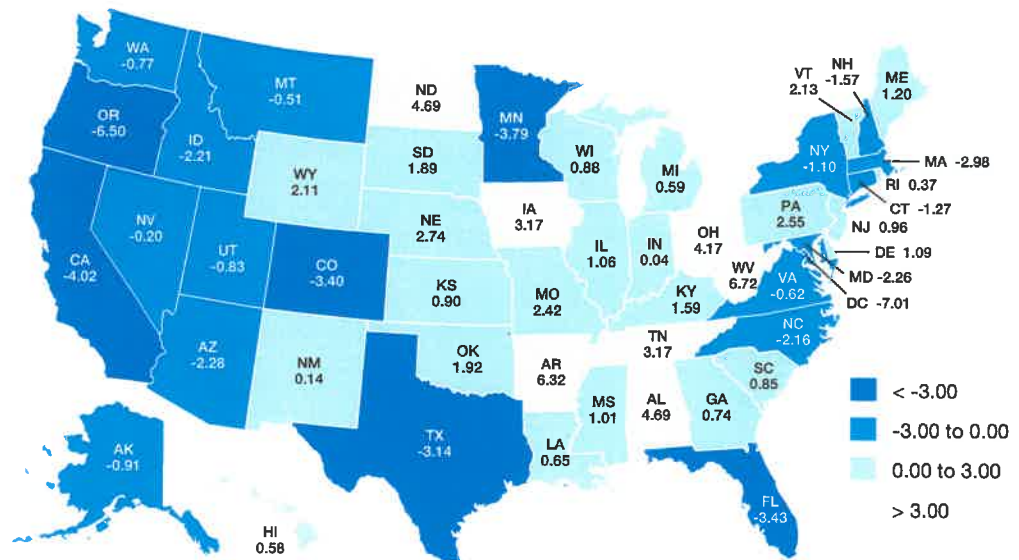


It is interesting to compare each state's long-term vacancy rate (v^*) to recent estimates (v). This measure estimates the number of housing units needed to close the gap between the current vacancy rate and long-term average rates. **Exhibit 1** shows the difference between the estimated vacancy rate in 2018 and the long-term vacancy rate for each state. States like Oregon, California, and Minnesota have much lower current vacancy rates compared to their historical averages, while states like West Virginia, Alabama, North Dakota, and Ohio have witnessed an increase in the vacancy rates as the populations of these states have decreased.

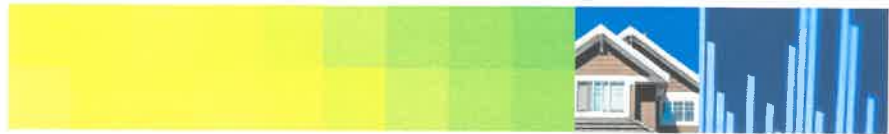
Exhibit 1

Difference between 2018 vacancy rate and historical vacancy rate

States that are losing (gaining) population have high (low) vacancy rates.



Source: Author's calculations based on CPS, HVS, and Moody's Analytics estimated data.



Target households

Our previous [research](#) has shown that high housing costs have constrained household formation. These high housing costs have hit the Millennial generation particularly hard. To overcome these cost barriers, some young adults have turned to shared living arrangements. Others have moved back home with parents. As a result, there are more than 400,000 missing households headed by 25- to 34-year-olds (households that would have formed except for higher housing costs).

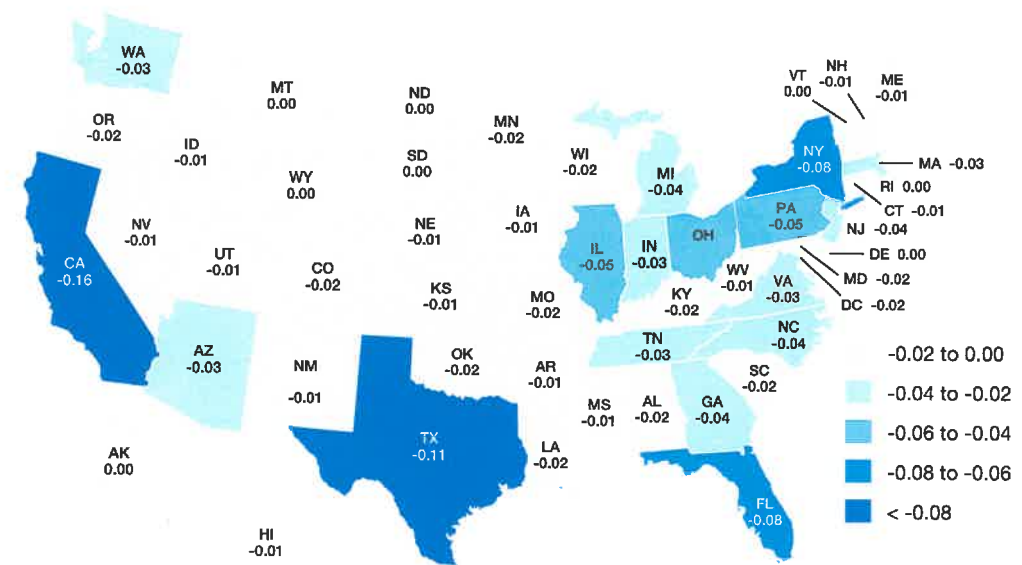
While high housing costs have hit young adults hardest, they have affected all age groups. If housing costs were lower, more households would form. We use our model estimates of the number of households reduced due to unusually high housing costs and add them back. We do this for each age group (see **Appendix 1.2** for more details.)

Due to different age profiles, the share of missing households varies by state. **Exhibit 2** plots the share of missing households due to housing costs for each state. In general, states with relatively lower vacancy rates have proportionally more missing households.

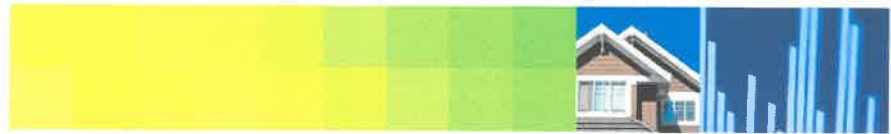
Exhibit 2

Missing households due to high housing costs (millions)

States with relatively lower (higher) vacancy rates have proportionally more (fewer) missing households.



Source: Author's calculations based on American Community Survey data.



Static estimate of housing deficit

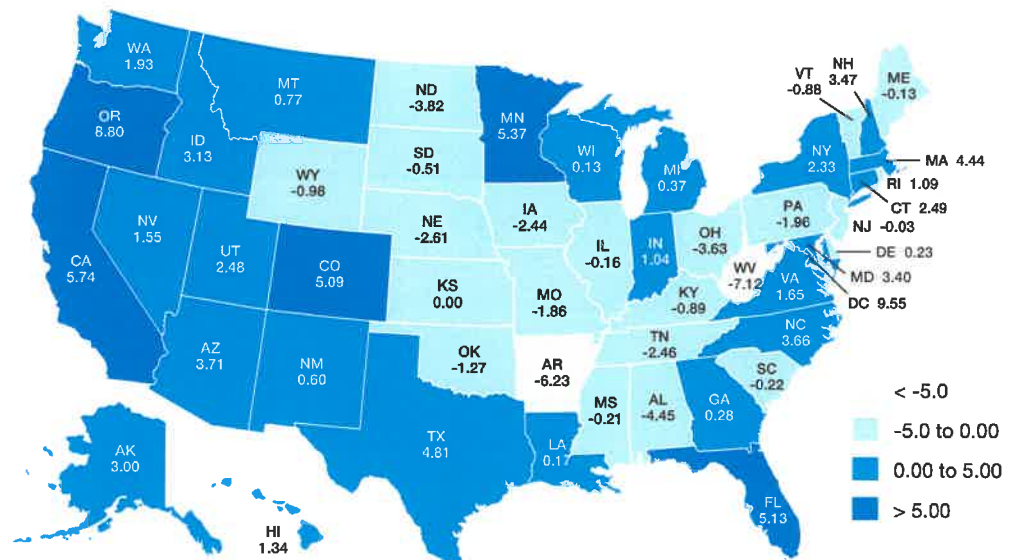
We combine our target vacancy rate and target households to estimate housing demand. Subtracting our estimated housing demand from the Census estimate of housing supply gives us the estimated housing deficit. **Exhibit 3** shows our results by state.

As a percent of the housing stock, the state housing supply deficit varies from -7 to 10%. Excluding the District of Columbia, Oregon has the largest deficit (nearly 9%) followed by California (nearly 6%).² Some states have a negative deficit, meaning they are oversupplied. According to our estimate, 21 states are oversupplied, the largest being West Virginia, at more than 7%.

Exhibit 3

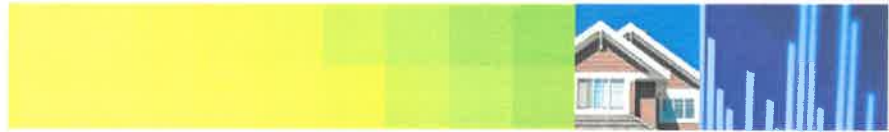
Housing stock deficit as proportion of a state's housing stock (static estimate not considering interstate migration flows)

A static view suggests that 29 states have a housing undersupply.



Source: Author's calculations.

² The District of Columbia had the highest deficit as a share of the existing housing stock at 9.7%.



Impact of migration on the housing deficit of the states

While houses stay in place, people do not. Job growth attracts in-migrants, while a dearth of opportunity drives out-migration. High housing costs also contribute to migration patterns. When the rents get too high, people move away. This dynamic can impact our estimates.

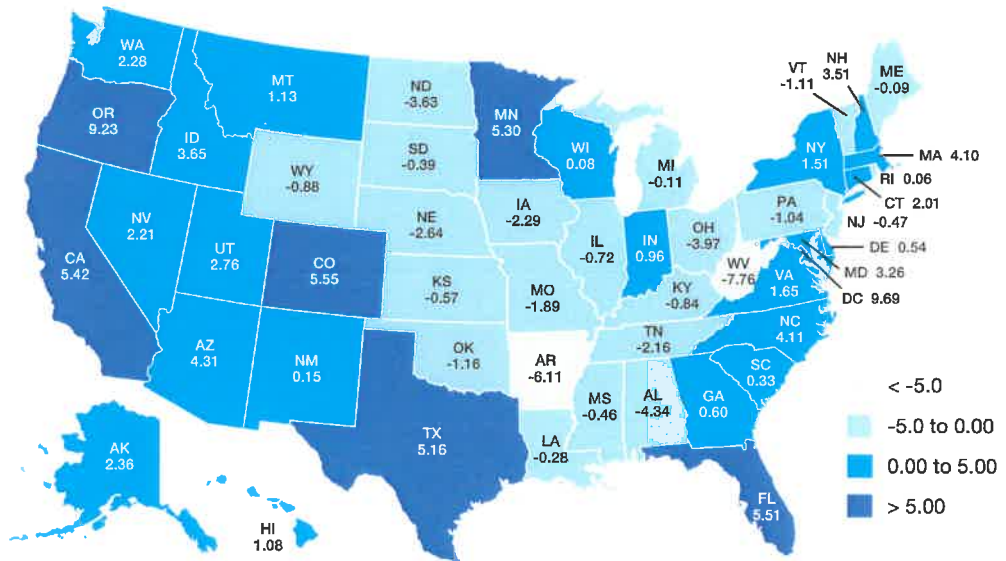
It's helpful to consider the case of California. Our estimates indicate that California has a shortage of 820,000 housing units. But history suggests that California's shortage may be overestimated if interstate migration is considered. For more than four decades, California's state population has grown, but this increase has been driven primarily by international migration. High housing costs have driven many U.S. citizens and households out of California, driving housing demand higher in their destination states.

A robust model of domestic migration flows between states is beyond the scope of this study. But we can approximate how migration may affect our estimates. We can use the historical average of state-to-state migration flows as a forecast of future flows. If the future interstate migration exactly matches past flows since 2001, we can create a rough, but useful approximation (Exhibit 4).³

Exhibit 4

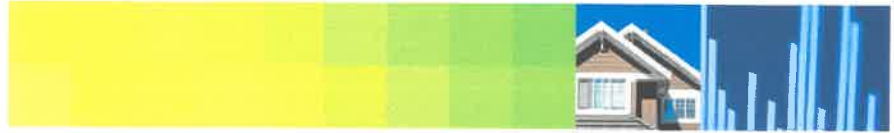
Housing stock deficit as proportion of state's housing stock (dynamic estimate considering interstate migration flows)

A dynamic view indicates that some states' deficit is overestimated, like California, while others' is underestimated, like Texas. Some states, like Michigan, move from a deficit to a surplus.



Source: Author's calculations.

3 We used the average net migration flows between states from 2001 to 2017 for the past flows.



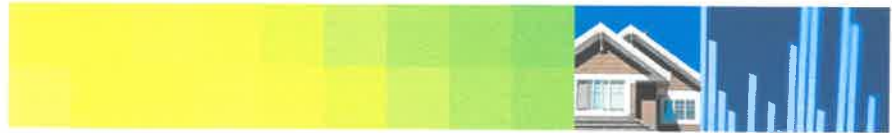
For example, when considering migration flows, the estimated housing demand in Michigan changes from deficit to surplus; Ohio's surplus increases; and Florida's deficit increases (see **Appendix 1.3** for details on our estimation method).

Given the severity of the problem, states have started addressing the issue of supply shortages by taking legislative action. Some of these states such as California, Oregon, Minnesota, and North Carolina have passed legislation to eliminate exclusive single-family zoning. Removing these zoning restrictions will provide builders with the flexibility to build a range of housing options which could help alleviate some of the shortage.

Conclusion

A shortage of housing remains a major issue for the United States. Years of underbuilding has created a large deficit, particularly for states with strong economies that have attracted a lot of people from other states. The issue of undersupply will be further exacerbated as Millennials and younger generations enter the housing markets, especially as housing costs become more favorable.

Dynamic estimates suggest that contrary to expectations, it isn't only the larger states that have a higher housing supply shortage. Some of the smaller states, which have been attracting a lot of migrants from other states, also need to build more housing units to accommodate the needs of their growing population.



Appendix

1.1 Vacancy rate calculations

We calculate the vacancy rate based on the historical vacancy rate. For this purpose, we obtain the historical vacancy rates by state from Moody's analytics for the period from 1970 to 2000⁴ and estimate the average vacancy rate for this period for each state.

$$VR_i = \text{average}(VR_i) \text{ for } 1970\text{--}2000,$$

where i is the state.

We then obtain the housing stock information by state from the Housing Stock (HVS) ('000s) U.S. Census Bureau (BOC): Housing Vacancies and Homeownership—Table 8—Quarterly Estimates of the Housing Inventory. From these data, the share of the state in the total housing stock is calculated to get the state weights.

$$w_i = \frac{K_i}{\sum_i K_i}.$$

The sum product of the vacancy rate of the state and the state's weight in the housing stock gives us the U.S. average vacancy rate.

$$\text{U.S. average vacancy rate: } VR = \sum_i VR_i * w_i.$$

We then compute the difference between the state vacancy rate and the average U.S. vacancy rate to see how far away the state is from the U.S. average.

$$D_i = VR_i - VR.$$

This deviation for the states is then applied to the long-run vacancy rate for the United States (which we estimated earlier to be 13%) to get the state-wise vacancy rate.

$$\text{State-wise Vacancy Rate} = 13\% + D_i \text{ for each state.}$$

1.2 Estimating target households

We obtain the headship rates⁵ for the year 2018 by state and by age for all the 50 states and District of Columbia.⁶ We then estimate target households using this headship rate and adding back housing

4 Data is available from 1970:Q2 onward. We estimate the average for the period up to 2000:Q4. This corresponds to the period before the boom and bust in the housing market began.

5 Headship Rate = Number of Head of Households/Total Households.

6 Data source: Current Population Survey—Annual Social and Economic Supplement (CPS-ASEC) using the Integrated Public Use Microdata Series (IPUMS) (Steven Ruggles, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas and Matthew Sobek. IPUMS USA: Version 9.0 [dataset]. Minneapolis, MN: IPUMS, 2019.)



costs assuming that housing costs become more favorable for household formation. The target headship rate would be

$$hr_{i,j}^* = hr_{(i,2018)} + \alpha_{(\text{housing costs}, i)}$$

We then use this target headship rate and the population by five-year age buckets to compute the households in each state.

$$hh_i^* = \sum_j hr_{i,j}^* * pop_{i,j}$$

where i is the state and j is the five-year age buckets.

The product of headship rate and population by age gives the households by age group. Summing it up over all the ages gives the total households in the state.⁷

1.3 Domestic migration flows between states

For the estimate of the states' share of the deficit, we need to obtain the share of the migration flows between states by age. To get detailed age-wise distribution of population, we use the ACS data from 2001 to 2017. We obtain the population by age and by state for these years. We identify people who had a different state of residence from a year ago, which indicates that they migrated to a different state. We then get estimates of the in-migrants and out-migrants by state and age.

We then estimate the net domestic migrants for each state as the difference between the in-migrants and out-migrants.

$$NM_{i,j} = I_{i,j} - O_{i,j}$$

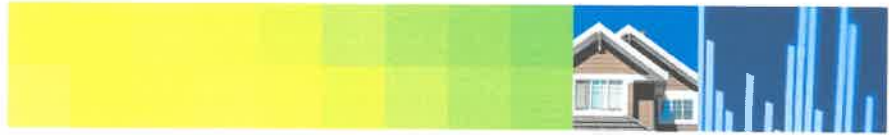
where i is the state, j is the five-year age buckets, I is the in-migrants, and O is the outmigrants.

To estimate the net outmigrants from states that have a $NM < 0$, we obtain the Moody's historical net domestic migration data. We then apply these shares by state and age to the net migration data for 2018 to obtain the number of people leaving a state by the five-year age bucket.

$$\Delta P_{i,j,out}^* = \frac{NM_{i,j}}{\sum_{i,j} NM_{i,j}} * P_{m,j}$$

where $P_{i,j,out}^*$ is the total change in population (net out-migrants) for states that have net outmigration,

⁷ These households would be based on the Current Population survey (CPS). To make them consistent with estimates of housing supply from HVS, we apply a multiplier to this gap that is proportional to the gap between the CPS-ASEC and HVS household counts. The CPS-ASEC household estimate for 2018 was 127.6 million. The HVS estimate for that year was 121.3 million. We deflate our target households by a factor equal to 121.3/127.6, or 0.95.



$NM_{i,j}$ is the net out-migrants by age group and state,

$\sum NM_{i,j}$ is the sum of the total out-migrants for the state, and

$P_{m,j}$ is the historical net domestic migration data from Moody.

The ratio of $NM / \sum NM$ gives the share of the five-year age group in the total out-migrants from the state.

This pool of out-migrants ($P_{i,j,out}^*$) is then divided among the in-migrating states, given that the net flows for the country are 0.

We distribute these migrants according to the share of the state in the total in-migrants as well as by the share of the age group in the total in-migrants to the state.

$$\Delta P_{i,j,in}^* = SI_i * SA_{i,j} * \Delta P_{i,j,out}^*$$

where $\Delta P_{i,j,in}^*$ is the in-migrants to the state i from the outmigrants pool,

SI is the share of the state in total in-migrants,

SA is the share of the five-year age bucket in the total in-migrants, and

$\Delta P_{i,j,out}^*$ is the total out-migrants.

The population of each state is then adjusted according to the change in the population estimated above.

$$\begin{aligned} Population_i^* &= P_{i,j} + \Delta P_{i,j,out}^* \text{ if } NM < 0. \\ &= P_{i,j} + \Delta P_{i,j,in}^* \text{ if } NM > 0. \end{aligned}$$

The households are then computed based on this adjusted population for each state by applying the headship rates by age group. Then the housing stock is estimated as per equation (1).



Prepared by the Economic & Housing Research group

Sam Khater, Chief Economist

Len Kiefer, Deputy Chief Economist

Venkataramana Yanamandra, Macro Housing Economics Senior

www.freddiemac.com/finance

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Orange County Technical Analysis of SCAG's Regional Determination from HCD

Government Code Section 65584.01(a) states: "If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region....".

As outlined in SCAG's September 18, 2019 objection letter to the California Department of Housing and Community Development (HCD) (see Exhibit B), SCAG's regional population forecast for its Regional Transportation Plan (RTP) differs from the State Department of Finance (DOF) projection by **1.32%**, which falls within the statutory range of 1.5% outlined in state law. Therefore, by statute, the regional determination should be based on SCAG's population projections.

However, HCD's October 15, 2019 response letter to SCAG (see Exhibit C) cites two reasons for not using SCAG's total regional population forecast:

- 1) The total household projection from SCAG is 1.96% lower than DOF's household projection.
- 2) The age cohort of under 15-year old persons from SCAG's population projections differ from DOF's projections by 15.8%.

A careful reading of Government Code Section 65584.01(a) demonstrates that HCD's interpretation and rejection of the use of SCAG's regional population forecast is incorrect for the following two reasons:

- 1) The law clearly states that that the 1.5% range is based on the total regional **population** forecast and not the regional **household** projection forecast.
- 2) The law clearly states that the 1.5% range is based on the **total** regional population forecast and not on **age-cohort** population forecasts.

While Government Code 65584.01 provides a significant level of discretion to HCD over many of the factors used for the regional determination (i.e., vacancy adjustments, overcrowding rates, replacement adjustments, cost-burdened adjustments, etc.), this one issue is clearly written into the law without any discretion from HCD. Therefore, even though we support all of the arguments SCAG outlined in their September 18, 2019 objection letter, we also recognize that state law grants HCD the final determination for those specific factors. However, there is no discretion in HCD's decision to ignore SCAG's regional population forecast. Had HCD adhered to Government Code 65584.01(a), we estimate that the regional determination should have been at least approximately 133,000 housing units lower (see Exhibit A), or no more than approximately 1.2 million housing units.

We would hope that HCD would reconsider the other SCAG's recommendations as noted in their September 18, 2020 objection letter, especially in light of the change in circumstances related to the current COVID-19 pandemic, as well as the recent studies and reports stating that California's statewide housing shortfall is significantly lower than even SCAG's entire RHNA obligation.

Exhibit A

OPTION A: SCAG region housing needs, June 30 2021–October 1 2029 (8.25 Years)				
1	Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)			20,725,878
2	<i>- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)</i>			-327,879
3	Household (HH) Population, Oct 1, 2029			20,397,998
		SCAG Projected HH Population	Headship rate - see Table 2	Projected Households
	Household Formation Groups	20,397,998		6,668,498
	under 15 years	3,812,391		n/a
	15 - 24 years	2,642,548		147,005
	25 - 34 years	2,847,526		864,349
	35 - 44 years	2,821,442		1,304,658
	45 - 54 years	2,450,776		1,243,288
	55 - 64 years	2,182,421		1,116,479
	65 - 74 years	1,883,181		1,015,576
	75 - 84 years	1,167,232		637,415
	85+	590,480		339,727
4	Projected Households (Occupied Unit Stock)			6,668,498
5	+ Vacancy Adjustment (2.63%)			178,896
6	+ Overcrowding (6.76%)			459,917
7	+ Replacement Adjustment (0.50%)			34,010
8	<i>- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)</i>			-6,250,261
9	+ Cost-burden Adjustment ((Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)			117,505
	6th Cycle Regional Housing Need Assessment (RHNA)			1,208,565



September 18, 2019

Mr. Doug McCauley
 Acting Director
 Housing & Community Development (HCD)
 2020 W. El Camino Ave.
 Sacramento, CA 95833

SOUTHERN CALIFORNIA
 ASSOCIATION OF GOVERNMENTS
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 Los Angeles, CA 90017
 T: (213) 236-1800
 www.scag.ca.gov

Subject: SCAG’s Objection to HCD’s Regional Housing Need Determination

Dear Mr. McCauley,

This letter represents the Southern California Association of Governments (SCAG)’s formal objection to HCD’s Regional Housing Need Determination as submitted to SCAG on August 22, 2019 and is made in accordance with Government Code Section 65584.01(c)(2)(A) and (B). At the outset, please know that SCAG is fully aware that the State of California is in the midst of a housing crisis and that resolving this crisis requires strong partnerships with state, regional and local entities in addition to private and non-profit sectors.

As such, SCAG desires to be an active and constructive partner with the State and HCD on solving our current housing crisis, and this objection should not suggest otherwise. We are in fact currently setting up a housing program that will assist our local jurisdictions on activities and policies that will lead to actual housing unit construction.

In the context of the 6th cycle Regional Housing Needs Assessment (RHNA) process, SCAG appreciates the collaboration with HCD as reflected in the numerous consultation sessions on the regional determination and other staff engagement on housing issues with the objective of making RHNA a meaningful step toward addressing our housing crisis.

As you are aware, HCD transmitted its Regional Housing Needs Determination of 1,344,740 units for the SCAG region last month. This number reflects the housing units that local jurisdictions in the region must plan for during the 8-year period from October 2021 to October 2029. At the September 5, 2019 meeting, SCAG Regional Council authorized staff to file an objection to HCD on regional housing need determination pursuant to Government Code Section 65584.01(c).

REGIONAL COUNCIL OFFICERS

- President
Bill Jahn, Big Bear Lake
- First Vice President
Rex Richardson, Long Beach
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Peggy Huang, Transportation Corridor Agencies
- Energy & Environment
Linda Parks, Ventura County
- Transportation
Cheryl Viegas-Walker, El Centro

I would like to note that SCAG's objection focuses on the process and adherence to state housing law requirements and not necessarily to the regional housing need determination number. The ultimate aim of this objection, as discussed at length by the Regional Council, is to ensure the most technically and legally credible basis for a regional determination so that the 197 local jurisdictions in the SCAG region can approach the difficult task of zoning to accommodate regional needs with the backing of the most robust and realistic target that is possible.

One of our major concerns is that HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was inconsistent with Government Code 65584.01(c)(2)(A). Another major concern is that pursuant to Government Code 65584.01(c) (2) (B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required. These and two additional basis for objections are described in detail in the section below which also includes a deduction for household growth on tribal land and a concern that the vacancy rate standards used by HCD are not substantiated by data, analysis, or literature. In addition, the attached EXCEL worksheet and technical documentation contain SCAG's alternative proposed 6th cycle RHNA determination, which would consist of a range of total housing unit need between 823,808 and 920,772.

BASIS FOR SCAG OBJECTION

Use of SCAG's Population Forecast

HCD did not base its determination on SCAG's RTP/SCS Growth Forecast, which was provided in the original consultation package and via follow-up email to HCD. Government Code 65584.01(a) indicates [emphasis added]:

*“(a) The department’s determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. **If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region.** If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.”*

SCAG projects total regional population to grow to 20,725,878 by October, 2029. SCAG's projection differs from Department of Finance (DOF) projection of 20,689,591, which was issued by DOF in May, 2018, by 0.18%. The total population provided in HCD's determination is 20,455,355, reflecting an updated DOF projection, differs from SCAG's projection by 1.32%. As SCAG's total projection is within the statutory tolerance of 1.5%, accordingly HCD is to use SCAG's population forecast.

While HCD has emphasized that consistency in approach to the 6th cycle RHNA across regions is a priority, deference to the Council of Governments' forecast as specified in statute is an important aspect of regional planning. Federal requirements for SCAG's Regional Transportation Plan necessitate a forecast of population, households, and employment for evaluating future land use patterns and measuring future travel demand as well as air quality conformity under the federal Clean Air Act. In addition, under SB 375, the State requires SCAG to develop a Sustainable Communities Strategy which is a coordination of transportation and land use in the regional planning process to achieve State's climate goals. Both federal and State requirements are predicated on SCAG's forecast of population, households and employment.

As a result, SCAG has a long-established and well-respected process for producing a balanced forecast of population, households, and employment for the region, the details of which can be found in each Regional Transportation Plan (e.g. http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS_DemographicsGrowthForecast.pdf). SCAG's quadrennial growth forecast begins with a consensus on appropriate assumptions of fertility, migration, immigration, household formation, and job growth by a panel of state and regional experts including members of DOF's Demographic Research Unit. In addition, SCAG co-hosts an annual demographic workshop with the University of Southern California to keep state and regional experts and stakeholders apprised of demographic and economic trends (<https://www.scag.ca.gov/calendar/Pages/DemographicWorkshop.aspx>).

SCAG places a high priority on generating its own forecasts of population, households, and employment and ensuring the highest possible degree of consistency and integrity of its projections for transportation, land use, and housing planning purposes.

Use of Comparable Regions

Pursuant to Government Code 65584.01(c)(2)(B), HCD's determination of housing need in the SCAG region is not a reasonable application of the methodology and assumptions described in statute. Specifically, HCD compared household overcrowding and cost-burden rates in the SCAG region to national averages rather than to rates in comparable regions as statutorily required.

SCAG's initial consultation package provided an approach using comparable regions to evaluate household overcrowding. SCAG staff met with HCD staff in-person in both Los Angeles and Sacramento to discuss adjustment criteria and how to define a comparable region to Southern California, as our region's size precludes a straightforward comparison. At the direction of HCD, SCAG staff refined its methodology for identifying comparable regions and provided a state-of-the-practice analysis supported by recent demographic and economic literature which determined

that the most appropriate comparison to the SCAG region would be an evaluation against the San Jose, New York, San Francisco, Miami, Seattle, Chicago, San Diego, Washington D.C., Houston, and Dallas metropolitan areas. Despite this collaboration on the subject between HCD and SCAG, HCD elected to reject this approach and instead used national average statistics, which include small metropolitan areas and rural areas having little in common with Southern California.

HCD's choice to use national averages:

- Is inconsistent with the statutory language of SB 828, which added the comparable region standard to RHNA law in order to improve the technical robustness of measures of housing need.
- Is inconsistent with empirical data as economic and demographic characteristics differ dramatically based on regional size and context. For comparison, the median-sized metropolitan region in the country is Fargo, North Dakota with a population of 207,500. That is not a meaningful basis of comparison for the nation's largest MPO.
- Is inconsistent with HCD's own internal practice for the 6th cycle of RHNA. The regional need determination for the Sacramento Area Council of Governments (SACOG), issued on July 18, 2019, was the first 6th cycle RHNA determination following SB 828's inclusion of the comparable region standard. During their consultation process with HCD, SACOG also produced a robust technical analysis to identify comparable regions for the purposes of using overcrowding and cost-burden statistics to determine regional housing needs. However, HCD's final determination for SACOG used this analysis while the SCAG region was held to a different and less reasonable standard.

Improved Vacancy Rate Comparison

HCD seemingly uses unrealistic comparison points to evaluate healthy market vacancy, which is also an unreasonable application of the methodology and assumptions described in statute. While SB 828 specifies a vacancy rate for a healthy rental housing market as no less than 5 percent, healthy market vacancy rates for for-sale housing are not specified. HCD's practice is to compare actual, ACS vacancy rates for the region versus a 5 percent total vacancy rate (i.e. owner and renter markets combined).

During the consultation process, SCAG discussed this matter with HCD staff and provided several points of comparison including historical data, planning standards, and comparisons with other regions. In addition, SCAG staff illustrated that given tenure shares in the SCAG region, HCD's suggestion of a 5 percent total vacancy rate is mathematically equivalent to an 8 percent rental market vacancy rate plus a 2.25 percent for-sale housing vacancy rate. However, in major metropolitan regions, vacancy rates this high are rarely experienced outside of severe economic recessions such as the recent, housing market-driven Great Recession. Given the region's current housing shortage, the high volume of vacant units envisioned in HCD's planning target would be rapidly absorbed, making it an unrealistic standard.

SCAG staff's original suggestion of 5 percent rental vacancy and 1.5 percent for-sale vacancy (resulting in a 3.17 percent total vacancy rate based on current tenure shares) is in fact *higher* than the observed rate in the comparable regions defined above. It is also above Federal Housing Authority standards for regions experiencing slow or moderate population growth. It is also above the very liberal standard of 6 percent for for-rent housing and 2 percent for for-sale housing suggested by the California Office of Planning and Research (equivalent to 3.90 percent total vacancy based on SCAG tenure shares) which would also be a more reasonable application of the methodology.¹

Additional Considerations

In addition to the three key points above, SCAG's proposed alternative includes several other corrections to technical shortcomings in HCD's analysis of regional housing needs.

1. HCD's evaluation of replacement need is based on an arbitrary internal standard of 0.5 percent to 5.0 percent of total housing units. 2010-2019 demolition data provided by DOF suggest that over an 8.25-year period, it is reasonable to expect that 0.14 percent of the region's total housing units will be demolished, but not replaced. This would form the basis of a more reasonable housing needs determination, as DOF's survey represents the most comprehensive and robust data available.
2. Anticipated household growth on tribal land was not excluded from the regional determination as indicated in the consultation package and follow-up communications. Tribal entities within the SCAG region have repeatedly requested that this estimate be excluded from the RHNA process entirely since as sovereign nations, state law does not apply. SCAG's proposed approach is to subtract estimates of household growth on tribal land from the regional determination and ensure that these figures are also excluded from local jurisdictions' annual progress reports (APRs) of new unit construction to HCD during the 6th cycle.
3. A refinement to the adjustment for cost burden would yield a more reasonable determination of regional housing needs. SCAG has repeatedly emphasized the shortcomings of and overlap across various ACS-based measures of housing need. Furthermore, the relationship between new unit construction and cost burden is poorly understood (i.e., what will be the impact of new units on cost, and by extension, cost-burden). Nonetheless, SCAG recognizes that the region's cost burden exceeds that of comparable regions and proposes one modification to HCD's methodology, which currently considers cost burden separately by lower and higher income categories.

While housing security is dependent on income, it is also heavily dependent on tenure. While spending above 30 percent of gross income on housing for renters can reflect true housing insecurity, spending above this threshold for owners is substantially less problematic. This is particularly true for higher income homeowners, who generally benefit from housing shortages as it results in home value appreciation. Thus, a more reasonable application of cost burden

¹ See Nelson, AC. (2004), *Planner's Estimating Guide Projecting Land-Use and Facility Needs*. Planners Press, American Planning Association, Chicago. P. 25.

statistics would exclude cost-burden experienced by moderate and above-moderate owner households and instead make an adjustment based on three of the four income and tenure combinations: lower-income renters, higher-income renters, and lower-income owners.

4. From our review, HCD's data and use of data is not current. In large metropolitan regions, there is no reasonable basis for using 5-year ACS data, which reflects average conditions from 2013 to 2017. For cost-burden adjustments, HCD relies on 2011-2015 CHAS data. By the beginning of the 6th cycle of RHNA, some of the social conditions upon which the determination is based will be eight years old.

During the consultation process, SCAG staff provided HCD with Excel-version data of all inputs needed to replicate their methodology using ACS 2017 1-year data (the most recent available); however, this was not used. The Census bureau is scheduled to release ACS 2018 1-year data on September 26, 2019. SCAG staff would support replicating the same analysis, but substituting 2018 data when it becomes available in order to ensure the most accurate estimates in planning for the region's future.

Finally, given that the manner and order in which modifications are made affects the total housing need, the attachments demonstrate two alternatives with varying interpretations of three of the above points (see boldface, red text in attachments):

- Vacancy rate comparison – SCAG's originally proposed values versus an alternative which emerged from the consultation process
- Replacement need – DOF survey value versus HCD's current practice
- Cost burden measure – whether or not to include higher-income homeowners in this adjustment

We appreciate your careful consideration of this objection. RHNA is a complex process and we recognize the difficult positions that both SCAG and HCD are in but are hopeful that our agencies can reach a reasonable conclusion with respect to the regional need determination. Please contact me if you have questions. I look forward to continuing our close partnership to address the housing crisis in our state.

Sincerely,



Kome Ajise
Executive Director

Attachments

1. SCAG Alternative Determination
2. Excel version: SCAG Alternative Determination and supporting data
3. HCD Letter on Regional Need Determination, August 22, 2019

Attachment 1
SCAG Alternative Determination

1	OPTION A: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)			
2	Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)			20,725,878
3	<i>- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)</i>			-327,879
4	Household (HH) Population, Oct 1, 2029			20,397,998
		SCAG Projected HH Population	Headship rate - see Table 2	Projected Households
	Household Formation Groups			
		20,397,998		6,668,498
	under 15 years	3,812,391		n/a
	15 - 24 years	2,642,548		147,005
	25 - 34 years	2,847,526		864,349
	35 - 44 years	2,821,442		1,304,658
	45 - 54 years	2,450,776		1,243,288
	55 - 64 years	2,182,421		1,116,479
	65 -74 years	1,883,181		1,015,576
	75 - 84 years	1,167,232		637,415
	85+	590,480		339,727
5	Projected Households (Occupied Unit Stock)			6,668,498
6	+ Vacancy	Owner	Renter	
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%	
	Households by Tenure	3,496,058	3,172,440	
	Healthy Market Vacancy Standard	1.50%	5.00%	
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%	
	Difference	0.37%	1.70%	
	Vacancy Adjustment	12,953	53,815	66,768
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%
8	+ Replacement Adj (Actual DOF Demolitions)		0.14%	
	- Household Growth on Tribal Land (SCAG Estimate)			-2,766
9	<i>- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)</i>			-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)			23,969
	6th Cycle Regional Housing Need Assessment (RHNA)			823,808

1	OPTION B: SCAG region housing needs, June 30 2021-October 1 2029 (8.25 Years)			
2	Population: Oct 1, 2029 (SCAG 2020 RTP/SCS Forecast)			20,725,878
3	- Less Group Quarters Population (SCAG 2020 RTP/SCS Forecast)			-327,879
4	Household (HH) Population, Oct 1, 2029			20,397,998
		SCAG Projected HH Population	Headship rate - see Table 2	Projected Households
	Household Formation Groups	20,397,998		6,668,498
	under 15 years	3,812,391		n/a
	15 - 24 years	2,642,548		147,005
	25 - 34 years	2,847,526		864,349
	35 - 44 years	2,821,442		1,304,658
	45 - 54 years	2,450,776		1,243,288
	55 - 64 years	2,182,421		1,116,479
	65 -74 years	1,883,181		1,015,576
	75 - 84 years	1,167,232		637,415
	85+	590,480		339,727
5	Projected Households (Occupied Unit Stock)			6,668,498
6	+ Vacancy	Owner	Renter	
	Tenure Share (ACS 2017 1-year)	52.43%	47.57%	
	Households by Tenure	3,496,058	3,172,440	
	Healthy Market Vacancy Standard	2.00%	6.00%	
	SCAG Vacancy (ACS 2017 1-year)	1.13%	3.30%	
	Difference	0.87%	2.70%	
	Vacancy Adjustment	30,433	85,540	115,973
7	+ Overcrowding (Comparison Point vs. Region ACS %)	5.20%	9.82%	4.62%
8	+ Replacement Adj (HCD minimum standard)		0.50%	
	- Household Growth on Tribal Land (SCAG Estimate)			-2,766
9	- Occupied Units (HHs) estimated June 30, 2021 (from DOF data)			-6,250,261
10	+ Cost-burden Adjustment (Comparison Point vs. Region)			47,724
	6th Cycle Regional Housing Need Assessment (RHNA)			920,772

1	Projection period: Gov. Code 65588(f) specifies RHNA projection period start is December 31 or June 30, whichever date most closely precedes end of previous RHNA projection period end date. RHNA projection period end date is set to align with planning period end date. The planning period end date is eight years following the Housing Element due date, which is 18 months following the Regional Transportation Plan adoption rounded to the 15th or end of the month.
2-5	Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from SCAG's Regional Transportation Plan projections. <u>Population</u> reflects total persons. <u>Group Quarter Population</u> reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. <u>Household Population</u> reflects persons requiring residential housing. <u>Projected Households</u> reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
6	Vacancy Adjustment: Pursuant to Government Code 65584.01, a 5% minimum is considered to be healthy market vacancy in the for-rent housing market. Vacancy rates in the for-sale market are unspecified in statute. SCAG's analysis of vacancy rates suggests a healthy market standard of 5% for fore-rent housing and 1.5% for for-sale housing. After extensive consultation with HCD, a review of historical trends, regional and national comparison, and various planning standards, a more liberal vacancy standard of 6% for for-rent housing and 2% for for-sale housing may also be supported by this analysis. These standards are compared against ACS 2017 1-year data based on the renter/owner share in the SCAG region.
7	Overcrowding Adjustment: In regions where overcrowding is greater than the Comparable Region Rate, an adjustment is applied based on the amount the region's overcrowding rate (9.82%) exceeds the Comparable Region Rate (5.20%). Data is from 2017 1-year ACS.
8	Replacement Adjustment: A replacement adjustment is applied based on the current 10-year average % of demolitions according to local government annual reports to Department of Finance. While these data suggest an adjustment of 0.14% is most appropriate, SCAG recognizes that HCD's internal practice is to use an adjustment factor of 0.5%.
9	Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
10	Cost Burden Adjustment: A cost-burden adjustment is applied to the projected need by comparing the difference in cost-burden by income and tenure group for the region to the cost-burden by income and tenure group for comparable regions. Data are from 2017 1-year ACS and the ACS \$50,000/year household income threshold is used to distinguish between lower and higher income groups. The lower income RHNA is increased by the percent difference between the region and the comparison region cost burden rate for households earning approximately 80% of area median income and below (88.89%-84.39%=4.51% for renters and 27.33%-20.97%=6.36% for owners), then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent (Very Low=63% of lower, Low=37% of lower). The higher income RHNA is increased by the percent difference between the region and the comparison region cost burden rate (67.15%-65.53%=1.62% for renters and 23.78%-17.06%=6.72% for owners) for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent (Moderate=29% of higher, Above Moderate=71% of higher). SCAG's analysis of the cost-burden measure suggests that it may be less appropriate to apply for higher-income owners and it may be excluded from the adjustment.

Option A: Regional Housing Need Allocation (RHNA) Determination

SCAG Region

June 30, 2021 through October 1, 2029

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low *	25.8%	212,284
Low	15.1%	124,375
Moderate	17.1%	140,601
Above-Moderate	42.1%	346,547
Total	100.0%	823,808
* Extremely-Low	14.6%	included in Very-Low Category

Option B: Regional Housing Need Allocation (RHNA) Determination

SCAG Region

June 30, 2021 through October 1, 2029

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low *	25.8%	231,084
Low	15.1%	135,390
Moderate	17.1%	159,982
Above-Moderate	42.1%	394,316
Total	100.0%	920,772
* Extremely-Low	14.6%	included in Very-Low Category

Income Distribution : Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and county median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.

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

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October 15, 2019

Kome Ajise
Executive Director
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90017

Dear Executive Director Ajise,

RE: Final Regional Housing Need Assessment

The California Department of Housing and Community Development (HCD) has received and reviewed your objection to the Southern California Association of Governments (SCAG)'s Regional Housing Needs Assessment (RHNA) provided on August 22, 2019. Pursuant to Government Code (Gov. Code) section 65584.01(c)(3), HCD is reporting the results of its review and consideration, along with a final written determination of SCAG's RHNA and explanation of methodology and inputs.

As a reminder, there are several reasons for the increase in SCAG's 6th cycle Regional Housing Needs Assessment (RHNA) as compared to the 5th cycle. First, as allowed under Gov. Code 65584.01(b)(2), the 6th cycle RHNA applied housing need adjustment factors to the region's total projected households, thus capturing existing and projected need. Second, overcrowding and cost burden adjustments were added by statute between 5th and 6th cycle; increasing RHNA in regions where incidents of these housing need indicators were especially high. SCAG's overcrowding rate is 10.11%, 6.76% higher than the national average. SCAG's cost burden rate is 69.88% for lower income households, and 18.65% for higher income households, 10.88% and 8.70% higher than the national average respectively. Third, the 5th cycle RHNA for the SCAG region was impacted by the recession and was significantly lower than SCAG's 4th cycle RHNA.

This RHNA methodology establishes the minimum number of homes needed to house the region's anticipated growth and brings these housing need indicators more in line with other communities, but does not solve for these housing needs. Further, RHNA is ultimately a requirement that the region zone sufficiently in order for these homes to have the potential to be built, but it is not a requirement or guarantee that these homes will be built. In this sense, the RHNA assigned by HCD is already a product of moderation and compromise; a minimum, not a maximum amount of planning needed for the SCAG region.

For these reasons HCD has not altered its RHNA approach based on SCAG's objection. However, the cost burden data input has been updated following SCAG's objection due to the availability of more recent data. Attachment 1 displays the minimum RHNA of **1,341,827** total homes among four income categories for SCAG to distribute among its local governments. Attachment 2 explains the methodology applied pursuant to Gov. Code section 65584.01.

The following briefly responds to each of the points raised in SCAG's objection:

Use of SCAG's Population Forecast

SCAG's overall population estimates for the end of the projection period exceed Department of Finance's (DOF) population projections by 1.32%, however the SCAG household projection derived from this population forecast is 1.96% lower than DOF's household projection. This is a result of SCAG's population forecast containing 3,812,391 under 15-year old persons, compared to DOF's population projection containing 3,292,955 under 15-year old persons; 519,436 more persons within the SCAG forecast that are anticipated to form no households. In this one age category, DOF's projections differ from SCAG's forecast by 15.8%.

Due to a greater than 1.5% difference in the population forecast assessment of under 15-year olds (15.8%), and the resulting difference in projected households (1.96%), HCD maintains the use of the DOF projection in the final RHNA.

Use of Comparable Regions

While the statute allows for the council of government to determine and provide the comparable regions to be used for benchmarking against overcrowding and cost burden, Gov. Code 65584.01(b)(2) also allows HCD to "accept or reject information provided by the council of governments or modify its own assumptions or methodology based on this information." Ultimately, HCD did not find the proposed comparable regions an effective benchmark to compare SCAG's overcrowding and cost burden metrics to. HCD used the national average as the comparison benchmark, which had been used previously throughout 6th cycle prior to the addition of comparable region language into the statute starting in January 2019. As the housing crisis is experienced nationally, even the national average does not express an ideal overcrowding or cost burden rate; we can do more to reduce and eliminate these worst-case housing needs.

Vacancy Rate

No changes have been made to the vacancy rate standard used by HCD for the 6th cycle RHNA methodology.

Replacement Need

No changes have been made to the replacement need minimum of adjustment .5%. This accounts for replacement homes needed to account for homes potentially lost during the projection period.

Household Growth Anticipated on Tribal Lands

No changes have been made to reduce the number of households planned in the SCAG region by the amount of household growth expected on tribal lands. The region should plan for these homes outside of tribal lands.

Overlap between Overcrowding and Cost Burden

No changes have been made to overcrowding and cost burden methodology. Both factors are allowed statutorily, and both are applied conservatively in the current methodology.

Data Sources

No changes have been made to the data sources used in the methodology. 5-year American Community Survey data allows for lower margin of error rates and is the preferred data source used throughout this cycle. With regard to cost burden rates, HCD continues to use the Comprehensive Housing Affordability Strategy, known as CHAS data. These are custom tabulations of American Community Survey requested by the U.S. Department of Housing and Urban Development. These custom tabulations display cost burden by income categories, such as lower income, households at or below 80% area median income; rather than a specific income, such as \$50,000. The definition of lower income shifts by region and CHAS data accommodates for that shift. The 2013-2016 CHAS data became available August 9, 2019, shortly prior to the issuance of SCAG's RHNA determination so that data is now used in this RHNA.

Next Steps

As you know, SCAG is responsible for adopting a RHNA allocation methodology for the *projection* period beginning June 30, 2021 and ending October 15, 2029. Pursuant to Gov. Code section 65584(d), SCAG's RHNA allocation methodology must further the following objectives:

- (1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very-low income households.
- (2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.
- (3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
- (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
- (5) Affirmatively furthering fair housing.

Pursuant to Gov. Code section 65584.04(e), to the extent data is available, SCAG shall include the factors listed in Gov. Code section 65584.04(e)(1-12) to develop its RHNA allocation methodology. Pursuant to Gov. Code section 65584.04(f), SCAG must explain in writing how each of these factors was incorporated into the RHNA allocation methodology and how the methodology furthers the statutory objectives described above. Pursuant to Gov. Code section 65584.04(h), SCAG must consult with HCD and submit its draft allocation methodology to HCD for review.

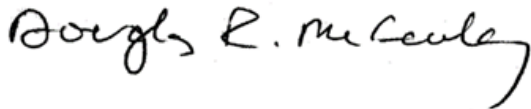
HCD appreciates the active role of SCAG staff in providing data and input throughout the consultation period. HCD especially thanks Ping Chang, Ma'Ayn Johnson, Kevin Kane, and Sarah Jepson.

HCD looks forward to its continued partnership with SCAG to assist SCAG's member jurisdictions meet and exceed the planning and production of the region's housing need. Just a few of the support opportunities available for the SCAG region this cycle include:

- SB 2 Planning Grants and Technical Assistance (application deadline November 30, 2019)
- Regional and Local Early Action Planning Grants
- Permanent Local Housing Allocation

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, at megan.kirkeby@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Douglas R. McCauley". The signature is written in a cursive style with a large, sweeping "D" and "M".

Douglas R. McCauley
Acting Director

Enclosures

ATTACHMENT 1

HCD REGIONAL HOUSING NEED DETERMINATION

SCAG: June 30, 2021 – October 15, 2029 (8.3 years)

<u>Income Category</u>	<u>Percent</u>	<u>Housing Unit Need</u>
Very-Low*	26.2%	351,796
Low	15.4%	206,807
Moderate	16.7%	223,957
Above-Moderate	41.7%	559,267
Total	100.0%	1,341,827
* Extremely-Low	14.5%	Included in Very-Low Category

Notes:

Income Distribution:

Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and regional median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.

ATTACHMENT 2

**HCD REGIONAL HOUSING NEED DETERMINATION
SCAG: June 30, 2021 – October 15, 2029 (8.3 years)**

Methodology

SCAG: June 30, 2021-October 15, 2029 (8.3 Years) HCD Determined Population, Households, & Housing Need					
1.	Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029				20,455,355
2.	- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029				-363,635
3.	Household (HH) Population: October 15, 2029				20,079,930
	Household Formation Groups	HCD Adjusted DOF Projected HH Population	DOF HH Formation Rates	HCD Adjusted DOF Projected Households	
		20,079,930		6,801,760	
	under 15 years	3,292,955	n/a	n/a	
	15 – 24 years	2,735,490	6.45%	176,500	
	25 – 34 years	2,526,620	32.54%	822,045	
	35 – 44 years	2,460,805	44.23%	1,088,305	
	45 – 54 years	2,502,190	47.16%	1,180,075	
	55 – 64 years	2,399,180	50.82%	1,219,180	
	65 – 74 years	2,238,605	52.54%	1,176,130	
	75 – 84 years	1,379,335	57.96%	799,455	
	85+	544,750	62.43%	340,070	
4.	Projected Households (Occupied Unit Stock)				6,801,760
5.	+ Vacancy Adjustment (2.63%)				178,896
6.	+ Overcrowding Adjustment (6.76%)				459,917
7.	+ Replacement Adjustment (.50%)				34,010
8.	- Occupied Units (HHs) estimated (June 30, 2021)				-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)				117,505
6th Cycle Regional Housing Need Assessment (RHNA)					1,341,827

Explanation and Data Sources

- 1-4. Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from Department of Finance (DOF) projections. Population reflects total persons. Group Quarter Population reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. Household Population reflects persons requiring residential housing. Projected Households reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.
5. Vacancy Adjustment: HCD applies a vacancy adjustment based on the difference between a standard 5% vacancy rate and the region's current "for rent and sale" vacancy percentage to provide healthy market vacancies to facilitate housing availability and resident mobility. The adjustment is the difference between standard 5% and region's current vacancy rate (2.37%) based on the 2013-2017 5-year American Community Survey (ACS) data. For SCAG that difference is 2.63%.
6. Overcrowding Adjustment: In region's where overcrowding is greater than the U.S overcrowding rate of 3.35%, HCD applies an adjustment based on the amount the region's overcrowding rate (10.11%) exceeds the U.S. overcrowding rate (3.35%) based on the 2013-2017 5-year ACS data. For SCAG that difference is 6.76%.

Continued on next page

7. Replacement Adjustment: HCD applies a replacement adjustment between .5% & 5% to total housing stock based on the current 10-year average of demolitions in the region's local

government annual reports to Department of Finance (DOF). For SCAG, the 10-year average is .14%, and SCAG's consultation package provided additional data on this input indicating it may be closer to .41%; in either data source the estimate is below the minimum replacement adjustment so the minimum adjustment factor of .5% is applied.

8. Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).
9. Cost Burden Adjustment: HCD applies an adjustment to the projected need by comparing the difference in cost-burden by income group for the region to the cost-burden by income group for the nation. The very-low and low income RHNA is increased by the percent difference ($69.88\% - 59.01\% = 10.88\%$) between the region and the national average cost burden rate for households earning 80% of area median income and below, then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent. The moderate and above-moderate income RHNA is increased by the percent difference ($18.65\% - 9.94\% = 8.70\%$) between the region and the national average cost burden rate for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent. Data is from 2013-2016 Comprehensive Housing Affordability Strategy (CHAS).



[Our Work](#) ▾

[What We Do](#)

[Contact](#)



Double Counting in the Latest Housing Needs Assessment



[View PDF Report](#)



Do the Math: The state has ordered more than 350 cities to prepare the way for more than 2 million homes by 2030.

But what if the math is wrong?

Senate Bill 828, co-sponsored by the Bay Area Council and Silicon Valley Leadership Group, and authored by state Sen. Scott Wiener in 2018, has inadvertently doubled the “Regional Housing Needs Assessment” in California.

Use of an incorrect vacancy rate and double counting, inspired by SB-828, caused the state’s Department of Housing and Community Development (HCD) to exaggerate by more than 900,000 the units needed in SoCal, the Bay Area and the Sacramento area.

The state’s approach to determining the housing need must be defensible and reproducible if cities are to be held accountable. Inaccuracies on this scale mask the fact that cities and counties are surpassing the state’s market-rate housing targets, but falling far short in meeting affordable housing targets. The inaccuracies obscure the real problem and the associated solution to the housing crisis—the funding of affordable housing.



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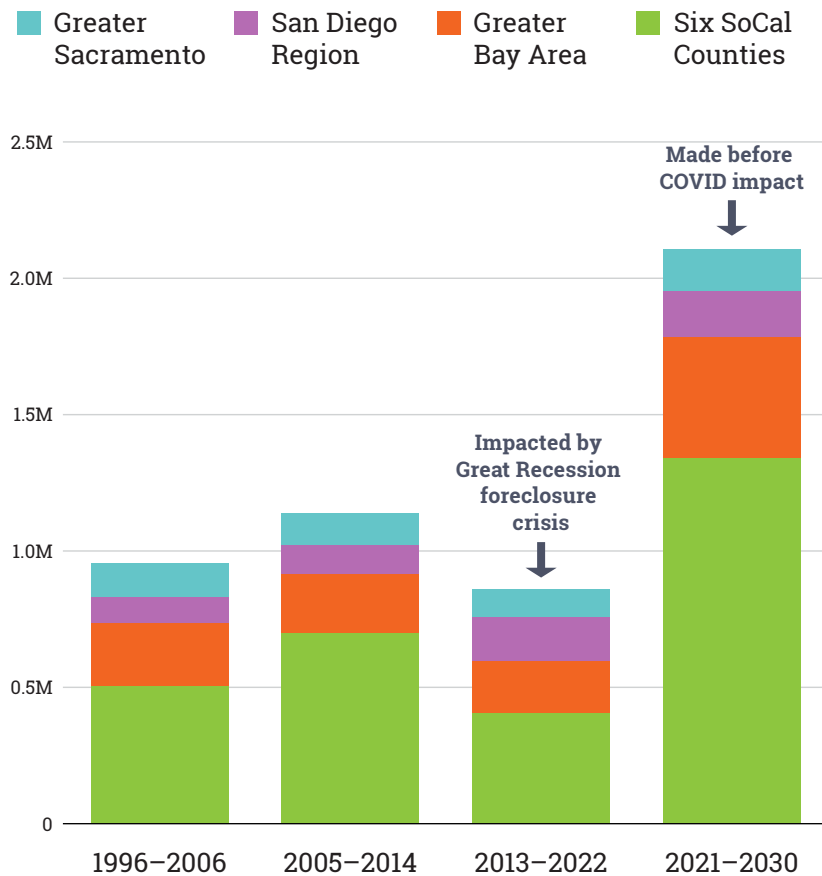
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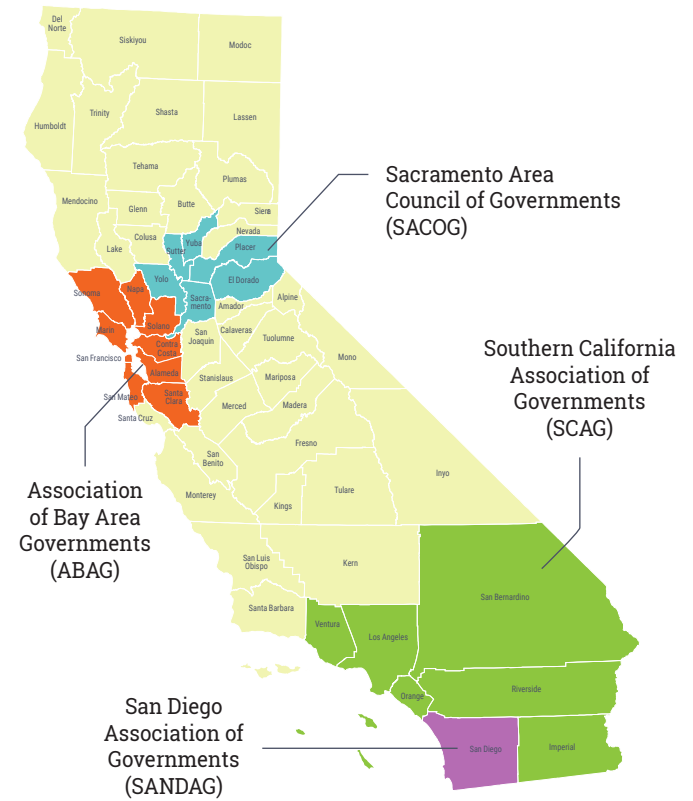
Double counting (not surprisingly) doubled the assessed housing need for the four major planning regions.

Every five to eight years the Department of Housing and Community Development (HCD) supervises and publishes the results of a process referred to as the Regional Housing Needs Assessment (RHNA). Four regional planning agencies cover the 21 most urban counties and account for 80% of California’s housing. All four regions saw a significant jump in the state’s assessment of their housing need for the years 2021 to 2030.

Housing Units Needed According to the State, (1996–2030)

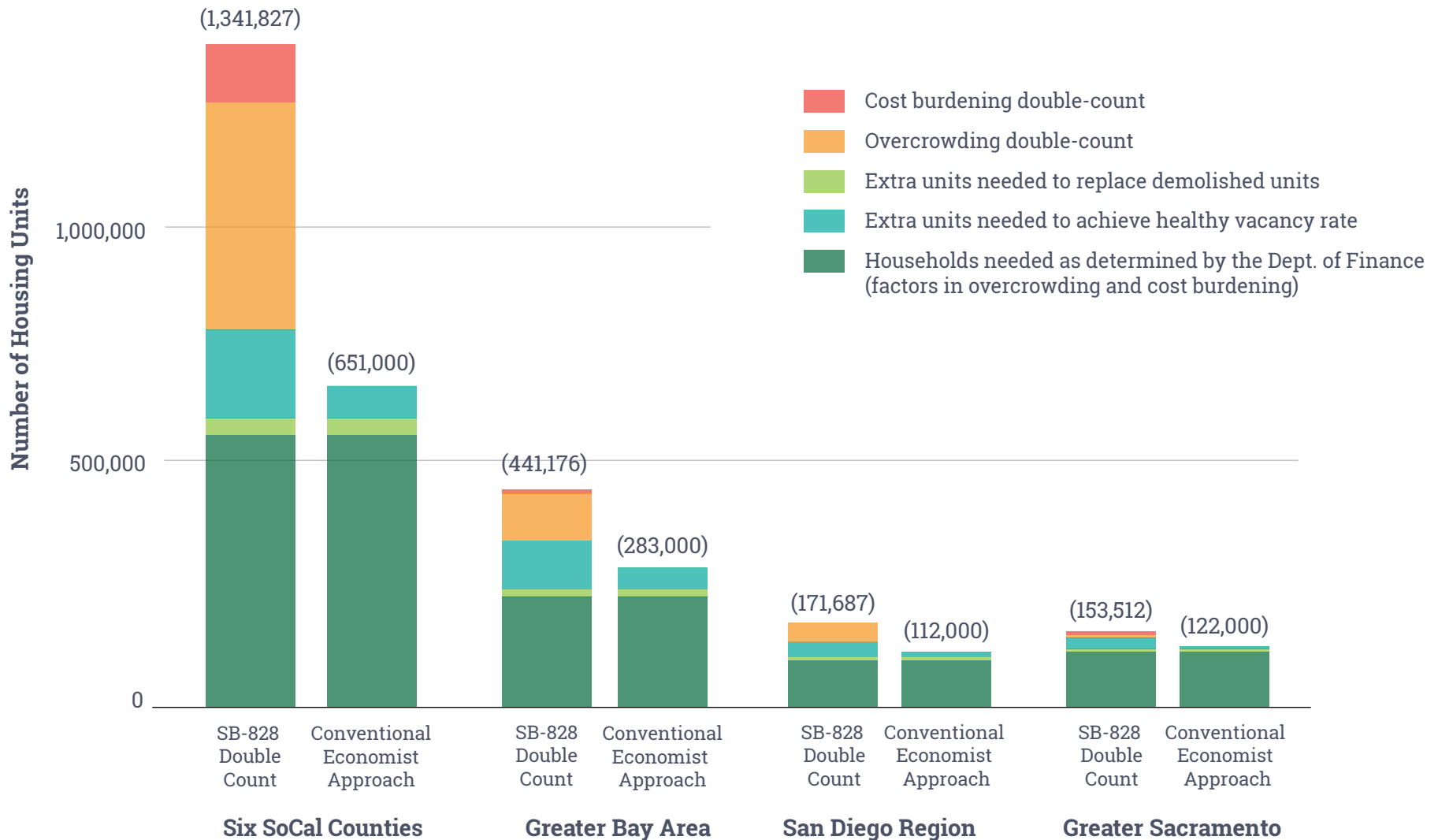


Four Regions Contain 80% of the State’s Housing



The double count, an unintended consequence of Senate Bill 828, has exaggerated the housing need by more than 900,000 units in the four regions below.

California plans for its housing needs in “cycles.” The four regions are on cycles that last roughly eight years with staggered start dates. In the 2021–2030 housing cycle, errors introduced by language in SB-828 nearly equal the entire 1.15M units of new housing required during the 2013–2022 “cycle.” As illustrated, Southern California and the Bay Area are the most impacted by the state’s methodology errors.



Senate Bill 828 was drafted absent a detailed understanding of the Department of Finance’s methodology for developing household forecasts, and absent an understanding of the difference between rental and home-owner vacancies. These misunderstandings have unwittingly ensured a series of double counts.

SB-828 MISTAKENLY ASSUMED:

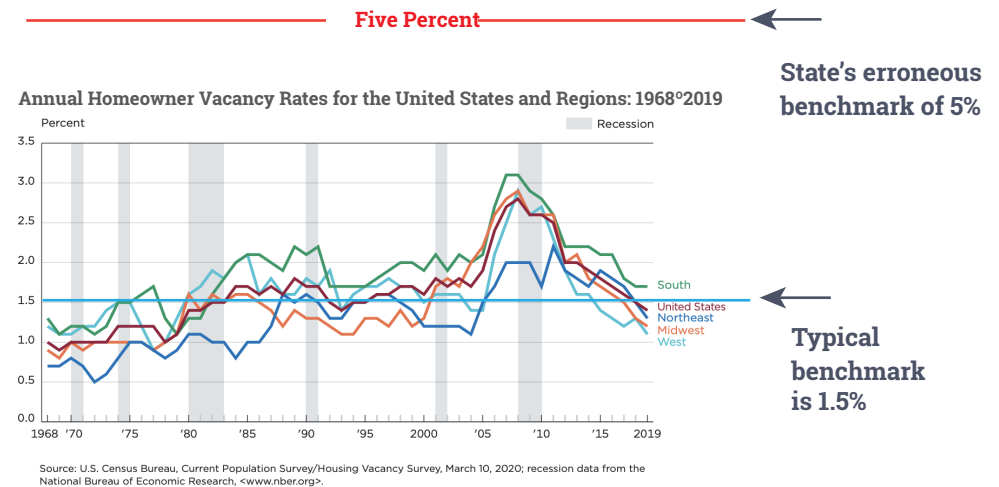
THE REALITY IS:

1. SB-828 wrongly assumed ‘existing housing need’ was not evaluated as part of California’s previous Regional Housing Need Assessments, or RHNA. There was an assumption that only future need had been taken into account in past assessments. (In fact, as detailed in The Reality section, the state’s existing housing need was fully evaluated in previous RHNA assessment cycles).

1. Existing housing need has long been incorporated in California’s planning cycles. It has been evaluated by comparing existing vacancy rates with widely accepted benchmarks for healthy market vacancies (rental and owner-occupied). The difference between actual and benchmark is the measure of housing need/surplus in a housing market. Confusion about the inclusion of “existing need” may have arisen because vacancy rates at the time of the last assessment of housing need (“the 5th cycle”) were unusually high (higher than the healthy benchmarks) due to the foreclosure crisis of 2007–2010, and in fact, the vacancy rates suggested a surplus of housing. So, in the 5th cycle the vacancy adjustment had the effect of lowering the total housing need. Correctly seeing the foreclosure crisis as temporary, the state Department of Finance did not apply the full weight of the surplus, but instead assumed a percentage of the vacant housing would be absorbed by the time the 5th cycle began. The adjustment appears in the 5th cycle determinations, not as ‘Existing Housing Need’ but rather as “Adjustment for Absorption of Existing Excess Vacant Units.”

2. SB-828 wrongly assumed a 5% vacancy rate in owner-occupied housing is healthy (as explained in the column on the right, 5% vacancy in owner-occupied homes is never desirable, and contradicts Government Code 65584.01(b)(1)(E) which specifies that a 5% vacancy rate applies only to the rental housing market).

2. While 5% is a healthy benchmark for rental vacancies, it is unhealthy for owner-occupied housing (which typically represents half of existing housing). Homeowner vacancy in the U.S. has hovered around 1.5% since the ‘70s, briefly reaching 3% during the foreclosure crisis. However, 5% is well outside any healthy norm, and thus does not appear on the Census chart (to the right) showing Annual Homeowner Vacancy Rates for the United States and Regions: 1968–2019.



3. SB-828 wrongly assumed overcrowding and cost-burdening had not been considered in Department of Finance projections of housing need. The bill sought to redress what it mistakenly thought had been left out by requiring regional planning agencies to report overcrowding and cost-burdening data to the Dept. of Housing and Community Development (as explained in the right column).

3. Unknown to the authors of SB-828, the Department of Finance (DOF) has for years factored overcrowding and cost-burdening into their household projections. These projections are developed by multiplying estimated population by the headship rate (the proportion of the population who will be head of a household). The Department of Finance (DOF) in conjunction with the Department of Housing and Community Development (HCD) has documented its deliberate decision to use higher headship rates to reflect optimal conditions and intentionally “alleviate the burdens of high housing cost and overcrowding.” Unfortunately, SB-828 has caused the state to double count these important numbers.

The forced double-counting errors are significant.*

1. Incorrect use of a 5% benchmark vacancy rate for owner-occupied housing.

The vacancy rate was incorrectly used for both existing and projected owner-occupied households.

+ 229,000
housing units

2. Current vacancies were assumed to exist in household projections.

This error is unrelated to SB-828, but is an accounting error introduced by HCD methodology.

- 22,000
housing units

3. Overcrowding and cost-burdening were double counted.**

In addition to the household projection methodology outlined by the Department of Finance (shown to account for overcrowding and cost-burdening), the matter is also mentioned in meeting notes available on the Association of Bay Area Government's (ABAG) website.***

Quote from ABAG's Housing Methodology Committee Agenda Packet for the 4th RHNA Cycle, July 2006

"There was also a lot of discussion about the headship rates used by HCD/DOF. Several people commented that headship rates in the Bay Area are generally lower than the State's estimates because the region's high housing costs limit household formation. In response, Mr. Fassinger noted that HCD uses these higher headship rates because the RHNA process is intended to alleviate the burdens of high housing cost and overcrowding."

Despite this, overcrowding and cost-burdening were counted a second time as adjustment factors required by SB-828.

+ 734,000
housing units

TOTAL: + 941,000
housing units

* All errors are rounded to the nearest thousand.

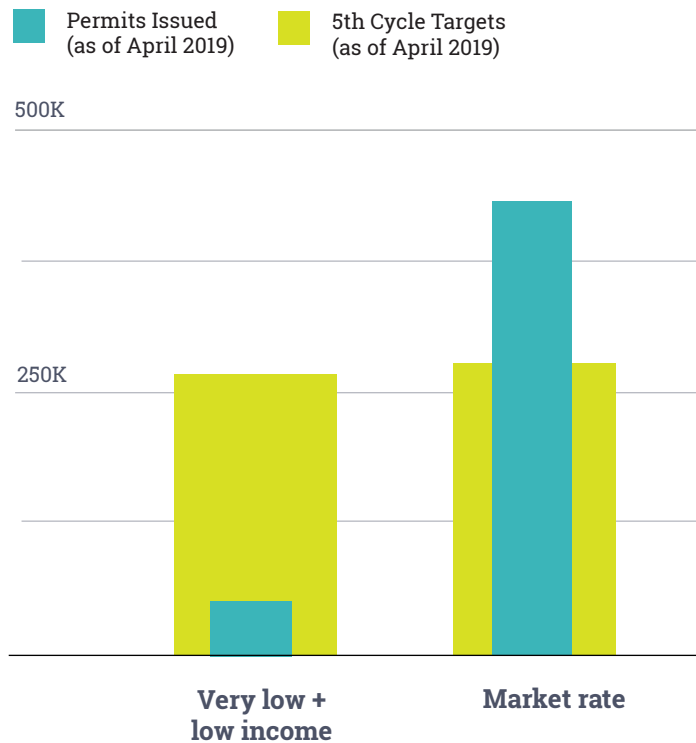
** Overcrowding measures the number of households with more than 1 person per room. Cost-burdening measures the number of households that spend more than 30% of the household income on housing. Cost-burdening is measured by five income levels – extremely low, very low, low, moderate, above moderate

*** P-4 tables are created by the Department of Finance–Household Projection table 2020–2030 and their methodology is fully explained in 'read me' notes that accompany the table.

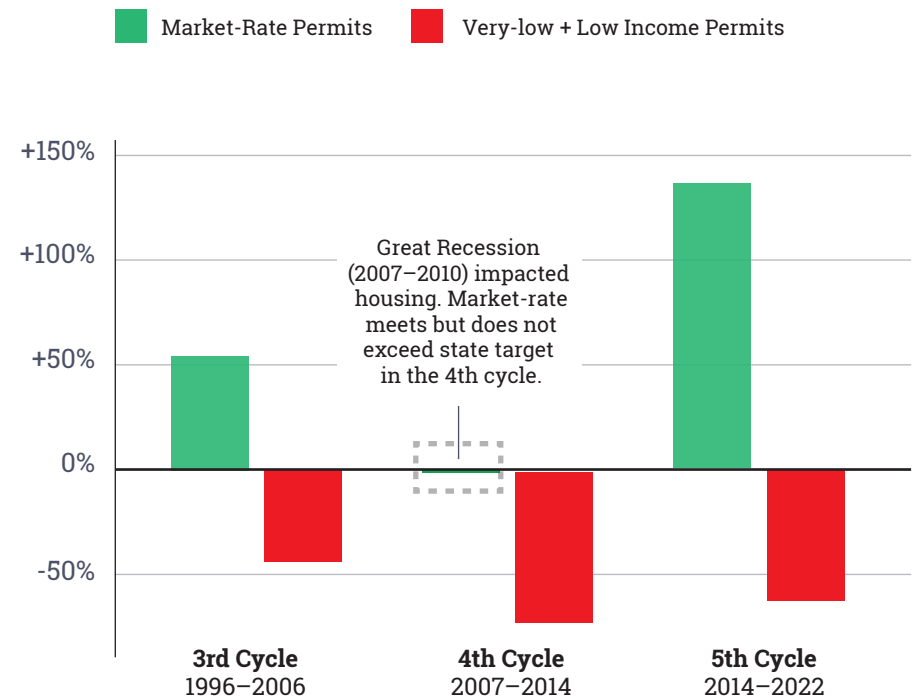
The state's exaggerated targets unfortunately mask the real story: Decades of overachieving in market-rate housing has not reduced housing costs for lower income households.

The state has shown, with decades of data, that it cannot dictate to the market. The market is going to take care of itself. The state's responsibility is to take care of those left behind in the market's wake. Based on housing permit progress reports published by the Dept. of Housing and Community Development in July 2020, cities and counties in the four most populous regions continue to strongly outperform on the state's assigned market-rate housing targets, but fail to achieve even 20% of their low-income housing target. In the Bay Area where permit records have been kept since 1997, there is evidence that this housing permit imbalance has propagated through decades of housing cycles.

Permit Progress in the 5th Cycle (2013-2022)* (all 4 regions)



Affordable Housing Languishes as Market-Rate Housing Overachieves (Bay Area only)*



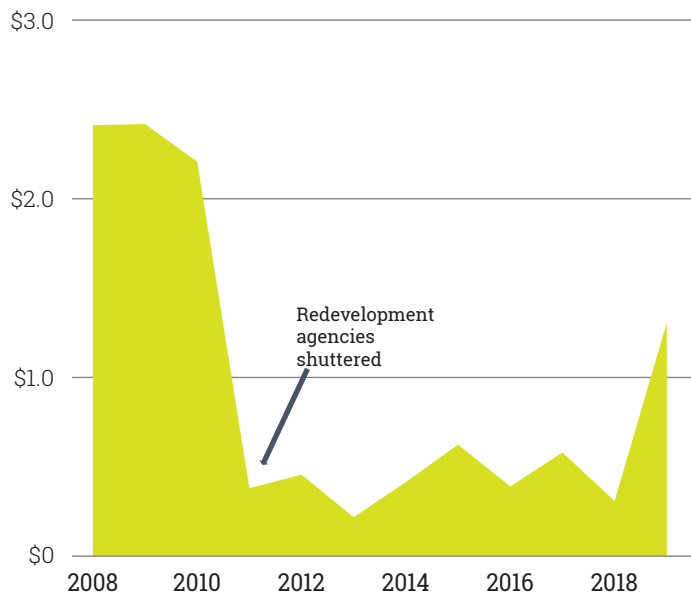
* Based on permit progress reports published by the Dept of Housing and Community Development and updated July 2020, reporting progress through April 2019.

** Only the Bay Area is shown because other regions have not kept detailed records of permit progress through the 3rd and 4th cycles.

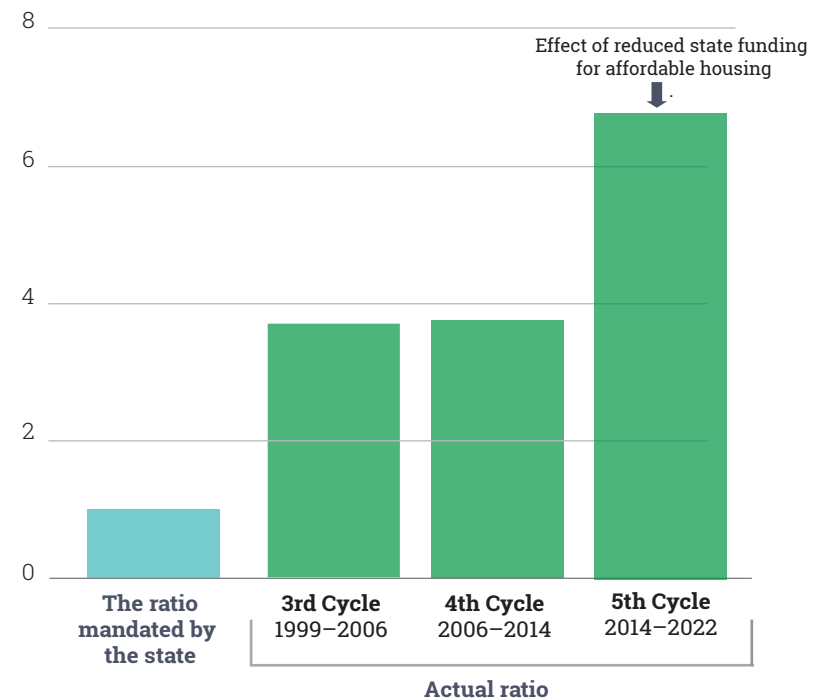
It's clear. Market-rate housing doesn't need state incentives. Affordable housing needs state funding.

Cities are charged by the state to build one market-rate home for every one affordable home. But state laws, such as the density bonus law, incentivize developers to build market-rate units at a far higher rate than affordable units. As a result, California has been building four market-rate units for every one affordable unit for decades. And with the near-collapse of legislative funding for low-income housing in 2011, that ratio has grown to seven to eight market-rate units to each affordable unit. Yet we need one-to-one. This worsening situation can't be fixed by zoning or incentives which are the focus of many recent housing bills and only reinforce or worsen the ever-higher market-rate housing ratios. From the data it appears that the shortage of housing resulted not from a failure by cities to issue housing permits, but rather a failure by the state to fund and support affordable housing. Future legislative efforts should take note.

State Funds for Affordable Housing, 2008–2019*
\$ Billion



Market-Rate to Low-Income Housing Permits in the Bay Area has grown from a ratio of 4 : 1 to 7 : 1
(Bay Area only)**



* "The Defunding of Affordable Housing in California", Embarcadero Institute, update June 2020 www.embarcaderoinstitute.com/reports/

** Only Bay Area is shown because other regions have not kept detailed records of permit progress through the 3rd and 4th cycles. Data is from ABAG's permit progress reports for 3rd and 4th cycle and Dept. of Housing and Community Development's 5th cycle Annual Progress Report.

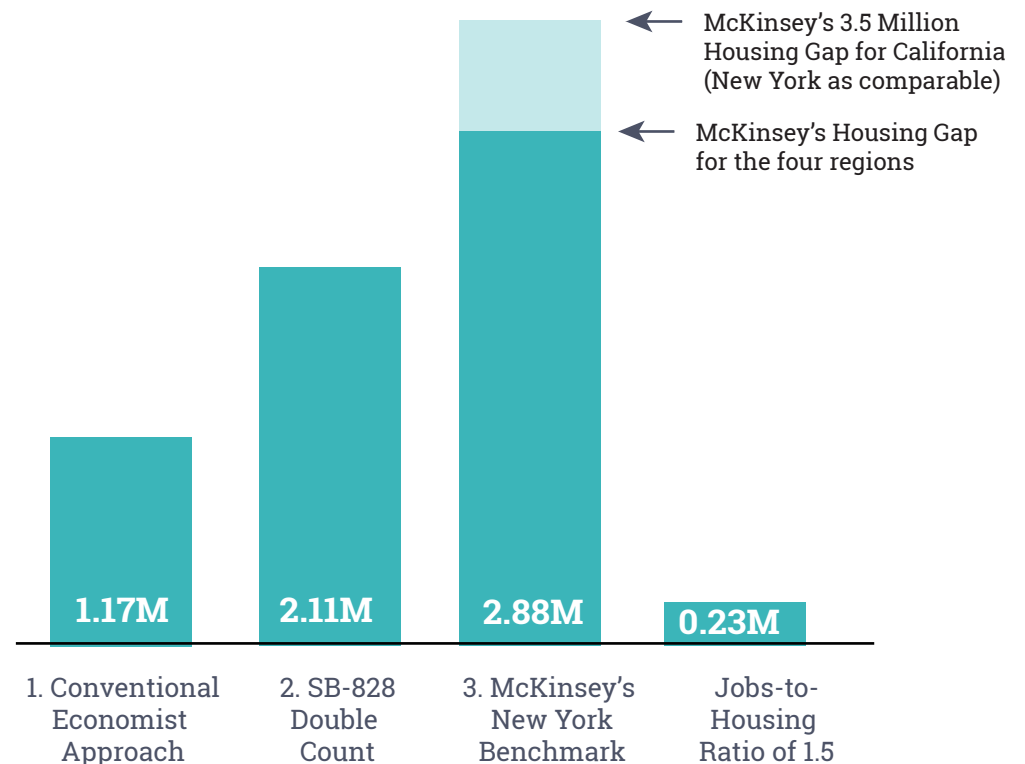
Finally, since penalties are incurred for failing to reach state targets for housing permits, the methodology for developing these numbers must be transparent, rigorous and defensible.

Non-performance in an income category triggers a streamlined approval process per Senate Bill 35 (2017). These exaggerated 6th cycle targets will make it impossible for cities and counties to attain even their market-rate targets, ensuring market-rate housing will qualify for incentives and bonuses meant for low income housing. **Yet again low-income housing will lose out.** The state needs to correct the errors in the latest housing assessment, and settle on a consistent, defensible approach going forward.

At Least Four Different Methodologies Have Been Used Simultaneously by the State to Discuss Housing Need: We Only Need One

- 1. The Conventional Economist Approach:** uses goldilocks (not too big, not too small, just right) benchmarks for vacancies - 1.5% for owner-occupied and 5% for rental housing.
- 2. SB-828 Double Count:** incorrectly uses a benchmark of 5% vacancy for owner-occupied housing. It also double counts overcrowding and cost-burdening
- 3. McKinsey's New York Benchmark:** the over-simplified approach generated an exaggerated housing gap of 3.5 Million for California. McKinsey multiplied California's population by New York's housing per capita to get 3.5M. New York is not a proper benchmark for California and NY's higher housing per capita is more reflective of NY's declining population rather than a healthy benchmark for housing
- 4. Jobs-to-housing ratio of 1.5:** according to state planning agencies 1.5 is the optimal benchmark. Employment in the four regions is estimated to grow to 17 million by 2030 (job growth estimates prepared before COVID).**

Forecast 2030 Housing Need for the Four Regions



* California's Employment Development Department (EDD) estimates employment by county through 2026. Using annualized growth (2016 to 2026) as a basis for future growth 2030 employment is estimated for the four regions. TAC 216

** The 17 million includes estimates of self employed, private household workers, farm and nonfarm employment. Occupations with employment below 100 in 2016 are excluded.

How it Works : A multi-agency collaborative effort has generated past state housing targets. However, in 2018, SB-828 annointed the Dept. of Housing and Community Development with final veto powers.

STEP 1

The Dept. of Finance (DOF) generates household forecasts by county based on population growth and headship rates. This is the step where overcrowding and cost-burdening are factored in .

Dept. of Finance (DOF)



STEP 2

The Dept. of Housing and Community Development (HCD) then takes the DOF household projections and adds in a healthy vacancy level (1.5% for owner-occupied, 5% for rental housing) to determine the number of housing units needed to comfortably accommodate the DOF household projections.

dept. of Housing and Community Development (HCD)



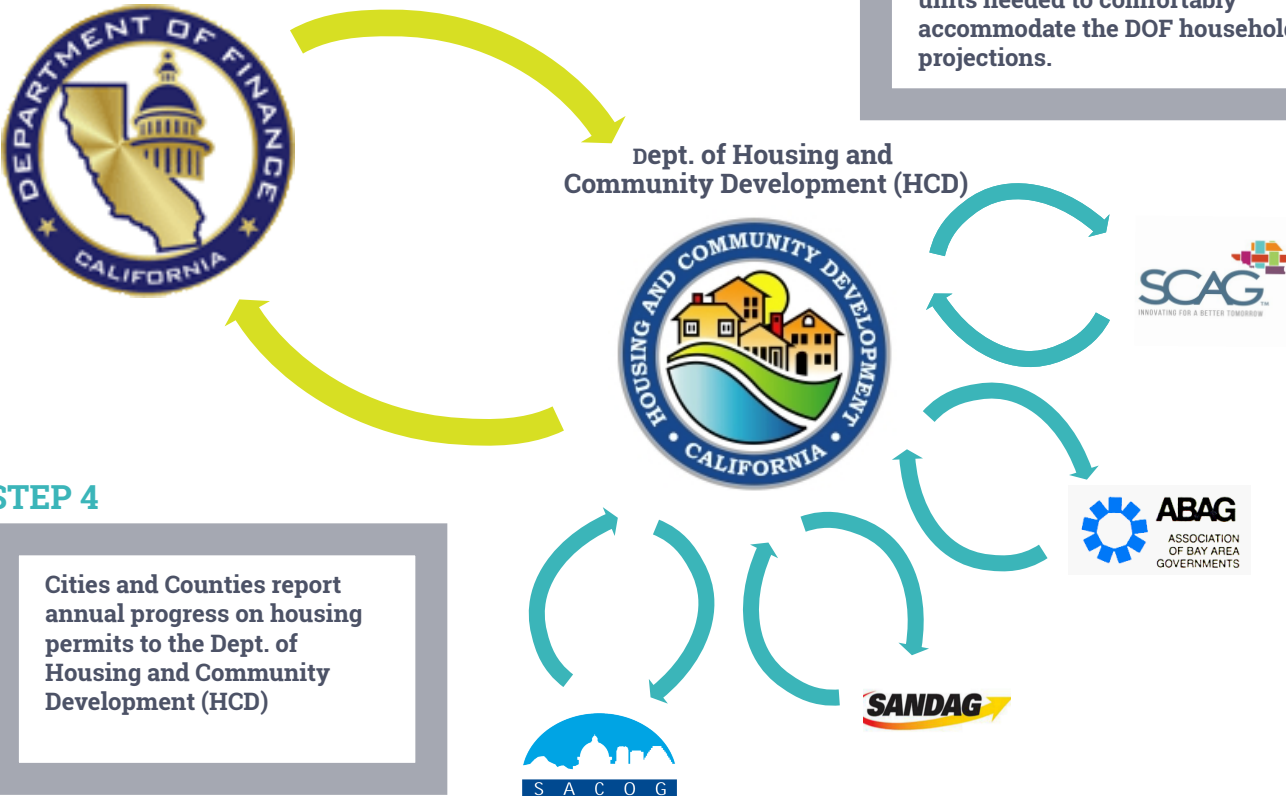
STEP 3

The regional agencies allocate housing targets to cities and counties in their jurisdiction. These allocations collectively meet their RHNA assessments, and are based on algorithms that may include employment, transit accessibility and local housing patterns



STEP 4

Cities and Counties report annual progress on housing permits to the Dept. of Housing and Community Development (HCD)



SB-828 introduced errors in Step 2 (when the Dept. of Housing and Community Development made adjustments to the Dept. of Finance’s household projections).

Southern California and the Bay Area were most impacted by the double counting. San Diego was not assessed for cost-burdening although it is more cost-burdened than the Bay Area. It was perhaps overlooked because its assessment cycle began in July, 2018, a few months before SB-828 passed into law.

The Department of Housing and Community and Development

1. Used a benchmark of 5% vacancy rate for BOTH owner-occupied and rental housing.

Six SoCal Counties	=	+126,000	+ 228,000 housing units
Greater Bay Area	=	+59,000	
San Diego Area	=	+23,000	
Greater Sacramento	=	+21,000	

2. Assumed vacancies in household projections *

Six SoCal Counties	=	-13,000	- 22,000 housing units
Greater Bay Area	=	-4,000	
San Diego Area	=	-2,000	
Greater Sacramento	=	-3,000	

3. Double counted overcrowding and cost-burdening

Six SoCal Counties	=	+578,000	+ 734,000 housing units
Greater Bay Area	=	+104,000	
San Diego Area	=	+39,000	
Greater Sacramento	=	+13,000	

* P-4 tables are created by the Department of Finance—Household Projection table 2020–2030 and their methodology is fully explained in ‘read me’ notes that accompany the table
 ** Overcrowding measures the number of households with more than 1 person per room. Cost-burdening measures the number of households that spend more than 30% of the household income on housing. Cost-burdening is measured by five income levels—extremely low, very low, low, moderate, above moderate.

Detailed explanation of the errors using SoCal Counties as an example: First—the correct approach.

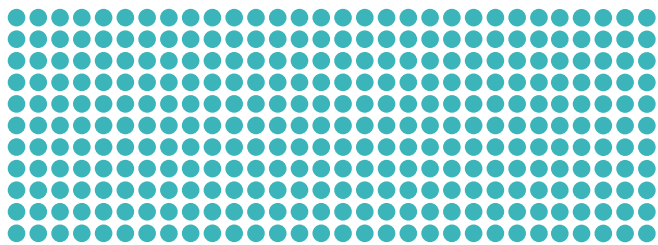
The Department of Housing and Community Development (HCD) have traditionally arrived at a number for pent-up demand or housing shortfall by comparing vacancy rates in owner-occupied and rental housing to healthy benchmarks (1.5% for owner-occupied* and 5% for rental housing). The largest of the four regions, six SoCal Counties (covering Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties) is considered in the example below**.

EXISTING HOUSING: Six SoCal Counties

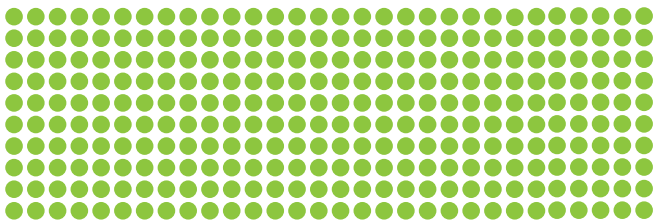
1 circle = 10,000 households

Occupied Housing Units

Home-owned (3.3 Million)



Rentals (3 Million)



Vacant Housing Units

Actual Vacancies (40,000)



1.2%

Healthy Benchmark (50,000)



1.5%

Existing Need

(10,000)



Actual Vacancies (111,000)



3.7%

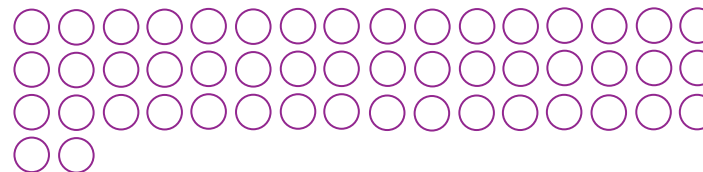
Healthy Benchmark (150,000)



5.0%

(39,000)

Seasonal Vacancies (500,000)***



* Owner-occupied has a lower healthy vacancy rate because it is usually only vacant while a house is for sale

** All numbers are rounded to the nearest thousand.

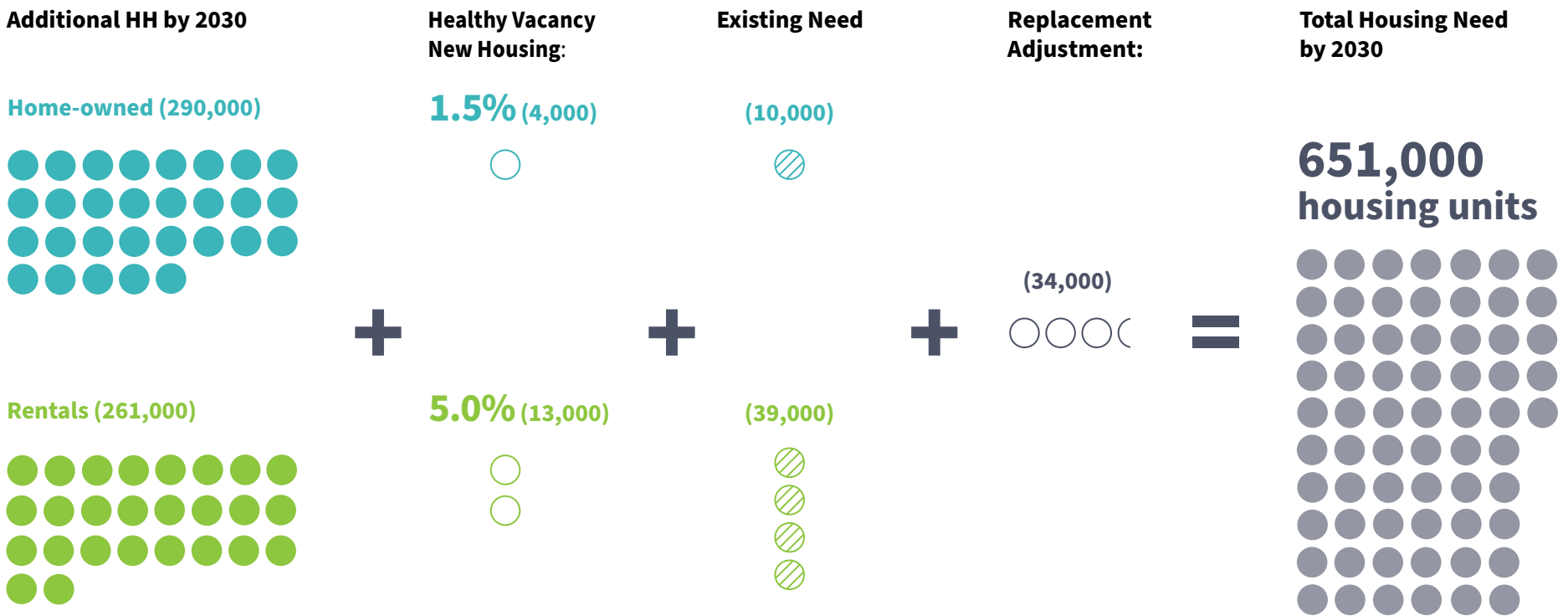
*** Seasonal Vacancies represent second homes, coporate housing, and short-term rentals such as AirBnBs

The housing need also takes into account for future growth.

The Dept. of Finance (DOF) supplies the Dept. of Housing and Community Development (HCD) with an estimate of additional households (HH) needed by the end of the cycle. The DOF forecast the 2030 population and using an optimal household formation rate determine the number of households needed to comfortably house that population*. The DOF also supply the HCD with the number of existing households at the start of the cycle. The HCD adds to the base number of additional households needed, factoring in vacancies for a healthy market, and adding a replacement adjustment (also supplied by the DOF)**.

PROJECTED HOUSING NEED: Six SoCal Counties

1 circle = 10,000 households



* Households represent occupied housing units. The number of housing units is always higher as at any given time than the number of households because some housing will be vacant or unutilized. The DOF is responsible for the base projection because they manage population projections for the state, and determine those by analyzing births, deaths and net migration.

** Replacement represents houses that may be demolished or replaced during the cycle*.

However, the Dept. of Housing and Community Development has adopted an unusual methodology in evaluating existing need in the 6th housing cycle.

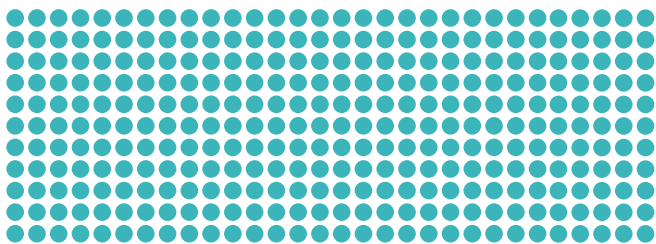
Instead of the typical 1.5% benchmark for owner-occupied housing, they used a 5% vacancy rate usually reserved for rental housing. A 5% vacancy in owner-occupied housing is indicative of a distressed housing market. At 5%, SoCal's existing housing need is increased by 115,000 housing units. Existing need for rental housing is unchanged.

EXISTING HOUSING: Six SoCal Counties

1 circle = 10,000 households

Occupied Housing Units

Home-owned (3.3 Million)



Vacant Housing Units

Actual Vacancies (40,000)

1.2%



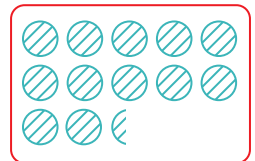
Healthy Benchmark (165,000)

5.0%



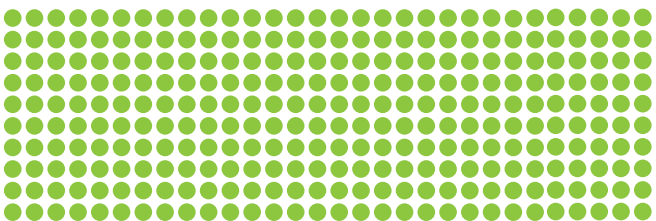
Existing Need

(125,000)



=

Rentals (3 Million)



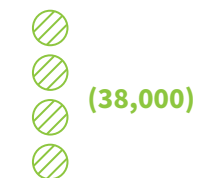
Actual Vacancies (110,000)

3.7%

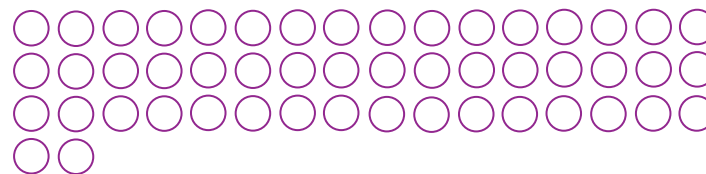


Healthy Benchmark (149,000)

5.0%



Seasonal Vacancies (500,000)

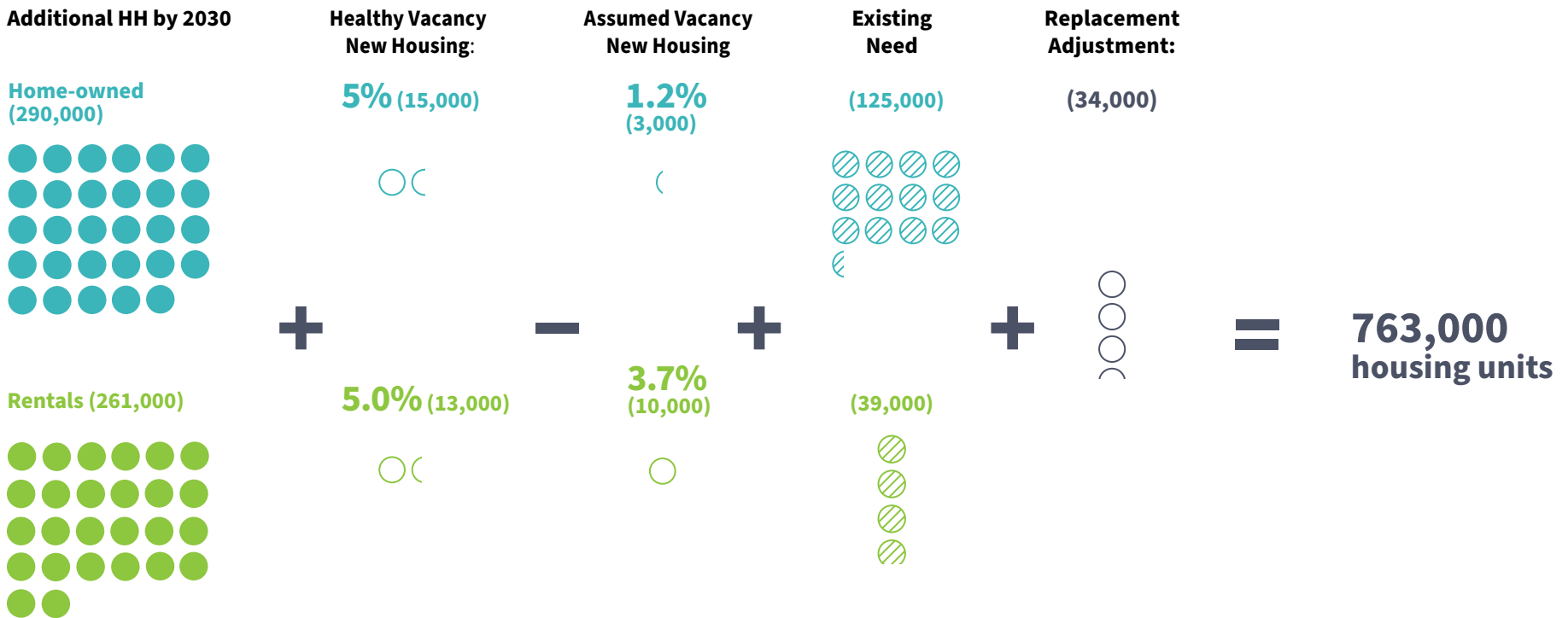


The Dept. of Housing and Community Development have also taken an unusual approach in evaluating projected housing need.

Again, instead of using the separate benchmark of 1.5% for owner-occupied housing, 5% was used for all housing. It was also assumed that new projected households had existing vacancies. The full benchmark was not applied to new households. Instead, the difference between the benchmark and the current vacancy rate was applied. The replacement adjustment was applied as it has been in the past.

PROJECTED HOUSING NEED: Six SoCal Counties

1 circle = 10,000 households



Lastly, the Dept. of Housing and Community Development double counted by adding two new factors that had already been factored into household forecasts made by the Dept. of Finance (DOF).

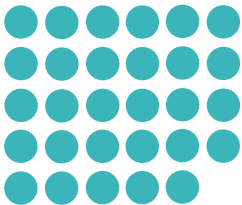
Two new factors were introduced into the 6th assessment – overcrowding and cost burdening. These factors had already been rolled into the DOF’s household projections. The DOF explicitly recognized that regional household formation rates might be depressed (a symptom of overcrowding and cost-burdening) because of the affordable housing crisis. The household formation rate used by the DOF is higher than the actual rate experienced. As such it generates a higher housing target meant to relieve overcrowding and cost-burdening.

PROJECTED HOUSING NEED: Six SoCal Counties

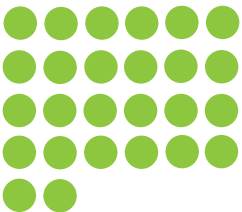
1 circle = 10,000 households

Additional HH by 2030

Home-owned
(290,000)



Rentals (261,000)



Projected Households already factors in overcrowding and cost-burdening

From the Department of Finance

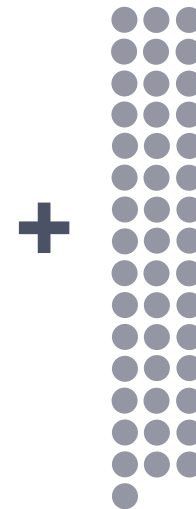
“The argument was that the Great Recession and the affordability crisis which impact recent trends in headship should not be allowed to solely dominate the projection, rather some return to underlying socio-cultural norms of homeownership/fewer roommates is a beneficial assumption”



A DOUBLE COUNT

Overcrowding Adjustment*

(460,000)



Cost Burdening Adjustment**

(118,000)



* In addition to double counting, HCD incorrectly calculated the overcrowding factor. They assumed that for every house that was overcrowded another house would be required to relieve overcrowding. The more accurate analysis would be to assess the number of extra people to be housed and divide by the average household size.
 ** HCD only applied cost-burdening adjustments to future households not existing households. It is unclear why cost-burdening would only be considered an issue for future households, as the data is for current households.

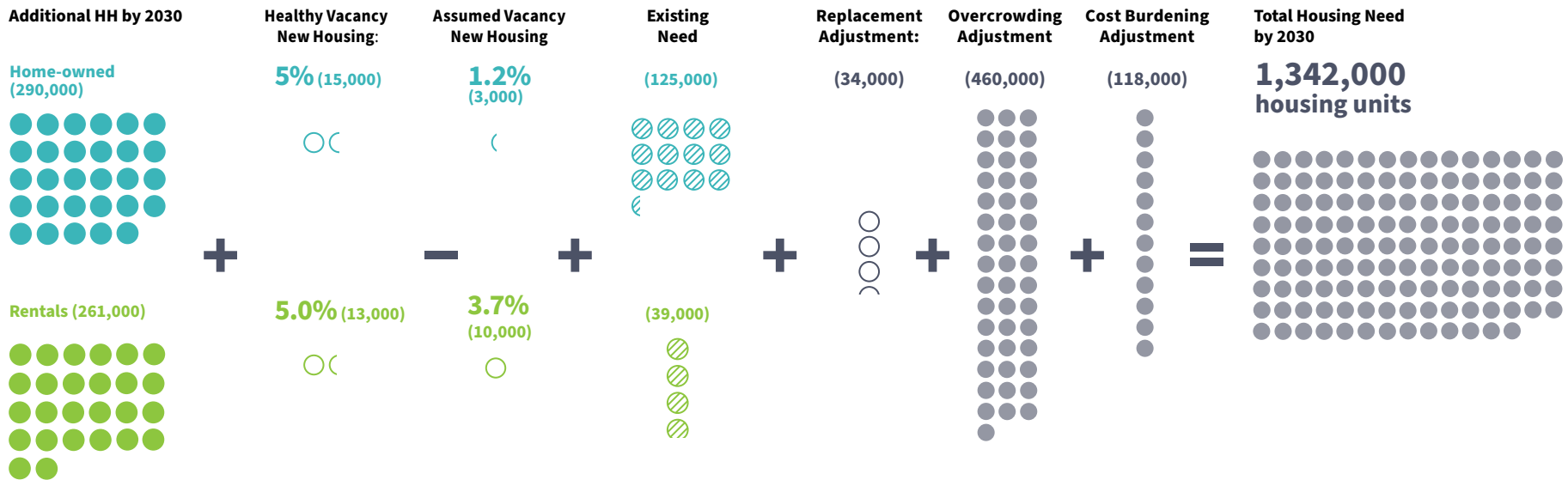
The vacancy errors and double counting resulted in a doubling of the housing needs assessment for the six counties of SoCal.

TYPICAL METHODOLOGY

1 circle = 10,000 households



HCD 6TH CYCLE METHODOLOGY



Complete data tables: *RHNA Data and Models 6th cycle*, www.embarcaderoinstitute.com

References used in the analysis :

Dept. of Housing and Community Development (HCD) <https://www.hcd.ca.gov>

Regional Housing Needs Allocation and Housing Elements

Regional Housing Needs

Allocations for 6th Cycle Housing Elements:

- Association of Bay Area Governments Regional Housing Need Determination Plan for the Sixth Housing Element Update
- Sacramento Area Council of Governments Regional Housing Need Determination for the Sixth Housing Element Update
- Southern California Association of Governments Regional Housing Need Determination for the Sixth Housing Element Update
- San Diego Association of Governments Regional Housing Need Determination and Plan for the Sixth Housing Element Update

Allocations for 5th Cycle Housing Elements:

- Association of Bay Area Governments (February 24, 2012)
- Sacramento Area Council of Governments (September 26, 2011)
- San Diego Association of Governments (November 23, 2010)
- Southern California Association of Governments (August 17, 2011)

Annual Progress Reports

Annual Progress Report APR: 5th Cycle Annual Progress Report Permit Summary (updated 7/30/2020)

Allocations for Earlier Cycles and Housing Element

- RHNA 2007-2014 - Housing Methodology Committee Agenda Packet 07-27-06
- Regional Housing Needs Plan 2006 to 2013 SACOG February 2008
- 3rd and 4th Cycle RHNA allocations (data sent in personal communication with the Department of Housing and Community Development)

Department of Finance Methodology for Household Forecasts

- "Read Me" P4 Tables : Household Projections 2020 to 2030
- Association of Bay Area Governemnets Digital Library: RHNA Documents, Regional Housing Neeed Allocation Documents
- RHNA 2007-2014 - Housing Methodology Committee Agenda Packet 07-27-06, Regional Housing Need Allocation p 2

Other Housing Assessment Methodologies

"Mckinsey & Company: A TOOL KIT TO CLOSE CALIFORNIA'S HOUSING GAP: 3.5 MILLION HOMES BY 2025", October 2016

Jobs to Housing

Employment Development Department, State of California, Employment Projections : Long Term Projections
<https://www.labormarketinfo.edd.ca.gov/data/employment-projections.html>