

ASSEMBLY BILL

No. 1397

Introduced by Assembly Member Low
(Coauthors: Assembly Members Bloom and Chiu)
(Coauthor: Senator Wiener)

February 17, 2017

An act to amend Sections 65580, 65583, and 65583.2 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1397, as introduced, Low. Local planning: housing element: inventory of land for residential development.

Existing law, the Planning and Zoning Law, requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element. Existing law requires the housing element to contain, among other things, an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment.

This bill would revise the inventory of land suitable for residential development to include vacant sites and sites that have realistic and demonstrated potential for redevelopment to meet a portion of the locality's housing need for a designated income level. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

Existing law requires the inventory of land to include, among other things, a general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. Existing law specifies that this information does not need to be identified on a site-specific basis.

This bill would instead require parcels included in the inventory to have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan to secure sufficient water, sewer, and dry utilities supply to support housing development within 3 years of the beginning the planning period. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

Existing law requires the housing element to contain a program that sets forth a schedule of actions during the planning period that the local government is undertaking, or intends to undertake, to implement the policies and achieve the goals and objectives of the housing element. Existing law requires a city or county, based on the inventory of land, to determine whether each site in the inventory can accommodate some portion of its share of the regional housing need, as specified.

This bill would also require the inventory to specify for each site the number of units at each income level that can realistically be accommodated on that site, as specified. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

Existing law requires a city or county, for specified sites, to specify additional development potential for each site within the planning and period and to provide an explanation of the methodology used to determine the development potential. Existing law require the methodology to consider specified factors, including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

This bill would instead require the methodology to demonstrate that the existing use identified does not constitute an impediment to additional residential development during the period covered by the element, as specified. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

Existing law requires the program to accommodate 100% of the allocated very low and low-income housing need for which site capacity has not been identified. Existing law requires these sites to be zoned with specified minimum density and development standards.

This bill would require these sites to have sufficient water, sewer, and other dry utilities available and accessible within 3 years of the beginning of the planning period. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

This bill would also make legislative findings and declarations.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 65580 of the Government Code is
2 amended to read:

3 65580. The Legislature finds and declares as follows:

4 (a) The availability of housing is of vital statewide importance,
5 and the early attainment of decent housing and a suitable living
6 environment for every Californian, including farmworkers, is a
7 priority of the highest order.

8 (b) The early attainment of this goal requires the cooperative
9 participation of government and the private sector in an effort to
10 expand housing opportunities and accommodate the housing needs
11 of Californians of all economic levels.

12 (c) The provision of housing affordable to low- and
13 moderate-income households requires the cooperation of all levels
14 of government.

15 (d) Local and state governments have a responsibility to use the
16 powers vested in them to facilitate the improvement and
17 development of housing to make adequate provision for the housing
18 needs of all economic segments of the community.

19 (e) The Legislature recognizes that in carrying out this
20 responsibility, each local government also has the responsibility
21 to consider economic, environmental, and fiscal factors and
22 community goals set forth in the general plan and to cooperate
23 with other local governments and the state in addressing regional
24 housing needs.

1 (f) *Designating and maintaining a supply of land and adequate*
 2 *sites suitable, feasible, and available for the development of*
 3 *housing sufficient to meet the locality’s housing need for all income*
 4 *levels is essential to achieving the state’s housing goals and the*
 5 *purposes of this article.*

6 SEC. 2. Section 65583 of the Government Code is amended
 7 to read:

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

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

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

38 (2) An analysis and documentation of household characteristics,
 39 including level of payment compared to ability to pay, housing

1 characteristics, including overcrowding, and housing stock
2 condition.

3 (3) An inventory of land suitable for residential development,
4 including vacant sites and sites having *realistic and demonstrated*
5 potential for ~~redevelopment~~, *redevelopment to meet a portion of*
6 *the locality's housing need for a designated income level*, and an
7 analysis of the relationship of zoning and public facilities and
8 services to these sites.

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

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

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

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

38 (iv) The provision of onsite management.

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

- 1 (vi) The length of stay.
- 2 (vii) Lighting.
- 3 (viii) Security during hours that the emergency shelter is in
- 4 operation.

5 (B) The permit processing, development, and management
6 standards applied under this paragraph shall not be deemed to be
7 discretionary acts within the meaning of the California
8 Environmental Quality Act (Division 13 (commencing with Section
9 21000) of the Public Resources Code).

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

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

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

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

5 (7) An analysis of any special housing needs, such as those of
6 the elderly; persons with disabilities, including a developmental
7 disability, as defined in Section 4512 of the Welfare and
8 Institutions Code; large families; farmworkers; families with female
9 heads of households; and families and persons in need of
10 emergency shelter. The need for emergency shelter shall be
11 assessed based on annual and seasonal need. The need for
12 emergency shelter may be reduced by the number of supportive
13 housing units that are identified in an adopted 10-year plan to end
14 chronic homelessness and that are either vacant or for which
15 funding has been identified to allow construction during the
16 planning period. An analysis of special housing needs by a city or
17 county may include an analysis of the need for frequent user
18 coordinated care housing services.

19 (8) An analysis of opportunities for energy conservation with
20 respect to residential development. Cities and counties are
21 encouraged to include weatherization and energy efficiency
22 improvements as part of publicly subsidized housing rehabilitation
23 projects. This may include energy efficiency measures that
24 encompass the building envelope, its heating and cooling systems,
25 and its electrical system.

26 (9) An analysis of existing assisted housing developments that
27 are eligible to change from low-income housing uses during the
28 next 10 years due to termination of subsidy contracts, mortgage
29 prepayment, or expiration of restrictions on use. "Assisted housing
30 developments," for the purpose of this section, shall mean
31 multifamily rental housing that receives governmental assistance
32 under federal programs listed in subdivision (a) of Section
33 65863.10, state and local multifamily revenue bond programs,
34 local redevelopment programs, the federal Community
35 Development Block Grant Program, or local in-lieu fees. "Assisted
36 housing developments" shall also include multifamily rental units
37 that were developed pursuant to a local inclusionary housing
38 program or used to qualify for a density bonus pursuant to Section
39 65916.

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

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

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

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

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

35 (2) It is recognized that the total housing needs identified
36 pursuant to subdivision (a) may exceed available resources and
37 the community’s ability to satisfy this need within the content of
38 the general plan requirements outlined in Article 5 (commencing
39 with Section 65300). Under these circumstances, the quantified
40 objectives need not be identical to the total housing needs. The

1 quantified objectives shall establish the maximum number of
2 housing units by income category, including extremely low income,
3 that can be constructed, rehabilitated, and conserved over a
4 five-year time period.

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

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

36 (A) Where the inventory of sites, pursuant to paragraph (3) of
37 subdivision (a), does not identify adequate sites to accommodate
38 the need for groups of all household income levels pursuant to
39 Section 65584, rezoning of those sites, including adoption of
40 minimum density and development standards, for jurisdictions

1 with an eight-year housing element planning period pursuant to
2 Section 65588, shall be completed no later than three years after
3 either the date the housing element is adopted pursuant to
4 subdivision (f) of Section 65585 or the date that is 90 days after
5 receipt of comments from the department pursuant to subdivision
6 (b) of Section 65585, whichever is earlier, unless the deadline is
7 extended pursuant to subdivision (f). Notwithstanding the
8 foregoing, for a local government that fails to adopt a housing
9 element within 120 days of the statutory deadline in Section 65588
10 for adoption of the housing element, rezoning of those sites,
11 including adoption of minimum density and development standards,
12 shall be completed no later than three years and 120 days from the
13 statutory deadline in Section 65588 for adoption of the housing
14 element.

15 (B) Where the inventory of sites, pursuant to paragraph (3) of
16 subdivision (a), does not identify adequate sites to accommodate
17 the need for groups of all household income levels pursuant to
18 Section 65584, the program shall identify sites that can be
19 developed for housing within the planning period pursuant to
20 subdivision (h) of Section 65583.2. The identification of sites shall
21 include all components specified in subdivision (b) of Section
22 65583.2.

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

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

34 (3) Address and, where appropriate and legally possible, remove
35 governmental constraints to the maintenance, improvement, and
36 development of housing, including housing for all income levels
37 and housing for persons with disabilities. The program shall remove
38 constraints to, and provide reasonable accommodations for housing
39 designed for, intended for occupancy by, or with supportive
40 services for, persons with disabilities.

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

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

8 (6) Preserve for lower income households the assisted housing
9 developments identified pursuant to paragraph (9) of subdivision
10 (a). The program for preservation of the assisted housing
11 developments shall utilize, to the extent necessary, all available
12 federal, state, and local financing and subsidy programs identified
13 in paragraph (9) of subdivision (a), except where a community has
14 other urgent needs for which alternative funding sources are not
15 available. The program may include strategies that involve local
16 regulation and technical assistance.

17 (7) Include an identification of the agencies and officials
18 responsible for the implementation of the various actions and the
19 means by which consistency will be achieved with other general
20 plan elements and community goals.

21 (8) Include a diligent effort by the local government to achieve
22 public participation of all economic segments of the community
23 in the development of the housing element, and the program shall
24 describe this effort.

25 (d) (1) A local government may satisfy all or part of its
26 requirement to identify a zone or zones suitable for the
27 development of emergency shelters pursuant to paragraph (4) of
28 subdivision (a) by adopting and implementing a multijurisdictional
29 agreement, with a maximum of two other adjacent communities,
30 that requires the participating jurisdictions to develop at least one
31 year-round emergency shelter within two years of the beginning
32 of the planning period.

33 (2) The agreement shall allocate a portion of the new shelter
34 capacity to each jurisdiction as credit toward its emergency shelter
35 need, and each jurisdiction shall describe how the capacity was
36 allocated as part of its housing element.

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

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

1 (B) The jurisdiction’s contribution to the facility for both the
2 development and ongoing operation and management of the
3 facility.

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

6 (4) The aggregate capacity claimed by the participating
7 jurisdictions in their housing elements shall not exceed the actual
8 capacity of the shelter.

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

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

17 (2) Any housing element or housing element amendment
18 prepared pursuant to subdivision (e) of Section 65588 or Section
19 65584.02, when the city, county, or city and county fails to submit
20 the first draft to the department before the due date specified in
21 Section 65588 or 65584.02.

22 (f) The deadline for completing required rezoning pursuant to
23 subparagraph (A) of paragraph (1) of subdivision (c) shall be
24 extended by one year if the local government has completed the
25 rezoning at densities sufficient to accommodate at least 75 percent
26 of the units for low- and very low income households and if the
27 legislative body at the conclusion of a public hearing determines,
28 based upon substantial evidence, that any of the following
29 circumstances exist:

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

33 (2) The local government is unable to complete the rezoning
34 because of infrastructure deficiencies due to fiscal or regulatory
35 constraints.

36 (3) The local government must undertake a major revision to
37 its general plan in order to accommodate the housing-related
38 policies of a sustainable communities strategy or an alternative
39 planning strategy adopted pursuant to Section 65080.

1 The resolution and the findings shall be transmitted to the
2 department together with a detailed budget and schedule for
3 preparation and adoption of the required rezonings, including plans
4 for citizen participation and expected interim action. The schedule
5 shall provide for adoption of the required rezoning within one year
6 of the adoption of the resolution.

7 (g) (1) If a local government fails to complete the rezoning by
8 the deadline provided in subparagraph (A) of paragraph (1) of
9 subdivision (c), as it may be extended pursuant to subdivision (f),
10 except as provided in paragraph (2), a local government may not
11 disapprove a housing development project, nor require a
12 conditional use permit, planned unit development permit, or other
13 locally imposed discretionary permit, or impose a condition that
14 would render the project infeasible, if the housing development
15 project (A) is proposed to be located on a site required to be
16 rezoned pursuant to the program action required by that
17 subparagraph and (B) complies with applicable, objective general
18 plan and zoning standards and criteria, including design review
19 standards, described in the program action required by that
20 subparagraph. Any subdivision of sites shall be subject to the
21 Subdivision Map Act (Division 2 (commencing with Section
22 66410)). Design review shall not constitute a “project” for purposes
23 of Division 13 (commencing with Section 21000) of the Public
24 Resources Code.

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

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

37 (B) There is no feasible method to satisfactorily mitigate or
38 avoid the adverse impact identified pursuant to paragraph (1), other
39 than the disapproval of the housing development project or the

1 approval of the project upon the condition that it be developed at
2 a lower density.

3 (3) The applicant or any interested person may bring an action
4 to enforce this subdivision. If a court finds that the local agency
5 disapproved a project or conditioned its approval in violation of
6 this subdivision, the court shall issue an order or judgment
7 compelling compliance within 60 days. The court shall retain
8 jurisdiction to ensure that its order or judgment is carried out. If
9 the court determines that its order or judgment has not been carried
10 out within 60 days, the court may issue further orders to ensure
11 that the purposes and policies of this subdivision are fulfilled. In
12 any such action, the city, county, or city and county shall bear the
13 burden of proof.

14 (4) For purposes of this subdivision, “housing development
15 project” means a project to construct residential units for which
16 the project developer provides sufficient legal commitments to the
17 appropriate local agency to ensure the continued availability and
18 use of at least 49 percent of the housing units for very low, low-,
19 and moderate-income households with an affordable housing cost
20 or affordable rent, as defined in Section 50052.5 or 50053 of the
21 Health and Safety Code, respectively, for the period required by
22 the applicable financing.

23 (h) An action to enforce the program actions of the housing
24 element shall be brought pursuant to Section 1085 of the Code of
25 Civil Procedure.

26 SEC. 3. Section 65583.2 of the Government Code, as amended
27 by Section 1 of Chapter 460 of the Statutes of 2016, is amended
28 to read:

29 65583.2. (a) A city’s or county’s inventory of land suitable
30 for residential development pursuant to paragraph (3) of
31 subdivision (a) of Section 65583 shall be used to identify sites that
32 can be developed for housing within the planning period and that
33 are sufficient to provide for the jurisdiction’s share of the regional
34 housing need for all income levels pursuant to Section 65584. As
35 used in this section, “land suitable for residential development”
36 includes all of the following: *following sites that meet the standards*
37 *set forth in subdivisions (c) and (g):*

- 38 (1) Vacant sites zoned for residential use.
- 39 (2) Vacant sites zoned for nonresidential use that allows
40 residential development.

1 (3) Residentially zoned sites that are capable of being developed
2 at a higher density, including ~~the airspace above~~ sites owned or
3 leased by a city, county, or city and county.

4 (4) Sites zoned for nonresidential use that can be redeveloped
5 ~~for, and as necessary, rezoned for,~~ for residential use, *and for which*
6 *the element includes a program to rezone the site, as necessary,*
7 *to permit residential use,* including ~~above~~ sites owned or leased
8 by a city, county, or city and county.

9 (b) The inventory of land shall include all of the following:

10 (1) A listing of properties by parcel number or other unique
11 reference.

12 (2) The size of each property listed pursuant to paragraph (1),
13 and the general plan designation and zoning of each property.

14 (3) For nonvacant sites, a description of the existing use of each
15 property.

16 (4) A general description of any environmental constraints to
17 the development of housing within the jurisdiction, the
18 documentation for which has been made available to the
19 jurisdiction. This information need not be identified on a
20 site-specific basis.

21 (5) (A) ~~A general description of existing or planned water,~~
22 ~~sewer, and other dry utilities supply, including the availability and~~
23 ~~access to distribution facilities. This information need not be~~
24 ~~identified on a site-specific basis.~~

25 (B) *Parcels included in the inventory must have sufficient water,*
26 *sewer, and dry utilities supply available and accessible to support*
27 *housing development or be included in an existing general plan*
28 *program or other mandatory program or plan, including a program*
29 *or plan of a public or private entity providing water or sewer*
30 *service, to secure sufficient water, sewer, and dry utilities supply*
31 *to support housing development within three years of the beginning*
32 *of the planning period.*

33 (6) Sites identified as available for housing for above
34 moderate-income households in areas not served by public sewer
35 systems. This information need not be identified on a site-specific
36 basis.

37 (7) A map that shows the location of the sites included in the
38 inventory, such as the land use map from the jurisdiction's general
39 plan, for reference purposes only.

1 (c) Based on the information provided in subdivision (b), a city
 2 or county shall determine whether each site in the inventory can
 3 accommodate *the development of* some portion of its share of the
 4 regional housing need by income level during the planning period,
 5 as determined pursuant to Section 65584. *The inventory shall*
 6 *specify for each site the number of units at each income level that*
 7 *can realistically be accommodated on that site. A site identified*
 8 *pursuant to paragraph (3) or (4) of subdivision (a) in a prior*
 9 *housing element that was not developed to accommodate a portion*
 10 *of the locality's housing need shall not be deemed adequate to*
 11 *accommodate a portion of the housing need for lower income*
 12 *households that must be accommodated in the current housing*
 13 *element planning period unless the site has been zoned at*
 14 *residential densities consistent with paragraph (3) of this*
 15 *subdivision and the site is subject to a program in the element*
 16 *requiring rezoning to allow residential use by right for*
 17 *developments that are 100 percent affordable to lower income*
 18 *households within two years of the beginning of the planning*
 19 *period. The analysis shall determine whether the inventory can*
 20 *provide for a variety of types of housing, including multifamily*
 21 *rental housing, factory-built housing, mobilehomes, housing for*
 22 *agricultural employees, emergency shelters, and transitional*
 23 ~~housing.~~ *housing and whether each site that can accommodate*
 24 *lower income housing will have sufficient water, sewer, and other*
 25 *dry utilities available and accessible within three years of the*
 26 *beginning of the planning period. The city or county shall*
 27 *determine the number of housing units that can be accommodated*
 28 *on each site as follows:*

29 (1) If local law or regulations require the development of a site
 30 at a minimum density, the department shall accept the planning
 31 agency's calculation of the total housing unit capacity on that site
 32 based on the established minimum density. If the city or county
 33 does not adopt a law or regulations requiring the development of
 34 a site at a minimum density, then it shall demonstrate how the
 35 number of units determined for that site pursuant to this subdivision
 36 will be accommodated.

37 (2) The number of units calculated pursuant to paragraph (1)
 38 shall be adjusted as necessary, based on the land use controls and
 39 site improvements requirement identified in paragraph (5) of
 40 subdivision (a) of Section ~~65583~~. *65583, the realistic development*

1 capacity for the site, and on the availability and accessibility of
2 sufficient water, sewer, and dry utilities within three years of the
3 beginning of the planning period.

4 (A) A site smaller than one acre shall not be deemed realistic
5 for development to accommodate lower income housing need
6 unless a development affordable to lower income households has
7 been proposed and approved for development on the site, unless
8 subject to a program in the element requiring consolidation with
9 a suitable adjacent site for development at greater than one acre
10 within two years of the beginning of the planning period, or unless
11 the locality can demonstrate that sites of equivalent size were
12 successfully developed during the prior planning period for an
13 equivalent number of lower income housing units as projected for
14 the site.

15 (B) The capacity of a site zoned for development at densities
16 that exceed the maximum density of existing or approved
17 multifamily residential development shall be calculated at the
18 densities required by paragraph (3) unless a development at a
19 greater density has been proposed and approved for development
20 on the site.

21 (C) A site larger than 10 acres shall not be deemed realistic for
22 development to accommodate lower income housing need unless
23 a development affordable to lower income households has been
24 proposed and approved for development on the site, or unless the
25 locality can demonstrate that sites of equivalent size were
26 successfully developed during the prior planning period for an
27 equivalent number of lower income housing units as projected for
28 the site.

29 (D) A site described in paragraph (3) of subdivision (b) shall
30 not be deemed realistic for development to accommodate lower
31 income housing need unless a development affordable to lower
32 income households has been proposed and approved for
33 development on the site, or unless subject to a program in the
34 housing element requiring the site to be rezoned to residential
35 densities consistent with paragraph (3) of this subdivision and to
36 allow residential use by right for developments that are 100 percent
37 affordable to lower income households.

38 (3) For the number of units calculated to accommodate its share
39 of the regional housing need for lower income households pursuant
40 to paragraph (2), a city or county shall do either of the following:

1 (A) Provide an analysis demonstrating how the adopted densities
2 accommodate this need. The analysis shall include, but is not
3 limited to, factors such as market demand, financial feasibility, or
4 information based on development project experience within a
5 zone or zones that provide housing for lower income households.
6 (B) The following densities shall be deemed appropriate to
7 accommodate housing for lower income households:
8 (i) For an incorporated city within a nonmetropolitan county
9 and for a nonmetropolitan county that has a micropolitan area:
10 sites allowing at least 15 units per acre.
11 (ii) For an unincorporated area in a nonmetropolitan county not
12 included in clause (i): sites allowing at least 10 units per acre.
13 (iii) For a suburban jurisdiction: sites allowing at least 20 units
14 per acre.
15 (iv) For a jurisdiction in a metropolitan county: sites allowing
16 at least 30 units per acre.
17 (d) For purposes of this section, a metropolitan county,
18 nonmetropolitan county, and nonmetropolitan county with a
19 micropolitan area shall be as determined by the United States
20 Census Bureau. A nonmetropolitan county with a micropolitan
21 area includes the following counties: Del Norte, Humboldt, Lake,
22 Mendocino, Nevada, Tehama, and Tuolumne and other counties
23 as may be determined by the United States Census Bureau to be
24 nonmetropolitan counties with micropolitan areas in the future.
25 (e) (1) Except as provided in paragraph (2), a jurisdiction shall
26 be considered suburban if the jurisdiction does not meet the
27 requirements of clauses (i) and (ii) of subparagraph (B) of
28 paragraph (3) of subdivision (c) and is located in a Metropolitan
29 Statistical Area (MSA) of less than 2,000,000 in population, unless
30 that jurisdiction's population is greater than 100,000, in which
31 case it shall be considered metropolitan. A county, not including
32 the City and County of San Francisco, shall be considered suburban
33 unless the county is in an MSA of 2,000,000 or greater in
34 population in which case the county shall be considered
35 metropolitan.
36 (2) (A) (i) Notwithstanding paragraph (1), if a county that is
37 in the San Francisco-Oakland-Fremont California MSA has a
38 population of less than 400,000, that county shall be considered
39 suburban. If this county includes an incorporated city that has a
40 population of less than 100,000, this city shall also be considered

1 suburban. This paragraph shall apply to a housing element revision
2 cycle, as described in subparagraph (A) of paragraph (3) of
3 subdivision (e) of Section 65588, that is in effect from July 1,
4 2014, to December 31, 2023, inclusive.

5 (ii) A county subject to this subparagraph shall utilize the sum
6 existing in the county’s housing trust fund as of June 30, 2013, for
7 the development and preservation of housing affordable to low- and
8 very low income households.

9 (B) A jurisdiction that is classified as suburban pursuant to this
10 paragraph shall report to the Assembly Committee on Housing
11 and Community Development, the Senate Committee on
12 Transportation and Housing, and the Department of Housing and
13 Community Development regarding its progress in developing
14 low- and very low income housing consistent with the requirements
15 of Section 65400. The report shall be provided twice: once, on or
16 before December 31, 2019, which report shall address the initial
17 four years of the housing element cycle, and a second time, on or
18 before December 31, 2023, which report shall address the
19 subsequent four years of the housing element cycle and the cycle
20 as a whole. The reports shall be provided consistent with the
21 requirements of Section 9795.

22 (f) A jurisdiction shall be considered metropolitan if the
23 jurisdiction does not meet the requirements for “suburban area”
24 above and is located in an MSA of 2,000,000 or greater in
25 population, unless that jurisdiction’s population is less than 25,000
26 in which case it shall be considered suburban.

27 (g) (1) For sites described in paragraph (3) of subdivision (b),
28 the city or county shall specify the additional development potential
29 for each site within the planning period and shall provide an
30 explanation of the methodology used to determine the development
31 potential. The methodology shall ~~consider factors including the~~
32 ~~extent to which~~ *demonstrate that the existing uses may use*
33 *identified pursuant to paragraph (3) of subdivision (b) does not*
34 *constitute an impediment to additional residential development*
35 *during the period covered by the element. An existing use shall be*
36 *presumed to impede additional residential development, absent*
37 *findings based on substantial evidence that the use is likely to be*
38 *discontinued during the planning period. This shall include an*
39 *analysis of the jurisdiction’s past experience with converting*
40 *existing uses to higher density residential development, the current*

1 market demand for the existing use, an analysis of any existing
2 leases or other contracts that would perpetuate the existing use
3 or prevent redevelopment of the site for additional residential
4 development, development trends, market conditions, and
5 regulatory or other incentives or standards to encourage additional
6 residential development on these sites.

7 (2) *In addition to the requirements in paragraph (1), sites that*
8 *currently have residential uses, or within the past five years have*
9 *had residential uses that have been vacated or demolished, that*
10 *are or were subject to a recorded covenant, ordinance, or law that*
11 *restricts rents to levels affordable to persons and families of low*
12 *or very low income, subject to any other form of rent or price*
13 *control through a public entity's valid exercise of its police power,*
14 *or occupied by low or very low income households, shall be subject*
15 *to a policy requiring the replacement of all those units affordable*
16 *to the same or lower income level as a condition of any*
17 *development on the site.*

18 (h) The program required by subparagraph (A) of paragraph (1)
19 of subdivision (c) of Section 65583 shall accommodate 100 percent
20 of the need for housing for very low and low-income households
21 allocated pursuant to Section 65584 for which site capacity has
22 not been identified in the inventory of sites pursuant to paragraph
23 (3) of subdivision (a) on sites that shall be zoned to permit
24 owner-occupied and rental multifamily residential use by right *for*
25 *developments that are 100 percent affordable to lower income*
26 *households* during the planning period. These sites shall be zoned
27 with minimum density and development standards that permit at
28 least 16 units per site at a density of at least 16 units per acre in
29 jurisdictions described in clause (i) of subparagraph (B) of
30 paragraph (3) of subdivision (c) and at least 20 units per acre in
31 jurisdictions described in clauses (iii) and (iv) of subparagraph (B)
32 of paragraph (3) of subdivision (c). At least 50 percent of the very
33 low and low-income housing need shall be accommodated on sites
34 designated for residential use and for which nonresidential uses
35 or mixed-uses are not permitted, except that a city or county may
36 accommodate all of the very low and low-income housing need
37 on sites designated for mixed uses if those sites allow 100 percent
38 residential use and require that residential use occupy 50 percent
39 of the total floor area of a mixed-use project. *These sites also must*
40 *have sufficient water, sewer, and other dry utilities available and*

1 *accessible within three years of the beginning of the planning*
2 *period.*

3 (i) For purposes of this section and Section 65583, the phrase
4 “use by right” shall mean that the local government’s review of
5 the owner-occupied or multifamily residential use may not require
6 a conditional use permit, planned unit development permit, or other
7 discretionary local government review or approval that would
8 constitute a “project” for purposes of Division 13 (commencing
9 with Section 21000) of the Public Resources Code. Any subdivision
10 of the sites shall be subject to all laws, including, but not limited
11 to, the local government ordinance implementing the Subdivision
12 Map Act. A local ordinance may provide that “use by right” does
13 not exempt the use from design review. However, that design
14 review shall not constitute a “project” for purposes of Division 13
15 (commencing with Section 21000) of the Public Resources Code.
16 Use by right for all rental multifamily residential housing shall be
17 provided in accordance with subdivision (f) of Section 65589.5.

18 (j) Notwithstanding any other provision of this section, within
19 one-half mile of a Sonoma-Marín Area Rail Transit station, housing
20 density requirements in place on June 30, 2014, shall apply.

21 (k) For purposes of subdivisions (a) and (b), the department
22 shall provide guidance to local governments to properly survey,
23 detail, and account for sites listed pursuant to Section 65585.

24 (l) This section shall remain in effect only until December 31,
25 2023, and as of that date is repealed, unless a later enacted statute,
26 that is enacted before December 31, 2023, deletes or extends that
27 date.

28 SEC. 4. Section 65583.2 of the Government Code, as amended
29 by Section 2 of Chapter 460 of the Statutes of 2016, is amended
30 to read:

31 65583.2. (a) A city’s or county’s inventory of land suitable
32 for residential development pursuant to paragraph (3) of
33 subdivision (a) of Section 65583 shall be used to identify sites that
34 can be developed for housing within the planning period and that
35 are sufficient to provide for the jurisdiction’s share of the regional
36 housing need for all income levels pursuant to Section 65584. As
37 used in this section, “land suitable for residential development”
38 includes all of the following: ~~following~~ *following sites that meet the standards*
39 *set forth in subdivisions (c) and (g):*

40 (1) Vacant sites zoned for residential use.

- 1 (2) Vacant sites zoned for nonresidential use that allows
2 residential development.
- 3 (3) Residentially zoned sites that are capable of being developed
4 at a higher density, including ~~the airspace above~~ sites owned or
5 leased by a city, county, or city and county.
- 6 (4) Sites zoned for nonresidential use that can be redeveloped
7 ~~for, and, as necessary, rezoned for,~~ for residential use, *and for*
8 *which the element includes a program to rezone the sites, as*
9 *necessary, to permit residential use,* including ~~above~~ sites owned
10 or leased by a city, county, or city and county.
- 11 (b) The inventory of land shall include all of the following:
- 12 (1) A listing of properties by parcel number or other unique
13 reference.
- 14 (2) The size of each property listed pursuant to paragraph (1),
15 and the general plan designation and zoning of each property.
- 16 (3) For nonvacant sites, a description of the existing use of each
17 property.
- 18 (4) A general description of any environmental constraints to
19 the development of housing within the jurisdiction, the
20 documentation for which has been made available to the
21 jurisdiction. This information need not be identified on a
22 site-specific basis.
- 23 (5) (A) ~~A general description of existing or planned water,~~
24 ~~sewer, and other dry utilities supply, including the availability and~~
25 ~~access to distribution facilities. This information need not be~~
26 ~~identified on a site-specific basis.~~
- 27 (B) *Parcels included in the inventory must have sufficient water,*
28 *sewer, and dry utilities supply available and accessible to support*
29 *housing development or be included in an existing general plan*
30 *program or other mandatory program or plan, including a program*
31 *or plan of a public or private entity providing water or sewer*
32 *service, to secure sufficient water, sewer, and dry utilities supply*
33 *to support housing development within three years of the beginning*
34 *of the planning period.*
- 35 (6) Sites identified as available for housing for above
36 moderate-income households in areas not served by public sewer
37 systems. This information need not be identified on a site-specific
38 basis.

1 (7) A map that shows the location of the sites included in the
2 inventory, such as the land use map from the jurisdiction’s general
3 plan for reference purposes only.

4 (c) Based on the information provided in subdivision (b), a city
5 or county shall determine whether each site in the inventory can
6 accommodate *the development of* some portion of its share of the
7 regional housing need by income level during the planning period,
8 as determined pursuant to Section 65584. *The inventory shall*
9 *specify for each site the number of units at each income level that*
10 *can realistically be accommodated on that site. A site identified*
11 *pursuant to paragraph (3) or (4) of subdivision (a) in a prior*
12 *housing element that was not developed to accommodate a portion*
13 *of the locality’s housing need shall not be deemed adequate to*
14 *accommodate a portion of the housing need for lower income*
15 *households that must be accommodated in the current housing*
16 *element planning period unless the site has been zoned at*
17 *residential densities consistent with paragraph (3) of this*
18 *subdivision and the site is subject to a program in the element*
19 *requiring rezoning to allow residential use by right for*
20 *developments that are 100 percent affordable to lower income*
21 *households within two years of the beginning of the planning*
22 *period. The analysis shall determine whether the inventory can*
23 *provide for a variety of types of housing, including multifamily*
24 *rental housing, factory-built housing, mobilehomes, housing for*
25 *agricultural employees, emergency shelters, and transitional*
26 ~~housing.~~ *housing and whether each site that can accommodate*
27 *lower income housing will have sufficient water, sewer, and other*
28 *dry utilities available and accessible within three years of the*
29 *beginning of the planning period. The city or county shall*
30 *determine the number of housing units that can be accommodated*
31 *on each site as follows:*

32 (1) If local law or regulations require the development of a site
33 at a minimum density, the department shall accept the planning
34 agency’s calculation of the total housing unit capacity on that site
35 based on the established minimum density. If the city or county
36 does not adopt a law or regulations requiring the development of
37 a site at a minimum density, then it shall demonstrate how the
38 number of units determined for that site pursuant to this subdivision
39 will be accommodated.

1 (2) The number of units calculated pursuant to paragraph (1)
2 shall be adjusted as necessary, based on the land use controls and
3 site improvements requirement identified in paragraph (5) of
4 subdivision (a) of Section ~~65583~~. *65583, the realistic development*
5 *capacity for the site, and on the availability and accessibility of*
6 *sufficient water, sewer, and dry utilities within three years of the*
7 *beginning of the planning period.*

8 (A) *A site smaller than one acre shall not be deemed realistic*
9 *for development to accommodate lower income housing need*
10 *unless a development affordable to lower income households has*
11 *been proposed and approved for development on the site, unless*
12 *subject to a program in the element requiring consolidation with*
13 *a suitable adjacent site for development at greater than one acre*
14 *within two years of the beginning of the planning period, or unless*
15 *the locality can demonstrate that sites of equivalent size were*
16 *successfully developed during the prior planning period for an*
17 *equivalent number of lower income housing units as projected for*
18 *the site.*

19 (B) *The capacity of a site zoned for development at densities*
20 *that exceed the maximum density of existing or approved*
21 *multifamily residential development shall be calculated at the*
22 *densities required by paragraph (3) unless a development at a*
23 *greater density has been proposed and approved for development*
24 *on the site.*

25 (C) *A site larger than 10 acres shall not be deemed realistic for*
26 *development to accommodate lower income housing need unless*
27 *a development affordable to lower income households has been*
28 *proposed and approved for development on the site, or unless the*
29 *locality can demonstrate that sites of equivalent size were*
30 *successfully developed during the prior planning period for an*
31 *equivalent number of lower income housing units as projected for*
32 *the site.*

33 (D) *A site described in paragraph (3) of subdivision (b) shall*
34 *not be deemed realistic for development to accommodate lower*
35 *income housing need unless a development affordable to lower*
36 *income households has been proposed and approved for*
37 *development on the site, or unless subject to a program in the*
38 *housing element requiring the site to be rezoned to residential*
39 *densities consistent with paragraph (3) of this subdivision and to*

1 *allow residential use by right for developments that are 100 percent*
2 *affordable to lower income households.*

3 (3) For the number of units calculated to accommodate its share
4 of the regional housing need for lower income households pursuant
5 to paragraph (2), a city or county shall do either of the following:

6 (A) Provide an analysis demonstrating how the adopted densities
7 accommodate this need. The analysis shall include, but is not
8 limited to, factors such as market demand, financial feasibility, or
9 information based on development project experience within a
10 zone or zones that provide housing for lower income households.

11 (B) The following densities shall be deemed appropriate to
12 accommodate housing for lower income households:

13 (i) For an incorporated city within a nonmetropolitan county
14 and for a nonmetropolitan county that has a micropolitan area:
15 sites allowing at least 15 units per acre.

16 (ii) For an unincorporated area in a nonmetropolitan county not
17 included in clause (i): sites allowing at least 10 units per acre.

18 (iii) For a suburban jurisdiction: sites allowing at least 20 units
19 per acre.

20 (iv) For a jurisdiction in a metropolitan county: sites allowing
21 at least 30 units per acre.

22 (d) For purposes of this section, a metropolitan county,
23 nonmetropolitan county, and nonmetropolitan county with a
24 micropolitan area shall be as determined by the United States
25 Census Bureau. A nonmetropolitan county with a micropolitan
26 area includes the following counties: Del Norte, Humboldt, Lake,
27 Mendocino, Nevada, Tehama, and Tuolumne and other counties
28 as may be determined by the United States Census Bureau to be
29 nonmetropolitan counties with micropolitan areas in the future.

30 (e) A jurisdiction shall be considered suburban if the jurisdiction
31 does not meet the requirements of clauses (i) and (ii) of
32 subparagraph (B) of paragraph (3) of subdivision (c) and is located
33 in a Metropolitan Statistical Area (MSA) of less than 2,000,000
34 in population, unless that jurisdiction's population is greater than
35 100,000, in which case it shall be considered metropolitan. A
36 county, not including the City and County of San Francisco, shall
37 be considered suburban unless the county is in an MSA of
38 2,000,000 or greater in population in which case the county shall
39 be considered metropolitan.

1 (f) A jurisdiction shall be considered metropolitan if the
 2 jurisdiction does not meet the requirements for “suburban area”
 3 above and is located in an MSA of 2,000,000 or greater in
 4 population, unless that jurisdiction’s population is less than 25,000
 5 in which case it shall be considered suburban.

6 (g) (1) For sites described in paragraph (3) of subdivision (b),
 7 the city or county shall specify the additional development potential
 8 for each site within the planning period and shall provide an
 9 explanation of the methodology used to determine the development
 10 potential. The methodology shall ~~consider factors including the~~
 11 ~~extent to which demonstrate that the existing uses may use~~
 12 ~~identified pursuant to paragraph (3) of subdivision (b) does not~~
 13 constitute an impediment to additional residential *development*
 14 *during the period covered by the element. An existing use shall be*
 15 *presumed to impede additional residential development, absent*
 16 *findings based on substantial evidence that the use is likely to be*
 17 *discontinued during the planning period. This shall include an*
 18 *analysis of the jurisdiction’s past experience with converting*
 19 *existing uses to higher density residential development, the current*
 20 *market demand for the existing use, an analysis of any existing*
 21 *leases or other contracts that would perpetuate the existing use*
 22 *or prevent redevelopment of the site for additional residential*
 23 *development, development trends, market conditions, and*
 24 *regulatory or other incentives or standards to encourage additional*
 25 *residential development on these sites.*

26 (2) *In addition to the requirements in paragraph (1), sites that*
 27 *currently have residential uses, or within the past five years have*
 28 *had residential uses that have been vacated or demolished, that*
 29 *are or were subject to a recorded covenant, ordinance, or law that*
 30 *restricts rents to levels affordable to persons and families of low*
 31 *or very low income, subject to any other form of rent or price*
 32 *control through a public entity’s valid exercise of its police power,*
 33 *or occupied by low or very low income households, shall be subject*
 34 *to a policy requiring the replacement of all those units affordable*
 35 *to the same or lower income level as a condition of any*
 36 *development on the site.*

37 (h) The program required by subparagraph (A) of paragraph (1)
 38 of subdivision (c) of Section 65583 shall accommodate 100 percent
 39 of the need for housing for very low and low-income households
 40 allocated pursuant to Section 65584 for which site capacity has

1 not been identified in the inventory of sites pursuant to paragraph
2 (3) of subdivision (a) on sites that shall be zoned to permit
3 owner-occupied and rental multifamily residential use by right *for*
4 *developments that are 100 percent affordable to lower income*
5 *households* during the planning period. These sites shall be zoned
6 with minimum density and development standards that permit at
7 least 16 units per site at a density of at least 16 units per acre in
8 jurisdictions described in clause (i) of subparagraph (B) of
9 paragraph (3) of subdivision (c) and at least 20 units per acre in
10 jurisdictions described in clauses (iii) and (iv) of subparagraph (B)
11 of paragraph (3) of subdivision (c). At least 50 percent of the very
12 low and low-income housing need shall be accommodated on sites
13 designated for residential use and for which nonresidential uses
14 or mixed-uses are not permitted, except that a city or county may
15 accommodate all of the very low and low-income housing need
16 on sites designated for mixed uses if those sites allow 100 percent
17 residential use and require that residential use occupy 50 percent
18 of the total floor area of a mixed-use project. *These sites also must*
19 *have sufficient water, sewer, and other dry utilities available and*
20 *accessible within three years of the beginning of the planning*
21 *period.*

22 (i) For purposes of this section and Section 65583, the phrase
23 “use by right” shall mean that the local government’s review of
24 the owner-occupied or multifamily residential use may not require
25 a conditional use permit, planned unit development permit, or other
26 discretionary local government review or approval that would
27 constitute a “project” for purposes of Division 13 (commencing
28 with Section 21000) of the Public Resources Code. Any subdivision
29 of the sites shall be subject to all laws, including, but not limited
30 to, the local government ordinance implementing the Subdivision
31 Map Act. A local ordinance may provide that “use by right” does
32 not exempt the use from design review. However, that design
33 review shall not constitute a “project” for purposes of Division 13
34 (commencing with Section 21000) of the Public Resources Code.
35 Use by right for all rental multifamily residential housing shall be
36 provided in accordance with subdivision (f) of Section 65589.5.

37 (j) For purposes of subdivisions (a) and (b), the department shall
38 provide guidance to local governments to properly survey, detail,
39 and account for sites listed pursuant to Section 65585.

40 (k) This section shall become operative on December 31, 2023.

1 SEC. 5. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 a local agency or school district has the authority to levy service
4 charges, fees, or assessments sufficient to pay for the program or
5 level of service mandated by this act, within the meaning of Section
6 17556 of the Government Code.

O