



# **General Plan Update Task Force Meeting**

**October 10, 2013**

7:00 pm to 9:00pm; City Hall, Conference Room 2A

## **Meeting #15 – Housing**

- I. **Call to Order - 7:00 pm**
  
- II. **Roll Call/Introductions**
  
- III. **Comments/Approval of Meeting #14 (Draft Policy Document Review) Summary Notes**
  
- IV. **Housing Element Presentation**
  
- V. **Large Group Discussion and Public Comment Period**
  
- VI. **Adjourn – 9:00 pm**



# General Plan Update Task Force Meeting

## October 10, 2013

### Meeting #15 – Housing

### Memorandum

**TO:** General Plan Update Task Force

**FROM:** Sara Buizer, AICP, Senior Planner

**SUBJECT:** **Housing**

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In preparation for the October 10 meeting of the General Plan Update Task Force on the Housing Element, this memo provides details to facilitate our discussion. Attached for your review are:

- An excerpt of the State Office of Planning and Research's General Plan Guidelines – Chapter 4, Required Elements of the General Plan – Housing.
- An excerpt of Hayward's existing General Plan – the Housing Element (Chapter 5). The full document can be found on the City's web page here: <http://www.hayward-ca.gov/CITY-GOVERNMENT/documents/generalplan/Chapter05-Housing.pdf>



# General Plan Update Task Force Meeting

## Meeting #14 – September 26, 2013: Review of Draft Policy Document

**I. Call to Order**

**II. Roll Call/Introductions**

<b>Task Force Members:</b>	<b>Present</b>	<b>Absent</b>
Alex Harmon	X	
Dana Caines		
Daniel B. Goldstein		
Diane Laine	X	
Edward W. Bogue	X	
Heather Enders		
Julius C. Willis Jr.		
Justin D. King		
Lory Hawley	X	
Monica M. Schultz		
Pedrito C. Gella		
Ryan Fernandez	X	
Stacy Snowman	X	
Veronica Martinez		

Others in Attendance:

- Sara Buizer, City of Hayward, Senior Planner
- Jason Jones, Jones Planning + Design (Contract Planner for the City of Hayward)

**III. Comments/Approval of Meeting # 13**

- No Comments

**IV. Large Group Discussion and Public Comment Period**

**Presentation:**

- Purpose of the meeting to get additional comments on the Administrative Draft Hayward 2040 General Plan from the Task Force

**Task Force Comments:**

- Page 4-28: Mobility: Pedestrian Master Plan: Safe routes to schools. Should there be a safe routes to grocery stores? The plan could look at grocery stores in the community and make sure it is safe and convenient to walk to grocery stores.
  - Complete streets goals and policies will help addresses this
  - Goes with access to healthy foods
- Question: Pedestrian Master Plan: Can we expect Elementary Schools to cross major streets? Safe routes to schools is about safe sidewalks, connections, and improving streets where sidewalks are needed. Park Elementary School's attendance area requires students to cross Jackson, which is not safe for children. School District boundaries affect children's ability to walk to school. Can school boundaries be adjusted to promote safe walks to school?
  - Add Hayward Unified School District to Program M-12 (Safe Routes to Schools)
- Education and Lifelong Learning: Implementation Programs came out really well
  - Cradle to Career Strategic Plan
- Pleased with Natural Resources Element: Creek Day-Lighting Study
- No chickens in the General Plan
- Ed Bogue: Generally against all the Health stuff: does not like it in the General Plan. Would rather have Council priorities. Funding/capital concerns. Fire Station health centers: concerned about funding. Priorities: Can we do all these things?
- Implementation program is key

**Next Steps:**

- Policy Document will be sent to Planning Commission and City Council early next week
- City Council on October 22<sup>nd</sup> and Planning Commission meeting on October 24<sup>th</sup>
- If the Commission and Council changes environmental policies, the schedule will be affected because it changes the EIR analysis
- Implementation: Council may be concerned about timing, funding, staff resources
- October Task Force Meeting: Housing will be discussed. Erik Pearson wants input on trash.
- November Task Force Meeting: meeting will likely be cancelled
- December: Release Celebration Party
- New topic on Hayward 2040: Open Topic
  - Participation has dropped off a bit

- Tool will likely continue through next year
- Neighborhood partnership site may be developed
- Public Information Officer may manage the site

**V. Adjourn**

- ◆ Transit-oriented development strategies. (L)
  - Identify transportation nodes suitable for future transit-oriented development.
  - Adjust traffic level-of-service requirements (traffic congestion standards) around transit-oriented developments to promote transit ridership.
- ◆ The preservation of abandoned railroad rights of way for future transportation corridor use. (L)
- ◆ The development and improvement of bicycle routes and walkways.
- ◆ Proposed truck routes. (N)
- ◆ Policies supporting truck route regulations. (N)
- ◆ The safety of the traveling public, including pedestrians and bicyclists.
- ◆ The development and improvement of port, harbor, and waterway facilities. (L, CO)
- ◆ The development and improvement of aviation facilities. (L)
- ◆ The mitigation of aviation-related hazards (including hazards to aircraft and hazards posed by aircraft). (L, N)
- ◆ The consistency of the general plan with the provisions of any airport land use plan (§65302.3). (L, N)
- ◆ Strategies for the management of parking supply such as increased parking fees, graduated parking fees, metered on-street parking, and staggered work schedules.
- ◆ Strategies for the control of parking demand such as improved transit service, amenities for bicyclists, and subsidized rideshare vehicles.
- ◆ Transportation system management policies.
- ◆ The respective roles of the private sector and various public agencies in developing, improving and maintaining circulation infrastructure.
- ◆ The identification, development and maintenance of evacuation and emergency access routes. (S)
- ◆ Measures that reduce motor vehicle air pollution, consistent with the regional air quality and transportation plan policies. (L, CO)

### Technical Assistance

The following agencies may provide information or assistance in the preparation of the circulation element:

- ◆ California Department of Transportation (Caltrans), including district offices, the Division of Aeronautics, and the Division of Transportation Planning

- ◆ California Public Utilities Commission
- ◆ Regional Transportation Planning Agency (RTPA) or Metropolitan Planning Organization (MPO)

For assistance regarding software to estimate transportation-related air quality impacts, contact the California Air Resources Board's Technical Support Division or the California Energy Commission's PLACE'S Program.

### HOUSING ELEMENT

Unlike the other mandatory elements, the housing element is subject to detailed statutory requirements regarding its content and must be updated every five years. The housing element is also subject to mandatory review by a state agency. This reflects the statutory recognition that the availability of housing is a matter of statewide importance and that cooperation between government and the private sector is critical to attainment of the state's housing goals.

Housing element law requires local governments to adequately plan to meet their existing and projected housing needs including their share of the regional housing need. Housing element law is the state's primary market-based strategy to increase housing supply. The law recognizes the most critical decisions regarding housing development occur at the local level within the context of the general plan. In order for the private sector to adequately address housing needs and demand, local governments must adopt land-use plans and regulatory schemes that provide opportunities for, and do not unduly constrain, housing development for all income groups.

### Statutory Requirements

The housing element requirements listed below are derived from Article 10.6 of the Government Code, §65583 through §65590. The housing element must be comprehensively revised at least every five years to reflect the results of the required periodic review. Section 65588 establishes the timetable for these revisions. Local governments may address these requirements in any format they deem most meaningful to meet the community's needs. A housing element, regardless of its format, must clearly identify and address, at a minimum, each of the statutory requirements, as follows:

- ◆ Quantifying projected housing needs. This is accomplished through the regional housing needs allocation (RHNA) process pursuant to §65584. The city or county's share of the RHNA, as determined

- by their Council of Governments (COG) and HCD, is the projected housing need for the planning period of the housing element. To accommodate the RHNA, the element must demonstrate site development capacity equivalent to, or exceeding, the projected housing need, to facilitate development of a variety of types of housing for all income groups.
- ◆ Review and revise of the housing element. Unlike the other elements of the general plan, state law explicitly requires that the housing element be reviewed and updated as frequently as appropriate, but not less than once every five years (§65588). The “review and revise” evaluation is a three-step process:
    1. Section 65588(a)(2): “Effectiveness of the element”—Review the results of the previous element’s goals, objectives, policies, and programs. The results should be quantified where possible (e.g., the number of units rehabilitated), but may be qualitative where necessary (e.g., mitigation of governmental constraints).
    2. Section 65588(a)(3): “Progress in implementation”—Compare what was projected or planned in the previous element to what was actually achieved. Analyze the significant differences between them. Determine where the previous housing element met, exceeded, or fell short of what was anticipated.
    3. Section 65588(a)(1): “Appropriateness of goals, objectives and policies”—Based on the above analysis, describe how the goals, objectives, policies and programs in the updated element have been changed to incorporate what has been learned from the results of the previous element.
  - ◆ Describe how the jurisdiction made a diligent effort to achieve public participation from all economic segments of the community in the development of the housing element.
  - ◆ Assess housing needs and analyze an inventory of resources and constraints (§§65583(a)(1-8)), including an analysis of population and household characteristics and needs, an inventory of land, analysis of governmental and non-governmental constraints, analysis of special housing needs, analysis of energy conservation opportunities and an analysis of assisted housing development at-risk of converting to market rate uses.
    - ◆ Estimate the amount of funds expected to accrue to the Redevelopment Agency Low- and Moderate-Income Housing Fund (LMIHF) over the planning period of the element and describe the planned uses for those funds §65583(c).
    - ◆ Establish a housing program that sets forth a five-year schedule of actions to achieve the goals and objectives of the element. Programs are to be implemented through the administration of land use and development control; provision of regulatory concessions and incentives; and the utilization of appropriate federal and state financing and subsidy programs; and when available, use of funds in a low and moderate income housing fund of a redevelopment agency (§65583(c)). The housing program must:
      - Identify adequate sites with appropriate zoning, development standards and public facilities that encourage and facilitate a variety of housing types to accommodate all income levels of the local share of regional housing needs, including multifamily rental, factory-built housing, mobile homes, farmworker housing, emergency shelters and transitional housing (§65583(c)(1)).
      - Assist in development of housing to meet the needs of low- and moderate-income households (§65583(c)(2)).
      - Address and, where possible, remove governmental constraints on the development, maintenance and improvement of housing. The program shall also remove constraints or provide reasonable accommodation for housing for persons with disabilities (§65583(c)(3)).
      - Conserve and improve the condition of the existing affordable housing stock (§65583(c)(4)).
      - Promote equal housing opportunities for all persons (§65583(c)(5)).
      - Preserve for lower income households the multifamily assisted housing developments at-risk of conversion to market rate uses (§65583(c)(6)).
    - ◆ Quantify objectives by income level for the construction, rehabilitation, and conservation of housing (§65583(b)).
    - ◆ Demonstrate the means by which consistency will be achieved with the other general plan elements and community goals (§65583(c)).

- Analyze housing in the Coastal Zone (§65588(c)(d) and §65590(h)(2)).
- ◆ Distribute a copy of the adopted housing element to area water and sewer providers. The purpose of this section of the law is to ensure that public and/or private water and wastewater providers provide a priority to proposed housing development projects for lower income households in their current and future resource or service allocations (§65589.7).

### Regional Housing Needs Allocation Process

Housing element law (§65583) requires quantification of each jurisdiction’s existing and projected housing needs for all income levels. The housing element’s requirements to accommodate projected housing needs are a critical factor influencing the housing supply and availability statewide and within regional housing markets. The local regulation of the housing supply through planning and zoning powers affects the State’s ability to achieve the State housing goal of “decent housing and a suitable living environment for every California family,” and is an important influence on housing costs. The regional housing needs allocation process addresses this statewide concern, and reflects shared responsibility among local governments for accommodating the housing needs of all economic levels.

Shares of the regional housing need are determined for constituent cities and counties of the affected region(s) of the housing element update cycle. This involves an iterative process conducted among state, regional, and local levels of government which is driven by projected population growth. The Department of Finance’s (DOF) Demographic Research Unit periodically prepares population projections by county, and also prepares current population, household, and housing unit estimates by city and county. DOF’s population projections are prepared using the demographic methodology of cohort survival and net migration. Household projections are prepared using headship rates (historical rates of household formation relative to age and ethnic composition of population), along with adjustments of existing stock conditions, e.g., demographic and income factors from the most recent U.S. Census, DOF’s annual E-5 report, etc. The projected housing need is allocated by income category pursuant to the state income limits. In consultation with the affected council of government (COG) and DOF, HCD submits to each COG projected housing needs. HCD also fulfills the functions of a COG in those counties for which there is no COG. While HCD forwards projections for the region, the distribution of the need within the region is

subject to determination by the COG.

The COGs develop the distribution in draft regional housing need allocation plans based on regional population and economic models, and also incorporate consideration of factors such as market demand, commuting patterns, site and public facility availability, and type and tenure of housing need, needs of farmworkers, or the conversion of assisted units. Attorney General Opinion 87-206 interpreted that the availability of suitable housing sites is to also consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. During a 90-day period, each city and county has an opportunity to request revision of their need allocation by the COG. The COG may revise the initial allocations, subject to acceptance of the revised allocation plan by HCD. HCD is authorized to revise the COG’s determination, if necessary, to be consistent with statewide housing needs. The needs allocations from an accepted COG RHNA plan are then incorporated into the city’s/county’s housing element as a basis for planning for adequate residential development sites and housing assistance programs.

### Court Interpretations

The following judicial decisions have addressed the housing element with regard to statutory compliance, growth control measures, voter initiatives and remedies which the courts may impose after invalidating a general plan.

#### *Compliance with statutory requirements*

*Buena Vista Gardens Apartments Association v. City of San Diego Planning Department (1985) 175 Cal.App.3d 289*, provides the most thorough judicial discussion of housing element law. It is the first appellate level decision to interpret Article 10.6 of the Government Code. The plaintiff and appellant in the case were tenants occupying a large apartment complex for which the city had approved a long-term plan to demolish the existing units and develop condominiums on the site. The tenants challenged the plan’s final approval, alleging that the city’s housing element failed to meet statutory requirements in seven respects.

The appellate court found that in six of the seven respects the element substantially complied with state law. The court did find, however, that the element lacked any programs encouraging the conservation of mobilehome parks or existing affordable apartment rental units. The fact that the city had no basis upon which to deny the developer a demolition permit demonstrated the city’s lack of a program to conserve af-

## HOUSING ELEMENT CONTENTS

**Review of Previous Element**

- ◆ Results
- ◆ Comparison of results vs. planned objectives
- ◆ Implications for new element

**Housing Needs Assessment**

<p><u>Existing Needs</u></p> <ul style="list-style-type: none"><li>◆ Overpayment</li><li>◆ Overcrowding</li><li>◆ Special housing needs</li><li>◆ Units at risk of converting to non-low income uses</li><li>◆ Substandard conditions</li></ul>	<p><u>Projected Needs</u></p> <ul style="list-style-type: none"><li>◆ Regional housing needs allocation</li></ul>
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**Resource Inventory**

<p><u>Land Inventory</u></p> <ul style="list-style-type: none"><li>◆ Accomodate regional share by income group</li><li>◆ Public facilities and services</li><li>◆ Suitability of lands</li></ul>	<p><u>Financial Resources</u></p> <ul style="list-style-type: none"><li>◆ RDA &amp; other funds available over the next 5 years</li><li>◆ Funds available for preservation</li></ul>
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**Constraints on Housing**

<p><u>Governmental Constraints</u></p> <ul style="list-style-type: none"><li>◆ Land use controls</li><li>◆ Codes &amp; enforcement</li><li>◆ On/off-site improvements</li><li>◆ Fees &amp; exactions</li><li>◆ Permit procedures</li><li>◆ Other</li></ul>	<p><u>Non-governmental Constraints</u></p> <ul style="list-style-type: none"><li>◆ Financing</li><li>◆ Land costs</li><li>◆ Construction costs</li><li>◆ Other</li></ul>
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**Programs**

- ◆ Identify adequate sites
- ◆ Assist development of low- & moderate-income housing
- ◆ Remove or mitigate constraints
- ◆ Conserve & improve existing affordable housing
- ◆ Promote equal housing opportunity
- ◆ Preserve units at risk of conversion from low-income use

**Quantified Objectives by Income Group**

- ◆ New construction
- ◆ Rehabilitation
- ◆ Conservation of existing affordable units, including preservation of at-risk units

fordable rental housing. As a result, the court prohibited the permit's issuance until the city amended its housing element with conservation programs substantially conforming to statutory requirements.

*Buena Vista Gardens* is consistent with a number of cases that support the general plan's integrity and require "substantial" (i.e., actual) compliance with its statutorily stated content. For example, a project may be halted when the general plan either lacks a relevant element or the relevant element is inadequate, as many cases have demonstrated.

A number of subsequent cases have reiterated the substantial compliance test, with its application a matter of law subject to independent appellate review. A court will not usually disturb legislative action such as a housing element revision unless the action is arbitrary, capricious or entirely lacking in evidentiary support. However, the housing element will be judged as to its actual compliance with respect to the substance essential to every reasonable objective of the statute. See *Black Property Owners v. City of Berkeley* (1994) 22 Cal. App. 4th 974, where the court upheld the city's housing element update against a claim that it failed to adequately address the governmental constraint of a city-imposed rent control ordinance.

Despite agreement as to the formulation of the substantial compliance test, courts have diverged widely in their application of the test to particular circumstances. In *Hernandez v. City of Encinitas* (1994) 28 Cal. App. 4th 1048, the court rejected a wide-ranging challenge to virtually every aspect of the city's housing element. The decision revealed a "check list" approach to determining substantial compliance with the detailed statutory requirements: the mere mention or discussion of an issue was found sufficient. The court at times even recited topical headings in the housing element to demonstrate compliance.

In sharp contrast is the approach taken in *Hoffmaster v. City of San Diego* (1997) 55 Cal. App. 4th 1098, where the court upheld a narrow challenge to the city's housing element for its failure to provide adequate sites for emergency shelters and transitional housing, despite considerable treatment of the issue in the element and amendments adopted under order of the trial court. The *Hoffmaster* court was willing to look at the circumstances behind the city's conclusions in order to give effect to the purpose and intent of the statute. In addition, the court adopted HCD's definition of adequate sites for homeless shelters as a logical extension of the legal requirement and, despite the lack of a specific statutory provision, held the city to this standard.

#### *Growth control measures*

The ruling in *Building Industry Association v. City of Oceanside* (1994) 27 Cal. App. 4th 744, demonstrates the effect that housing element requirements may have on growth control measures. In that case, at the culmination of lengthy litigation, the court overturned the city's growth control initiative, in part because it conflicted with broad, general language in the housing element to "protect, encourage and, where feasible provide, low and moderate income housing opportunities."

#### *Effect of voter initiatives*

In *DeVita v. County of Napa* (1995) 9 Cal. 4th 763, the issue was whether an initiative ordinance which prohibited the rezoning of agricultural land without a vote of the electorate conflicted with the county's ability to update its land use element in accordance with the law. The court upheld the initiative. It expressly noted, however, that the status of an initiative that either amends or conflicts with the housing element has not been determined, and that the ordinance might be reconsidered if it poses an obstacle to the adequacy of future revisions. The court emphasized that an initiative amendment must conform to all statutory specifications and may not cause the general plan to be internally inconsistent.

#### *Remedies for invalidated general plan*

Another case, *Committee for Responsible Planning v. City of Indian Wells* (1989) 209 Cal. App. 3d 1005, exemplifies the type of action a court may take after it invalidates a general plan. After holding Indian Well's general plan invalid for failure to achieve internal consistency and failure to address various statutorily required issues in the housing element, the trial court ordered the city to bring its general plan into compliance with state law and imposed a moratorium. The court order prevented the city from granting building permits and discretionary land use approvals such as subdivision maps, rezoning, and variances until it updated its general plan.

In the meantime, a developer sought approval to record a final tract map. Pursuant to §65755(b), the subdivider requested that the court waive the moratorium's restrictions. The court may do so when it finds that the project would "not significantly impair" the city's ability to adopt all or part of the new plan in compliance with statutory requirements. Recognizing the Legislature's statutory guidance reflecting the housing element's "preeminent importance," the court disagreed with the developer's arguments that

the tract map would not affect the city’s ability to adopt an adequate housing element. The court refused to allow approval of the map until the general plan was adopted.

### Ideas for Data and Analysis

The following descriptions and suggestions for data are meant as a tool to guide analysis of the many unique needs in each locality. For further guidance, consult HCD’s publication *Questions and Answers* and contact HCD for additional resources, assistance, and examples.

#### *Analysis of existing housing needs (§§65583(a)(1) and (2))*

Existing needs include current basic demographic and housing stock information such as the number and tenure of households, vacancies, affordability data such as sales prices and rental rates and household characteristic information such as the extent of lower-income households overpaying for housing and the number of households that are overcrowded. A community profile typically includes the following quantitative and qualitative data and descriptive household information, most of which is available from the most recent Census or the American Community Survey:

#### General information

- ◆ Total population and demographic data (e.g., age, sex, race/ethnicity, etc.). Many jurisdictions also discuss population changes over time.
- ◆ Total number of households in the community. DOF prepares annual estimates, including population, households, and dwelling units. The E-5 report is available annually in May.
- ◆ Tenure characteristics. The number and proportion of renter and owner households in the community.
- ◆ Total number of housing units. Where possible, the element should describe the distribution and recent activity of housing units by type (single-family, multifamily, mobilehomes). An analysis should also include information on current vacancies for owner and rental units.
- ◆ Housing affordability. A discussion of current sales and rental prices compared to local household incomes.

#### Specific existing needs to be analyzed

- ◆ Households overpaying. In comparing level of payment with ability to pay, the element should quan-

tify and analyze the number of lower- income owner and renter households (those at or below 80 percent of the area median income) who are overpaying (more than 30 percent of gross income) for housing.

- ◆ The incidence of overcrowding. The Census defines overcrowded when occupancy exceeds more than one person per room (excluding bathrooms and kitchens). Households are considered severely overcrowded when more than 1.5 persons per room occupy the unit. Localities should include a qualitative and quantitative analysis of overcrowded and severely overcrowded households by tenure.

#### *Analysis of special housing needs (§65583(a)(6))*

The statute specifically requires an analysis of persons with special housing needs, including elderly, persons with disabilities, large families, farmworkers, families with female heads of households and families and persons in need of emergency shelters. An analysis should include:

- ◆ A quantification of the total number of persons or households.
- ◆ A quantification and qualitative description of the housing need.
- ◆ An identification of potential programs, policy options and resources to address the community’s special housing needs.

For example, an analysis of homeless needs should include an estimate or count of the number of persons lacking permanent shelter, an inventory of the number, approximate location, and type of existing shelter beds, hotels/motel accepting vouchers, and units of transitional housing available and an estimate, derived from the figures above, of the number of additional beds or shelters and transitional housing units needed.

An analysis of farmworkers should quantify and separately discuss the housing needs of permanent migrant and seasonal farmworkers. The analysis should discuss resources and programs addressing farmworker housing needs and shortfalls that exist in addressing those needs.

#### *Land inventory (§65583(a)(3))*

The purpose of the land inventory is to identify sites with appropriate zoning and development standards suitable for residential development, with adequate public facilities to accommodate the locality’s share of

the regional housing need within the planning period of the element. The land inventory must identify land by zoning district and could also include general plan designations. The inventory must demonstrate how zoning and development standards encourage and facilitate a variety of housing types, including factory built housing, mobilehomes, multifamily rentals, emergency shelters, transitional housing and housing for agricultural employees. An analysis of the land inventory should also determine whether current zoning and densities are appropriate to accommodate the new construction need in total and by income level. Sites identified that require rezoning may be included as an adequate site as long as a program for accomplishing any necessary rezoning is included in the element.

An analysis of the land inventory should describe the suitability of land for residential development in the current planning period and future planning periods within the general plan horizon. The inventory should include sufficient information about identified sites to determine if the sites are appropriate to accommodate the community's regional housing need. While some information in the inventory may be presented in the aggregate (i.e., 30 acres zoned R-3), it should also include more detailed site specific information about the suitability of the land. Land "suitable for residential development" has characteristics that make the sites appropriate for housing construction. These characteristics include:

- ◆ Physical features and general characteristics not impacted by flooding, seismic hazards, extreme wildfire hazards, slope instability or erosion, chemical contamination, or other environmental constraints. Suitability may also be impacted by proximity to hazardous industrial facilities and uses, consistency with airport land use plans, and other conditions or contracts, such as conservation easements or farmland security zones, disallowing development in the planning period.
- ◆ Location and proximity to transit, job centers, and public and community services, etc. A thorough analysis of the land inventory should include a map of the suitable lands to help illustrate the suitability of the land in the inventory.
- ◆ Parcel size. A general discussion of the number and characteristics of parcels, their appropriateness in the five year planning period given any development, infrastructure or other constraints. The discussion should also address the extent of lands, identified in the land inventory, that are not feasible for development due to small parcel sizes. This discussion could also demonstrate recent development

on small lots and include information on site specific tools, policies and regulations facilitating small lot development.

The element must also identify the zones and densities that can accommodate the locality's share of the regional housing need for low- and moderate-income households. Particularly, the element should analyze how specific zoning districts with their allowed density can facilitate development of housing for low- and moderate-income households. For example, a local government could demonstrate appropriate zoning for housing for low and moderate income households by gathering information from developers on what densities provide the potential to maximize financial resources and develop housing for lower and moderate income households. This analysis should also cover whether development standards inhibit the ability to achieve maximum densities and whether sufficient sites exist with zoning to accommodate lower-income needs identified in the city's share of the regional housing need. The analysis of appropriate zoning should also identify any standards, conditions or processing that impact the development capacity of the sites. For example, the element should identify mid-point requirements that limit densities within a zoning district unless certain amenities are provided or that require a conditional use permit for multifamily projects within a multifamily zone.

An analysis of the land inventory must also include a discussion of realistic capacity of lands by zoning district. Specifically, the element should demonstrate the ability to achieve the densities assumed in the land inventory either through a discussion of past development trends by zoning district or city regulations, policies or programs requiring the assumed densities. Also, assumed densities should not include density bonuses.

In communities with limited vacant land, the land inventory should identify and analyze sites with redevelopment potential for new and more intensive residential development. In such cases, the land inventory should describe the acreage, zoning and development standards existing uses and their ripeness for redevelopment, realistic development capacity, general character and size of sites judged suitable for residential development, market trends and conditions and any policies or incentives to facilitate their development. The inventory should estimate the realistic (not theoretical) development capacity based on an analysis of these factors. Such sites may be made available by implementing programs applicable to redevelopment, recycling, infill, and/or redesignating and rezoning non-residential sites to appropriate residential use.

The inventory must also discuss the availability of essential public facilities and services (e.g., sewer and water system trunklines and treatment facilities, roads, and storm drainage facilities) for sites identified for residential development. The analysis should describe and analyze existing capacity and the capacity that will be provided during the current planning period of the element.

Any phasing of plans relevant to a specific plan, development agreement or capital facilities financing plan should be described. Upon completing the infrastructure capacity analysis, the locality will be able to identify where facilities and services are lacking in order to establish program actions (capital improvement plans, financing through general obligation or special district bonds, etc.), that will permit the development of sufficient units to meet the new construction objectives within the planning period. In addition, in the case that the element has identified lands within specific plans, the element should discuss how the phasing mechanisms within the specific plans affect the suitability of the lands to accommodate housing needs over the housing element planning period.

An analysis of adequate sites should include a discussion of whether sufficient land is available to address a variety of housing types, including emergency shelters, transitional housing and farmworker housing. An analysis of these housing types should describe the zones where a variety of housing for farmworkers is allowed, how the zoning and development standards including permit process encourages and facilitates development, evaluate whether sufficient opportunities for housing for these housing needs exists, and describe any conditions on development. In the case of farmworker housing needs, the element should identify sufficient sites or zones for permanent, seasonal and migrant seasonal farmworkers.

In the case the land inventory does not identify adequate sites to accommodate the locality’s share of housing needs for all income groups, the locality will need to include programs to provide sufficient sites with zoning and development standards that permits owner occupied and rental multifamily residential uses, by-right, to accommodate the regional housing need within the planning period.

*Analysis of governmental and non-governmental constraints (§§65583(a)(4) and (5))*

Governmental

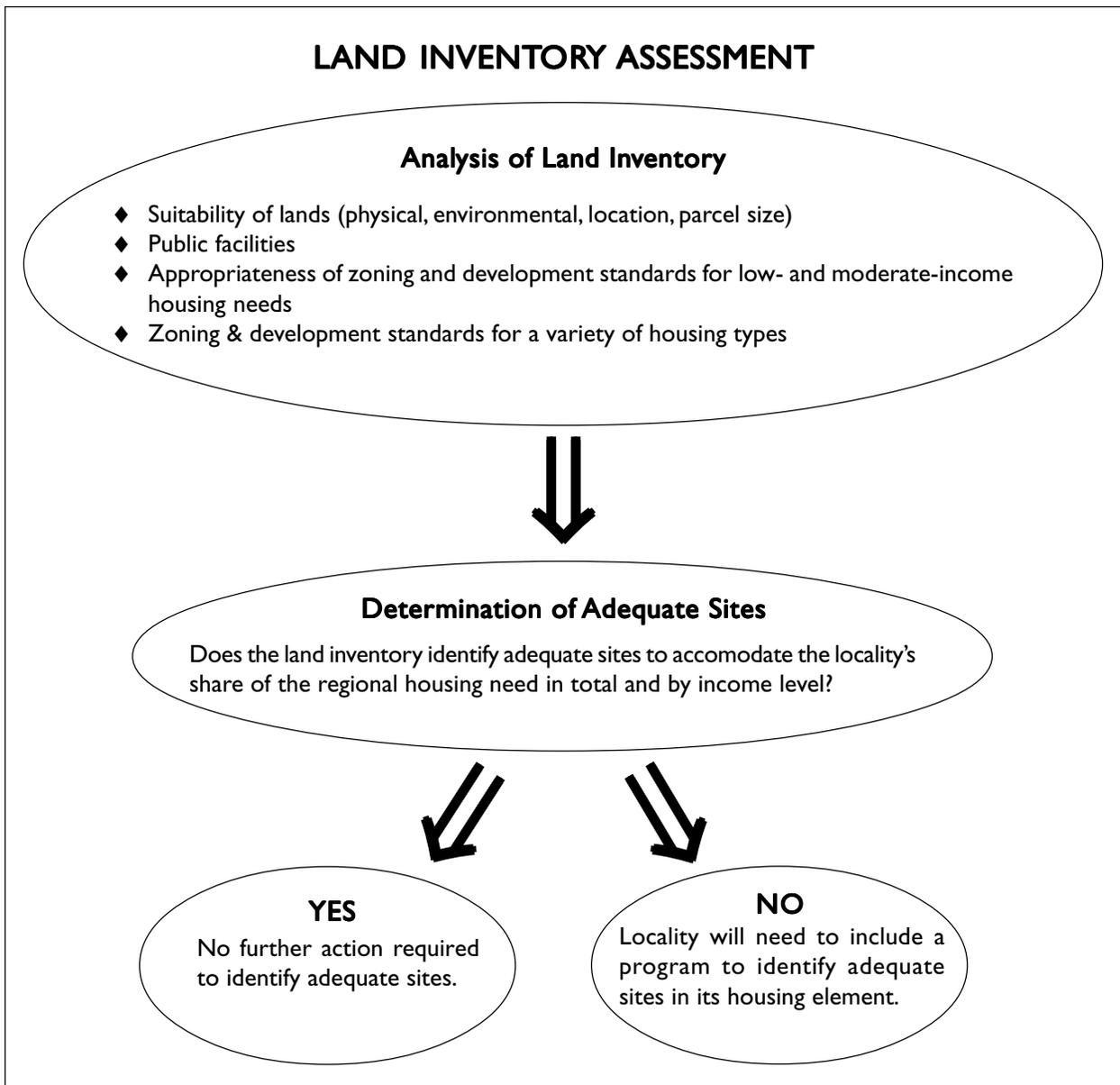
The element must describe and analyze each of the following areas for their impact on the cost and supply

of housing:

- ◆ Land Use Controls: Zoning and development standards including density, parking requirements, lot coverage, lot sizes, unit sizes, floor area ratios, setbacks, moratoria and prohibitions against multifamily housing developments, growth controls, urban growth boundaries and open space requirements, etc.
- ◆ Codes and Enforcement: Any local amendments to state housing law or the Uniform Building Code and the type and degree of enforcement.
- ◆ On- and off-site improvement requirements: Street widths, curb, gutter, and sidewalk requirements, water and sewer connections, and circulation improvement requirements.
- ◆ Fees and exactions: Permit, planning, development and impact fees (e.g., park, school, open space, parking district, general plan amendments, rezone, etc.), in-lieu fees, land dedication requirements (e.g., streets, public utility and other right-of-ways, easements, parks, open space, etc.) and other exactions imposed on developers. The analysis should estimate the total fees compared to typical development costs for multifamily and single family.
- ◆ Processing and permit procedures: Describe the types of permits, discretionary review and approval procedures, and processing time required for recent residential projects. The analysis should describe all permits applicable to residential development and additional mechanisms that place conditions and performance standards (i.e., Community Plan Implementation Zones, Hillside Overlay Zones, Environmentally Sensitive Areas, etc.) on development. Other applicable regulations and processes such as design review and planned districts should also be included. As part of this analysis, localities should describe and evaluate the permit and approvals process for a typical single-family subdivision and a typical multifamily project, as well as emergency shelters, transitional housing, group homes and farmworker housing.

The analysis should describe past or current efforts to remove any governmental constraints. Where the analysis identifies a constraints, the element must include program responses to address and mitigate the effects of the constraint.

Ordinances, policies, procedures, or measures imposed by the local government that specifically limit the amount or timing of residential development should be analyzed as a potential governmental constraints and mitigated, where necessary. The analysis will vary depending on the nature of the measure. In general, the



measure and its implementation procedures should specifically be described and analyzed as to the impact on the cost and supply of housing.

In accordance with recently enacted legislation (SB 520, Chapter 671, Statutes of 2001), the element must analyze the potential and actual governmental constraints on the development of housing for persons with disabilities and demonstrate the city's efforts to remove governmental constraints on housing for persons with disabilities, such as accommodating procedures for the approval of group homes, ADA retrofit efforts, an evaluation of the zoning code for ADA compliance or other measures that provide flexibility in the development of housing for persons with disabilities.

**Non-governmental constraints**

The housing element must include an analysis of non-governmental constraints, including

- ◆ **Land Prices:** In analyzing the price of land, estimate the average per unit cost of land, or the range of costs for developable parcels, in both single-family and multifamily zones.
- ◆ **Construction Costs:** The analysis of construction costs, for typical single-family and multifamily projects, should focus on the total cost to the developer, exclusive of profit, but including land, fees, material, labor, and financing.
- ◆ **Financing Availability:** An analysis of financing

should consider whether financing is generally available in the community or whether there are any mortgage deficient areas.

*Analysis of energy conservation opportunities (§65583(a)(7))*

The purpose of this analysis is to ensure the locality consider how energy conservation can be achieved in residential development and how energy conservation requirements may contribute to reducing overall development costs and therefore, the supply and affordability of units.

*Analysis of assisted housing at risk of converting to market rate uses (§65583(a)(8))*

The element must include a project inventory of multifamily rental housing that could convert to market rate rents because of expiration of affordability restrictions in mortgage and/or rental subsidy contracts. The at-risk analysis must:

- ◆ Prepare an inventory of all units at risk of conversion within the current planning period and the subsequent 5-year period (e.g., 2000-2010).
- ◆ Assess the conversion risk.
- ◆ Estimate and analyze the costs of replacement versus preservation for units at risk in the current five-year planning period.
- ◆ Identify entities qualified to preserve at-risk units.
- ◆ Specify financing and subsidy resources.

*Quantified objectives (§65583(b))*

Quantified objectives should establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

**Policies and Implementation Programs**

Local governments have the responsibility to adopt a program that implements the policies, goals and objectives of the housing element through their vested powers, particularly over land use and development controls, regulatory concessions and incentives and the utilization of financial resources.

Programs are the specific action steps the locality will take to implement its policies and achieve its goals and objectives. Programs must include a firm commitment to implementation, specific time frame for implementation and identify the agencies or officials responsible for implementation. Effective program descriptions also include:

- ◆ Immediate, short-term and long-term action steps.
- ◆ Proposed measurable outcomes.
- ◆ Specific funding sources, where appropriate.

All housing elements must include programs to address the following six areas:

*Adequate sites program (§65583(c)(1))*

The purpose of the adequate sites program is to provide sufficient sites that will be made available through appropriate zoning and development standards and with public services and facilities to encourage and facilitate a variety of housing types and address the community's share of the regional housing need. Where the land inventory does not identify adequate sites to accommodate the locality's share of housing needs for all income groups, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily, by right, without a conditional use permit. The zoning must include density and development standards that accommodate and facilitate the feasibility of housing for very low- and lower-income households.

Providing sufficient sites may entail rezoning land to more appropriate densities or rezoning land from other uses to residential to facilitate development of housing for lower income households. When a community must provide sites in addition to those identified in the land inventory, the community should consider all lands such as residential, commercial and public institutional as a potential resource, while maintaining sound principles of land use compatibility. The community should also consider options that maximize the locality's land resources, such as a compact mix of uses.

A locality's ability to accommodate all units needed during the planning period is best served by designating appropriate zoning as early as possible. The most direct procedure is for the locality to undertake rezoning when the housing element is adopted. If a locality is unable to undertake rezoning concurrently with the housing element, the rezoning should occur early in the planning period in order to allow development to occur before the end of the housing element planning period.

Once a locality has designated the allowable residential density of lands in its sites inventory, there is a responsibility to maintain that density throughout the planning period. A city or county cannot reduce, through administrative, quasi-judicial or legislative action, the residential density of any parcel to a density lower than

that used by HCD in determining compliance with housing element law unless certain findings are made (§65863). These findings, which must be in writing and supported by substantial evidence, are as follows: (1) the reduction is consistent with the general plan, including the housing element; and (2) the remaining identified sites are adequate to accommodate the jurisdictions share of the regional housing need. If these findings cannot be made, the city or county must identify additional adequate sites to ensure no net loss of residential unit capacity.

As part of the adequate sites requirement, communities with limited vacant land should focus programs on underutilized land with the potential for recycling or rezoning and opportunities for mixed uses (combining residential and commercial uses, for example). Programs to encourage redevelopment and/or reuse should describe actions to initiate any necessary rezoning, establish appropriate regulatory and/or financial incentives, relax development standards (parking, building height, setback requirements, etc.), support more compact and higher density residential developments, and facilitate the new construction of multifamily rental and owner-occupied units.

The element must also identify sites or zones where emergency shelters, transitional housing and farmworker housing (when farmworker housing needs are identified for the region) are allowed by permitted or conditional use. When these housing types are permitted by conditional use, the element should demonstrate adequate sites are available that can be approved with conditional use permit and compatibility findings.

For emergency shelters and transitional housing, the element should specify:

- ◆ Location. The sites should be located within the boundaries of the jurisdiction, close to public services and facilities, including transportation, and easily accessible from areas where homeless persons congregate.
- ◆ Zoning. Any zoning district that explicitly allows the siting of a shelter and transitional housing project, and does not impede the development of the sites, or the conversion or use of an existing structure is appropriate. The element should demonstrate how the development standards and permit processing encourage and facilitate the development of shelters and transitional housing.

Where farmworker housing needs are identified, the element must describe how the permit processes, zon-

ing and development standards encourage and facilitate the development of a variety of farmworker housing for migrant and permanent farmworkers in addition to identifying land with zoning that can accommodate farmworker housing needs.

*Programs to assist in the development of housing to meet the needs of low- and moderate-income households (§65583(c)(2))*

Upon the completion of the assessment and identification housing needs of low- and moderate-income households, localities can develop programs to implement strategies to assist in developing adequate housing to meet identified needs.

Localities can offer direct support for the development of affordable housing through various financing mechanisms including the issuance of municipal and mortgage revenue bonds and use of redevelopment powers. Direct assistance can also be provided through the utilization of appropriate federal and state financing and subsidy programs to create rental and ownership opportunities. Localities can create first time homebuyer, equity sharing, or self-help housing programs to provide affordable homeownership opportunities. Local governments can also assist developers in making applications for other public or private housing funds or low-income housing tax credits to promote rental housing development.

Each city and county is required to adopt a bonus density ordinance. The ordinance shall provide for an increase in allowable residential density and at least one other incentive for certain affordable housing projects (§65915).

Local governments can indirectly facilitate the development of more affordable housing through effective administration of land use controls and by providing appropriate regulatory concessions and incentives. For example, communities can reduce development standards where appropriate to promote the development of housing for low and moderate income households.

*Program to remove governmental constraints on housing (§65583(c)(3))*

For each policy, requirement, or procedure identified as a governmental constraint, the element must include an appropriate program action to eliminate or modify the constraint or demonstrate how it will be offset by another policy or program. In accordance with recently enacted legislation (SB 520, Chapter 671, Statutes of 2001) the element must contain a program that removes constraints or provides reasonable accommodations for housing intended for persons with dis-

abilities.

The following are some strategies that communities have found appropriate to remove regulatory barriers:

Land use controls

- ◆ Modify and/or reduce growth controls to ensure accommodation of projected housing needs and exempt affordable housing projects from growth control ordinances.
- ◆ Identify areas appropriate for reduced standards. For example: lessen front yard set backs (20 feet or less), encourage small lot development (less than 5,000 square feet) and reduce parking requirements (less than two parking spaces).

Codes and enforcement procedures

- ◆ Allow use of alternative building design and construction materials and methods.
- ◆ Use state housing law codes without additional local requirement, except where local variations are necessary for reasons of climate, geology, or topography (Health and Safety Code §17958.5).

On- and off-site improvement requirements

- ◆ Provide opportunities for cluster development.
- ◆ Promote reduction of street widths (e.g., 36 feet or less) and right of ways (e.g., 56 feet or less).

Fees and exactions

- ◆ Reduce or waive fees, and exactions for particular types of development (e.g., rental or assisted housing, second units, mixed-use and infill projects, housing affordable to low- and moderate-income households) on a basis that is predictable and transparent for the developer.
- ◆ Allow payment of fees upon certificate of occupancy, rather than prior to building permit issuance to reduce developer construction financing costs and overall development costs.

Processing and permit procedures

- ◆ Expedite permit processing (allow one-stop, consolidated, and concurrent permit processing).
- ◆ Eliminate conditional use permit requirements for multifamily projects when land is zoned multifamily.
- ◆ Prepare and present explanatory materials, adopt standards for findings of denial and mitigate addi-

tional layers of review, such as design review.

*Programs to conserve and improve the conditions of the existing affordable housing stock (§65583(c)(4))*

The existing affordable housing stock is a valuable resource that should be conserved and improved while maintaining affordability. Strategies used to conserve and improve the condition of the affordable housing stock include:

Conservation

- ◆ Provide stable zoning to preserve affordable housing. For example, change the underlying zoning for a mobilehome park from commercial to mobilehome park.
- ◆ Maintain long-term affordability restrictions on assisted rental units.
- ◆ Implement a weatherization program for lower income homeowners through existing service providers.

Improvement

- ◆ Access state and federal owner and rental rehabilitation grant and loan programs including HCD rental housing programs, Community Development Block Grant programs, HOME, etc.
- ◆ Rehabilitate residential hotels and motels (SROs) for very low- and low-income households including the homeless and those at-risk of homelessness.

*Programs to promote equal housing opportunities for all persons (§65583(c)(5))*

A local equal housing opportunity program should provide a means for the resolution of local housing discrimination complaints and should be promoted throughout the community. The local program should involve the dissemination of information on fair housing laws, and provide for referrals to appropriate investigative or enforcement agencies. Sites for display of fair housing information include buses, in public libraries, community and senior centers, local social service offices, and other public locations including civic centers and county administrative offices. In addition, where appropriate, local governments should distribute fair housing information in languages other than English and consider distributing information in various media (radio, television).

*Programs to preserve for lower-income households the assisted housing development at risk of conversion to market rate uses (§65583(c)(6))*

The nature of conversion risk varies significantly among projects depending on the type of subsidy and related affordability controls. Individual program responses should be tailored to the results of the analyses and specific local situations. Examples could include:

- ◆ Establish an early warning system and monitor local, State and Federal at-risk units.
- ◆ Gauge owner’s intent to prepay a government assisted mortgage or opt out of a rental assistance program.
- ◆ Identify qualified entities interested in participating in the Offer of Opportunity to Purchase and Right of First Refusal programs (§65863.11).
- ◆ Respond to any federal and/or state notices.
- ◆ Facilitate refinancing or purchase by a qualified entity.
- ◆ Provide technical assistance to affected tenants.

### **Housing Element Law and Community Redevelopment Law**

California Community Redevelopment Law (CRL) is contained in Health and Safety Code §33000, et seq. CRL specifies requirements that enable communities to form a redevelopment agency, adopt a blighted area as a project area, and address housing and economic development within a project area. Agencies redevelop project areas by incurring debt that is repaid from the future increases in project area property taxes allocated to redevelopment agencies.

Although the majority of agency activities, funds, and expenditures relate to economic development, agencies also have a responsibility to increase, improve, and preserve the community’s supply of low- and moderate-income housing. Agencies are required to deposit at least 20 percent of tax revenues into a separate Low- and Moderate-Income Housing Fund strictly for affordable housing. In recognition of agencies’ important role relevant to housing, the Legislature, over the years, revised and linked the following provisions of housing element and redevelopment law:

- ◆ The housing element must estimate the amount of funds expected to accrue to the Redevelopment Agency Low- and Moderate-Income Housing Fund (LMIHF) over the planning period of the element and describe the planned uses for those funds (§65583(c)).
- ◆ To use redevelopment powers, communities must have a housing element that substantially complies with state law before any area is designated for re-

development (Health and Safety Code §33300 and §33302).

- ◆ Redevelopment agencies are required to develop project area implementation plans that are consistent with the housing element. Implementation plans are required to be updated every five years either in conjunction with the housing element cycle or the plan implementation cycle (Health and Safety Code §33413(b)(4)).
- ◆ Before an applicable redevelopment project area plan can be amended to extend the time limit to pay debt and receive tax increment, the community must have a current adopted housing element that the department has determined to be in substantial compliance (Health and Safety Code §33333.10(h) (SB 211, Chapter 741, Statutes of 2001)).
- ◆ In order for a redevelopment agency to allocate less than the required set-aside amount to its Low- and Moderate-Income Housing Fund, the agency must determine that the current housing need is consistent with the current housing element that the department has determined to be in compliance (Health and Safety Code §33334.2(a)).
- ◆ Over the duration of a redevelopment plan, pursuant to Health and Safety Code §33334.4, the agency is required to spend housing funds on households that are at or below the moderate-income level. Assistance shall be provided to persons and to families with children. Persons shall be assisted in at least the same proportion as the community’s total number of housing units needed for each income group bears to the total number of units needed for persons of very low, low, and moderate income (as determined under §65584). Over the duration of the implementation plan, the agency shall assist persons regardless of age in at least the same proportion as the population under the age of 65 years bears to the total population of the community (as reported in the most recent census) (Health and Safety Code §33334.4) (AB 637, Chapter 738, Statutes 2001).

### **Relationship with Other Elements**

#### *Internal consistency*

Section 65583(c) requires that the housing element describe “the means by which consistency will be achieved with other general plan elements and community goals.” This requirement exists to ensure that housing elements will maintain the mandated internal consistency of the plan. The housing element

### Useful Definitions: Housing Element

**Income Levels:** Income categories are defined with respect to the area median income, and adjusted for household size. Area median income is determined for each county. For detailed definitions of these terms, the reader should consult Chapter 6.5 (commencing with §6910) of Title 25 of the California Code of Regulations. The income categories below are based on the following general parameters, but are adjusted for a number of factors, including household size, rent-income ratios, a statewide floor, and a national cap.

**Very Low Income:** No more than 50 percent of the area median income.

**Other Lower Income:** Between 50 and 80 percent of the area median income.

**Lower Income:** No more than 80 percent of the area median income (i.e., combination of very low income and other lower income).

**Moderate Income:** Between 80 and 120 percent of the area median income.

**Above Moderate Income:** Above 120 percent of the area median income.

**Quantified Objective:** The housing element must include quantified objectives that specify the maximum numbers of housing units that can be constructed, rehabilitated, and conserved by income level within a five-year time frame, based on the needs, resources, and constraints identified in the housing element (§65583(b)). The number of units that can be conserved should include a subtotal for the number of existing assisted units subject to conversion to non-low income uses that can be preserved for lower-income households. Whenever possible, objectives should be set for each particular housing program, establishing a numerical target for the effective period of the program.

Ideally, the sum of the quantified objectives will be equal to the identified housing needs. However, identified needs may exceed available resources. Where this is the case, the quantified objectives need not equal the identified housing needs, but should establish the maximum number of units that can be constructed, rehabilitated, and conserved (including existing subsidized units subject to conversion that can be preserved for lower-income use), given the constraints. See the definition of “objective” in Chapter 1.

program should evaluate any potential conflict between general plan elements and the housing element, and must describe the means by which consistency will be achieved and maintained.

Housing elements are updated according to a particular schedule (§65588) and the scheduled updates are usually on a five year planning horizon. The five year planning horizon is much less than the traditional general plan horizon of 15 to 20 years. Due to the difference in planning periods, inconsistencies can arise between the assumptions in the housing element and the rest of the general plan, if the other elements are not required or updated in consideration of the housing element update. As a result, the preparation of the housing element should accommodate the difference in planning periods.

In order to comply with statutory requirements, the land inventory in the housing element will need to identify land with a variety of zoning and development standards (i.e., low and high density) to meet the local government’s share of the regional housing need in the five year planning period. At the same time, the land

use element will be setting a variety of land use designations with acreages that drive goals, policies and programs in other elements on a 20-year planning period. In order to maintain consistency with the housing element, a local government should pay particular attention to incorporate and anticipate land needed to accommodate their share of the regional housing need in the five-year planning period and the longer general plan horizon.

Since, the housing element affects a locality’s policies for growth and residential land uses, the jurisdiction should review the entire general plan, especially land-use provisions, to ensure internal consistency is maintained upon any amendment to the housing element or other general plan elements.

#### *Public participation*

The housing element has a requirement for public participation that is in addition to public participation provisions in the preparation or update of the general plan (§65351). Specifically, housing element law requires the local government to describe and make dili-

gent efforts to achieve public participation of all economic segments of the community in the development of the housing element.

An effective public participation process should begin at the outset of the housing element update process. Members of the community should be involved in evaluating the accomplishments of the previous element, identifying current needs, resources and constraints, as well as assisting in the development of community goals, policies and actions. Most communities engage residents in the process prior to preparing the draft element. In addition to holding required public hearings at the planning commission and city council or board of supervisor level, an adequate and effective citizen participation process must include additional steps to ensure the public participation of all economic segments of the community (including low- and moderate-income households). The housing element should describe efforts by the locality to:

- ◆ Include all economic segments of the community in the public participation process.
- ◆ Circulate the housing element among housing advocates, organizations serving lower income households and individuals.
- ◆ Involve such groups and persons in the development of the element.

Also, see discussion of General Plan public participation in Chapter 8.

### Technical Assistance

The California Department of Housing and Community Development has extensive materials available to assist in the preparation of local housing elements and appreciates the opportunity to facilitate the preparation and implementation of housing elements. Housing element technical assistance information is available on HCD's website at [www.hcd.ca.gov](http://www.hcd.ca.gov). Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other items, the Housing Element section contains the department's publication *Housing Element Questions and Answers* and the Government Code sections addressing state housing element law.

In addition to a variety of demographic data, including Census data, HCD's website includes information about planning and community development laws, housing element update schedule and review status of housing elements. HCD also operates a computerized database, the Clearinghouse for Affordable Housing and Community and Economic Development Finance, to

provide up-to-date information about financial resources available to local governments, housing developers and sponsors.

### CONSERVATION ELEMENT

The conservation element provides direction regarding the conservation, development, and utilization of natural resources. Its requirements overlap those of the open-space, land use, safety, and circulation elements. The conservation element is distinguished by being primarily oriented toward natural resources.

Population growth and development continually require the use of both renewable and nonrenewable resources. One role of the conservation element is to establish policies that reconcile conflicting demands on those resources. In recent years, some jurisdictions have adopted policies related to mitigation banking, conservation easement programs, and the state and federal Endangered Species acts in their conservation elements. Other local jurisdictions have incorporated policies related to Natural Community Conservation Planning (NCCP) programs. NCCP is a broad-based approach to the regional protection of plants and animals and their habitats while allowing for compatible and appropriate economic activity. This and other programs, such as those under the Williamson Act (§51230, et seq.) and the Timberland Productivity Act (§51100, et seq.), provide important implementation tools.

### Court and Attorney General Interpretations

As of this writing, the conservation element has not been the specific subject of either court decisions or legal opinions of the California Attorney General.

### Relevant Issues

To the extent that they are relevant, the following issues must be addressed with regard to the conservation, development, and utilization of natural resources:

- ◆ Water and its hydraulic force
- ◆ Forests
- ◆ Soils
- ◆ Rivers and other waters
- ◆ Harbors
- ◆ Fisheries
- ◆ Wildlife
- ◆ Minerals
- ◆ Other natural resources

The discussion of water in the conservation element

must be prepared in coordination with water suppliers and include any information on water supply and demand prepared pursuant to §65352.5. The conservation element may also cover the following optional issues:

- ◆ The reclamation of land and waters.
- ◆ The prevention and control of the pollution of streams and other waters.
- ◆ The regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- ◆ The prevention, control, and correction of the erosion of soils, beaches, and shores.
- ◆ The protection of watersheds.
- ◆ The location, quantity, and quality of rock, sand, and gravel resources and other minerals of state-wide or local significance.
- ◆ Flood control and floodplain management.
- ◆ Biologic diversity and its implications for the ecologic sustainability of plant and wildlife habitats.

### Ideas for Data and Analysis

Evaluating and quantifying a city's or county's natural resources, including the condition and sustainability of natural resources systems, is necessary for the preparation of a comprehensive conservation element. Analyses should be based upon sound ecologic principles and should recognize the relationships among natural communities and the importance of the natural environment in land use planning. The following is a list of ideas for data and analysis that should be considered in the development of locally relevant policies for the conservation, development, and utilization of natural resources.

#### *Water*

- ◆ Inventory water resources, including rivers, lakes, streams, bays, estuaries, reservoirs, groundwater basins (aquifers), and watersheds. (MAP) (L, O)
- ◆ Identify the boundaries of watersheds, aquifer recharge areas, and groundwater basins (including depths). (MAP) (L, O)
  - Assess local and regional water supply and the related plans of special districts and other agencies.
  - Analyze the existing land use and zoning within said boundaries and the approximate intensity of water consumption.
- ◆ Map the boundaries and describe unique water re-

sources (e.g., saltwater and freshwater marshes and wild rivers). (L, O)

- ◆ Assess the current and future quality of various bodies of water, water courses, and groundwater. (L, O)
- ◆ Inventory existing and future water supply sources for residential, commercial, industrial, and agricultural uses. (L, O)
- ◆ In conjunction with water suppliers, assess existing and projected demands upon water supply sources, including agricultural, commercial, residential, industrial, and public demands. (L, O)
- ◆ In conjunction with water suppliers, assess the adequacy of existing and future water supply sources. (L, O)
- ◆ Map riparian vegetation. (L, O)
- ◆ Assess the use of water bodies for recreational purposes. (L, O)

#### *Forests*

- ◆ Inventory forest resources and perform a comprehensive analysis of conservation needs for forests and woodlands and of the interrelationships forests and woodlands have with watersheds. (MAP) (L, O)
  - Describe the type, location, amount, and ownership of forests with a value for commercial timber production, wildlife protection, recreation, watershed protection, aesthetics, and other purposes.
  - Project alternative land uses within resource areas, including density and intensity of development.
  - Describe the types, location, amount, and lot sizes of land and timber resources subject to timberland production zoning.
  - Identify areas of five acres or more containing oak woodlands made up of Blue, Engelman, Valley, or Coast Live oak species. (MAP)

#### *Soils*

- ◆ Inventory soil resources. (MAP) (L, O)
  - Describe the location, acreage, and extent of different soil types and farmland soils (including prime farmland) in the planning area using the Natural Resources Conservation Service's Land Capability Classification System or the Storie Index.
  - Identify areas subject to soil erosion and landslides.

- Map land within Agricultural Preserves and/or subject to Williamson Act contracts or Farmland Security Zone contracts.
- Identify additional areas potentially qualifying for inclusion in Agricultural Preserves or other agricultural preservation programs.

### *Harbors*

- ◆ Assess the adequacy of port, harbor, and water-related transportation facilities and the need for expansion and improvements. (L, CI)
  - Gather historical data on the use of facilities.
  - Project future demand based on new or expanded economic activities and recreational trends.
  - Review harbor and port district plans for information on planned improvements.

### *Fisheries*

- ◆ Identify water bodies and watersheds that must be protected or rehabilitated to promote continued recreational and commercial fishing, including key fish spawning areas.
- ◆ Evaluate water quality, temperature, and sources of contaminants.
- ◆ Identify physical barriers (man-caused or natural) to fish populations within the watershed.
- ◆ Identify water bodies used for subsistence fishing.

### *Wildlife*

- ◆ Inventory natural vegetation, fish, wildlife, and their habitats, including rare, threatened, and endangered species. (MAP) (L, O)
  - Inventory plants, natural communities, and special animals using the Department of Fish and Game's Natural Diversity Database. The database covers all areas of the state and produces overlay printouts for use with USGS quadrangle maps.
  - Identify the types of animals that might be found in a particular habitat, the time of year they might be found there, and their activities (e.g., winter range, breeding, etc.) using information from the Department of Fish and Game's Wildlife Habitat Relationships Program. Contact the Wildlife Management Division of the Department of Fish and Game for more information.
  - Consult with the Department of Fish and Game and U.S. Fish and Wildlife Service

regarding listed species

- Analyze any adopted Habitat Conservation Plan or Natural Communities Conservation Plan for pertinent policies. (O)
- ◆ Assess the potential effects of development on the continuity of plant and wildlife habitats.
  - Analyze the potential for development patterns to fragment plant and wildlife habitat.
  - Analyze regional trends in development to determine their effects on natural resources.

### *Minerals, including rock, sand, and gravel resources*

- ◆ Inventory mineral resources. (MAP) (L, O)
  - Identify the type, location, extent, and quality of mineral, oil, gas, and geothermal resources. (O)
  - Locate mineral resource areas classified or designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act. (MAP) (L, O)
  - Identify existing mining areas and oil, gas and geothermal wells (and associated developments). (MAP) (L, O)

### *Reclamation of land*

- ◆ Inventory lands adversely affected by mining, prolonged irrigation, landfill activities, the storage or disposal of hazardous materials, erosion, etc., for which reclamation may be feasible. (MAP) (L, O)
- ◆ Review existing mines for compliance with approved plans of operation. (L)
- ◆ Review previous reclamation projects for consistency with the approved standards of the reclamation plan.
  - Contact the Department of Conservation's Office of Mine Reclamation for information concerning mining activities, reclamation standards, and permitted mining sites.

### *Pollution of water bodies*

- ◆ Examine the existing water quality in aquifers, streams, and other bodies of water.
- ◆ Identify existing and potential water pollution sources.
  - Inventory hazardous materials dumps, ponds, and storage sites using information plans developed pursuant to Health and Safety Code §25500, et seq.
  - Identify proposed, existing, and abandoned

- landfill sites. (MAP)
- Examine the results of groundwater tests conducted in the vicinity of landfills and hazardous materials dumps, ponds, tanks, and storage areas.
- Examine regulations regarding the use, storage, and disposal of hazardous materials.
- Inventory existing and proposed land uses that could contribute to the pollution of streams and other waters.
- ◆ Identify the need for community sewage collection and treatment.
- ◆ Assess the capacity of sewers and the treatment capacity of sewage treatment plants.
  - Contact any of the state’s nine Regional Water Quality Control boards for information concerning water quality, wastewater management, and other water-related topics.

*Reclamation of water*

- ◆ Identify polluted water sources for which reclamation is feasible.

*Erosion*

- ◆ Identify areas subject to erosion using soils data from the Natural Resources Conservation Service. (MAP)
- ◆ Assess historical data regarding beach and shore erosion.
- ◆ Identify areas subject to potential beach and shore erosion. (MAP)

*Flood management*

- ◆ Identify flood-prone areas using, among other things: (MAP) (L, S)
  - Reasonably foreseeable flood flows.
  - National Flood Insurance Program maps published by the Federal Emergency Management Agency.
  - Information available from the U.S. Army Corps of Engineers.
  - State Reclamation Board designated floodway maps.
  - Dam failure inundation maps prepared pursuant to §8589.5 (available from the Office of Emergency Services).
  - Historical data on flooding, including local knowledge.
- ◆ Identify present and possible flood control works,

their effects and effectiveness, and their costs, including: (MAP) (L, S)

- Dams
- Reservoirs
- Levees
- Flood walls
- Sea walls
- Channel alterations
- Diversion channels and weirs
- ◆ Describe federal, state, and local agencies involved in flood control, including information such as: (L, S)
  - Jurisdiction.
  - Regulatory powers.
  - Existing floodplain regulations, such as presidential or gubernatorial executive orders, interstate compacts, and statutes.
  - The Federal Emergency Management Agency’s National Flood Insurance Program.
  - Available funding and technical assistance.
- ◆ Identify existing and planned development in floodplains, including:
  - Structures, roads, and utilities.
  - Construction methods or designs to protect against flooding.
  - Compliance with existing regulations for flood control (see “Flood Management Element” in Chapter 6).

*Other natural resources (examples)*

- ◆ Inventory agricultural resources, including grazing land. (L, OS)
  - Identify location, amount, and ownership of land in agricultural production. (MAP)
  - Describe agricultural production in the planning area by crop type.
  - Identify farmlands in accordance with the Natural Resources Conservation Service’s land inventory and monitoring criteria, as shown on the “Important Farmland Maps” prepared by the Department of Conservation. (MAP)
  - Inventory irrigated versus non-irrigated agricultural land use
- ◆ Generally inventory wetlands.
- ◆ Assess air quality, consistent with regional air quality and transportation plans. (O, CI)
  - Analyze air quality trends.
  - Assess current air quality.
  - Analyze potential impacts on air quality of alternative plan proposals and implementa-

## Useful Definitions: Conservation Element

**Conservation:** The management of natural resources to prevent waste, destruction, or neglect.

**Erosion:** The process by which soil and rock are detached and moved by running water, wind, ice, and gravity.

**Habitat:** The natural environment of a plant or animal.

**Important Farmland Series Maps:** Maps maintained by the California Department of Conservation's Farmland Mapping and Monitoring Program ([www.conservation.ca.gov/dlrp/fmmp](http://www.conservation.ca.gov/dlrp/fmmp)) to show farmland and urban areas in California. These maps are based in part on modern soil surveys published by the Natural Resources Conservation Service and cover much of the state. The maps and associated acreage data are for information only and do not constitute a state prescription for local land use. The maps use eight classifications: "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," "Grazing Land," "Urban and Built-up Land," "Other Land," and "Water." A separate overlay category of "Land Committed to Nonagricultural Use" is also maintained. The Department of Conservation has detailed definitions of these classifications. Generally they are defined as follows:

**Prime Farmland:** Farmland with the best combination of physical and chemical features able to sustain long term production of agricultural crops. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. The land must have been used for the production of irrigated crops at some time during the two update cycles prior to the mapping date.

**Farmland of Statewide Importance:** Farmland similar to "Prime Farmland," but with minor shortcomings, such as greater slopes, or with less ability to hold and store moisture. The land must have been used for the production of irrigated crops at sometime during the two update cycles prior to the mapping date.

**Unique Farmland:** Farmland of lesser quality soils used for the production of the state's leading agricultural crops. This land is usually irrigated, but may include nonirrigated orchards or vineyards as found in some climatic zones in California. The land must have been cropped at some time during the two update cycles prior to the mapping date.

**Farmland of Local Importance:** Land, of importance to the local economy, as defined by each county's local advisory committee and adopted by its Board of Supervisors. Farmland of Local Importance is either currently producing, or has the capability of production, but does not meet the criteria of Prime Farmland, Farmland of Statewide Importance, or Unique Farmland. Authority to adopt or to recommend changes to the category of Farmland of Local Importance rests with the Board of Supervisors in each county.

**Grazing Land:** Land on which the existing vegetation is suited to the grazing of livestock. This category is used only in California and was developed in cooperation with the California Cattlemen's Association, the University of California Cooperative Extension Service, and other groups interested in knowing the extent of grazing activities. The minimum mapping unit for Grazing Land is 40 acres.

**Urban and Built-Up Land:** Land occupied by structures with a building density of at least one unit to one and a half acres, or approximately six structures to a ten-acre parcel.

**Land Committed to Nonagricultural Use:** Land that is permanently committed by local elected officials to nonagricultural development by virtue of decisions which cannot be reversed simply by a majority vote of a city council or county board of supervisors. "Land Committed to Nonagricultural Use" must be designated in an adopted local general plan for future nonagricultural development. The resulting development must meet the requirements of "Urban and Built-up Land" or "Other Land." County boards of supervisors and city councils have the final authority to designate lands in this category.

**Water:** Water areas of at least 40 acres.

**Land Capability Classification (U.S. Natural Resources Conservation Service):** A grouping of soils into classes (I-VIII), subclasses, and units according to their suitability for agricultural use, based on soil characteristics and climatic conditions.

**Minerals:** Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal,

### Useful Definitions: Conservation Element (Continued)

peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum (Public Resources Code §2005). Gold, sand, gravel, clay, crushed stone, limestone, diatomite, salt, borate, potash, etc., are examples of minerals. Despite the statutory definition of “mineral,” local governments may also want to consider geothermal, petroleum and natural gas resources along with their planning for minerals.

**Non-Renewable Natural Resources:** Inanimate resources that do not increase significantly with time and whose use diminishes the total stock (e.g., minerals, fossil fuels and fossil water).

**Prime Agricultural Land:** “Prime agricultural land” means the following:

- (1) All land which qualifies for rating as Class I or Class II in the Natural Resources Conservation Service land use capability classifications.
- (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.
- (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
- (4) Land planted with fruit- or nut-bearing trees, vines, bushes, or crops that have a non-bearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.
- (5) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars

(\$200) per acre for three of the previous five years (§51201 (c)). (NOTE: This statutory definition may be somewhat dated.)

**Renewable Natural Resources:** Resources that can be replaced by natural ecological cycles or sound management practices (e.g., forests and plants).

**Riparian Habitat:** The land and plants bordering a watercourse or lake.

**Storie Index:** A numerical system (0-100) rating the degree to which a particular soil can grow plants or produce crops, based on four factors, including soil profile, surface texture, slope, and soil limitations.

**Timber:** “Trees of any species maintained for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned land, including Christmas trees, but does not mean nursery stock” (§51104(e)).

**Timberland Production Zone:** An area which has been zoned pursuant to §51112 or §51113 and is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses.

**Watershed:** The total area above a given point on a watercourse that contributes water to the flow of the watercourse; the entire region drained by a watercourse.

**Wetlands:** Areas that are permanently wet or periodically covered with shallow water, such as saltwater and freshwater marshes, open or closed brackish marshes, swamps, mud flats, vernal pools, and fens. This also includes wetlands under the jurisdiction of the U.S. Army Corps of Engineers which encompasses vernal pools and other areas with hydrology, soils, and vegetation meeting federal regulatory standards.

tion measures.

- Identify air quality impacts from vehicle emissions.
  - Identify air quality impacts from all other sources.
- ◆ Inventory energy-producing resources and energy conservation opportunities.
- Inventory resources, including wind, solar, hydroelectric, and biomass (using forest, domestic, and agricultural wastes).
  - Inventory energy conservation opportunities, including transportation economies, urban

design (i.e., land use patterns), and residential, commercial, and industrial conservation programs.

#### Ideas for Development Policies

The conservation element should contain objectives, policies, principles, plan proposals, and standards for the conservation, development, and utilization of a jurisdiction’s natural resources. Policies should be specific enough to cover the individual resources yet broad and inclusive enough to include the natural systems from which they are produced. The following is a list

of subjects that should be considered during the preparation of the conservation element and included as development policies to the extent that they are locally relevant.

- ◆ The type and intensity of development in or adjacent to water bodies and courses. (L, O)
- ◆ The protection, use, and development of bodies of water and water courses (i.e., rivers, lakes, streams, bays, harbors, estuaries, marshes, and reservoirs). (O)
- ◆ The protection of and development in watersheds and aquifer recharge areas. (L, O)
- ◆ The enhancement and protection of the quality of surface water resources and the prevention of contamination.
- ◆ The protection or improvement of water quality. (O)
- ◆ The preservation of wetlands, including jurisdictional wetlands and saltwater and freshwater marshes consistent with federal and state requirements. (O)
- ◆ The protection of wild rivers and their watersheds. (O)
- ◆ The provision of domestic, industrial, and agricultural water. (O)
- ◆ The conservation of water supplies (ground and surface).
- ◆ The conservation of riparian vegetation. (O)
- ◆ The designation and utilization of hydroelectric power generating sites. (MAP) (L)
- ◆ The management and protection of forestry resources. (L, O)
- ◆ The conservation of forests for wildlife protection, recreation, aesthetic purposes, etc. (L, O)
- ◆ The conservation of oak woodlands. (O)
- ◆ The application of timberland production zoning. (L)
- ◆ The rezoning of land zoned for timberland production. (L)
- ◆ The minimization of conflict between agricultural and urban land uses through transitions in land use designations. (L)
- ◆ The management and use of agricultural soils. (L, O)
- ◆ The control and prevention of erosion. (O, S)
- ◆ The encouragement of the use of public advisory committees to develop landscape-level goals, standards, and measures for protecting plant and wildlife communities and sensitive watersheds. (O)
- ◆ The development and improvement of port, harbor, and waterway facilities. (CI)
- ◆ The protection of water bodies and watersheds that are important for the management of commercial and recreational fishing. (L, O)
  - Protection of water bodies that are important for subsistence fishing.
- ◆ The protection of fish and wildlife and their habitats. (O)
- ◆ The protection of plant species and their habitats. (O)
- ◆ The preservation and protection of rare, threatened, or endangered species within the planning area, including candidate species and species of special concern consistent with state and federal regulations and law. (O)
- ◆ The promotion of congruency and cooperation with the management plans and policies of other local, state, and federal agencies, non-profits, and other groups involved with the preservation of resources.
- ◆ The recognition and implementation of enacted Habitat Conservation Plans (including multispecies plans) and Natural Communities Conservation Programs. (O)
- ◆ The protection, use, and development of mineral deposits, including oil, gas, and geothermal resources. (This should include policies developed under the Surface Mining and Reclamation Act. See Chapter 9.) (O)
- ◆ Development adjacent to or near mineral deposits, mining sites, and oil, gas, and geothermal developments. (L, O)
- ◆ Land reclamation in areas where mining, prolonged irrigation, landfill activities, hazardous materials storage or disposal, erosion, etc., have occurred. (L)
- ◆ The establishment of resource conservation areas. (O)
- ◆ The elimination of existing water pollution sources.
- ◆ The development, improvement, and timing of major sewer, water, and storm drainage projects needed to maintain water quality. (L, CI)
- ◆ The siting of landfills in relation to water bodies (among other considerations).
- ◆ The siting of hazardous materials storage and disposal facilities with regard to nearby water bodies (among other considerations). (L)

- ◆ The control of hazardous materials in areas where water pollution is possible.
- ◆ The reclamation of polluted water bodies.
- ◆ Flood management.
  - Floodwater management. (O, S)
  - Floodplain management. (L, O, S)
- ◆ The conservation, development, and utilization of other natural resources, such as:
  - Farm and grazing lands. (L, O)
  - Air quality. (CI, L, O)
  - Energy resources. (H)
- ◆ The protection or improvement of air quality through coordinated efforts with other public agencies and jurisdictions. (L, CI, O)
- ◆ The enhancement and protection of archaeological, historical, and paleontological resources.

### Technical Assistance

The following state agencies may provide information or assistance for the preparation of the land use element:

- ◆ Coastal Commission
- ◆ Coastal Conservancy
- ◆ Department of Boating and Waterways
- ◆ Department of Conservation, including the Division of Land Resource Protection and the Division of Mines and Geology
- ◆ Department of Fish and Game
- ◆ Department of Food and Agriculture
- ◆ Department of Forestry and Fire Protection
- ◆ Department of Water Resources
- ◆ Energy Commission
- ◆ Environmental Protection Agency
- ◆ Integrated Waste Management Board
- ◆ Wildlife Conservation Board

### OPEN-SPACE ELEMENT

The open-space element guides the comprehensive and long-range preservation and conservation of “open-space land” (§65563). Open-space land is defined in statute as any parcel or area of land or water that is essentially unimproved and devoted to open-space use (§65560(b)).

Along with the housing element, the open-space element has the most detailed statutory intent (see §65561 and §65562) and, next to land use, is the broadest in

scope. Because of this breadth, open-space issues overlap those of several elements and the open-space element is commonly combined with other elements.

For example, the land use element’s issues around agriculture, natural resources, recreation, enjoyment of scenic beauty and, to a certain extent, public grounds are covered by open-space provisions. “Open space for the preservation of natural resources” and “open space used for the managed production of resources” encompass the concerns of the conservation element. “Open space for public health and safety” covers issues similar to those found in the safety element.

### Court Interpretations

In *Save El Toro Association v. Days* (1977) 74 Cal.App.3d 64, the California Court of Appeal held that because the City of Morgan Hill had not adopted an open-space plan, the city could not acquire, regulate, or restrict open-space land or approve a subdivision map. Mere adoption, however, does not protect a local jurisdiction from the adverse consequences of a lawsuit challenging an open-space element. An open-space element must also meet the specifications of the Government Code.

Open-space elements have equal legal status with all other elements. In *Sierra Club v. Board of Supervisors of Kern County* (1981) 126 Cal.App.3d 698, the California Court of Appeal voided a precedence clause that gave a land use element priority over an open-space element on the grounds that it violated §65300.5 (which requires that elements of a general plan comprise an integrated, internally consistent, and compatible statement of policy).

*No Oil, Inc. v. City of Los Angeles* (1988) 196 Cal.App.3d 223 interprets the meaning of the term “open space for the managed production of resources.” A citizens’ group challenged the city’s approval of oil drilling zones in a coastal area designated as open space by the Brentwood-Pacific Palisades district plan. Absent specific contradictory language in the district plan, the court held that because oil recovery is the managed production of a natural resource, it was therefore consistent with the plan’s open-space designations. In light of this decision, OPR strongly suggests that local general plans specify the types of land use that are intended to comprise open space.

### Relevant Issues

The following topics should be addressed in the open-space element to the extent that they are locally relevant:

- ◆ Open space for the preservation of natural resources including, but not limited to:

## 5.5 Housing Plan

The City of Hayward’s long-term housing goal is to provide housing that fulfills the diverse needs of the community. In the short term, this will be accomplished with the objectives, policies, and programs set forth in this Housing Plan. The goals, policies, and programs in the Plan build upon the identified housing needs in the community, constraints confronting the City, and resources available to address the housing needs, and will guide City housing policy through the 2009-2014 planning period.

Goals are statements of community desires, which are broad in both purpose and aim, but are designed specifically to establish direction. Policies provide specific standards and/or end statements for achieving a goal. Essentially, goals represent desired outcomes the City seeks to achieve through the implementation of policies. Further articulation of how the City will achieve the stated goals is found in the programs. Programs identify specific actions the City will undertake toward putting each goal and policy into action. Quantified objectives identified in particular programs are estimates of assistance the City will be able to offer, subject to available financial and administrative resources.

To make adequate provision for the housing needs of all economic segments of the community, the programs in the Housing Plan aim to:

- Conserve and improve the condition of the existing affordable housing stock;
- Assist in the development of housing for low and moderate income households;
- Identify adequate sites to encourage the development of a variety of types of housing for all income levels;
- Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing; and
- Promote housing opportunities for all persons.

### A. Conserve and Improve the Existing Housing Stock

Conserving and improving the housing stock helps maintain investment in the community and keeps existing housing affordable. Because the majority of the housing stock is more than 30 years old, significant rehabilitation needs are anticipated. A number of factors can cause residential units to become unsafe or unhealthy to live in. Preventing these problems from occurring and addressing them when they do occur protect the safety and welfare of residents and assist in meeting housing needs throughout Hayward. The City will focus its efforts on rehabilitation, code enforcement, rental housing inspection, and preserving existing affordable units to take a proactive approach to conserving the current housing stock.

**GOAL 1.0** Maintain and enhance the existing viable housing stock and neighborhoods within Hayward.

**Policy 1.1** Enforce adopted code requirements that set forth the acceptable health and safety standards for the occupancy of housing units.

**Policy 1.2** Preserve existing single-family housing stock occupied by lower income households by rehabilitating single-family owner-occupied conventional and mobile homes.

**Policy 1.3** Administer residential rehabilitation programs that assist lower income households to ensure the safety and habitability of the City's housing units and the quality of its residential neighborhoods.

**Policy 1.4** Work with property owners and nonprofit housing providers to acquire and/or preserve existing housing for low and moderate income households.

**Program 1: Housing Rehabilitation Loan Program (HRLP)**

The Housing Rehabilitation Loan Program provides eligible lower income homeowners with below market-rate deferred loans to correct major health and safety deficiencies and make needed accessibility modifications. This program is intended for larger rehabilitation projects, where necessary repairs cost \$5,000 or more. Loans can be used for the following repair work:

- Repairs needed to bring the property up to building and housing code standards. Code violations will be corrected.
- General property improvements including painting, flooring and kitchen and bathroom remodeling.
- Roof replacement, electrical and plumbing repairs.
- Accessibility renovations and improvements for people who have disabilities or mobility impairments.
- Room additions where overcrowding is identified.

***Timeframe and Objectives:***

- Continue to provide rehabilitation loans to qualified lower income homeowners.
- Disseminate information to homeowners regarding rehabilitation standards, preventive maintenance, and energy conservation.
- Assist 20 lower income households annually.

***Responsible Agency:*** Department of Library and Neighborhood Services

***Funding Source:*** CDBG

**Program 2: Minor Home Repair Grant (MHRP)**

The Minor Home Repair Program offers grants up to \$5,000 for minor home repairs to low income elderly and/or disabled homeowners in order to address health and safety problems, correct code deficiencies, and improve the outward appearance of homes. Grants can be used to pay for minor repairs such as correcting leaky faucets, sinks, toilets, and replacing water heaters. Priority is given to work that corrects health and safety issues, and to accessibility modifications for people who have disabilities.

***Timeframe and Objectives:***

- Continue to provide rehabilitation grants to qualified lower income elderly and disabled homeowners.
- Disseminate information to homeowners regarding rehabilitation standards, preventive maintenance, and energy conservation.
- Assist 50 lower income households annually.

***Responsible Agency:*** Department of Library and Neighborhood Services

***Funding Source:*** CDBG

**Program 3: Disability Access Grant and Loan Program**

The Disability Access Grant and Loan Program provides below market-rate deferred loans and grants to lower income homeowners for the removal of architectural barriers in a residence to improve accessibility for persons with disabilities.

***Timeframe and Objectives:***

- Continue to provide rehabilitation grants and loans to qualified lower income homeowners.
- Disseminate information to homeowners regarding rehabilitation standards, preventive maintenance, accessibility requirements, and energy conservation.
- Assist 20 lower income households annually.

***Responsible Agency:*** Department of Library and Neighborhood Services

***Funding Source:*** CDBG

**Program 4: Residential Rental Inspection Program**

The purpose of the Residential Rental Inspection Program is to safeguard the stock of safe, sanitary rental units within the City and protect persons entering or residing in rental units through systematic inspection of rental housing throughout the City. The program focuses attention on rental housing in higher density areas with the goal of inspecting these units every three to four years. Properties outside the focus area are inspected less frequently, unless they are the subject of a complaint. All rental units are subject to inspection. In addition to an annual, per-unit fee, fees are charged for every unit in which a violation is found. Penalties are also assessed for lack of timely correction of violations.

***Timeframe and Objectives:***

- Continue to perform inspections on residential rental units Citywide.
- Disseminate information to residents about the mandatory rental inspections, as well as up-to-date information on the City's building, mechanical, plumbing, electrical, and housing codes.
- Inspect approximately 3,000 rental units annually.

***Responsible Agency:*** Development Services Department

***Funding Source:*** General Funds

**Program 5: Graffiti Abatement “Buster” Program**

The Graffiti Buster vehicle offers graffiti abatement services on a one-time courtesy basis for retail/commercial businesses and residential fences and retaining walls that abut the public sidewalk. Staff removes graffiti from municipal property, pedestrian and vehicular overpasses, BART columns, sidewalks, traffic control boxes, and the Amtrak Station. Residents who wish to remove existing graffiti in their neighborhoods can also obtain paint from the Facilities Division to paint over graffiti. Paint is available in six basic colors.

***Timeframe and Objectives:***

- Continue to provide graffiti abatement services Citywide.
- Disseminate information to and get feedback from residents on community appearance, including weeds, signs, junk, graffiti, and vehicles.

***Responsible Agency:*** Department of Library and Neighborhood Services

***Funding Source:*** General Funds

**Program 6: Crime Free/Crime Prevention through Environmental Design**

The City seeks to provide a safe and decent living environment for all residents. Specifically, the City will promote a crime-free environment through the following efforts:

- The Development Services Department will continue to include the Police Department in the review of all development projects to adequately address crime and safety, and to promote the implementation of Crime Prevention through Environmental Design (CPTED) strategies.
- Prepare an ordinance that requires CPTED strategies for all new multi-family developments and requires owners of new multi-family rental properties to participate in the Hayward Police Department’s Crime Free Multi-Housing program.
- When providing funding to existing affordable rental housing, require participation in the Hayward Police Department’s Crime Free Multi-Housing program.

***Timeframe and Objectives:***

- Prepare ordinance on CPTED strategies for new multi-family developments in 2010.
- Disseminate information on the City’s Crime Free Multi-Housing Program and CPTED strategies.

***Responsible Agency:*** Police Department

***Funding Source:*** General Funds

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## B. Assist in the Development of Affordable Housing

Providing affordable housing is essential for a healthy community. In addition to a diverse mix of housing types, it is necessary to make available housing for residents of all income levels. Seeking funding from varied sources increases the opportunities for development of affordable housing units. The Redevelopment Agency actively works with both non-profit and for-profit developers in the production of affordable for-sale and rental housing. Recognizing that homeownership plays a significant role in establishing strong neighborhoods and a sense of community pride, the City supports programs that make purchasing a home a realistic option for lower income households.

**GOAL 2.0** Assist in the provision of housing that meet the needs of all socioeconomic segments of the community.

**Policy 2.1** Encourage the development of ownership housing and assist tenants to become homeowners to reach a 70 percent owner-occupancy rate, within the parameters of federal and state housing laws.

**Policy 2.2** Use density bonuses and other incentives to facilitate the development of new housing for extremely low, very low, and low income households.

**Policy 2.3** Avoid the loss of assisted housing units and the resulting displacement of low income residents by providing funds to non-profit developers to be used for the acquisition of subsidized housing developments at risk of converting to market rate.

**Policy 2.4** Address the housing needs of special populations and extremely low income households through emergency shelters, transitional housing, supportive housing, and single-room occupancy units.

**Policy 2.5** Promote sustainable housing practices that incorporate a ‘whole system’ approach to siting, designing, and constructing housing that is integrated into the building site, consumes less water and improves water quality, reduces energy use, and other resources, and minimizes its impact on the surrounding environment. *(This policy will be implemented through existing ordinances and guidelines such as the Green Building Ordinance, the recently adopted Environmentally Friendly Landscape Guidelines (with an implementing ordinance expected to be adopted in the spring of 2010), the Water Efficient Landscape Ordinance, and the Alameda County Clean Water Program.)*

### Program 7: Preservation of At-Risk Housing

Thirteen assisted housing developments, with a total of 679 affordable housing units, in the City are considered at risk of converting to market-rate housing during the planning period of this at-risk analysis (July 1, 2009 through June 30, 2019). The City will monitor all units considered at risk of conversion to market rate and assist property owners in maintaining the affordability of these units.

#### ***Timeframe and Objectives:***

- Annually monitor status of the 679 affordable housing units that are at risk of converting to market rate between 2009 and 2019.
- Ensure that property owners comply with State noticing requirements to notify tenants one year ahead of their intent to terminate subsidy contracts or affordability covenants.
- Support and assist property owners in applying for State and federal at-risk housing preservation funds.
- Provide technical assistance to tenants to access other affordable housing resources, such as assistance to tenants of at-risk affordable housing developments by referring them to the Eden I & R's Alameda County Referral Line, a 24-hour telephone line service (211) that provides residents free information about housing, health and social services throughout Alameda County. Currently, this program is partially supported by the City of Hayward with CDBG funding.
- Encourage the sale or transfer of rent-restricted residential developments to non-profit organizations which will agree to maintain the affordability restrictions for the life of the project.
- As funding permits, provide financial assistance to nonprofit housing developers in the acquisition/rehabilitation of at-risk projects.

***Responsible Agencies:*** Office of the City Manager (Housing); Housing Authority of the County of Alameda

***Funding Sources:*** Redevelopment Housing Set-Aside; HOME; Inclusionary Housing In-Lieu Fees; Section 8 Rental Assistance; and other HUD and State Housing Preservation funds

### Program 8: Foreclosure Prevention and Counseling

Hayward is one of the Alameda County jurisdictions with the largest number of foreclosures, subprime loans, and delinquencies – behind Oakland and Unincorporated Alameda County. Among all the jurisdictions in Alameda County, Hayward had the highest ratio of foreclosures to the total number of outstanding mortgage loans.

#### ***Timeframe and Objectives:***

- Include information about foreclosure prevention resources in the housing programs section of the City's website. Post information about the programs available for refinancing at-risk loans, and contact information for legal services agencies and HUD-approved counseling organizations in the area.
- Provide funds to ECHO Housing (ECHO) or another HUD-approved counseling organization to fund a foreclosure counselor to serve Hayward.

- Mail residents who receive Notices of Default (NOD's) relevant information about resources available for homeowners facing the loss of their home.
- Organize foreclosure-prevention seminars for Hayward residents at risk of losing their homes.

**Responsible Agencies:** Office of the City Manager (Housing); Department of Library and Neighborhood Services; ECHO

**Funding Sources:** CDBG; HOME; Neighborhood Stabilization Program (NSP) funds

#### Program 9: Purchase, Rehabilitation, and Sale of Foreclosed Properties

Given the high rate of foreclosures in Hayward, the City has developed a program to acquire, rehabilitate, and resell foreclosed properties to lower and moderate income households. The program will likely target properties in ZIP Code 94544 where there is a concentration of foreclosed properties.

#### **Timeframe and Objectives:**

- The City will acquire four properties by June 30, 2010.
- The City plans to acquire another 16 units by the end of 2011.
- Work with nonprofit housing developer, Habitat for Humanity to implement program.

**Responsible Agencies:** Office of the City Manager (Housing and Redevelopment); Nonprofit Housing Developers

**Funding Sources:** Neighborhood Stabilization Program (NSP) funds; Redevelopment Housing Set-Aside

#### Program 10: First Time Homebuyer Program

The City of Hayward's First Time Homebuyer Program provides assistance to first-time homebuyers by offering loans up to \$40,000 to qualified low-income homebuyers and up to \$30,000 to moderate-income homebuyers. Applicants may use the funds for down payment and/or closing costs. The program assistance is a 30-year loan which is secured by a deed of trust. Full amortization starts on year six with a 3.5% interest rate. No principal and interest accrue during the first five years.

During the first part of 2009, City staff made the following changes to the Program in order to respond to current real estate market conditions:

- The interest rate was fixed to 3.5 percent, as opposed to being tied to the 11<sup>th</sup> District Cost of Funds Index;
- A five-year loan payment deferral period was allowed; and
- The loan amount was increased to \$30,000 to moderate-income homebuyers and \$40,000 to low-income homebuyers.

***Timeframe and Objectives:***

- The program features were restructured in 2009 to take advantage of current market conditions and expand assistance to increased number of households.
- Continue to provide loans to potential low and moderate income homeowners.
- Provide 15 to 20 loans annually.

***Responsible Agency:*** Office of the City Manager (Housing and Redevelopment)  
***Funding Sources:*** Redevelopment Housing Set-Aside; Inclusionary Housing In-Lieu fees

**Program 11: Mortgage Credit Certificate**

The Mortgage Credit Certificate (MCC) program provides the income eligible buyer with an opportunity to reduce the amount of federal income tax otherwise due by an amount equal to 15 percent of the mortgage interest payments at a dollar-for-dollar credit. The remaining 85 percent can be taken as the usual allowable deduction of the itemized return. The result increases the household's overall income and ability to qualify for a mortgage loan. The MCC program provides assistance to first-time homebuyers for the purchase of owner-occupied single-family homes, duplexes, townhomes, and condominiums.

***Timeframe and Objectives:***

- Continue to participate in the MCC program.
- Assist the County in promoting the program to eligible homebuyers.

***Responsible Agency:*** County of Alameda Housing and Community Development Department; Office of the City Manager (Housing)  
***Funding Sources:*** MCC Allocation

**Program 12: Tenant-Based Rental Assistance for Emancipated Youth**

The City provides funding to Project Independence, a program implemented by ABODE Services to assist emancipated youth in Alameda County (youth from 18 to 24 who have aged out of the foster care system). Most of the participants in this program are single mothers on Cal WORKS with extremely low incomes. In addition to affordable housing, the program provides the youth and their children (if applicable) with comprehensive supportive services. Program participants live in subsidized apartments at scattered rental complexes and participate in case management, education and vocational training, employment placement, financial literacy training, mental and physical healthcare, and other supportive programs.

***Timeframe and Objectives:***

- Continue to support Project Independence.
- Work with ABODE Services to provide a continuum of supportive services for emancipated youth.

***Responsible Agency:*** ABODE Services; Office of the City Manager (Housing)  
***Funding Sources:*** HOME

### Program 13: Affordable Housing Development

The City will work with developers to facilitate affordable housing development. Specifically, as funding permits, the City will provide gap financing as a local match to State (e.g. Proposition 1C), federal, and other public affordable funding sources. Gap financing will focus on rental housing units affordable to lower income households and households with special needs (e.g. seniors and disabled), especially projects that promote the City's goals relating to transit-oriented development and jobs/housing balance. Recent affordable housing developments in the City have included units for extremely low income households (such as Sara Conner Court and Walker Landing). The City will continue to target households at this income level.

#### ***Timeframe and Objectives:***

- Assist in the development of transit-oriented housing units affordable to lower income and special needs households through gap financing. Specifically, facilitate the development of 206 senior and family affordable units in the South Hayward BART area; target 33 of the 206 affordable units for extremely low income households (16 family units and 17 senior units).
- Provide developers with technical support in the application for State, federal, and other funding programs.
- Facilitate affordable housing development on Redevelopment Agency-owned properties, such as the sites located at A & Walnut (acquired) and B & Grand (targeted for acquisition in FY 2010) by the Agency with set-aside funds. A & Walnut is being considered for housing for persons with disabilities, with the potential to accommodate extremely low income households with disabilities.

***Responsible Agency:*** Office of the City Manager (Housing and Redevelopment)

***Funding Sources:*** Redevelopment Housing Set-Aside; Proposition 1C funds

### Program 14: Density Bonus

State law requires the provision of certain incentives for residential development projects that set aside a certain portion of the units to be affordable to lower and moderate income households. The City implements State law through its density bonus ordinance. Under current State law, jurisdictions are required to provide density bonuses and development incentives on a sliding scale, where the amount of density bonus and number of incentives vary according to the amount of affordable housing units provided. The City of Hayward offers a density bonus to developers who agree to construct any of the following:

- Ten percent of total units for lower income households
- Five percent of total units for very low income households
- A senior citizen housing development or a mobile home park
- Ten percent of total units for moderate income households

The amount of density bonus granted varies depending on the percentage of affordable units provided and ranges from five to 35 percent. To obtain a density bonus in Hayward, the developer must submit a Density Bonus Application as well as an Affordable Housing Unit Plan and Agreement to the City. In 2005, the City granted a density bonus of 5 units (10 percent) to the Olson Company for its 56-unit condominium development, Garden Walk.

**Timeframe and Objectives:**

- Continue to use the Density Bonus Ordinance to encourage the development of affordable housing.
- Develop a brochure describing the Density Bonus Ordinance and distribute to potential developers in order to promote affordable housing development.

**Responsible Agency:** Development Services Department and Office of the City Manager (Housing and Redevelopment)

**Funding Source:** None required

**Program 15: Green Building Ordinance**

Green building refers to a whole systems approach to the design, construction, and operation of buildings and structures that helps mitigate the environmental, economic, and social impacts of construction, demolition and renovation. Green building practices recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive indoor environment. Under the Green Building Ordinance, new structures and additions or remodels of over 500 square feet are required to be Green Point Rated in order to receive a Certificate of Occupancy.

**Timeframe and Objectives:**

- Continue to enforce the Green Building Ordinance.
- Develop possible incentives for affordable housing developers to offset any additional costs that the Green Building Ordinance may add to the cost of housing development. Incentives will be offered as part of the overall incentive package for housing development by July 2011.
- Develop possible incentives to encourage voluntary compliance with the Green Building Ordinance for all residential project projects by July 2011. Incentives may include financial assistance through the Department of Energy's Energy Efficiency and Conservation Block Grant (EECBG) and Alameda County's Green Packages.
- Develop a guide for alternative features and mechanisms for meeting the Green Building Ordinance by July 2011, if allowed by the new statewide green building code known as CALGreen.

**Responsible Agency:** Development Services Department

**Funding Source:** None required

## C. Provide Adequate Sites

A major element in meeting the housing needs of all segments of the community is the provision of adequate sites to facilitate the development of all types, sizes and prices of housing. Persons and households of different ages, types, incomes, and lifestyles have a variety of housing needs and preferences that evolve over time and in response to changing life circumstances. Providing an adequate supply and diversity of housing accommodates changing housing needs of residents. The Hayward General Plan, Zoning Ordinance, and various design/concept plans establish where and what types of housing may locate. To provide adequate housing and maximize use of

limited land resources, new development should be constructed at appropriate densities that maximize the intended use of the land.

**GOAL 3.0** Provide suitable sites for housing development which can accommodate a range of housing by type, size, location, price, and tenure.

**Policy 3.1** Implement land use policies that allow for a range of residential densities and products, including low-density single-family uses, moderate-density town homes, and higher-density apartments, condominiums, and units in mixed-use developments.

**Policy 3.2** Encourage transit-oriented developments that take advantage of the City's convenient access to the BART station.

**Policy 3.3** Encourage development of residential uses in strategic proximity to employment, recreational facilities, schools, neighborhood commercial areas, and transportation routes.

**Policy 3.4** Encourage compatible residential development in areas with recyclable or underutilized land.

**Policy 3.5** Allow flexibility within the City's standards and regulations to encourage a variety of housing types.

**Policy 3.6** Enforce the City's Inclusionary Housing Ordinance to ensure that a certain percentage of new residential developments units will be made affordable to low and moderate income households.

#### **Program 16: Provision of Adequate Sites**

Through the City's General Plan, Zoning Ordinance, and various concept/design plans, the City offers opportunities for a diverse range of housing options. Specifically, the City maintains an inventory of vacant and underutilized residential and mixed use sites that can accommodate the City's Regional Housing Needs Allocation (RHNA) of 3,393 units.

With units constructed, under construction, and approved, the City of Hayward has already met a portion of its RHNA. For the 2009-2014 Housing Element period, the City has a remaining RHNA of 1,506 units: 553 very low income units; 433 low income units; and 520 moderate income units. The City will ensure adequate sites are available to accommodate this remaining RHNA.

#### ***Timeframe and Objectives:***

- Maintain a residential sites inventory that can accommodate the City's remaining RHNA of 1,506 units. Update the inventory annually to monitor the consumption of residential and mixed use properties and continued ability to fulfill the RHNA.

- Begin implementation of the 238 Corridor Bypass Land Use Plan in 2010, coordinating with the provision of public improvements in the area according to the following schedule:
  - California Transportation Commission (CTC) rescission of 238 Corridor Bypass project.
  - CTC approval of LATIP no later than June 2010.
  - Hiring of staff to implement program.
  - Program implementation.
  - Start sale/disposition of 238 Corridor properties estimated at no later than Fall 2010.
  - Complete programmatic elements of Lump Sum Stipend (LSS) and OPHP. Estimated to be no later than July 2012, since the Opportunity to Purchase Home Program (OPHP) is a two-year commitment.
- Assist in land consolidation by providing sites information to interested developers and provide gap financing assistance to nonprofit housing developers. Through redevelopment efforts, coordinate public improvements to facilitate lot consolidation.

**Responsible Agency:** Development Services Department; Office of the City Manger (Housing and Redevelopment)

**Funding Sources:** Redevelopment Housing Set-Aside; Inclusionary Housing In-Lieu Fees; HOME funds

#### Program 17: Affordable Housing on Large Sites

To facilitate the development of housing for lower income households on the largest sites identified in the Sites Inventory (i.e., the 24.12-acre site in the 238 Study Area, which has a potential for 964 units), the City will encourage land divisions and specific plans resulting in parcels sizes that facilitate multi-family developments that include units for affordable to lower income households in light of state, federal and local financing programs.

#### **Timeframe and Objectives:**

- Offer the following incentives for the development of affordable housing, including but not limited to:
  - Priority to processing subdivision maps that include affordable housing units;
  - Expedited review for the subdivision of larger sites into buildable lots where the development application can be found consistent with the General Plan, applicable Specific Plan and master environmental impact report;
  - Financial assistance (based on availability of federal, state, local foundations, and private housing funds); and
  - Modification of development requirements, such as reduced parking standards for seniors, assisted care, and special needs housing on a case-by-case basis.

**Responsible Agency:** Development Services Department

**Funding Sources:** General Fund

## D. Remove Governmental Constraints

Pursuant to State law, the City is obligated to address, and where legally possible, remove governmental constraints affecting the maintenance, improvement, and development of housing. Removing constraints on housing development can help address housing needs in the City by expediting construction, and lowering development costs.

**GOAL 4.0** Mitigate any potential governmental constraints to housing production and affordability.

**Policy 4.1** Review and adjust as appropriate residential development standards, regulations, ordinances, departmental processing procedures, and residential fees that are determined to be a constraint on the development of housing, particularly housing for lower and moderate income households and for persons with special needs.

### Program 18: Inclusionary Housing Ordinance

Hayward's Inclusionary Housing Ordinance requires that a certain percentage of new residential developments units be made affordable to low and moderate income households, depending on whether the project is intended as ownership or rental housing. Specifically:

#### *Affordable Rental Units:*

- 7.5 percent of the units must be affordable to households earning no more than 50 percent of the Area Median Income (AMI).
- 7.5 percent of the units must be affordable to households earning no more than 60 percent of the AMI.

#### *Affordable Ownership Units:*

- 15 percent of the units must be made affordable to households earning no more than 120 percent of the AMI for a term of no less than 45 years.

To monitor and evaluate the effectiveness of the City's Inclusionary Housing Ordinance, the City has retained a consultant in November 2009 to conduct a study and recommend modifications to the ordinance if necessary.

#### *Timeframe and Objectives:*

- Continue to enforce the Inclusionary Housing Ordinance.
- Conduct a study by Spring 2010 to:
  - Review the Hayward Inclusionary Housing Ordinance and Affordable Housing In-Lieu Fee Resolution. Review best practices for methodology of determining fees.
  - Determine the affordable housing cost differential.
  - Prepare a nexus study to determine the impact of market-rate housing on the need for affordable housing.
  - Analyze the financial costs, benefits, and use of incentives and alternatives to produce affordable housing.

- As part of the study, consider modifying the Inclusionary Housing Policy to set aside a specific percentage of the Inclusionary Housing Ordinance fees for extremely low income housing.

**Responsible Agency:** Office of the City Manager (Housing)  
**Funding Source:** None required

#### Program 19: Development Fees and Processes

The City of Hayward charges a variety of fees to offset the costs of providing infrastructure improvements, public facilities, and services to serve new residential development. Fees are necessary to ensure that new residents are adequately served. However, they may also impact the feasibility of residential development especially during the current difficult market conditions.

Applicants for Tentative Tract Maps that involve rezoning to a Planned Development District are required to submit a Preliminary Development Plan along with the Tentative Map. The City Council approves the Tentative Map, the Preliminary Development Plan and the rezoning at one time. Subsequently, an applicant is required to submit a Precise Development Plan, which includes more detailed architectural plans, landscape plans and draft improvement plans. The Precise Development Plan is reviewed and approved by City staff and the review process typically takes between three and nine months. Subsequent to approval of the Precise Development Plan, fully developed improvement plans are then submitted and reviewed. The time required to complete the Precise Development Plan/Improvement Plan review process can be considered a governmental constraint.

#### **Timeframe and Objectives:**

- In February 2010, the City Council approved a package of developer incentives that allow payment of the park dedication in-lieu fee and the supplemental building and construction improvement tax to be deferred to close of escrow. . The incentives also include longer time periods before initial development approvals expire and longer approval periods for extensions of approvals.
- Hold public meetings in 2009 with builders and developers to obtain input on improving the Precise Development Plan process. Continue to meet bimonthly with developers and builders in 2010. (The City held the first meeting on December 2, 2009.)
- As appropriate, amend the Zoning Ordinance and/or City procedures to establish a new Precise Development Plan process within six months of the adoption of the Housing Element.

**Responsible Agency:** Development Services Department  
**Funding Source:** General Fund

**Program 20: Extremely Low Income and Special Needs Housing**

Extremely low income households and households with special needs have limited housing options in Hayward. Housing types appropriate for these groups include: emergency shelters, transitional housing, supportive housing, and single-room occupancy (SRO) units. Pursuant to State law, the City of Hayward’s Zoning Ordinance must make provisions for such housing.

***Timeframe and Objectives:*** Pursuant to State Law, the Zoning Ordinance will be amended, within one year of the adoption of the 2009-2014 Housing Element, to address the following:

- *Emergency Shelters:* Pursuant to State Law, amend the Zoning Ordinance to permit homeless shelters with a ministerial permit within the General Commercial (CG) zoning district. Pursuant to State law, the City may establish standards such as:
  - Maximum number of beds;
  - Proximity to other shelters;
  - Length of stay;
  - Security and lighting;
  - Counseling services; and
  - Provision of on-site management.

The City will ensure that standards established work to facilitate the development of emergency shelters.

- *Transitional Housing:* Pursuant to State law, amend the Zoning Ordinance to address transitional housing and differentiate the different forms transitional housing can take (group quarters versus regular housing developments). For transitional housing facilities that operate as regular housing developments, meeting the Health and Safety Code definition, such uses will be permitted by right where housing is permitted.

For transitional housing facilities that operate as group quarters, such facilities will be permitted as community care facilities. Potential conditions for approval of transitional housing for more than six persons in a group quarters setting may include hours of operation, security, loading requirements, noise regulations, and restrictions on loitering. Conditions would be similar to those for other similar uses and would not serve to constrain the development of such facilities.

- *Supportive Housing:* Pursuant to State Law, amend the Zoning Ordinance to address supportive housing and differentiate the different forms supportive housing can take (group quarters versus regular housing developments). For supportive housing facilities that operate as regular housing developments, meeting the Health and Safety Code definition, such uses will be permitted by right where housing is permitted.

For supportive housing facilities that operate as group quarters, such facilities will be permitted as community care facilities. Potential conditions for approval of transitional housing for more than six persons in a group quarters setting may include hours of operation, security, loading requirements, noise regulations, and restrictions on loitering.

Conditions would be similar to those for other similar uses and would not serve to constrain the development of such facilities.

- *Group Homes/Residential Care Facilities:* Pursuant to State Law, amend the Zoning Ordinance to explicitly identify group homes/residential care facilities for six or fewer persons as a regular residential use and permitted by right where residential uses are permitted.
- *Single Room Occupancy (SRO):* Pursuant to State Law, amend the Zoning Ordinance to permit SROs in the General Commercial (CG) zoning district.
- City staff will establish relationships with the State agencies that regulate group homes, emergency shelters, and transitional and supportive housing facilities to encourage:
  - Educational opportunities for City staff to learn about how various housing facilities are regulated; and
  - Training managers/operators of housing facilities in the City’s Crime Free Multi-Housing Program.
- Utilize CDBG funds to support emergency shelters, and transitional and supportive housing programs for the homeless (e.g. Spectrum and Magnolia House) and those who are at risk of becoming homeless.

**Responsible Agency:** Development Services Department  
**Funding Source:** None required

**Program 21: Child Care Services and Facilities**

The City will consider amending the Zoning Ordinance and/or General Plan to address child care needs associated with new residential development. Specifically, the City will consider the following:

- For residential projects over 100 units, estimate expected children and consult with a child care intermediaries such as the Child Care Coordinating Council of Alameda County on corresponding area supply and need for child care.
- Encourage the inclusion of child care space, particularly in affordable housing developments. City staff shall consult with child care intermediaries such as the Child Care Coordinating Council of Alameda County when initiating new proposals for publicly funded projects to develop added incentives for projects that review need for child care.
- Support the provision of child care centers in residential neighborhoods and in new residential projects through policies, planning and coordinated staff support and practice.

- To the extent feasible, encourage applicants for publicly financed projects to consider need for child care and pursue supportive corresponding strategies if warranted, by working with child care intermediaries such as the Resource and Referral agencies.
- Consider offering incentives for child care inclusion in other projects such as: parking reductions and density bonuses and consider creative mechanisms for supporting the financing of new housing linked child care such as development agreements for child care, public funding of the child care component, and/or other strategies.

***Timeframe and Objectives:***

- Develop for consideration new requirements, incentives, and policies to facilitate the provision of adequate child care facilities and services associated with new residential development in 2010.

***Responsible Agency:*** Development Services Department

***Funding Source:*** None required

## E. Promote Housing Opportunities for All Persons

The City recognizes the importance of extending equal housing opportunities for all persons, regardless of race, religion, sex, family status, marital status, ancestry, national origin, color, age, physical or mental disability, sexual orientation, source of income, or any other arbitrary factor.

**GOAL 5.0** Promote equal access to housing by educating City residents about fair housing and lending laws.

**Policy 5.1:** Support services and programs that eliminate housing discrimination.

**Policy 5.2:** Promote housing along with supportive services for households with special needs, including seniors, persons with disabilities, single-parents, and the homeless.

### Program 22: Fair Housing Services

The City of Hayward contracts with ECHO to provide fair housing and tenant/landlord services.

- **Fair Housing Counseling and Education:** ECHO's Fair Housing Counseling Program conducts site investigations and enforcement in response to reports of housing discrimination complaints, performs audit-based investigations to determine degrees of housing discrimination existing in designated areas, and provides fair housing education for members of the housing industry including managers, owners, and realtors.
- **Tenant/Landlord Counseling and Mediation:** ECHO's Tenant/Landlord Counseling Program provides information to tenants and landlords in Southern Alameda County on their housing rights and responsibilities. Additionally, ECHO has trained mediators to

assist in resolving housing disputes through conciliation and mediation. The primary objective of the program is to build awareness of housing laws and prevent homelessness.

***Timeframe and Objectives:***

- Promote the dissemination of information to alert homeowners about predatory lending practices.
- Work with Bay East Association of Realtors to ensure that residential real estate agents and brokers adhere to fair housing laws and regulations.
- Work with tenants, tenant advocates, and rental housing owners and managers to eradicate housing discrimination and to ensure that Hayward's supply of rental housing is decent, safe and sanitary.
- Promote training for property owners and managers to ensure that they are knowledgeable of the requirements of Federal, State and local real estate, housing discrimination, tenant protection, housing inspection and community preservation laws; and promote training of tenants in the requirements of Federal, State, and local laws so that they are aware of their rights and obligations.

***Responsible Agency:*** Department of Library and Neighborhood Services

***Funding Source:*** CDBG

**Program 23: Universal Design Principles**

With 18 percent of the City's household being headed by an elderly person and 21 percent of the population has one or more disabilities, there is a need for accessible housing in the community. However, over 85 percent of the City's housing stock was constructed prior to 1990, before the passage of the Americans with Disabilities Act. Therefore, a significant portion of the City's housing stock is not accessible to persons with disabilities. The City will explore the feasibility of promoting the use of Universal Design Principles in new construction and rehabilitation of housing.

Universal Design is the creation of products and environments meant to be usable by all people, to the greatest extent possible, without the need for adaptation or specialization. The intent of Universal Design is to simplify life for everyone by making products, communications and the built environment more usable by as many people as possible at little or no extra cost. Universal Design benefits people of all ages and abilities.

***Timeframe and Objectives:***

- Develop an ordinance that promotes the use of Universal Design Principles in new construction and/or rehabilitation of housing by the end of 2010.

***Responsible Agency:*** Development Services Department

***Funding Source:*** None required

## F. Summary of Quantified Objectives

Table 5-45 summarizes the City's objectives in housing production, preservation, and assistance based on the level of funding anticipated.

Table 5-45: Five-Year Quantified Objectives

	Extremely Low	Very Low	Low	Moderate	Above Moderate	Total
New Construction (RHNA)	359	409	483	569	1,573	3,393
Rehabilitation	150	150	150			450
Preservation (At-Risk Units)	339	340				679
Assistance						
Section 8	1,200	1,200				2,400
Homebuyer Assistance			35	40		75
Foreclosed Properties			15	10		25