

TOWN OF YUCCA VALLEY
PLANNING COMMISSION SPECIAL MEETING



The Mission of the Town of Yucca Valley is to provide a government that is responsive to the needs and concerns of its diverse citizenry and ensures a safe and secure environment while maintaining the highest quality of life

TUESDAY
MAY 07, 2013
6:00 p.m.

YUCCA VALLEY COMMUNITY CENTER, YUCCA ROOM
57090 - 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284

* * * *

PLANNING COMMISSION MEMBERS

Tim Humphreville, Chairman
Vickie Bridenstine, Vice Chairman
Jeff Drozd, Commissioner
Steve Whitten, Commissioner

AGENDA

SPECIAL MEETING OF THE TOWN OF YUCCA VALLEY PLANNING COMMISSION 6:00 P.M., TUESDAY, MAY 07, 2013

The Town of Yucca Valley complies with the Americans with Disabilities Act of 1990. If you require special assistance to attend or participate in this meeting, please call the Town Clerk's office at (760) 369-7209 at least 48 hours prior to the meeting.

If you wish to comment on any subject on the agenda, or any subject not on the agenda during public comments, please fill out a card and give it to the Planning Commission secretary. The Chair will recognize you at the appropriate time. Comment time is limited to 3 minutes.

CALL TO ORDER:

ADMINISTER OATH OF OFFICE TO NEW PLANNING COMMISSIONER BY THE TOWN CLERK'S OFFICE

ROLL CALL: Vickie Bridenstine, Vice Chairman
Jeff Drozd, Commissioner
Tim Humphreville, Chairman
Warren Lavender, Commissioner
Steve Whitten, Commissioner

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Action: Move by _____ 2nd by _____ Voice Vote _____.

PUBLIC COMMENTS

In order to assist in the orderly and timely conduct of the meeting, the Planning Commission takes this time to consider your comments on items of concern, which are not on the agenda. When you are called to speak, please state your name and community of residence. Please limit your comments to three minutes or less. Inappropriate behavior, which disrupts or otherwise impedes the orderly conduct of the meeting, will result in forfeiture of your public comment privileges. The Planning Commission is prohibited by State law from taking action or discussing items not included on the printed agenda.

DEPARTMENT REPORT:

1. DRAFT DEVELOPMENT CODE

RECOMMENDATION: That the Planning Commission reviews the Draft Development Code, Article 3, Sign Regulations and Alternative Energy Systems, and provides feedback to staff.

Action: Moved by _____ 2nd by _____ Voice Vote _____

PUBLIC HEARINGS:

2. DEVELOPMENT CODE AMENDMENT, DCA 01-13, REASONABLE ACCOMMODATIONS

Proposed amendment to Title 8, Yucca Valley Development Code adding Article 9, Section 83.0309 et al, Reasonable Accommodations, to provide reasonable accommodations in the Town's zoning and land use regulations, policies and procedures when needed to ensure equal access to housing and facilitate the development of housing for individuals with disabilities.

RECOMMENDATION; That the Planning Commission finds that the proposed ordinance is exempt from CEQA under Section 15061 (b) (3) and recommends that the Town Council adopt the Ordinance.

Action: Moved by _____ 2nd by _____ Voice Vote _____

3. DEVELOPMENT CODE AMENDMENT, DCA 03-13, EMERGENCY TRANSITIONAL HOUSING AND SINGLE ROOM OCCUPANCY

Proposed amendment to Title 8, Yucca Valley Development Code to amend Section 84.0370 to allow emergency transitional housing subject to a Special Use Permit and single room occupancy units subject to a Conditional Use permit in the Industrial land use district.

RECOMMENDATION; That the Planning Commission recommends that the Town Council finds the proposed ordinance exempt from CEQA under Section 15061 (b)(3), and adopts the Ordinance.

Action: Moved by _____ 2nd by _____ Voice Vote _____

4. DEVELOPMENT CODE AMENDMENT, DCA 04-13, SECOND DWELLING UNITS

Proposed amendment to Title 8, Yucca Valley Development Code amending Section 84.0305 (b), 84.0320(b), 84.0325(b) and 84.0510, pertaining to second dwelling units.

RECOMMENDATION: That the Planning Commission recommends that the Town Council finds the proposed ordinance exempt from CEQA under Section 15061 (b)(3), and adopts the Ordinance.

Action: Moved by _____ 2nd by _____ Voice Vote _____

CONSENT AGENDA:

All items listed on the consent agenda are considered to be routine matters and may be enacted by one motion and a second. There will be no separate discussion of the consent agenda items unless a member of the Planning Commission or Town Staff requests discussion on specific consent calendar items at the beginning of the discussion. Public requests to comment on consent calendar items should be filed with the Deputy Town Clerk before the consent agenda is called.

STAFF REPORTS AND COMMENTS:

FUTURE AGENDA ITEMS:

Density Bonus Ordinance

COMMISSIONER REPORTS AND REQUESTS:

Commissioner Bridenstine
Commissioner Drozd
Commissioner Lavender
Commissioner Whitten
Chairman Humphreville

ANNOUNCEMENTS:

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, May 14, 2013 at 6:00 p.m.

ADJOURN

PLANNING COMMISSION STAFF REPORT

To: Honorable Chairman & Commissioners
From: Shane Stueckle, Deputy Town Manager
Date: April 29, 2013
For Commission Meeting: May 07, 2013

Subject: Development Code Amendment, DCA 01-13
Ordinance No.
Housing Element Update
State Mandated Regulations
Reasonable Accommodations

Prior Commission Review: There has been no prior Commission review of this matter.

Recommendation: That the Planning Commission finds that the proposed ordinance is exempt from CEQA under Section 15061 (b) (3) and recommends that the Town Council adopt the Ordinance.

Executive Summary: The Federal Fair Housing Amendments Act of 1988 and California Fair Employment and Housing Acts (Acts) prohibit discrimination in housing against individuals with disabilities and require that cities take affirmative action to eliminate regulations, policies, practices and procedures that deny housing opportunities to individuals with disabilities. These Acts require that cities provide flexibility in the application of land use and zoning regulations, policies, practices and procedures for individuals with disabilities, their representatives, or developers of housing for people with disabilities.

State Housing and Community Development (HCD) has identified the need for the Town to adopt reasonable accommodation procedures in order to achieve Housing Element Certification.

Order of Procedure:

Request Staff Report
Open The Public Hearing, Request Public Comment
Close The Public Hearing
Commission Discussion/Questions of Staff
Motion/Second
Discussion on the Motion
Vote

Discussion: The Federal Fair Housing Amendments Act of 1988 and California Fair Employment and Housing Acts (Acts) prohibit discrimination in housing against individuals

<input type="checkbox"/> Department Report	<input checked="" type="checkbox"/> Ordinance Action	<input type="checkbox"/> Resolution Action	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Consent	<input type="checkbox"/> Minute Action	<input type="checkbox"/> Receive and File	<input type="checkbox"/> Study Session

with disabilities and require that cities take affirmative action to eliminate regulations, policies, practices and procedures that deny housing opportunities to individuals with disabilities. (42 usc 3604, California Govt Code 12927 and 12955). These Acts require that cities provide flexibility in the application of land use and zoning regulations, policies, practices and procedures for individuals with disabilities, their representatives, or developers of housing for people with disabilities. Additionally, in 2001 the California Attorney General recommended that cities adopt procedures for handling requests for reasonable accommodation.

In addition to establishing a standard process for addressing reasonable accommodation requests, the adoption of a reasonable accommodation ordinance helps to protect the Town from legal challenges and ensures that existing and future residents of the Town have a reasonable accommodation procedure in place when necessary.

A reasonable accommodation ordinance acknowledges that where local land use and zoning regulations, policies, practices and procedures may impose significant barriers to developing or maintaining much needed housing for individuals with disabilities, the Town has established a procedure for removal of these constraints through a process of reviewing reasonable accommodation requests. Codification of a clear process for reviewing reasonable accommodation request would ensure that all requests are handled in a fair and consistent manner and ensure the request process is well-defined for both Town staff members and the public.

A hypothetical example of a reasonable accommodation request is a disabled homeowner of a two story home who can no longer use the stairs and finds it necessary to install an elevator within the home. However, the location of the new elevator at the back of the home will encroach into the minimum required rear setback. A reasonable accommodation request would be for the Town administratively approve the placement of the elevators location without requiring a variance request, even though the request encroaches into the rear setback.

A reasonable accommodation request must be approved, conditionally approved, or denied based on five (5) required findings:

1. The housing which is the subject of the request for reasonable accommodation will be used by an individual with disabilities protected under the Acts; and
2. The request for reasonable accommodation is necessary to make housing available to an individual with disabilities protected under the Acts; and
3. The request for reasonable accommodation would impose an undue financial or administrative burden on the Town; and
4. The request for accommodation would require a fundamental alteration in

the nature of the Towns land use and zoning program; and

5. The request will not, under the specific facts of the case, result in a direct and significant threat to the health or safety of other individuals or substantial physical damage to the property of others.

Once an applicant establishes that the reasonable accommodation is necessary to overcome barriers related to the disability, the request should be granted unless the Town can demonstrate that the accommodations will impose an undue financial or administrative hardship on the Town or that the accommodation will result in a fundamental alteration of the local land use zoning program.

Alternatives: Staff recommends no alternative action. The amendments are necessary for compliance with current state law.

Fiscal Impact: Staff time associated with processing requests for reasonable accommodations will be incurred by the Town. It is anticipated that the administrative process for a reasonable accommodation request will take approximately between one (1) to five (5) hours of staff time. The Town does not anticipate being inundated with reasonable accommodation requests and therefore does not anticipate any significant fiscal impact to the Town by adopting this ordinance.

Attachments: Ordinance No.
Application
Notice of Procedures
Notice of Decision
Appeal of Decision
State Code Sections

ORDINANCE NO.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY CALIFORNIA, AMENDING TITLE 8, DIVISION 3, CHAPTER 3 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE BY ADDING ARTICLE 9, SECTION 83.0309 ET AL, REASONABLE ACCOMMODATIONS

The Town Council of the Town of Yucca Valley, California does ordain as follows;

Sections:

- 83.030905 Purpose
- 83.030910 Applicability
- 83.030915 Review Authority
- 83.030920 Definitions
- 83.030925 Notice of Availability
- 83.030930 Application
- 83.030935 Decision
- 83.030940 Findings
- 83.030945 Expiration, Time Extension, Violation, Discontinuance
- 83.030950 Amendments
- 83.030955 Appeals

83.030905 Purpose

In accordance with federal and state fair housing laws, it is the purpose of this Chapter to provide reasonable accommodations in the Town's zoning and land use regulations, policies and procedures when needed to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities.

83.030910 Applicability

Reasonable accommodation in the land use and zoning context means providing flexibility in the application of land use regulations, policies and procedures or waiving certain requirements for individuals with disabilities or developers of housing for people with disabilities, when necessary to eliminate barriers to housing opportunities.

83.030915 Review Authority

The Community Development Director (Director) is hereby designated to approve, conditionally approve, or deny all applications for a reasonable accommodation, except as prescribed under Section 83.030930 (C) Applications below.

83.030920 Definitions

- A. Disability. An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.
- B. Reasonable Accommodation. Reasonable accommodation in the land use and zoning context means providing flexibility in the application of land use and zoning regulations, policies, practices and procedures, or waiving certain requirements to individuals with disabilities or developers of housing for people with disabilities when it is necessary to eliminate barriers to housing opportunities.

83.030925 Notice to the Public of Availability of Process

Notice of the availability of reasonable accommodation shall be prominently displayed in the public areas of the Community Development Dept., advising the public of the availability of the procedure for eligible individuals. Town employees shall direct individuals to the display whenever they are requested to do so or reasonably believe that individuals with disabilities or their representatives may be entitled to a reasonable accommodation.

83.030930 Application

- A. Applicant. A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for individuals with a disability. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability.
- B. Application. An application for a reasonable accommodation from a regulation, policy or procedure shall be made on a form provided by the Town. No fee shall be required for a request for reasonable accommodation, but if the project requires another discretionary permit, then the prescribed fee shall be paid for all other discretionary permits.
- C. Other Discretionary Permits. If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval, then the applicant may file the request for reasonable accommodation together with the application for other discretionary permit or approval. The processing procedures of the discretionary permit shall govern the joint processing of both the reasonable accommodation and the discretionary permit.

D. Required Submittals. An application for reasonable accommodation shall include the following:

1. Request shall be made on a form provided by the Town and shall include the following information:
 - a. Name and address of the individual(s) requesting reasonable accommodation.
 - b. Name and address of the property owner.
 - c. Address of the property for which accommodation is requested
2. Documentation that the applicant is:
 - a. An individual with a disability,
 - b. Applying on behalf of one or more individuals with a disability, or
 - c. A developer or provider of housing for one for more individuals with a disability.
3. Identification of the specific exception or modification to the regulation, policy or procedure requested by the applicant.
4. Documentation that the specific exception or modification requested by the applicant is necessary to provide one or more individuals with a disability equal access to housing.
5. Any other information that the Director reasonably concludes is necessary to determine whether the findings required by Section 83.030940 can be made so long as any request for information regarding the disability of the individuals benefitted complies with Fair Housing Law protections and the privacy rights of the individuals affected.

83.030935 Decision

- A. Requests for reasonable accommodation shall be reviewed by the Director using the criteria set for in Section 83.030940 Findings.
- B. The Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either approve, conditionally approve or deny a request in accordance with the required findings
- C. If necessary to reach a determination on the request for reasonable accommodation, the Director may request further information from the applicant consistent with fair housing laws, specifying in detail the

information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.

D. The Town may consider, but is not limited to the following factors in determining whether the requested accommodation is necessary to provide one or more individuals with a disability with equal access to housing:

1. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.
2. Whether the individual(s) with a disability will be denied equal access to the housing of their choice absent the accommodation.
3. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of particularities of the relevant market and market participants.
4. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.

E. The Town may consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the Town's zoning program.

1. Whether the requested accommodation would fundamentally alter the character of the neighborhood.
2. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.
3. Whether granting the requested accommodation would substantially undermine any express purpose of the Town's General Plan or any applicable Specific Plan.
4. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.

- F. Rules While Decision is Pending. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.
- G. Effective Date. No reasonable accommodation shall become effective until the decision to grant such accommodation shall have become final by reason of the expiration of time to make an appeal. In the event an appeal is filed, the reasonable accommodation shall not become final unless and until a decision is made by the Planning Commission on such appeal.

83.030940 Findings

The written decision to approve, conditionally approve or deny a request for reasonable accommodation shall be based on the following findings, all of which are required for approval:

- A. The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.
- B. The requested accommodation is necessary to provide one or more individuals with a disability an equal access to housing.
- C. The requested accommodation will not impose an undue financial or administrative burden on the Town.
- D. The requested accommodation will not result in fundamental alteration of the Towns zoning program.
- E. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

In making these findings, the Director may approve alternative reasonable accommodations which provide an equivalent level of benefit to the applicant.

83.030945 Expiration, Time Extension, Violation, Discontinuance

- A. Expiration. Any reasonable accommodation approved in accordance with this Chapter shall expire within twenty-four (24) months from the effective date of approval or at an alternative time specified as a condition of approval unless:
 - 1. A building permit has been issued and construction has commenced,

2. A certificate of occupancy has been issued,
 3. The use is established, or
 4. A time extension has been granted.
- B. Time Extension. The Director may approve a time extension for a reasonable extension for good cause for a period or periods not to exceed three years from the effective date of approval. An application for a time extension shall be made in writing to the Director no less than thirty (30) days or more than ninety (90) days prior to the expiration date. Notice of the Directors decision on a time extension shall be sent to the applicant. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process
- C. Violation of Terms. Any reasonable accommodation approved in accordance with this code may be revoked if any of the conditions or terms of such reasonable accommodation are violated or if any law or ordinance is violated in connection herewith.
- D. Discontinuance. A reasonable accommodation approval shall lapse if discontinued for a period of one hundred eighty (180) consecutive days. If the disabled person initially occupying a residence for whom a reasonable accommodation was made vacates the structure, the reasonable accommodation shall remain in effect only if the Director determines that:
1. The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code, and
 2. The accommodation is necessary to give another disabled individual an equal opportunity to occupy the dwelling

The Director may request the applicant or his or her successor-in-interest to the property to provide documentation that subsequent occupants are persons with disabilities. Failure to provide such documentation within ten (10) days of the date of a request by the Director shall constitute grounds for discontinuance by the Town of a previously approved reasonable accommodation.

83.030950 Amendments

A request for changes in conditions of approval of a reasonable accommodation, or a change to plans that would affect a condition of approval shall be treated as a new application. The Director may waive the requirement for a new application if the changes are minor, do not involve substantial alterations or addition to the plans or the conditions of approval, and are consistent with the intent of the original approval.

83.030955 Appeals

- A. Within thirty (30) days of the date of the Directors written decision, an applicant may appeal an adverse decision. Appeals shall be made in writing.
- B. If an individual needs assistance in filing an appeal on an adverse decision, the Town will provide assistance to ensure that the appeals process is accessible.
- C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by the applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this _____ day of _____ 2013.

MAYOR

ATTEST:

APPROVED AS TO FORM:

TOWN CLERK

TOWN ATTORNEY

- c. Transitional and supportive housing shall be subject to only those restrictions that apply to other residential uses in the the same zone.

Responsible Agency: Community Development Department
Schedule: 2009-2010

* Program 3.I

The Development Code shall be clarified to state that handicapped ramps are permitted in the front, side or rear yard setback of any residential structure. A reasonable accommodation procedure shall be established to provide exception in zoning and land use for persons with disabilities.

Responsible Agency: Community Development Department
Schedule: 2010-2011

Policy 4

Promote and facilitate the use of State and Federal monies for the development and rehabilitation of affordable housing in the community.

Program 4.A

Expediently calculate and allocate Housing set-aside funds to affordable housing programs on an annual basis.

Responsible Agency: Redevelopment Agency
Schedule: Annually

Program 4.B

The Redevelopment Agency will develop program(s) for the development of new residential units for very low income households and assign set-aside funds for these units. The program(s) may include leveraging the Town's limited funds by participating in projects through land acquisition; fee waivers and infrastructure support; or partnerships with affordable housing development entities.

Responsible Agency: Redevelopment Agency
Schedule: 2009-2010

Program-4.C

Actively assist qualified developers in preparation of applications for State and Federal housing grants and loans (such as HOME funds and California LMI Tax Credit funds) as they become available. The Town shall process requests for information on zoning, financial assistance programs, or required supporting documentation for these applications within 30 days of receipt. When conditional use permits or development review is required prior to application submittal, the Town shall fast-track such applications to ensure that submittals are not delayed, assuming a timely submittal by the developer.

Responsible Agency: Community Development Department; Redevelopment Agency
Schedule: Ongoing



REASONABLE ACCOMMODATION APPLICATION AND INFORMATION OUTLINE

This outline provides you with information on how to apply for a Reasonable Accommodation. We hope that the information will be beneficial in instructing you on what information is required and what steps must be taken to review your application. The more thorough and complete the application submitted to the Town, the better we are able to serve you and help you achieve your goals.

Included is the **REASONABLE ACCOMMODATION APPLICATION**. Should you have any questions, please contact the Planning Division at (760) 369-6575 x317. The Planning Division is located in the Community Development/Public Works Department building at 58928 Business Center Dr. off of Indio and Yucca Trail, north of the Monterey Business Center. You may visit our website for additional information at: <http://www.yucca-valley.org/departments/planning.html>

What is a Reasonable Accommodation?

Reasonable accommodation in the land use and zoning context means providing flexibility in the application of land use and zoning regulations, policies, practices and procedures, or waiving certain requirements to individuals with disabilities or developers of housing for people with disabilities when it is necessary to eliminate barriers to housing opportunities.

Who approves the Reasonable Accommodation?

The Community Development Director is designated to approve, conditionally approve, or deny all applications for a reasonable accommodation. If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval, then the applicant may file the request for reasonable accommodation together with the application for other discretionary permit or approval. The processing procedures of the discretionary permit shall govern the joint processing of both the reasonable accommodation and the discretionary permit

Fees

There is no fee for the processing of a reasonable accommodation request.

Town of Yucca Valley
Community Development Department
Planning Division
58928 Business Center Dr
Yucca Valley, CA 92284
760 369-6575 Fax 760 228-0084
www.yucca-valley.org

Submittal Requirements

- Documentation that the applicant is:
 - a. An individual with a disability,
 - b. Applying on behalf of one or more individuals with a disability, or
 - c. A developer or provider of housing for one for more individuals with a disability.

- Identification of the specific exception or modification to the regulation, policy or procedure requested by the applicant.

- Documentation that the specific exception or modification requested by the applicant is necessary to provide one or more individuals with a disability equal access to housing.

- Any other information that the Director reasonably concludes is necessary to determine whether the findings required by the Ordinance can be made so long as any request for information regarding the disability of the individuals benefitted complies with Fair Housing Law protections and the privacy rights of the individuals affected.



Reasonable Accommodation Application

Date Received _____
By _____
Fee _____
Case # _____

General Information

APPLICANT _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

REPRESENTATIVE _____ Phone _____ Fax _____

Mailing Address _____ Email _____

PROPERTY OWNER _____ Phone _____ Fax _____

Mailing Address _____ Email _____

City _____ State _____ Zip _____

Project Information

Property Location(s) _____

Assessor Parcel Number(s) _____

Nature of the proposed reasonable accommodation:

Applicant Signature _____

Property Owner Signature _____

Town of Yucca Valley
 Community Development Department
 Planning Division
 58928 Business Center Dr
 Yucca Valley, CA 92284
 760 369-6575 Fax 760 228-0084
www.yucvalley.org

Owner/Applicant Authorization

Applicant/Representative: I/We have reviewed this completed application and the attached material. The information included with this application is true and correct to the best of my/our knowledge. I/We further understand that the Town may not approve the application as submitted, and may set conditions of approval. Further, I/We understand that all documents, maps, reports, etc., submitted with this application are deemed to be public records. This application does not guarantee approval or constitute a building permit application.

Signed: _____

Date: _____

Property Owner: I/We certify that I/We are presently the legal owner(s) of the above described property (If the undersigned is different from the legal property owner, a letter of authorization must accompany the form). Further, I/We acknowledge the filing of this application and certify that all of the above information is true and accurate. I/We understand that I/We are responsible for ensuring compliance with conditions of approval. I/We hereby authorize the Town of Yucca Valley and or/its designated agent(s) to enter onto the subject property to confirm the location of existing conditions and proposed improvements including compliance with applicable Town Code Requirements. Further, I/We understand that all documents, maps, reports, etc., submitted with this application are deemed to be public records. This application does not guarantee approval or constitute a building permit application. I am hereby authorizing

_____ to act as my agent and is further authorized to sign any and all documents on my behalf.

Signed: _____

Dated: _____



NOTICE OF REASONABLE ACCOMMODATION PROCEDURES FOR PEOPLE WITH DISABILITIES

THIS IS NOT A COMPREHENSIVE EXPLANATION OF YOUR RIGHTS UNDER FEDERAL AND STATE FAIR HOUSING LAWS

You may request a reasonable accommodation to rules, policies, practices and procedures for the siting, development and use of housing, including housing related services or facilities, if you meet all of the following:

You have a disability* or the housing is for people with disabilities;

You may need a reasonable accommodation to existing rules and regulations to have equal opportunity to housing; and

Your request for accommodation would not be an undue burden on the Town of Yucca Valley.

If you believe that you satisfy the above criteria and are entitled to a reasonable accommodation under federal and state fair housing laws, you may obtain a Reasonable Accommodation request form from the front desk. If you need assistance in applying for a reasonable accommodation, the department will assist you.

*Under the law, a disability is a physical or mental impairment that limits one or more major life activities; a record of having such an impairment or; being regarded as having such an impairment. Fair housing laws do not protect individuals currently using illegal substances, unless they have a separate disability.



NOTICE OF DECISION ON REASONABLE ACCOMMODATION REQUEST

DATE OF APPLICATION:

DATE OF DECISION:

THE REQUEST FOR A REASONABLE ACCOMMODATION IS:

_____ GRANTED _____ DENIED (See Notice below re: right to appeal decision)

The reasons for this decision are as follows:

The facts relied on in making this decision are:

Signature

Date

NOTICE: If your request for accommodation was denied, you may appeal the reviewing authority's decision to the Planning Commission within thirty (30) days of the date of this decision. To file an appeal, complete and file an Appeal of Denial of Reasonable Accommodation request form with the Planning Division. You may request reasonable accommodation in the procedure by which an appeal may be conducted.



APPLICATION FOR APPEAL OF
DENIAL ON REASONABLE
ACCOMMODATION REQUEST

DATE OF DECISION: _____

DATE APPEAL FILED: _____

State why you think the denial of your request for accommodation was wrongly decided:

Provide any new information, facts or documents that support our request for accommodation:

Signature

Date

12926.2. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Religious corporation" means any corporation formed under, or otherwise subject to, Part 4 (commencing with Section 9110) or Part 6 (commencing with Section 10000) of Division 2 of Title 1 of the Corporations Code, and also includes a corporation that is formed primarily or exclusively for religious purposes under the laws of any other state to administer the affairs of an organized religious group and that is not organized for private profit.

(b) "Religious duties" means duties of employment connected with carrying on the religious activities of a religious corporation or association.

(c) Notwithstanding subdivision (d) of Section 12926 and except as otherwise provided in subdivision (d) of this section, "employer" includes a religious corporation or association with respect to persons employed by the religious association or corporation to perform duties, other than religious duties, at a health care facility operated by the religious association or corporation for the provision of health care that is not restricted to adherents of the religion that established the association or corporation.

(d) "Employer" does not include a religious corporation with respect to either the employment, including promotion, of an individual of a particular religion, or the application of the employer's religious doctrines, tenets, or teachings, in any work connected with the provision of health care.

(e) Notwithstanding subdivision (d) of Section 12926, "employer" does not include a nonprofit public benefit corporation incorporated to provide health care on behalf of a religious organization under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, with respect to employment, including promotion, of an individual of a particular religion in an executive or pastoral-care position connected with the provision of health care.

(f) (1) Notwithstanding any other provision of law, a nonprofit public benefit corporation formed by, or affiliated with, a particular religion and that operates an educational institution as its sole or primary activity, may restrict employment, including promotion, in any or all employment categories to individuals of a particular religion.

(2) Notwithstanding paragraph (1) or any other provision of law, employers that are nonprofit public benefit corporations specified in paragraph (1) shall be subject to the provisions of this part in all other respects, including, but not limited to, the prohibitions against discrimination made unlawful employment practices by this part.

12927. As used in this part in connection with housing accommodations, unless a different meaning clearly appears from the context:

(a) "Affirmative actions" means any activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

(b) "Conciliation council" means a nonprofit organization, or a city or county human relations commission, which provides education, factfinding, and mediation or conciliation services in resolution of complaints of housing discrimination.

(c) (1) "Discrimination" includes refusal to sell, rent, or lease

housing accommodations; includes refusal to negotiate for the sale, rental, or lease of housing accommodations; includes representation that a housing accommodation is not available for inspection, sale, or rental when that housing accommodation is in fact so available; includes any other denial or withholding of housing accommodations; includes provision of inferior terms, conditions, privileges, facilities, or services in connection with those housing accommodations; includes harassment in connection with those housing accommodations; includes the cancellation or termination of a sale or rental agreement; includes the provision of segregated or separated housing accommodations; includes the refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person, if the modifications may be necessary to afford the disabled person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification (other than for reasonable wear and tear), and includes refusal to make reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling.

(2) "Discrimination" does not include either of the following:

(A) Refusal to rent or lease a portion of an owner-occupied single-family house to a person as a roomer or boarder living within the household, provided that no more than one roomer or boarder is to live within the household, and the owner complies with subdivision (c) of Section 12955, which prohibits discriminatory notices, statements, and advertisements.

(B) Where the sharing of living areas in a single dwelling unit is involved, the use of words stating or tending to imply that the housing being advertised is available only to persons of one sex.

(d) "Housing accommodation" means any building, structure, or portion thereof that is occupied as, or intended for occupancy as, a residence by one or more families and any vacant land that is offered for sale or lease for the construction thereon of any building, structure, or portion thereof intended to be so occupied.

(e) "Owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesperson, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the state and any of its political subdivisions and any agency thereof.

(f) "Person" includes all individuals and entities that are described in Section 3602(d) of Title 42 of the United States Code, and in the definition of "owner" in subdivision (e) of this section, and all institutional third parties, including the Federal Home Loan Mortgage Corporation.

(g) "Aggrieved person" includes any person who claims to have been injured by a discriminatory housing practice or believes that the person will be injured by a discriminatory housing practice that is about to occur.

(h) "Real estate-related transactions" include any of the following:

(1) The making or purchasing of loans or providing other financial assistance that is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or that is secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(3) The use of territorial underwriting requirements, for the

purpose of requiring a borrower in a specific geographic area to obtain earthquake insurance, required by an institutional third party on a loan secured by residential real property.

(i) "Source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant. For the purposes of this definition, a landlord is not considered a representative of a tenant.

12928. Notwithstanding any other provision of this part, there is a rebuttable presumption that "employer," as defined by subdivision (d) of Section 12926, includes any person or entity identified as the employer on the employee's Federal Form W-2 (Wage and Tax Statement).

GOVERNMENT CODE

SECTION 12955-12956.2

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, or genetic information of any person seeking to purchase, rent, or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information or an intention to make that preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, gender, gender identity, gender expression, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, genetic information, source of income, or on any other basis prohibited by that section. Selection preferences based on age, imposed in connection with a federally approved housing program, do not constitute age discrimination in housing.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or

rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, ancestry, disability, genetic information, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, source of income, familial status, disability, or genetic information.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, ancestry, disability, genetic information, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, source of income, disability, genetic information, or national origin.

(l) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void.

(m) As used in this section, "race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information," includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(o) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(p) (1) For the purposes of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant. For the purposes of this section, a landlord is not considered a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

12955.1. (a) For purposes of Section 12955, "discrimination" includes, but is not limited to, a failure to design and construct a covered multifamily dwelling in a manner that allows access to, and use by, disabled persons by providing, at a minimum, the following features:

(1) All covered multifamily dwellings shall have at least one building entrance on an accessible route, unless it is impracticable to do so because of the terrain or unusual characteristics of the site. The burden of establishing impracticability because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.

(2) All covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in a manner that complies with all of the following:

(A) The public and common areas are readily accessible to and usable by persons with disabilities.

(B) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by persons in wheelchairs.

(C) All premises within covered multifamily dwelling units contain the following features of adaptable design:

(i) An accessible route into and through the covered dwelling unit.

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(iii) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall, and shower seat, where those facilities are provided.

(iv) Useable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(b) (1) For purposes of Section 12955, "discrimination" includes, but is not limited to, a failure to design and construct 10 percent of the multistory dwelling units in buildings without an elevator that consist of at least four condominium dwelling units or at least three rental apartment dwelling units in a manner that incorporates an accessible route to the primary entry level entrance and that meets the requirements of paragraph (2) of subdivision (a) with respect to the ground floor, at least one bathroom on the primary entry level and the public and common areas. Any fraction thereof shall be rounded up to the next whole number. For purposes of this subdivision, "elevator" does not include an elevator that serves only the first ground floor or any nonresidential area. In multistory dwelling units in these buildings without elevators, the "primary entry level entrance" means the principal entrance through which most people enter the dwelling unit, as designated by the California Building Standards Code or, if not designated by California Building Standards Code, by the building official. To determine the total number of multistory dwelling units subject to this subdivision, all multistory dwelling units in the buildings subject to this subdivision on a site shall be considered collectively. This subdivision shall not be construed to require an elevator within an individual multistory dwelling unit or within a building subject to this subdivision. This subdivision shall apply only to multistory dwelling units in a building subject to this subdivision for which an application for a construction permit is submitted on or after July 1, 2005.

(2) Notwithstanding subdivision (c), the Division of the State Architect and the Department of Housing and Community Development may

adopt regulations to clarify, interpret, or implement this subdivision, if either of them deem it necessary and appropriate.

(c) Notwithstanding Section 12935, regulations adopting building standards necessary to implement, interpret, or make specific the provisions of this section shall be developed by the Division of the State Architect for public housing and by the Department of Housing and Community Development for all other residential occupancies, and shall be adopted pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of the Health and Safety Code. Prior to the effective date of regulations adopted pursuant to this subdivision, existing federal accessibility standards that provide, to persons with disabilities, greater protections than existing state accessibility regulations shall apply. After regulations pursuant to this subdivision become effective, particular state regulations shall apply if they provide, to persons with disabilities, the same protections as, or greater protections than, the federal standards. If particular federal regulations provide greater protections than state regulations, then those federal standards shall apply. If the United States Department of Housing and Urban Development determines that any portion of the state regulations are not equivalent to the federal standards, the federal standards shall, as to those portions, apply to the design and construction of covered multifamily dwellings until the state regulations are brought into compliance with the federal standards. The appropriate state agency shall provide notice pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 5 of Division 3 of Title 2) of that determination.

(d) In investigating discrimination complaints, the department shall apply the building standards contained in the California Building Standards Code to determine whether a covered multifamily dwelling is designed and constructed for access to and use by disabled persons in accordance with this section.

(e) The building standard requirements for persons with disabilities imposed by this section shall meet or exceed the requirements under the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and its implementing regulations (24 C.F.R. 100.1 et seq.) and the existing state law building standards contained in the California Building Standards Code.

12955.1.1. For purposes of Section 12955.1, the following definitions shall apply:

(a) "Covered multifamily dwellings" means both of the following:

(1) Buildings that consist of at least four condominium dwelling units or at least three rental apartment dwelling units if the buildings have at least one elevator. For purposes of this definition, dwelling units within a single structure separated by firewalls do not constitute separate buildings.

(2) The ground floor dwelling units in buildings that consist of at least four condominium dwelling units or at least three rental apartment dwelling units if the buildings do not have an elevator. For purposes of this definition, dwelling units within a single structure separated by firewalls do not constitute separate buildings.

(b) "Multistory dwelling unit" means a condominium dwelling unit or rental apartment with finished living space on one floor and the floor immediately above or below it or, if applicable, the floors immediately above and below it.

12955.2. For purposes of this part, "familial status" means one or more individuals under 18 years of age who reside with a parent, another person with care and legal custody of that individual, a person who has been given care and custody of that individual by a state or local governmental agency that is responsible for the welfare of children, or the designee of that parent or other person with legal custody of any individual under 18 years of age by written consent of the parent or designated custodian. The protections afforded by this part against discrimination on the basis of familial status also apply to any individual who is pregnant, who is in the process of securing legal custody of any individual under 18 years of age, or who is in the process of being given care and custody of any individual under 18 years of age by a state or local governmental agency responsible for the welfare of children.

12955.3. For purposes of this part, "disability" includes, but is not limited to, any physical or mental disability as defined in Section 12926.

12955.4. Nothing in this part shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to those persons, unless membership in that religion is restricted on account of race, color, or national origin.

12955.5. Nothing in this part shall preclude the government from establishing programs to collect information relating to discriminatory housing practices.

12955.6. Nothing in this part shall be construed to afford to the classes protected under this part, fewer rights or remedies than the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and its implementing regulations (24 C.F.R. 100.1 et seq.), or state law relating to fair employment and housing as it existed prior to the effective date of this section. Any state law that purports to require or permit any action that would be an unlawful practice under this part shall to that extent be invalid. This part may be construed to afford greater rights and remedies to an aggrieved person than those afforded by federal law and other state laws.

12955.7. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Section 12955 or 12955.1.

12955.8. For purposes of this article, in connection with unlawful practices:

(a) Proof of an intentional violation of this article includes, but is not limited to, an act or failure to act that is otherwise covered by this part, that demonstrates an intent to discriminate in any manner in violation of this part. A person intends to discriminate if race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information is a motivating factor in committing a discriminatory housing practice even though other factors may have also motivated the practice. An intent to discriminate may be established by direct or circumstantial evidence.

(b) Proof of a violation causing a discriminatory effect is shown if an act or failure to act that is otherwise covered by this part, and that has the effect, regardless of intent, of unlawfully discriminating on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information. A business establishment whose action or inaction has an unintended discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of this part if the business establishment can establish that the action or inaction is necessary to the operation of the business and effectively carries out the significant business need it is alleged to serve. In cases that do not involve a business establishment, the person whose action or inaction has an unintended discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of this part if the person can establish that the action or inaction is necessary to achieve an important purpose sufficiently compelling to override the discriminatory effect and effectively carries out the purpose it is alleged to serve.

(1) Any determination of a violation pursuant to this subdivision shall consider whether or not there are feasible alternatives that would equally well or better accomplish the purpose advanced with a less discriminatory effect.

(2) For purposes of this subdivision, the term "business establishment" shall have the same meaning as in Section 51 of the Civil Code.

12955.9. (a) The provisions of this part relating to discrimination on the basis of familial status shall not apply to housing for older persons.

(b) As used in this section, "housing for older persons" means any of the following:

(1) Housing provided under any state or federal program that the Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.

(2) Housing that meets the standards for senior housing in Sections 51.2, 51.3, and 51.4 of the Civil Code, except to the extent that those standards violate the prohibition of familial status discrimination in the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations.

(3) Mobilehome parks that meet the standards for "housing for

older persons" as defined in the federal Fair Housing Amendments Act of 1988 and implementing regulations.

(c) For purposes of this section, the burden of proof shall be on the owner to prove that the housing qualifies as housing for older persons.

12956. Upon notice that a verified complaint against it has been filed under this part, any owner of housing accommodations shall maintain and preserve any and all rental records or any other written materials relevant to the complaint, until the complaint is fully and finally disposed of and all appeals or related proceedings terminated.

12956.1. (a) As used in this section, "association," "governing documents," and "declaration" have the same meanings as set forth in Section 1351 of the Civil Code.

(b) (1) A county recorder, title insurance company, escrow company, real estate broker, real estate agent, or association that provides a copy of a declaration, governing document, or deed to any person shall place a cover page or stamp on the first page of the previously recorded document or documents stating, in at least 14-point boldface type, the following:

"If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status."

(2) The requirements set forth in paragraph (1) shall not apply to documents being submitted for recordation to a county recorder.

(c) Any person who records a document for the express purpose of adding a racially restrictive covenant is guilty of a misdemeanor. The county recorder shall not incur any liability for recording the document. Notwithstanding any other provision of law, a prosecution for a violation of this subdivision shall commence within three years after the discovery of the recording of the document.

12956.1. (a) As used in this section, "association," "governing documents," and "declaration" have the same meanings as set forth in Sections 4080, 4135, and 4150 of the Civil Code.

(b) (1) A county recorder, title insurance company, escrow company, real estate broker, real estate agent, or association that provides a copy of a declaration, governing document, or deed to any person shall place a cover page or stamp on the first page of the previously recorded document or documents stating, in at least 14-point boldface type, the following:

"If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction

violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status."

(2) The requirements set forth in paragraph (1) shall not apply to documents being submitted for recordation to a county recorder.

(c) Any person who records a document for the express purpose of adding a racially restrictive covenant is guilty of a misdemeanor. The county recorder shall not incur any liability for recording the document. Notwithstanding any other provision of law, a prosecution for a violation of this subdivision shall commence within three years after the discovery of the recording of the document.

12956.2. (a) A person who holds an ownership interest of record in property that he or she believes is the subject of an unlawfully restrictive covenant in violation of subdivision (1) of Section 12955 may record a document titled Restrictive Covenant Modification. The county recorder may choose to waive the fee prescribed for recording and indexing instruments pursuant to Section 27361 in the case of the modification document provided for in this section. The modification document shall include a complete copy of the original document containing the unlawfully restrictive language with the unlawfully restrictive language stricken.

(b) Before recording the modification document, the county recorder shall submit the modification document and the original document to the county counsel who shall determine whether the original document contains an unlawful restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry. The county counsel shall return the documents and inform the county recorder of its determination. The county recorder shall refuse to record the modification document if the county counsel finds that the original document does not contain an unlawful restriction as specified in this paragraph.

(c) The modification document shall be indexed in the same manner as the original document being modified. It shall contain a recording reference to the original document in the form of a book and page or instrument number, and date of the recording.

(d) Subject to covenants, conditions, and restrictions that were recorded after the recording of the original document that contains the unlawfully restrictive language and subject to covenants, conditions, and restrictions that will be recorded after the Restrictive Covenant Modification, the restrictions in the Restrictive Covenant Modification, once recorded, are the only restrictions having effect on the property. The effective date of the terms and conditions of the modification document shall be the same as the effective date of the original document.

(e) The county recorder shall make available to the public Restrictive Covenant Modification forms.

(f) If the holder of an ownership interest of record in property causes to be recorded a modified document pursuant to this section that contains modifications not authorized by this section, the county recorder shall not incur liability for recording the document. The liability that may result from the unauthorized recordation is the sole responsibility of the holder of the ownership interest of

record who caused the modified recordation.

(g) This section does not apply to persons holding an ownership interest in property that is part of a common interest development as defined in subdivision (c) of Section 1351 of the Civil Code if the board of directors of that common interest development is subject to the requirements of subdivision (b) of Section 1352.5 of the Civil Code.

12956.2. (a) A person who holds an ownership interest of record in property that he or she believes is the subject of an unlawfully restrictive covenant in violation of subdivision (1) of Section 12955 may record a document titled Restrictive Covenant Modification. The county recorder may choose to waive the fee prescribed for recording and indexing instruments pursuant to Section 27361 in the case of the modification document provided for in this section. The modification document shall include a complete copy of the original document containing the unlawfully restrictive language with the unlawfully restrictive language stricken.

(b) Before recording the modification document, the county recorder shall submit the modification document and the original document to the county counsel who shall determine whether the original document contains an unlawful restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry. The county counsel shall return the documents and inform the county recorder of its determination. The county recorder shall refuse to record the modification document if the county counsel finds that the original document does not contain an unlawful restriction as specified in this paragraph.

(c) The modification document shall be indexed in the same manner as the original document being modified. It shall contain a recording reference to the original document in the form of a book and page or instrument number, and date of the recording.

(d) Subject to covenants, conditions, and restrictions that were recorded after the recording of the original document that contains the unlawfully restrictive language and subject to covenants, conditions, and restrictions that will be recorded after the Restrictive Covenant Modification, the restrictions in the Restrictive Covenant Modification, once recorded, are the only restrictions having effect on the property. The effective date of the terms and conditions of the modification document shall be the same as the effective date of the original document.

(e) The county recorder shall make available to the public Restrictive Covenant Modification forms.

(f) If the holder of an ownership interest of record in property causes to be recorded a modified document pursuant to this section that contains modifications not authorized by this section, the county recorder shall not incur liability for recording the document. The liability that may result from the unauthorized recordation is the sole responsibility of the holder of the ownership interest of record who caused the modified recordation.

(g) This section does not apply to persons holding an ownership interest in property that is part of a common interest development as defined in Section 4100 of the Civil Code if the board of directors of that common interest development is subject to the requirements of subdivision (b) of Section 4225 of the Civil Code.

PLANNING COMMISSION STAFF REPORT

To: Honorable Chairman & Commissioners
From: Shane Stueckle, Deputy Town Manager
Date: April 29, 2013
For Commission Meeting: May 07, 2013

Subject: Development Code Amendment, DCA 03-13
Ordinance No.
Housing Element Update
State Mandated Regulations
Emergency Homeless Shelters
Single Room Occupancy

Prior Commission Review: There has been no prior Commission review of this matter.

Recommendation: That the Planning Commission recommends that the Town Council finds the proposed ordinance exempt from CEQA under Section 15061 (b) (3), and adopts the Ordinance.

Executive Summary: The California Legislature passed Senate Bill (SB) 2 (effective January 01, 2008) modifying State Housing Element law to require local planning and zoning regulations to facilitate and encourage emergency shelters.

This bill added emergency shelters and transitional housing to these provisions and required that the Housing Element identify zones in the Town where emergency shelters are allowed as a permitted use without a Conditional Use Permit. However, the statute gives the ability to local jurisdictions to establish certain operational and development standards. In addition, SB 2 requires that Transitional housing and supportive housing be considered a residential use, and subject to only those restriction that apply to other residential dwellings of the same type in the same zone.

State Housing and Community Development (HCD) has identified the need for the Town to adopt these regulations in order to achieve Housing Element Certification.

Order of Procedure:

Request Staff Report
Open Public Hearing, Request Public Comment
Close Public Hearing
Commission Discussion/Questions of Staff
Motion/Second
Discussion on Motion
Vote (Voice Vote)

<input checked="" type="checkbox"/> Department Report	<input type="checkbox"/> Ordinance Action	<input type="checkbox"/> Resolution Action	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Minute Action	<input type="checkbox"/> Receive and File	<input type="checkbox"/> Study Session

Discussion:

The California Legislature passed Senate Bill (SB) 2 (effective January 01, 2008) modifying State Housing Element law to require local planning and zoning regulations to facilitate and encourage “emergency shelters”. Health and Safety Code Section 50801(e) defines emergency shelters as “housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.”

State law requires that at least one zoning district be identified where emergency shelters will be allowed “by right”, that is without a discretionary Town approval. The zones identified must provide sufficient capacity to meet the Towns identified homeless need, and must have a realistic potential for development or reuse opportunities.

State law requires that if the Town’s existing zoning code does not allow for emergency shelters by right, then the Town is required to adopt a program as part of its General Plan Housing Element committing the Town to amending its zoning/development code to meet State requirements within one year of Housing Element adoption. State law allows cities to include objective standards for emergency shelters as part of its zoning code amendment, such as standards for number of beds, parking length of stay, lighting and security.

The Town adopted its current Housing Element on September 15, 2009. The adopted Housing Element includes Policy 3.F which requires the Town to “amend the Development Code to allow Homeless Shelters by right, with approval of a Site Plan Review, in the Industrial and/or Public/Quasi-Public zoning designations”.

The Town is proposing to amend the Development Code to allow Emergency Transitional Housing in the Industrial land use district subject to a Special Use Permit.

Additionally, the Town is required to develop Single Room Occupancy capacity within at least one land use district. Draft regulations have been developed that allow Single Room Occupancy development within the Industrial Land Use District, subject to a Conditional Use Permit Process, as well as minimum standards that have been development within the attached Ordinance.

Alternatives: Adoption of the regulations is necessary in order for the Town’s Development Code to be consistent with State law and in order to achieve Housing Element Certification. The Commission may recommend to the Town Council modifications to the Ordinance.

Fiscal Impact: NA

Attachments: Ordinance No.
State Code Sections

ORDINANCE NO.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY CALIFORNIA, AMENDING TITLE 8, DIVISION 4, CHAPTER 3, SECTION 84.0370 TO ALLOW EMERGENCY TRANSITIONAL HOUSING AND SINGLE ROOM OCCUPANCY UNITS WITHIN THE INDUSTRIAL LAND USE DISTRICT.

The Town Council of the Town of Yucca Valley, California does ordain as follows;

SECTION 1.

Section 84.0370 Industrial Districts (I) is amended to read as follows:

Section 84.0370 (a) Permitted Land Uses

- (3) Emergency Transitional Housing subject to a Special Use Permit
- (4) Single Room Occupancy Units subject to a Conditional Use Permit

Section 84.0370 (d) (5) is added to read as follows:

(5) Emergency Transitional Housing

- (A) This section establishes standards for Emergency Transitional Housing as defined in subdivision (e) of Section 50801 of the Health and Safety Code, which are in compliance with state law, including the limitations on the Town's authority to regulate these facilities in zones without a discretionary approval.
- (B) These standards apply in addition to all other applicable provisions of this Chapter and any requirements imposed by the State Department of Housing and Community Development through its oversight.

- (1) The maximum number of beds or persons to be served nightly shall be fifty (50), and shall not exceed 1 per 125 square feet of floor area.
- (2) The maximum length of stay for any one individual shall not exceed 180 days in a 365 day period.
- (3) Off street parking shall be provided at a rate of one parking space for every four beds and one parking space for each employee on shift.
- (4) No emergency shelter shall be located within 300 feet of another shelter.

- (5) Exterior and interior waiting and client intake areas shall be provided on site to accommodate waiting clients and to prevent queuing into any public rights of way. An exterior waiting area shall be physically separated and visually screened from the public right of way.
- (6) An on-site manager shall be present at all times, 24 hours per day, 7 days per week. The onsite manager shall not be an individual or individuals who utilize the homeless beds or services and shall maintain their own residence off site.
- (7) Lighting shall be provided for all entrances, parking lots, pathways and public areas.
- (8) Stays at the Emergency Shelter facility shall be limited to between the hours of 5:00 P.M. and 8:00 A.M.
- (9) Nonoperational and unregistered vehicles shall not be kept on site. Towing shall be the responsibility of the shelter operator.
- (10) A minimum distance of 300 feet shall be maintained from another emergency shelter. The distance of separation shall be measured in a straight line between the property lines of each use without regard to intervening structures or objects.
- (11) Alcohol and narcotics use and consumption are prohibited within the facility and on the property.
- (12) An operations plan shall be submitted for review and approval by the Director and the Chief of Police prior to operation of the Emergency Shelter. The plan shall include minimum provisions related to on-site security and safety, staff training, loitering control, client eligibility, counseling services and indoor and outdoor management of the facility.
- (13) The shelter operator shall regularly patrol the area surrounding the shelter site during hours that the shelter is in operation to ensure that homeless persons who have been denied access are not congregating in the neighborhood.
- (14) Each shelter shall be operated by a responsible agency or organization, with experience in managing and/or providing social services.
- (15) Staff and services shall be provided to assist residents to obtain permanent shelter and provide referral information and/or

services for health or mental health services, educational opportunities, job training/employment and life skills training.

- (16) There shall be at least one on-site supervisor per 25 persons during the hours of operation.
- (17) Operators shall maintain a log of occupants which may be reviewed by the Town at any time to assure compliance with these regulations and standards.
- (18) Security systems shall be installed prior to issuance of a certificate of occupancy. Security systems shall include an alarm system to detect unrecorded or unauthorized entry or exiting of a facility, and a camera surveillance system which shall be installed in locations to the satisfaction of the Chief of Police.
- (19) The outdoor areas and yards of shelters and surrounding areas shall be kept clean and free of debris, litter, and storage of personal effects shall not be allowed.

(C) Transitional Housing is a development with buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. Transitional housing that is provided in single family dwelling, multi-family dwelling units, residential care facilities or boarding house uses, shall be permitted, conditionally permitted or prohibited in the same manner as the other single family dwelling, multi-family dwelling units, residential care facilities, or boarding house uses under this code.

(D) Supporting housing is housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing that is provided in single family dwellings, multi-family dwelling units, residential care facilities, or boarding house uses, shall be permitted, conditionally permitted, or prohibited in the same manner as the other single family dwelling, multi-family dwelling units, residential care facilities, or boarding house uses under this code.

Section 84.0370 (d) (6) is added to read as follows:

- (A) Single Room Occupancy Purpose and Intent: It is the purpose and intent of this section to regulate the development and operation of Single Room Occupancy land uses. Single Room Occupancy unit's provide housing

opportunities for lower-income individuals, persons with disabilities, the elderly and formerly homeless individuals.

- (B) Single Room Occupancy shall mean a facility providing dwelling units where each unit has a minimum floor area of 150 square feet and a maximum floor area of 350 square feet. These dwellings units may have kitchen or bathroom facilities and shall be offered on a monthly basis or longer.
- (C) Single Room Occupancy Units shall be located exclusively in the Industrial (I) land use district with the approval of a Conditional Use Permit. An application pursuant to this section shall be processed concurrently with any other application(s) required for housing development.
- (D) The following development standards shall be used in conjunction with the industrial district standards for any Single Room Occupancy development.
 - (1) Unit Size: The minimum size of a unit shall be 150 square feet and the maximum size shall be 350 square feet which may include bathroom and/or kitchen facilities.
 - (2) Occupancy: An SRO unit shall accommodate a maximum of two persons.
 - (3) Common Areas: A minimum of 10 square feet for each unit shall be provided for common area. All common areas shall be within the structure. Dining rooms, meeting rooms, recreational rooms or other similar areas may be considered common areas. Shared bathrooms, kitchens, janitorial storage, laundry facilities and common hallways shall not be considered as common areas.
 - (4) Kitchen Facilities: An SRO is not required to but may contain partial or full kitchen facilities. A full kitchen includes a sink, a refrigerator and a stove, range top or oven. If a full kitchen is not provided, common kitchen facilities shall be provided with at least one kitchen per floor.
 - (5) Bathroom Facilities: For each unit a private toilet and sink in an enclosed compartment with a door shall be provided. This compartment shall be a minimum of 15 square feet. If private bathing facilities are not provided for each unit, shared shower or bathtub facilities shall be provided in accordance with the most recent edition of the California Building Codes for congregate residences with at least one full bathroom per every three units on a floor. The shared shower or bathtub facility shall be accessible from a common area or hallway. Each shared shower or bathtub facility shall be provided with an interior lockable door.

- (6) Closet: Each SRO shall have a separate closet.
- (7) Laundry Facilities: Laundry facilities shall be provided in a separate room at the ratio of one washer and dryer for every 10 units, with at least one washer and dryer per floor.
- (8) Cleaning Supply room: A cleaning supply room or utility closet with a wash tub with hot and cold running water shall be provided on each floor.
- (9) Management: A management plan shall be submitted with the development application for an SROP facility and shall be approved by the Director and the Chief of Police. The management plan must address management and operation of the facility, rental procedures, safety and security of the residents and building maintenance.

SECTION 4 NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

SECTION 5 EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this _____ day of _____ 2013.

MAYOR

ATTEST:

APPROVED AS TO FORM:

TOWN CLERK

TOWN ATTORNEY

Program 3.C

Work with private organizations in assisting whenever possible in the housing of handicapped residents in the community. The Town Council shall consider the waiver of planning and engineering plan check fees for such projects as they occur.

Responsible Agency: Community Development Department

Schedule: Ongoing

Program 3.D

Continue to support and assist in enforcing, as required, the provisions of the Federal Fair Housing Act. All complaints regarding discrimination in housing will be referred to the San Bernardino County Housing Authority. Information on the Fair Housing Act, as well as methods of responding to complaints shall be made available at Town Hall and at the Library.

Responsible Agency: Community Development Department

Schedule: Continuous.

Program 3.E

Continue to work with the County of San Bernardino Housing Authority to encourage the development of the 11 acres owned by the Housing Authority in Town for affordable housing.

Responsible Agency: Community Development Department; Redevelopment Agency

Schedule: Ongoing

Program 3.F

Amend the Development Code to allow Homeless Shelters by right, with approval of a Site Plan Review, in the Industrial and/or Public/Quasi-Public zoning designations.

Responsible Agency: Community Development Department

Schedule: 2008-2009.

Program 3.G

The Redevelopment Agency shall establish a program of incentives for the development of housing for extremely low and very low income residents which shall include application fee waivers, plan check fee waivers, and financial assistance with infrastructure improvements, particularly the installation of on-site wastewater treatment facilities. These incentives shall be funded through the Agency's set-aside funds.

Responsible Agency: Community Development Department

Schedule: 2008-2009

Program 3.H

Consistent with the requirements of Government Code 65583, the Town Development Code will be amended as follows:

- a. Single Room Occupancy shall be defined in the Development Code.
- b. Single Room Occupancy shall be added as a Conditionally Permitted Use in the Industrial zone.

Senate Bill No. 2

CHAPTER 633

An act to amend Sections 65582, 65583, and 65589.5 of the Government Code, relating to local planning.

[Approved by Governor October 13, 2007. Filed with
Secretary of State October 13, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory of land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters to these provisions, as specified, and would add provisions to the housing element that would require a local government to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The bill would also authorize a local government to satisfy all or part of this requirement by adopting and implementing a multijurisdictional agreement, as specified, and would delete multifamily residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add supportive housing, transitional housing, and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. The bill would define supportive housing and transitional housing. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

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

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas for emergency shelters. Cities and counties should include this as part of their planning process and locate emergency shelters where most appropriate in their community. The state should not dictate where these emergency shelters should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

SEC. 2. Section 65582 of the Government Code is amended to read:

65582. As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

SEC. 3. Section 65583 of the Government Code is amended to read:

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

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

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

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient

capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

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

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

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

(iv) The provision of onsite management.

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

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

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

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

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

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of

subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (6). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

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

(7) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.

(8) An analysis of opportunities for energy conservation with respect to residential development.

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

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

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that

could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

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

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

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

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory

completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

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

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

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

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

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

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

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the

community in the development of the housing element, and the program shall describe this effort.

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

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

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

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

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

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

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

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

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

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

SEC. 4. Section 65589.5 of the Government Code is amended to read: 65589.5. (a) The Legislature finds and declares all of the following:

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

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment

growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

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

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

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

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there

is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

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

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

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

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

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

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

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

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

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

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

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 659.43, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

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

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary

circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(j) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

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

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HEALTH AND SAFETY CODE

SECTION 50800-50806.5

50800. (a) It is the intent of the Legislature to encourage the provision of shelter, with effective personal rehabilitation and self-sufficiency development services, to homeless persons at as low a cost and as quickly as possible, without compromising the health and safety of shelter occupants. It is also the intent of the Legislature to encourage the move of homeless persons from shelters to a self-supporting environment as soon as possible, to encourage provision of services for as many persons at risk of homelessness as possible, to encourage compatible and effective funding of homeless services, and to encourage coordination among public agencies that fund or provide services to homeless individuals, as well as agencies that discharge people from their institutions, including, but not limited to, child welfare agencies, health care programs, and jails and prisons. Because many communities currently provide shelter and limited services to individuals who are unable or unwilling to comply with traditional housing programs only during cold and wet weather and because year-round shelter will encourage these individuals to accept services and move toward permanent housing, it is also the intent of the Legislature to increase the availability of year-round shelter to meet the special needs of those individuals, including a Safe Haven that provides supportive housing for seriously mentally ill homeless persons.

(b) There is hereby created the Emergency Housing and Assistance Program.

(c) To the extent possible, the Emergency Housing and Assistance Program shall not conflict with the federal Stewart B. McKinney Homeless Assistance Act, as approved on July 22, 1987, cited as Public Law 100-77, as it is, from time to time, amended, and regulations promulgated thereunder by the United States Department of Housing and Urban Development, or its successor.

50800.5. (a) There is hereby created in the State Treasury the Emergency Housing and Assistance Fund. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department to carry out the purposes of this chapter. Any repayments, interest, or new appropriations shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Money in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except to the Surplus Money Investment Fund.

(b) All moneys in the Emergency Housing and Assistance Fund, created pursuant to Section 50800.5 as it existed prior to the effective date of the act that adds this chapter, shall be transferred, on the effective date of the act that adds this chapter, to the Emergency Housing and Assistance Fund created by subdivision (a).

(c) The department may require the transfer of moneys in the Emergency Housing and Assistance Fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the

Government Code. All interest, dividends, and pecuniary gains from these investments shall accrue to the Emergency Housing and Assistance Fund, notwithstanding Section 16305.7 of the Government Code.

50801. As used in this chapter:

(a) "Department" means the Department of Housing and Community Development.

(b) "Designated local board" means a group, including social service providers and a representative of local government, that has met department requirements for distribution of grants allocated by the department pursuant to this chapter.

(c) "Director" means the Director of Housing and Community Development.

(d) "Eligible organization" means an agency of local government or a nonprofit corporation that provides, or contracts with community organizations to provide, emergency shelter or transitional housing, or both.

(e) "Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

(f) "Nonurban county" means any county with a population of less than 200,000, as published in the most recent edition of Population Estimates of California Cities and Counties, E-1, prepared by the Department of Finance, Population Research Unit.

(g) "Region" means a county or a consortium of counties voluntarily banding together by action of a designated local board.

(h) "Safe Haven" means supportive housing for seriously mentally ill homeless persons, many of whom have cooccurring substance abuse problems, that have been unable or unwilling to participate in high demand housing programs.

(i) "Transitional housing" means housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons. Rents and service fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing.

(j) "Urban county" means any county that is not a nonurban county.

50801.5. (a) The department shall adopt regulations for the administration of the Emergency Housing and Assistance Program. The regulations shall govern the equitable distribution of funds in accordance with the intent and provisions of this chapter, and shall ensure that the program is administered in an effective and efficient manner. The regulations shall provide for reasonable delegation of authority to designated local boards, ensure that local priorities and criteria are reasonably designed to address the needs of homeless people, and ensure that designated local boards meet reasonable standards of inclusiveness, accountability, nondiscrimination, and integrity.

(b) The regulations adopted pursuant to this section shall ensure

that emergency shelter and services will be provided on a first-come-first-served basis for whatever time periods are established by the shelter. No individual or household may be denied shelter or services because of an inability to pay. Nothing in this provision shall be construed to preclude a shelter from accepting payment vouchers provided through any other public or private program so long as no shelter beds are reserved beyond sundown for that purpose. Notwithstanding Section 11135 of the Government Code or any other provision of law, nothing in this section shall be construed to preclude a provider of emergency shelter or transitional housing from restricting occupancy on the basis of any of the following:

(1) Sex.

(2) In the case of an emergency shelter or transitional housing offered exclusively to persons 24 years of age or younger pursuant to Section 11139.3 of the Government Code, on the basis of age.

(3) Military veteran status, if the veterans served possess significant barriers to social reintegration and employment due to a physical or mental disability, substance abuse, or the effects of long-term homelessness that require specialized treatment and services and the provider of emergency shelter or transitional housing also provides the specialized treatment and services.

However, in the case of families, providers of emergency shelter or transitional housing shall provide, to the greatest extent feasible, adequate facilities within their range of services so that all members of a family may be housed together, regardless of age and gender.

50802. (a) The department shall ensure that not less than 20 percent of the moneys in the Emergency Housing and Assistance Fund shall be allocated to nonurban counties during any given fiscal year. If the funds designated for facilities operation that are allocated to nonurban counties are not awarded by the end of that fiscal year, then those unencumbered funds shall be allocated in the next fiscal year to urban counties. Funds for capital development that are not awarded by the end of the second fiscal year shall be awarded in the subsequent fiscal year to urban counties.

(b) The amount of funds that the department allocates from the Emergency Housing and Assistance Fund to each region, excluding funds allocated pursuant to subdivision (a), shall be based upon a formula that accords at least 20 percent weight to each of the following factors:

(1) The relative number of persons in the region below the poverty line according to the most recent federal census, updated, if possible, with an estimate by the Department of Finance, compared to the total of the urban counties.

(2) The relative number of persons unemployed within each region, based on the most recent one-year period for which data is available, compared to the total of the urban counties.

(c) Grant funds shall be disbursed as expeditiously as possible by the department.

(d) The department shall use not more than 5 percent of the amount available for funds pursuant to this chapter to defray the department's administrative costs pursuant to this chapter.

(e) Notwithstanding any other provision of this chapter, the department shall distribute funds appropriated for purposes of the activities specified in paragraph (2) of subdivision (a) of Section 50803 as grants in the form of forgivable deferred loans, subject to all of the following:

(1) Funding shall be made available to each project as a loan with a term of five years for rehabilitation, seven years for substantial rehabilitation, or 10 years for acquisition and rehabilitation or new construction. Each deferred loan shall be secured by a deed of trust and promissory note. Repayment of the loan shall be deferred as long as the project is used as an emergency shelter or transitional housing. At the completion of the specified year term, the loan shall be forgiven. If a transfer or conveyance of the project property, however, occurs prior to that time that results in the property no longer being used as an emergency shelter or transitional housing, the department shall terminate the grant and require the repayment of the deferred loan in full.

(2) Applications for funding shall be made pursuant to department-issued statewide "Notices of Funding Availability" without the need for additional regulations.

(3) The department shall set forth the criteria for evaluating applications in the "Notices of Funding Availability" and shall make deferred loans based on those applications that best meet the criteria.

(4) The department shall specify in the "Notice of Funding Availability" both maximum and minimum grant amounts that may be varied for urban and nonurban counties.

(5) Contracts for projects that have not begun construction within the initial 12-month period shall be terminated and funds reallocated. The department, however, may extend this period by a period not to exceed 12 months.

50802.5. (a) The department shall issue a notice or notices of funding availability to potential applicants and designated local boards, as applicable, as soon as possible after funding becomes available for the Emergency Housing and Assistance Program. Each notice of funding availability shall indicate the amounts and types of funds available under this program.

(b) A designated local board, or the department in the absence of a designated local board, shall solicit, receive, and select among applications for grants pursuant to this chapter from eligible organizations through an open, fair, and competitive process. These applications shall be ranked and selected by a designated local board, or by the department in the absence of a designated local board.

(c) Notwithstanding subdivision (b), the department may restrict a designated local board from selecting any application requesting a grant for capital developments if the amount requested by the application exceeds the limits determined by the department, and the department determines that the designated local board is not qualified to evaluate the application. The department shall establish criteria for distinguishing between a designated local board that may be so restricted and a designated local board that would not be so restricted. A designated local board may appeal to the director, or to the director's designee, any decision made by the department pursuant to this subdivision. The department, by June 30, 2001, shall consider increasing the maximum grant limits to three hundred thousand dollars (300,000) for operating grants and five hundred thousand dollars (500,000) for capital grants.

(d) The department, or the designated local board, as applicable, shall not grant more than one million dollars (1,000,000) to any eligible organization within a region in a funding round even if the eligible organization has filed multiple applications.

(e) The department shall determine requirements of the grant contract and shall contract directly with the grant recipient. The department shall not delegate this function to the designated local boards. Eligible designated local boards may use a percentage of the regional award funds to defray administrative costs. The department shall establish this percentage, which shall not exceed 2 percent.

(f) The designated local board shall regulate the performance of any grant contract within their region, subject to department oversight and requirements established by the department.

(g) The department shall not perform a secondary rating or ranking review on those grant applications that have been solicited, received, and selected by a designated local board according to a local ranking criterion that has been approved by the department.

(h) Notwithstanding any other provision of this chapter, if the Housing and Emergency Shelter Trust Fund Act of 2002 is approved by the voters, funds allocated pursuant to paragraph (2) of subdivision (a) of Section 53533 shall be administered by the department in a manner consistent with the restrictions and authorizations contained in provision 3 of Item 2240-105-0001 of the Budget Act of 2000, except that any appropriations in that item shall not apply. The competitive system used by the department shall incorporate priorities set by the designated local boards and their input as to the relative merits of submitted applications from within the designated local board's county in relation to those priorities.

In addition, the funding limitations contained in this section shall not apply to the appropriation in that budget item.

50803. (a) Grants awarded by the department pursuant to this chapter shall be used by a grant recipient to defray costs of eligible activities defined in department regulations, including, but not limited to, any of the following activities:

(1) Operating facilities, including, but not limited to, operations staff salaries, maintenance, repair, utilities, equipment, and debt reduction.

(2) Providing for capital development programs, such as acquisition, leasing, construction, and rehabilitation of sites for emergency shelter and transitional housing for homeless persons.

(3) Administrative costs.

(4) Operating expenses relating to supervising and counseling clients.

(5) Providing residential rental assistance.

(6) Leasing or renting rooms for provision of temporary shelter.

(b) Funds allocated to a nonurban county pursuant to subdivision (a) of Section 50802 may be used to pay the cost of leasing or renting individual units, hotel rooms, or motel rooms for use as emergency shelters. No more than 15 percent of the funds allocated to a region other than a nonurban county shall be expended for this purpose.

(c) By regulation, the department shall establish a level, not to exceed 5 percent of a grant award, which any eligible recipient may use to defray administrative costs.

50803.5. Each designated local board shall provide a process for appeal of its decisions and comply with the requirements of this chapter and the regulations promulgated hereunder.

50804. (a) Each designated local board shall submit to the department for approval, a local emergency shelter strategy for its region, describing the procedures for complying with requirements pursuant to this chapter and the regulations promulgated thereunder. The department shall establish, by regulation, the types of information that each designated local board shall include in the strategy, including, but not limited to, each of the following:

- (1) A statement of goals and how goals will be achieved.
 - (2) A statement of priorities and how the priorities complement the local continuum of care planning process.
 - (3) A description of the application process and ranking criteria for the Emergency Housing and Assistance Program.
 - (4) Copies of application forms for the Emergency Housing and Assistance Program that the designated local board will use to evaluate requests for grants.
 - (5) A statement of how grant recipients shall be encouraged to develop year-round emergency shelters and transitional housing to meet the diverse needs of the homeless populations that include families, youth, and persons with physical and mental disabilities, people who are addicted to alcohol and drugs, people living with HIV/AIDS, veterans, the elderly, and pregnant women. Also, a description of how the local plan serves the needs of individuals and families at risk of homelessness as a result of eviction.
- (b) The department shall establish a deadline, by which date the designated local board shall be required to submit a strategy for the department's review.
- (c) Upon the department's approval of a strategy, the designated local board shall make the strategy broadly available to shelter and service providers and to other interested persons in its region.

50804.5. (a) Project budgets may be changed, within limits established by the department.

(b) Funds allocated to a region shall remain available for funding applications within the region for a time period or dollar limit to be specified by department regulations. The department may designate a time period or dollar limit for the distribution of capital development funds that is different from the time period or dollar limit for the distribution of noncapital development funds. When the designated local board is unable to distribute funds during the time period designated by the department, the funds shall revert to the fund for distribution.

50805. (a) The director shall establish a statewide advisory body on emergency and transitional housing. The department shall consult with the advisory body in the development of regulations and guidelines for certification of designated local boards, requirements for the local emergency shelter strategies, assessment of statewide needs of homeless persons and providers of services to homeless persons, coordination of services and funds of state agencies, and general guidance and direction related to this chapter. The director shall establish, and the department shall begin consulting with, the advisory body within 30 days of the operative date of the act that adds this chapter.

(b) The advisory body established pursuant to this section shall be appointed by, and serve at the pleasure of, the director and shall represent a broad range of representatives of designated local boards, emergency shelter providers, and transitional housing providers from throughout the state. There shall be at least one member who is homeless or formerly homeless; at least one member who represents a statewide nonprofit advocacy organization concerned with homelessness and low-cost affordable housing; one member who represents a designated local board; one member who represents a federal interagency council concerned with homeless issues; one member representing state services for homeless persons; one member who is a residential building owner or manager; one member who is a commercial building owner or manager; and one member of the public. The department shall not use funds made available pursuant to this chapter to fund the activities of the advisory body.

50806.5. The department may adopt emergency regulations to implement this chapter, with respect to award of funds and the administration of the program, to the extent necessary before the department issues the first notice of funding availability pursuant to Section 50802.5. The adoption of emergency regulations shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning, or purposes, of Section 11346.1 of the Government Code. Any changes in regulations made by the department pursuant to this section shall be identified in the notice of funding availability published by the department pursuant to Section 50802.5.

GOVERNMENT CODE

SECTION 65000-65010

65000. This title may be cited as the Planning and Zoning Law.

65001. The definitions and general provisions contained in this article govern the construction of this title unless the context otherwise requires.

65002. "Street" includes street, highway, freeway, expressway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement and right-of-way, and other ways.

65003. "Right-of-way" means any public or private right-of-way and includes any area required for public use pursuant to any general plan or specific plan.

65006. Chapters 1, 2, and 3 of this title are a continuation of the Conservation and Planning Act and any acts lawfully performed pursuant to such act or its predecessors, including but not limited to the adoption of master and official or precise plans and the creation of planning commissions, are continued in effect and deemed to fulfill the requirements of Chapters 1, 2, and 3 of this title.

65007. As used in this title, the following terms have the following meanings, unless the context requires otherwise:

(a) "Adequate progress" means all of the following:

(1) The total project scope, schedule, and cost of the completed flood protection system have been developed to meet the appropriate standard of protection.

(2) (A) Revenues that are sufficient to fund each year of the project schedule developed in paragraph (1) have been identified and, in any given year and consistent with that schedule, at least 90 percent of the revenues scheduled to be received by that year have been appropriated and are currently being expended.

(B) Notwithstanding subparagraph (A), for any year in which state funding is not appropriated consistent with an agreement between a state agency and a local flood management agency, the Central Valley Flood Protection Board may find that the local flood management agency is making adequate progress in working toward the completion of the flood protection system.

(3) Critical features of the flood protection system are under construction, and each critical feature is progressing as indicated by the actual expenditure of the construction budget funds.

(4) The city or county has not been responsible for a significant delay in the completion of the system.

(5) The local flood management agency shall provide the Department of Water Resources and the Central Valley Flood Protection Board

with the information specified in this subdivision sufficient to determine substantial completion of the required flood protection. The local flood management agency shall annually report to the Central Valley Flood Protection Board on the efforts in working toward completion of the flood protection system.

(b) "Central Valley Flood Protection Plan" has the same meaning as that set forth in Section 9612 of the Water Code.

(c) "Developed area" has the same meaning as that set forth in Section 59.1 of Title 44 of the Code of Federal Regulations.

(d) "Flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of flood hazard zones does not imply that areas outside the flood hazard zones, or uses permitted within flood hazard zones, will be free from flooding or flood damage.

(e) "National Federal Emergency Management Agency standard of flood protection" means the level of flood protection that is necessary to withstand flooding that has a 1-in-100 chance of occurring in any given year using criteria developed by the Federal Emergency Management Agency for application in the National Flood Insurance Program.

(f) "Nonurbanized area" means a developed area or an area outside a developed area in which there are fewer than 10,000 residents that is not an urbanizing area.

(g) "Project levee" means any levee that is part of the facilities of the State Plan of Flood Control.

(h) "Sacramento-San Joaquin Valley" means lands in the bed or along or near the banks of the Sacramento River or San Joaquin River, or their tributaries or connected therewith, or upon any land adjacent thereto, or within the overflow basins thereof, or upon land susceptible to overflow therefrom. The Sacramento-San Joaquin Valley does not include lands lying within the Tulare Lake basin, including the Kings River.

(i) "State Plan of Flood Control" has the same meaning as that set forth in subdivision (j) of Section 5096.805 of the Public Resources Code.

(j) "Tulare Lake basin" means the Tulare Lake Hydrologic Region as defined in the California Water Plan Update 2009, prepared by the Department of Water Resources pursuant to Chapter 1 (commencing with Section 10004) of Part 1.5 of Division 6 of the Water Code.

(k) "Undetermined risk area" means an urban or urbanizing area within a moderate flood hazard zone, as delineated on an official flood insurance rate map issued by the Federal Emergency Management Agency, which has not been determined to have an urban level of protection.

(l) "Urban area" means a developed area in which there are 10,000 residents or more.

(m) "Urbanizing area" means a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the next 10 years.

(n) "Urban level of flood protection" means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the Department of Water Resources. "Urban level of flood protection" shall not mean shallow flooding or flooding from local drainage that meets the criteria of the national Federal Emergency Management Agency standard of flood protection.

65008. (a) Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1) (A) The lawful occupation, age, or any characteristic of the individual or group of individuals listed in subdivision (a) or (d) of Section 12955, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2.

(B) Notwithstanding subparagraph (A), with respect to familial status, subparagraph (A) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to subparagraph (A).

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of very low, low, moderate, or middle income.

(b) (1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to any law, including this title, prohibit or discriminate against any residential development or emergency shelter for any of the following reasons:

(A) Because of the method of financing.

(B) (i) Because of the lawful occupation, age, or any characteristic listed in subdivision (a) or (d) of Section 12955, as those characteristics are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the owners or intended occupants of the residential development or emergency shelter.

(ii) Notwithstanding clause (i), with respect to familial status, clause (i) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in clause (i) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to clause (i).

(C) Because the development or shelter is intended for occupancy by persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

(D) Because the development consists of a multifamily residential project that is consistent with both the jurisdiction's zoning ordinance and general plan as they existed on the date the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.

(2) The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or shelter because of, in whole or in part, either of the following:

(A) The method of financing.

(B) The occupancy of the development by persons protected by this subdivision, including, but not limited to, persons and families of very low, low, or moderate income.

(3) A city, county, city and county, or other local government agency may not, pursuant to subdivision (d) of Section 65589.5, disapprove a housing development project or condition approval of a housing development project in a manner that renders the project infeasible if the basis for the disapproval or conditional approval includes any of the reasons prohibited in paragraph (1) or (2).

(c) For the purposes of this section, "persons and families of middle income" means persons and families whose income does not exceed 150 percent of the median income for the county in which the persons or families reside.

(d) (1) No city, county, city and county, or other local governmental agency may impose different requirements on a residential development or emergency shelter that is subsidized, financed, insured, or otherwise assisted by the federal or state government or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e). The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or emergency shelter based in whole or in part on the fact that the development is subsidized, financed, insured, or otherwise assisted as described in this paragraph.

(2) (A) No city, county, city and county, or other local governmental agency may, because of the lawful occupation age, or any characteristic of the intended occupants listed in subdivision (a) or (d) of Section 12955, as those characteristics are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 or because the development is intended for occupancy by persons and families of very low, low, moderate, or middle income, impose different requirements on these residential developments than those imposed on developments generally, except as provided in subdivision (e).

(B) Notwithstanding subparagraph (A), with respect to familial status, subparagraph (A) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to subparagraph (A).

(e) Notwithstanding subdivisions (a) to (d), inclusive, this section and this title do not prohibit either of the following:

(1) The County of Riverside from enacting and enforcing zoning to provide housing for older persons, in accordance with state or federal law, if that zoning was enacted prior to January 1, 1995.

(2) Any city, county, or city and county from extending preferential treatment to residential developments or emergency shelters assisted by the federal or state government or by a local public entity; as defined in Section 50079 of the Health and Safety Code, or other residential developments or emergency shelters intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, or agricultural employees, as defined in subdivision (b) of Section 1140.4 of the Labor Code, and their families. This preferential treatment may include, but need not be limited to, reduction or waiver of fees or changes in

architectural requirements, site development and property line requirements, building setback requirements, or vehicle parking requirements that reduce development costs of these developments.

(f) "Residential development," as used in this section, means a single-family residence or a multifamily residence, including manufactured homes, as defined in Section 18007 of the Health and Safety Code.

(g) This section shall apply to chartered cities.

(h) The Legislature finds and declares that discriminatory practices that inhibit the development of housing for persons and families of very low, low, moderate, and middle income, or emergency shelters for the homeless, are a matter of statewide concern.

65008. (a) Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1) (A) The lawful occupation, age, or any characteristic of the individual or group of individuals listed in subdivision (a) or (d) of Section 12955, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2.

(B) Notwithstanding subparagraph (A), with respect to familial status, subparagraph (A) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 4760 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to subparagraph (A).

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of very low, low, moderate, or middle income.

(b) (1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to any law, including this title, prohibit or discriminate against any residential development or emergency shelter for any of the following reasons:

(A) Because of the method of financing.

(B) (i) Because of the lawful occupation, age, or any characteristic listed in subdivision (a) or (d) of Section 12955, as those characteristics are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the owners or intended occupants of the residential development or emergency shelter.

(ii) Notwithstanding clause (i), with respect to familial status, clause (i) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in clause (i) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 4760 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to clause (i).

(C) Because the development or shelter is intended for occupancy by persons and families of very low, low, or moderate income, as

defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

(D) Because the development consists of a multifamily residential project that is consistent with both the jurisdiction's zoning ordinance and general plan as they existed on the date the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.

(2) The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or shelter because of, in whole or in part, either of the following:

(A) The method of financing.

(B) The occupancy of the development by persons protected by this subdivision, including, but not limited to, persons and families of very low, low, or moderate income.

(3) A city, county, city and county, or other local government agency may not, pursuant to subdivision (d) of Section 65589.5, disapprove a housing development project or condition approval of a housing development project in a manner that renders the project infeasible if the basis for the disapproval or conditional approval includes any of the reasons prohibited in paragraph (1) or (2).

(c) For the purposes of this section, "persons and families of middle income" means persons and families whose income does not exceed 150 percent of the median income for the county in which the persons or families reside.

(d) (1) No city, county, city and county, or other local governmental agency may impose different requirements on a residential development or emergency shelter that is subsidized, financed, insured, or otherwise assisted by the federal or state government or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e). The discrimination prohibited by this subdivision includes the denial or conditioning of a residential development or emergency shelter based in whole or in part on the fact that the development is subsidized, financed, insured, or otherwise assisted as described in this paragraph.

(2) (A) No city, county, city and county, or other local governmental agency may, because of the lawful occupation age, or any characteristic of the intended occupants listed in subdivision (a) or (d) of Section 12955, as those characteristics are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 or because the development is intended for occupancy by persons and families of very low, low, moderate, or middle income, impose different requirements on these residential developments than those imposed on developments generally, except as provided in subdivision (e).

(B) Notwithstanding subparagraph (A), with respect to familial status, subparagraph (A) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in subparagraph (A) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 4760 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of this code shall apply to subparagraph (A).

(e) Notwithstanding subdivisions (a) to (d), inclusive, this section and this title do not prohibit either of the following:

development of housing that would increase the community's supply of housing affordable to persons and families with low or moderate incomes, as defined in Section 50079.5 of the Health and Safety Code, or with very low incomes, as defined in Section 50105 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. This subdivision is not intended to require that the action or proceeding be brought in support of or to encourage or facilitate a specific housing development project.

(2) It is brought with respect to actions taken pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3 of this division, pursuant to Section 65589.5, 65863.6, 65915, or 66474.2 or pursuant to Chapter 4.2 (commencing with Section 65913).

A cause of action brought pursuant to this subdivision shall not be maintained until 60 days have expired following notice to the city or clerk of the board of supervisors by the party bringing the cause of action, or his or her representative, specifying the deficiencies of the general plan, specific plan, or zoning ordinance. A cause of action brought pursuant to this subdivision shall accrue 60 days after notice is filed or the legislative body takes a final action in response to the notice, whichever occurs first. A notice or cause of action brought by one party pursuant to this subdivision shall not bar filing of a notice and initiation of a cause of action by any other party.

(e) Upon the expiration of the time limits provided for in this section, all persons are barred from any further action or proceeding.

(f) Notwithstanding Sections 65700 and 65803, or any other provision of law, this section shall apply to charter cities.

(g) Except as provided in subdivision (d), this section shall not affect any law prescribing or authorizing a shorter period of limitation than that specified herein.

(h) Except as provided in paragraph (4) of subdivision (c), this section shall be applicable to those decisions of the legislative body of a city, county, or city and county made pursuant to this division on or after January 1, 1984.

65010. (a) Formal rules of evidence or procedure applicable in judicial actions and proceedings shall not apply in any proceeding subject to this title except to the extent that a public agency otherwise provides by charter, ordinance, resolution, or rule of procedure.

(b) No action, inaction, or recommendation by any public agency or its legislative body or any of its administrative agencies or officials on any matter subject to this title shall be held invalid or set aside by any court on the ground of the improper admission or rejection of evidence or by reason of any error, irregularity, informality, neglect, or omission (hereafter, error) as to any matter pertaining to petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals, or any matters of procedure subject to this title, unless the court finds that the error was prejudicial and that the party complaining or appealing suffered substantial injury from that error and that a different result would have been probable if the error had not occurred. There shall be no presumption that error is prejudicial or that injury was done if the error is shown.

PLANNING COMMISSION STAFF REPORT

To: Honorable Chairman & Commissioners
From: Shane Stueckle, Deputy Town Manager
Date: May 01, 2013
For Commission Meeting: May 07, 2013

Subject: Development Code Amendment, DCA 04-13
Ordinance No.
Housing Element Update
State Mandated Regulations
Second Dwelling Units

Prior Commission Review: There has been no prior Commission review of this matter.

Recommendation: That the Planning Commission recommends that the Town Council finds the proposed ordinance exempt from CEQA under Section 15061 (b) (3) and adopts the Ordinance.

Executive Summary: State law requires a ministerial approval process for second units in designated zones. Additionally, state law requires cities and counties to enact second unit regulations that support and facilitate the development of second units, as a means of encouraging and supporting affordable housing, on all residentially designed parcels.

While the Town's process is currently established as ministerial, existing regulations must be amended to encourage and support second units on all residential lots.

Order of Procedure:

Request Staff Report
Open Public Hearing, Request Public Comment
Close Public Hearing
Commission Discussion/Questions of Staff
Motion/Second
Commission Discussion on Motion
Vote (Voice Vote)

Discussion: The existing Housing Element, Program 9 B., states, "Amend the Development Code to allow Second Units on single family residential lots consistent with State law."

Existing regulations require that a lot must contain twice the minimum parcel size in order to construct a second unit on the property. This requirement essentially precludes the development of second units on a majority of residentially zoned properties with the Town. Very few subdivisions have been designed with twice the minimum parcel size of the land

Department Report Ordinance Action Resolution Action Public Hearing
 Consent Minute Action Receive and File Study Session

use district.

The attached Ordinance eliminates that requirement.

Additionally, the amendments require that one of the units on the lot, either primary or second, must be occupied by the owner of the property. The second units may be rented to non-family members.

No other changes to the existing regulations are proposed.

Alternatives: Staff recommends no alternative actions. The amendments are necessary for consistency with state law.

Fiscal Impact: NA

Attachments: Ordinance No.
Portions of Housing Element

shall post Table III-14 on the Town web site as part of a page dedicated to development opportunities in the Old Town Specific Plan area.

Responsible Agency: Community Development Department
Schedule: 2008-2009, Ongoing.

Policy 9

Encourage the development of larger unit sizes in multi-family rental projects and second units on single family lots in order to alleviate overcrowding.

Program 9.A

Encourage multi-family rental and owner-occupied projects which construct three and four bedroom units as a substantial portion of the overall development. Larger units shall be encouraged through direct Town funding (i.e. RDA participation) or through bond financing for affordable housing through the County Housing Authority.

Responsible Department: Community Development Department; Redevelopment Agency; Housing Authority
Schedule: 2000-2001; Continuous

Program 9.B

Amend the Development Code to allow Second Units on single family residential lots consistent with State law.

Responsible Agency: Community Development Department
Schedule: 2008-2009.

Policy 10

Facilitate the development and preservation of senior housing through incentives and assistance programs.

Program 10.A

Maintain the Home Rehabilitation Program to enable 10 senior residents to maintain and rehabilitate their homes. Flyers advertising the program shall be posted at the Community Center, the Library, and sent to local churches and social service agencies.

Responsible Agency: Redevelopment Agency
Schedule: Ongoing

Program 10.B

Provide assistance to developers of affordable senior housing through Housing set-aside funds whenever possible.

Responsible Agency: Redevelopment Agency
Schedule: Ongoing

Policy 11

Encourage the preservation of home town and rural atmosphere through design standards.

ORDINANCE NO.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING
TITLE 8, DIVISION 4, CHAPTER 3, SECTION 84.0305(b),
84.0320(b) AND 84.0325(b), CHAPTER 5, SECTION 84.0510
RELATING TO ACCESSORY USES**

The Town Council of the Town of Yucca Valley does ordain as follows:

SECTION 1. Development Code Amended.

1.1 Section 84.0510 of Title 8, Division 4, Chapter 5 of the Development Code of the San Bernardino County Code as adopted and amended by the Town of Yucca Valley is hereby further amended to read as follows:

“84.0510 Uses Accessory to Primary Residential. The following uses shall be permitted as accessory uses to each single dwelling unit which is allowed by the subject land use district.

(a) Additional residential dwelling. Caretaker Housing as allowed by Section 84.0550(a) and a Land Use Compliance Review shall be allowed on parcels less than five (5) acres. The additional residential dwelling shall provide two (2) additional parking spaces, except as otherwise provided by this Title.

(b) Second Dwelling Unit.

1. Purpose: The purpose of this Section is to expand the variety of housing opportunities in the Town by implementing State Government Code (65852.2) as it pertains to second dwelling units. In doing so, it is the intent of these regulations to insure that second dwelling units are located in areas where services are adequate to support them and to insure that second dwelling units are maintained as a compatible and integral part of the Town's residential zoning districts.

2. Development Standards.

A. A second dwelling unit is an additional dwelling unit either attached or detached is allowed

1. Only one (1) other residential unit shall be permitted on a lot with a second unit and one of the residential units shall be owner occupied. The resident owner shall be a signatory to any lease for the rented unit and shall be the applicant for any permit issued under this Chapter.

2. The second unit shall not be sold or held under a different legal ownership than the primary residence; nor shall the lot containing the second unit be subdivided.

- B. The parcel upon which the second dwelling unit is to be built shall comply with all development standards for the district in which it is located.
 - C. The total area of floor space for an attached second dwelling unit shall not exceed 30% of the habitable area of the main residential unit, or a detached second dwelling unit shall not exceed 60% of the main residential unit but not less than seven hundred twenty five (725) square feet or greater than one thousand two hundred (1,200) square feet.
 - D. A second dwelling unit may only be permitted on a residential lot on which there is already built one owner occupied single family dwelling (primary dwelling) or concurrently.
 - E. A second dwelling unit may not be allowed on any residential lot already containing two (2) or more dwelling units.
 - F. The driveway serving the primary dwelling shall be used to serve the second unit whenever feasible.
 - G. The second dwelling unit may be metered separately from the main dwelling for gas, electricity and water/sewer services.
 - H. The second dwelling unit shall be architecturally compatible with the design of the main dwelling and shall incorporate colors and materials that are complimentary to the primary unit.
3. Illegal Second Units. This Section shall not validate any existing illegal secondary unit. To convert a non-allowed secondary unit to a legal, conforming unit, the standards and requirements for the conversion shall be the same as for a newly proposed secondary unit.
 4. Dependant Housing Units. Those units approved under a Special Use Permit for a Dependant Housing Unit that do not meet these regulations shall be considered conforming.

1.2 Title 8, Division 4, Chapter 6, Section 84.0605 of the Development Code of the San Bernardino County Code as adopted and amended by the Town of Yucca Valley is hereby repealed in its entirety:

1.3 Title 8, Division 4, Chapter 3, Section 84.0305(b), Section 84.0320(b), and Section 84.0325(b) of the San Bernardino County Code as adopted and amended by the Town of Yucca Valley is further amended to read as follows:

Section 84.0305

- (b) **USE CLASSIFICATIONS:** In the following schedule, the letter "P" designate use classifications permitted in the RL District, the letters "PD" designate use classification allowed on approval of a Planned Residential Development, the letters "LSP" designate use classification allowed on approval of a Livestock Permit, the letters "CUP" designate use classification allowed on approval of a Conditional Use Permit.

Hillside Reserve (R-HR) Use Classification		P CUP PD LSP	Permitted Conditional Use Permit Planned Residential Development Livestock Permit
Use	Zoning District		Additional Use Regulations
	20 ac		
Residential:			
Family Day Care Homes:			
Large		CUP	Refer to Additional Uses Section of Development Code
Small		P	
Home Occupations		HOP	Refer to HOP Section of Development Code
Institutional Uses		CUP	Refer to Additional Uses Section of Development Code
Manufactured Housing		P	Refer to Single Residential Design Standard Section of the Development Code
Planned Residential Dev.		PD	
Single family dwellings		P	Refer to Single Residential Design Standard Section of the Development Code
Mobile Home Parks		CUP	Not to exceed the underlying land use density on minimum parcel size of forty (40) acres
Second Dwellings		P	Refer to Accessory Uses Section of Development Code
Animal raising of densities greater than those specified by Section 84.0560		LSP	
Commercial Kennels & Catteries		CUP	Two (2) acres minimum parcel size
Row, Field, Tree, and Nursery crop cultivation		P	

Section 84.0320

(b) **USE CLASSIFICATIONS:** In the following schedule, the letter “P” designate use classifications permitted in the RL District, the letters “PD” designate use classification allowed on approval of a Planned Development, the letters “LSP” designate use classification allowed on approval of a Livestock Permit, the letters “CUP” designate use classification allowed on approval of a Conditional Use Permit.

R-L (Rural Living) Use Classification		P Permitted
		CUP Conditional Use Permit
		PD Planned Residential Development
		LSP Livestock Permit
Use	Zoning District	Additional Use Regulations
	R-L-1, 2.5, 5, 10, 20 ac	
Residential:		
Family Day Care Homes:		Refer to Additional Uses Section of Development Code
Large	CUP	
Small	P	
Home Occupations	HOP	Refer to HOP Section of Development Code
Institutional Uses	CUP	Refer to Additional Uses Section of Development Code
Manufactured Housing	P	Refer to Single Residential Design Standard Section of the Development Code
Planned Residential Dev.	PD	
Single Family Dwellings	P	Refer to Single Residential Design Standard Section of the Development Code
Second Dwellings	P	Refer to Accessory Uses Section of Development Code
Mobile Home Parks	CUP	Not to exceed the underlying land use density on minimum parcel size of twenty (20) acres
Animal raising of densities greater than those specified by Section 84.0560	LSP	
Commercial Kennels & Catteries	CUP	Two (2) acre minimum parcel size
Row, field, tree, and nursery crop cultivation	P	Any structure associated with this activity is limited to 10,000 Sq. Ft. on parcels of 5 acres or less.

Section 84.0325

(b) **USE CLASSIFICATIONS:** In the following schedule, the letter “P” designate use classifications permitted in the RS District, the letters “PD” designate use classification allowed on approval of a Planned Development, the letters “LSP” designate use classification allowed on approval of a Livestock Permit, the letters “CUP” designate use classification allowed on approval of a Conditional Use Permit.

RS (Single Residential)		P	Permitted
Use Classification		CUP	Conditional Use Permit
		PD	Planned Residential Development
		LSP	Livestock Permit
Use	Zoning District		Additional Use Regulations
	RS-2, 3,5, 5		
Residential:			
Family Day Care Homes:			Refer to Additional Uses Section of Development Code
Large	CUP		
Small	P		
Home Occupations	HOP		Refer to HOP Section of Development Code
Institutional Uses	CUP		Refer to Additional Uses Section of Development Code
Manufactured Housing	P		Refer to Single Residential Design Standard Sec. 88.0101 of the Development Code
Planned Residential Dev.	PD		
Single Family Dwellings	P		
Second Dwellings	P		Refer to Accessory Uses Section of Development Code
Mobile Home Parks	CUP		Not to exceed the underlying land use density on minimum parcel size of ten (10) acres
Animal raising of densities greater than those specified by Section 84.0560	LSP		
Row, Field, Tree, and Nursery Crop Cultivation	P		Any structure associated with this activity is limited to 10,000 sq. ft. on parcels of 5 acres or less.

SECTION 2. NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this _____ day of _____, 2013.

MAYOR

ATTEST:

Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Town Attorney

Town Manager