

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

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October 2, 2013

**MEMORANDUM FOR:** Planning Directors & Interested Parties

A handwritten signature in blue ink that reads "Glen A. Campora".

**FROM:** Glen A. Campora, Assistant Deputy Director  
Division of Housing Policy Development

**SUBJECT:** **Senate Bill 375 (SB 375) Chapter 728, Statutes of 2008**

This memorandum describes specific SB 375 amendments that changed several provisions of housing and transportation law impacting Regional Housing Need Assessment (RHNA), Housing Element update processes, schedules, and element due dates. Housing element law and local government housing elements can be the most effective means to meet State housing goals and achieve SB 375's climate change goals.

SB 375 reinforces the importance of identifying sustainable development opportunities and strengthens implementation requirements in the housing element. SB 375, in general, amended housing element law as follows:

- Modified RHNA and housing element update processes, increased most RHNA projection and housing element planning period timeframes and changed most RHNA and housing element due date schedules based on the adoption date of Regional Transportation Plans (RTPs).
- Emphasizes timely adoption of the housing element and requires jurisdictions, in designed non-attainment area MPOs with an eight year planning period, to adopt their element not later than 120 days from the due date to avoid the consequence of being required to revise the element at 4 year intervals.
- Provides specific timing requirements to implement programs to rezone sites to accommodate all of the RHNA.
- Requires programs to have implementation timeframes for "beneficial impact."
- Requires the Housing Element Annual Progress Report (APR) be considered at an annual public meeting, before the legislative body, and allow public comment.

The attached technical assistance supersedes SB 375 information the Department has previously presented at several housing element workshops throughout the State. Appendices are included that (1) provide related technical assistance, (2) show actual amendments to housing statutes, (3) identify 5<sup>th</sup> cycle housing element planning periods and due dates, and (4) provide questions and answers recently updated based on issues confronted by jurisdictions in currently updating their housing elements. If you have any questions or seek additional technical assistance, please contact Melinda Coy, Housing Policy Specialist, at (916) 263-7425 or [Melinda.Coy@hcd.ca.gov](mailto:Melinda.Coy@hcd.ca.gov).

Attachments

## **Chapter 728, Statutes of 2008 (SB 375)**

### **CHANGES TO HOUSING ELEMENT LAW**

#### **A. Introduction**

SB 375 directs the California Air Resources Board (CARB) to set regional targets for reducing greenhouse gas (GHG) emissions. SB 375 further directs Metropolitan Planning Organizations (MPOs), Council of Governments (COGs), and local transportation planning agencies to address GHG emission reduction targets by creating a Sustainable Communities Strategy (SCS) or Alternative Plan Strategy (APS) as a component of the agency's Regional Transportation Plan (RTP).

State housing element law requires every local government to update the housing element by the due date specified in statute, generally for either a five-year or eight-year planning period. The housing element update process provides an opportunity for local governments to coordinate housing and transportation land use planning. The housing element can implement efficient land-use strategies such as infill, mixed-use, and/or downtown revitalization strategies, promote and incentivize a variety of housing types affordable to the workforce and households with lower incomes, and address climate change by reducing vehicle trips and GHG emissions.

#### **B. SB 375 Scheduling Provisions**

To strengthen the connection between housing and transportation planning, SB 375 amendments to Government Code (GC) sections 65080 and 65588 made changes to some scheduling provisions to improve coordinating regional housing need assessment (RHNA) and local government housing element updates with schedules for adopting regional transportation plans. Except for regions and local governments not represented by a MPO or COG, SB 375 changed RHNA and housing element schedules based on RTP adoption dates pursuant to transportation planning requirements.

The transportation planning requirements included in Government Code Section 65080 apply to 18 federally designated MPOs in the State covering 37 counties and representing approximately 98 percent of the statewide population. MPO schedules to adopt RTPs that determine RHNA and housing element due dates

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are differentiated based on designation status of regional transportation organizations/agencies as follows:

### MPOs:

- Non-attainment Designation<sup>1</sup>: Non-attainment MPOs adopt RTPs every four years. RHNA and housing element schedules must be coordinated with every other RTP requiring housing elements be updated every 8 years no later than 18 months after RTP adoption.
- Attainment Designation<sup>2</sup>: Attainment MPOs adopt RTPs every five years. SB 375 did not link or change RHNA and housing element update schedules based on RTP adoption date. Housing elements are required to be updated every five years and adopted by date specified in statute. Attainment MPOs or Regional Transportation Planning Agencies (RTPAs) may elect, within a specified timeframe, to update RTPs on a four year schedule that would change the housing element schedule from five to eight years. If the election is made, GC 65588(e)(2)(C) specifies the due date for the fifth revision of the element is 18 months after adoption of the first RTP following the election.

### COGs and local governments not covered by an MPO or RTPA:

SB 375 did not link or change RHNA and housing element update schedules based on RTP adoption date. Housing elements are required to be updated every five years based on the schedule specified in statute.

Refer to Appendix C listing counties in which local governments have an 8-year or 5-year housing element planning period.

Links to COG websites can be found at: <http://www.hcd.ca.gov/hpd/hrc/plan/he/>.

The Department's update of RHNA projection periods, housing element planning periods, and housing element due dates for regions and county jurisdictions is available at [http://www.hcd.ca.gov/hpd/hrc/plan/he/he\\_time.htm](http://www.hcd.ca.gov/hpd/hrc/plan/he/he_time.htm).

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<sup>1</sup> Non-Attainment Areas/MPOs. A geographic area identified by the U.S. EPA and / or CARB as not meeting either NAAQS or CAAQS standards for a given pollutant.

<sup>2</sup> Attainment Area/MPOs. A geographical area identified to have air quality as good as, or better than, the national and / or California ambient air quality standards (NAAQS / CAAQS).

## C. Housing Element Adoption Deadlines

Government Code Section 65588(e)(2)(A) defines the due date for the housing element for each new housing element cycle<sup>3</sup>. Most local governments must adopt the housing element within 18 months from the RTP adoption date.

SB 375 specifies a consequence, if a local government on an eight-year planning cycle fails to adopt the housing element within **120 days** of the statutory due date. The consequence, referred to as the SB 375 4-year consequence, requires a jurisdiction to update the housing element every four years until adopting at least two consecutive revisions by the applicable due dates.

Government Code Section 65585 prescribes the following steps in adopting a housing element:

- (1) submit a draft to the Department prior to adoption;
- (2) consider the Department's findings prior to adoption;
- (3) revise and adopt the element to comply with the statute or adopt the draft without changes and specify in the resolution the findings that explain the reasons the housing element complies with the statute; and
- (4) promptly submit the adopted housing element to HCD.

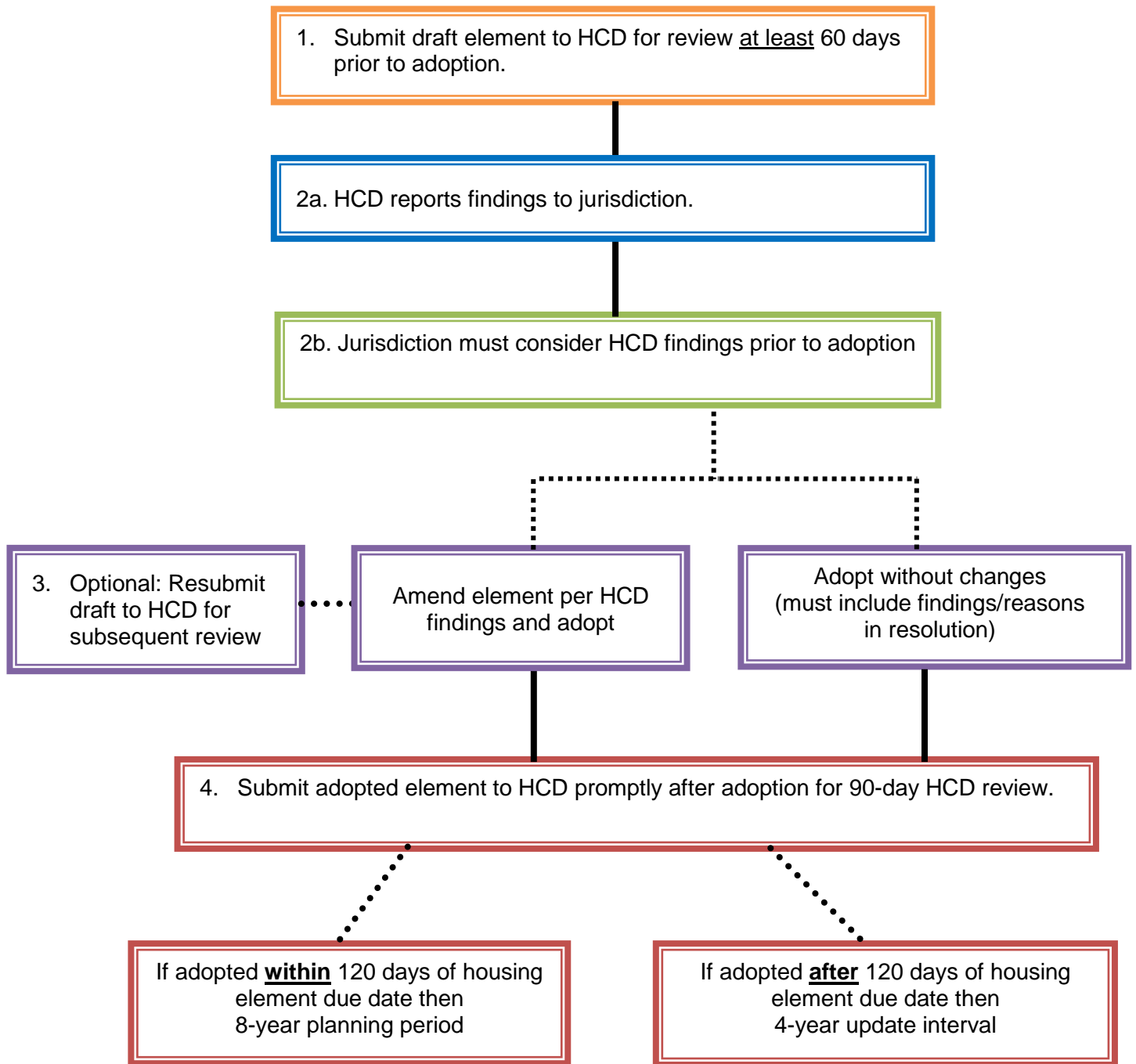
The flow chart on the next page outlines steps in the review and adoption process.

The SB 375 120-day deadline regarding the 4-year update consequence does not mandate that the adopted housing element has to be first (a) submitted to HCD; (b) reviewed by HCD; or (c) found in compliance by HCD within the 120 timeframe.

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<sup>3</sup> Pursuant to Government Code Section 65588(e)(2)(B) a local government in the SANDAG region that has not adopted a housing element for the fourth revision by January 1, 2009 shall revise its housing element every four years, unless the local government does both of the following:  
- Adopts the fourth revision no later than March 31, 2010; and  
- Completes any rezoning identified in the fourth revision by June 30, 2010.

### Review and Adoption Steps (Government Code Section 65585)



**Requirements of SB 375 4-Year Update Consequence:**

If a jurisdiction subject to an 8-year planning period fails to adopt the element by the statutory due date and does not adopt the housing element within **120 days** from the statutory due date, the jurisdiction must update and adopt the element at 4-year intervals until at least two consecutive 4-year updates have been adopted by the applicable due dates.

Each revision of the housing element must meet all statutory requirements including, but not limited to:

- accommodating all of the new housing need (RHNA) over the 8-year planning period;
- public participation;
- review of housing programs;
- identification of housing needs;
- a complete sites inventory;
- an analysis of governmental constraints; and
- implementation programs.

A jurisdiction subject to the SB 375 4-year update consequence should review the sites inventory to ensure the element continues to provide adequate sites to accommodate all of the RHNA over the 8-year element planning period. Jurisdictions should also review programs, timelines, and implementation, modify those programs as necessary, and update other components of the housing element to address and reflect any changes since the beginning of the planning period. In addition, the element must consider any new statutory requirements effective since the adoption of the housing element.

**D. Rezoning of Sites**

Government Code 65583(c)(1) requires the housing element include a rezone program to make sites available to accommodate the portion of new housing need that could not be accommodated on sites in the land inventory. Following are descriptions of SB 375 amendments to GC 65583 specifying deadlines to complete rezonings and consequences when not meeting deadlines.

**Rezoning Deadlines**

Jurisdictions on an 8-Year Planning Period:

Pursuant to Government Code Section 65583(c)(1)(A), local governments must complete required rezoning within three years from the earliest of the following dates: (1) 90 days from the date HCD comments on the last draft reviewed before element adoption or (2) three years from the date of element adoption.

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Government Code Section 65583(f) allows a 1-year extension to the deadline to complete required rezoning, if a local government has completed rezoning at sufficient densities to accommodate at least 75 percent of the units for very-low and low-income households. Also, the jurisdiction must determine after a public meeting that substantial evidence supports findings and adoption of a resolution that the rezone deadline was not met due to one of the following reasons:

- (1) Rezoning was not completed due to an action or inaction of a state, federal, or local agency beyond the control of the local government,
- (2) Infrastructure deficiencies due to fiscal or regulatory constraints prevented completing the required rezoning, or
- (3) Major revisions to the General Plan could not be completed to accommodate the housing-related policies of the Sustainable Communities Strategy or Alternative Planning Strategy.

The jurisdiction must provide the Department a copy of the resolution and findings along with:

- a detailed budget and schedule for preparation and adoption of required rezonings within one year of the adoption of the resolution,
- plans for citizen participation, and
- expected interim action to complete rezoning and revisions to the General Plan.

### Jurisdictions subject to the SB 375 4-year update:

Government Code Section 65583(c)(1)(A) requires sites be rezoned with minimum density and development standards no later than three years and 120 days from the statutory due date to adopt the housing element. There is no provision to extend the deadline to complete rezoning.

### Consequences for Failing to Complete Rezoning Deadline for 8-Year Planning Period and 4-Year Update Interval

Pursuant to Government Code Section 65583(g), if a local government fails to complete rezoning by the prescribed deadline, a local government may not disapprove a housing development project<sup>4</sup>, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or

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<sup>4</sup> "Housing development project" is defined a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate legal agency to ensure the continued availability and use of at least 49 percent of the housing units for very-low, low-, and moderate-income households with an affordable housing cost or affordable rent (Government Code Section 65583(g)(4)).

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impose a condition that would render the project infeasible, if the housing development project:

- is proposed to be located on a site required to be rezoned
- complies with applicable objective general plan and zoning standards and criteria, including design review standards, described in the rezone program action.

Also any subdivision of sites shall be subject to the Subdivision Map Act and design review shall not constitute a “project” .<sup>5</sup>

Noncompliance with these requirements and other requirements of State housing law, creates the risk of the jurisdiction being subject to a lawsuit and Court order to compel action and compliance.

### Jurisdictions on a 5-Year Planning Period:

Pursuant to Government Code Section 65583 (c)(1)(B), the rezone program must identify sites that can be developed for housing within the planning period. The program should be implemented early in the planning period (HCD advises within two years) to allow development to occur.

## **E. Timeframes for Program Implementation**

SB 375 amendments clarified programs and actions specified in GC 65583(c) that now require programs set forth a schedule of actions “during the planning period, each with a timeline, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period.” The purpose of the clarification is to ensure program effectiveness in addressing housing needs in the planning period to better assist in meeting the objective of SB 375. Each program must include a definitive date or deadline, or benchmarks for implementation early enough in the planning period to realize “beneficial impacts” and successful program implementation within the planning period.

## **F. Housing Element Annual Progress Report Changes**

The amendment to Government Code Section 65400 regarding jurisdictions to complete the annual progress report using the Department’s forms, now requires the annual report to describe the actions taken by the local government towards completion of the programs in the housing element and the status of compliance with deadlines. Also the APR is required to be considered at an annual public

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<sup>5</sup> Government Code Section 65583(g)(1)



meeting before the legislative body and members of the public must be allowed to provide oral testimony and written comments.

Jurisdictions must submit the APR to HCD and the Governor's Office of Planning and Research (OPR) on or before April 1 of each year for the prior calendar year.

## G. Related Legislation

**AB 32 (Chapter 488, Statutes of 2006)** – also known as the Global Warming Solutions Act of 2006, established the 2020 GHG emissions reduction goal, directing CARB to set reporting requirements for GHG emissions and to devise rules and regulations to achieve by 2020 “maximum technologically feasible and cost-effective GHG emissions reductions at 1990 levels”, and achieve greater reductions in future years.

AB 32 directed CARB to begin developing discrete early actions to reduce GHG while also preparing a scoping plan to identify how best to reach the 2020 target. Pursuant to AB 32, CARB adopted a Statewide Scoping Plan which included targets by region for reducing GHG emissions by 2020/2035. Three approaches were adopted to meet the targets:

- cleaner vehicles;
- cleaner fuels; and
- more sustainable development patterns via transportation & land use planning (SB 375).

Updates of RTPs prepared by MPOs, which are the basis for awarding federal and State funds to transportation projects, integrate updates of RHNAs and housing elements with regional GHG reduction targets.

**SB 575 (Chapter 354, Statutes of 2009)** – clarifies certain provisions of SB 375, primarily related to the establishment of the Strategic Growth Council, timeframes for the adoption of local housing elements, and informational meetings on the SCS and APS. In addition, Government Code Sections 65588(e)(6) and 65588(f) were amended to distinguish between the RHNA projection period and the housing element planning period, as follows:

- Projection period is the time period for which the regional housing need is calculated, and which shall begin on the date of December 31 or June 30 that most closely precedes the end of the previous projection period.
- Planning period is the time period between the due date for one housing element and the due date for the next housing element.

**Chapter 728, Statutes of 2008 (SB 375)**

**APPENDICES**



## Appendix A: Related Technical Assistance

Building Blocks For Effective Housing Elements Website: Web based technical assistance resource to assist local governments in adopting housing elements that effectively address housing needs, the specific requirements of State law and in furtherance of local goals and objectives.

[http://www.hcd.ca.gov/hpd/housing\\_element2/index.php](http://www.hcd.ca.gov/hpd/housing_element2/index.php)

Housing Element Update Schedules: Applicable due dates for regional jurisdictions to update their housing elements (per Government Code Section 65588)

[http://www.hcd.ca.gov/hpd/hrc/plan/he/he\\_time.htm](http://www.hcd.ca.gov/hpd/hrc/plan/he/he_time.htm)

Rezoning to Provide for Adequate Sites (AB 1233) Technical Assistance memo:

AB 1233 amended state housing law to require sites to be rezoned by prescribed deadlines when a jurisdiction fails to adopt a housing element that identifies adequate sites or fails to timely implement programs in its housing element to identify adequate sites pursuant to Government Code Section 65583(c)(1).

[http://www.hcd.ca.gov/hpd/hrc/plan/he/ab\\_1233\\_final\\_dt.pdf](http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_1233_final_dt.pdf)

Incentives for Housing Element Compliance: HCD's Technical Assistance Memo describing the housing, community development and infrastructure funding programs that include housing element compliance as a rating and ranking or threshold requirement. [http://www.hcd.ca.gov/hpd/hrc/plan/he/loan\\_grant\\_hecompl011708.pdf](http://www.hcd.ca.gov/hpd/hrc/plan/he/loan_grant_hecompl011708.pdf)

Amendment of State Housing Element Law – AB 2348: Technical Assistance document describing the requirements of AB 2348, Chapter 724, Statutes of 2004 which amended State housing element law to clarify the land inventory requirements and to provide greater residential development certainty.

<http://www.hcd.ca.gov/hpd/hrc/plan/he/ab2348stat04ch724.pdf>

Housing Element Programs and Policies effecting Climate Change: List of programs and policies being used by local government to not only meet housing requirements, but make significant contributions to reducing greenhouse gas emissions and promote energy conservation.

[http://www.hcd.ca.gov/hpd/HE\\_PoliciesProgramsAddressingClimateChange.pdf](http://www.hcd.ca.gov/hpd/HE_PoliciesProgramsAddressingClimateChange.pdf)

Housing, Climate Change and SB 375, Resources and Technical Assistance Webpage:

Provides resources related to the implementation of SB 375. Technical resource documents are currently being developed. Documents and presentations addressing SB 375, climate change, and related legislation. <http://www.hcd.ca.gov/hpd/SB375.html>

The 2010 California Regional Transportation Planning Guidelines:

[http://www.catc.ca.gov/programs/rtp/2010\\_RTP\\_Guidelines.pdf](http://www.catc.ca.gov/programs/rtp/2010_RTP_Guidelines.pdf) (page 6).



## Appendix B: Amendments to State Housing Element Law

SB 375 (Chapter 728, Statutes of 2008)  
SB 575 (Chapter 354, Statutes of 2009)

(excerpts with amendments indicated in bold and underline)

**65400.** (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). **Prior to and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.**

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

**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,



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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-b) [subsections are excluded due to not being amended by SB 375]*

(c) A program which sets forth a schedule of actions **during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that** the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, 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 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, **rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including**



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**adoption of minimum density and development standards, shall be completed no later than three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element.**

**(B) 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. **The identification of sites shall include all components specified in subdivision (b) of Section 65583.2.**

(C) 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) 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.

(8) Include a diligent effort by the local government 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.



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(excerpts with amendments indicated in bold and underline)

*(d-e) [subsections are excluded due to not being amended by SB 375]*

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

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

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

**(3) The local government must undertake a major revision to its general plan in order to accommodate the housing-related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080. The resolution and the findings shall be transmitted to the department together with a detailed budget and schedule for preparation and adoption of the required rezonings, including plans for citizen participation and expected interim action. The schedule shall provide for adoption of the required rezoning within one year of the adoption of the resolution.**

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

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

**(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved**



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

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

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

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

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

**65584.01.** *(a-b) [subsections are excluded due to not being amended by SB 375]*

(c) (1) At least 26 months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs. The council of governments shall provide data assumptions from the council's projections, including, if available, the following data for the region:

- (A) Anticipated household growth associated with projected population increases.
- (B) Household size data and trends in household size.
- (C) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.





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(D) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.

(E) Other characteristics of the composition of the projected population.

**(F) The relationship between jobs and housing, including any imbalance between jobs and housing.**

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (F), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments.

(d) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (c). **The region's existing and projected housing need shall reflect the achievement of a feasible balance between jobs and housing within the region using the regional employment projections in the applicable regional transportation plan. Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.**

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (b), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (c). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (c), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (c).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.



## Appendix B: Amendments to State Housing Element Law

SB 375 (Chapter 728, Statutes of 2008)  
SB 575 (Chapter 354, Statutes of 2009)

(excerpts with amendments indicated in bold and underline)

65584.04. (a-h) [subsections are excluded due to not being amended by SB 375]

(i) (1) It is the intent of the Legislature that housing planning be coordinated and integrated with the regional transportation plan. To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the sustainable communities strategy.

(2) The final allocation plan shall ensure that the total regional housing need, by income category, as determined under Section 65584, is maintained, and that each jurisdiction in the region receive an allocation of units for low- and very low income households.

(3) The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the sustainable communities strategy in the regional transportation plan.

65587. (a-c) [subsections are excluded due to not being amended by SB 375]

(d) (1) If a court finds that a city, county, or city and county failed to complete the rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583, as that deadline may be modified by the extension provided for in subdivision (f) of that section, the court shall issue an order or judgment, after considering the equities of the circumstances presented by all parties, compelling the local government to complete the rezoning within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out, the court shall issue further orders to ensure that the purposes and policies of this article are fulfilled, including ordering, after considering the equities of the circumstances presented by all parties, that any rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 be completed within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed and may impose sanctions on the city, county, or city and county.

(2) Any interested person may bring an action to compel compliance with the deadlines and requirements of paragraphs (1), (2), and (3) of subdivision (c) of Section 65583. The action shall be brought pursuant to Section 1085 of the Code of Civil Procedure. An action may be brought pursuant to the notice and accrual provisions of subdivision (d) of Section 65009. In any such action, the city, county, or city and county shall bear the burden of proof.



## Appendix B: Amendments to State Housing Element Law

SB 375 (Chapter 728, Statutes of 2008)  
SB 575 (Chapter 354, Statutes of 2009)

(excerpts with amendments indicated in bold and underline)

**65588.** (a-d) [these subsections are excluded due to not being amended by SB 375]

(e) Each city, county, and city and county shall revise its housing element according to the following schedule:

(1) (A) Local governments within the regional jurisdiction of the Southern California Association of Governments: June 30, 2006, for the fourth revision.

(B) Local governments within the regional jurisdiction of the Association of Bay Area Governments: June 30, 2007, for the fourth revision.

(C) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, and June 30, 2008, for the fourth revision.

(D) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, and June 30, 2009, for the fourth revision.

(E) Local governments within the regional jurisdiction of the San Diego Association of Governments: June 30, 2005, for the fourth revision.

(F) All other local governments: December 31, 2003, for the third revision, and June 30, 2009, for the fourth revision.

**(2) (A) All local governments within a metropolitan planning organization in a region classified as nonattainment for one or more pollutants regulated by the federal Clean Air Act (42 U.S.C. Sec. 7506), except those within the regional jurisdiction of the San Diego Association of Governments, shall adopt the fifth revision of the housing element no later than 18 months after adoption of the first regional transportation plan to be adopted after September 30, 2010.**

**(B) (i) All local governments within the regional jurisdiction of the San Diego Association of Governments shall adopt the fifth revision of the housing element no later than 18 months after adoption of the first regional transportation plan update to be adopted after September 30, 2010.**

**(ii) Prior to or concurrent with the adoption of the fifth revision of the housing element, each local government within the regional jurisdiction of the San Diego Association of Governments shall identify adequate sites in its inventory pursuant to Section 65583.2 or rezone adequate sites to accommodate a prorated portion of its share of the regional housing need for the projection period representing the period from July 1, 2010, to the deadline for housing element adoption described in clause (i).**

**(l) For the fifth revision, a local government within the jurisdiction of the San Diego Association of Governments that has not adopted a housing element for the fourth revision by January 1, 2009, shall revise its housing element not less than every four years, beginning on the date described in clause (i), in**



## Appendix B: Amendments to State Housing Element Law

SB 375 (Chapter 728, Statutes of 2008)  
SB 575 (Chapter 354, Statutes of 2009)

(excerpts with amendments indicated in bold and underline)

accordance with paragraph (4), unless the local government does both of the following:

(ia) Adopts a housing element for the fourth revision no later than March 31, 2010, which is in substantial compliance with this article.

(ib) Completes any rezoning contained in the housing element program for the fourth revision by June 30, 2010.

(II) For the sixth and subsequent revisions, a local government within the jurisdiction of the San Diego Association of Governments shall be subject to the dates described in clause (i), in accordance with paragraph (4).

(C) All local governments within the regional jurisdiction of a metropolitan planning organization or a regional transportation planning agency that has made an election pursuant to subparagraph (L) of paragraph (2) of subdivision (b) of Section 65080 by June 1, 2009, shall adopt the fifth revision of the housing element no later than 18 months after adoption of the first regional transportation plan update following the election.

(D) All other local governments shall adopt the fifth revision of the housing element five years after the date specified in paragraph (1).

(3) Subsequent revisions of the housing element shall be due as follows:

(A) For local governments described in subparagraphs (A), (B), and (C) of paragraph (2), 18 months after adoption of every second regional transportation plan update, provided that the deadline for adoption is no more than eight years later than the deadline for adoption of the previous eight-year housing element.

(B) For all other local governments, at five-year intervals after the date specified in subparagraph (D) of paragraph (2).

(C) If a metropolitan planning organization or a regional transportation planning agency subject to the five-year revision interval in subparagraph (B) makes an election pursuant to subparagraph (L) of paragraph (2) of subdivision (b) of Section 65080 after June 1, 2009, all local governments within the regional jurisdiction of that entity shall adopt the next housing element revision no later than 18 months after adoption of the first regional transportation plan update following the election. Subsequent revisions shall be due 18 months after adoption of every second regional transportation plan update, provided that the deadline for adoption is no more than eight years later than the deadline for adoption of the previous eight-year housing element.

(4) (A) A local government that does not adopt a housing element within 120 days of the applicable deadline described in subparagraph (A), (B), or (C) of paragraph (2) or subparagraph (A) or (C) of paragraph (3) shall revise its housing element not less than every four years until the local government has adopted at least two consecutive revisions by the statutory deadline.

(B) If necessary, the local government shall adopt three consecutive four-year revisions by the statutory deadline to ensure that when the local government



## Appendix B: Amendments to State Housing Element Law

SB 375 (Chapter 728, Statutes of 2008)  
SB 575 (Chapter 354, Statutes of 2009)

(excerpts with amendments indicated in bold and underline)

adopts its next housing element covering an eight-year planning period, it does so at the deadline for adoption for other local governments within the region also covering an eight-year planning period.

(C) The deadline for adoption of every second four-year revision shall be the same as the deadline for adoption for other local governments within the region.

(5) The metropolitan planning organization or a regional transportation planning agency for a region that has an eight-year revision interval pursuant to paragraph (3) shall notify the department and the Department of Transportation in writing of the estimated adoption date for its next regional transportation plan update at least 12 months prior to the estimated adoption date. The Department of Transportation shall maintain and publish on its Internet Web site a current schedule of the estimated regional transportation plan adoption dates. The department shall maintain and publish on its Internet Web site a current schedule of the estimated and actual housing element due dates. Each council of governments shall publish on its Internet Web site the estimated and actual housing element due dates, as published by the department, for the jurisdictions within its region and shall send notice of these dates to interested parties. For purposes of determining the existing and projected need for housing within a region pursuant to Sections 65584 to 65584.08, inclusive, the date of the next scheduled revision of the housing element shall be deemed to be the estimated adoption date of the regional transportation plan update described in the notice provided to the Department of Transportation plus 18 months.

(6) The new projection period shall begin on the date of December 31 or June 30 that most closely precedes the end of the previous projection period.

(f) For purposes of this article, the following terms have the following meanings:

(1) "Planning period" shall be the time period between the due date for one housing element and the due date for the next housing element.

(2) "Projection period" shall be the time period for which the regional housing need is calculated.

(g) For purposes of this section, "regional transportation plan update" shall mean a regional transportation plan adopted to satisfy the requirements of subdivision (d) of Section 65080.



**Appendix C: 5th Cycle Housing Element Planning Periods**

<b>Council of Governments (COG) / Metropolitan Planning Organization (MPO) / Regional Transportation Planning Agency (RTPA)</b>		<b>County Jurisdictions Covered</b>
<b>8-Year Housing Element Planning Period</b>		
ABAG	Association of Bay Area Governments	Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma
BCAG	Butte County Association of Governments	Butte
CFCOG	Council of Fresno County of Governments	Fresno
KCAG	Kern County Council of Governments	Kern
KCOG	Kings County Association of Governments	Kings
MCTC	Madera County Transportation Commission	Madera
MCAG	Merced County Association of Governments	Merced
SANDAG	San Diego Association of Governments	San Diego
SJCOG	San Joaquin Council of Governments	San Joaquin
SACOG	Sacramento Areas Council of Governments	El Dorado, Placer, Sacramento, Sutter, Yolo, Yuba
SCAG	Southern California Association of Governments	Imperial, Los Angeles, Orange, Riverside, San Bernardino, Ventura
StanCOG	Stanislaus Council of Governments	Stanislaus
TCAG	Tulare County Association of Governments	Tulare
<b>Elective 8-Year Housing Element Planning Period <sup>1</sup></b>		
AMBAG	Association of Monterey Bay Governments	Monterey, Santa Cruz
SBCAG	Santa Barbara County Association of Governments	Santa Barbara
SBCOG	San Benito Council of Governments	San Benito

<sup>1</sup> Eligible COGs/MPOs/RTPAs that elected to change their Regional Transportation Plan (RTP) update from 5-year to 4-year interval and housing element update from 5-year to 8-year planning period, pursuant to Government Code 65588(e)(3)(c).



## Appendix C: 5th Cycle Housing Element Planning Periods

Council of Governments (COG) / Regional Transportation Planning Agency (RTPA)		County Jurisdictions Covered
<b>5-Year Housing Element Planning Period</b>		
HCOAG	Humboldt County Association of Governments	Humboldt
Lake APC	Lake County/City Area Planning Council	Lake
MCOG	Mendocino Council of Governments	Mendocino
SLOCOG	San Luis Obispo Council of Governments	San Luis Obispo
SPO	Sierra Planning Organization	Nevada, Sierra

Counties not represented by COGs	County Jurisdictions Covered
<b>5-Year Housing Element Planning Period</b>	
Alpine	Alpine
Amador	Amador
Calaveras	Calaveras
Colusa	Colusa
Del Norte	Del Norte
Glenn	Glenn
Inyo	Inyo
Lassen	Lassen
Mariposa	Mariposa
Modoc	Modoc
Mono	Mono
Plumas	Plumas
Shasta	Shasta
Siskiyou	Siskiyou
Tehama	Tehama
Trinity	Trinity
Tuolumne	Tuolumne



## Appendix D: SB 375 Frequently Asked Questions

### Housing Element Adoption and Due Date

**1. Q: Are all jurisdictions subject to the SB 375 consequence to update the housing element for at least two consecutive 4-year intervals, if the element is not adopted within 120 days of the statutory adoption due date?**

A: No. Only jurisdictions on an 8-year planning period are subject to the SB 375 4-year update consequence when failing to adopt the element within 120 days from the statutory adoption due date that also is the start of the planning period. [GC 65588(e)(4)]

**2. Q. Does the SB 375 provision to adopt the housing element within 120 days from the statutory due date [18 months from the adoption date of the Regional Transportation Plan (RTP)] represent an extension to the statutory adoption due date?**

A. No. The provision of SB 375 to adopt the element within 120 days does not represent an extension to the statutory due date or to the 8-year planning period. The provision specifies the timeframe to adopt the element before triggering the SB 375 consequence of being required to update the element at 4-year intervals until at least two consecutive 4-year updates have been adopted on time. [GC 65588(e)]

**3. Q: Can a jurisdiction receive an extension of time from HCD to adopt the housing element?**

A: No. Element adoption due dates are specified in statute. There is no provision for an extension. [GC 65588(e)(2)] The Department updates its element due date schedule at: [http://www.hcd.ca.gov/hpd/hrc/plan/he/web\\_he\\_duedate.pdf](http://www.hcd.ca.gov/hpd/hrc/plan/he/web_he_duedate.pdf).

**4. Q: Can a jurisdiction meet housing element adoption requirements by adopting an element by the statutory due date without submitting a draft element to HCD for review?**

A: No. The statute requires jurisdictions to: (1) submit a draft element to HCD for review, (2) consider HCD's findings prior to adopting the element, and (3) submit the adopted element to HCD. HCD has 60 days to review a draft element and 90 days to review an adopted element. [GC 65585]





## Appendix D: SB 375 Frequently Asked Questions

**5. Q: What happens if a jurisdiction subject to the SB 375 4-year update consequence does not adopt the housing element by the next 4-year due date?**

A: The jurisdiction would have to continue updating the element at 4-year intervals until adopting at least two consecutive revised elements by the applicable due dates. [GC 65588(e)(4)]

Example: A jurisdiction subject to an 8-year planning period and adoption due date of December 31, 2013 that (1) does not adopt the housing element by April 30, 2014 (120 days from the statutory due date) and (2) does not adopt an updated housing element by the 4-year interval due date of December 31, 2017 would be required to at least update and adopt the housing element by December 31, 2021 and December 31, 2025 before returning to an 8-year update cycle.

**6. Q: Are there potential consequences applicable to all jurisdictions for failing to adopt an element by the statutory due date?**

A: Yes. Potential consequences exist for any jurisdiction that does not have an adopted housing element in compliance with State housing law. Consequences can include, but are not limited to, ineligibility to participate in specific funding programs and action(s) a court may impose on a jurisdiction when ruling on a lawsuit challenging the validity of the Housing Element of the General Plan.

**7. Q: Are there incentives for meeting the due date to adopt a housing element in compliance with State housing law?**

A: Yes. A jurisdiction with a compliant housing element is eligible for several housing, community development and infrastructure funding programs that include housing element compliance as a rating and ranking or threshold requirement. See HCD's memo: Incentives for Housing Element Compliance [http://www.hcd.ca.gov/hpd/hrc/plan/he/loan\\_grant\\_hecompl011708.pdf](http://www.hcd.ca.gov/hpd/hrc/plan/he/loan_grant_hecompl011708.pdf).



## Appendix D: SB 375 Frequently Asked Questions

### SB 375 Consequence of Changing From 8-Year to 4-Year Housing Element Update Interval

**8. Q: Can a jurisdiction subject to the SB 375 4-year update consequence revise the element to address and identify sites for only half of the Regional Housing Need Allocation (RHNA) assigned for the 8-year planning period?**

A: No. RHNA is determined for a specific “projection” period that differs from the element “planning” period. [GC 65588(f)] The consequence of having to update the element at a 4-year interval does not change the RHNA projection period or housing element planning period. The element must address the full RHNA in all updates. With each update of the element, RHNA credit, by income category, may be taken for applicable income category housing units approved, built or under construction since the beginning of the RHNA projection period.

**9. Q. For the next 4-year update covering the second half of the 8-year planning period, does the adequate site alternative requirement apply to projects proposed to be rehabilitated, conserved, or preserved?**

A. No. To utilize the adequate site alternative provisions of GC Section 65583.1(c), the element must include a program and implementation action with committed assistance early in the planning period to provide affordable rental units. Committed assistance is defined as an enforceable agreement from the beginning of the RHNA projection period until the end of the 2<sup>nd</sup> year of the element planning period. These timeframes preclude use of the adequate site alternative requirement to meet any unmet need in the second half of an 8-year planning period.

**10.Q: What happens if housing element programs at the end of a SB 375 4-year interval are not implemented or not effective?**

A: When updating the element, GC sections 65583(c) and 65588(a) require the element be reviewed and revised for appropriateness of goals, objectives, policies, and programs to achieve a beneficial impact. When programs have not been implemented or not been effective, they must be revised to achieve a beneficial impact over the remaining years of the planning period.

In addition, some programs must be implemented by timeframes specified pursuant to statutory amendments, e.g. programs to address the need for



## Appendix D: SB 375 Frequently Asked Questions

emergency shelters pursuant to SB 2 (Statutes of 2007) and rezoning required to accommodate a shortfall of sites to meet the RHNA pursuant to AB 1233 (Statutes of 2005). Until the jurisdiction implements programs required to have been previously implemented by the statutory due date, the Department cannot find an updated element in compliance with State housing law.

### **11.Q: How early before the due date of the 4-year update can a jurisdiction revise and adopt the housing element?**

A: The earliest the jurisdiction should begin the revision process, including public participation, is within 12 months of the update deadline. This allows sufficient time to effectively evaluate program objectives and progress. This timeframe is consistent with the 12-month timeframe allowed all jurisdictions when updating the housing element for a new RHNA and planning period. [GC 65584(b)]

### **SB 375 Rezone Requirement Applicable to Jurisdictions with an 8-Year Planning Period**

### **12.Q: What are SB 375 requirements for a jurisdiction to qualify for a 1-year extension to the 3-year deadline to complete required rezoning?**

A: GC 65583(f)) allows a 1-year extension to the deadline to complete required rezoning, if a local government has completed rezoning at sufficient densities to accommodate at least 75 percent of the units for very-low and low-income households. The jurisdiction must also determine after a public meeting that substantial evidence supports findings and adoption of a resolution that the rezone deadline was not met due to one of the following reasons:

- (1) Rezoning was not completed due to an action or inaction of a state, federal, or local agency beyond the control of the local government,
- (2) Infrastructure deficiencies due to fiscal or regulatory constraints prevented meeting the rezone deadline, or
- (3) Major revisions to the General Plan have not been completed to accommodate the housing-related policies of the Sustainable Communities Strategy or Alternative Planning Strategy.

Also, the jurisdiction must provide HCD a copy of the resolution and findings together with the following (1) a detailed budget and schedule for preparation and adoption of required rezones within one year of the adoption of the resolution, (2) plans for citizen participation, and (3) expected interim action.



## Appendix D: SB 375 Frequently Asked Questions

Note that if a jurisdiction becomes subject to the SB 375 4-year update consequence, the 3-year deadline to complete rezoning does not change and the 1-year extension does not apply.

**13.Q: What happens if a jurisdiction receives the 1-year extension to rezone but doesn't complete all the rezones by the extended due date?**

A: Pursuant to Government Code Section 65583(g), the jurisdiction is restricted from all of the following: (1) disapproving a housing project that complies with zoning standards proposed on a site required to be rezoned; (2) requiring any discretionary permit; including a CUP or PUD; or (3) imposing any condition that would render the project infeasible.

Exceptions may apply if the development project would have specific, adverse impacts upon the public's health or safety and there is no feasible method to satisfactorily mitigate or avoid the identified impacts other than project denial or rezoning to lower the density. [GC 65583(g)(2)(A)]

**14.Q: If a jurisdiction on an 8-year planning period completes multiple drafts of the housing element prior to the 120 day deadline, does the SB 375 3-year timeframe to complete rezones apply to the first or last draft submitted?**

A: The time frame for completing rezones would apply to the last draft submitted.

For jurisdictions that adopt the element within 120 days of the statutory due date, the 3-year rezone timing requirement begins on the earliest of the following two dates: (1) three years and 90 days after HCD comments on the last draft submittal prior to element adoption or (2) three years from the adoption date of the housing element. [GC 65583(c)(1)(A)]

For jurisdictions that (1) fail to comply with element adoption steps (refer to question 4) and/or (2) do not adopt the element within 120 days from the start of the planning period, rezoning must be completed no later than three years and 120 days from the statutory adoption due date and start of the planning period. [GC 65583(c)(1)(A)]

**15.Q: If a jurisdiction on an 8-year update cycle adopts an element just before the due date and six months later adopts an amended element, which adopted element determines when the rezone timing provisions apply?**

A: If a jurisdiction submits a revised or adopted element after 120 days from the start date of the planning period, the element first adopted determines the start date for the rezone timing.



## Appendix D: SB 375 Frequently Asked Questions

### Housing Element Program Requirements

**16.Q: Did SB 375 include other amendments impacting housing element program requirements?**

A: Yes. GC 65583(c) was amended to require element program actions to “each have a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be ‘beneficial impacts’ of the programs within the planning period....” In addition, new rezone timing requirements were included for jurisdictions on an 8-year planning period.

### HCD Annual Progress Report (APR)

**17.Q: Did SB 375 include amendments impacting the requirement to provide HCD the housing element Annual Progress Report (APR) by April 1 of each calendar year?**

A: Yes. GC 65400(a)(2)(B) was amended to include a public meeting and participation requirement when finalizing and submitting the APR. The amendment requires that the jurisdiction’s APR “shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.” The public meeting allowing public comments on the APR should occur prior to the submission of the APR by the due date of April 1.

**18.Q: Where can I find HCD’s APR form and instructions?**

A: The APR form, instructions, and regulations governing local government annual progress report requirements are on the Department’s website: [http://www.hcd.ca.gov/hpd/housing\\_element2/OR\\_apr.php](http://www.hcd.ca.gov/hpd/housing_element2/OR_apr.php)

**19.Q: Can the solicitation of public comments and the presentation of the APR to the local legislative body occur at the same time?**

A: Yes. Nothing in statute precludes these two activities from occurring simultaneously.

**20.Q: Must the APR be adopted by the legislative body prior to submittal to HCD and OPR?**

A: No. Adoption of the APR by the legislative body is not required by statute.