

**State of California**

**GOVERNMENT CODE**

**Section 65583.2**

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65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (10) of subdivision (c) of Section 65583, 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. As used in this section, "land suitable for residential development" includes all of the following sites that meet the standards set forth in subdivisions (c) and (g):

- (1) Vacant sites zoned for residential use.
- (2) Vacant sites zoned for nonresidential use that allows residential development.
- (3) Residentially zoned sites that are capable of being developed at a higher density, and sites owned or leased by a city, county, or city and county.
- (4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county.

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

- (1) A listing of properties by assessor parcel number.
- (2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.
- (3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.
- (4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct,

finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

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

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

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning by the applicable deadline for rezoning set forth in subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing, and whether the inventory affirmatively furthers fair housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

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

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a

similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

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

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

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

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

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

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

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

(4) (A) For a metropolitan jurisdiction:

(i) At least 25 percent of the jurisdiction's share of the regional housing need for moderate-income housing shall be allocated to sites with zoning that allows at least four units of housing, but not more than 100 units per acre of housing.

(ii) At least 25 percent of the jurisdiction's share of the regional housing need for above moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing.

(B) The allocation of moderate-income and above moderate-income housing to sites pursuant to this paragraph shall not be a basis for the jurisdiction to do either of the following:

(i) Deny a project that does not comply with the allocation.

(ii) Impose a price minimum, price maximum, price control, or any other exaction or condition of approval in lieu thereof. This clause does not prohibit a jurisdiction from imposing any price minimum, price maximum, price control, exaction, or condition in lieu thereof, pursuant to any other law.

(iii) The provisions of this subparagraph do not constitute a change in, but are declaratory of, existing law with regard to the allocation of sites pursuant to this section.

(C) This paragraph does not apply to an unincorporated area.

(D) For purposes of this paragraph:

(i) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(ii) "Unit of housing" does not include an accessory dwelling unit or junior accessory dwelling unit that could be approved pursuant to Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 or through a local ordinance or other provision implementing either of those articles. This paragraph shall not limit the ability of a local government to count the actual production of accessory dwelling units or junior accessory dwelling units in an annual progress report submitted pursuant to Section 65400 or other progress report as determined by the department.

(E) Nothing in this subdivision shall preclude the subdivision of a parcel, provided that the subdivision is subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land.

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

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

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

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by low- or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) (1) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for lower income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period.

(2) These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c), and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the lower income housing need shall be accommodated on sites designated for

residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the lower income housing need on sites designated for mixed use if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

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

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

(k) This section shall become operative on December 31, 2028.

(Amended (as amended by Stats. 2024, Ch. 7, Sec. 6) by Stats. 2024, Ch. 282, Sec. 7.5. (AB 3093) Effective January 1, 2025. Section operative December 31, 2028, by its own provisions. )