



**CITY OF SOUTH PASADENA
SPECIAL JOINT MEETING OF THE CITY COUNCIL
AND PLANNING COMMISSION**

A G E N D A

WEDNESDAY, NOVEMBER 9, 2022, AT 6:30 P.M.

**AMEDEE O. "DICK" RICHARDS JR. COUNCIL CHAMBERS
1424 MISSION STREET, SOUTH PASADENA, CA 91030**

South Pasadena City Council Statement of Civility

As your elected governing board, we will treat each other, members of the public, and City employees with patience, civility, and courtesy as a model of the same behavior we wish to reflect in South Pasadena for the conduct of all City business and community participation. The decisions made tonight will be for the benefit of the South Pasadena community and not for personal gain.

NOTICE ON PUBLIC PARTICIPATION & ACCESSIBILITY

The South Pasadena City Council Meeting will be conducted in-person from the Amedee O. "Dick" Richards, Jr. Council Chambers, located at 1424 Mission Street, South Pasadena, CA 91030. Pursuant to Assembly Bill 361 Government Code Section 54953, subdivision (e)(3), the City Council and Planning Commission may conduct its meetings remotely and may be held via video conference.

The Meeting will be available:

- In Person Hybrid – Council Chambers, 1424 Mission Street, South Pasadena, CA 91030
- Live Broadcast via the City website - http://www.spectrumstream.com/streaming/south_pasadena/live.cfm
- Via Zoom – **Webinar ID: 825 9999 2830**

To maximize public safety while still maintaining transparency and public access, members of the public may observe the meeting via Zoom in one of the three methods below:

1. Go to the Zoom website, <https://zoom.us/join> and enter the Zoom Meeting information; or
2. Click on the following unique Zoom meeting link:
<https://us06web.zoom.us/j/82599992830> or
3. You may listen to the meeting by calling: +1-669-900-6833 and entering the Zoom Meeting ID listed above.

CALL TO ORDER: Mayor Michael A. Cacciotti

ROLL CALL OF CITY COUNCIL:

Mayor	Michael A. Cacciotti
Mayor Pro Tem	Jon Primuth
Councilmember	Jack Donovan
Councilmember	Diana Mahmud
Councilmember	Evelyn G. Zneimer

ROLL CALL OF PLANNING COMMISSION:

Chair	John Lesak
Vice-Chair	Laura Dahl
Commissioner	Amitabh Barthakur
Commissioner	Janet Braun
Commissioner	Lisa Padilla

PUBLIC COMMENT GUIDELINES

The City Council welcomes public input. Members of the public may comment on the agenda item only, you may participate **by one of the following options:**

Option 1:

Participate in-person in the Amedee O. "Dick" Richards, Jr. Council Chambers located at 1424 Mission Street, South Pasadena, CA 91030

Option 2:

Participate via Zoom.

Public Comment speakers are able to speak by going to the Zoom webinar controls and clicking on the "Raise Hand" icon. The Meeting Host will be notified that a hand has been raised and speakers will have their microphone un-muted by the Host during the appropriate Public Comment period.

PLEASE NOTE: The Mayor may exercise the Chair's discretion, subject to the approval of the majority of the City Council, to adjust public comment time limit to less than three minutes.

Option 3:

Email Public Comment to ccpubliccomment@southpasadenaca.gov.

Public Comments received in writing will not be read aloud at the meeting, but will be part of the meeting record. Written public comments will be uploaded to the City website for public viewing under Additional Documents. When submitting a public comment, please make sure to include the following:

- 1) Name (optional), and
- 2) Agenda item you are submitting public comment on.
- 3) Submit by no later than 12:00 p.m., on the day of the City Council meeting. Correspondence received after this time will be distributed the following business day.

Pursuant to State law, the City Council may not discuss or take action on issues not on the meeting agenda, except that members of the City Council or staff may briefly respond to statements made or questions posed by persons exercising public testimony rights (Government Code Section 54954.2). Staff may be asked to follow up on such items.

PUBLIC COMMENT1. **PUBLIC COMMENT**

Public Comment will be limited to three minutes per speaker for the agenda item only.

ACTION / DISCUSSION2. **Review Comments Received from California Department of Housing and Community Development (HCD) on the 3rd Draft Housing Element**Recommendation

It is recommended that the City Council receive staff's presentation and discuss responses to HCD comments on the 3rd Draft Housing Element.

3. Adoption of a Resolution of Intention to Amend South Pasadena Municipal Code Chapter 36 (Zoning) to Implement Programs of the General Plan Housing Element

Recommendation

It is recommended that the City Council initiate a Zoning Text Amendment by adopting a Resolution of Intention pursuant to South Pasadena Municipal Code (SPMC) 36.620.030 and direct staff to prepare a recommendation that includes, but is not limited to, the following SPMC sections:

1. Section 36.350.250 (Emergency Shelters), to revise standards for emergency shelters in compliance with State law;
2. Section 36.220.030 (Residential Zoning District Land Uses and Permit Requirements), Table 2-2, to permit transitional housing in all zoning districts that permit residential uses and add Low Barrier Navigation Centers in compliance with State law;
3. Section 36.220.040 (Residential Zoning District General Development Standards) Table 2-3 to comply with the minimum density and feasible lot coverage for projects of certain sizes as required by State Senate Bill 478;
4. Section 36.230.030 030 (Commercial Zoning District Land Uses and Permit Requirements), to permit transitional housing in all zoning districts that permit residential uses and remove the requirement for a conditional use permit from mixed-use development and allow as a permitted use;
5. Section 36.310.040 to add provisions for consistency with Assembly Bill 2097 (removal of minimum parking requirements near transit); and
6. Division 36.700 (Definitions/Glossary), to add a definition for Low Barrier Navigation Center.

ADJOURNMENT

FOR YOUR INFORMATION

FUTURE CITY COUNCIL MEETINGS


November 16, 2022	Regular City Council Meeting	7:00 p.m.
December 7, 2022	Regular City Council Meeting - State of the City	7:00 p.m.
December 21, 2022	Regular City Council Meeting - City Council Reorganization	7:00 p.m.

PUBLIC ACCESS TO AGENDA DOCUMENTS AND BROADCASTING OF MEETINGS

City Council meeting agenda packets, any agenda related documents, and additional documents are available online for public viewing on the City’s website:

www.southpasadenaca.gov/CityCouncilMeetings2022

ACCOMMODATIONS

 The City of South Pasadena wishes to make all of its public meetings accessible to the public. If special assistance is needed to participate in this meeting, please contact the City Clerk’s Division at (626) 403-7230 or cityclerk@southpasadenaca.gov. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities. Notification at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

CERTIFICATION OF POSTING

*I declare under penalty of perjury that I posted this notice of agenda for the meeting to be held on **November 9, 2022**, on the bulletin board in the courtyard of City Hall located at 1414 Mission Street, South Pasadena, CA 91030, and on the City website as required by law, on the date listed below.*

11/08/2022

/S/

Date

Desiree Jimenez, CMC, Chief City Clerk



City Council Agenda Report

ITEM NO. 2

DATE: November 9, 2022

FROM: Arminé Chaparyan, City Manager *Ac*

PREPARED BY: Angelica Frausto-Lupo, Community Development Director

SUBJECT: **Review Comments Received from California Department of Housing and Community Development (HCD) on the 3rd Draft Housing Element**

Recommendation

It is recommended that the City Council receive the staff presentation, discuss responses to HCD comments on the 3rd Draft Housing Element, and provide direction as necessary.

Background

On September 15, 2022, the City of South Pasadena (City) submitted its 3rd Draft Housing Element to the California Department of Housing and Community Development (HCD) for compliance/certification review. This 3rd draft sought to address all of the issues that were included in HCD's response letter to the City dated July 8, 2022 regarding the 2nd Draft Housing Element.

On October 28, 2022, HCD provided a response letter with comments on the 3rd Draft Housing Element and on November 2, 2022, HCD provided a revised response letter (Attachment 1) that fixed an incorrect date that was included in the initial letter.

All documents related to the City's 6th Cycle Housing Element development are posted on the Community Development Department's project web page (<https://www.southpasadenaca.gov/government/departments/planning-and-building/housing-element-update-2021-2029>), including all drafts and HCD letters received.

Analysis

In its review, HCD found that the 3rd Draft Housing Element, "addressed many of the statutory requirements described in HCD's July 8, 2022 review." However, HCD found that the 3rd Draft Housing Element needed additional revisions to meet the requirements of a number of sections of the State Housing Element Law (Article 10.6 of the Government Code). In this response letter, HCD provided clear direction for many of the changes needed to the Housing Element to bring it into compliance with State Law.

At the July 20 and 27, 2022 City Council meetings, staff presented a number of strategies for Housing Element certification to the City Council and the public, including efforts to outreach to HCD to work through outstanding comments, focus on connecting analysis and program language to address issues that inhibit development. Staff experienced delays in scheduling a higher level meeting with the City Manager and Community Development with HCD directly to gain support and assistance through the process, and as such, reached out to our elected officials Assembly Member Holden and Senator Portantino for assistance. We were able to schedule the discussions with HCD to reiterate our commitment to a compliant Housing Element, clarify outstanding issues for a future draft, and improve upon our work product.

After receiving HCD's letter on October 28, 2022, the City Council at a November 2, 2022 Special Meeting, approved terminating the Professional Services Agreement with PlaceWorks, Inc. on the Housing Element and approved an amended contract with Mobius Planning to serve as consultant on the project. Staff and Mobius Planning have reviewed and already identified responsive language that can be used to address the majority of the requested revisions. While most comments provided by the HCD appear to be straightforward, staff has requested a meeting with HCD prior to the November 9, 2022 joint meeting with City Council and Planning Commission to discuss a few of their comments. If the meeting with HCD takes place, staff will provide an update at the joint Special Meeting on November 9, 2022.

Suitability of Non-vacant Sites

HCD's letter has requested additional information regarding recent experiences in redevelopment of non-vacant sites in the city. The third draft (Table VI-48) provided five examples that were available of recently approved projects on non-vacant sites. However, as the process continues, there are additional recently approved projects, including the Carrows Restaurant site located at 815 Fremont Avenue and the former South Pasadena Unified School District site located at 1020 El Centro Street, that contribute further evidence that redevelopment of non-vacant sites is happening under the current code, and that additional redevelopment will happen once the programs identified in the Housing Element, as well as the General Plan Update and Downtown Specific Plan (DTSP) are adopted. These additional projects will be referenced in the revised draft.

Throughout the previous draft reviews, HCD has questioned sites on the sites inventory. The latest review has narrowed the concerns to six of the identified sites, requesting more information to support their suitability and likelihood to develop. Specifically, there are four privately-owned sites (Site 5, Liquor Store Site; Site 9, Meridian Site; Site 16, Pavilions Parking Lot; and Site 17, Office Building and Parking Lot) and two City-owned sites (Site 8, Public Works Yard; and Site 13, City-Owned Parking Lot) for which HCD has requested additional information. After review and analysis, staff has found that information is available to justify maintaining at least five of these sites on the inventory, and will work to obtain the information that HCD has requested to justify the remaining site (Site 17, Office Building and Parking Lot). Staff will revise Appendix A of the 6th

Cycle Housing Element (4th Draft) to provide this additional information and analysis, to include:

- Site 5, Liquor Store Site – Add information regarding existing structure size and allowable development potential, with analysis comparing the relative financial performance between the existing and potential uses. Staff’s review of the site history found that there have been no recent building or other permits that would indicate recent investment into the existing use of the site.
- Site 8, Public Works Yard – Add analysis regarding the possible environmental constraints on the site due to the existing uses, specifically the fuel filling station and underground storage tanks, and note that these environmental constraints may impact the cost and timing of redevelopment of the site during the planning period. Nevertheless, the site remains a good opportunity for the City to partner in an affordable housing project.
- Site 9, Meridian Site – Update the discussion of the potential height on the site, if the city-wide height limit is modified by the voters. Add a statement that if the modification to the height limit is not approved by voters, then the site will be removed in the required mid-cycle Housing Element update and the identified units will be accommodated elsewhere in the city through rezoning.
- Site 13, City-Owned Parking Lot – Add more information regarding the existing lease on the site, including that it has been established as a month-to-month lease with a termination date of March 31, 2024 specifically so that the City could redevelop the site for housing during the planning period.
- Site 16, Pavilions Parking Lot – Staff will reach out to the property owners, who staff has met with previously to discuss redevelopment of this site, to discuss HCD’s concerns regarding parking requirements of the existing uses to remain on the site. Staff will clarify with HCD regarding the concern expressed in the letter regarding parking availability during construction of a future development.
- Site 17, Office Building and Parking Lot – Staff will continue to try to obtain more information about the existing lease on the site to show that the existing lease does not hinder the redevelopment of the site during the planning period.

Additionally, each identified site will be updated with a list of known environmental constraints. For sites without known environmental constraints, the Housing Element will affirmatively state that there are no known environmental constraints.

Housing Element Programs

HCD provided comments on the following programs, and in some cases provided specific guidance on how these programs can be revised to obtain their approval:

- **Program 2.m, Update Inclusionary Housing Regulations** – HCD’s comment stated that the program should commit to engage and incorporate comments from the developer community as part of the feasibility analysis and make appropriate adjustments, and to do a mid-cycle evaluation of the City’s inclusionary requirement. To address these comments, staff proposes to clarify the anticipated changes to Inclusionary Housing Ordinance that will address the developer community’s feedback on the Inclusionary Housing Ordinance, and to require a mid-cycle evaluation of the effectiveness of the Inclusionary Housing Ordinance in 2025.
- **Program 2.n, Citywide Height Limit Ballot Initiative** – HCD’s comment stated that the program should be revised with a specific commitment to a minimum height and number of stories to address constraints and encourage maximum densities. Additionally, the comment states that the program should make specific commitments to establishing alternative actions by a specified date if the height limit modification is not approved by voters. Staff will discuss alternative solutions with HCD. Staff believes it is important to avoid zoning details in voter initiatives, leaving that process to the City Council through amending the Zoning Code. Additionally, staff proposes adding a commitment that a mid-cycle Housing Element update will be completed no later than December 31, 2025 in the event that the initiative modifying the City’s height limit is not approved by voters. This commitment would provide the City at least one year to complete the mid-cycle update if the height limit modification is not approved by voters by the existing December 31, 2024 deadline.
- **Program 3.b, Mixed-Use Development** – HCD’s comment stated that the program should go beyond “consider reducing” parking requirements and also establish incentives to encourage the development of sites designated as mixed-use. To address these comments, staff proposes to include as part of this policy that mixed-use development is a permitted use, instead of a conditionally permitted use, in areas designated for mixed-use development. Additionally, with the passage of AB 2097, which eliminates parking requirements on parcels within a half-mile of a public transit, staff is proposing to update the City’s zoning ordinance to eliminate parking requirements in these same areas, which covers the vast majority of proposed mixed-use areas of the City. Both of these proposed amendments are included for consideration in the Zoning Text Amendment Resolution of Intention staff report on this agenda.
- **Program 3.n, Zoning Changes** – HCD’s comment stated that the program should specifically commit to revise and reduce or modify the development standards and approval findings required to ensure that the changes will not constrain development. To address this comment, staff proposes to remove subjective approval findings from the Zoning Code, to ensure only objective zoning standards are required for proposed developments, and to add a

statement that commits the City to ensure that modifications to the development standards will reduce the constraints on development.

- **Program 3.o, No Net Loss** – HCD’s comment stated that the program should commit to evaluating the effectiveness of identified sites at least once in the planning period and make adjustments, as necessary. Staff proposes to change the program requirements to include evaluation of the effectiveness of the identified sites in both December 2024 and December 2026, and to make any necessary adjustments based on that evaluation to ensure adequate housing production.
- **Program 1.b, Conserve Existing Affordable Housing (and Table 6-1):** HCD’s comment stated that the element should consider increasing its goal for preservation of housing beyond the current target of 20 units. HCD suggests including the Caltrans homes to the total of preserved housing, tying this requirement to Program 1.b (Convert Caltrans Homes to Affordable Housing.) Staff proposes to implement HCD’s suggestion regarding including the Caltrans homes and increase the City’s goal for preserving existing homes accordingly.

Affirmatively Furthering Fair Housing

HCD provided comments on the City’s efforts to Affirmatively Further Fair Housing (AFFH). HCD’s comment states that the Housing Element “should include specific commitment and additional actions to improve housing mobility and increase new housing choices and affordability in higher resource or income areas (not limited to the RHNA) throughout the City.” The comment goes on to say that Program 3.m (Implement SB 9 and SB 10) should be modified to “go beyond exploring Senate Bill (SB) 10 and adopting “feasible” amendments and instead commit to amendments that affirmatively implement (without constraints) and go beyond the statutory requirements such as commitment to allowing missing middle housing types in residential zones.”

SB 10 authorizes, but does not require, cities to zone any parcel for up to 10 units in “urban infill” or “transit-rich” areas without CEQA compliance. SB 10 only applies if a city takes action to “opt-in” to allow such urban infill developments. Currently, the 3rd Draft Housing Element requires that the City, “review the provisions of SB 10 to explore whether and how these might be utilized to enhance housing construction, pursuant to a full and extensive public process” no later than December 2024.

With this comment, HCD is using the AFFH requirements to encourage the City to allow additional housing types other than single-family homes in single-family residential zones. HCD suggests that SB 10 provides a pathway for cities to allow for additional housing types in single-family zoned areas without necessitating rezoning those areas. At the requested meeting with HCD referenced above, staff will discuss the intent of this comment to determine possible ways to address the City’s AFFH requirements that do not involve a policy commitment to allow additional housing types in single-family zoned areas without providing sufficient opportunity for community input.

3rd Draft Housing Element Review Comments
November 9, 2022
Page 6 of 6

Next Steps

Staff is working with Mobius Planning to release the 4th Draft Housing Element for public review no later than December 5, 2022 and submit a 4th Draft to HCD no later than December 12, 2022.

Fiscal Impact

There is no fiscal impact with receiving a presentation on HCD's response on the 3rd Draft Housing Element.

Attachment: HCD Corrected Response Letter Dated October 28, 2022

ATTACHMENT

HCD Corrected Response Letter Dated October 28, 2022

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

2020 W. El Camino Avenue, Suite 500

Sacramento, CA 95833

(916) 263-2911 / FAX (916) 263-7453

www.hcd.ca.gov

October 28, 2022

*****Corrected Letter*****

Angelica Frausto-Lupo, Director
Community Development Department
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030

Dear Angelica Frausto-Lupo:

RE: South Pasadena's 6th Cycle (2021-2029) Revised Draft Housing Element

Thank you for submitting the City of South Pasadena's (City) revised draft housing element received for review on September 15, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. HCD considered comments from Active San Gabriel Valley, Californians for Homeownership, Victor Tang and Josh Albrekston pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses many statutory requirements described in HCD's July 8, 2022 review; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code), as follows:

1. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

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... (Gov. Code, § 65583, subd. (c)(1).)

Suitability of Nonvacant Sites: As found in the previous reviews, the element must include additional discussion of recent experience in redevelopment and either remove sites or include additional analysis of the extent existing uses impeded additional development. In response, the

element removed and added several sites and added additional discussion of sites but must still demonstrate the existing uses and circumstances do not impede additional development, as follows:

- *Site 5 (Liquor Store Site)*: The element notes the age of the structure but should discuss other factors demonstrating the potential for redevelopment or remove the site. Other factors include existing versus allowable floor area and indicators the uses will likely discontinue such as lack of investment, past vacancy or turnover in use. The element should further discuss why the developer polling (Appendix B) deemed the site only somewhat likely to develop in the planning period.
- *Site 9 (Meridian Site)*: The element should discuss how the proposed regulatory framework encourages redevelopment, especially given height limits of three stories. The element could utilize input from the developer panel to assist in this analysis.
- *Site 16 (Pavillions Parking Lot)*: Although there is owner interest and it was polled highly by the development community, the element should discuss the impacts of parking for the existing use on the feasibility of development, including plans for replacement parking and parking needs during construction.
- *Site 17 (Office Building and Parking Lot)*: The element notes there is an existing lease on the property but should discuss the length of that lease and whether that impedes additional development in the planning period. The element could utilize input from the developer panel to assist in this analysis.

In addition, because the housing element relies upon nonvacant sites to accommodate more than 50 percent of the regional housing needs allocation (RHNA) for lower-income households, it must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings as part of the adoption resolution based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

City-Owned Sites: While the element now includes information on compliance with the Surplus Land Act, it should still discuss whether existing uses impede additional development and any known conditions that preclude development in the planning period. For Site 8 (Public Works Yard), the element should discuss the impacts of the underground gasoline tank and filing station and soil contamination on the timing and cost of development in the planning period. For Site 13 (City-Owned Parking Lot), the element should discuss the timing of the short-term lease and impacts on the timing of development in the planning period.

Environmental Constraints: While the element now removes several sites, it should still discuss whether there are any other known constraints (e.g., shape, access) that impede development on identified sites in the planning period.

Programs: As noted above, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised, as follows:

- *Program 3.b (Mixed Use Development)*: The Program should be revised based on the outcomes of a complete analysis. In addition, while the element includes actions to engage with property owners and developers, it should include specific commitment to go beyond “consider reducing” parking requirements and also establish incentives (beyond state density bonus law) by a specified date such as increased density, relaxation of development standards, fee reductions and expedited permit processing.
 - *Program 3.0 (No Net Loss)*: The Program should commit to evaluate the effectiveness of identified sites at least once in the planning period (e.g., 2024) and make adjustment as necessary such as increasing densities, modifying development standards, removing sites and rezoning additional sites.
2. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities... (Gov. Code, § 65583, subd. (c)(3).)*

While the element now includes potentially meaningful programs to address governmental constraints, programs should be revised as follows:

- *Program 2.m (Update Inclusionary Housing Regulations)*: The Program should commit to engage and incorporate comments from the development community (including smaller developers and property owners) as part of the feasibility analysis and make adjustments as appropriate. In addition, while the element includes Program 2.i (Inclusionary Housing Regulations) to monitor affordability from the inclusionary requirement, Programs 2.i or 2.m should commit to a mid-term evaluation of inclusionary regulations in terms of constraints on development and make adjustments as necessary by a specified date.
- *Program 2.n (Citywide Height Limit Ballot Initiative)*: The Program should be revised with specific commitment to actual outcomes with a beneficial impact in the planning period. For example, the

Program should go beyond working to facilitate densities higher than 45 feet and should make a commitment to target at least a minimum height and number of stories to address constraints and encourage maximum densities. In addition, the Program should go beyond evaluating options for exceptions and establish exception processes by a specified date. Finally, the Program should make a specific commitment to establish alternative actions toward outcomes by a specified date (e.g., rezone additional sites by October 2024) and consider dates earlier in the planning period.

- *Program 3.n (Zoning Changes)*: The Program notes the types of standards that need revising (e.g., heights, open space, parking and design review findings) but should specifically commit to revise and reduce or modify the development standards and approval findings and ensure the changes will not constrain development. For example, the Program should specifically commit to remove subjective approval findings or limit the findings to objective design and development standards that promote approval certainty and do not constrain development.

3. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

While the element modifies several programs to affirmatively further fair housing (AFFH), it should include specific commitment and additional actions to improve housing mobility and increase new housing choices and affordability in higher resource or income areas (not limited to the RHNA) throughout the City. For example, the element could add programs for affirmative marketing and utilization of regional rental registries, homesharing, accessory dwelling units (ADUs) or conversion of existing space beyond ADU law. Also, the element should modify Program 3.m (Implement SB 9 and SB 10) to go beyond exploring SB 10 and adopting “feasible” amendments and instead commit to amendments that affirmatively implement (without constraints) and go beyond the statutory requirements such as commitment to allowing missing middle housing types in residential zones.

4. *Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b) (1 & 2).)*

Previous reviews found the element could consider conservation objectives beyond 5 units in the planning period. In response, the City adjusted its target to 20 units and did not increase objectives in this most recent revised draft. HCD encourages the City to target a higher impact for the eight year planning period. For example, the element could include

anticipated outcomes from Program 1.b (Convert CalTrans Homes to Affordable Housing).

The element will meet the statutory requirements of State Housing Element Law once it has been revised and adopted to comply with the above requirements pursuant to Government Code section 65585.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed. As this year has passed and Programs 3.a (Rezone and Redesignate Sites to Meet RHNA) has not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning have been completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. This is especially important for determining sites that have been utilized in multiple planning periods and are subject to by-right provisions. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's

Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

HCD appreciates the hard work and dedication you and the rest of the City's housing element team provided during the review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need assistance, please contact Connor Finney at Connor.Finney@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager



CITY COUNCIL Agenda Report

DATE: November 9, 2022

FROM: Arminé Chaparyan, City Manager *AC*

PREPARED BY: Angelica Frausto-Lupo, Community Development Director
Elizabeth Bar-El, AICP, Interim Deputy Director

SUBJECT: **Adoption of a Resolution of Intention to Amend South Pasadena Municipal Code Chapter 36 (Zoning) to Implement Programs of the General Plan Housing Element**

Recommendation

It is recommended that the City Council initiate a Zoning Text Amendment by adopting a Resolution of Intention pursuant to South Pasadena Municipal Code (SPMC) 36.620.030 and direct staff to prepare a recommendation that includes, but is not limited to, the following SPMC sections:

1. Section 36.350.250 (Emergency Shelters), to revise standards for emergency shelters in compliance with State law;
2. Section 36.220.030 (Residential Zoning District Land Uses and Permit Requirements), Table 2-2, to permit transitional housing in all zoning districts that permit residential uses and add Low Barrier Navigation Centers in compliance with State law;
3. Section 36.220.040 (Residential Zoning District General Development Standards) Table 2-3 to comply with the minimum density and feasible lot coverage for projects of certain sizes as required by State Senate Bill (SB) 478;
4. Section 36.230.030 030 (Commercial Zoning District Land Uses and Permit Requirements), to permit transitional housing in all zoning districts that permit residential uses and remove the requirement for a conditional use permit (CUP) from mixed-use development and allow as a permitted use;
5. Section 36.310.040 to add provisions for consistency with Assembly Bill (AB) 2097 (removal of minimum parking requirements near transit); and
6. Division 36.700 (Definitions/Glossary), to add a definition for Low Barrier Navigation Center.

Background

Three drafts of South Pasadena's [6th Cycle General Plan Housing Element](#) (Draft Housing Element) have been reviewed by the State Department of Housing and Community Development (HCD). The update following receipt of HCD's 3rd review letter received October 28, 2022 is posted at the above link and discussed in the staff report for that item on the City Council Agenda for November 9, 2022. It is anticipated that the City Council will be adopting the Housing Element in a form that HCD has conditionally approved for certification in the coming months.

With each review of the Draft Housing Element, HCD has reduced its comments, and at this time, most of the programs that are included in the draft Housing Plan (Section 6.8) are finalized. Accordingly, the City can already anticipate and commence implementation of some programs based on their timelines as stated in the draft, including some that are implemented through amending the Zoning Code. The State of California monitors Housing Elements for compliance through the Annual Progress Report (APR). The first APR for the 6th Cycle Housing Element will be due on April 1, 2023.

The Zoning Code (SPMC 36.620.30) sets forth several ways in which a Zoning Text Amendment (ZTA) must be initiated. The Planning Commission or City Council may initiate the process through a resolution of intention (ROI). Once initiated through the ROI, staff prepares the amendment and schedules public hearings of the Planning Commission, for recommendation, and the City Council to take action (SPMC 36.620.040), making the findings required in SPMC 36.620.070.B. The item before this joint meeting with the Planning Commission represents the formal initiation of the process to consider recommending that the City Council amend the text of the Zoning Ordinance for consistency with State law and implementation of certain Housing Element programs.

Discussion

The Community Development Department has already started to address the Housing Plan, establishing a team as directed in the City Council's adopted Strategic Plan and Fiscal Year 2022-23 Budget to monitor and proactively implement its programs and priorities. Some of the housing programs require amending the Zoning Code. Amongst these, some amendments are fairly straightforward, requiring specific changes in order to be consistent with State housing laws and remove housing constraints identified in housing element programs. Other Zoning Code amendments will be more complex and require analysis and community input.

In addition to programs that have been included in the last three drafts of the Housing Element, the October 28, 2022 HCD review letter noted the need to remove housing constraints, with some specific examples, including streamlining mixed-use projects and considering the impacts of parking. Based on the letter, staff is recommending that the ZTA proposed for initiation in this report incorporate the removal of the conditional use permit (CUP) requirement for mixed-use projects in commercial districts that allow residential use (Commercial Office (CO) and Commercial General (CG)). Also, this ZTA is an opportunity to bring the Zoning Code into consistency with a new State law adopted

through AB 2097 (see Attachment 2), which prohibits cities from imposing a minimum parking requirement for projects within a half-mile of transit, as defined. A table of proposed amendments that would be developed for the ZTA is included in the draft ROI (Attachment 1).

The attached Resolution does not represent the final content of the proposed amendments to the Zoning Ordinance, as draft amendments will be prepared by staff and reviewed by the City Attorneys, presented to Planning Commission and the community at a public hearing to receive a recommendation and then brought forward for City Council direction at the first reading and a public hearing for adoption of the ordinance.

The City Council, in consultation with the Planning Commission at this special joint meeting, may also provide additional direction for any other amendments that it sees fit to explore at this time.

Next Steps

Once initiated by the ROI, the Zoning Text Amendment would proceed as follows:

- Planning Commission meeting reviewing the proposed amendment and making a recommendation to the City Council;
- City Council meeting reviewing the proposed amendment and considering adoption through first reading and introduction of the ordinance;
- City Council public hearing for second reading and adoption of the ordinance.

Notices of all public hearings will be provided consistent with State law and the South Pasadena Municipal Code Chapter 36 (Zoning).

Fiscal Impact

There is no fiscal impact with the Resolution of Intention to Amend South Pasadena Municipal Code Chapter 36 (Zoning) to Implement Programs of the General Plan Housing Element.

Attachments

1. Draft Resolution of Intention
2. Assembly Bill (AB) No. 2097

ATTACHMENT 1
Draft Resolution of Intention

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DECLARING ITS INTENTION TO AMEND SOUTH PASADENA MUNICIPAL CODE (SPMC) CHAPTER 36 (ZONING), PURSUANT TO THE PROCEDURES SET FORTH IN SPMC 36.620 (AMENDMENTS) TO REVISE SECTIONS OF THE ZONING CODE FOR CONSISTENCY WITH STATE HOUSING LAW AND IMPLEMENT PROGRAMS OF THE HOUSING PLAN OF THE CITY'S GENERAL PLAN HOUSING ELEMENT

WHEREAS, the State of California and the City of South Pasadena (City) acknowledge that there is a shortage of housing in the state and region that necessitates adoption of policies and zoning ordinance requirements in order to facilitate more streamlined development of both temporary and permanent housing including low-barrier navigation centers; and

WHEREAS, Government Code Section 65583(a)(4) contains certain requirements regarding regulation of emergency shelters with which the City seeks to comply by amending the applicable zoning requirements; and

WHEREAS, State laws enacted in the last five years, including Senate Bill (SB) 2 and Assembly Bill (AB) 2162, contain certain requirements regarding regulation of transitional and supportive housing, including low-barrier navigation centers with which the City seeks to comply by amending the applicable zoning requirements; and

WHEREAS, the recently enacted Assembly Bill (AB) 2097 requires local jurisdictions to allow certain projects within one-half mile of defined transit stops without requiring minimum parking standards; and

WHEREAS, Government Code Section 65913.11 (SB 478) prohibits agencies from imposing a FAR of less than 1.0 for a 3-7 unit residential project or less than 1.25 for a 8-10 unit project, with which the City's Medium and High Density Residential Zones are currently inconsistent; and

WHEREAS, the Zoning Code requirement for a conditional use permit (CUP) for mixed-use residential/commercial projects has been found to add processing time and expense for housing development; and

WHEREAS, the City of South Pasadena's September 2022 Draft General Plan Housing Element includes Programs 4a and 4b to amend the Zoning Code to facilitate emergency shelters and transitional housing in compliance with State law; and

WHEREAS, the South Pasadena Municipal Code requires that an amendment to the Zoning Code be initiated either by application or by resolution of either the City Council or the Planning Commission.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Pursuant to South Pasadena Municipal Code Section 36.620.030.A.1.a, the City Council does hereby announce its intention to amend the text of the Zoning Ordinance as set forth in Exhibit A, attached to this Resolution, to facilitate housing and implement programs contained in the Draft 6th Cycle General Plan Housing Element.

SECTION 2. The City Clerk shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

PASSED, APPROVED, AND ADOPTED ON this 9th day of November 2022.

Michael A. Cacciotti, Mayor

ATTEST:

Desiree Jimenez, CMC
Chief City Clerk

APPROVED AS TO FORM:

Andrew L. Jared
City Attorney

I HEREBY CERTIFY the foregoing resolution was duly adopted by the City Council of the City of South Pasadena, California, at a Joint Special Meeting with the Planning Commission held on the 9th day of November, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Desiree Jimenez, CMC
Chief City Clerk

EXHIBIT A

POTENTIAL AMENDMENTS TO THE TEXT OF THE ZONING ORDINANCE TO
IMPLEMENT THE HOUSING ELEMENT’S HOUSING PLAN

TOPIC	DESCRIPTION	SPMC SECTIONS TO BE REVIEWED AND/OR AMENDED INCLUDE BUT MAY NOT BE LIMITED TO:
Standards for Emergency Shelters	Revise to increase the allowable number of beds and to adjust the parking requirement consistent with State law.	Section 36.350.250
Emergency Shelters/Transitional Housing as a permitted use	Revise to allow as a permitted use in all multi-family and mixed-use districts and include low-barrier navigation centers.	Section 36.220.030 Section 36.230.030
Mixed-use development as a permitted use.	Revise CO and CG districts to change from CUP to P (Permitted Use).	36.230.030
Floor-area-ratio (FAR) for small to medium-sized projects in multi-family zones	Revise the maximum FAR in RM and RH zones for projects between three and ten units for consistency with State law.	Section 36.220.040
Consistency with AB2097 to permit certain projects near transit with no minimum parking requirement	AB 2097 prohibits a public agency from imposing any minimum automobile parking requirement on any residential, commercial, or other development project, as defined, that is located within 1/2 mile of public transit, as defined, with certain exceptions and provisions.	36.310.040
Add a definition for Low Barrier Navigation Centers	Definition for new term introduced by amendment.	Section 36.700.020

ATTACHMENT 2
Assembly Bill (AB) No. 2097

Assembly Bill No. 2097

CHAPTER 459

An act to amend Section 65585 of, and to add Section 65863.2 to, the Government Code, relating to land use.

[Approved by Governor September 22, 2022. Filed with Secretary of State September 22, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2097, Friedman. Residential, commercial, or other development types: parking requirements.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a land use element, and a conservation element. Existing law also authorizes the legislative body of a city or a county to adopt ordinances establishing requirements for parking, and permits variances to be granted from the parking requirements of a zoning ordinance for nonresidential development if the variance will be an incentive to the development and the variance will facilitate access to the development by patrons of public transit facilities.

This bill would prohibit a public agency from imposing any minimum automobile parking requirement on any residential, commercial, or other development project, as defined, that is located within ½ mile of public transit, as defined. The bill, notwithstanding the above-described prohibition, would authorize a city, county, or city and county to impose or enforce minimum automobile parking requirements on a housing development project if the public agency makes written findings, within 30 days of the receipt of a completed application, that not imposing or enforcing minimum automobile parking requirements on the development would have a substantially negative impact, supported by a preponderance of the evidence in the record, on the public agency's ability to meet its share of specified housing needs or existing residential or commercial parking within ½ mile of the housing development. The bill would create an exception from the above-described provision if the housing development project (1) dedicates a minimum of 20% of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities, (2) contains fewer than 20 housing units, or (3) is subject to parking reductions based on any other applicable law. The bill would prohibit these provisions from reducing, eliminating, or precluding the enforcement of any requirement imposed on a housing development project that is located within ½ mile of public transit to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons

with disabilities. By changing the duties of local planning officials, this bill would impose a state-mandated local program.

Existing law also requires the Department of Housing and Community Development to notify a city, county, or city and county, and authorizes the department to notify the office of the Attorney General, that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to the housing element does not substantially comply with specified provisions of the Planning and Zoning Law, or that the local government has taken action or failed to act in violation of specified provisions of law. Existing law authorizes the Attorney General to bring suit for a violation of those provisions.

This bill would add a violation of the minimum automobile parking requirements of residential, commercial, or other development projects, as described above, to the list of laws that, when violated, require the department to notify the jurisdiction and authorize the Attorney General to bring an action to enforce state law.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

This bill would incorporate additional changes to Section 65585 of the Government Code proposed by AB 2011 and AB 2653 to be operative only if this bill and AB 2011 or AB 2653, or all 3 bills, are enacted and this bill is enacted last.

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. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior

to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision pursuant to subdivision (e) of Section 65588 or within 60 days of its receipt of a subsequent draft amendment or an adopted revision or adopted amendment to an element. The department shall not review the first draft submitted for each housing element revision pursuant to subdivision (e) of Section 65588 until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments pursuant to paragraph (1).

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to

implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

- (1) Housing Accountability Act (Section 65589.5).
- (2) Section 65863.
- (3) Chapter 4.3 (commencing with Section 65915.)
- (4) Section 65008.
- (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).
- (6) Section 8899.50.
- (7) Section 65913.4.
- (8) Article 11 (commencing with Section 65650).
- (9) Article 12 (commencing with Section 65660).
- (10) Section 65913.11.
- (11) Section 65863.2.

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after 12 months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars (\$10,000) per month, but shall not exceed one hundred thousand dollars (\$100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraphs (1) and (2) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once the court makes that determination, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision does not limit a court's discretion to apply any and all remedies in an action or special proceeding for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) Nothing in this section shall limit the authority of the office of the Attorney General to bring a suit to enforce state law in an independent capacity. The office of the Attorney General may seek all remedies available under law including those set forth in this section.

(o) Notwithstanding Sections 11040 and 11042, if the Attorney General declines to represent the department in any action or special proceeding brought pursuant to a notice or referral under subdivision (j) the department may appoint or contract with other counsel for purposes of representing the department in the action or special proceeding.

(p) Notwithstanding any other provision of law, the statute of limitations set forth in subdivision (a) of Section 338 of the Code of Civil Procedure shall apply to any action or special proceeding brought by the Office of the Attorney General or pursuant to a notice or referral under subdivision (j), or by the department pursuant to subdivision (o).

SEC. 1.1. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision pursuant to subdivision (e) of Section 65588 or within 60 days of its receipt of a subsequent draft amendment or an adopted revision or adopted amendment to an element. The department shall not review the first draft submitted for each housing element revision pursuant to subdivision (e) of Section 65588 until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments pursuant to paragraph (1).

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element

or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

- (1) Housing Accountability Act (Section 65589.5).
- (2) Section 65863.
- (3) Chapter 4.3 (commencing with Section 65915).
- (4) Section 65008.
- (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).
- (6) Section 8899.50.
- (7) Section 65913.4.
- (8) Article 11 (commencing with Section 65650).
- (9) Article 12 (commencing with Section 65660).
- (10) Section 65913.11.
- (11) Section 65863.2.
- (12) Chapter 4.1 (commencing with Section 65912.100).

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after 12 months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars (\$10,000) per month, but shall not exceed one hundred thousand dollars (\$100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller

to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraphs (1) and (2) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once the court makes that determination, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision does not limit a court's discretion to apply any and all remedies in an action or special proceeding for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) Nothing in this section shall limit the authority of the office of the Attorney General to bring a suit to enforce state law in an independent capacity. The office of the Attorney General may seek all remedies available under law including those set forth in this section.

(o) Notwithstanding Sections 11040 and 11042, if the Attorney General declines to represent the department in any action or special proceeding brought pursuant to a notice or referral under subdivision (j) the department may appoint or contract with other counsel for purposes of representing the department in the action or special proceeding.

(p) Notwithstanding any other provision of law, the statute of limitations set forth in subdivision (a) of Section 338 of the Code of Civil Procedure shall apply to any action or special proceeding brought by the Office of the Attorney General or pursuant to a notice or referral under subdivision (j), or by the department pursuant to subdivision (o).

SEC. 1.2. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision pursuant to subdivision (e) of Section 65588 or within 60 days of its receipt of a subsequent draft amendment or an adopted revision or adopted amendment to an element. The department shall not review the first draft submitted for each housing element revision pursuant to subdivision (e) of Section 65588 until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments pursuant to paragraph (1).

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the

department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

- (1) Housing Accountability Act (Section 65589.5).
- (2) Section 65863.
- (3) Chapter 4.3 (commencing with Section 65915).

- (4) Section 65008.
- (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).
- (6) Section 8899.50.
- (7) Section 65913.4.
- (8) Article 11 (commencing with Section 65650).
- (9) Article 12 (commencing with Section 65660).
- (10) Section 65913.11.
- (11) Section 65400.
- (12) Section 65863.2.

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after 12 months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars (\$10,000) per month, but shall not exceed one hundred thousand dollars (\$100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to

pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraphs (1) and (2) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once the court makes that determination, it shall have the same force and effect, for all purposes, as the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision does not limit a court's discretion to apply any and all remedies in an action or special proceeding for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) Nothing in this section shall limit the authority of the office of the Attorney General to bring a suit to enforce state law in an independent capacity. The office of the Attorney General may seek all remedies available under law including those set forth in this section.

(o) Notwithstanding Sections 11040 and 11042, if the Attorney General declines to represent the department in any action or special proceeding brought pursuant to a notice or referral under subdivision (j) the department may appoint or contract with other counsel for purposes of representing the department in the action or special proceeding.

(p) Notwithstanding any other provision of law, the statute of limitations set forth in subdivision (a) of Section 338 of the Code of Civil Procedure shall apply to any action or special proceeding brought by the Office of the Attorney General or pursuant to a notice or referral under subdivision (j), or by the department pursuant to subdivision (o).

SEC. 1.3. Section 65585 of the Government Code is amended to read:

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision pursuant to subdivision (e) of Section 65588 or within 60 days of its receipt of a subsequent draft amendment or an adopted revision or adopted amendment to an element. The department shall not review the first draft submitted for each housing element revision pursuant to subdivision (e) of Section 65588 until the local government has made the draft available for public comment for at least 30 days and, if

comments were received, has taken at least 10 business days to consider and incorporate public comments pursuant to paragraph (1).

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph

(1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

- (1) Housing Accountability Act (Section 65589.5).
- (2) Section 65863.
- (3) Chapter 4.3 (commencing with Section 65915).
- (4) Section 65008.
- (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).
- (6) Section 8899.50.
- (7) Section 65913.4.
- (8) Article 11 (commencing with Section 65650).
- (9) Article 12 (commencing with Section 65660).
- (10) Section 65913.11.
- (11) Section 65400.
- (12) Section 65863.2.
- (13) Chapter 4.1 (commencing with Section 65912.100)

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

(l) In any action or special proceeding brought by the Attorney General relating to housing element compliance pursuant to a notice or referral under subdivision (j), the Attorney General may request, upon a finding of the court that the housing element does not substantially comply with the requirements of this article pursuant to this section, that the court issue an order or judgment directing the jurisdiction to bring its housing element into substantial compliance with the requirements of this article. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If a court determines that the housing element of the jurisdiction substantially complies with this article, it shall have the same force and effect, for purposes of eligibility for any financial assistance that requires a housing element in substantial compliance and for purposes of any incentives provided under Section 65589.9, as a determination by the department that the housing element substantially complies with this article.

(1) If the jurisdiction has not complied with the order or judgment after 12 months, the court shall conduct a status conference. Following the status conference, upon a determination that the jurisdiction failed to comply with the order or judgment compelling substantial compliance with the requirements of this article, the court shall impose fines on the jurisdiction, which shall be deposited into the Building Homes and Jobs Trust Fund. Any fine levied pursuant to this paragraph shall be in a minimum amount of ten thousand dollars (\$10,000) per month, but shall not exceed one hundred thousand dollars (\$100,000) per month, except as provided in paragraphs (2) and (3). In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(3) If the jurisdiction has not complied with the order or judgment six months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

(A) If the court finds that the fees imposed pursuant to paragraphs (1) and (2) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of six. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once

the court makes that determination, it shall have the same force and effect, for all purposes, as the department’s determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

(4) This subdivision does not limit a court’s discretion to apply any and all remedies in an action or special proceeding for a violation of any law identified in subdivision (j).

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

(n) Nothing in this section shall limit the authority of the office of the Attorney General to bring a suit to enforce state law in an independent capacity. The office of the Attorney General may seek all remedies available under law including those set forth in this section.

(o) Notwithstanding Sections 11040 and 11042, if the Attorney General declines to represent the department in any action or special proceeding brought pursuant to a notice or referral under subdivision (j) the department may appoint or contract with other counsel for purposes of representing the department in the action or special proceeding.

(p) Notwithstanding any other provision of law, the statute of limitations set forth in subdivision (a) of Section 338 of the Code of Civil Procedure shall apply to any action or special proceeding brought by the Office of the Attorney General or pursuant to a notice or referral under subdivision (j), or by the department pursuant to subdivision (o).

SEC. 2. Section 65863.2 is added to the Government Code, to read:

65863.2. (a) A public agency shall not impose or enforce any minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of public transit.

(b) Notwithstanding subdivision (a), a city, county, or city and county may impose or enforce minimum automobile parking requirements on a project that is located within one-half mile of public transit if the public agency makes written findings, within 30 days of the receipt of a completed application, that not imposing or enforcing minimum automobile parking requirements on the development would have a substantially negative impact, supported by a preponderance of the evidence in the record, on any of the following:

(1) The city’s, county’s, or city and county’s ability to meet its share of the regional housing need in accordance with Section 65584 for low- and very low income households.

(2) The city’s, county’s, or city and county’s ability to meet any special housing needs for the elderly or persons with disabilities identified in the analysis required pursuant to paragraph (7) of subdivision (a) of Section 65583.

(3) Existing residential or commercial parking within one-half mile of the housing development project.

(c) For a housing development project, subdivision (b) shall not apply if the housing development project satisfies any of the following:

(1) The development dedicates a minimum of 20 percent of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities.

(2) The development contains fewer than 20 housing units.

(3) The development is subject to parking reductions based on the provisions of any other applicable law.

(d) Notwithstanding subdivision (a), an event center shall provide parking, as required by local ordinance, for employees and other workers.

(e) For purposes of this section:

(1) “Housing development project” means a housing development project as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(2) “Low- and very low income households” means the same as “lower income households” as defined in Section 50079.5 of the Health and Safety Code.

(3) “Moderate-income households” means the same as “persons and families of moderate income,” as defined in Section 50093 of the Health and Safety Code.

(4) “Public agency” means the state or any state agency, board, or commission, any city, county, city and county, including charter cities, or special district, or any agency, board, or commission of the city, county, city and county, special district, joint powers authority, or other political subdivision.

(5) “Public transit” means a major transit stop as defined in Section 21155 of the Public Resources Code.

(6) “Project” does not include a project where any portion is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except where a portion of a housing development project is designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

(f) This section shall not reduce, eliminate, or preclude the enforcement of any requirement imposed on a new multifamily residential or nonresidential development that is located within one-half mile of public transit to provide electric vehicle supply equipment installed parking spaces or parking spaces that are accessible to persons with disabilities that would have otherwise applied to the development if this section did not apply.

(g) When a project provides parking voluntarily, a public agency may impose requirements on that voluntary parking to require spaces for car share vehicles, require spaces to be shared with the public, or require parking owners to charge for parking. A public agency may not require that voluntarily provided parking is provided to residents free of charge.

(h) (1) Subdivision (a) shall not apply to commercial parking requirements if it conflicts with an existing contractual agreement of the public agency that was executed before January 1, 2023, provided that all

of the required commercial parking is shared with the public. This subdivision shall apply to an existing contractual agreement that is amended after January 1, 2023, provided that the amendments do not increase commercial parking requirements.

(2) A project may voluntarily build additional parking that is not shared with the public.

(i) The Legislature finds and declares that the imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increased greenhouse gas emissions. Therefore, this section shall be interpreted in favor of the prohibition of the imposition of mandatory parking minimums as outlined in this section.

SEC. 3. The Legislature finds and declares that to lower the cost of housing production by reducing unnecessary parking requirements is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 2 of this act adding Section 65863.2 to the Government Code applies to all cities, including charter cities.

SEC. 4. (a) Section 1.1 of this bill incorporates amendments to Section 65585 of the Government Code proposed by both this bill and Assembly Bill 2011. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 65585 of the Government Code, and (3) Assembly Bill 2653 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2011, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 65585 of the Government Code proposed by both this bill and Assembly Bill 2653. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 65585 of the Government Code, (3) Assembly Bill 2011 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2653 in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 65585 of the Government Code proposed by this bill, Assembly Bill 2011, and Assembly Bill 2653. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2023, (2) all three bills amend Section 65585 of the Government Code, and (3) this bill is enacted after Assembly Bill 2011 and Assembly Bill 2653, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.

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.

O