

CALIFORNIA CODE OF REGULATIONS
TITLE 25. HOUSING AND COMMUNITY DEVELOPMENT
DIVISION 1. CHAPTER 6. SUBCHAPTER 6.6
SECTIONS 6600 THROUGH 6608, CONSECUTIVE
PROHOUSING DESIGNATION PROGRAM

Text proposed to be added for the 15-day comment period is displayed in underline type.

Text proposed to be deleted for the 15-day comment period is displayed in ~~strikethrough~~ type.

The following text will be added to title 25, division 1, chapter 6, subchapter 6.6 of the California Code of Regulations:

Adopt Subchapter 6.6

Subchapter 6.6 Prohousing Designation Program

Adopt Section 6600

§ 6600. Purpose, Scope, and Authority

(a) As authorized by Government Code section 65589.9, these regulations establish the Department's Prohousing Designation Program (Program). Through this Program, the Department will determine which Jurisdictions qualify to be designated as Prohousing. Jurisdictions receiving a Prohousing Designation shall be awarded additional points or preference in program funding applications pursuant to Government Code section 65589.9(b). These regulations establish the Prohousing Designation Program's procedures for designating qualifying Jurisdictions as Prohousing, but not the value or form of any preferences that these Jurisdictions will receive under funding programs.

(b) These regulations specify the Prohousing Designation Program's procedures for submitting Applications for a Prohousing Designation, reviewing and scoring these Applications, designating Jurisdictions as Prohousing, monitoring Jurisdictions' compliance with the Program, and revoking noncompliant Jurisdictions' Prohousing Designations.

(c) If any provision of this subchapter, or any portion thereof, is adjudged to be invalid by a court of competent jurisdiction, or if any provision of this subchapter, or any portion thereof, loses its force or effect as a result of legislative action, that judgment or action does not affect the remainder of the provisions of this subchapter. For this purpose, this subchapter's provisions are severable.

Note: Authority Cited: Section 65589.9, Government Code. Reference: Section 65589.9, GovernmentCode.

Adopt Section 6601

§ 6601. Definitions

(a) This subchapter is governed by the following definitions. All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the definitions and intent of Government Code section 65589.9

(1) Acceleration of Housing Production. Promoting housing production by streamlining approval processes or timelines, reducing costs or financial barriers, removing or mitigating regulatory barriers to development, or by implementing other measures that positively impact the cost, supply, affordability, timing, and certainty of housing, in a manner that is consistent with a Jurisdiction's duty to Affirmatively Further Fair Housing.

(2) ADU. Accessory Dwelling Unit as defined by Government Code section 65852.2.

(3) Affirmatively Furthering Fair Housing. Affirmatively Furthering Fair Housing is defined in accordance with Government Code sections 8899.50 and 66583, subdivisions (c)(1), (c)(5), (c)(10).

(4) Annual Progress Report. The annual report required to be submitted to the Department pursuant to paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(5) CEQA. The California Environmental Quality Act.

(6) Compliant Housing Element. An adopted housing element that has been duly found by the Department to be in substantial compliance with the requirements of Housing Element Law (Article 10.6 of Gov. Code) in accordance with Government Code section 65585, subdivision (h).

(7) Department. The California Department of Housing and Community Development.

(8) Enhanced Infrastructure Financing District. An Enhanced Infrastructure

Financing District is defined in accordance with Government Code section 53398.51, subdivision (f).

(9) Environmentally Sensitive or Hazardous Areas. Environmentally Sensitive or Hazardous Areas means the following:

(A) Sensitive areas of the coastal zone, as defined in Division 20 (commencing with section 30000 and including sections 30103 and 30107.5) of the Public Resources Code, including any portion of the property that contains or is characterized by any of the following:

(i) Wetlands within the coastal zone, as defined in Section 30121 of the Public Resources Code and Title 14, Section 13577 of the California Code of Regulations.

(ii) Environmentally Sensitive habitat areas, as defined in Sections 30107.5 and 30240 of the Public Resources Code.

(iii) Areas of current or projected future high geologic, flood, and fire hazard, such as areas vulnerable to sea level rise impacts and tsunami run-up zones.

(iv) Use of the site for public access, recreation, or other visitor-serving uses, including coastal access parking to or along the coast.

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(C) Wetlands outside the coastal zone, is as defined as in the California Water Board's State Policy for Water Quality Control: State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (adopted April 2, 2019, revised April 6, 2021), hereby incorporated by reference.

(D) An area within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps published by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

(E) A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Public Health, the State Water

Resources Control Board, or the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(F) An area within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the California Geological Survey.

(G) An area within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.

(H) An area within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.

(I) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. § 1531 et seq.), or other adopted natural resource protection plan.

(J) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species ornative plants protected by the federal Endangered Species Act of 1973 (16 U.S.C. § 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(K) Lands under conservation easement.

(L) Areas that are, or feature, or contain tribal cultural resources, per Section 21074 of the Public Resources Code.

(10) Extremely Low-Income Households. Extremely Low-Income Households is defined consistent with Health and Safety~~Government~~ Code section 50106.

(11) Formal Resolution for the Prohousing Designation Program. The resolution adopted by a Jurisdiction's governing body that authorizes and directs the Jurisdiction to submit the Application and confirms its compliance with the Program's requirements and that conforms to the template that the Department attaches to the Program Application, which shall include the following text:

Formal Resolution for the PROHOUSING Designation Program

RESOLUTION NO. [INSERT RESOLUTION NUMBER]

A RESOLUTION OF THE GOVERNING BODY OF
[INSERT THE NAME OF THE CITY OR COUNTY]
AUTHORIZING APPLICATION TO AND PARTICIPATION IN THE PROHOUSING
DESIGNATION PROGRAM

WHEREAS, Government Code section 65589.9 established the Prohousing Designation Program (“Program”), which creates incentives for Jurisdictions that are compliant with state housing element requirements and that have enacted Prohousing local policies; and

WHEREAS, such jurisdictions will be designated Prohousing, and, as such, will receive additional points or other preference during the scoring of their competitive Applications for specified housing and infrastructure funding; and

WHEREAS, the California Department of Housing and Community Development (“Department”) has adopted regulations (Cal. Code Regs., tit. 25, § 6600 et seq.) to implement the Program (“**Program Regulations**”), as authorized by Government Code section 65589.9, subdivision (d); and

WHEREAS, the **[INSERT THE NAME OF THE CITY OR COUNTY]** (“Applicant”) desires to submit an Application for a Prohousing Designation (“Application”).

THEREFORE, IT IS RESOLVED THAT:

1. Applicant is hereby authorized and directed to submit an Application to the Department.
2. Applicant acknowledges and confirms that it is currently in compliance with applicable state housing law.
3. Applicant acknowledges and confirms that it will continue to comply with applicable housing laws and to refrain from enacting laws, developing policies, or taking other local governmental actions that may or do inhibit or constrain housing production. Examples of such local laws, policies, and actions include moratoriums on development; local voter approval requirements related to housing production; downzoning; and unduly restrictive or onerous zoning regulations, development standards, or permit procedures. Applicant further acknowledges and confirms that the Prohousing Policies in its Application complies with its duty duty it commits itself to Affirmatively Furthering Fair Housing pursuant to Government Code sections 8899.50 and 65583. Applicant further acknowledges and confirms that its General Plan is in alignment with an adopted Sustainable Communities Strategy pursuant to Public Resources Code section 21155-21155.4. Applicant further acknowledges and confirms that its policies for the treatment of homeless encampments on public property comply with and will continue to comply with the constitutional rights of unhoused individuals camping on public property and that it has enacted best practices in its jurisdiction that are consistent with the United States Interagency Council on

Homelessness' "7 Principles for Addressing Encampments" (June 17, 2022 update).

4. If the Application is approved, Applicant is hereby authorized and directed to enter into, execute, and deliver all documents required or deemed necessary or appropriate to participate in the Program, and all amendments thereto (the "Program Documents").
5. Applicant acknowledges and agrees that it shall be subject to the Application; the terms and conditions specified in the Program Documents; the Program Regulations; and any and all other applicable law.
6. **[INSERT THE TITLE OF THE APPLICANT'S AUTHORIZED SIGNATORY]** is authorized to execute and deliver the Application and the Program Documents on behalf of the Applicant for participation in the Program.

PASSED AND ADOPTED this ____ day of _____, 20__, by the following vote:

AYES: [Insert #] NOES: [Insert #] ABSENT: [Insert #] ABSTAIN: [Insert #]

The undersigned, [INSERT NAME AND TITLE OF SIGNATORY] of Applicant, does hereby attest and certify that the foregoing is a true and full copy of a resolution of the Applicant's governing body adopted at a duly convened meeting on the date above-mentioned, and that the resolution has not been altered, amended, or repealed.

SIGNATURE: _____ DATE: _____

NAME: _____ TITLE: _____

(12) HCD. The California Department of Housing and Community Development.

(13) Housing. Any development that satisfies both (A) and (B) below:

(A) At least two-thirds of the square footage of the development must be designated for residential use; and

(B) The development includes a housing accommodation, as defined in Government Code section 12927(d) and California Code of Regulations, Title 2, section 12005(o).

(14) Housing Element or Element. The housing element of a Jurisdiction's general plan, as required pursuant to subdivision (c) of Section 65302 of the Government Code and prepared in accordance with Housing Element Law.

(15) Housing Element Law. Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(16) Housing for Persons with Special Needs. This term is defined consistent with the examples of housing for persons with “special housing needs” in Government Code section 65583(a)(7).

(17) JADU. Junior Accessory Dwelling Unit as defined by Government Code section 65852.22.

(18) Jurisdiction. Any city, including a charter city; any county, including a charter county; or any city and county, including a charter city and county.

(19) Local Public Entity. A local public entity is defined in accordance with Health and Safety Code section 50079.

(20) Location Efficient Communities. Current or future residential dwellings near multiple transportation options and which have short commutes to daily destinations, improve job and housing relationships, and mitigate impacts on or from Environmentally Sensitive or Hazardous Areas.

(21) Lower-Income Households. Lower-Income Households is defined consistent with Health and Safety Government Code section 50079.5.

(22) Ministerial. A process for development approval involving no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the "Objective Zoning Standards," "Objective Subdivision Standards," or "Objective Design Review Standards" in effect at the time that the application is submitted to the Jurisdiction but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.

(23) Moderate-Income Households. Moderate-Income Households is defined consistent with Health and Safety Government Code section 50093.

(24) Objective Zoning Standard, Objective Subdivision Standard, and Objective Design Review Standard. Standards that involve no personal or subjective judgment by a public official and that are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

(25) Program. The Prohousing Designation Program.

(26) Prohousing or Prohousing Designation. The designation conferred on those applicants that meet the requirements of the Prohousing Designation Program.

(27) Prohousing Policy. A course or basis of action adopted or proposed by a Jurisdiction, which satisfies or purports to satisfy Sections 6605 and 6606, and which, as such, is reasonably likely to accelerate, streamline, or encourage housing production in a manner consistent with the Jurisdiction’s duty to Affirmatively

Further Fair Housing pursuant to Government Code section 8899.50. A Prohousing Policy may include, but is not limited to, a law, regulatory rulemaking, or procedure. A Prohousing Policy may be freestanding, or it may be integrated with other Prohousing Policies as part of a larger Prohousing strategy.

(28) Regional Housing Needs Allocation or RHNA. The projected need for housing foreach region, as determined by the Department pursuant to Section 65584.01 of the Government Code.

(29) State Planning Priorities. Priorities which are intended to promote equity, strengthen the economy, protect the environment, and promote public health and safetyfor all communities in the state, and as pursuant to Government Code section 65041.1.

(30) Supportive Housing. Supportive Housing is defined in accordance with Government Code section 65582(g).

(31) TCAC. TCAC is defined to mean the California Tax Credit Allocation Committee.

(32) TCAC/HCD Opportunity Map. The map that identifies the areas in the state whose characteristics support positive economic, educational, and health incomes for Lower-Income Households, which TCAC and the Department publish on their websites at <https://www.treasurer.ca.gov/ctcac/opportunity.asp> and <https://www.hcd.ca.gov/community-development/data-tools/index.shtml>.

(33) VMT. Vehicle Miles Traveled.

Note: Authority Cited: Section 65589.9, Government Code. Reference: Section 65589.9, Government Code.

Adopt Section 6602

§ 6602. Content of Application and Supporting Documents

(a) The Department shall accept Applications for a ProhousingDesignation on a continuous, year-round basis. The Department shall make the Application available on its ~~Web site~~ website.

(b) The Application shall require the applicant to do all of the following:

(1) Certify that the applicant has met the threshold criteria under Section 6604.

(2) Identify each Prohousing Policy by providing a concise written description of the Prohousing Policy, and by specifying whether the Prohousing Policy is enacted or proposed.

(3) Submit the Jurisdiction's documentary evidence in support of each Prohousing Policy, whether enacted or proposed. Submission may include links to the location of documents on a Jurisdiction's ~~Web site~~ website.

(4) Self-score each Prohousing Policy using the scoring criteria in Section 6606. The application will allow the applicant to utilize the enhancement factors set forth at subdivision (c) of Section 6606 to increase the application's total point score.

(5) Demonstrate that the applicant engaged in a diligent public participation process that included outreach to engage all segments of the community and submit documentation of comments received during this process.

Note: Authority Cited: Section 65589.9, Government Code. Reference: Section 65589.9, Government Code.

Adopt Section 6603

§ 6603. Overall Application Submittal and Review Procedures

(a) Only Jurisdictions may apply for a Prohousing Designation.

(b) Applicants shall submit a complete and self-scored application to the Department when applying for a Prohousing Designation. All applications shall be submitted electronically to ProhousingPolicies@hcd.ca.gov.

(c) Applicants may submit applications multiple times, but they may not submit multiple applications for the Department to review at the same time.

(d) Within ten (10) calendar days of receiving the application, the Department shall provide the applicant with a written acknowledgment of receipt.

(e) The Department may request an applicant to submit additional clarifying documents and information.

(f) When reviewing an application, the Department may consult with and gather Program-relevant information from any individual, entity, or public agency.

(g) The Department shall complete its review of the application within sixty (60) calendar days of receipt and promptly notify the applicant in writing of its final Prohousing Designation determination.

(h) If the Department approves an application, it will send the applicant a letter designating it as a Prohousing Jurisdiction. A Prohousing Designation remains in effect unless it is revoked or expires pursuant to Sections 6607 and 6608. The Department's designation letter may specify conditions that must be satisfied to maintain the Designation's validity consistent with Government Code section 65589.9 and these

regulations.

(i) Issuing a Prohousing Designation does not constitute a determination by the Department of whether the Jurisdiction has complied with all state or federal housing laws, state or federal civil rights requirements, or any other legal requirements. The Department will review applications, validate applicants' self-scores, and issue Prohousing Designations solely for the purposes of the Program, not to determine for the purposes of litigation, administrative proceedings, or other HCD programs whether a Jurisdiction has complied with or violated any state or federal housing or civil rights law or other legal requirement.

Note: Authority Cited: Section 65589.9, Government Code. Reference: Section 65589.9, Government Code.

Adopt Section 6604

§ 6604. Applicant Threshold Criteria

(a) The Department will initially determine if applicants have met the threshold requirements specified in subdivision (b).

(b) In the application, applicants shall certify the following:

(1) The applicant has adopted a compliant Housing Element at the time of application.

(2) The applicant has submitted a legally sufficient Annual Progress Report at the time of application or will submit a legally sufficient Annual Progress Report prior to designation, pursuant to Government Code section 65400.

(3) The applicant has completed or agrees to complete, on or before the relevant statutory deadlines for the current planning period, any rezone program or zoning that is necessary to remain in compliance with Government Code sections 65583, subdivision (c)(1) and 65584.09, subdivision (a), and with Coastal Commission certification where appropriate. Applicants that fail to meet statutory deadlines for rezoning in the current planning period are not eligible for a Prohousing Designation.

(4) The applicant is in compliance, at the time of the Application, with applicable state housing laws, including, but not limited to, those included in Government Code section 65585, subdivision (j), the Housing Element Law (Article 10.6 of the Gov. Code); "No Net Loss" Law (Gov. Code, § 65863); the Housing Accountability Act (Gov. Code, § 65589.5); State Density Bonus Law (Gov. Code, § 65915 et seq.); laws relating to the imposition of school facilities fees or other requirements (Gov. Code, § 65995 et seq.), the Least Cost Zoning Law (Gov. Code, § 65913.1), the Housing Crisis Act of 2019 (Stats. 2019, ch. 654); Affirmatively Furthering Fair

Housing (Gov. Code, § 8899.50); Permit Streamlining Act (Gov. Code § 65920 et seq.), Streamlined Ministerial Approval Process (Gov. Code, § 65913.4) and Housing Discrimination Law (Gov. Code, § 65008) provisions relating to timeliness of CEQA processing by local governments in Public Resources Code sections 21080.1, 21080.2, and 21151.5(a).

(5) The applicant further acknowledges and confirms that its treatment of homeless encampments on public property complies with and will continue to comply with the constitutional rights of persons experiencing homelessness and that it has submitted a one-page summary to the Department demonstrating how the applicant has enacted best practices in their jurisdiction related to the treatment of unhoused individuals camping on public property, consistent with the United States Interagency Council on Homelessness' "7 Principles for Addressing Encampments," (June 17, 2022 update), hereby incorporated by reference.

(6) Applicants shall also submit with their applications a valid Formal Resolution for the Prohousing Designation Program. The Formal Resolution for the Prohousing Designation Program must have been duly adopted and certified by the applicant's governing body and must remain valid for the life of the designation.

(c) The Department shall reject an application for a Prohousing Designation if it determines that the applicant has not satisfied the threshold requirements set forth in subdivision (b) or that the applicant is not a Jurisdiction.

(d) The Department shall also reject an application for a Prohousing Designation if it discovers that the applicant is engaging in any of the following activities during the Department's review of the application:

(1) enacting laws, developing policies, or taking other actions that are reasonably likely to inhibit or constrain housing production, or that can be objectively shown to have inhibited or constrained housing production, including, but not limited to, moratoriums on development; local voter approval requirements related to housing production; changing the zoning of an area or neighborhood to reduce the density of housing or permitted construction without actions to ensure no net loss of density; zoning that results in industrial and other polluting land uses next to existing or planned sites that are zoned for housing development(s) in a manner that creates undue burdens on or discriminates against Low-Income households; and unduly restrictive or onerous zoning regulations, development standards, or permit procedures. Notwithstanding these requirements, an application will not be rejected solely on the basis that a Jurisdiction has taken action that is reasonably likely to inhibit or constrain housing production where necessary to plan for hazards or climate change to minimize risk to life, property, and natural resources in areas of current or projected future high geologic, flood, and fire hazard, such as areas vulnerable to sea level rise impacts and other coastal hazards. In such cases, the applicant should demonstrate, where feasible, no net loss of density within its jurisdiction as a whole. This subdivision does not prohibit a Jurisdiction from enacting a development policy, standard, or condition that is intended to preserve or facilitate the production of housing for Lower-Income Households, as

defined in Section 50079.5 of the Health and Safety Code, or housing types that traditionally serve lower-income households, including mobilehome parks, single-room occupancy units, or units subject to any form of rent or price control through a Jurisdiction's valid exercise of its police power and unduly restrictive or onerous zoning regulations, development standards, or permit procedures.

~~(2) violating applicable state housing laws, including, but not limited to those included in Government Code section 65585, subdivision (j), (2) violating the Housing Element Law (Article 10.6 of the Gov. Code); "No Net Loss" Law (Gov. Code, § 65863); the Housing Accountability Act (Gov. Code, § 65589.5); State Density Bonus Law (Gov. Code, § 65915 et seq.); laws relating to the imposition of school facilities fees or other requirements (Gov. Code, § 65995 et seq.), Least Cost Zoning Law (Gov. Code, § 65913.1), the Permit Streamlining Act Housing Crisis Act of 2019 (Stats. 2019, ch. 654); Affirmatively Furthering Fair Housing (Gov. Code § 8899.50) (Gov. Code § 65920 et seq.), and provisions relating to timeliness of CEQA processing by local governments in Sections 21080.1 and 21080.2 of the Public Resources Code Streamlined Ministerial Approval Process (Gov. Code § 65913.4) or Housing Discrimination Law (Gov. Code, § 65008).~~

(e) The Department may consider comments, reports, and findings from governmental and non-governmental entities when determining if an applicant meets the requirements of this section.

(f) The Department shall reject an application for a Prohousing Designation if it determines that the applicant at any time provided false or inaccurate information in its application.

Note: Authority Cited: Section 65589.9, Government Code. Reference: Section 65589.9, Government Code.

Adopt Section 6605

§ 6605. Requirements for Prohousing Policies

(a) Prohousing Policies must meet the following requirements:

(1) The applicant must show that it has enacted or proposed Prohousing Policies by providing a concise written description, and by identifying or submitting documentary evidence, of each Prohousing Policy in accordance with the requirements set forth at subdivision (b) of Section 6602. Applicants submitting proposed Prohousing Policies shall satisfy the following additional criteria:

(A) The applicant's application must also present at least two (2) enacted Prohousing Policies for the Department's review; and

(B) The applicant shall certify that each proposed Prohousing Policy will be enacted within two (2) years of the date that the applicant's application is submitted to HCD. In the event an applicant is unable to complete an identified proposed Prohousing Policy within two (2) years, the applicant may substitute an alternative policy to the Department for consideration. The alternative policy may be equal to, less than, or more than the points of the originally identified policy.

(C) As part of enacting proposed Prohousing Policies, applicants shall engage in a diligent public participation process to include all segments of the community.

(2) The applicant's enacted and proposed Prohousing Policies must contribute to the Acceleration of Housing Production throughout the Jurisdiction, ~~or throughout a smaller geographic unit,~~ as demonstrated by the applicant's documentary evidence in support of the Prohousing Policy.

(A) Project-specific planning documents or approvals do not qualify as Prohousing Policies unless they result in a Jurisdiction-wide benefit or in an ongoing benefit that extends beyond the project.

(3) The applicant's enacted and proposed Prohousing Policies, individually and taken together, must be consistent with the Jurisdiction's duties to Affirmatively Further Fair Housing pursuant to Government Code sections 8899.50 and 65583. The applicant must certify that it has analyzed each policy for consistency with these AFFH duties and that it has sought input from members of communities protected by these duties.

(b) The Department may consider Prohousing Policies that are integrated with other planning priorities (e.g., open space preservation, hazard mitigation, ~~minimization of displacement prevention~~) if the Prohousing Policy results in a net benefit or gain for the Acceleration of Housing Production.

(c) Each Prohousing Policy identified in an application shall receive a point allocation only once for purposes of that application.

(d) Applicants may identify Prohousing Policies that are or will be carried out in partnership with other entities, including Local Public Entities, where the Prohousing Policy will have a direct effect on land use or development within the applicant's jurisdiction. The Department shall score Prohousing Policies based on partnerships only if the partnerships were formed pursuant to legally binding agreements.

(e) No other policies, either enacted or proposed by local governments, shall override or undermine its Prohousing Policies or contradict the goals and intent of the Prohousing Designation Program.

Note: Authority Cited: Section 65589.9, Government Code. Reference: Section 65589.9, Government Code.

Adopt Section 6606

§ 6606. Designation Criteria

(a) Applicants that meet the requirements in Sections 6604 and 6605 shall qualify for the validation phase of the application process.

(b) The Department shall validate applicants' scores based on the extent to which each identified Prohousing Policy contributes to the Acceleration of Housing Production. The Department shall assess applicants' Prohousing Policies in accordance with this section, Government Code section 8899.50, and Government Code section 65589.9, subdivision (f)(2). The Department shall validate applicants' Prohousing Policies by using the four scoring categories in paragraphs (1) – (4). Applicants shall demonstrate that they have enacted or proposed at least one policy that significantly contributes to the Acceleration of Housing Production in each of these four categories. A Prohousing Designation requires an overall score of at least 30 points:

(1) Favorable Zoning and Land Use:

(A) Three (3) Points. Sufficient sites, including rezoning, to accommodate 150 percent or greater of the current or draft RHNA, whichever is greater, by total and income category. These additional sites must be identified in the local government's Housing Element adequate sites inventory, consistent with Government Code section 65583, subdivisions (a)(3) and (c)(1).

(B) Three (3) Points. Permitting missing middle housing uses (e.g., triplexes and fourplexes) by right in existing low-density, single-family residential zones in a manner that exceeds the requirements of SB 9 (Chapter 162, Statutes of 2021, Gov. Code, §§ 65852.21, 66511.7).

(C) Two (2) Points. Sufficient sites, including rezoning, to accommodate 125 to 149 percent of the current or draft RHNA, whichever is greater, by total and income category. These points shall not be awarded if the applicant earns three points pursuant to paragraph (1)(A). These additional sites must be identified in the local government's Housing Element adequate sites inventory, consistent with Government Code section 65583, subdivisions (a)(3) and (c)(1).

(D) Two (2) Points. Density bonus programs ~~which exceed the~~ that allow additional density for additional affordability beyond minimum statutory requirements ~~for density and affordability by 10 percent or more.~~

(E) Two (2) Points. Increasing allowable density in low-density, single-family residential areas beyond the requirements of state Accessory Dwelling Unit law (e.g., permitting more than one ADU or JADU per single-family lot), and in a manner that exceeds the requirements of SB 9 (Chapter

162, Statutes of 2021, Gov. Code, §§ 65852.21, 66511.7). These policies shall be separate from any qualifying policies under paragraph (1)(B).

(F) Two (2) Points. ~~Reducing or~~ Eliminating minimum parking requirements for residential development as authorized by Government Code section 65852.2; adopting vehicular parking ratios that are less than the relevant ratio thresholds at subparagraphs (A), (B), and (C) of Government Code section 65915, subdivision (p)(1); or adopting maximum parking requirements at or less than ratios pursuant to Government Code section 65915, subdivision (p).

(G) Two (2) Points. Zoning or incentives that are designed to increase affordable housing development in a range of types, including, but not limited to, large family units, Supportive Housing, housing for transition age foster youth and deep affordability targeted housing for Extremely Low-Income Households in all parts of the Jurisdiction, with at least some of the zoning, other land use designation methods, or incentives being designed to increase affordable housing development in higher resource areas shown in the TCAC/HCD Opportunity Map, and with the Jurisdiction having confirmed that it considered and addressed potential environmental justice issues in adopting and implementing this policy, especially in areas with existing industrial or polluting uses.

(H) One (1) point. Zoning or other land use designation methods to allow for residential or mixed uses in one or more non-residential zones (e.g., commercial, light industrial). Qualifying non-residential zones do not include open space or substantially similar zones.

(I) One (1) point. Modification of development standards and other applicable zoning provisions or land use designation methods to promote greater development intensity. Potential areas of focus include floor area ratio; height limits; minimum lot or unit sizes; setbacks; and allowable dwelling units per acre. These policies must be separate from any qualifying policies under paragraph (1)(B).

(J) One (1) Point. Establishment of a Workforce Housing Opportunity Zone, as defined in Government Code section 65620, or a Housing Sustainability District, as defined in Government Code section 66200.

(K) One (1) Point. Establishment of an inclusionary housing program requiring new developments to include housing affordable to and reserved for low- and very low-income households, consistent with the requirements of AB 1505 (Chapter 376, Statutes of 2017, Gov. Code, § 65085.01).

~~(K)~~ (L) One (1) Point. Other zoning and land use actions not described in subdivisions (b)(1)(A)-(J) of this section that measurably support the Acceleration of Housing Production.

(2) Acceleration of Housing Production Timeframes:

(A) Three (3) Points. Establishment of ministerial approval processes for multiple housing types, including, for example, single-family, ~~and~~ multifamily and mixed-use housing.

(B) Two (2) Points. Acceleration of Housing Production through the ~~E~~establishment of streamlined, program-level CEQA analysis and certification of general plans, community plans, specific plans with accompanying Environmental Impact Reports (EIR), and related documents.

(C) Two (2) Points. Documented practice of streamlining housing development at the project level, such as by enabling a by-right approval process or by utilizing statutory and categorical exemptions as authorized by applicable law, such as Pub. Resources Code, §§21155.1, 21155.4, 21159.24, 21159.25; Gov. Code, § 65457; Cal Code Regs., tit. 14, §§ 15303, 15332; Pub. Resources Code, §§ 21094.5, 21099, 21155.2, 21159.28.

(D) Two (2) Points. Establishment of permitting processes that take less than four months to complete. Policies under this subparagraph must address all approvals necessary to issue building permits.

(E) Two (2) Points. Absence or elimination of public hearings for projects consistent with zoning and the general plan.

(F) Two (2) Points. Priority permit processing or reduced plan check times for homes affordable to Lower-Income Households.

(G) One (1) Point. Establishment of consolidated or streamlined permit processes that minimize the levels of review and approval required for projects, and that are consistent with zoning regulations and the general plan.

(H) One (1) Point. Absence, elimination or replacement of subjective development and design standards with objective development and design standards that simplify zoning clearance and improve approval certainty and timing.

(I) One (1) Point. Establishment of one-stop-shop permitting processes or a single point of contact where entitlements are coordinated across city approval functions (e.g., planning, public works, building) from entitlement application to certificate of occupancy.

(J) One (1) Point. Priority permit processing or reduced plan check times for ADUs/JADUs or multifamily housing.

(K) One (1) Point. Establishment of a standardized application form for all entitlement applications.

(L) One (1) Point. Documented practice of publicly posting status updates on project permit approvals on the internet.

(M) One (1) Point. Limitation on the total number of hearings for any project to three or fewer. Applicants that accrue points pursuant to paragraph (2)(E) are not eligible for points under this subparagraph.

(N) One (1) Point. Other policies not described in subdivisions (b)(2)(A)-(M) of this section that quantifiably decrease production timeframes or promote the streamlining of approval processes.

(3) Reduction of Construction and Development Costs:

(A) Three (3) Points. Waiver or significant reduction of development impact fees for residential development with units affordable to Lower-Income Households. This provision does not include fees associated with the provision of housing affordable to Lower-Income Households (e.g., inclusionary in lieu fees, affordable impact fees and commercial linkage fees).

(B) Two (2) Points. Adoption of policies that result in less restrictive requirements than Government Code sections 65852.2 and 65852.22 to reduce barriers for property owners to create ADUs/JADUs. Examples of qualifying policies include, but are not limited to, development standards improvements, permit processing improvements, dedicated ADU/JADU staff, technical assistance programs, and pre-approved ADU/JADU design packages.

(C) One (1) Point. Adoption of other fee reduction strategies separate from paragraph(3)(A), including fee deferrals and reduced fees for housing for persons with special needs. This provision does not include fees associated with the provision of housing affordable to Lower-Income Households (e.g., inclusionary in lieu fees, affordable impact fees and commercial linkage fees).

(D) One (1) Point. ~~Promoting~~ Accelerating housing production through innovative housing types (e.g., manufactured homes, recreational vehicles, park models, community ownership, and other forms of social housing) that reduce development costs.

(E) One (1) Point. Measures that reduce costs for transportation-related infrastructure or programs that encourage active modes of transportation or other alternatives to automobiles. Qualifying policies include, but are not limited to, publicly funded programs to expand accessible sidewalks or protect bike/micro-mobility lanes; creation of on-street parking for bikes; transit-related improvements; or establishment of carshare programs.

(F) One (1) Point. Adoption of universal design ordinances pursuant to Health and Safety Code section 17959.

(G) One (1) Point. Establishment of pre-approved or prototype plans for missing middle housing types (e.g., duplexes, triplexes, and fourplexes) in

low-density, single-family residential areas.

(H) One (1) Point. Adoption of ordinances that reduce barriers, beyond existing law, for the development of housing affordable to Lower-Income Households.

(I) One (1) Point. Other policies not described in subdivisions (b)(3)(A)-(H) of this section that quantifiably reduce construction or development costs.

(4) Providing Financial Subsidies:

(A) Two (2) Points. Establishment of a housing fund or contribution of funds towards affordable housing through proceeds from approved ballot measures.

(B) Two (2) Points. Establishment of local housing trust funds or collaboration on a regional housing trust fund, which include the Jurisdiction's own funding contributions. The Jurisdiction must contribute to the local or regional housing trust fund regularly and significantly. For the purposes of this subdivision, "regularly" shall be defined as at least annually, and "significant" contributions shall be determined based on the impact the contributions have in accelerating the production of affordable housing.

(BC) Two (2) Points. Demonstration of regular use or planned use of funding (e.g., federal, state, or local) for preserving assisted units at-risk of conversion to market rate uses and conversion of market rate uses to units with affordability restrictions (e.g., acquisition/rehabilitation). For the purposes of this subdivision, "regular use" can be demonstrated through the number of units preserved annually by utilizing this funding source.

(CD) Two (2) Points. Provide grants or low-interest loans for ADU/JADU construction affordable to Lower- and Moderate-Income Households.

(DE) Two (2) Points. A comprehensive program that complies with the Surplus Land Act (Gov. Code, § 54220 et seq.) and that makes publicly owned land available for affordable housing, or for multifamily housing projects with the highest feasible percentage of units affordable to Lower-Income Households. A qualifying program may use mechanisms such as land donations, land sales with significant write-downs, or below-market land leases.

(EF) Two (2) Points. Establishment of an Enhanced Infrastructure Financing District or similar local financing tool that, to the extent feasible, directly supports housing developments in an area where at least 20 percent of the residences will be affordable to Lower-Income Households.

(FG) Two (2) Points. Prioritization of local general funds to accelerate the production of housing affordable to Lower-Income Households.

(GH) One (1) Point. Directed residual redevelopment funds to accelerate the production of affordable housing.

(HI) One (1) Point. Development and regular (at least biennial) use of a housing subsidy pool, local or regional trust fund, or other similar funding source sufficient to facilitate and support the development of housing affordable to Lower-Income Households.

(IJ) One (1) Point. Prioritization of local general funds for affordable housing. This point shall not be awarded if the applicant earns two points pursuant to paragraph (4)(F).

(K) One (1) Point. Providing operating subsidies for permanent Supportive Housing.

(L) One (1) Point. Providing subsidies for housing affordable to Extremely Low-Income Households

(~~M~~) One (1) Point. Other policies not described in subdivisions (b)(4)(A)-(K) of this section that quantifiably promote, develop, or leverage financial resources for housing affordable to Lower-Income Households.

(c) The Department shall utilize the following enhancement factors to increase the point scores of Prohousing Policies. An individual Prohousing Policy cannot use more than one enhancement factor. Each Prohousing Policy may receive, if applicable, two extra points for an enhancement factor set forth at paragraph (1) below, and one extra point for an enhancement factor set forth at paragraphs (2) – (8) below:

(1) The policy represents one element of a unified, multi-faceted strategy to promote multiple planning objectives, such as efficient land use, access to public transportation, housing affordable to Lower-Income Households, climate change solutions, and/or hazard mitigation.

(2) Policies that promote development consistent with the state planning priorities pursuant to Government Code section 65041.1.

(3) Policies that diversify planning and target community and economic development investments (housing and non-housing) toward place-based strategies for community revitalization and equitable quality of life in lower opportunity areas. Such areas include, but are not limited to, Low Resource and High Segregation & Poverty areas designated in the TCAC/HCD Opportunity Map, and disadvantaged communities pursuant to Health and Safety Code sections 39711 and 39715.

(4) Policies that go beyond state law requirements in reducing displacement of Lower-Income Households and conserving existing housing stock that is affordable to Lower-Income Households.

(5) Rezoning and other policies that support intensification of residential

development in Location Efficient Communities.

(6) Rezoning and other policies that result in a net gain of housing capacity while concurrently mitigating development impacts on or from Environmentally Sensitive or Hazardous Areas.

(7) Zoning policies, including inclusionary housing policies, that increase housing choices and affordability, particularly for Lower-Income Households, in High Resource and Highest Resource areas, as designated in the TCAC/HCD Opportunity Map.

(8) Policies that ~~affirmatively furthering fair housing pursuant to Government Code sections 8899.50 and 66583(c)(5), (c)(10), including, but not limited to, outreach campaigns, updated zoning codes, and expanded access to financing support~~ involve meaningful actions towards Affirmatively Furthering Fair Housing outside of those required by 65583, subdivision (c)(10).

Note: Authority Cited: Section 65589.9, Government Code. Reference: Section 65589.9, Government Code.

Adopt Section 6607

§ 6607. Monitoring and Revocation of Prohousing Designations

(a) The Department shall monitor Prohousing Designations on an ongoing basis and may revoke a Prohousing Designation at any time, as specified herein.

(1) Through the procedures specified in paragraphs 2 through 8, the Department may review and, at its discretion, revoke a Prohousing Designation upon determining any of the following has occurred:

(A) A jurisdiction has failed to enact ~~implement~~ a proposed Prohousing Policy within the timeframe specified in its application for a Prohousing Designation, including, but not limited to, failures to enact a proposed Policy due to a lack of a necessary Coastal Commission certification.

(B) A Jurisdiction has failed to facilitate the planning, approval, or construction of a variety of housing types (e.g., increasing zoned capacity for supply, facilitating affordability for all income levels, removing regulatory barriers to development, and streamlining approval).

(C) A Jurisdiction has failed to implement integrated planning and development consistent with the state planning priorities set forth at Government Code section 65041.1 and/or the regional transportation plan adopted by the relevant transportation agency pursuant to Government Code

sections 65080 and 65080.01. A Jurisdiction may implement these priorities through various actions, including, but not limited to, facilitating Location Efficient Communities.

(D) A Jurisdiction has failed to meet its obligations to affirmatively further fair housing under Government Code sections 8899.50 and 66583(c)(5), (c)(10).

(E) A Jurisdiction has failed to comply with state housing law, including, but not limited to, any of the laws specified in Section 6604.

(F) A Jurisdiction has failed to take action or has taken action inconsistent with a Housing Element, including any failure to implement program actions pursuant to Government Code section 65585(i).

(2) The Department shall receive and consider any complaint related to a Jurisdiction's violation of any applicable state housing law (including any law specified in Section 6604); failure to implement a proposed Prohousing Policy within the timeframe specified in the Jurisdiction's application for a Prohousing Designation; action that is inconsistent with the obligation to affirmatively further fair housing pursuant to Government Code sections 8899.50 and 66583(c)(5), c(10), or other action inconsistent with these regulations.

(3) The Department shall notify the Jurisdiction, within thirty (30) calendar days, in writing of any review that it commences pursuant to this section.

(4) The Department shall allow thirty (30) calendar days for the Jurisdiction to respond in writing to a notification of review.

(5) The Department shall consider comments from and may consult with any individual, entity, or public agency during its review of a Jurisdiction's Prohousing Designation.

(6) The Department shall make its preliminary findings available to the Jurisdiction within sixty (60) calendar days of its notification of review and shall allow fifteen (15) calendar days for a written response from the Jurisdiction.

(7) The Department shall issue its final determination within sixty (60) calendar days of the deadline for the Jurisdiction's written response to the Department's preliminary findings. The Department may extend the deadlines specified in subdivisions (a)(2)-(a)(7) if it determines that more time is needed to assess whether to revoke a Determination.

(8) Jurisdictions may apply for a new Prohousing Designation after remedying the violations or problems identified by the Department in its final determination to revoke a previously granted Designation.

Note: Authority Cited: Section 65589.9, Government Code. Reference: Section 65589.9, Government Code.

Adopt Section 6608

§ 6608. Expiration of Prohousing Designations

(a) A Prohousing Designation shall expire three years from the first day of the January that follows the date of designation. For example, a designation issued on April 15, 2023, will remain in effect through December 31, 2026 and expire on January 1, 2027.

(b) A Jurisdiction with an approved Prohousing Designation may apply for a new designation no earlier than 63 months before its current designation expires.

Note: Authority Cited: Section 65589.9, Government Code. Reference: Section 65589.9, Government Code.