CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: November 12, 2013

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Emergency Shelter Zoning Discussion

RECOMMENDATION:

That Council provide direction to Community Development staff related to the implementation of Senate Bill 2 (SB2) (as enacted in 2007 as Government Code § 65583) requiring that every municipality identify zoning intended to encourage and facilitate "emergency shelters."

EXECUTIVE SUMMARY:

In 2007, the State Legislature enacted SB2 in an effort to strengthen the State Housing Element Law to require municipal zoning that encourages and facilitates emergency shelters, and limits the ability of a city or county to deny land use permits necessary to open an emergency shelter or a transitional and supportive housing project (see Attachment 1). To comply with this mandate, the City's 2011 Housing Element includes an Implementation Action that the Council consider amending the City's Commercial Manufacturing (C-M) zoning district to allow emergency shelters without a conditional use permit within one year of adoption of the Housing Element.

After reviewing the requirements of SB2 in more detail with the City Attorney's office, Community Development Staff believes that the City's Zoning Ordinance complies with SB2 because it provides multiple hotel zones where overnight shelter (with no or minimal "supportive services") for the homeless could be developed without the need for a conditional use permit. As a result, Staff believes two options are available to the City Council:

1. Confirm to the State Housing and Community Development staff that emergency shelters (with minimal supportive services) can be developed by right within existing City hotel zones where overnight accommodations are currently allowed; or
2. Enact a new City ordinance to limit the development of emergency shelters (with minimal supportive services) by right to a specific zone or zones of the City.

DISCUSSION:

SB2 (Govt. Code § 65583) was enacted in 2007, requiring all cities and counties in California to provide for at least one zoning district where emergency shelters are allowed by right, i.e., without a conditional use permit or other discretionary land use approval required. The jurisdiction's housing element must identify the zoning district and demonstrate that there is sufficient land capacity to accommodate the locality's need for emergency shelters and to allow for at least one year-round emergency shelter facility. SB2 also prohibits denial of emergency shelter, transitional housing, or supportive housing proposals if this type of housing is needed and consistent with local zoning and development standards.

SB2 defines Emergency Shelter as *"housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay."*

To carry out the SB2 requirement of providing a zone for possible emergency shelters by right, SB2 allows cities and counties the following options:

- Amend an existing zoning district;
- Create a new zoning district;
- Establish an overlay zone for existing districts; or
- Explain how an existing zoning ordinance allows for the development of an emergency shelter without the need to obtain any discretionary land use permit.

Regardless of which option is selected, the zoning district must have sufficient opportunities for emergency shelters, and be compatible and suitable for that use. As such, consideration should be given to other uses that are permitted within the zone, and whether the zone is suitable for residential or emergency shelters. Once a zoning district is created with sufficient capacity to encourage and facilitate emergency shelters, local municipalities may then identify additional zones for the development of emergency shelters which require a conditional use permit.

Development and management standards for the operation of emergency shelters, (such as the number of beds, length of stay, parking, lighting, etc.), may be applied by such an ordinance; however, it must also be demonstrated that these standards (as well as any related permit processing procedure) facilitate the possible creation of emergency shelters. In other words, these standards must be designed to encourage and facilitate the development of emergency shelters, and not unduly impede shelter development or shelter operations.

- Development standards must be objective and must encourage and facilitate the approval of emergency shelters.
- The same development standards which apply to residential or commercial uses in the identified zone must also be applied to emergency shelters.

- Development standards must not render emergency shelters infeasible, and shall only address the use as an emergency shelter, not the perceived characteristics of potential occupants of the shelter.

Cities and counties without an existing zone which permits at least one year-round emergency shelter must include a program in their housing element to identify a zone or zones and amend their zoning code to allow emergency shelters as a permitted use and do so within one year of adoption of the jurisdiction's housing element. The only exceptions to this requirement are where it can be demonstrated that the homeless shelter needs (based on the housing element analysis) can be accommodated in existing shelters; or where the jurisdiction meets all of its shelter needs through a multi-jurisdictional emergency shelter agreement.

It should be noted that, if an adopted housing element included a program to address the requirements of SB2 for emergency shelters, and the required timeframe (one year from adoption of the housing element) has lapsed, the Department of Housing and Community Development (HCD) will not find future housing elements in compliance with the State Planning and Zoning Law until the required rezoning is complete and the element is duly amended to reflect that rezoning.

Multi-Jurisdictional Agreements:

SB2 allows jurisdictions to satisfy all or some of their homeless shelter needs by entering into an agreement with up to two other adjacent communities. The multi-jurisdictional agreement must obligate the participating jurisdictions to construct at least one year-round shelter within two years of the beginning of the planning period. The agreement must allocate a portion of the new shelter capacity to each jurisdiction as a credit toward their identified emergency shelter need of that community. Additionally, the housing element for each participating jurisdiction must describe the following:

- How the capacity of the emergency shelter was allocated;
- How the joint emergency shelter facility will address the jurisdiction's need;
- The contribution for both the development and operation and management of the shelter;
- The amount and source of funding to be contributed to the shelter; and
- How the aggregate capacity claimed by each participating jurisdiction in their housing element does not exceed the actual capacity of the shelter.

If a local government can demonstrate that their emergency shelter needs are being met through existing facilities, the jurisdiction is allowed to comply with SB2 by identifying a zone(s) where new emergency shelters are permitted with the granting of a conditional use permit.

Other Jurisdictions:

As indicated above, cities and counties are allowed to pursue the following options: 1) amend an existing zoning district, 2) create a new zoning district, 3) establish an overlay zone for existing districts, or 4) enter into a multi-jurisdictional agreement in order to comply with the requirements of SB2. Staff research of other South Coast jurisdictions indicates that the majority of these localities propose to amend an existing zone or zones to comply with SB2. This includes the cities of Buellton, Carpinteria, Guadalupe, Santa Maria, and Solvang. The city of Lompoc will apply an overlay zone to several existing zones. The city of Goleta and county of Santa Barbara currently allow emergency shelters by right in at least one zone. None of the above listed cities elected to enter into a multi-jurisdictional agreement (see Attachment 2)

City's Existing Compliance with SB2:

As required by State law, the City's 2011 Housing Element includes an analysis regarding the City's emergency shelter need for the homeless. The analysis concluded that, while the City currently has 1,050 shelter beds/rooms/units available during the months of December-March and 950 beds/rooms/units during April-November, this number does not completely meet the City's need for homeless shelter, which is estimated to be approximately 1,355 homeless individuals (see Attachment 3).

To comply with state Housing Element Law, the City's 2011 Housing Element identified the C-M zone as a potentially suitable zoning district to allow emergency shelters as an expressly permitted use without the need for a conditional use permit or other discretionary City action. Implementation Action H4.1 was included indicating that the Council would consider amending the C-M zone to allow emergency shelters as a permitted use within one year of adoption of the housing element (see Attachment 4).

The C-M zone was determined by City Staff to have sufficient capacity to support the development of at least one additional year-round emergency shelter within Santa Barbara. Approximately 123 vacant or underutilized parcels totaling 30 acres of available land zoned C-M were identified as part of the "Available Land Inventory Summary" of the Housing Element. The C-M zone allows the development of residential uses, including mixed use development and other related uses that encourage emergency shelters, making this zone potentially suitable and appropriate to meet the City's identified unmet need for emergency shelter beds.

However, under the City Zoning Ordinance, facilities that provide overnight shelter to the homeless are also considered short-term, transitional accommodations similar to a hotel use. As a result, staff, in consultation with the City Attorney's office, has determined that the City currently appears to meet the requirements of SB2 because multiple zones exist which allow the development of hotels that are, in effect, "overnight accommodation" uses similar to overnight emergency shelter for the homeless. In fact, a number of emergency shelter facilities are presently operating in City Hotel zones

without having obtained a conditional use permit. These facilities provide beds for individuals in need of shelter, including families with children.

The two primary emergency shelters in the City are Casa Esperanza Homeless Shelter (zoned M-1/C-2/S-D-3) and the Santa Barbara Rescue Mission (zoned OM-1/S-D-3). These facilities are currently permitted with a conditional use permit and located in the Coastal Zone. Because these shelters also provide multi-faceted programs and "supportive services" they are considered "quasi-public facilities", therefore a conditional use permit was required pursuant to Municipal Code Section 28.94.030(W). It is staff's position that Casa Esperanza and the Rescue Mission must continue to operate under a conditional use permit based on the broad scope of services and programs being offered in combination with their emergency shelter beds. In addition, while their respective zones allow the development of overnight shelter, the M-1 and OM-1 zones discourage residential uses and therefore could be considered inconsistent with the use absent the requirement of a CUP.

Staff recommends that the City Council consider the following options to satisfy the requirements of SB2 related to emergency shelter zoning:

Option 1: Advise the State Department of Housing and Community Development that emergency shelters (which only have minimal supportive services) are allowed within the City without a conditional use permit or other discretionary land use in all zones that currently permit overnight accommodations. Essentially, this would be a status quo option. These zones include the R-4 (Hotel-Motel-Multiple Residential), and commercial zones where hotel use is allowed, including HRC1 & HRC-2 (Hotel and Related Commerce), R-H (Resort-Residential Hotel), C-P (Restricted Commercial), C-L (Limited Commercial Zone), C-1 (Limited Commercial), C-2 (Commercial), C-M (Commercial Manufacturing), OC (Ocean-Oriented Commercial), M-1 (Light Manufacturing) and OM-1 (Ocean-Oriented Light Manufacturing) zones.

Option 2: Advise the State Department of Housing and Community Development that the City will consider a City zoning ordinance to limit the development of emergency shelters with minimal supportive services to one specific zone of the City. Staff believes that the C-M zone, which allows residential uses and has sufficient land capacity to accommodate the City's need for emergency shelters including at least one year-round emergency shelter, is an appropriate and suitable zone if this option is pursued.

Regardless of which option Council determines is the most appropriate to carry out SB2, it may be advisable for the Zoning Ordinance to be amended to include the definition of "Emergency Shelters" as defined by the Health and Safety Code, as well as to clarify that emergency shelters with extended supportive services will not meet the City's definition of an "overnight accommodation" or "hotel" type use. The Health and Safety Code Section 50801(e) defines emergency shelters as housing with minimal supportive services for the homeless.

Next Steps:

Following Council's direction regarding compliance with SB2, amendments to the Municipal Code will be prepared and presented to the Ordinance Committee for review and refinement. A subsequent public hearing at the Planning Commission for review of the zoning amendments and recommendations to Council will follow and, ultimately, the ordinance amendments will be forwarded to the City Council for possible introduction and adoption.

BUDGET/FINANCIAL INFORMATION:

The Zoning Ordinance Amendments to the Commercial Manufacturing (C-M) Zone identifying emergency shelters as a permitted use do not require allocation of funds.

ATTACHMENT(S):
1. HCD Briefing Paper Regarding SB2 (Excerpt)
2. Compliance with SB 2-South Coast Jurisdictions Table
3. Housing Element Regarding Homeless Need (Excerpt)
4. Housing Element Implementation Action H4.1 (Excerpt)

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SUBMITTED BY: Paul Casey, Assistant City Administrator/Community Development Director

APPROVED BY: City Administrator's Office

Homeless Needs

Homelessness in California is a continuing and growing crisis. On any given day, there are at least 361,000 homeless individuals in California – or 1.1 percent of the State's total population. Of this number, two-thirds are estimated to be single adults, while the other third are families. Some 30 percent of California's homeless – 108,000 – are so-called "chronic" homeless who have been homeless for six months or more. This population tends to be comprised of single adults who face such obstacles as mental illness, substance abuse problems and chronic physical health problems or disabilities that prevent them from working. Homeless individuals and families are without permanent housing largely because of a lack of affordable housing, often compounded by limited education or skills, mental illness and substance abuse issues, domestic violence and the lack of family or other support networks.[1]

California's homelessness crisis demands the effective involvement of both the public and private sectors. A housing element can be an effective and powerful tool in combating homelessness. Passage of SB 2 strengthened the law to increase its effectiveness in addressing the needs of California's homeless population. The upcoming housing element update presents an important opportunity to make ending homelessness a critical priority.

Purpose and Objectives of SB 2

The framework of SB 2 resulted from a collaborative effort by key stakeholders including housing and homeless advocates and providers, local governments, planners, and the building industry. SB 2 strengthens existing housing element requirements to provide the opportunity for the development of emergency shelters and transitional and supportive housing. SB 2 ensures zoning, development and management standards and permit procedures encourage emergency shelters while allowing flexibility for existing local strategies and cooperative efforts.

SB 2 focuses on the impacts of zoning requirements on the development of emergency shelters. While the new statute requires that every local government zone for the development of emergency shelters, it does not restrict how local governments allocate resources to address local priority needs. For example, nothing in SB 2 prohibits communities from also adopting a "Housing First" strategy to provide homeless persons with housing immediately and then providing services as needed.

[1] *Governor's Interagency Task Force on Homelessness, Progress Report and Work Plan for 2003.* Health and Human Services Agency and Business, Transportation and Housing Agency, December 2002

Section 1

Planning

(Government Code Section 65583)

Identifying and Analyzing Needs and Resources

Current law, Government Code Section 65583(a)(7), requires an identification and analysis of the needs of homeless persons and families. The analysis is an essential component of an effective housing element; however data sources can be limited and vary in estimates of need. As a result, an analysis should consider a variety of data sources and include proactive outreach with service providers to examine the degree and characteristics of homeless needs in the community and surrounding communities. A thorough analysis includes:

- An estimate or count of the daily average number of persons lacking shelter. Wherever possible, and to better describe the characteristics of needs, this figure could be divided into single males, single females and families (one or more adults with children) as the needs of each subgroup differ significantly.

- As local data or other existing sources permit (see list below), a description of the percentage of the homeless population who are mentally ill, developmentally disabled, veterans, runaway or emancipated foster youth, substance abusers, survivors of domestic violence, and other subpopulations of homeless considered significant by the jurisdiction.

- An inventory of the resources available within the community including shelters, transitional housing and supportive housing units by type. The analysis should estimate the number and type of existing shelter beds, and units of transitional and supportive housing available.

- Assess the degree of unmet homeless needs, including the extent of need for emergency shelters. As part of this analysis, SB 2 now clarifies the need assessment for emergency shelters must consider seasonal <u>and</u> year-round need. In recognition of local efforts to encourage supportive housing, SB 2 allows jurisdictions with 10 Year Plans to End Chronic Homelessness to reduce the need for emergency shelters by the number of supportive housing units identified in an adopted 10-year plan **<u>and</u>** that are either vacant or funding has been identified to allow construction in the housing element planning period.

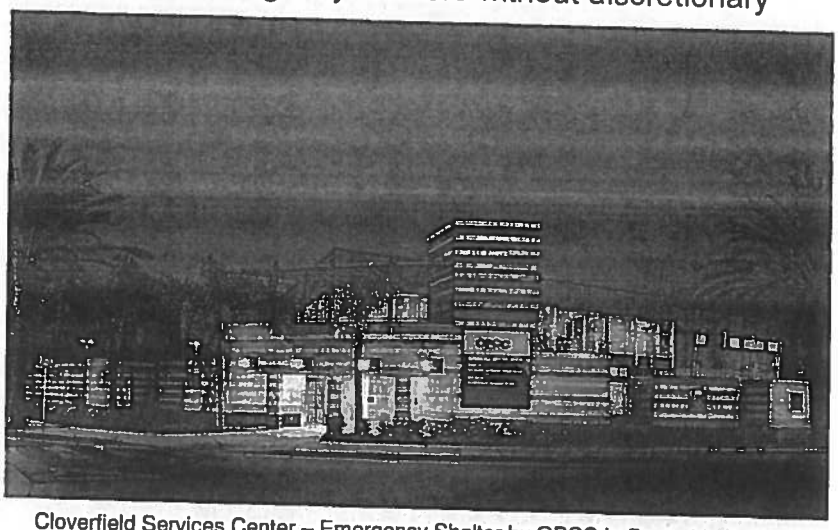
Resources to identify and analyze homeless needs, include:

- Consolidated plans
- Continuum of care plans
- 10 Year Plans to End Chronic Homelessness
- Interagency Council on Homelessness, Guide to Developing Plans and Examples (*<u>http://www.ich.gov/slocal/index.html</u>*)

- Local service providers such as continuum of care providers, local homeless shelter and service providers, food programs, operators of transitional housing programs, local drug and alcohol program service providers, county mental health and social service departments, local Salvation Army, Goodwill Industries, churches and schools, and
- 15 countywide Designated Local Boards certified by the Department's Emergency Housing and Assistance Program (http://www.hcd.ca.gov/fa/ehap/cntys-with-dlb.html).

Identifying Zoning for Emergency Shelters

Prior to enactment of SB 2, housing element law required local governments to identify zoning to encourage and facilitate the development of emergency shelters. SB 2 strengthened these requirements. Most prominently, housing element law now requires the identification of a zone(s) where emergency shelters are permitted without a conditional use permit or other discretionary action. To address this requirement, a local government may amend an existing zoning district, establish a new zoning district or establish an overlay zone for existing zoning districts. For example, some communities may amend one or more existing commercial zoning districts to allow emergency shelters without discretionary approval. The zone(s) must provide sufficient opportunities for new emergency shelters in the planning period to meet the need identified in the analysis and must in any case accommodate at least one year-round emergency shelter (see more detailed discussion below).



Cloverfield Services Center – Emergency Shelter by OPCC in Santa Monica, CA
Photo courtesy of OPCC in Santa Monica

When identifying a zone or analyzing an existing zone for emergency shelters, the element should address the compatibility and suitability of the zone. The element should consider what other uses are permitted in the zone and whether the zone is suitable for residential or emergency shelters. For example, an industrial zone with heavy manufacturing may have environmental conditions rendering it unsuitable for residential or shelter uses. In some localities, manufacturing or industrial zones may be in transition, where older industrial uses are redeveloping to residential, office or commercial. Transitioning zones may be compatible

with residential uses and suitable for emergency shelters. Also, a commercial zone allowing residential or residential compatible services (i.e., social services, offices) would be suitable for shelters. For example, Sacramento County permits emergency shelters in its commercial zone along with other residential uses and uses such as retail that are compatible with residential.

SB 2 clarifies existing law by requiring zoning identified for emergency shelters to include sufficient capacity to accommodate the need. The identified zone(s) must have sufficient capacity, when taken as a whole, to meet the need for shelters identified in the housing element, and have a realistic potential for development or reuse opportunities in the planning period. Further, capacity for emergency shelters must be suitable and available and account for physical features (flooding, seismic hazards, chemical contamination, other environmental constraints, and slope instability or erosion) and location (proximity to transit, job centers, and public and community services). The element should also address available acreage (vacant or underutilized) and the realistic capacity for emergency shelters in the zone. For example, if a jurisdiction identifies the public institution zoning district as the zone where emergency shelters will be allowed without a conditional use permit, the element should demonstrate sufficient acreage within the zoning district that could accommodate the actual development of an emergency shelter. The element could also discuss the potential for reuse or conversion of existing buildings to emergency shelters.

SB 2 ensures that each local government shares the responsibility to provide opportunities for the development of emergency shelters. Regardless of the extent of need identified in the element, local governments must provide zoning to allow at least one year round emergency shelter, unless the need for emergency shelters is accommodated through existing shelters or a multi-jurisdictional agreement (see discussion below). This is especially important given the fact that the homeless population is not always visible in the community; is sometimes transitory; data resources are frequently inadequate and the availability and adequacy of services and programs vary significantly by community and can impact the homeless count.

If a local government's existing zoning does not allow emergency shelters without a conditional use permit or other discretionary action, the housing element must include a program to identify a specific zone(s) and amend the zoning code *within one year of adoption of the housing element* (65583(a)(4)). The only exceptions permitted to the non-discretionary zoning requirement are where a jurisdiction demonstrates their homeless needs can be accommodated in existing shelters; or where the jurisdiction meets all of its need through a multi-jurisdictional agreement (discussed in later sections).

Where a local government has identified a zone and sufficient capacity to encourage emergency shelters consistent with the provisions of SB 2, a local government may also identify additional zones for the development of emergency shelters that require a conditional use permit.

Permitting Emergency Shelters without Discretionary Action

To comply with SB 2, localities must have or adopt a zoning classification that permits emergency shelters in a non-discretionary manner (localities may however apply development standards pursuant to Section 65583(a)(4)). In such zones, permitted uses, development standards and permit procedures must include:

- Objective development standards that encourage and facilitate the approval of emergency shelters.
- Decision-making criteria such as standards that do not require discretionary judgment.
- Standards that do not render emergency shelters infeasible, and only address the use as an emergency shelter, not the perceived characteristics of potential occupants.

Requiring a variance, minor use permit, special use permit or any other discretionary process does not constitute a non-discretionary process. However, local governments may apply non-discretionary design review standards.

Emergency Shelter – Jackson, California
Photo courtesy of Amador-Tuolumne Community Action

A local government should not require public notice of its consideration of emergency shelter proposals unless it provides public notice of other non-discretionary actions. For example, if a local government permits new construction of a single-family residence without discretionary action and public notice is not given for these applications, then a local government should employ the same procedures for emergency shelter applications. The appropriate point for public comment and discretionary action is when zoning is being amended or adopted for emergency shelters, not on a project-by-project basis.

Development Standards to Encourage and Facilitate Emergency Shelters

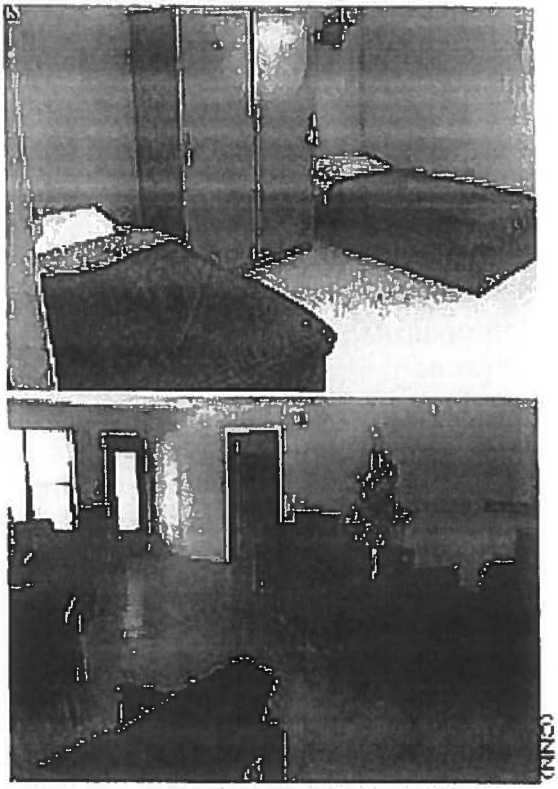
SB 2 requires that emergency shelters only be subject to those development and management standards that apply to residential or commercial use within the same zone, except the local government may apply certain objective standards discussed on the next page (Government Code Section 65583(a)(4)). For example, a light commercial zone might permit a range of wholesaler, service repair and business services subject to buildable area and lot area requirements. In this case, the emergency shelter may be subject only to the same buildable area and lot area requirements. The same zone might permit residential uses subject to certain development standard (i.e., lot area, heights, and setbacks) requirements. In this case, emergency shelters should only be subject to the same development standards.

To demonstrate that processing procedures and standards are objective and encourage and facilitate development of emergency shelters, the housing element must address how:

- zoning explicitly allows the use (meaning the use is specifically described in the zoning code);
- development standards and permit procedures do not render the use infeasible;
- zoning, development and management standards, permit procedures and other applicable land-use regulations promote the use through objective; and predictable standards.

SB 2 allows flexibility for local governments to apply written, objective development and management standards for emergency shelters as described in statue and below.

- The maximum number of beds or persons permitted to be served nightly by the facility.
- Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
- The size and location of exterior and interior on-site waiting and client intake areas.
- The provision of on-site management.
- The proximity to other emergency shelters provided that emergency shelters are not required to be more than 300 feet apart.
- The length of stay.
- Lighting.
- Security during hours that the emergency shelter is in operation.



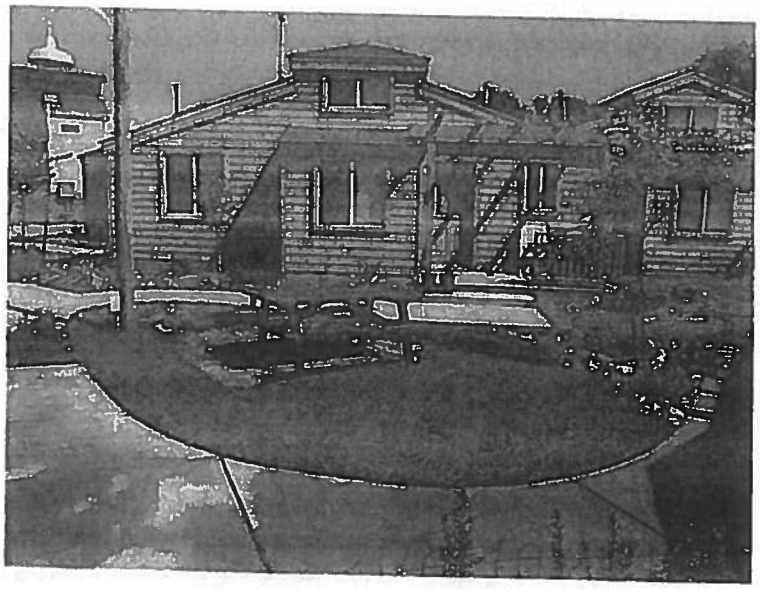
These standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. For example, a standard establishing the maximum number of beds should act to encourage the development of an emergency shelter; local governments should establish flexible ranges for hours of operation; length of stay provision should be consistent with financing programs or statutory definitions limiting occupancy to six months (Health and Safety Code Section 50801) and should not unduly impair shelter operations. Appropriate management standards are reasonable and limited to ensure the operation and maintenance of the property.

Encouraging Multi-Jurisdictional Cooperation and Coordination

SB 2 recognizes and encourages multi-jurisdictional coordination by allowing local governments to satisfy all or part of their obligation to zone for emergency shelters by adopting and implementing a multi-jurisdictional agreement, with a maximum of two adjacent communities. The agreement must commit the participating jurisdictions to develop at least one year-round shelter within two years of the beginning of the housing element planning period. For example, jurisdictions in Southern California Association of Governments (SCAG) region with a statutory due date of June 30, 2008 would need to ensure the development of shelter(s) by June 30, 2010. To utilize this provision, local governments must adopt an agreement that allocates a portion of the new shelter capacity to each jurisdiction as credit towards the jurisdiction's emergency shelter need. The housing element for each participating local government must describe how the capacity was allocated. In addition, the housing element of each participating jurisdiction must describe:

- How the joint facility will address the local governments need for emergency shelters.
- The local government's contribution for both the development and ongoing operation and management of the shelter.
- The amount and source of the funding to be contributed to the shelter.
- How the aggregate capacity claimed by all of the participating jurisdictions does not exceed the actual capacity of the shelter facility.

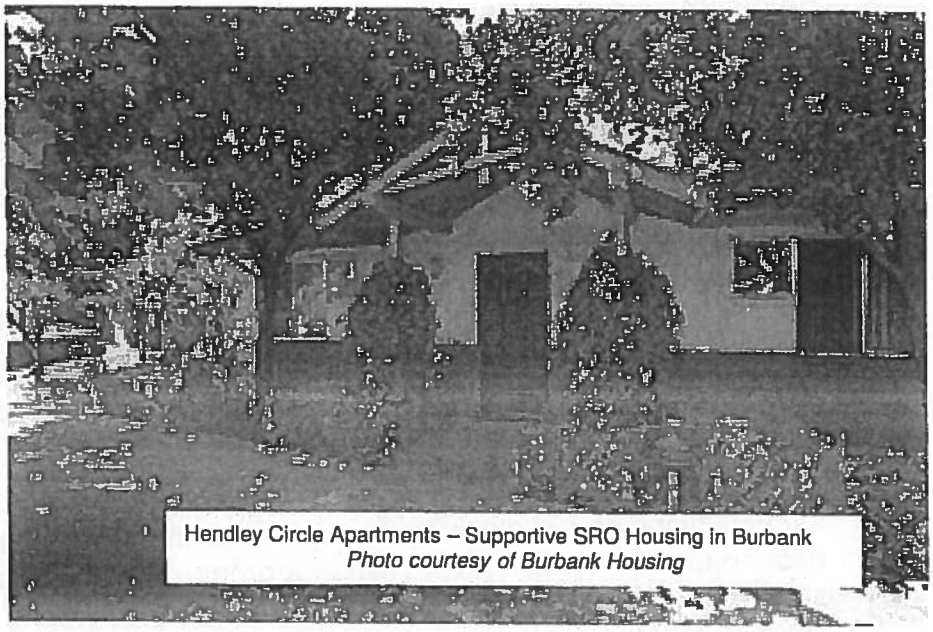
If the local government can demonstrate that the multi-jurisdictional agreement can accommodate the jurisdiction's need for emergency shelter, the jurisdiction is authorized to comply with the zoning requirements for emergency shelters by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit.



Quinn Cottages, Transitional Housing in Sacramento, CA
Photo courtesy of Cottage Housing, Inc.

Existing Ordinances and Existing Shelters that Accommodate Need

Existing Ordinances Permitting Emergency Shelters



Hendley Circle Apartments – Supportive SRO Housing in Burbank
Photo courtesy of Burbank Housing

Many local governments have a record of effective actions to address the homeless needs in their community. SB 2 recognizes and provides flexibility for jurisdictions that have already adopted an ordinance(s) that complies with the new zoning requirements. For those local governments with existing ordinances and zoning consistent with requirements of SB 2, no further action will be required to identify zones available for emergency shelters. The housing element must however, describe how the existing ordinance, policies and standards are consistent with the requirements of SB 2.

Existing Shelters That Accommodate the Need for Emergency Shelters

Local governments that can demonstrate, to the satisfaction of the Department, the existence of one or more emergency shelters either within the jurisdiction or pursuant to a multi-jurisdictional agreement that can accommodate the need for emergency shelters identified in the housing element may comply with the zoning requirements of SB 2 by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit. To demonstrate homeless needs can be accommodated in existing shelters, an element must at minimum list existing shelters including the total number of beds and the number vacant. The analysis should support and document the estimate of vacant beds and must consider seasonal fluctuations in the need for emergency shelters.

Transitional and Supportive Housing

Transitional housing is defined in Section 50675.2 of the Health & Safety Code as rental housing for stays of at least six months but where the units are re-circulated to another program recipient after a set period. Transitional housing may be designated for a homeless individual or family transitioning to permanent housing. This housing can take several forms,

such as single family or multifamily units, and may include supportive services to allow individuals to gain necessary life skills in support of independent living. *Supportive housing* as defined at Section 50675.14 of the Health & Safety Code has no limit on the length of stay, is linked to onsite or offsite services, and is occupied by a target population as defined in Health & Safety Code Section 53260. Services typically include assistance designed to meet the needs of the target population in retaining housing, living and working in the community, and/or improving health and may include case management, mental health treatment, and life skills.

The housing element must demonstrate that transitional housing and supportive housing are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone (Government Code Section 65583(a)(5)). In other words, transitional housing and supportive housing are permitted in all zones allowing residential uses and are not subject to any restrictions (e.g., occupancy limit) not imposed on similar dwellings (e.g., single family home, apartments) in the same zone in which the transitional housing and supportive housing is located. For example, transitional housing located in an apartment building in a multifamily zone is permitted in the same manner as an apartment building in the same zone and supportive housing located in a single family home in a single family zone is permitted in the same manner as a single family home in the same zone.

If jurisdictions do not explicitly permit transitional and supportive housing as previously described, the element must include a program to ensure zoning treats transitional and supportive housing as a residential use, subject only to those restrictions on residential uses contained in the same type of structure.

Housing Element Policies and Programs

Gish Apartments – Supportive Housing, San Jose, CA
Photo courtesy of First Community Housing and Bernard Andre

Effective programs reflect the results of the local housing need analyses, identification of available resources, including land and financing, and the mitigation of identified governmental and nongovernmental constraints. Programs consist of specific action steps the locality will take to implement its policies and achieve goals and objectives. Programs must include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, and describe the jurisdiction's specific role in implementation.

Where a jurisdiction does not provide an analysis demonstrating compliance with the provisions of SB 2 through existing zoning, the element must have a program(s) to address the results of that analysis. For example, if the element does not identify an existing zone to

permit emergency shelters without a conditional use permit or other discretionary action, the element must include a program to establish the appropriate zoning, unless the jurisdiction has satisfied its needs through existing emergency shelters or a multi-jurisdictional agreement. If development and management standards do not encourage and facilitate emergency shelters or zoning does not treat transitional and supportive housing as a residential use, the element must include a program(s) to amend existing zoning or processing requirements to comply with SB 2.

Programs to address the requirements of SB 2 for emergency shelters must be implemented within one year of adoption of the housing element. Programs to address requirements for transitional and supportive housing should be implemented early in the planning period. Further, since the program for emergency shelters must be implemented within one year of adoption, the housing element should provide analysis to support and assure effective implementation of the program. For example, the analysis should examine the suitability of zones to be included in the program and whether sufficient and suitable capacity is available. The same type of analysis could evaluate development and management standards that will be considered as part of establishing or amending zoning. This analysis should demonstrate the necessary commitment to ensure zoning, permit procedures and development standards encourage and facilitate emergency shelters.

******* UPDATED*******

Please be aware, if the adopted housing element from the previous cycle (4th cycle) included a program to address the requirements of SB 2 for emergency shelters, and the required timeframe has lapsed, the Department will not be able to find future housing elements in compliance until the required rezoning is complete and the element is amended to reflect that rezoning.

Timing: When SB 2 Applies

In accordance with Government Code Section 65583(e), any draft housing element submitted to the Department after March 31, 2008 will be required to comply with SB 2.

Section 2

Local Approval

(Government Code Section 65589.5)

The Housing Accountability Act

To promote predictability for the development of housing affordable to lower- and moderate-income households, the Housing Accountability Act (Government Code Section 65589.5) prohibits a jurisdiction from disapproving a housing development project, including housing for farmworkers and for very low-, low-, or moderate-income households, or conditioning approval in a manner that renders the project infeasible for development for the use of very low-, low-, or moderate-income households, including through the use of design review standards, unless it makes at least one of five specific written findings based on substantial evidence in the record (Government Code Section 65589.5).

SB 2 adds emergency shelters to the list of uses protected under the Housing Accountability Act. In addition, SB 2 clarifies that the definition of a housing development project includes transitional or supportive housing (see Attachment 1: SB 2 - changes are underlined).

Zoning Inconsistency

Pursuant to the Housing Accountability Act, a local government is prohibited from making the finding regarding zoning and general plan inconsistency (Section 65589.5(d)(5)) to disapprove a development if the jurisdiction identified the site in its general plan (e.g., housing or land-use element) as appropriate for residential use at the density proposed or failed to identify adequate sites to accommodate its share of the regional housing need for all income groups. In addition to extending these provisions to emergency shelters and transitional housing, SB 2 prohibits the use of the zoning and general plan inconsistency finding to disapprove an emergency shelter if the jurisdictions have:

- not identified a zone(s) where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit,
- not demonstrated the identified zone(s) include sufficient capacity to accommodate the need for emergency shelter, or
- not demonstrated the identified zone(s) can accommodate at least one emergency shelter.

This provision applies to any site identified in any element of the general plan for industrial, commercial, or multifamily residential uses. In any court action, the burden of proof is on the local jurisdiction to demonstrate its housing element satisfies the above requirements of SB 2.

Attachment 2

Definitions

Emergency Shelters (Health and Safety Code Section 50801(e)

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

Transitional Housing (Health and Safety Code Section 50675.2)(h)

"Transitional housing" and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

Supportive Housing (Health and Safety Code 50675.14(b))

Housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260, and that is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Target Population Definition per HSC 53260(d)

(d) "Target population" means adults with low-income having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with *Section 4500) of the Welfare and Institutions Code*) and may, among other populations, include families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, or homeless people.

Compliance with SB2 – Emergency Shelter Zoning

Jurisdiction	Existing Zone	New Zone	Amend Zone	Overlay Zone	Multi-Jurisdictional
City of Buellton			Amend CR Zone		
City of Carpinteria			Amend M-RP Zone		
City of Goleta	Allowed in C-3, M-1 & M-RP Zones				
City of Guadalupe			Amend R-3 Zone		
City of Lompoc				Apply Overlay Zone to C-2, C-O or C-C Zones	
City of Santa Maria			Amend CPO Zone		
City of Solvang			Amend DR-20 Zone		
County of Santa Barbara	Allowed in C-3 Zone				

The 1990 Census identified approximately 2,038 individuals living in the City who were employed in the agriculture, forestry, fishing and mining industries. The 2000 Census reported only 282 employed in these industries, a drop of over 1,700 jobs. Recent information reported by the 2006-2008 American Community Survey estimates that individuals employed in these industries declined further to 168. Because Santa Barbara has a working harbor, those employed in the fishing industry are estimated to comprise a major portion of those employed in this category.

For Santa Barbara County as a whole, the number of people reporting jobs in the fishing, forestry, farming occupations dropped from 11,394 in 1990 to 8,818 in 2000, a loss of 2,576 jobs, of these 1,756 were people who lived in the City of Santa Barbara. The 2006-2008 American Community Survey reports 9,652 jobs in the farming, fishing and forestry industries in the County, an increase of 834 jobs since 2000.

Homeless

In recent years, homelessness has become increasingly prevalent in all parts of the nation, including Santa Barbara. In 1990 the U.S. Census attempted to quantify the homeless population. Although the results of the Census survey cannot be described as definitive, the fact that the Census Bureau tried to count the homeless indicates that homelessness has become a problem nationwide.

Census Bureau Homeless Counts (1990, 2000)

In Santa Barbara, the 1990 Census counted 312 homeless people in emergency shelters for the homeless and 46 homeless people visible in street locations. Providers of shelter and assistance for the homeless population have stated that the Census figures were understated and that numbers alone do not reflect the extent of the problem.

In 2000 the Census Bureau again counted the homeless, but due to political reasons the Census Bureau refused to release the numbers. Instead the Census Bureau released a special report that surveyed emergency and transition shelter populations. In this report, populations in metropolitan areas in the Country with 100 or more people in emergency and transitional shelters were counted by the Census Bureau, including Santa Barbara County.

The total population enumerated in emergency and transitional shelters in Santa Barbara County was estimated at 608 people. However, the special report cautions that the information provided should not be used as a count of the population experiencing homeless due to limitations with the data. For instance, shelters may not have been operating at capacity on the day of the count, shelter beds vary from season to season and weather conditions, the count included only emergency and transitions shelters that were open on March 27, 2000 and therefore does not reflect shelter usage over time, some shelters open on March 27 were not counted, etc.

Local Agency Survey (2003)

Updated estimates based on a 2003 survey conducted with local homeless social service agencies indicate that the number of homeless living in Santa Barbara at any one time is approximately 1,000 to 1,300. The total number of homeless including those staying a few days and passing through the City is approximately 2,000. The survey estimated that Santa Barbara's homeless population is 28 percent female and 72 percent male; 60 percent are 18-45 years of age; 66 percent Non-Hispanic White; 21 percent Hispanic and 13 percent other.

National statistics indicate that 30 percent of the homeless are families; 30-50 percent are substance abusers; 30 percent are mentally ill; and 20 percent are the working poor. Other homeless are seniors, veterans and youth. These groups are often overlooked because little information is available. As the numbers reflect, the

homeless population consists of people of all ages and races. With the high cost of housing in Santa Barbara and the recent economic downturn, homeless service providers confirmed many families are becoming homeless.

National Coalition for the Homeless

The National Coalition for the Homeless projects that approximately 3.5 million people experience homelessness during any one year. In California, over 400,000 people are homeless at any one time in the course of the year. Based on the national estimate for homeless (an average of 1.5 percent of the 2009 population estimate of 90,308), the City of Santa Barbara would have approximately 1,355 homeless people.

Point-In-Time Count (2009)

The most recent point-in-time count was undertaken on January 27, 2009. The count included individuals sleeping outside and in emergency shelters/transitional housing units. Approximately 992 homeless persons were counted in the South Coast area of Santa Barbara County (primarily in the City of Santa Barbara and some in Isla Vista). However, it must be recognized that this one day count only includes homeless individuals in shelters on that given day. Therefore, it is assumed that the number of homeless persons is significantly higher than the point-in-time count.

Homeless Need

Given the difficulty in estimating the number of homeless individuals living in Santa Barbara, the estimate (1,355) provided by the National Coalition for the Homeless will be used to plan for the City's homeless need. Currently, the City provides 934 total beds/rooms/units during December-March and 834 total beds/rooms/units during April-November (Table H-31). Based on this, the unmet homeless need would range between 421 in the winter months and 521 the remaining months of the year.

Table H-31: Homeless Facilities/Housing
City of Santa Barbara (2009)

Facility Type	Current Capacity December-March	Current Capacity April-November
Emergency Shelter	385 Beds	185 Beds
Transitional Housing		
Transitional Units/Rooms	98 Units/Rooms	98 Units/Rooms
Transitional Beds	167 Beds	267 Beds
Emergency RV Parking	42 Spaces	42 Spaces
Permanent Units/Rooms/Beds	242 Units/Rooms/Spaces	242 Units/Rooms/Spaces
Total Capacity	**934 Beds/Rooms/Units**	**834 Beds/Rooms/Units**
Total Need*	1,355 Beds/Rooms/Units	1,355 Beds/Rooms/Units
Total Unmet Need	**421 Beds/Rooms/Units**	**521 Beds/Rooms/Units**

Source: City of Santa Barbara 2009
**Based on National Coalition for the Homeless average of 1.5% of population*

In 1998, in response to the growing problem of homeless people on State Street, meetings with the homeless and homeless service providers have been held to determine the most pressing needs facing the homeless. The need for a homeless day center with a full array of services was identified as a high priority. Through a broad based community effort a facility was purchased and remodeled into a comprehensive homeless day center.

Other needs identified included: a continuing need for emergency, transitional and permanent housing for the homeless; funds to help people get into housing; more Section 8 certificates; job training and child care facilities for homeless, additional Single Room Occupancy hotels. Also identified due to the high cost of housing, are places where the working poor who are homeless can go to live and save money in order to be able to pay the rent and security deposit fees.

Unfortunately, only a limited amount of these identified needs may be addressed through a Housing Element. Needs that may be addressed are those of providing opportunities for, and encouraging, emergency shelters and transitional housing; reviewing the rules and regulation affecting affordable housing to make it easier and cost effective for developers to provide affordable housing; providing flexibility in development standards to encourage the broad range of housing opportunities needed; and providing education and public outreach to address concerns of neighbors in areas where these facilities may be located.

Although the County is the public entity responsible for attending to the homeless, the City is deeply involved in helping the homeless. The City implements an effective multi-pronged effort to provide adequate housing and social services to this population. The City has crafted a continuum of care that provides prevention programs, emergency shelter, transitional programs and permanent supportive housing.

On January 13, 2006, Santa Barbara City Council agreed to participate in the development of the Ten-Year Plan to End Chronic Homelessness throughout Santa Barbara County. The primary goal of the Ten-Year Plan is to focus on getting chronically homeless persons into "permanent supportive housing", which consists of comprehensive, integrated, individualized case management to help them achieve residential stability, increase their skill levels and/or incomes, and obtain greater self-determination (i.e., more influence over decisions that affect their lives). The plan was approved by jurisdictions countywide in October 2006.

The City's major contribution to the Ten-Year Plan is the development of permanent supportive housing units. Since the approval of the Plan, five projects have been completed consisting of 177 units, including the three supportive housing projects listed in Table H-32. These projects provide an additional 116 units. Of these, 44–62 units serve the chronic homeless. With these projects, the City now has available a maximum 1050 beds/rooms/units during December-March and 950 beds/rooms/units during April-November. Despite these additional units, the City still does not meet the needs of the homeless population (1,355) estimated by the National Coalition for the Homeless average of 1.5 percent of the population. The City's unmet need ranges between 305 - 405 beds/rooms/units.

Table H-32: Supportive Housing Projects
City of Santa Barbara (2010)

Project Applicant	Facility Type	Number of Units
Transition House/Housing Authority (Mom's Property)	Permanent Supportive Housing	8 new units for the chronic homeless
Artisan Court/Housing Authority (Haagan Property)	Permanent Supportive Housing	55 new units 1/3-1/2 for the chronic homeless or youth aging out of foster care
Housing Authority (Bradley Property)	Permanent Supportive Housing	53 new units 1/3-1/2 for the chronic homeless
Total Proposed Units		**116 units** **(44-62 for the chronic homeless)**

Source: City of Santa Barbara 2010

Effective 2008, State Senate Bill 2 (SB2) considerably strengthened the requirements on zoning for emergency shelters. This new legislation requires that jurisdictions address the housing needs of the homeless, including the identification of a zone or zones where emergency shelters are allowed as a permitted use without discretionary review.

Regardless of the homeless housing need, SB2 requires that jurisdictions have a zone in place to permit at least one year-round emergency shelter without a Conditional Use Permit (CUP) or any discretionary permit requirements. This can be accomplished by amending an existing zone district, establishing a new zone district, or creating an overlay zone for an existing zone district(s) to allow emergency shelters as a permitted use. In addition, the identified zone(s) must have sufficient land capacity to encourage emergency shelters consistent with SB2.

Facilities that provide overnight shelter to the homeless are considered short-term, transitional housing, similar to hotel use. Existing zones that allow overnight shelter include R-4 (Hotel-Motel-Multiple Residence), C-P (Restricted Commercial), C-L/C-1 (Limited Commercial), C-2 (General Commercial), C-M (Commercial Manufacturing), M-1 (Light Manufacturing) and HRC-1/HRC-2 (Hotel and Related Commerce) zone districts.

The two major emergency shelter facilities, Casa Esperanza Homeless Shelter zoned M-1/C-2/S-D-3 and Santa Barbara Rescue Mission zoned OM-1/S-D-3, are currently permitted with a CUP and are both located in the Coastal Zone. Amending their respective zones to allow these facilities by right would comply with SB2. However, the M-1 and OM-1 zones discourage residential uses and therefore could be considered incompatible with the use. Additionally, the Coastal Commission has opposed residential uses in certain areas of the Coastal Zone due to concerns that residential uses may become the dominant use in these areas.

To satisfy the requirements of SB2, the C-M zoning district will be amended to allow emergency shelters as a permitted use. Implementation Action H4.1 directs that the C-M zone district be amended within one-year of adoption of the Housing Element to allow emergency shelters as a permitted use. The C-M zone allows the development of residential uses, including mixed-use development and other related uses that encourage emergency shelters.

Identified opportunity sites in the C-M zone district demonstrate sufficient capacity to support the development of an emergency shelter. The City's Available Land Inventory Summary (Appendix G) lists approximately 123 vacant or underutilized C-M zoned properties ranging in size from .08 acres to 1.56 acres. In total, the C-M zoned properties make up 30 acres of available land. These parcels either separately (larger parcels) or in combination (smaller parcels) could accommodate the development of an emergency shelter facility. The consolidation of smaller and underutilized parcels is supported by Implementation Action H11.19, which is intended to encourage the development of affordable residential units, including special needs housing.

Transitional and Supportive Housing

Transitional housing is intended to facilitate the transition of homeless individuals and families to permanent housing. This type of housing limits the length of stay and re-circulates the assisted unit to another eligible individual or family. Supportive housing is defined as permanent rental housing linked to a range of support services designed to enable residents to maintain stable housing.

As reflected in Tables H-31 and H-32, the City continues its commitment to the production of transitional and supportive housing opportunities, with approximately 365 transitional units/rooms/beds, and 358 supportive units/rooms/beds currently available for eligible individuals and families.

As mandated by State law these housing units have been subjected to the same permitting processes as other residential development in the zone without undue special regulatory requirements. All the identified transitional and supportive units/room/beds are located on sites within City boundaries and are accessible to public services and facilities, including transit.

Housing Challenges

Overcrowding

A housing unit that is occupied by more than one person per room (excluding kitchens, bathrooms, hallways and porches) is defined by the Census as being overcrowded. A housing unit with more than 1.5 persons per room is considered severely overcrowded. Overcrowding can serve as an indicator that a community does not have an adequate supply of affordable housing and/or lacks housing units of adequate size to meet the need of large households. Overcrowding can also result when high housing costs relative to income force too many individuals or families to share housing. Overcrowding can accelerate deterioration of the housing stock and associated infrastructure.

Figure 6 shows how overcrowding has increased over time for both renter and owner occupied housing units in the City. In 2000, 4,346 housing units or 12.2 percent of all households in the City were considered overcrowded. This is an increase from 1990 when 3,646 households were reported overcrowded.

The most significant increase in overcrowding occurred in renter households, which were up from 3,041 in 1990 to 3,697 in 2000, an increase of 656 units. Overcrowding in owner occupied units increased by 44 units from 605 in 1990 to 649 in 2000.

Excerpted from 2011 Housing Element Goals, Policies and Implementation Chapter (pages 94 and 95)

H4. **Homeless Shelters and Services.** Support other agencies and nonprofit organizations in their efforts to provide shelter and services for the homeless.

Possible Implementation Actions to be Considered

H4.1 Year-Round Homeless Shelter. Within one year of adoption of the 2011 Housing Element, the Municipal Code shall be amended to allow as a permitted use in the C-M zone, a year-round emergency shelter without any discretionary permit requirements. Development standards and permit procedures that apply to the use shall be established to include, but not be limited to, maximum number of beds, off-street parking requirements, hours of operation, length of stay, security, etc.

H4.2 Casa Esperanza. Continue to fund and support Casa Esperanza Homeless Shelter or other suitable shelter facilities, and encourage a broad range of such services throughout the region including services with year round programming.

H4.3 Operational and Service Needs. Support the operational and service needs (such as child care and job training) of homeless shelter and service providers. Provide financing when possible.