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Introduction

This is the second draft of the 2003 *General Plan Guidelines*. This document includes guidelines for addressing environmental justice in the general plan, as required by AB 1553 (Keeley, Chapter 762, Statutes of 2001). It also includes expanded guidance on public participation in the general plan process, general plan format and element consolidation, annual implementation progress reports, and two new optional elements—water and energy.

The first draft of the revised *Guidelines* was available for public review from October through December, 2002. The second draft reflects many of the suggestions received during the review period. After another public review period of thirty days, OPR will consider any additional comments and publish the final *2003 General Plan Guidelines*.

For more information on the *Guidelines* update, please visit OPR's website at www.opr.ca.gov or e-mail OPR at gpgupdate@opr.ca.gov.

Chapter 1 provides an overview of the general plan. Chapter 2 provides guidance on integrating environmental justice into the general plan and also discusses the broader planning context of sustainable development. Chapter 3 outlines how to prepare or revise the general plan within the framework of planning law. Chapter 4 elaborates on the statutorily required general plan elements, citing relevant court interpretations and Attorney General opinions. Chapter 5 discusses formatting options for the general plan and opportunities for element integration and consolidation. Chapter 6 offers suggestions on preparing selected optional elements and includes new guidance for energy and water elements. Chapter 7 reviews the California Environmental Quality Act's integral role in the general plan process. Chapter 8 discusses the role of community participation in the general plan process. Chapter 9 discusses a wide range of general plan implementation techniques and offers suggestions on how to prepare the required annual general plan implementation report. Chapter 10 explains the local general plan's relationship to various special statutory planning requirements, such as the California Coastal Act, the federal and state Endangered Species Acts, and others.

The *Guidelines* is advisory, not mandatory. Nevertheless, it is the state's only official document explaining California's legal requirements for general plans. Planners, decision-making bodies, and the public depend upon the *Guidelines* for help when preparing local general plans. The courts have periodically referred to the *Guidelines* for assistance in determining compliance with planning law. For this reason, the *Guidelines* adheres to the letter of statute and case law. It also relies upon commonly accepted principles of contemporary planning practice. When the words "shall" or "must" are used in the *Guidelines*, they represent a statutory or other legal requirement. "May" and "should" are used when there is no such requirement.

Milestones in California's Planning Law

1907 First Subdivision Map Act enacted.

1915 Cities authorized to create planning commissions.

1917 Initial zoning law enacted.

1927 Cities and counties authorized to prepare master plans (general plans).

1929 Adoption of master plans made mandatory for those cities and counties establishing planning commissions (based largely on the 1928 U.S. Department of Commerce Model Standard City Planning Enabling Act). Subdivision Map Act revised enabling local governments to require dedication of improvements.

1937 All cities and counties required to adopt master plans. Cities and counties authorized to prepare "precise plans" (similar to specific plans of today) to implement the master plan.

1953 Planning law recodified into Government Code §65000, et seq.

1955 Land use and circulation elements required in the general plan.

1965 Planning and Zoning Law reorganized. Cities and counties authorized to prepare "specific plans."

1967 Housing element required in the general plan (effective July 1, 1969).

1970 Conservation and open-space elements required in the general plan.

1971 Safety, seismic safety, noise, and scenic highway elements required in the general plan. Zoning and subdivision approvals required to be consistent with the adopted general plan.

1973 OPR issues first *General Plan Guidelines*.

1974 Subdivision Map Act recodified from the Business and Professions Code into the State Planning and Zoning Law within the Government Code.

1975 Legislature clarifies statue on general plans' intern consistency.

1980 Detailed content standards and adoption procedures added to the housing element requirement (effective October 11, 1981). Appeals court says public works must be consistent with general plans (*Friends of B Street*).

1982 Appeals court says land use and circulation elements must correlate (*Twaine Harte*).

1984 Planning statutes substantially revised, seismic safety and scenic highways elements dropped as required elements, seismic safety merged with safety element.

1990 California Supreme Court says zoning in conflict with the general plan invalid (*Lesher v. Walnut Creek*).

2001 Legislature requires *General Plan Guidelines* to include environmental justice.

This summary does not include other major planning and land use statutes that have been important in shaping local planning, such as the California Environmental Quality Act, the Williamson Act, the California Coastal Act, and the Cortese-Knox-Hertzberg Local Government Reorganization Act.

CHAPTER 1

General Plan Basics

All statutory references are to the California Government Code unless otherwise noted.

California state law requires each city and county to adopt a general plan "for the physical development of the county or city, and any land outside its boundaries which bears relation to its planning" (§65300). The California Supreme Court has called the general plan the "constitution for future development." The general plan expresses the community's development goals and embodies public policy relative to the distribution of future land uses, both public and private.

As will be discussed in Chapter 9, the policies of the general plan are intended to underlie most land use decisions. Pursuant to state law, subdivisions, capital improvements, development agreements, and many other land use actions must be consistent with the adopted general plan. In counties and general law cities, zoning and specific plans are also required to conform to the general plan.

In addition, preparing, adopting, implementing, and maintaining the general plan serves to:

- Identify the community's land use, circulation, environmental, economic, and social goals and policies as they relate to land use and development.
- Provide a basis for local government decision-making, including decisions on development approvals and exactions.
- Provide citizens with opportunities to participate in the planning and decision-making processes of their communities.
- Inform citizens, developers, decision-makers, and other cities and counties of the ground rules that guide development within a particular community.

COMPREHENSIVENESS

Every city and county must adopt "a comprehensive, long term general plan" (§65300). The general plan must cover a local jurisdiction's entire planning area and address the broad range of issues associated with a city's or county's development.

Geographic Comprehensiveness

The plan must cover the territory within the boundaries of the adopting city or county as well as "any land outside its boundaries which in the planning agency's judgment bears relation to its planning" (§65300). For cities, this means all territory within the city limits, both public and private. Counties must address all unincorporated areas.

When establishing its planning area, each city should consider using its sphere of influence as a starting point. The Local Agency Formation Commission (LAFCO) in every county adopts a sphere of influence for each city to represent "the probable physical boundaries and service area" of that city (§56076). Although there is no direct requirement that the sphere and the planning area match, the former provides a convenient measure of the city's region of interest.

A county should consider the general plans of every city within the county in its own plans. City planning policies may be reflected in the county plan in various ways. The county plan may discuss city policies in the broad context of countywide policy. It may summarize city policies while laying out the county policies for the surrounding unincorporated area. It may examine city policies in the context of community plans that it has adopted for the surrounding unincorporated areas.

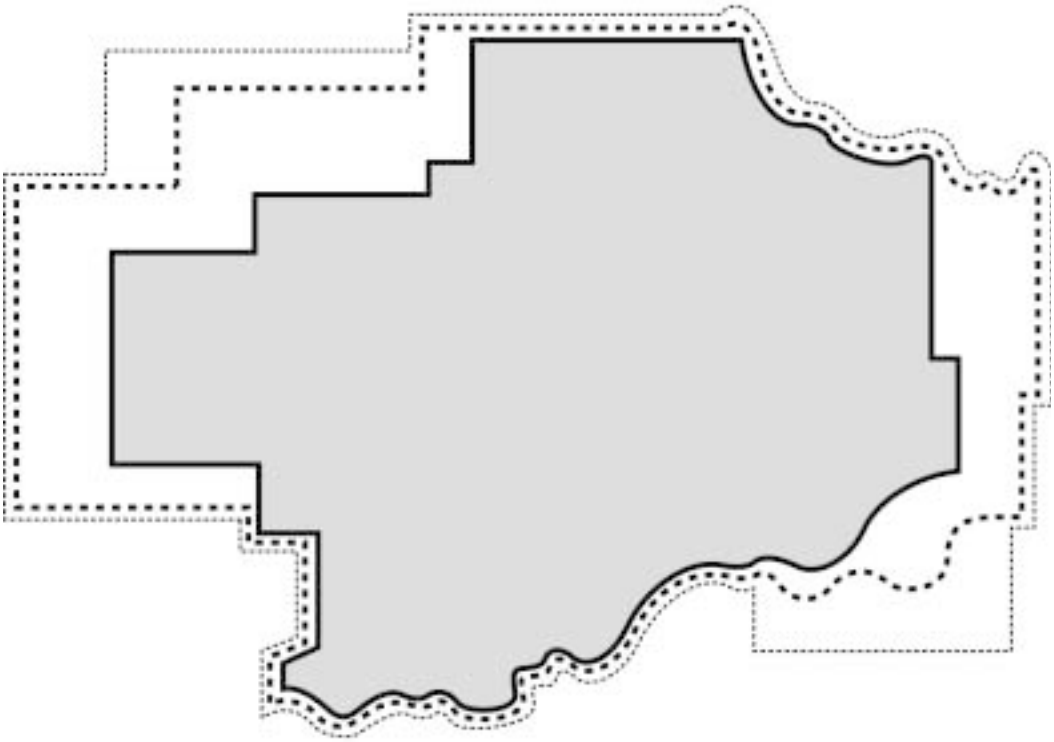
In addition, since issues are not confined to political boundaries, the law provides for planning outside of the jurisdiction's territory. Cooperative extraterritorial planning can be used to guide the orderly and efficient extension of services and utilities; ensure the preservation of open space, agricultural, and resource conservation lands; and establish consistent standards for development in the plans of adjoining jurisdictions.

Cities and counties should work together to delineate planning areas and may establish formal agreements for processing development proposals. For example, Yolo County delegates a portion of its land use authority to the City of Davis within areas surrounding the city. As urbanization occurs and adjoining cities expand, the potential for conflict between cities competing for the same lands increases. Intercity cooperation in establishing planning areas can proactively help to avoid such disputes.

Regionalism

Viewing the local general plan in its regional context is important. Traditionally, the concept of "community" encompassed only a local entity—the city or

Theoretical Relationship Between a City's Planning Area and Sphere of Influence



Current City Limits:
Encompasses incorporated territory where land use is controlled by the city.

City's Sphere of Influence:
Adopted by the LAFCO, encompasses incorporated and unincorporated territory that is the city's ultimate service area.

City's Planning Area Boundary:
Encompasses incorporated and unincorporated territory bearing a relation to the city's planning. The planning area may extend beyond the sphere of influence.

county. With increasing urbanization, the growing interdependence of local governments, and important issues that transcend local boundaries, such as transportation, air quality, and floodplain management, the regional perspective should be considered. Cities and counties should identify risks from natural hazards that extend across jurisdictional boundaries, then use any available data from watershed-based floodplain management, mapped earthquake faults, or high fire-hazard areas as planning tools to address any significant issues. Each local planning agency carries a responsibility to coordinate its general plan with regional planning efforts as much as possible.

Regional planning efforts typically address single issues or have indirect links to the local planning process. Plans prepared by councils of government and other designated regional agencies provide the basis for allocating federal and state funds used for specific items, such as transportation facilities. Other regional plans, such as those for air or water quality, spell out

measures that local governments must institute in order to meet federal or state standards for the region. Still others, such as regional housing allocation plans, measure each local government's responsibility for satisfying a specific share of regional needs. Some regional agencies have put together useful information on seismic safety and other issues that can be helpful in the planning process.

The Legislature has mandated consideration of certain regional impacts in the general plan. For example, if a city or county adopts or amends a mandatory general plan element limiting the number of residential units that may be constructed on an annual basis, it must explain that action. The city or county must make specific findings concerning the efforts it has made to implement its housing element and the public health, safety, and welfare considerations that justify reducing housing opportunities in the region (§65302.8). Further, cities and counties must balance the housing needs of the region against the needs of their residents for public services and the available fiscal and environmental resources (§65863.6, §66412.3). In addition, the housing element of the general plan must include action programs to accommodate the locality's regional fair share of housing (§65583, §65584).

Local general plans should recognize the city's or county's regional role if regional needs are to be satisfied, federal and state standards met, and coordination achieved in the location of public facilities. Accordingly, general plans should include a discussion of the extent to which the general plan's policies, standards, and proposals correspond to regional plans and the plans of adjoining communities. A city or county may need to reexamine its own general plan when its neighbors make important changes to their plans.

Issue Comprehensiveness

A general plan must address a broad range of issues. Under the "shoe fits" doctrine discussed in Chapter 4, the plan should focus on those issues that are relevant to the planning area (§65301(c)). The plan must address the jurisdiction's physical development, such as general locations, appropriate mix, timing, and extent of land uses and supporting infrastructure. The broad scope of physical development issues may range from appropriate areas for building factories to open space for preserving endangered species (see Chapter 4 for examples). This may include not only those issues described in the planning statutes, but regional issues as well.

In the 1960s, planners began to assert that land use decisions have not only immediate and future physical and environmental impacts, but also social and economic impacts. Because a general plan represents the most comprehensive local expression of the general welfare as it relates to land use regulation, recognizing social and economic concerns in the general plan may be quite appropriate. Social and economic issues may be discussed within the context of the mandatory elements, such as housing and land use. Some jurisdictions have adopted an optional economic development element as part of their general plans (see Chapter 6). Environmental justice, which recognizes that land use decisions have consequences for social equity, may also be addressed within the context of the mandatory elements. This is discussed in Chapter 2.

INTERNAL CONSISTENCY

The concept of internal consistency holds that no policy conflicts can exist, either textual or diagrammatic, between the components of an otherwise complete and adequate general plan. Different policies must be balanced and reconciled within the plan. The internal consistency requirement has five dimensions, described below.

> *"In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency." (§65300.5)*

Equal Status Among Elements

All elements of the general plan have equal legal status. For example, the land use element policies are not superior to the policies of the open-space element.

A case in point: in S*ierra Club v. Board of Supervisors of Kern County (1981) 126 Cal.App.3d 698*, two of Kern County's general plan elements, land use and open space, designated conflicting land uses for the same property. A provision in the general plan text reconciled this and other map inconsistencies by stating that "if in any instance there is a conflict between the land use element and the open-space element, the land use element controls." The court of appeal struck down this clause because it violated the internal consistency requirement under §65300.5. No element is legally subordinate to another; the general plan must resolve potential conflicts among the elements through clear language and policy consistency.

Consistency Between Elements

All elements of a general plan, whether mandatory or optional, must be consistent with one another. The court decision in *Concerned Citizens of Calaveras County v. Board of Supervisors (1985) 166 Cal.App.3d 90* illustrates this point. In that case, the county land use element contained proposals expected to result in increased population. The circulation element, however, failed to provide feasible remedies for the predicted traffic congestion that would follow. The county simply stated that it would lobby for funds to solve the future traffic problems. The court held that this vague response was insufficient to reconcile the conflicts.

Also, housing element law requires local agencies to adopt housing element programs that achieve the goals and implement the policies of the housing element. Such programs must identify the means by which consistency will be achieved with other general plan elements (§65583(c)).

A city or county may incorporate by reference into its general plan all or a portion of another jurisdiction's plan. When doing so, the city or county should make sure that any materials incorporated by reference are consistent with the rest of its general plan.

Consistency Within Elements

Each element's data, analyses, goals, policies, and implementation programs must be consistent with and complement one another. Established goals, data, and analysis form the foundation for any ensuing policies. For example, if one portion of a circulation element indicates that county roads are sufficient to accommodate the projected level of traffic while another section of the same element describes a worsening traffic situation aggravated by continued subdivision activity, the element is not internally consistent (*Concerned Citizens of Calaveras County v. Board of Supervisors (1985) 166 Cal.App.3d 90*).

Area Plan Consistency

All principles, goals, objectives, policies, and plan proposals set forth in an area or community plan must be consistent with the overall general plan.

The general plan should explicitly discuss the role of area plans if they are to be used. Similarly, each area plan should discuss its specific relationship to the general plan. In 1986, the Court of Appeal ruled on an area plan that was alleged to be inconsistent with the larger general plan. The court upheld both the area plan and the general plan when it found that the general plan's "nonurban/rural" designation, by the plan's own description, was not intended to be interpreted literally or precisely, especially with regard to small areas. The court noted that the area plan's more specific "urban residential" designation was pertinent and that there was no inconsistency between the countywide general plan and the area plan (*Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles (1986) 177 Cal.App.3d 300*). However, the court also noted that in this particular case the geographic area of alleged inconsistency was quite small.

Text and Diagram Consistency

The general plan's text and its accompanying diagrams are integral parts of the plan. They must be in agreement. For example, if a general plan's land use element diagram designates low-density residential development in an area where the text describes the presence of prime agricultural land and further contains written policies to preserve agricultural land or open space, a conflict exists. The plan's text and diagrams must be reconciled, because "internal consistency requires that general plan diagrams of land use, circulation systems, open-space and natural resources areas reflect written policies and programs in the text for each element." (*Curtin's California Land-Use and Planning Law*, 1998 edition, p. 18)

Without consistency in all five of these areas, the general plan cannot effectively serve as a clear guide to future development. Decision-makers will face conflicting directives; citizens will be confused about the policies and standards the community has selected; findings of consistency of subordinate land use decisions such as rezonings and subdivisions will be difficult to make; and land owners, business, and industry will be unable to rely on the general plan's stated priorities and standards for their own individual decision-making. Beyond this, inconsistencies in the general plan can expose the jurisdiction to expensive and lengthy litigation.

LONG-TERM PERSPECTIVE

Since the general plan affects the welfare of current and future generations, state law requires that the plan take a long-term perspective (§65300). The general plan projects conditions and needs into the future as a basis for determining objectives. It also establishes long-term policy for day-to-day decision-making based upon those objectives.

The time frames for effective planning vary among issues. The housing element, for example, specifically involves time increments of five years. Geologic hazards, on the other hand, persist for hundreds or thousands of years. Sewer, water, and road systems are generally designed with a 30- to 50-year lifespan. Capi-

tal improvement planning is typically based upon a five- or seven-year term. Economic trends may change rapidly in response to outside forces.

Differences in time frame also affect the formulation of general plan goals, objectives, policies, and implementation measures. Goals and objectives are longer term, slowly evolving to suit changing community values or to reflect the success of action programs. Specific policies tend to be shorter term, shifting with the political climate or self-imposed time limits. Implementation programs tend to have the shortest span because they must quickly respond to the demands of new funding sources, the results of their own activities, and the jurisdiction's immediate needs and problems.

Most jurisdictions select 15 to 20 years as the long-term horizon for the general plan. The horizon does not mark an end point, but rather provides a general context in which to make shorter-term decisions. The local jurisdiction may choose a time horizon that serves its particular needs. Remember that planning is a continuous process; the general plan should be reviewed regularly, regardless of its horizon, and revised as new information becomes available and as community needs and values change. For instance, new population projections that indicate that housing will be needed at a greater clip than anticipated, an unexpected major development in a neighboring jurisdiction that greatly increases traffic congestion, or a ballot initiative that establishes an urban growth boundary may all trigger the need to revise the general plan. A general plan based upon outdated information and projections is not a sound basis for day-to-day decision-making and may be legally inadequate. As such, it will be susceptible to successful legal challenge.

"The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals." (§65302)

DEFINING THE PARTS 0F A GENERAL PLAN

A general plan is made up of text describing goals and objectives, principles, standards, and plan proposals, as well as a set of maps and diagrams. Together, these constituent parts paint a picture of the community's future development. The following discussions help to clarify the meanings of these and other important terms.

Development Policy

A development policy is a general plan statement that guides action. In a broad sense, development policies include goals and objectives, principles, policies, standards, and plan proposals.

Diagram

A diagram is a graphic expression of a general plan's development policies, particularly its plan proposals. Many types of development policies lend themselves well to graphic treatment, such as the distribution of land uses, urban design, infrastructure, and geologic and other natural hazards.

A diagram must be consistent with the general plan text (§65300.5) and should have the same long-term planning perspective as the rest of the general plan. The Attorney General has observed that "...when the Legislature has used the term 'map,' it has required preciseness, exact location, and detailed boundaries...." as in the case of the Subdivision Map Act. No such precision is required of a general plan diagram (*67 Cal.Ops.Atty.Gen. 75,77*).

As a general rule, a diagram or diagrams, along with the general plan's text, should be detailed enough so that the users of the plan, whether staff, elected and appointed officials, or the public, can reach the same general conclusion on the appropriate use of any parcel of land at a particular phase of a city's or county's physical development. Decision-makers should also be able to use a general plan, including its diagram or diagrams, in coordinating day-to-day land use and infrastructure decisions with the city's or county's future physical development scheme.

At the same time, given the long-term nature of a general plan, its diagram or diagrams and text should be general enough to allow a degree of flexibility in decision-making as times change. For example, a general plan may recognize the need for and desirability of a community park in a proposed residential area, but the precise location of the park may not be known when the plan is adopted. The plan would not need to pinpoint the location, but it should have a generalized diagram along with policies saying that the park site will be selected and appropriate zoning applied at the time the area is subdivided. In this sense, while zoning must be consistent with the general plan, the plan's diagram or diagrams and the zoning map are not required to be identical.

Goal

A goal is a general direction-setter. It is an ideal future end related to the public health, safety, or general welfare. A goal is a general expression of community values and, therefore, may be abstract in nature. Consequently, a goal is generally not quantifiable or time-dependent.

Although goals are not mentioned in the description of general plan contents in §65302, they are included here for several reasons. First, defining goals is often the initial step of a comprehensive planning process, with more specific objectives defined later, as discussed in Chapter 3. Second, goals are specifically mentioned in the statutes governing housing element contents (§65583). Third, while the terms "goal" and "objective" are used interchangeably in some general plans, many plans differentiate between broad, unquantifiable goals and specific objectives. Either approach is allowable, as flexibility is a characteristic of the general plan.

Examples of goals:

- Quiet residential streets
- A diversified economic base for the city
- An aesthetically pleasing community
- A safe community

Goals should be expressed as ends, not actions. For instance, the first example above expresses an end, namely, "quiet residential streets." It does not say, "Establish quiet residential streets" or "To establish quiet residential streets."

Objective

An objective is a specified end, condition, or state that is an intermediate step toward attaining a goal. It should be achievable and, when possible, measurable and time-specific. An objective may pertain to one particular aspect of a goal or it may be one of several successive steps toward goal achievement. Consequently, there may be more than one objective for each goal.

Examples of objectives:

- The addition of 100 affordable housing units over the next five years.
- A 25 percent increase in downtown office space by 2008.
- A 50 percent reduction in the rate of farmland conversion over the next ten years.
- A reduction in stormwater runoff from streets and parking lots.

Principle

A principle is an assumption, fundamental rule, or doctrine guiding general plan policies, proposals, standards, and implementation measures. Principles are based on community values, generally accepted planning doctrine, current technology, and the general plan's objectives. In practice, principles underlie the process of developing the plan but seldom need to be explicitly stated in the plan itself.

Examples of principles:

- Mixed use encourages urban vitality.
- The residential neighborhoods within a city should be within a convenient and safe walking distance of an elementary school.
- Parks provide recreational and aesthetic benefits.
- Risks from natural hazards should be identified and avoided to the extent practicable.

Policy

A policy is a specific statement that guides decision-making. It indicates a commitment of the local legislative body to a particular course of action. A policy is based on and helps implement a general plan's objectives.

A policy is carried out by implementation measures. For a policy to be useful as a guide to action it must be clear and unambiguous. Adopting broadly drawn and vague policies is poor practice. Clear policies are particularly important when it comes to judging whether or not zoning decisions, subdivisions, public works projects, etc., are consistent with the general plan.

When writing policies, be aware of the difference between "shall" and "should." "Shall" indicates an unequivocal directive. "Should" signifies a less rigid directive, to be honored in the absence of compelling or contravening considerations. Use of the word "should" to give the impression of more commitment than actually intended is a common but unacceptable practice. It is better to adopt no policy than to adopt a policy with no backbone.

Solid policy is based on solid information. The analysis of data collected during the planning process provides local officials with the knowledge about trends, existing conditions, and projections that they need to formulate policy. If projected community conditions are not in line with a general plan's objectives, local legislative bodies may adopt policies that will help bring about a more desirable future.

Examples of policies:

- The city shall not approve a parking ordinance variance unless the variance pertains to the rebuilding of an unintentionally destroyed non-conforming use.

- The city shall not approve plans for the downtown shopping center until an independently conducted market study indicates that the center would be economically feasible.
- The city shall give favorable consideration to conditional use permit proposals involving adaptive reuse of buildings that are designated as "architecturally significant" by the cultural resources element.

Standards

A standard is a rule or measure establishing a level of quality or quantity that must be complied with or satisfied. Standards define the abstract terms of objectives and policies with concrete specifications.

The Government Code makes various references to general plan standards. For example, §65302(a) states in part that the land use element must "...include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan." Other examples of statutory references to general plan standards include those found in §66477 (the Quimby Act) and §66479 (reservations of land within subdivisions). Of course, a local legislature may adopt any other general plan standards it deems desirable.

Examples of standards:

- A minimally acceptable peak hour level of service for an arterial street is level of service C.
- The minimum acreage required for a regional shopping center is from 40 to 50 acres.
- High-density residential means 15 to 30 dwelling units per acre and up to 42 dwelling units per acre with a density bonus.
- The first floor of all new construction shall be at least two feet above the base flood elevation.

Plan Proposal

A plan proposal describes the development intended to take place in an area. Plan proposals are often expressed on the general plan diagram.

Examples of plan proposals:

- First Street and Harbor Avenue are designated as arterials.
- The proposed downtown shopping center will be located within the area bound by D and G Avenues and Third and Fourth Streets.
- A new parking structure shall be located in the vicinities of each of the following downtown intersections: First Street and A Avenue, and Fifth Street and D Avenue.

Implementation Measure

An implementation measure is an action, procedure, program, or technique that carries out general plan policy. Each policy must have at least one corresponding implementation measure.

Examples of implementation measures:

- The city shall use tax-increment financing to pay the costs of replacing old sidewalks in the redevelopment area.
- The city shall adopt a specific plan for the industrial park.
- Areas designated by the land use element for agriculture shall be placed in the agricultural zone.

Linking Objectives to Implementation

The following examples show the relationships among objectives, policies, and implementation measures. The examples are arranged according to a hierarchy from the general to the specific—from goals to implementation measures. In an actual general plan, there might be more than one policy under each objective, more than one implementation measure under each policy, etc.

Goal:

- A thriving downtown that is the center of the city's retail and service commercial activities.

Objective:

- Development of a new regional shopping center in the downtown.

Policy:

- The city shall not approve discretionary projects or building permits that could impede development of the downtown regional shopping center.

Implementation measures:

- The city shall adopt an interim zoning ordinance restricting further development in the general vicinity of the proposed downtown shopping center until a study has been completed determining its exact configuration.

- During the interim zoning period, the city shall adopt a special regional shopping center zoning classification that permits the development of the proposed downtown mall.
- Upon completion of the study, the city council shall select a site for the downtown mall and shall apply the shopping center zone to the property.

Goal:

- Affordable, decent, and sanitary housing for all members of the community.

Objective:

- 500 additional dwelling units for low-income households by 2010.

Policy:

- When a developer of housing within the high-density residential designation agrees to construct at least 30 percent of the total units of a housing development for low-income households, the city shall grant a 40 percent density bonus for the housing project.

Implementation measure:

- The city shall amend its zoning ordinance to allow for a 40 percent density bonus in the high-density residential zone.

COMMUNITY PLANS, AREA PLANS, AND SPECIFIC PLANS

Area and community plans are part of the general plan. A specific plan, on the other hand, is a tool for implementing the general plan but is not part of the general plan. The following paragraphs look briefly at each of these types of plans.

"Area plan" and "community plan" are terms for plans that focus on a particular region or community within the overall general plan area. An area or community plan is adopted as an amendment to the general plan in the manner set out in §65350, et seq. It refines the policies of the general plan as they apply to a smaller geographic area and is implemented by ordinances and other discretionary actions, such as zoning. The area or community plan process also provides a forum for resolving local conflicts. These plans are commonly used in large cities and counties where there are a variety of distinct communities or regions.

As discussed earlier, an area or community plan must be internally consistent with the general plan of which it is a part. To facilitate such consistency, the general plan should provide a policy framework for the detailed treatment of specific issues in the various area or community plans. Ideally, to simplify implementation, the area or community plans and the general plan should share a uniform format for land use categories, terminology, and diagrams.

Each area or community plan need not address all of the issues required by §65302 when the overall general plan satisfies these requirements. For example, an area or community plan need not discuss fire safety if the jurisdiction-wide plan adequately addresses the subject and the area or community plan is consistent with those policies and standards. Keep in mind that while an area or community plan may provide greater detail to policies affecting development in a defined area, adopting one or a series of such plans does not substitute for regular updates to the general plan. Many of the mandatory general plan issues are most effectively addressed on a jurisdiction-wide basis that ties together the policies of the individual area or community plans.

A specific plan is a hybrid that can combine policy statements with development regulations (§65450, et seq.). It is often used to address the development requirements for a single project such as urban infill or a planned community. As a result, its emphasis is on concrete standards and development criteria. Its text and diagrams will address the planning of necessary infrastructure and facilities, as well as land uses and open space. In addition, it will specify those programs and regulations necessary to finance infrastructure and public works projects. Compounding its versatility, a specific plan may be adopted either by resolution, like a general plan, or by ordinance, like zoning.

Specific plans must be consistent with all facets of the general plan, including the policy statements. In turn, zoning, subdivisions, and public works projects must be consistent with the specific plan (§65455). See Chapter 10 for more about specific plans. The publication *A Planner's Guide to Specific Plans,* by the Governor's Office of Planning and Research (OPR), is another good source of information.

ELEMENTS, ISSUES, AND FLEXIBILITY

In statute, the general plan is presented as a collection of seven "elements," or subject categories (see §65302). These elements and the issues embodied by each are briefly summarized below. They are discussed in detail in Chapter 4.

The land use element designates the type, intensity, and general distribution of uses of land for housing,

business, industry, open space, education, public buildings and grounds, waste disposal facilities, and other categories of public and private uses.

The circulation element is correlated with the land use element and identifies the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities.

The housing element is a comprehensive assessment of current and projected housing needs for all economic segments of the community. In addition, it embodies policies for providing adequate housing and includes action programs for that purpose. By statute, the housing element must be updated every five years.

The conservation element addresses the conservation, development, and use of natural resources, including water, forests, soils, rivers, and mineral deposits.

The open-space element details plans and measures for the long-range preservation and conservation of open-space lands, including open space for the preservation of natural resources, the managed production of resources (including agricultural lands), outdoor recreation, and public health and safety.

The noise element identifies and appraises noise problems within the community and forms the basis for land use distribution.

The safety element establishes policies and programs to protect the community from risks associated with seismic, geologic, flood, and wildfire hazards.

The level of discussion given to each issue in the general plan depends upon local conditions and the relative local importance of that issue. When a city or county determines that an issue specified in the law is not locally relevant, the general plan may briefly discuss the reason for that decision but does not otherwise have to address that issue (§65301).

A local general plan may also include other topics of local interest. For instance, a city or county may choose to incorporate into its land use element a detailed program for financing infrastructure and timing capital improvements. The safety element of a city or county that suffers from wildfire hazards may contain strategic fire protection planning policies to mitigate such hazards.

In the statutory descriptions of the elements, a number of issues appear in more than one element. In order to minimize redundancies or internal conflicts in the general plan, combining elements or organizing the plan by issue often makes practical sense. This idea is explored further in Chapter 5.

There are a number of state and federal laws, such as the Surface Mining and Reclamation Act, the Seismic Hazards Mapping Act, the Endangered Species Act, and others, that can affect the content of the general plan. These are discussed in detail in Chapter 9.

In addition to the mandatory elements, a city or county may adopt any other elements that relate to its physical development (§65303). Once adopted, these optional elements become an integral part of the general plan with the same force and effect as the mandatory elements. Accordingly, zoning, subdivisions, public works, specific plans, and other actions that must be consistent with the general plan must be consistent with any optional elements.

Common themes for optional elements include air quality, capital improvements, community design, economic development, energy, parks and recreation, and water. Suggestions for preparing a number of optional elements are provided in Chapter 6.

An optional element may clarify how a local government exercises its police powers, and in some instances, can expand a local government's authority. For example, the California Energy Commission may delegate geothermal power plant licensing authority to counties with certified geothermal elements (see Chapter 6 for guidelines). In the more typical situation, an optional element will indicate how a local government will apply its existing police power or other authority. For example, a historic preservation element may lay the foundation for historic district regulations or participation in the California Main Street Program. A strategic fire prevention planning element could identify wildfire hazard areas, control new development within those areas, and provide the basis for zoning, subdivision, and brush clearance ordinances intended to minimize fire hazards.

ADOPTION OF ANOTHER JURISDICTION'S GENERAL PLAN AND JOINT ADOPTION

A city or county may adopt all or a portion of the general plan of another public agency (§65301(a)). Additionally, §65302(g) specifically provides that a city may adopt the county's safety element if the county's element "is sufficiently detailed containing appropriate policies and programs for adoption by a city." One of the benefits of this approach is that it eliminates duplication of effort in collecting data for the more technical elements.

A city and county may jointly prepare and separately adopt a general plan or individual elements. A city or county may adopt a functional plan such as a regional transportation plan prepared by a special district, regional planning agency, or some other public agency.

Although joint adoption of another jurisdiction's plan or elements may be advantageous, a city or county remains solely responsible for the legal adequacy of

its general plan. The other jurisdiction's plan and/or elements or the jointly prepared plan and/or elements must be sufficiently detailed to address the concerns of the adopting agency and to provide adequate coverage of the issues required in the Government Code. A plan or element that is jointly prepared or adopted from another jurisdiction's general plan has the same legal standing as the rest of the adopting agency's general plan and internal consistency requirements continue to apply. Similarly, discretionary zoning, subdivision, and capitol improvement project decisions must be consistent with the joint plan or element.

Despite options such as adopting another jurisdiction's general plan or joint adoption between multiple agencies, each adopting agency must retain its sole and independent authority to make amendments to its general plan unless a joint powers agreement has been approved. In *Alameda County Land Use Association v. City of Hayward (1995) 38 Cal.App.4th 1716*, the appellate court overturned a memorandum of understanding (MOU) adopted by Alameda County and the cities of Hayward and Pleasanton to specify general plan goals and policies regarding the "Ridgelands Area." The MOU provided that any amendment to the applicable sections by one jurisdiction would not be effective unless "parallel amendments" were approved by the other two. The court held this arrangement to be an impermissible divestment of the police power, restricting the individual agencies' legislative authority to amend their general plans.

CHAPTER 2

Sustainable Development and Environmental Justice

All statutory references are to the California Government Code unless otherwise noted.

This chapter addresses the incorporation of environmental justice into the general plan. While environmental justice is not a mandatory topic in the general plan, there is a strong case for its inclusion. Federal and state anti-discrimination statutes, which have a long history, apply to planning as they do to other policy areas. As discussed below, environmental justice issues are often related to failures in land use planning. Planning policies that promote livable communities and smart growth can be tools for achieving environmental justice. In keeping with that idea, this chapter begins with a discussion of sustainable development. Sustainable development provides a context for understanding how environmental justice fits into land use planning. This chapter concludes with a discussion of transit-oriented development, which has important implications for environmental justice and sustainable development.

SUSTAINABLE DEVELOPMENT

Sustainable development encompasses established principles of good planning and advocates a proactive approach to future development. The basic concept of sustainability is meeting the needs of current generations without compromising the needs of future generations. Sustainable development can be further defined as promoting the "three E's:" environment, economy, and equity. For example, a decision or action aimed at promoting economic development should not result in decreased environmental quality or social inequity. Ensuring that a given decision or action promotes all three E's is often referred to as the triple bottom line.

What does sustainable development look like on the ground? In a community that is developing sustainably, the neighborhood is the basic building block of urban design and is characterized by walkability, mixed-use development, and mixed-income housing. Walkability is a function of compactness and density. Attention to streetscape and public spaces is a key design element in creating desirable places to live. Such neighborhoods, also known as neo-traditional or new urbanist development, are more likely to support efficient transit systems. The character and function of each neighborhood is then placed properly within its regional setting. This approach to planning, from the neighborhood to the regional level, is often referred to as smart growth.

Sustainable development goals and policies include the following:

- Decrease urban sprawl.
  - Promote compact, walkable, mixed-use development.
  - Promote infill development.
  - Restore urban and town centers.
  - Limit non-contiguous (leafrog) development.
  - Promote transit-oriented development.
- Protect open space and working landscapes.
  - Conserve prime agricultural lands.
  - Conserve lands of scenic and recreational value.
  - Use open space to define and connect urban communities.
- Protect environmentally sensitive lands.
  - Conserve natural habitat lands.
  - Preserve habitat connectivity.
  - Minimize impact to watershed functions, including water quality and natural floodways.
- Create strong local and regional economies.
  - Encourage jobs/housing balance.
  - Provide adequate housing for all income levels.
  - Encourage the expansion of telecommunications infrastructure.
- Promote energy and resource efficiency.
  - Support energy- and resource-efficient industries.
  - Promote waste reduction programs, such as recycling.
  - Promote alternative forms of transportation.
  - Promote energy- and resource-efficient buildings.

- Promote equitable development.
  - Require fair treatment in the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
  - Promote mixed-income housing development.
  - Promote alternative transportation options to increase access.
  - Promote economic opportunity for all segments of the community.
  - Protect culturally significant sites.

The comprehensive, integrated, and long-term nature of the general plan makes it an ideal vehicle for implementing local sustainable development goals. When preparing or amending a general plan, sustainable development policies or programs may be addressed within the various elements of the plan. For example, policies on minimizing urban sprawl may be addressed in the land use element; policies for prime agricultural land preservation may be introduced in the open-space element; and the transportation element may be used to address public transportation concerns.

The principles of sustainable development may also guide the overall goals of the general plan. For example, Santa Clara County's general plan addresses four themes of sustainable development in its general plan vision: social and economic well-being, managed and balanced growth, livable communities, and responsible resource conservation. The general plan's goals for social and economic well-being include achieving "a healthy, diverse economy and adequate employment opportunities" by reaching "sustainable levels of growth and job formation consistent with planned improvements in housing, transportation, urban services, and maintenance of environmental quality." Goals for the other themes also reflect the necessary balance of social, environmental, and economic objectives that characterizes sustainable development.

General plans can work in concert with other plans and policy documents to promote sustainability. For instance, the City of Pasadena uses a quality-of-life index to identify, measure, and set quality-of-life indicators for a healthier, more sustainable city. "The Quality of Life in Pasadena" index combines information from the city's general plan and other documents and addresses such topics as the environment, health, education, transportation, the economy, and employment. The City of Oakland includes in each staff report to the City Council a discussion of how the proposed action would promote the three E's of sustainability. The concept and application of sustainable development is evolving through creative interpretation and use.

Jobs/Housing Balance

One issue that cuts across several elements of the general plan is jobs/housing balance. Relying on the automobile as our primary means of transportation has encouraged patterns of development and employment that are often inefficient. Suburbanites routinely commute 25 miles or more from their homes to their places of employment. Public transit is impractical for most people because jobs are dispersed throughout employment regions and housing density is too low. With residential and commercial land uses often separated by long distances, people must make multiple car trips to perform routine errands, such as grocery shopping, going to the bank, eating out, going to the dentist, etc.

Jobs/housing balance is based on the premise that commuting, the overall number of vehicle trips, and the resultant vehicle miles traveled can be reduced when sufficient jobs are available locally to balance the employment demands of the community and when commercial services are convenient to residential areas. Planning for a jobs/housing balance requires in-depth analyses of employment potential (existing and projected), housing demand (by income level and housing type), new housing production, and the relationship between employment opportunities and housing availability. Other factors, such as housing costs and transportation systems, must also be evaluated. Improving the jobs/housing balance requires carefully planning for the location, intensity, and nature of jobs and housing in order to encourage a reduction in vehicle trips and miles traveled and a corresponding increase in the use of mass transit and alternative transportation methods, such as bicycles, carpools, and walking. Strategies include locating higher-density housing near employment centers, promoting infill development, promoting transit-oriented development, actively recruiting businesses that will utilize the local workforce, developing a robust telecommunications infrastructure, developing workforce skills consistent with evolving local economies, and providing affordable housing opportunities within the community. Jobs-housing provisions most directly affect the land use, circulation, and housing elements.

The question of a jobs/housing balance on the scale of a community should not be confused with the design of mixed-use, walkable neighborhoods. It is important to note that planning for a jobs/housing balance alone could easily result in a city composed of single-use residential subdivisions on one side of town and single-use business parks and shopping centers on the other side of town. At the scale of the region, this might be preferable to a jobs/housing imbalance, but at the

scale of the community and of the neighborhood it does not improve livability or reduce dependence on the automobile. While it is not likely that most employees of a local business will also live in the neighborhood, it is important that the planning of the neighborhood not preclude that possibility for those who would chose it.

ENVIRONMENTAL JUSTICE

Environmental justice is defined in state planning law as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies (§65040.12(e)). The Governor's Office of Planning and Research (OPR) is required to provide guidance to cities and counties for integrating environmental justice into their general plans (§65040.12(c)). This section discusses the framework for environmental justice and the relationship of environmental justice to the general plan. The recommendations in this chapter are also reflected in the chapters on the required general plan elements (Chapter 4), optional elements (Chapter 5), and community participation (Chapter 8).

Federal Framework

The basis for environmental justice lies in the Equal Protection Clause of the U.S. Constitution. The Fourteenth Amendment expressly provides that the states may not "deny to any person within [their] jurisdiction the equal protection of the laws" (U.S. Constitution, amend. XIV, §1).

On February 11, 1994, President Clinton signed Executive Order (E.O.) 12898, titled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." The executive order followed a 1992 report by the U.S. Environmental Protection Agency (U.S. EPA) indicating that "[r]acial minority and low-income populations experience higher than average exposures to selected air pollutants, hazardous waste facilities, and other forms of environmental pollution." Among other things, E.O. 12898 directed federal agencies to incorporate environmental justice into their missions.

In a memorandum accompanying E.O. 12898, President Clinton underscored existing federal laws that can be used to further environment justice. These laws include Title VI of the Civil Rights Act of 1964 and the National Environmental Policy Act (NEPA), among others. Title VI prohibits any recipient (state or local entity or public or private agency) of federal financial assistance from discriminating on the basis of race, color, or national origin in its programs or activities (42 USC §2000d-§2000d-7). State and local agencies that receive federal funding must comply with Title VI. Pursuant to the Civil Rights Restoration Act of 1987, this requirement applies to all agency programs and activities, not just those that receive direct federal funding. In response, many state and local agencies that receive federal funding have initiated environmental justice programs of their own.

NEPA applies to projects carried out or funded by a federal agency (including the issuance of federal permits). NEPA is useful relative to environmental justice because it requires public participation and discussion of alternatives and mitigation measures that could reduce disproportionate effects on low-income and minority populations. On December 10, 1997, the Council on Environmental Quality (CEQ) released *NEPA Guidance for Federal Agencies on Key Terms in E.O. 12898.* This document is a useful reference for planners, although it is focused on environmental review of individual projects rather than long-term comprehensive land use planning.

State Framework

Anti-discrimination laws existed in California prior to the passage of the first state environmental justice legislation in 1999. The California Constitution prohibits discrimination in the operation of public employment, public education, or public contracting (Article I, §31). State law further prohibits discrimination under any program or activity that is funded or administered by the state (§11135). The Planning and Zoning Law prohibits any local entity from denying any individual or group of the enjoyment of residence, land ownership, tenancy, or any other land use in California due to the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the individual or group of individuals (§65008). The Fair Employment and Housing Act (FEHA) specifically prohibits housing discrimination on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, disability, or source of income (§12900, et seq.)

In 1999, Governor Davis signed SB 115 (Solis, Chapter 690, Statutes of 1999) into law, defining environmental justice in statute and establishing OPR as the coordinating agency for state environmental justice programs (§65040.12). SB 115 further required the California Environmental Protection Agency (Cal/EPA) to develop a model environmental justice mission statement for boards, departments, and offices within the agency by January 1, 2001 (Public Resources Code §72000-72001).

In 2000, Governor Davis signed SB 89 (Escutia, Chapter 728, Statutes of 2000), which complemented SB 115 by requiring the creation of an environmental justice working group and an advisory group to assist Cal/EPA in developing an intra-agency environmental justice strategy (Public Resources Code §72002-72003). SB 828 (Alarcón, Chapter 765, Statutes of 2001) added and modified due dates for the development of Cal/EPA's intra-agency environmental justice strategy and required each board, department, and office within Cal/EPA to review and address programs, policies, and activities that may impede environmental justice no later than January 1, 2004 (Public Resources Code §71114-71115).

AB 1553 (Keeley, Chapter 762, Statutes of 2001) required OPR to incorporate environmental justice considerations in the *General Plan Guidelines*. AB 1553 specified that the guidelines should propose methods for local governments to address the following:

- Planning for the equitable distribution of new public facilities and services that increase and enhance community quality of life.
- Providing for the location of industrial facilities and uses that pose a significant hazard to human health and safety in a manner that seeks to avoid overconcentrating these uses in proximity to schools or residential dwellings.
- Providing for the location of new schools and residential dwellings in a manner that avoids proximity to industrial facilities and uses that pose a significant hazard to human health and safety.
- Promoting more livable communities by expanding opportunities for transit-oriented development.

Forms of Inequity

Problems of environmental justice can be broken down into two categories: procedural inequity and geographic inequity. In other words, unfair treatment can manifest itself in terms of process or in terms of results.

Procedural inequity occurs when the planning process is not applied uniformly. Examples of procedural inequity include:

- "Stacking" commissions or committees with certain interests while ignoring the interests of other segments of the community, such as minority and low-income residents.
- Holding meetings at times or in locations that minimize the ability of certain groups or individuals to participate.
- Using English-only written or verbal communication when a non-English speaking population will be affected by a planning decision.
- Requiring lower levels of mitigation for projects affecting low-income or minority populations.
- Unevenly enforcing environmental rules.

Geographic inequity describes a situation in which the burdens of undesirable land uses are concentrated in certain neighborhoods while the benefits are received elsewhere. It also describes a situation in which public amenities are concentrated only in certain areas. Examples of geographic inequity include situations in which:

- Certain neighborhoods have a disproportionate share of industrial facilities that handle or produce hazardous waste, while the economic benefits are distributed to other neighborhoods (in the form of jobs and tax revenue).
- Certain neighborhoods have a disproportionate share of waste disposal facilities, while the benefits of such facilities are received by the community or region as a whole.
- Certain neighborhoods have ample community centers, parks, and open space and thus experience more of the environmental benefits associated with these amenities, while other neighborhoods have fewer such amenities.

Public Participation

Community involvement in the planning process is an important part of environmental justice. Cities and counties should develop public participation strategies that allow for early and meaningful community involvement in the general plan process by all affected population groups. Participation plans should incorporate strategies to overcome linguistic, institutional, cultural, economic, and historic barriers to effective participation. Chapter 8 is dedicated to the issue of public participation and suggests methods to improve outreach to and communication with all population groups, including low-income and minority populations.

Compatibility

At the general plan level, discussions about environmental justice involve a central land use concept: compatibility. The primary purpose of planning, and the source of government authority to engage in planning, is to protect the public health, safety, and welfare. Incompatible land uses may create health, safety, and welfare issues for the community. Geographic in-

equity occurs when incompatible land uses disproportionately affect a particular socioeconomic segment of the community. In this sense, environmental justice problems indicate a failure of land use planning to deliver on its original promise—reducing the harmful effects of incompatible land uses.

Traditionally, zoning has attempted to minimize health and safety risks by segregating land uses. However, taking this approach too far has negative consequences that run counter to the goals of sustainable development. Rigid separation of land uses has resulted in disconnected islands of activity and contributed to sprawl. As discussed above, development patterns characterized by single-use zoning result in the automobile being the only viable transportation option, which has high environmental, economic, and social costs.

The traditional pyramidal zoning model places single-family homes at the pinnacle, followed by denser multi-family housing, followed by office and commercial uses, and, finally, followed by industrial uses at the base. In this model, land uses at a lower level on the pyramid are not allowed within the higher designations (e.g., commercial uses are not allowed in multi-family zones, and apartments are not allowed in single-family zones). This is giving way to a much more sustainable model, where the middle of the pyramid consists of mixed-use development that integrates housing, commercial, and recreational/cultural activities. Despite the desirability of mixed-use zoning, it is important to recognize that there are certain industrial uses that will always be incompatible with residential and school uses.

Residential and school uses are harmed by incompatible land uses that have environmental effects, such as noise, air emissions (including dust), and exposure to hazardous materials. The compatibility problem also operates in reverse. Incompatible uses adjacent to residential units, schools, or environmentally sensitive areas may also suffer negative consequences in the form of higher mitigation costs or the curtailment of economic activities. Specific examples of land use incompatibility include:

- Residential and school uses in proximity to industrial facilities and other uses that, even with the best available technology, will contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety.
- Residential and school uses in proximity to agricultural uses.
- Residential and school uses adjacent to major thoroughfares, such as highways.
- Residential or commercial uses in proximity to resource utilization activities, such as mining or oil and gas wells.

Issues related to industrial overconcentration and the location of residential dwellings and schools are discussed below.

Information and Analysis

Good information is critical to making informed decisions about environmental justice issues. The analysis of environmental justice problems has benefited from the advancement of geographic information systems (GIS), as has the entire planning field. The role of data in the general plan process is discussed more fully in Chapter 3. The data suggestions for the mandatory general plan elements (Chapter 4) include much of the information necessary for developing environmental justice policies.

Relevant information for addressing environmental justice issues includes, but is not limited to:

- Base map of the city or county planning area.
- General plan designations of land use (existing and proposed).
- Current demographic data.
  - Population location and density.
  - Distribution of population by income.
  - Distribution of population by ethnicity.
  - Distribution of population by age.
- Location of public facilities that enhance community quality of life, including open space.
- Location of industrial facilities and other uses that contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety.
- Location of existing and proposed schools.
- Location and density of existing and proposed residential development.

Although the use of population data is a normal part of the planning process, cities and counties do not always gather socioeconomic data when preparing or substantially revising their general plans. Jurisdictions do have to collect some socioeconomic data during the preparation of the housing element, such as income level and persons with special housing needs (elderly, farmworkers, single head of household, etc.), but this required information is not enough to paint a complete socioeconomic picture of the community. From an

environmental justice perspective, socioeconomic data is useful for a number of things, including:

- Improving the public participation process.
- Identifying low-income and minority neighborhoods that are underserved by public facilities and services that enhance quality of life and planning for the equitable distribution of such facilities and services.
- Planning for infrastructure and housing needs.
- Identifying low-income and minority neighborhoods in which industrial facilities and uses that pose a significant hazard to human health and safety may be overconcentrated.

As discussed below, the definitions of both equitable distribution and overconcentration do not depend on socioeconomic factors. However, reversing historical problems of procedural and geographic inequity requires accurate socioeconomic information in order to develop policies and prioritize implementation measures.

Relationship to the General Plan

Cities and counties can incorporate environmental justice into their general plans in several ways. A city or county may choose to adopt an optional environmental justice element. However, OPR recommends incorporating policies supportive of environmental justice in all of the mandatory elements of the general plan. These policies should also be reflected in any optional elements. In keeping with the internal consistency requirement, environmental justice policies in one element cannot conflict with the policies of another element. For example, if the land use element contains a policy prohibiting residential uses adjacent to certain industrial uses, properties affected by that policy could not be used as part of the housing element site inventory.

Public Facilities and Services

Cities and counties should plan for the equitable distribution throughout the community of new public facilities and services that increase and enhance community quality of life, given the fiscal and legal constraints that restrict the siting of such facilities.

Public facilities and services that enhance quality of life include, but are not limited to, parks, open space, trails, greenbelts, recreational facilities (including senior and youth centers), community centers, child care centers, libraries, museums, cultural centers, science centers, and zoos. The equitable distribution of facilities and services has two components. The first component is the number and size of facilities. Simply put, a community should have adequate facilities and services to serve all residents equally. The second component is access, which can be measured as the distance or travel time from each residential area to the facility or service. Access may also be measured by the ability to use a variety of transportation modes, including public transit, walking, and bicycling, to travel between each residential area and the facility or service. A geographic analysis of residential areas and the location of public amenities may reveal underserved neighborhoods. Policies addressing the distribution of beneficial public facilities and services should address existing disparities as well as the needs of future residents.

Public facilities and services that enhance community quality of life can be divided into three basic types for purposes of distribution. The first type is neighborhood facilities, such as parks, that serve a specific neighborhood or subdivision. The second type is district facilities, such as branch libraries or recreational centers, that serve more than one neighborhood. The third type is unique facilities, where one facility serves the entire community—"community" being an incorporated city or, for counties, an unincorporated area.

Neighborhood facilities should be geographically dispersed throughout the community. Examples include parks, tot lots, and neighborhood activity centers. These facilities should be located within the neighborhood they serve. Public amenities can serve to anchor a neighborhood and should be centrally located. Furthermore, locating neighborhood-serving public facilities within walking distance of most residents will encourage use and provide a sense of place. A distance of a quarter to a half mile is generally considered a walkable distance.

Planning for the location of district facilities should follow the same principles as above. Since these facilities serve several neighborhoods, they should be located in district or village centers, which are centrally located relative to the neighborhoods they serve. Locating such facilities along transit corridors or in transit-oriented developments will increase their accessibility (see Transit-Oriented Development later in this chapter).

Examples of unique public facilities include the central library or city museum. Where a community has only one recreational or cultural center, that would be considered a unique facility or service. These facilities should be located in the town center or urban core rather than isolated in remote single-use complexes. They should be close to transit to allow maximum access for the entire community.

Consideration should also be given to regional facilities, which may exhibit the characteristics of all

three basic types described above. Regional facilities include trails, networks of open space such as greenbelts, regional parks and recreation areas, etc. Linear facilities (such as trails and greenbelts) may serve several neighborhoods but are also a unique amenity for the entire area. The same is true of large regional recreational areas. Individual cities and counties may have less control over the location of regional facilities, which may be operated by special districts or joint powers authorities. Cities and counties have even less control over state and federal parks, recreational areas, and forests, although cities and counties should account for such facilities in the planning process. New regional facilities are rare, and when the opportunity to acquire or develop such facilities arises, the location may be predetermined by such factors as natural features, abandoned rail lines (for trail use), or the availability of large undeveloped properties. Nevertheless, planners should consider existing and proposed regional facilities when analyzing community access to public facilities that contribute to quality of life and when planning for future such facilities.

Locating public facilities and uses according to these planning principles may be limited by fiscal and legal constraints. Fiscal constraints include the relative cost of land and the ability of public agencies to obtain financing for acquisition and construction. Legal constraints include, but are not limited to, local, state, and federal regulations for the protection of the environment, public health and safety, and the preservation of natural and cultural resources, including historical and archeological resources.

Industrial Facilities

Cities and counties should develop policies that provide for the location of industrial facilities and other uses that, even with the best available technology, will contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety in a manner that seeks to avoid overconcentrating these uses in proximity to schools or residential dwellings.

Overconcentration occurs when two or more industrial facilities or uses, which do not individually exceed acceptable regulatory standards for public health and safety, pose a significant hazard to adjacent residential and school uses due to their cumulative effects.

Facilities that emit, handle, store, or dispose of hazardous materials are regulated by a variety of agencies. These agencies include local Certified Unified Program Agencies (such as environmental health departments or fire departments), air districts, regional water quality control boards, the California Department of Health Services, the California Integrated Waste Management Board, and the California Department of Toxic Substance Control (DTSC). However, cities and counties, as the local land use authority, are primarily responsible for the location and distribution of potentially hazardous industrial facilities through their general plans and zoning ordinances.

Analyzing Equitable Distribution

A University of Southern California study, *Parks and Park Funding in Los Angeles: An Equity Mapping Analysis,* is an example of how equitable distribution of public amenities (in this case, parks and open space) can be analyzed using a geographic information system (GIS). The report is available at www.usc.edu/dept/geography/espe.

Cities and counties may pursue several strategies within their general plans to address overconcentration. Strategies may include:

- Buffer zones between industrial and residential land uses.
- Policies addressing individual project siting decisions.
- Capping the number of certain facilities and uses.
- Changing land use designations in overconcentrated areas.

Buffer zones are a broad approach to land use compatibility. Buffer zone policies may be approached in one of two ways. First, the general plan land use diagram may designate transitional land uses between industrial and residential areas. Transitional uses may include open space, light industry, office uses, business parks, or heavy commercial uses. The land use policies for these buffer areas should prohibit school uses (see discussion below on school siting). Appropriate distances for buffer areas will vary depending on local circumstances. Factors such as the intensity of nearby residential uses, prevailing winds, geographic features, and the types of facilities and uses allowed in industrial areas should be considered.

Second, buffer zones may be implemented at the project level. One weakness of general buffer zone policies is the difficulty of making *a priori* decisions about how much distance is needed to minimize potential health and safety hazards to residential and school uses.

A stronger approach may be buffer policies aimed at individual siting decisions. Approval of certain industrial facilities or uses can be made conditional if they are within a certain distance of residential or school uses and/or contain or produce hazardous materials. This allows the city or county to consider the potential hazards associated with individual facilities or uses on a case-by-case basis. General plan policies can outline the standards to be used in approving, conditionally approving, or denying proposed locations for industrial facilities and other uses that may pose a significant hazard to human health and safety. Such standards should be reflected in the zoning ordinance that implements the general plan (see Chapter 10 for a discussion of zoning consistency).

Approval of a conditional use is discretionary and thus would be subject to the California Environmental Quality Act (CEQA). The general plan may include standards that must be considered in the CEQA assessment. For example, a general plan policy that defines overconcentration could act as a threshold of significance for environmental effects. CEQA also serves as an important consultation tool. A lead agency must consult with an affected school district if any facility that would create hazardous air emissions or handle acutely hazardous material is proposed within a quarter mile of a school (Public Resources Code §21151.4).

Another policy response to overconcentration is to cap the number of potentially hazardous facilities within a certain distance of each other. For example, the State of Georgia does not allow siting of a new solid waste facility if two such facilities already exist within a two mile radius of the proposed facility. While capping policies are easy to implement and understandable to the public, they have serious drawbacks. Numerical caps are more likely to be based on perception and political compromise than scientific merit. Without analyzing the type, quantity, and concentration of materials to be contained or produced at a proposed facility, it is difficult to determine the number of facilities that would create a situation of overconcentration.

The general plan strategies above can assist a city or county in addressing future problems of overconcentration. General plans, which are by their nature concerned with future development, are not as effective at correcting past problems. One way to address existing or potential future problems of overconcentration is to change the land use designation for existing industrial areas. This approach differs from buffer zones in that buffer zones affect the land use designation of areas adjacent to existing or proposed industrial areas. Changing the allowable land uses in existing industrial areas prevents new industrial land uses from being established and may affect the expansion of existing facilities and uses (depending on how local policies treat pre-existing or "legal non-conforming," land uses).

An important caveat is to consider what new uses will be allowed in the previously industrial areas. A new environmental justice problem could be created if residences and schools are allowed without considering any lingering effects of industrial overconcentration. At the same time, where overconcentration is no longer an issue and effective remediation or clean-up is possible, so-called "brownfield" development is an important tool for a community's continued sustainable development.

Finally, planners should remember to differentiate between overconcentration and the mere presence of materials that may be classified as hazardous. Many neighborhood businesses, such as gas stations, photography studios, retail paint stores, dry cleaners, etc., may have hazardous materials present. While these activities must be conducted in a responsible manner in accordance with all environmental regulations, they should not be confused with those truly industrial activities that are inappropriate for residential or mixed-use areas.

New Residential Uses and Schools

Cities and counties should provide for the location of new schools and residential dwellings in a manner that seeks to avoid locating these uses in proximity to industrial facilities and uses that will contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety.

The location of new residential and school development is the flip side of the problem discussed in the section above. Given the need for new housing and schools and given the need to make efficient use of land, how do cities and counties deal with existing overconcentration of industrial uses? When designating areas for residential development, the city or county should identify any areas of overconcentration. Appropriate buffers should be placed between overconcentrated industrial areas and new residential areas. Using their authority over the approval and design of subdivisions, cities and counties may develop policies and standards related to industrial overconcentration and new residential subdivision approvals. These policies could include buffer zones, as well as the criteria to be used for rejecting new residential development (such as standards for risk to human health and safety from nearby industrial facilities and uses).

The location of new schools is of particular concern to both local governments and school districts. The general plan should identify possible locations for new schools. Such locations may be approximate and need not indicate specific parcels. Identifying appropriate school locations as part of the general plan process may avoid project-level problems of proximity to certain industrial facilities and uses. Due to the fragmentation of authority in the areas of land use planning and school siting and construction, it is recommended that the planning agency work closely with the school district to identify suitable school locations. Prior to adopting or amending a general plan, the planning agency must refer the proposed action to any school district within the area covered by the proposed action (§65352). The city or county should use this opportunity to engage school districts on issues of school siting.

For their part, school districts are required to notify the planning commission of the city or county prior to acquiring property for new schools or expansion of an existing school. School districts are not bound by local zoning ordinances unless the ordinance provides for the location of schools and the city or county has adopted a general plan (§53091). School districts can override the general plan and zoning ordinances with regard to the use of property for classroom facilities by a two-thirds vote of the school board (§53094). The school board cannot exercise this power for non-classroom facilities, such as administrative buildings, bus storage and maintenance yards, and warehouses. If the school board exercises their override power, they must notify the city or county within 10 days (§53904).

CEQA requires that the environmental document prepared for a new school identify whether the proposed site is any of the following: a current or former hazardous waste or solid waste disposal facility, a hazardous substances release site identified by DTSC, the site of one or more pipelines that carry hazardous substances, or located within a quarter mile of a facility that emits hazardous air emissions or handles acutely hazardous material (Public Resources Code §21151.8). If such facilities exist, the school board must make findings that the facilities would not endanger the health of those attending or employed by the proposed school or that existing corrective measures would result in the mitigation of any health endangerment.

TRANSIT-ORIENTED DEVELOPMENT

Cities and counties should promote more livable communities by expanding opportunities for transit-oriented development (TOD) so that residents minimize traffic and pollution impacts from traveling for purposes of work, shopping, school, and recreation.

TOD is defined as moderate- to high-density development located within an easy walk of a major transit stop, generally with a mix of residential, employment, and shopping opportunities. TOD encourages walking and transit use without excluding the automobile. TOD can be new construction or redevelopment of one or more buildings whose design and orientation facilitate transit use (*Statewide Transit-Oriented Development Study: Factors for Success in California*, California Department of Transportation, 2002).

A well-designed, vibrant TOD community can provide many benefits for local residents and businesses, as well as for the surrounding region. Compact development near transit stops can increase transit ridership and decrease rates of vehicle miles traveled (VMT), thereby yielding a good return on transit system investments. TOD can also provide mobility choices, increase public safety, increase disposable household income, reduce air pollution and energy consumption rates, help conserve resources and open space, assist in economic development, and contribute to the housing supply.

TOD is a strategy that may help a community achieve its general plan goals related to circulation, housing, environmental quality, and economic development. Additionally, by improving access to jobs and housing and revitalizing existing neighborhoods, TOD can be a tool for promoting environmental justice.

A variety of factors need to be considered during the development and implementation of TOD. These factors include transit system design; community partnerships; understanding of local real estate markets; coordination among local, regional, and state organizations; and providing the right mix of planning and financial incentives and resources. A successful TOD will reinforce the community and the transit system. Transit operators, property owners, and residents should be involved in the development of TOD proposals.

Data to identify and assess potential locations for TOD should be collected during preparation of the land use, circulation, and housing elements of the general plan. An inventory of potential development sites within a quarter to a half mile of existing and proposed transit stops may reveal potential locations for TOD. Additional data may be used to verify the optimum location and mix of uses to further refine the viability of TOD at specific transit hubs. This data may include origin and destination studies, transit ridership projections, and data to determine the appropriate jobs-to-housing ratio and level of retail services. The appropriate density and intensity will support a high level of transit service. An optimal mix of uses will

provide opportunities to shop, work, live, and recreate without the need for an automobile.

Local governments can promote TOD through general plan policies that encourage supportive densities and designs and a mix of land uses. TOD-supportive policies may provide for higher land use densities, reduced parking requirements, decreased automobile traffic levels of service, and increased transit levels of service. TOD policies should facilitate a pedestrian-oriented environment with features such as traffic calming strategies, traditional grid street patterns with smaller blocks, and architecture that orients buildings to sidewalks, plazas, and parks rather than to parking.

TOD Standards and Policies

TOD design will vary with local needs and context, but there are several generally accepted characteristics. These characteristics should be addressed broadly in general plan policies and standards. Policies for specific neighborhood districts or development sites can be implemented through the planning tools discussed at the end of this section.

Density

Density is a key concern in designing TOD policies. A higher residential density relative to the community as a whole is necessary to achieve a high level of transit service and maximize the use of land suitable for such developments. Density levels vary significantly based on local circumstances, but a minimum of 15 to 25 units per acre may be required to sustain an appropriate level of transit use and commercial activity. The location of the TOD (regional urban core, town center, suburban development, etc.) and the mix of uses envisioned for a particular TOD will affect the optimal level of density and intensity.

Mixed Use

A mix of uses is also a key element in TOD. Mixed-use development facilitates a pedestrian-oriented environment, encouraging walking and transit over automobile trips. A mix of uses also creates an environment that encourages both day and night activity. For example, residential development supports restaurants and entertainment uses after regular work hours have ended.. This can increase safety by avoiding the "dead zone" atmosphere that many residential areas have by day and that many downtowns and commercial districts have in the evening. Public uses also can contribute to the success of TOD. Some TODs are anchored by a public facility, such as a police station, child care center, recreation center, or government office. Not only does a TOD benefit from the presence of public amenities, but the public also benefits by having these amenities convenient to transit.

A mix of uses may be within the same building (such as first-floor commercial with residential units above) or in separate buildings within a quarter to a half mile of the transit stop. Particularly with the latter case, referred to as "horizontal mixed-use," it is important to provide safe and direct pedestrian linkages between different uses.

It is recommended that general plan standards and definitions of mixed-use development exclude industrial facilities and uses that, even with the best available technology, will contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety.

Pedestrian Scale

With higher-density mixed-use development, scale is important. Pedestrian scale should be maintained through appropriate street and sidewalk widths, block lengths, the relationship of the buildings to the street, and the use of public spaces.

Safety

In addition to the round-the-clock activity mentioned above, it is important to maintain "eyes on the street" in urban development through the appropriate placement of windows and entrances. Appropriate lighting also contributes to safety and the attractiveness of the development.

Landscaping

A TOD, particularly when it is infill development, may not have large areas available for landscaping. Nevertheless, landscaping should be used to enhance public spaces. The use of trees creates a more livable environment and reduces energy costs for cooling. Street trees can make development more pedestrian friendly by providing a barrier between the sidewalk and street.

Circulation

Circulation within a TOD should, in addition to supporting transit, maximize walking and bicycling without eliminating the automobile. Cities and counties may designate certain qualifying areas served by transit as "infill opportunity zones." (§65088.1) These zones, which must be identified by December 31, 2009, are exempt from county Congestion Management Plan level of service requirements (§65088.4).

CASE STUDY: **Integrating Transit-Oriented Development into the General Plan**

The following policies from the agriculture and land use element of the *Fresno County General Plan* illustrate how local jurisdictions can facilitate and guide transit-oriented development:

Policy LU-F.1 The County shall encourage mixed-use development that locates residences near compatible jobs and services.

Policy LU-F.2 The County shall encourage the combination of residential, commercial, and office uses in mixed use configurations on the same site.

Policy LU-F.3 The County shall promote development of higher-density housing in areas located along major transportation corridors and transit routes and served by the full range of urban services, including neighborhood commercial uses, community centers, and public services.

Policy LU-F.4 The County shall selectively redesignate vacant land for higher density uses or mixed uses to facilitate infill development.

Policy LU-F.5 The County shall encourage subdivision designs that site neighborhood parks near activity centers such as schools, libraries, and community centers.

Policy LU-F.6 The County shall encourage the creation of activity centers including schools, libraries, and community centers in existing neighborhoods.

Policy LU-F.7 The County shall seek to reduce the amount of land devoted to parking in new urban non-residential development and encourage the use of shared parking facilities.

Policy LU-F.8 The County shall adopt transit- and pedestrian-oriented design guidelines and incorporate them into community plans and specific plans. The County shall review development proposals for compliance with its adopted transit-and pedestrian-oriented design guidelines to identify design changes that can improve transit, bicycle, and pedestrian access.

Policy LU-F.9 The County shall plan adequate pedestrian-oriented neighborhood commercial shopping areas to serve residential development.

Policy LU-F.10 The County shall encourage school districts to site new schools in locations that allow students to safely walk or bicycle from their homes, and to incorporate school sites into larger neighborhood activity centers that serve multiple purposes.

Parking

Parking requirements for TOD are typically lower than for conventional development and often specify a maximum rather than a minimum number of spaces. In order to maximize the use of land, parking structures are favored over surface parking, particularly at infill TOD sites. The placement of parking structures should not physically separate the TOD from the surrounding community.

Implementation Tools

Successful TOD implementation is dependent upon TOD-supportive general plan policies enabled by specific zoning codes, development regulations, and design guidelines. To create an effective regulatory and review environment, local jurisdictions can modify existing zoning codes to encourage TOD; tailor development regulations to individual TOD sites where appropriate; develop TOD-friendly design standards; and simplify and streamline the permit and review process.

The following planning tools are typical ways a community can implement TOD-supportive general plan policies.

Specific Plan

Specific plans are a useful zoning tool for implementing the TOD-related policies and objectives of the general plan. A specific plan can provide detailed information on land use, development standards, and infrastructure requirements in the TOD area. For a further

CASE STUDY: **Integrating Transit-Oriented Development into the General Plan**

The following policies from the 1998 *City of Oakland General Plan* illustrate how local jurisdictions can facilitate and guide transit-oriented development:

Goal: Integrate land use and transportation planning: Integrate transportation and land use planning at the neighborhood, city and regional levels by developing transit-oriented development where appropriate at transit and commercial nodes.

Objective: Provide mixed use, transit-oriented development that encourages public transit use and increases pedestrian and bicycle trips at major transportation nodes.

Policy 1: Encourage Transit-Oriented Development. Transit-oriented development should be encouraged at existing or proposed transit nodes, defined by the convergence of two or more modes of public transportation such as BART, bus, shuttle service, light rail or electric trolley, ferry and inter-city or commuter rail.

Policy 2: Guiding Transit Oriented Development. Transit-oriented developments should be pedestrian oriented, encourage night and day time use, provide the neighborhood with needed goods and services, contain a mix of land uses, and be designed to be compatible with the character of surrounding neighborhoods.

Policy 3: Promoting Neighborhood Services. Promote neighborhood-serving commercial development within one-quarter to one-half mile of established transit routes and nodes.

Policy 4: Linking Transportation and Economic Development. Encourage transportation improvements that facilitate economic development.

Policy 5: Linking Transportation and Activities. Link transportation facilities and infrastructure improvements to recreational uses, job centers, commercial nodes, and social services (i.e., hospitals, parks, or community centers).

discussion of specific plans, see Chapter 10 of this document as well as the OPR publication *The Planner's Guide to Specific Plans*.

Transit Village Plan

The Transit Village Development Planning Act of 1994 (§65460, et seq.) authorizes cities and counties to prepare "transit village plans" to encourage mixed-use development in close vicinity to transit stations. Transit village plans occupy a niche similar to the community plans described in Chapter 1. What distinguishes them is their specific role in encouraging high-density pedestrian-oriented development around transit stations.

A transit village plan must be consistent with the city or county general plan (§65460.8). The plan is adopted by resolution, like the general plan, and becomes the policy foundation for village zoning provisions, public works projects, and future subdivision activity.

To encourage pedestrian use, the entire village must be contained within a one-quarter mile radius of a transit station. The Act provides that a city or county adopting a plan will be eligible for state transportation funds but does not indicate that areas with such plans will receive priority funding. Transit villages may be excluded from conformance with county Congestion Management Plan level of service standards with the approval of the Congestion Management Agency.

Zoning

Transit-oriented development will typically involve changes in zoning, either as a separate action or in conjunction with a specific plan or a transit village plan. The purpose of the rezoning is to specify uses and allow the necessary density and building intensity for a successful TOD. Zoning changes may take the form of a new zoning district or an overlay zone. Planned unit development (PUD) zoning may also be used for TOD. Considerations for TOD zoning include mixed-use, minimum residential densities, intensity of commercial and office uses, appropriate automobile parking standards, and optimal building setbacks to create pedestrian scale.

CHAPTER 3

Preparing and Amending the General Plan

All statutory references are to the California Government Code unless otherwise noted.

A local government often faces one or more of the following tasks: (1) amending its general plan, (2) preparing or revising one or more elements, (3) completely revising its general plan, or, in the case of a newly incorporated city, (4) preparing an entire general plan for the first time. In this chapter, we will primarily focus on publicly initiated general plan amendments—those described by items (2), (3), and (4) above. The most common sort of amendment, that initiated for a specific private development project, usually affects a limited area and does not require the type of detailed consideration afforded publicly initiated changes. However, privately initiated amendments are discussed briefly at the end of the chapter.

The first part of this chapter describes the development of a general plan work program. Beginning with the second section, we outline a strategic approach to the process of preparing or revising a general plan. This is a suggested approach and is not mandatory. The process will vary as circumstances dictate.

THE WORK PROGRAM

Developing the work program should be one of the first tasks after deciding to prepare or amend a general plan. The program should define the responsibilities of each department and/or individual, the scope and direction of the work to be performed, the funding mechanisms, the roles of any consultants, community participation, and budget. The following paragraphs detail a number of things to consider when putting together a general plan work program.

Early Policy Guidance

Receiving early policy direction from the legislative body is important in defining the scope of the work. The guidance may be as simple as a single purpose statement or as complex as a set of visions of how the planning area should be developed or how various population growth issues and public facility demands will be resolved.

The role of the legislative body in the ongoing development of the draft general plan will be different with each jurisdiction. Some may delegate the day-to-day role to a committee or a planning commission, while others will stay directly involved. In either case, receiving clear early guidance and support is important to a successful general plan process.

Consultants

Due to the complexity of issues and demands upon local agency planning staff, most new general plans or comprehensive revisions will involve the use of consultants. A consultant team may be hired to do the lion's share of drafting the general plan or individual consultants may be hired to supplement planning staff in specific areas such as transportation, noise, biology, geology, environmental review, and public participation. Consultants may also be used to prepare the CEQA document or carry out the community participation program.

Planning agency staff should be involved in the general plan process as much as time and budget considerations allow. Plans that are prepared entirely by consultants may be more difficult to implement. Having planning agency staff involved in the general plan provides a sense of ownership in the plan, creates familiarity with the details of the plan, which make implementation easier, and may build the capacity of the planning agency. When consultants and planning agency staff are both involved in a general plan process, there may be a tendency to have agency staff involved more with the background data and less with analysis and policy alternatives. This is understandable, given that it is often more cost effective to have staff compile background information. However, it may be desirable to have staff more involved with analysis and policy recommendations for the reasons discussed above.

The decision whether or not to hire a consultant will depend upon considerations such as the scope of the work to be completed, the available staff time, and the cost to the local agency in staff hours and/or consultant contracts. Talking to other jurisdictions that have recently gone through the process can offer insight into the role that consultants played and provide ideas for oversight and quality control. The American Planning Association's publication *Selecting and Retaining a Planning Consultant* (1993) is a useful reference.

The first step in selecting a consultant should be to send to prospective candidate firms a request for qualifications (RFQ) and a description of the consultants' expected role. The RFQ will help narrow the search for qualified consultants. After evaluating the responses, the agency should send a request for proposal (RFP) to the three to five firms that seem to be the best match. Responding to an RFP is costly for consultants, so RFPs should only be sent to those firms the agency would consider hiring. The firms with the top responses to the RFP can be interviewed to select the one best suited to the agency's needs, work program, and budget.

Adoption Deadlines

A commonly asked question is, "Is there a statutory deadline for completing the new plan or plan update?" In most cases, the answer is no. With the following exceptions, the jurisdiction can set its own deadline.

A newly incorporated city has 30 months after incorporation to prepare and adopt a complete general plan (§65360). During that time, the city is not subject to the requirements that a general plan be adopted or that its decisions be consistent with the general plan. However, the jurisdiction must make the following findings for each decision that would otherwise be required to be consistent with the general plan (§65360(b)):

- There is a reasonable probability that the land use or action proposed will be consistent with the general plan proposal being considered or studied or that will be studied within a reasonable time.
- There is little or no probability of substantial detriment to or interference with the future adopted general plan if the proposed use or action is ultimately inconsistent with the plan.
- The proposed use or action complies with all other applicable requirements of state law and local ordinances.

The director of the Governor's Office of Planning and Research (OPR) has the authority to grant a time extension of up to two years for the preparation and adoption of the general plan. The city or county must make certain findings when requesting an extension and the OPR director may place conditions upon the extension of time.

Each city and county is required by law to revise its housing element at least every five years (§65588). Deadlines for housing element revisions are defined in statute. To find the housing element deadline for a particular jurisdiction, go to the Department of Housing and Community Development's website at www.hcd.ca.gov.

OPR is required to notify a city or county when its general plan has not been revised within eight years. If a city or county has not revised its general plan within ten years, OPR must also notify the Attorney General. This notification does not necessarily mean the plan is out of date, but may serve as a reminder to comprehensively review the general plan if the city or county has not already done so.

In order to help keep the planning process on track, the work program should establish realistic milestones for completion of its various stages (i.e., data gathering, workshops, draft plan completion, draft EIR completion, etc.). The work program should also set a projected completion date for the new plan or update. Most jurisdictions find that approximately two years is sufficient time to complete a new plan.

Environmental Review

Environmental review is fundamental to the planning process, so undertaking a concurrent CEQA document is usually more efficient than waiting until the plan is ready for adoption to begin the EIR. The work program should schedule sufficient time for the consultation and review periods mandated under CEQA. In addition, the program should block out sufficient time to respond to comments on the EIR. Chapter 7 discusses CEQA's requirements in detail.

Public Participation

Public participation plays an important role in formulating a general plan; opportunities for participation should be reflected in the work program. State law specifies that "[d]uring the preparation or amendment of the general plan, the planning agency shall provide opportunities for the involvement of citizens, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the city or county deems appropriate" (§65351). When drafting the housing element, the law requires local governments to "make a diligent effort to achieve public participation of all economic segments of the community" (§65583). Public participation is discussed in detail in Chapter 8.

Funding

The work program will also include a budget. The cost of preparing or revising the general plan will vary tremendously with the scope of the program and the jurisdiction's circumstances. A new plan or a comprehensive revision will be much more costly than a general plan amendment. On average, county general plans

Information Available from Other Governmental Agencies

Local

Assessor's Office: base maps, assessed valuation data

Building Department: water quality, septic tank usage, housing conditions

Fire Department: fire hazard assessment, fire flows, hazardous materials, emergency response

Health Department: water quality standards, septic system percolation standards, environmental health hazards

Parks Department: park use, projected park needs, park design

Police/Sheriff's Office: crime statistics, automobile accident rates, emergency response

Public Works Department: roads, drainage, water supply, capital improvements, liquid and solid waste disposal, traffic counts

Child Care Council: child care needs and resources data, county child care plans

Regional

Adjoining Cities and Counties: general plans, special studies, infrastructure

Air Quality Management or Air Pollution Control District: air quality plans, air quality monitoring

Councils of Government: transportation models and projections, population projections, housing need allocations, special studies

Local Agency Formation Commission (LAFCO): spheres of influence

Regional Transportation Planning Agency: road funding sources, traffic and transportation models, traffic projections, trip reduction ordinances, regional transportation improvement lists, congestion management plans, transit statistics

Regional Water Quality Control Board: wastewater management, waste discharge, surface and groundwater aquifer protection

School District: enrollment data, school facilities projections, population information

Special District: infrastructure, service consumption rates, demand projections, planned expansions of services, service limits

State

Air Resources Board: air quality studies, data, and guidelines

California Environmental Protection Agency: air and water quality, toxic and hazardous materials

California Highway Patrol: traffic accident statistics, hazardous materials transport

Coastal Commission: local coastal program

Department of Conservation: geologic and seismic hazards, important farmlands maps, Williamson Act, oil recycling, gas and geothermal well locations and conditions

Department of Finance: census information, population estimates and projections and special censuses, school enrollment projections

Department of Fish and Game: game and non-game species, including threatened and endangered plants and animals, habitat, riparian areas, wetlands, and other wildlife topics

Department of Forestry and Fire Protection: wildfire hazard assessment and control, regional soil and vegetation maps, watershed and resource management

are more costly than city general plans. A recent survey by OPR indicated that the average cost of a general plan update was $845,000 for counties and $255,000 for cities (*The 2003 California Planners' Book of Lists*, Governor's Office of Planning and Research).

For most jurisdictions, preparing and maintaining the general plan is a general fund expense. The availability of general purpose planning grants is limited. There are, however, federal and state funds for particular planning issues, such as housing, transportation, and habitat. These planning processes can be incorporated into the general plan process in order to leverage resources.

The cost of a general plan amendment associated with a particular development is typically passed on to the developer. Some jurisdictions attempt to recoup the costs of comprehensive updates in a similar manner. In 2002, the Legislature changed state law to allow development fees to include "costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations" (§66014). This change makes it clear that an update of the general plan may be a recoverable expense. Exactions and development fees are discussed briefly in Chapter 9.

Information Available from Other Governmental Agencies, Continued

Department of General Services: state buildings inventory

Department of Health Services: water system licensing, wastewater reclamation, hazardous materials, noise element and noise insulation assistance

Department of Housing and Community Development: housing element assistance, mobilehomes and mobilehome parks, low- moderate income housing, density bonuses, CDBGs, housing-related issues

Department of Parks and Recreation: historic preservation, park use statistics, archeological resources, state parks

Department of Transportation: traffic counts and projections, transportation system design and management, road funding sources, freeway noise information and mitigation programs, scenic highways, district system management plans, Interregional Road System Plan, transportation corridor preservation plans, California Aviation System Plan

Department of Water Resources: floodplains and floodplain management, urban and agricultural land use data, State Water Plan

Employment Development Department: labor force statistics, employment statistics

Energy Commission: power plant and transmission line siting, energy conservation, environmental impacts and mitigation

Integrated Waste Management Board: solid waste disposal and reduction

Mining and Geology Board: important mineral resources, Surface Mining and Reclamation Act (SMARA)

Office of Emergency Services: emergency response planning, dam failure inundation maps, earthquake preparedness, hazard mitigation grant program

State Lands Commission: state lands inventory, navigable waters and tidelands

Technology, Trade and Commerce Agency: economic conditions, economic development

Water Resources Control Board: water quality regulations

Federal

Army Corps of Engineers: flood control, floodplain management, special flood studies, wetlands regulations

Bureau of Land Management: federal land inventory, resource information

Bureau of Reclamation: flood control and management, water projects

Environmental Protection Agency: grants and permits affecting air, water, solid waste, toxic and hazardous materials, wetlands, endangered species

Federal Emergency Management Agency: flood hazard mapping, flood insurance rate maps

Fish and Wildlife Service: wetland survey, endangered species

Forest Service: biota and resource information, land inventory, National Forest plans

National Park Service: biota and resource information, National Park plans

Natural Resources Conservation Service: soils maps, soils and erosion control information

FORMULATE GOALS

After the work program has been established, the first step in a general plan process is to formulate some initial goals. These goals, which are refined throughout the process, may come from the legislative body or through a public visioning process. The initial general plan goals may be in reaction to some other event, such as identification of seismic or flooding hazards, infrastructure limitations, or the need to accommodate regional housing needs. They may be internally driven, such as a desire to alter the jobs/housing balance within the community or revitalize certain neighborhoods.

At this point, planners may wish to identify the principles that will guide the development of the general plan. As discussed in Chapter 1, these principles are not always listed in the final product, but they help to guide the development of the plan. When jurisdictions do choose to enumerate guiding principles in the plan, they are often included in the introduction.

Community Vision

A number of jurisdictions have begun their general plan process by defining a vision of the community-preferred future. This vision, a statement of general

goals to be achieved by the plan, provides the foundation for more specific objectives and policies. The visioning process also has the advantage of identifying issues important to the community and providing early direction to data collection. Jurisdictions that choose to begin with visioning should structure the process so that the resulting product will be useful and the process will be completed in a timely manner.

Evaluating Issues: The "Shoe Fits" Doctrine

Issues define the general scope of the work planners must undertake and the course of action they must follow in the planning process. Identify important local and regional issues that should be addressed in the general plan, as well as existing constraints and opportunities. These form the context within which the general plan will be prepared or updated.

While state law establishes the basic contents of the general plan, the full list of issues contained in §65302 and other statutes are not intended to apply in every jurisdiction. Section §65301(c) provides that each state-mandated element need address only those issues that are relevant to the city's or county's planning area. This is commonly referred to as the "shoe-fits" doctrine (from the old saying, "if the shoe fits, wear it"). For example, an urbanized city need not discuss prime agricultural soils. Open-space issues in a county where agricultural land and wildlife habitat are important will be very different than those in an urbanized city, which may have parks as its only open space. The exception is the housing element, which must meet all the specific requirements of §65580, et seq.

Several points should be kept in mind when evaluating issues. The elimination of a state-mandated issue from further consideration should be based on a reasonable assessment of the issue's relevance. For example, wildland fire hazard may be eliminated as irrelevant if the local government has examined the available information and consulted local and state fire agencies that are likely to have information and found no hazard to exist. When an issue is found to be irrelevant, the basis for this judgment may be briefly noted in the general plan.

An issue that seems irrelevant in the short term but that may be important in the long term should be addressed in the general plan, even if only conceptually. This might include, for example, a major flood control system that is in a preliminary planning stage.

When new information becomes available indicating that a previously excluded issue is now relevant, the general plan must be revised to address the issue. The discovery of a previously unknown earthquake fault is an example. Another example is the increased potential fire hazard that follows growth in foothills and mountainous areas.

Whether the jurisdiction is a city or county, rural or urban, mature or growing will color its analysis and define the issues that are of greatest importance. As discussed later, the general plan should focus on those issues that are relevant to the planning area.

Traditionally, counties have been concerned with the management of natural resources. Counties also have an important role in coordinating the plans and programs of cities and special districts and in directing urban development to areas with available services. The county plan should also provide information for city planning through studies of areawide concerns such as population and economic trends, seismic hazards, wildfire hazards, agricultural lands, natural resources, and environmental conditions. Cities control land use, provide urban services, and promote more localized community interests. Cities should operate within the context of the county, neighboring cities, and the region.

Differences also exist between rural and urban jurisdictions. The economies of rural jurisdictions generally rest on the use and development of natural resources, while the economies of urban jurisdictions normally revolve around industry, commerce, and services. Rural jurisdictions tend to deal extensively with the federal government on matters relating to federal lands, while urban jurisdictions tend to work closely with regional planning agencies, particularly concerning air and water quality programs.

Assumptions

In preparing a general plan, a city or county will make certain assumptions about its future. For example, a jurisdiction with winter ski resorts might assume that tourism will continue to be important to its economy. Urbanized areas might assume continued population growth. Assumptions such as these will influence a local government's selection of its planning policies and its preferred general plan alternative.

To ensure that the assumptions list will be comprehensive and representative of the community, cities and counties should promote community participation in the enumeration process. Naturally, at this stage, the list will be preliminary. It may be refined at later stages as general plan background data is collected and analyzed.

Assumptions are essential to the formulation of objectives, policies, and plan proposals. They need not be included in the final general plan, although they might be included in an appendix in order to document the basis for the plan.

COLLECT AND ANALYZE DATA

The next step is to examine existing physical conditions, regulatory requirements, and plans, including plans of other agencies. This step is sometimes begun concurrently with or in anticipation of goal formulation.

Data Collection

The general plan must be based on solid data if it is to serve as the primary source of community planning policy. Identifying issues, constraints, and opportunities and defining a community vision helps to set the direction for studies and establishes the range of information and the level of detail that will be needed to complete the plan. Collecting and analyzing data can be expensive and the capacity of any government agency to process and use information is limited. Jurisdictions must consider their general objectives and use their best judgment when determining the types and amount of information they need for policymaking.

Background information for all of the elements should be referenced or summarized in the general plan. Technical appendices are a good place in the adopted general plan for this information. Placing background information in an appendix enables users of the plan to more easily find the plan's policies when they need them.

Information collection and analysis is important throughout the planning process. For example, additional information regarding the state of the community may be needed during the fine-tuning of draft policies by the city council.

After the plan has been adopted, evaluating its implementation and making course corrections relies upon the local agency's ability to continue collecting and analyzing information. The general plan is a long-term document. It must be regularly refreshed with new data as it becomes available in order to ensure that its long-term outlook does not become outdated. This ongoing revision and refreshment is particularly important where a master EIR is certified for the plan as described in Chapter 7.

Existing Land Uses

When preparing or revising a general plan, planners need an accurate picture of the existing land uses in the planning area. There are a number of sources of land use information:

- Subdivision maps and assessor's maps provide information on existing lot sizes and land uses, both of which can be indicators of land use intensity.
- Field surveys are useful both for identifying generalized land use distributions and for cataloging uses parcel by parcel.
- Low-altitude aerial photography provides an overhead view that can be translated to land use categories.
- High-altitude photography and satellite imagery can identify land uses at a broader scale. Satellite imagery, including LANDSAT and infrared photos, is available from the U.S. Geological Survey's Western Geographic Science Center (http://wgsc.wr.usgs.gov).
- The California Department of Conservation's "Important Farmland Series" maps identify existing farmland in various areas of the state. The department's oil and gas maps identify oil, gas, and geothermal fields and well locations and its seismic and geologic hazard maps identify those hazard zones (www.conservation.ca.gov).
- The California Department of Water Resources maintains land use maps and aerial photos that can be of use to local planning agencies (www.water.ca.gov).
- The U.S. Geological Survey's Land Use and Land Cover Classification System employs 1:250,000 and 1:100,000 scale base maps providing information on urban or developed land, agricultural land, rangeland, forests, water, and wetlands (www.usgs.gov).
- The Legacy Project, within the California Resources Agency, has created a California Digital Conservation Atlas. The atlas provides information on natural resources at a regional and statewide level in a GIS format. Users can create thematic maps online (www.legacy.ca.gov).
- For organizing land uses in a standardized format, particularly if you will be revamping your zoning ordinance at the same time as your general plan, you may want to use a land use classification system. Several standard classifications systems exist. One of the most common is the North American Industry Classification System (NAICS), developed by the U.S. Census Bureau and its counterparts in Canada and Mexico to provide a common framework for collecting economic statistics within NAFTA (www.census.gov/epcd/www/naics.html). It replaced the Standard Industrial Classification (SIC) system. A classification system tailored to land use planners is the Land-Based Classification Standards (LBCS) system. This system was developed the American Planning Association and several federal agencies (www.planning.org/lbcs).

Planning Ideas

An important aspect of preparing a plan is incorporating new ideas. Throughout California, communities are adopting new general plans or plan elements and revising existing plans. Other jurisdictions of similar size to your own may have useful ideas on how to approach local issues. The *California Planners' Book of Lists*, produced annually by OPR, can help to locate recently adopted elements. The *Book of Lists* can be found online at www.calpin.ca.gov. In addition, the yearly awards presented by the California Chapter of the American Planning Association recognize examples of good plans.

There are many current books on planning approaches, as well as technical subjects. The American Planning Association's Planner's Book Service and the Urban Land Institute sell books on subjects ranging from economic analysis to urban design. See the Bibliography for titles.

Recent court cases may provide insights that affect the general plan. Publications that track and analyze planning-related litigation include:

- *Curtin's California Land-use and Planning Law*, which examines the California planning codes in the context of applicable court cases.
- *Longtin's California Land Use Regulations*, which takes a detailed look at California's development codes and related litigation.
- *California Zoning Practice*, published by the California Continuing Education of the Bar, which is similar to the previous two books.

Information about planning, including cutting edge theory, is also available on the Internet. Two notable sites among the many cited in the Resources section are:

- The Land Use Planning and Information Network (LUPIN) at http://ceres.ca.gov/planning, which contains links to resource information, county general plans, and other useful tools.
- Cyburbia (www.cyburbia.org), maintained by the State University of New York at Buffalo, which is a treasure trove of information about planning and contains links to hundreds of other sites.

Reviewing state planning and development laws is also beneficial. Each year, the Legislature enacts laws affecting local government planning activities. OPR annually compiles these statutes in one publication, *Planning, Zoning and Development Laws*, available for download on LUPIN.

The Natural Environment

Examining the jurisdiction's existing environment is a classic early step in preparing or revising a general plan. Communities should identify their green infrastructure, determining their regional form and natural systems, such as water, habitat, forest, natural features and boundaries, mineral deposits, open space and parks, and working landscapes such as agricultural land. The connectivity of these natural systems should also be examined. Information about environmental hazards, such as wildland fires, floods, and landslides, can also help determine the relative suitability of lands for development.

Data gathered during this stage, whether in written or map form, will be useful during the concurrent preparation of the general plan's EIR. For future use, this data can be organized into a Master Environmental Assessment (MEA) inventorying the physical and biological characteristics of the planning area. Chapter 7 contains a detailed discussion of the MEA.

Regional, state, and federal agencies have topical information about environmental conditions. Regional air quality agencies have information on air quality trends, growth assumptions, meteorology, and land use/transportation control measures. Councils of government often have special studies and plans that discuss regional environmental attributes. The Association of Bay Area Governments, for example, has extensive information on seismic hazards available online (www.abag.ca.gov).

The California Geological Survey, within the Department of Conservation (www.conservation.ca.gov/cgs), has maps of earthquake faults and other seismic hazards useful to developing the safety element. The Department of Water Resources (www.water.ca.gov) has flood hazard maps. The Department of Fish and Game (www.dfg.ca.gov) has compiled the California Natural Diversity Database (CNDDB), which provides location and condition information concerning California's rarest plants, animals, and natural communities. The California Department of Forestry and Fire Protection (www.fire.ca.gov) has wildland fire hazard severity maps and the Office of Emergency Services (www.oes.ca.gov) has maps showing the potential for inundation from dam failure.

The U.S. Fish and Wildlife Service's National Wetlands Inventory has published a comprehensive set of maps of wetlands throughout the state (www.nwi.fws.gov). The Natural Resources Conservation Service (www.nrcs.usda.gov) has compiled detailed information on soil types and erosion control methods. More sources of information are cited in Chapter 9 and in the Bibliography and Resources sections.

EIRs prepared for past projects are another source of environmental and resource data. Although this information is usually pertinent to a relatively small area, when taken together EIRs can provide valuable resource and environmental data that is applicable jurisdiction-wide.

Infrastructure Capacity

One determinant of the amount and location of future development is the capacity of the physical infrastructure (i.e., schools, fire stations, roads, sewer trunk lines, drainage systems, water and gas transmission lines, electric and other utilities, etc.). The current and projected capacities of these systems should be evaluated and compared to current levels of use, the levels projected by the existing plan, and the levels projected by the draft plan alternatives. The resulting analysis will help to identify available opportunities for development as well as potential constraints.

The location of infrastructure elements such as sewer and water trunk lines should be mapped as part of this study. Consult with affected public utilities and special districts, if any, for information on the location and capacity of their facilities. Contact local school districts for information regarding school capacities, projected needs, and surplus properties, if any.

Regional and state transportation, air quality, and water quality plans and regulations should also be reviewed. Consider whether any of these plans affect the future operation and expansion of public and private facilities. Still another regional consideration involves the housing element. State law mandates that cities and counties recognize their share of their region's existing and projected housing needs (§65583(a)(1) and §65584).

The following basic questions should be answered in regard to infrastructure:

- Is capacity sufficient to serve current planned demand?
- Are there any areas with acute shortages of service?
- Are there areas with excess capacity?
- Will additional infrastructure be necessary to accommodate future development?

This information will help decide when and where expansion will be needed and how infrastructure improvements and expansions will be funded and will help in estimating the cost of extending services for each of the plan alternatives. It will also inform decision-makers about which of the general plan alternatives may be the most cost effective.

Demographic Information

Identifying population trends is necessary to the development of realistic community goals. Population data are particularly important when preparing the land use, circulation, and housing elements. Population figures include estimates and projections. An estimate is a measure developed for some point of time in the past, e.g., a city's total population as of January 2002. A projection is a conditional population figure for some point in the future based on a given set of assumptions, e.g., a city's population in 2015 if historical growth trends continue.

The Demographic Research Unit within the California Department of Finance (DOF) prepares annual population estimates for the state and for individual counties and cities. Information on housing units, vacancies, average household size, components of population change, and special populations is also available. DOF also forecasts both population and public school enrollment for the state and for each county for 50 years into the future with age, sex, and race/ethnic detail.

DOF data are used to comply with various state codes, including the Regional Housing Needs Assessment (RHNA) process, and for research and planning purposes by federal, state, and local agencies, the academic community, and the private sector.

Cities and counties working on local population projections should also contact the council of government (COG) for their region. COGs frequently prepare population projections for regional traffic and housing studies. COGs also may act as coordinators for federal Census data.

While estimates of population, projected change in total population size, and the rate of change are commonly used in community assessment, the composition of the subject population is more important than the mere size of the population. California is undergoing strong population growth and has been growing increasingly diverse in its ethnic composition. Different population subgroups account for varying patterns of behavior that impact planning assumptions and projected outcomes. Housing, schools, transportation, employment, and recreation needs are all affected by age, sex, and ethnicity.

Understanding the nature of population change is particularly useful for land use planning. Population changes not only in total size, but also undergoes compositional change and membership change. Compositional change is represented by net shifts in population subgroups, such as the shift in the proportion of an eth-

nic majority from white to Hispanic, and is often associated with different behavioral characteristics. Membership change is turnover in the individual members of the population, such as college students who enter and leave a community, and may or may not change the composition, and thus the characteristic behavior, of the population.

As discussed in the previous chapter, understanding the distribution of low-income and minority populations has important implications for environmental justice. Good demographic information serves to identify disproportionate effects of environmental burdens and subgroups underserved by public facilities and services. It can also improve public participation in the planning process.

Housing Stock and Needs

Under housing element requirements (§65583), local governments must identify and analyze existing and projected housing needs and inventory the resources and constraints relevant to meeting those needs. The contents of the element must include the following:

- Population and employment trends, documentation of projections, and quantification of the existing and projected housing needs for all income levels. This needs analysis must include the locality's share of the regional housing need.
- Household characteristics, including level of housing costs compared to ability to pay, housing characteristics, including overcrowding, and housing stock conditions.
- Land suitable for residential development, including vacant sites and those with redevelopment potential, and the relationship of zoning and public facilities and services to these sites.
- Governmental constraints on the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.
- Non-governmental constraints on the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.
- Special housing needs, such as those of the disabled, the elderly, large families, persons in need of emergency shelter, farmworkers, and families with female heads of household.
- Opportunities for energy conservation in residential development.

Projection of the city's or county's housing needs should be consistent with the regional housing needs assessment prepared by the COG or the Department of Housing and Community Development (HCD) for the region within which the jurisdiction is located. Information and assistance in preparing the analyses and projections may be obtained from HCD or the COG. In large measure, the information and data evaluation methods used will be the same as those described in the preceding section. Because the regional housing need is calculated in periods of five years and general plan projections are typically twenty years, planners should ensure that the projections are compatible.

Economic Conditions

Assessing economic trends is also important in preparing a realistic general plan. Jurisdictions may undertake one or more economic studies on such subjects as employment, market demand, and the fiscal impact of various plan alternatives on the city or county. The projections that result from these studies will form the basis for planning assumptions.

The Bureau of Economic Analysis (www.bea.doc.gov) and the Census Bureau (www.census.gov) collect national and state data. State information is also available from the Technology, Trade and Commerce Agency's Office of Economic Research (www.commerce.ca.gov), the Employment Development Department (www.edd.ca.gov), the Department of Finance, and the State Board of Equalization (www.boe.ca.gov). Data for small areas may be available from local special censuses or surveys.

Existing Commitments and Policies

Your jurisdiction's past decisions—approval of a vesting tentative subdivision map, approval of development agreements, agricultural preserve boundaries, a commitment to provide certain services, etc.—influence future actions. Carefully review your previous commitments to determine which are irreversible.

Also important are the plans and commitments of adjoining cities and counties, local school districts, utilities, councils of government and other regional agencies, Caltrans and other state agencies, federal agencies such as the Bureau of Land Management and the U.S. Forest Service, and others. Collect and review the plans of adjoining cities, counties, and affected regional agencies. The information in these plans, as well as their objectives, policies, and programs, will be important when evaluating the regional context of the proposed general plan.

Irreversible commitments will generally be among the "givens" that are included in the plan. These will be in the draft plan as a matter of course or carried over from the previous plan and probably will not be altered. Commitments must be consistent with the goals, objectives, and policies of the proposed general plan if they are to be included as part of the plan.

Current land use policies should be examined in similar fashion. If long-standing policies would be altered by the proposed plan, would this affect projects that previously have been approved but not completed? The general plan may provide a transition between new policies and those under which projects were previously considered.

Regulatory Setting

Cities and counties in California are subject to a variety of state and federal regulations. These regulations affect future development, often on a project-by-project basis. The general plan is a means to address many of these regulations at a programmatic level and perhaps reconcile potential conflicts. Conversely, some of these regulations may provide tools for general plan implementation. For example, the Williamson Act may help a county achieve it's open space goals for agricultural lands. Chapter 9 discusses a number of state and federal regulations that may need to be considered in the general plan process.

Analysis

The planning staff must distill the mass of raw data that has been collected during the early stages of plan preparation into a usable form. The analysis of data serves as the bridge of logic from raw data to policy. The staff's methods and information base should be available for review by both decision-makers and the public. As part of the hearing process, it will be the task of the planning commission, the planning advisory body, and the city council or board of supervisors to make further refinements to the preliminary work done by staff.

At the conclusion of the analysis phase, the planning staff should have gathered not only enough information to complete the plan in accordance with the work schedule, but also to answer the pertinent questions of both the public and decision-makers. Ideally, the planners will act as a central source of information about the community's history, environment, infrastructure, economy, and social characteristics.

Data collection, data analysis, and special studies should be coordinated with the needs of the CEQA document being written for the plan. In the interest of efficiency, data collection and analysis should be comprehensive enough to satisfy the needs of both the CEQA document and the general plan. For instance, the traffic analysis prepared for the land use and circulation elements must be complete enough to allow the evaluation of alternative plans, the final plan, and the project alternatives discussed in the general plan's final EIR.

REFINE GOALS AND DETERMINE OBJECTIVES

After data has been collected and analyzed, the goals developed early in the planning process may need to be revised. These refined goals should then lead to a set of objectives. Many jurisdictions do not separate goals and objectives, and proceed directly to the formulation of policies and alternative plan proposals.

Formulating Objectives and Policy

As noted in the definition of policy statements in Chapter 1, general plan objectives provide the direction for a community's physical development. These objectives help define the range and types of data necessary for preparing the plan. Consequently, cities and counties should draft their general plan objectives in the early stages of plan preparation once the issues, opportunities, and assumptions have been determined.

State law mandates citizen involvement in general plan preparation "through public hearings and any other means the city or county deems appropriate" (§65351). The public should be involved in the formulation of objectives to help make sure that they reflect community values.

Developing objectives can be difficult. Objectives tend to be general and futuristic and their direct effects on individual citizens often are not readily apparent. Conversely, identifying objectives may also crystallize areas of disagreement. Nevertheless, a plan that is formulated without some type of community consensus may be headed for an early major revision. Ample publicity about the formulation process, along with some specific examples of the potential effects of objectives, may help stimulate public interest and allay concerns.

Even with good community participation, problems may arise when:

- Objectives are not held in common by all community members.
- There are conflicts between the objectives of individuals and those of the community.
- There is disagreement about whether certain objectives are intermediate or ultimate in nature.

- There is disagreement about what ends the objectives serve.
- Objectives conflict with one another.
- There is disagreement about the relative value of objectives.
- Objectives are unrealistic or infeasible to attain, such as objectives that are contrary to law or beyond the jurisdiction's authority.

Here are some suggestions for working through issue-related conflicts:

- Establish the perimeter of concern for the issue. Decide the types of issues to be addressed by the general plan's objectives. This focuses discussion on a set of relevant issues.
- Establish a range of choice. Within the perimeters of concern, the jurisdiction should select the major desirable objectives that have a chance of being realized.
- Consider the relationships between issues. Relationships will exist among the selected objectives. For example, some may be means to higher objectives. Others may be mutually exclusive. Directing effort toward certain objectives may draw resources from the work toward others.
- Assign relative values to related issues. This evaluation can be carried out in part with the preceding step to eliminate unwanted or unnecessary objectives.
- Establish policy. At this point, the jurisdiction should be able to select a tentative set of objectives. These will guide subsequent work on the general plan and may be revised at later steps in the process.

DEVELOPING AND EVALUATING ALTERNATIVE PLANS

For any set of objectives, there will be a number of possible courses of action a community may pursue. Alternative plan proposals should be developed and examined at this stage to enable a community to weigh its possible directions. Besides the objectives, the varying plans should contain alternative sets of principles, policies, standards, and plan proposals. To the extent possible, the alternatives should be developed with implementation measures in mind. This will help to ensure the feasibility of the basic policies of each alternative.

The nature and detail of the alternatives will depend upon the extent of the planning program. For new general plans and comprehensive general plan revisions, the alternatives may focus on population levels and on the scale, location, and type of development. The alternatives in a more limited planning program, such as for a single element, may deal with a narrower range of options. In some cases, alternative plans may differ only in their treatment of a particular region or issue. In these instances, take care that the alternative policies and implementation measures are consistent with other parts of the plan.

Alternatives need not be highly detailed. The idea is to look at possible futures. Detailed objectives and policies will be developed once the preferred plan is selected. Additionally, the alternatives need not be mutually exclusive. Ultimately, decision-makers may select an amalgam of two or more alternatives as the best choice.

Each alternative should be evaluated for its short- and long-term effects on the community. Three major areas should be examined: economic, social, and environmental. Performance in these areas will help select the preferred plan.

In this era of tight city and county budgets, the assessment of the economic effects of general plan proposals and of specific projects has become increasingly important. Economic impact assessment, focusing on both fiscal impacts and broader economic effects, tries to quantify the relative economic efficiency of alternative proposals. Books such as *Development Impact Analysis* (1990) by Robert W. Burchell and the *Development Impact Assessment Handbook* (1994), also by Robert W. Burchell (see the Bibliography), are helpful in calculating the fiscal impacts of growth.

Social impact assessment has become fairly common in recent years. Unlike environmental and economic impact assessments, which focus primarily on the effects on systems and institutions, social impact assessment focuses on individuals and groups of people within the community. It attempts to identify and assess changes in people's well-being and/or quality of life.

CEQA Guidelines §15126 specifically requires that an EIR address feasible alternatives that will reduce or avoid one or more of the significant effects associated with the general plan. The EIR must also analyze the "no project" alternative. The level of detail in the analysis of the alternatives should correspond to the specificity of the planning document. The EIR's analysis should help local legislators select the most appropriate general plan alternative to adopt. For a more detailed discussion, see Chapter 7.

SELECTING THE PREFERRED PLAN

After the community thoroughly reviews the planning alternatives, decision-makers should be able to select a preferred course of action, either one of the alternatives examined or a synthesis of parts of several alternatives. Whatever the decision, the basic direction must be set as clearly as possible.

The preferred alternative at this point may lack sufficient detail to meet all state requirements and community needs. This will be particularly true when preparing a new general plan or thoroughly revising an old one. Consequently, the objectives and policies will need adjustment and refinement, while standards, plan proposals, and implementation measures will require more detail. The result of this process will be a draft general plan that can be submitted to the public and to decision-makers for formal review. Additional environmental assessment will be required if substantial changes are made to an alternative.

Adopting the General Plan or Plan Update

Where possible, formal public review of the draft plan and the draft EIR should take place together. The entire general plan proposal must be considered by the planning commission at a public hearing before it takes formal action on a general plan or a general plan amendment (§65353). A recommendation by the planning commission to approve a general plan or an amendment must be made by not less than a majority of its total membership (§65354).

The legislative body (i.e., city council or board of supervisors) must likewise hold at least one public hearing on the general plan and the recommendations of the planning commission before taking formal action (§65355). At least 10 days prior to each of these hearings, the local government must give public notice of the time and place of the public hearing by publishing an ad in a newspaper of general circulation (§65353, §65355, and §65090). In addition, the proposal must be referred to the agencies listed in the next section under "Intergovernmental Coordination."

If a proposed general plan or amendment would affect the "permitted uses or intensity of uses of real property," notice of the public hearing must also be mailed directly to the affected property owners; local agencies expected to provide water, sewer, street, school, or other essential facilities or services to the project; and the owners of properties that are within 300 feet of the project boundaries. If the number of landowners to whom notice must be provided exceeds 1,000, the agency has the option of placing a 1/8-page advertisement in a newspaper of general circulation at least ten days before the hearing (§65353).

The formal public review inevitably leads to changes in the draft. If the community and decision-makers, particularly the legislative body, have been actively involved from the beginning, there should be few major changes. If the legislative body makes substantial changes in the proposal not previously considered by the planning commission, such changes must be referred back to the planning commission for its consideration prior to final action by the legislative body (§65356). The change may need to be subjected to additional environmental review.

Pursuant to CEQA Guidelines §15090, the adopting agency must certify that the final EIR has been completed in compliance with CEQA, that it was presented to the decision-making body of the Lead Agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to adopting the general plan (*City of Carmel-by-the Sea v. Board of Supervisors (1977) 71 Cal. App. 3d 84; Kliest v. City of Glendale (1976) 56 Cal. App. 3d 770*).

Planning is a political process. It is seldom possible to write a general plan that is all things to all people. However, the plan that emerges from the meetings and hearings should, to the extent practical, attempt to reconcile community interests. The ultimate success of the general plan will depend upon public acceptance. The general plan will be the community's basis for decision-making and, as such, should reflect the views of the community as a whole.

Voters may also act directly to adopt or change a general plan. Because adoption of a general plan is a legislative act, it is subject to the initiative and referendum processes (*Yost v. Thomas (1984) 36 Cal.3d 561; DeVita v. County of Napa (1995) 9 Cal. 4th 763*).

Intergovernmental Coordination

State law requires local governments to work not only with citizens, but also with other governmental agencies and public utility companies in preparing and implementing their general plans (§65103(e)(f), §65351, and §65352). Intergovernmental coordination involves more than a formal exchange of information and plans. In the planning process, legitimate conflicts can crop up between agencies with different responsibilities, constituencies, and viewpoints.

Upon request, a city must refer a proposal to amend or adopt a general plan or zoning ordinance to a county whose planning review area would be affected by the action. A county must do the same for an affected city (§65919 and §65919.3).

The affected county or city must be notified no later than the date upon which the city or county provides notice of the planning commission's hearing on the proposal. The hearing notice must be delivered by mail or by hand, contain the information provided in general hearing notices, and state the earliest date upon which the city council or county board of supervisors will act on the proposal (§65919.4). A city or county desiring referrals of this type must file a map or other documentation as specified in §65919.2 Alternatively, a city and county may agree on a referral procedure.

A local government that receives a referral has 45 days to review, comment, and make recommendations regarding the plan proposal's consistency with the affected city's or county's general and specific plans and zoning ordinance. Before a city or county adopts or amends a plan, it must consider the affected jurisdiction's comments and recommendations. If a local legislative body modifies and sends the proposed action back to its planning commission, it must also refer the change to the affected city or county.

Cities and counties must send their adopted housing element, and any amendments, to all public agencies and private entities that provide water and sewer service (§65589.7). Water and sewer service providers shall, when allocating resources, give priority to those proposed developments that help meet the city's or county's share of the regional housing need for lower-income households.

A local planning agency is entitled to review for consistency with its general plan real property acquisitions for public works, real property dispositions, and proposed public buildings or structures as specified by §65402(b)(c). These are actions and projects undertaken by another city, county, or local agency within the reviewing agency's jurisdiction.

Cities and counties must send draft housing elements and proposed amendments to HCD for review prior to adoption (§65585(b)). State law requires local governments to send the drafts of new housing elements to HCD at least 90 days prior to adoption. When a city or county considers a housing element amendment, the planning agency must send a draft of the proposal to HCD 60 days prior to adoption.

HCD is required to send its comments on a draft to the city or county planning agency within 90 days for new housing elements and 60 days for an amendment. The city council or county board of supervisors must consider those HCD comments that arrive on time. If the comments arrive late, local governments must consider them in conjunction with future housing element amendments. Furthermore, each city and county must send to HCD copies of the adopted housing element and any amendments (§65585(c)). For any housing element that has been found by HCD to substantially comply with the requirements of state housing law, there is a rebuttable presumption of validity in any legal challenge.

Every city and county must consult with the California Geological Survey and the Office of Emergency Services before the adoption or revision of a safety element. Local governments must respond to the findings of these agencies as specified in §65302(g).

In addition, state law directs counties containing state responsibility areas for fire protection to seek and respond to safety element advice from the State Board of Forestry and every local agency that provides fire protection to unincorporated territory in the county (Public Resources Code §4128.5). Similarly, cities and counties must submit proposed mineral resource management polices to the State Mining and Geol-

Submitting Plans to State Agencies

State law and selected regulations require cities and counties to send copies of their general plan documents to selected state agencies for review. In only one case does a state agency actually have authority to approve general plans: the Coastal Commission certifies the adequacy of Local Coastal Programs, which include relevant portions of local general plans for jurisdictions in the coastal zone.

REFERRALS TO STATE AGENCIES

AGENCY \ ELEMENT	Land Use	Circulation	Housing	Conservation	Open Space	Noise	Safety
California Geological Survey							X
Coastal Commission	All elements related to the Local Coastal Plan						
Department of Forestry & Fire Protection							X[1]
Department of Housing & Community Development			X				
Mining & Geology Board	X[2]			X[2]	X[2]		
Office of Emergency Services							X
Resources Agency					X[1]		

1 Applies only to counties with State Responsibility Areas for wildland fire
2 Submit all elements containing mineral resource management policies

ogy Board for review and comment. The same is true for subsequently proposed policy amendments (Public Resources Code §2762(b) and (c)).

Local governments must send their open-space elements to the Secretary of the Resources Agency. Section 65563 provides in part that, "on or before December 31, 1973, every city and county shall prepare, adopt, and submit to the Secretary of the Resources Agency a local open-space plan."

Jurisdictions may seek input from other state agencies besides those cited above. Agencies such as Caltrans, the Department of Fish and Game, the Department of Conservation, the Office of Emergency Services, and the Regional Water Quality Control Board often have a major interest in the consequences of local planning. As a matter of intergovernmental coordination, cities and counties should send copies of their draft general plans to their state contacts.

As a final requirement, under the CEQA Guidelines, local jurisdictions must submit draft EIRs for general plans, elements, and amendments to the State Clearinghouse within the Office of Planning and Research to allow review by state agencies (Title 14, California Code of Regulations, §15161.6).

While not required by law, planning agencies may send a copy of a newly adopted or revised general plan or element, along with subsequent amendments, to the County Municipal Collection in the State Library's Government Publications Section. The library makes general plans available to the public for reference. Library users may also borrow plan documents through any local library's inter-library loan process. In addition, the Resources Agency, through the Land Use Planning Information Network (LUPIN, www.ceres.ca.gov/lupin), has an electronic library of local general plans and always appreciates getting electronic copies to add to the collection.

IMPLEMENTING THE GENERAL PLAN

A person can determine a city's or county's commitment to its general plan by the manner in which local officials implement the plan's policies to achieve its objectives. The most successful plans are those that were written from the start with a concern for realistic and well-timed implementation measures.

Adopting infeasible planning policies or implementation measures is a waste of time. To avoid this, the planners who will be implementing the plan should be involved in its preparation. In addition, the general plan should identify, where appropriate, the local agencies responsible for carrying out implementing actions (i.e., the current planning division of the planning department or the development/traffic engineering division of the public works department).

While existing law specifically requires an identification of implementation actions in the open-space, housing, and noise elements, the general plan should identify such measures relative to every element. For example, the land use element might indicate that its provisions will be carried out by particular zoning measures, subdivision procedures, specific plans, development agreements, or the local building code. Chapter 10 contains a more detailed discussion of general plan implementation measures.

CEQA requires that general plan policies and the implementation program reflect the mitigation measures identified in the plan's EIR. In addition, the jurisdiction must adopt a mitigation monitoring or reporting program to ensure that mitigation measures are implemented (Public Resources Code §21081.6(b)).

Monitoring Implementation

The general plan should be a dynamic document. It is based on a snapshot of community values, politics, and conditions at a particular moment in time, i.e., upon plan adoption. Since these factors are always in flux, local governments should continually monitor the relevance of their plans to ensure that they remain in touch with their evolving communities.

Each city and county should establish formal procedures for regularly monitoring the effectiveness of its general plan. When a monitoring program reveals a plan inadequacy, the city or county should amend or, if necessary, totally revise the general plan to bring it up to date.

Those portions of the plan having a short-term focus, such as the implementation program, should be annually reviewed and amended as necessary. The review should take into account the availability of new implementation tools, changes in funding sources, and the feedback from plan monitoring activities. Indeed, §65400(b) requires the planning agency to "[p]rovide an annual report to the legislative body on the status of the plan and progress in its implementation." The local agency must include as part of this report an evaluation of its progress toward meeting its share of the regional housing need (§65584) and local efforts to remove the governmental constraints that may serve as obstacles to meeting those needs (§65583). More information on the annual progress report is provided in Chapter 9.

At least once every five years, each local planning agency should thoroughly review its entire general plan and revise the document as necessary. State law requires

every city and county to evaluate its housing element as frequently as necessary and to revise the element as appropriate not less than every five years (§65588).

Under CEQA, a local government must establish a mitigation monitoring or reporting program for its general plan whenever approving the plan involves either the adoption of a mitigated negative declaration or specified EIR-related CEQA findings. Logically, the program should be part of plan monitoring activities, such as the annual planning report.

GENERAL PLAN AMENDMENTS

The most common sort of revision to a general plan is an amendment associated with a privately initiated development project. Generally, local governments may not amend any one of the mandatory elements of the general plan more than four times in one calendar year (§65358(b)). However, this limitation does not apply to:

- Optional elements.
- Amendments requested and necessary for affordable housing (§65358(c)).
- Any amendment necessary to comply with a court decision in a case involving the legal adequacy of the general plan (§65358(d)(1)).
- Amendments after January 1, 1984, to bring a general plan into compliance with an airport land use plan (§65302.3).
- Amendments needed in connection with the adoption of a comprehensive development plan under the Urban Development Incentive Act (Health and Safety Code §56032(d)).
- Any amendments for the purpose of developing a certified Local Coastal Program (Public Resources Code §30500(b)).

Section 65358(b) provides that each amendment may include more than one change to the general plan. At four times during the year, many local governments group together several proposals for change, review them individually, and analyze their cumulative effects. Any one proposal in the package can be altered or deleted up until the time of adoption.

If the board or council finds itself making frequent piecemeal amendments, major defects may exist in the general plan. In these cases, the jurisdiction should consider a plan update or a major plan revision to address these issues.

Amendment of a general plan is subject to the initiative and referendum processes. In *DeVita v. County of Napa (1995) 9 Cal. 4th 763*, the California Supreme Court held that Elections Code §9111 permits the adoption or amendment of a general plan by initiative and referendum (although the court left open the question of whether the housing element may be so adopted or amended). In addition, the court stated that initiative amendments must conform to the requirements of planning law, including consistency requirements.

For amendments other than those undertaken by initiative, local governments must follow the notice and hearing procedures outlined in §65350, et seq. The procedure is the same as for enactment of a general plan, including adoption of a resolution by the legislative body. Section 65354.5(a) requires cities and counties to establish procedures for any interested party to appeal a planning commission decision.

Additionally, general plan amendments are subject to CEQA. Pursuant to *Landi v. County of Monterey (1983) 139 Cal.App.3d 934* and later case law, amendments are not subject to the Permit Streamlining Act (§65920 et seq.).

CHAPTER 4

Required Elements of the General Plan

All statutory references are to the California Government Code unless otherwise noted.

A general plan is required to address the specified provisions of each of the seven mandated elements listed in §65302—land use, circulation, housing, conservation, open space, noise, and safety—to the extent that the provisions are locally relevant. The purpose of this chapter is to outline the content of each element as required by statute. These are statewide guidelines, so they offer a broad overview of what a general plan might contain. The order in which the elements are presented matches the order in which they are listed in §65302. This should not be misconstrued as the order of importance or the order in which a jurisdiction should prepare elements. All elements have equal weight under the law and can be prepared in any order or even combined, as is discussed further in Chapter 5.

The discussion of each element includes the following sections: an overview, court and attorney general interpretations, relevant issues, ideas for data and analysis, and ideas for development policies. The "Relevant Issues" section discusses the required contents of each element and may include recommendations on topics related to those issues. The housing element guidelines expand on this basic format due to the complex statutory requirements of this particular element. For both the housing element and the open space element guidelines, there is a discussion of implementation measures. Despite the fact that statute requires a discussion of implementation only in these two elements, each planning agency has a duty to implement the entire general plan (§65103 and §65400). The discussion of each element concludes with a section on technical assistance.

RELATIONSHIPS AMONG ELEMENTS AND ISSUES

Each of the seven mandatory elements is presented separately in this chapter, however there is no requirement that a plan consist of seven separate elements. A jurisdiction proposing a comprehensive or multi-element revision of its general plan may choose to consolidate elements so long as all of the relevant statutory issues are addressed (*Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692*). When revising a single element, local agencies should examine and revise all of the other elements, including optional elements, as necessary to avoid internal inconsistencies or conflicts. This chapter provides cross-references between elements to help identify where statutory requirements overlap and consolidation may occur.

The statutory requirements for the elements overlap and intertwine. For example, conservation of open space and agricultural land are topics under the open-space, conservation, and land use elements. Similarly, the noise element is directly related to both the land use and circulation elements. Most general plans mix and consolidate some or all of their elements. The important thing is that the elements and issues form an integrated, internally consistent plan of which all parts are equally weighed in their application (*Sierra Club v. Board of Supervisors of Kern County (1981) 126 Cal.App.3d 698)*. A concise general plan avoids repetitive discussions of topics by consolidating the statutory requirements into a few functional elements. In general plans, conciseness is a virtue.

General plan elements and issues interrelate functionally. For example, consideration given in the conservation element to the vegetation that supports an endangered wildlife species also involves analyzing topography, weather, fire hazards, availability of water, and density of development in several other elements.

Key to Abbreviations in Chapter 4

The following abbreviations are used in this chapter to denote other elements that might also address a particular issue:

L: Land Use
CI: Circulation
H: Housing
CO: Conservation
O: Open Space
N: Noise
S: Safety

MAP or **DIA** indicates information that can be shown on one or more maps or diagrams.

Thus, the preparation of a general plan must be approached on multiple levels and from an interdisciplinary point of view.

A general plan should be written as an integrated statement of policies. A basic understanding of the structural and functional interrelationships between issues and elements can help avoid the problems associated with treating issues in isolation, as well as focus planning efforts on the key issues. The table at right illustrates the relationships among the seven mandatory elements and the required topics of the general plan. Remember that not every general plan will address these issues to the same extent or in the same manner. Cities and counties should design their general plan formats to suit the topographic, geologic, climatologic, political, socioeconomic, cultural, and historical diversities that exist within their communities.

LAND USE ELEMENT

The land use element functions as a guide to planners, the general public, and decision-makers as to the ultimate pattern of development for the city or county at build-out. The land use element has perhaps the broadest scope of the seven mandatory elements. In theory, it plays a central role in correlating all land use issues into a set of coherent development policies. Its objectives, policies, and programs relate directly to the other elements. In practice, it is the most visible and often-used element in the local general plan. Although all general plan elements carry equal weight, the land use element is often perceived as being most representative of "the general plan."

The land use element has a pivotal role in zoning, subdivision, and public works decisions. The element's objectives and policies provide a long-range context for those short-term actions.

Court and Attorney General Interpretations

The following legal interpretations have addressed the land use element with regard to the land use diagram, population density, building intensity, the designation of solid waste disposal sites and its relationship to the circulation and noise elements.

GENERAL PLAN ISSUES AND ELEMENTS

TOPIC/ISSUE AREA	ELEMENT: Land Use	Circulation	Housing	Conservatoin	Open Space	Noise	Safety
Agriculture	X			✔	X		
Air Quality					X		
Airports	✔	✔			✔	X	
Density	X		X				
Education	X						
Fire					X		X
Fisheries				✔	X		
Flooding	X			X	X		X
Forests/Timber	X			X	X		
Housing	✔		X				
Industrial Uses	X					X	
Land Reclamation				X			
Land Use	X	X	✔	X	✔	X	✔
Minerals				X	X		
Noise Contours						X	
Public Buildings	X						
Railways & Yards		✔				X	
Recreation	X				X		
Scenic Resources	X				X		
Seismic Hazards					X		X
Soil Conservation				X	X		
Soil Instability							X
Transportation Routes		X			X_1	X	X
Transportation Terminals		X					
Utilities/Easements		X			X		
Waste Facilities	X						
Water Quality				X	X		
Water Supply				X	X		X
Watersheds				X	X		
Waterways/Water Bodies				X	X		
Wildlife				X	X		

X Indicates a topic identified in statute

X_1 Trail systems

✔ Indicates a topic closely related to statutory requirements

The land use diagram

Attorney General Opinion No. 83-804, March 7, 1984 addresses the required level of specificity of the land use diagram. In answer to the question of whether a parcel specific map is required for the land use element of a general plan, the Attorney General reasoned that the detail necessary for a parcel specific map may be developed at a later stage in the land use process (through specific plans, zoning ordinances and subdivision maps); therefore, a parcel specific map is not required, only a diagram of general locations illustrating the policies of the plan.

The California Supreme Court, in *United Outdoor Advertising Co. v. Business, Transportation and Housing Agency (1988) 44 Cal.3d 242*, briefly discussed the degree of precision which can be expected of a general plan. The high court held that when San Bernardino County used a circle to distinguish the community of Baker as a "Desert Special Service Center" the county did not delineate a well-defined geographic area. According to the opinion of the court, "the circle on the general plan no more represents the precise boundaries of a present or future commercial area than the dot or square on a map of California represents the exact size and shape of Baker or any other community."

The concept of the diagram as a general guide to land use distribution rather than a parcel specific map also figured in the case of *Las Virgenes Homeowners Association v. Los Angeles County (1986) 177 Cal.App.3d 310*. There, the court of appeal upheld the adequacy of a county plan which contained a generalized land use map and which delegated specific land use interpretations to community plans. See Chapter 1 for a discussion of consistency between the diagrams and the plan text.

Population density

Camp v. County of Mendocino (1981) 123 Cal.App.3d 334 established that a general plan must contain standards for population density. It did not, however, define such standards. The court in *Twain Harte Homeowners Association v. Tuolumne County (1982) 138 Cal.App.3d 664* defined population density as the "numbers of people in a given area and not the dwelling units per acre, unless the basis for correlation between the measure of dwelling units per acre and numbers of people is set forth explicitly in the plan." Quantifiable standards of population density must be provided for each of the land use categories contained in the plan.

Population density standards need not be restricted solely to land use designations with residential development potential. As the court stated in *Twain Harte*: "it would not be unreasonable to interpret the term "population density" as relating not only to residential density, but also to uses of nonresidential land categories and as requiring an analysis of use patterns for all categories . . . it appears sensible to allow local governments to determine whether the statement of population standards is to be tied to residency or, more ambitiously, to the daily usage [sic] estimates for each land classification."

Although applied differently from one jurisdiction to another, population density can best be expressed as the relationship between two factors: the number of dwellings per acre and the number of residents per dwelling. Current estimates of the average number of persons per household are available from the Department of Finance's Demographic Research and Census Data Center (www.dof.ca.gov).

Building intensity

The *Camp* decision also held that an adequate general plan must contain standards for building intensity. Again, the *Twain Harte* court has provided the most complete interpretation of building intensity available to date. These are its major points: intensity should be defined for each of the various land use categories in the plan; general use captions such as "neighborhood commercial" and "service industrial" are insufficient measures of intensity by themselves; and, building intensity is not synonymous with population density. Intensity will be dependent upon the local plan's context and may be based upon a combination of variables such as maximum dwelling units per acre, height and size limitations, and use restrictions. Unfortunately, the court stopped short of defining what are proper measures of building intensity.

Local general plans must contain quantifiable standards of building intensity for each land use designation. These standards should define the most intensive use that will be allowed under each designation. While the land use designation identifies the type of allowable uses, the building intensity standard will define the concentration of use. Intensity standards can include provisions for flexibility such as density bonuses, cluster zoning, planned unit developments, and the like.

OPR recommends that each intensity standard include these variables: (1) permitted lands uses or building types; and (2) concentration of use. Permitted uses and building types is a qualitative measure of the uses that will be allowable in each land use designation. The concentration of use can be defined by one or more quantitative measures that relate directly to the amount

of physical development that will be allowed. Maximum dwelling units per acre is a good residential standard. Floor area ratio (the ratio of building floor area to the total site area) is a useful measure of commercial and industrial intensity. The dual standard of maximum lot coverage and maximum building height is suitable for agricultural, open-space, and recreational designations where development is being limited. On the other hand, lot size, which has been widely used for agricultural and open-space designations, is an inadequate standard of building intensity because although it regulates lot area, it does not quantify the allowable concentration of development on each lot.

Solid waste sites

Concerned Citizens of Calaveras County v. Board of Supervisors (1985) 166 Cal.App.3d 90, held that the general plan is not required to identify existing solid waste disposal sites. However, because the purpose of the land use element is to designate "the proposed general distribution and general location and extent" of land uses, the element must identify future sites.

The identification of future solid waste disposal sites is particularly important when preparing or implementing Integrated Waste Management Plans (IWMPs). Public Resources Code §41720 now requires that the IWMP's countywide siting element, including any areas identified for the location of a new or expanded solid waste transformation or disposal facility, be consistent with the applicable general plan.

Circulation

The *Twain Harte* and *Concerned Citizens* decisions also discussed the close relationship between the land use and circulation elements. Pursuant to the decisions of the *Concerned Citizens*, *Twain Harte*, and *Camp v. Mendocino* courts, the general plan must reflect both the anticipated level of land development (represented in the land use element) and the road system necessary to serve that level (represented in the circulation element). The road system proposed in the circulation element must be "closely, systematically, and reciprocally related to the land use element of the plan" (*Concerned Citizens, supra, at p.100).*

Noise

According to §65302(f), the noise element is to be used as "a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise." When the noise element is inadequate, the land use element may be invalid, as in the *Camp* case.

Relevant Issues

This discussion offers a general guide to the contents of the land use element. Note that while the focus is on the minimum requirements for an adequate land use element, an effective general plan will focus on those issues of greatest relevance to the community.

The purpose of the land use element is to designate "the proposed general distribution and general location and extent of uses of the land." The land use element should focus on the future growth and physical development of the community and planning area.

A land use element should contain a sufficient number of land use categories to conveniently classify the various land uses identified by the plan. Land use categories should be descriptive enough to distinguish between levels of intensity and allowable uses. The element should include categories reflecting existing land uses as well as projected development.

There need not be an equal number of land use designations and zoning classifications. In many cases, there may be more than one zone that would be consistent with each land use designation.

The land use element should, consistent with §65302(a), address each of the following issues to the extent that it is relevant:

- Distribution of housing, business, and industry
- Distribution of open space, including agricultural land
- Distribution of mineral resources and provisions for their continued availability
- Distribution of recreation facilities and opportunities
- Location of educational facilities
- Location of public buildings and grounds
- Location of future solid and liquid waste facilities
- Identification of areas subject to flooding
- Identification of existing Timberland Preserve Zone lands
- Other categories of public and private uses of land.

Ideas for Data and Analysis

The following is a list of topics that should be considered during the preparation of the general plan and, if relevant, included in the land use element. These subjects are based upon a close reading of the statutes and case law. When the information collected for the land use element overlaps that needed for other elements, the related element has been noted in parenthesis.

Housing, business, and industry

- Examine current and future population data.
  - Identify demographic trends (age, income, persons per household, etc.).
  - Identify concentrations of low-income and minority populations.
- Inventory existing residential, commercial, and industrial land use in the planning area. (DIA) (CI)
- Assess local housing needs based upon projected community and regional growth trends, including the regional housing need allocation plan. (H)
- Project needs for specific land uses, including residential, commercial, and industrial development, based upon projections of future population and economic conditions. (H)
- Assess the capacity and availability of infrastructure necessary to support proposed land uses.
- Assess the general efficiency of movement of people, goods, and services. (CI)
- Inventory potential transit-oriented development sites located near transit routes (within 1/4 to 1/2 mile). (L)
  - Assess appropriate density for the transit station community. (L)
  - Assess appropriate residential/commercial mix. (L)

Open space

- Inventory open-space lands, including open space for conservation and agricultural, forest, grazing, and recreational lands. (DIA) (CO, O)
- Assess local open-space needs based upon community goals and objectives, the existing open-space/population ratio, and the anticipated population growth. (O)
- Delineate the boundaries of watersheds, aquifer recharge areas, and floodplains and the depth of groundwater basins. (DIA) (CO, O, S)
- Delineate the boundaries and descriptions of unique water resources (e.g., saltwater and freshwater marshes, wetlands, riparian corridors, lakes, wild rivers and streams, etc.). (CO)
- Describe the species, distribution, and population of wildlife and fish, including rare and endangered species. Normally, this will coincide with a habitat inventory that includes the location and type of bodies of water; the type, location, and extent of plants, identified according to the Department of Fish and Game's classification system; and identification of key wildlife habitats, including winter range and migration routes for deer, wintering and nesting grounds for waterfowl and other birds, salmon spawning areas, and habitats of rare or endangered species. (DIA) (CO, O)
- Describe species of rare, threatened, and endangered plants, their distribution, and rate of occurrence. (DIA) (CO, O)

Agricultural resources, including grazing land

- Identify the location, amount, and ownership patterns of land in agricultural production and suitable for agricultural production. (DIA) (O)
- Include location, acreage, and extent of classification of soils (including identification of prime and other farmland classifications) in the planning area by Land Capability Classification. (DIA) (CO)
- Generally describe agricultural production in the planning area by crop type. (O)
- Identify land within the boundaries of Agricultural Preserves and land subject to Williamson Act contracts and Farmland Security Zone contracts or in other land conservation programs. (DIA) (CO)

Mineral resources

- Identify the type, location, quality, and extent of mineral resources, including oil and gas. (DIA) (CO, O)
- Inventory the location of significant mineral resource areas classified and designated by the State Mining and Geology Board pursuant to the Surface Mining and Reclamation Act (California Code of Regulations §2762(a)). (DIA) (CO, O)

Other natural resources

- Inventory areas available for the management or utilization of natural resources, such as wind energy generation, hydroelectric power, geothermal power, and large-scale solar power.

Assessment of the demand for public and private parks and recreational facilities and inventory of areas suitable for parks and recreational purposes

- Describe the type, location, and size of existing public and private parks and recreational facilities. (DIA)
- Assess present and future demands for parks and recreational facilities, including trails, river and lake access, and per capita supply of parks (acres per thousand inhabitants).
  - Identify underserved areas.
- Identify future park and recreational sites. (DIA)
- Review federal, state, and local plans for the acquisition and improvement of public parks. (DIA)
- Inventory areas of outstanding scenic beauty and scenic vistas. (DIA) (O)
- Identify programs for protecting, conserving, and acquiring open-space lands. (O, CO)

Enjoyment of scenic beauty

- Inventory scenic viewsheds and points of interest. (O)
- Define community scenic values.
- Identify programs for protecting and promoting community aesthetics. (O)
- Identify scenic highways and byways. (O)

Education

- Inventory existing schools and school facilities. (DIA)
- Assess the adequacy of school facilities and the need, if any, for additional facilities based upon existing and projected numbers of school-age children. The projections should correlate with projected residential development.
- Identify suitable locations for new school facilities based upon population projections and land use compatibility.

Public buildings and grounds

- Inventory public buildings and grounds. (DIA)
  - Assess distribution of public facilities and identify underserved areas.
- Assess the need for additional facilities based upon existing need for additional services and projected increases in land use intensity and population.
- Inventory public and private historical landmarks pursuant to Public Resources Code §5020, et seq.
- Inventory existing public surplus land and disposition pursuant to §54220, et seq. and §25539.4.

Solid and liquid waste facilities

- Inventory existing solid and liquid waste disposal facilities, correlated with the County Integrated Waste Management Plan and the County Hazardous Waste Management Plan. (DIA) (CI)
- Assess the need for additional facilities based upon the projected levels of land use and population and correlated with the County Integrated Waste Management Plan.
- Inventory proposed solid and liquid waste disposal and transformation sites. (DIA)
- Identify land uses near existing solid and liquid waste facilities, waste-to-energy plants, and sites reserved for future such facilities. (O)
  - Identify overconcentrated waste facilities near residential uses and schools.

Assessment of the potential for flooding

- Collect historical data on flooding. (CO, O, S)
- Identify areas subject to inundation by a 100-year flood. (DIA) (CO, O, S)
- Identify floodways and flood channels. (DIA) (CO, O, S)
- Identify areas subject to inundation as a result of dam failure. (S)
- Identify areas subject to flooding as a result of tidal action occurring in conjunction with river and stream runoff. (S)
- Identify areas subject to flooding due to tsunami, seiche, or flash flood.

Timber production

- Describe the location, type, amount, and ownership of land and timber resources subject to timberland production zoning. (DIA)

Other public and private uses of land

- Identify redevelopment projects areas.
- Identify areas covered under a Local Coastal Land Use Plan.
- Inventory lands subject to regulation by other agencies (e.g., state land, federal land, etc.).
- Inventory lands designated under Habitat Conservation Plans (HCPs) and Natural Community Conservation Planning (NCCP) programs for the protection or restoration of threatened or endangered species and their habitat. (O, CO)

Ideas for Development Policies

Policies contribute to a framework of plan proposals and implementation programs and in some instances provide the basis for requiring exactions and development fees of new projects (for example, parks and recreational facilities under the Quimby Act (§66477)). The distribution of land use categories which is reflected in the plan diagram must conform to the plans policies. Existing development may not adhere to all of the development policies set forth by the plan, however, new and future development must be in uniform compliance.

The following subjects should be addressed through development policies in the land use element to the extent that they are relevant.

- Type, intensity, general distribution, and general location of each class of land use proposed by the plan. (DIA) (CI, CO, H, N, O, S)
- Categories and standards for establishing the allowable levels of residential, commercial, and industrial land use intensity. (CI)
- Population density standards for each land use category with residential potential. (CI, H)
- Density and intensity standards for areas to be served by transit. (CI)
- Standards for transit-oriented development
  - Appropriate mix of uses near transit stations.
  - Increased density and intensity standards near transit stations.
  - Limitations on the amount and location of parking.
- The location of new development allowed by the plan, including requirements for the consideration of impacts to the environment, surrounding land uses, and infrastructure. (CI, O, CO, H, S, N)
- The spatial relationships between types of land use (e.g., housing, business, industry, open space, etc.). (H, O)
  - Community design principles.
  - Buffer zones between residential/school uses and industrial uses that pose a hazard to human health and safety.
- The location of town/community/village centers.
  - Encourage locating public facilities that benefit the community in town centers.
- General standards for mixed-use development.
- The type, location, and intensity of development (if any) to be allowed within flood hazard areas, including standards for allowable uses. (CO, S)
- Development regulations for open-space areas. (O)
- The type and intensity of allowable development in areas with severe slopes.
- The evaluation and regulation of timberland production zones, including standards for inclusion in the zones. (CO)
- The location of existing oil, gas, and geothermal resources as identified by the Department of Conservation's Division of Oil, Gas, and Geothermal Resources.
- The location, acquisition, development, and management of public and private parks and recreational areas, including access to lakeshores, beaches, rivers, and streams. (O)
  - The equitable distribution of parks and recreational facilities.
- The evaluation and regulation of important wildlife habitats (such as HCP or NCCP lands, critical habitat, or deer wintering areas), including allowable uses and/or density of development.
- The preservation and protection of rare, threatened, or endangered species within the planning area, including candidate species and species of special concern.
- The promotion and protection of agricultural land, including policies regulating development.
  - Allowable uses, intensity, and density at agricultural-urban interface
- The promotion and protection of areas of scenic beauty, including policies regulating development.
- The relationship between the land use element and the local zoning, subdivision, and building ordinances.
- The location, type, and height of development in areas surrounding airports, correlated to the local Airport Land Use Plan.
- The location of schools and the future use of surplus school facilities, coordinated with the plans of local school districts.
  - Restrictions on proposed school locations near industrial facilities that pose a hazard to human health and safety.
- The development, maintenance, and siting of existing and projected public facilities, including buildings and infrastructure.
  - The equitable distribution of beneficial public facilities.

- The analysis, approval, and regulation of future liquid and solid waste facilities. (CI)
- The compatibility of nearby land uses with existing solid waste and liquid waste facilities and with sites reserved for future facilities. (O)
- The relationship between the distribution of land uses and the local capital improvements program and guidelines for the timing and siting of capital improvements.
- The protection and future productivity of mineral resource lands, including significant mineral deposits classified or designated by the California Geological Survey.
- General plan designations to allow local governments to comply with §65583 regarding the provision of low and moderate income housing. (H)

Technical Assistance

The following state agencies may provide information or assistance for the preparation of the land use element:

- Coastal Commission
- Coastal Conservancy
- Department of Conservation
- Department of Forestry and Fire Protection
- Department of Health Services, Division of Drinking Water
- Department of Housing and Community Development
- Department of Transportation (Caltrans), including district offices
- Department of Water Resources
- Energy Commission
- Environmental Protection Agency
- Integrated Waste Management Board
- Public Utilities Commission
- Office of Emergency Services
- Office of Planning and Research
- Technology, Trade and Commerce Agency

CIRCULATION ELEMENT

The circulation element is not simply a transportation plan. It is an infrastructure plan addressing the circulation of people, goods, energy, water, sewage, storm drainage, and communications. By statute, the circulation element must correlate directly with the land use element. The circulation element also has direct relationships with the housing, open-space, noise and safety elements.

The provisions of a circulation element affect a community's physical, social, and economic environment as follows:

- Physical—The circulation system is one of the chief generators of physical settlement patterns and its location, design, and constituent modes have major impacts on air quality, plant and animal habitats, environmental noise, energy use, community appearance, and other environmental components.
- Social—The circulation system is a primary determinant of the pattern of human settlement. It has a major impact on the areas and activities it serves, on community cohesion, and on the quality of human life. The circulation system should be accessible to all segments of the population, including the disadvantaged, the young, the poor, the elderly, and the disabled.
- Economic—Economic activities normally require circulation for materials, products, ideas, and employees, thus the viability of the community's economy is directly affected by the circulation element. The efficiency of a community's circulation system can either contribute to or adversely affect its economy.

No city or county can ignore its regional setting. The local planning agency should coordinate its circulation element provisions with applicable state and regional transportation plans (see §65103(f) and §65080, et seq.). Likewise, the state must coordinate its plans with those of local governments (§65080(a)). The federal government is under a similar obligation (Title 23 USC §134).

Caltrans is particularly interested in the transportation planning roles of local general plans and suggests that the following areas be emphasized:

- Coordination of planning efforts between local agencies and Caltrans districts.
- Preservation of transportation corridors for future system improvements.
- Development of coordinated transportation system management plans that achieve the maximum use of present and proposed infrastructure.

These areas of emphasis are addressed through Caltrans' Intergovernmental Review (IGR), Regional Planning, and System Planning programs. One of the

program's major purposes is to resolve transportation problems early enough in the local land use development process to avoid costly delays to development. Coordinating state and local transportation planning is a key to the success of a circulation element. For more information on coordination, contact your Caltrans District Office's IGR, the Office of Regional and Interagency Planning, or the Office of Advances System Planning.

Court Interpretations

Three California appellate cases have addressed the subject of correlation between the circulation and land use elements: *Concerned Citizens of Calaveras County v. Board of Supervisors (1985) 166 Cal.App.3d 90, Twain Harte Homeowners Association v. Tuolumne County (1982) 138 Cal.App.3d 664*, and *Camp v. County of Mendocino (1981) 123 Cal.App.3d 334.*

The *Concerned Citizens* court defined the term "correlated" as follows:

"'Correlated' means 'closely, systematically, or reciprocally related . . . .' [Webster's Third New International Dictionary (1981) p. 511]." Section 65302 therefore requires that the circulation element of a general plan, including its major thoroughfares, be closely, systematically, and reciprocally related to the land use element of the plan.

"In its more concrete and practical application, the correlation requirement in subdivision (b) of [Government Code] §65302 is designed to insure that the circulation element will describe, discuss and set forth 'standards' and 'proposals' respecting any change in demands on the various roadways or transportation facilities as a result of changes in uses of land contemplated by the plan. (See *Twain Harte Homeowners Assn. v. Tuolumne County (1982) 138 Cal.App.3d* at p. 701 and *Camp v. County of Mendocino (1981) 123 Cal.App.3d* at p. 363.) The statutory correlation requirement is evidently designed in part to prohibit a general plan from calling for unlimited population growth in its land use element, without providing in its circulation element, 'proposals' for how the transportation needs of the increased population will be met."

After defining "correlated," the *Concerned Citizens* court described a situation where correlation does not exist:

"We conclude the [Calaveras County] general plan cannot identify substantial problems that will emerge with its state highway system, further report that no known funding sources are available for improvements necessary to remedy the problems, and achieve statutorily mandated correlation with its land use element (which provides for substantial population increases) simply by stating that the county will solve its problems by asking other agencies of government for money. To sanction such a device would be to provide counties with an abracadabra by which all substance in §65302's correlation requirement would be made to disappear."

The *Concerned Citizens* decision appears to have limited its search for evidence of correlation to Calaveras County's circulation element. By contrast, the *Twain Harte* case (which originated in a different appellate district) indicates that the courts may look beyond the circulation element to supporting documents (e.g., other sections of the general plan) when such evidence is not readily apparent (*Twain Harte, supra,* at p. 701). To be on the safe side, local governments should provide explicit evidence of correlation in both their circulation and land use elements.

The *Twain Harte* case indicates that the courts will not automatically presume the existence of correlation simply because a local government has adopted both its circulation and land use elements. Although general plans, as legislative enactments of the police power, will be presumed valid by the courts (if they are reasonably related to promoting or protecting the health, safety, or welfare, and are not arbitrary and capricious), such plans must nevertheless be in substantial compliance with state law. (See *Camp* at p. 348 and *Buena Vista Gardens Apartments Association v. City of San Diego Planning Department (1985) 175 Cal.App.3d 289, 298*.) In other words, the courts will review a plan for its actual compliance with the requirements of the state's general plan statutes. In this case, the court used the *General Plan Guidelines* to help determine compliance.

Rohn v. City of Visalia (1989) 214 Cal.App.3d 1463 discusses the limits on road exactions relating to the circulation element. In *Rohn*, the court overturned a street dedication requirement on the basis of inadequate nexus evidence, based on the U.S. Supreme Court's *Nollan* decision on regulatory "takings" (*Nollan v. California Coastal Commission (1987) 107 SCt. 3141*). Since the dedication requirement was supported in part by the city's general plan but not by empirical evidence of a need for the required dedication, this case shows that the general plan by itself is not armor against a takings claim.

If the circulation element is to be an effective basis for exactions, it must be based upon traffic studies that are sufficiently detailed to link land uses and related demand to future dedications. Additionally, ad hoc road

exactions must be roughly proportional to the project's specific impacts on the road system (*Erhlich v. City of Culver City (1996) 12 C4th 854* and *Dolan v. City of Tigard (1994) 114 SCt. 2309*). The circulation element alone may be an insufficient basis for exactions otherwise. This issue is discussed in greater detail in Chapter 9.

Relevant Issues

Mandatory circulation element issues as defined in statute are:

- Major thoroughfares
- Transportation routes
- Terminals
- Other local public utilities and facilities

In addressing the above mandatory issues, cities and counties may wish to consider the following topics. The list below was derived from the mandatory issues and also includes possible local optional issues. It is not meant to be all-inclusive.

- Streets and highways
- Public transit routes, stops, and terminals (e.g., for buses, light rail systems, rapid transit systems, commuter railroads, ferryboats, etc.
- Transit-oriented development
- Private bus routes and terminals
- Bicycle and pedestrian routes and facilities
- Truck routes
- Railroads and railroad depots
- Paratransit plan proposals (e.g., for jitneys, car pooling, van pooling, taxi service, and dial-a-ride)
- Navigable waterways, harbors (deep-draft and small-boat), and terminals
- Airports (commercial, general and military)
- Parking facilities
- Transportation system management
- Air pollution from motor vehicles
- Emergency routes

Ideas for Data and Analysis

The following suggestions are meant to stimulate thinking rather than encompass all of the research areas that may go into preparing or amending a circulation element. Not all of these suggestions will be relevant in every jurisdiction.

Major thoroughfares and transportation routes

- Assess the adequacy of the existing street and highway systems and the need for expansion, improvements, and/or transportation system management as a result of traffic generated by planned land use changes. (L)
- Analyze existing street and highway traffic conditions. (N)
- Determine current street and highway capacities.
- Determine existing traffic volumes (using peak-rate flows).
- Determine the levels of service of existing streets and highways.
- Determine the abilities of streets and highways to accommodate local bus transit services. (N)
- Analyze projected street and highway traffic conditions. (N)
- Estimate the number of trips generated by proposed land uses.
- Make assumptions about the routes of such trips.
- Make assumptions about the modal split (i.e., estimate the percentages of trips by transit, passenger car, van pools, etc.).
- Project future traffic volumes on existing streets and highways (using peak-rate flows) by adding together current traffic volumes and the estimated marginal increase in volumes resulting from planned land use changes.
- Determine the effects of projected traffic volumes on existing street and highway capacities.
- Determine the future levels of service of existing streets and highways.
- Review traffic projects pertinent to local planning that are proposed within neighboring jurisdictions.
- Review pertinent regional transportation plan and project funding priorities under the regional transportation improvement program.
- Compare projected with desired levels of service.
- Analyze the potential effects of alternative plan proposals and implementation measures (related to transportation and/or land use) on desired projected levels of service.
- Analyze the potential effects of alternative plan proposals and implementation measures (related to transportation) on residential land uses.

Useful Definitions: **Circulation Element**

Arterial: A major street carrying the traffic of local and collector streets to and from freeways and other major streets, with controlled intersections and generally providing direct access to properties.

Collector: A street for traffic moving between arterial and local streets, generally providing direct access to properties.

Expressway: A highway with full or partial control of access with some intersections at grade.

Freeway: A highway serving high-speed traffic with no crossings interrupting the flow of traffic (i.e., no crossings at grade). Streets and Highways Code §23.5, in part, states that "Freeway means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access."

Local Scenic Highway: A segment of a state or local highway or street that a city or county has designated as "scenic."

Local Street: A street providing direct access to properties and designed to discourage through-traffic.

Level-of-Service: According to the Transportation Research Board's 1985 Highway Capacity Manual Special Report 209, level-of-service is a qualitative measure describing the efficiency of a traffic stream. It also describes the way such conditions are perceived by persons traveling in a traffic stream. Level-of-service measurements describe variables such as speed and travel time, freedom to maneuver, traffic interruptions, traveler comfort and convenience, and safety. Measurements are graduated, ranging from level-of-service A (representing free flow and excellent comfort for the motorist, passenger, or pedestrian) to level-of-service F (reflecting highly congested traffic conditions where traffic volumes exceed the capacities of streets, sidewalks, etc.). Levels-of-service can be determined for freeways, multi-lane highways, two-lane highways, signalized intersections, intersections that are not signalized, arterials, and transit and pedestrian facilities.

National Scenic Byway: A segment or a state or Interstate highway route that the United States Forest Service has designated as a scenic byway or which another federal agency has designated as a national scenic and recreational highway.

Official County Scenic Highway: A segment of a county highway the Director of Caltrans has designated as "scenic."

Official State Scenic Highway: A segment of a state highway identified in the Master Plan of State Highways Eligible for Official Scenic Highway Designation and designated by the Director of Caltrans.

Paratransit: Transportation systems such as jitneys, car pooling, van pooling, taxi service, and dial-a-ride arrangements.

Recreational Trails: Public areas that include pedestrian trails, bikeways, equestrian trails, boating routes, trails, and areas suitable for use by physically handicapped people, trails and areas for off-highway recreational vehicles, and cross-country skiing trails.

Scenic Highway Corridor: The visible area outside the highway's right-of-way, generally described as "the view from the road."

Transit: Urban and suburban rail, bus systems, and ferryboats.

- Analyze the adequacy of emergency access and evacuation routes. (S)
- Analyze historical data and trends with regard to automobile accidents.

Terminals

- Evaluate the use of existing transportation terminals. (L)
- Evaluate the need for new or relocated transportation terminals. (L)

Local public utilities and facilities

- Assess the adequacy and availability of existing community water, sewer, and drainage facilities and the need for expansion and improvements. (L)
- Assess existing and projected capacity of treatment plants and trunk lines.
- Examine trends in peak and average daily flows.
- Determine the number and location of existing and proposed power plants, oil and gas pipelines, and major electric transmission lines and corridors. (L)

- Assess potential future development of power plants. Consider such factors as the demand for transmission facilities, the transport and storage of hazardous materials, and local transportation impacts of current and future power plant developments. (L, S)

Transit

- Examine trends in transit use and estimates of future demand.
- Determine existing and projected levels-of-service for transit.
- Assess the needs of people who depend on public transit.
- Assess the number and distribution of households without an automobile.
- Assess the transportation needs of special groups within the population and the extent to which such needs are being met (e.g., the disabled and the elderly).
- Assess the adequacy of existing transit routes, services and facilities and the need for expansion and improvements.
- Review the regional transportation improvement program.

Private buses

- Evaluate private bus company services.
- Identify the private bus routes within the local jurisdiction.
- Evaluate the transportation needs that are or are not being met by private bus companies.
- Examine private bus company plans to provide bus service in the future.

Bicycles and pedestrians

- Assess the adequacy of existing bicycle routes and facilities and the need for new ones.
- Examine trends in bicycle usage.
- Assess adequacy of pedestrian routes and the need for new ones.
- Assess historical data and trends with regard to bicycle and pedestrian accidents.

Truck routes

- Identify existing truck routes. (N)
- Determine needed changes in truck routes.

Railroads

- Inventory rail lines and facilities and assess plans for expansion and improvements. (L, N)
- Determine transportation needs that are or are not being met by railroads.
- Identify abandoned railroad rights of way which could be preserved for future transportation corridor use. (L)

Paratransit

- Inventory existing paratransit services, uses, and routes.
- Identify the needs served by paratransit.
- Determine future paratransit needs.

Navigable waterways, ports, and harbors

- Assess the adequacy of navigable waterways and port and harbor facilities, including the need for expansion and improvements. (L, O)
- Examine historical data on the use of facilities and vessel registrations.
- Project future demand based on new or expanded economic activities and recreational trends.
- Project future needs for navigable waterways and port and harbor facilities.
- Review plans for improvements by harbor and port districts.

Airports

- Assess the adequacy of and safety hazards associated with existing aviation facilities (general, commercial, and military) and the need for expansion and improvements.
- Inventory potential safety hazards posed by airport activities to surrounding land uses. (N)
- Inventory potential safety hazards to aircraft passengers posed by existing or proposed land uses near airports.
- Assess the provisions of any airport land use plan prepared pursuant to Public Utilities Code §21675. (N)
- Describe existing facilities.
- Assess the adequacy of ground access to airports, based on existing and projected passenger and cargo load.

Parking facilities

- Assess the adequacy of existing on- and off-street parking, particularly in urban and commercial areas. (L)
- Assess the effects of parking policies (i.e., off-street parking standards, on-street parking restrictions, graduated parking fees, etc.) on congestion, energy use, air quality, and public transit ridership.
- Assess the need for bicycle parking.

Transportation system management

- Analyze existing and projected transportation system levels of service. (L)
- Identify existing and proposed modes of transportation.
- Analyze the projected effects on the transportation system of construction improvements versus the projected effects of transportation system management.
- Compare the costs of construction improvements versus the costs of transportation system management.
- Analyze high-occupancy vehicle (HOV) lane usage and vehicle occupancy counts.

Air pollution from motor vehicles

- Estimate air quality impacts. (CO, L)
- Analyze air quality trends.
- Assess existing air quality, pursuant to air quality district plans
- Estimate air quality impacts of motor vehicle trips generated by land use changes and new thoroughfares, based on regional air quality and transportation plans.
- Identify and evaluate measures that will reduce the air quality impacts of motor vehicle trips, consistent with regional air quality and transportation plans. (CO, L)

Ideas for Development Policies

The circulation element should contain objectives, policies, principles, plan proposals, and/or standards for planning the infrastructure that supports the circulation of people, goods, energy, water, sewage, storm drainage, and communications. These development policies should be consistent with regional air quality and transportation plans. With this and the above ideas for data and analysis in mind, cities and counties may wish to consider development policies for the following:

- The development and improvement of major thoroughfares, including future acquisitions and dedications, based on proposed land use patterns and projected demand. This may include a street and highway classification system. (L)
- The location and design of major thoroughfares in new developments. (N)
  - Consideration of street pattern (curvilinear, grid, modified grid, etc.).
- The design of local streets (including, but not limited to, width, block size, and accommodation of parking and bicycle and pedestrian traffic).
- Level-of-service standards for transportation routes, intersections, and transit.
  - Separate level-of-service standards for bicycle and pedestrian traffic or integrated level-of-service standards that consider multiple modes.
- Enhanced circulation between housing and workplaces. (L)
- The scheduling and financing of circulation system maintenance projects.
- The location and characteristics of transportation terminals. (L)
- The development, improvement, timing, and location of community sewer, water, and drainage lines and facilities. (L, CO)
- The current and future locations of:
  - Oil and natural gas pipelines.
  - Power plants.
  - Major electric transmission lines and corridors. (DIA) (L)
- The acquisition of necessary public utility rights-of-way. (L)
- Preferences for financing measures to expand and improve public utilities.
- Standards for transportation and utility-related exactions.
- Assistance to those who cannot afford public utility services.
- The mix of transportation modes proposed to meet community needs.
- The development and improvement of transit and paratransit services.
- Transit and paratransit assistance.
- The roles of railroads and private bus companies in the transportation system. (N)

- The development and improvement of rail and private bus facilities and services.
- The encouragement of railroad and private bus company services.
- Transit-oriented development strategies. (L)
  - Identify transportation nodes suitable for future transit-oriented development.
  - Adjust traffic level-of-service requirements (traffic congestion standards) around transit-oriented developments to promote transit ridership.
- The preservation of abandoned railroad rights of way for future transportation corridor use. (L)
- The development and improvement of bicycle routes and walkways.
- Proposed truck routes. (N)
- Policies supporting truck route regulations. (N)
- The safety of the traveling public, including pedestrians and bicyclists.
- The development and improvement of port, harbor, and waterway facilities. (L, CO)
- The development and improvement of aviation facilities. (L)
- The mitigation of aviation-related hazards (including hazards to aircraft and hazards posed by aircraft). (L, N)
- The consistency of the general plan with the provisions of any airport land use plan (§65302.3). (L, N)
- Strategies for the management of parking supply such as increased parking fees, graduated parking fees, metered on-street parking, and staggered work schedules.
- Strategies for the control of parking demand such as improved transit service, amenities for bicyclists, and subsidized rideshare vehicles.
- Transportation system management policies.
- The respective roles of the private sector and various public agencies in developing, improving and maintaining circulation infrastructure.
- The identification, development and maintenance of evacuation and emergency access routes. (S)
- Measures that reduce motor vehicle air pollution, consistent with the regional air quality and transportation plan policies. (L, CO)

Technical Assistance

The following agencies may provide information or assistance in the preparation of the circulation element:

- California Department of Transportation (Caltrans), including district offices, the Division of Aeronautics, and the Division of Transportation Planning
- California Public Utilities Commission
- Regional Transportation Planning Agency (RTPA) or Metropolitan Planning Organization (MPO)

For assistance regarding software to estimate transportation-related air quality impacts, contact the California Air Resources Board's Technical Support Division or the California Energy Commission's PLACE^{3}S Program.

HOUSING ELEMENT

Unlike the other mandatory elements, the housing element is subject to detailed statutory requirements regarding its content and must be updated every five years. The housing element is also subject to mandatory review by a state agency. This reflects the statutory recognition that the availability of housing is a matter of statewide importance and that cooperation between government and the private sector is critical to attainment of the state's housing goals.

Housing element law requires local governments to adequately plan to meet their existing and projected housing needs including their share of the regional housing need. Housing element law is the state's primary market-based strategy to increase housing supply. The law recognizes the most critical decisions regarding housing development occur at the local level within the context of the general plan. In order for the private sector to adequately address housing needs and demand, local governments must adopt land-use plans and regulatory schemes that provide opportunities for, and do not unduly constrain, housing development.

Statutory Requirements

The housing element requirements listed below are derived from Article 10.6 of the Government Code, §65583 through §65590. The housing element must be comprehensively revised at least every five years to reflect the results of the required periodic review. Section 65588 establishes the timetable for these revisions. Local governments may address these requirements in any format they deem most meaningful to meet the community's needs. A housing element, regardless of its format, should clearly identify and ad-

dress, at a minimum, each of the statutory requirements, as follows:

- Quantifying projected housing needs. This is accomplished through the regional housing needs allocation (RHNA) process pursuant to §65584. The city or county's share of the RHNA, as determined by their Council of Governments (COG) and HCD, is the projected housing need for the planning period of the housing element. To accommodate the RHNA, the element must demonstrate site development capacity equivalent to, or exceeding, the projected housing need, to facilitate development of a variety of types of housing for all income levels.
- Review and revise of the housing element. Unlike the other elements of the general plan, state law explicitly requires that the housing element be reviewed and updated as frequently as appropriate, but not less than once every five years (§65588). The "review and revise" evaluation is a three-step process:
    1. Section 65588(a)(2): "Effectiveness of the element"—Review the results of the previous element's goals, objectives, policies, and programs. The results should be quantified where possible (e.g., the number of units rehabilitated), but may be qualitative where necessary (e.g., mitigation of governmental constraints).
    2. Section 65588(a)(3): "Progress in implementation"—Compare what was projected or planned in the previous element to what was actually achieved. Analyze the significant differences between them. Determine where the previous housing element met, exceeded, or fell short of what was anticipated.
    3. Section 65588(a)(1): "Appropriateness of goals, objectives and policies"—Based on the above analysis, describe how the goals, objectives, policies and programs in the updated element have been changed to incorporate what has been learned from the results of the previous element.
- Describe how the jurisdiction made a diligent effort to achieve public participation from all economic segments of the community in the development of the housing element.
- Assess housing needs and analyze an inventory of resources and constraints (§§65583(a)(1-8)), including an analysis of population and household characteristics and needs, an inventory of land, analysis of governmental and non-governmental constraints, analysis of special housing needs, analysis of energy conservation opportunities and an analysis of assisted housing development at-risk of converting to market rate uses.
- Estimate the amount of funds expected to accrue to the Redevelopment Agency Low- and Moderate-Income Housing Fund (LMIHF) over the planning period of the element and describe the planned uses for those funds §65583(c)).
- Establish a housing program that sets forth a five-year schedule of actions to achieve the goals and objectives of the element. Programs are to be implemented through the administration of land use and development control; provision of regulatory concessions and incentives; and the utilization of appropriate federal and state financing and subsidy programs; and when available, use of funds in a low and moderate income housing fund of a redevelopment agency (§65583(c)). The housing program should:
    - Identify adequate sites with appropriate zoning, development standards and public facilities that encourage and facilitate a variety of housing types to accommodate all income levels of the local share of regional housing needs, including multifamily rental, factory-built housing, mobile homes, farmworker housing, emergency shelters and transitional housing (§65583(c)(1)).
    - Assist in development of housing to meet the needs of low- and moderate-income households (§65583(c)(2)).
    - Address and, where possible, remove governmental constraints on the development, maintenance and improvement of housing. The program shall also remove constraints or provide reasonable accommodation for housing for persons with disabilities (§65583(c)(3)).
    - Conserve and improve the condition of the existing affordable housing stock (§65583(c)(4)).
    - Promote equal housing opportunities for all persons (§65583(c)(5)).
    - Preserve for lower income households the assisted housing developments at-risk of conversion to market rate uses (§65583(c)(6)).

- Quantify objectives by income level for the construction, rehabilitation, and conservation of housing (§65583(b)).
- Demonstrate of the means by which consistency will be achieved with the other general plan elements and community goals (§65583(c))
  - Analyze housing in the Coastal Zone (§65588(c)(d) and §65590(h)(2)).
- Distribute a copy of the adopted housing element to area water and sewer providers. The purpose of this section of the law is to ensure that public and/or private water and wastewater providers provide a priority to proposed housing development projects for lower income households in their current and future resource or service allocations (§65589.7).

Regional Housing Needs Allocation Process

Housing element law (§65583) requires quantification of each jurisdiction's existing and projected housing needs for all income levels. The housing element's requirements to accommodate projected housing needs are a critical factor influencing the housing supply and availability statewide and within regional housing markets. The local regulation of the housing supply through planning and zoning powers affects the State's ability to achieve the State housing goal of "decent housing and a suitable living environment for every California family," and is an important influence on housing costs. The regional housing needs allocation process addresses this statewide concern, and reflects shared responsibility among local governments for accommodating the housing needs of all economic levels.

Shares of the regional housing need are determined for constituent cities and counties of the affected region(s) of the housing element update cycle. This involves an iterative process conducted among state, regional, and local levels of government which is driven by projected population growth. The Department of Finance's (DOF) Demographic Research Unit periodically prepares population projections by county, and also prepares current population, household, and housing unit estimates by city and county. DOF's population projections are prepared using the demographic methodology of cohort survival and net migration. Household projections are prepared using headship rates (historical rates of household formation relative to age and ethnic composition of population), along with adjustments of existing stock conditions, e.g., demographic and income factors from the most recent U.S. Census, DOF's annual E-5 report, etc. The projected housing need is allocated by income category pursuant to the state income limits. In consultation with the affected council of government (COG) and DOF, HCD submits to each COG projected housing needs. HCD also fulfills the functions of a COG in those counties for which there is no COG. While HCD forwards projections for the region, the distribution of the need within the region is subject to determination by the COG.

The COGs develop the distribution in draft regional housing need allocation plans based on regional population and economic models, and also incorporate consideration of factors such as market demand, commuting patterns, site and public facility availability, and type and tenure of housing need, needs of farmworkers, or the conversion of assisted units. Attorney General Opinion 87-206 interpreted that the availability of suitable housing sites is to also consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. During a 90-day period, each city and county has an opportunity to request revision of their need allocation by the COG. The COG may revise the initial allocations, subject to acceptance of the revised allocation plan by HCD. HCD is authorized to revise the COG's determination, if necessary, to be consistent with statewide housing needs. The needs allocations from an accepted COG RHNA plan are then incorporated into the city's/county's housing element as a basis for planning for adequate residential development sites and housing assistance programs.

Court Interpretations

The following judicial decisions have addressed the housing element with regard to statutory compliance, growth control measures, voter initiatives and remedies which the courts may impose after invalidating a general plan.

Compliance with statutory requirements

Buena Vista Gardens Apartments Association v. City of San Diego Planning Department (1985) 175 Cal.App.3d 289, provides the most thorough judicial discussion of housing element law. It is the first appellate level decision to interpret Article 10.6 of the Government Code. The plaintiff and appellant in the case were tenants occupying a large apartment complex for which the city had approved a long-term plan to demolish the existing units and develop condominiums on the site. The tenants challenged the plan's final approval, alleging that the city's housing element failed to meet statutory requirements in seven respects.

HOUSING ELEMENT CONTENTS

Review of Previous Element

- Results
- Comparison of results vs. planned objectives
- Implications for new element

Housing Needs Assesment

Existing Needs

- Overpayment
- Overcrowding
- Special housing needs
- Units at risk of converting to non-low income uses
- Substandard conditions

Projected Needs

- Regional housing needs allocation

Resource Inventory

Land Inventory

- Accomodate regional share by income group
- Public facilities and services
- Suitability of lands

Financial Resources

- RDA & other funds available over the next 5 years
- Funds available for preservation

Constraints on Housing

Governmental Constraints

- Land use controls
- Codes & enforcement
- On/off-site improvements
- Fees & exactions
- Permit procedures
- Other

Non-governmental Constraints

- Financing
- Land costs
- Construction costs
- Other

Programs

- Identify adequate sites
- Assist development of low- & moderate-income housing
- Remove or mitigate constraints
- Conserve & improve existing affordable housing
- Promote equal housing opportunity
- Preserve units at risk of conversion from low-income use

Quantified Objectives by Income Group

- New construction
- Rehabilitation
- Conservation of existing affordable units, including preseravation of at-risk units

The appellate court found that in six of the seven respects the element substantially complied with state law. The court did find, however, that the element lacked any programs encouraging the conservation of mobilehome parks or existing affordable apartment rental units. The fact that the city had no basis upon which to deny the developer a demolition permit demonstrated the city's lack of a program to conserve affordable rental housing. As a result, the court prohibited the permit's issuance until the city amended its housing element with conservation programs substantially conforming to statutory requirements.

Buena Vista Gardens is consistent with a number of cases that support the general plan's integrity and require "substantial" (i.e., actual) compliance with its statutorily stated content. For example, a project may be halted when the general plan either lacks a relevant element or the relevant element is inadequate, as many cases have demonstrated.

A number of subsequent cases have reiterated the substantial compliance test, with its application a matter of law subject to independent appellate review. A court will not usually disturb legislative action such as a housing element revision unless the action is arbitrary, capricious or entirely lacking in evidentiary support. However, the housing element will be judged as to its actual compliance with respect to the substance essential to every reasonable objective of the statute. See *Black Property Owners v. City of Berkeley (1994) 22 Cal. App.4th 974*, where the court upheld the city's housing element update against a claim that it failed to adequately address the governmental constraint of a city-imposed rent control ordinance.

Despite agreement as to the formulation of the substantial compliance test, courts have diverged widely in their application of the test to particular circumstances. In *Hernandez v. City of Encinitas (1994) 28 Cal.App.4th 1048*, the court rejected a wide-ranging challenge to virtually every aspect of the city's housing element. The decision revealed a "check list" approach to determining substantial compliance with the detailed statutory requirements: the mere mention or discussion of an issue was found sufficient. The court at times even recited topical headings in the housing element to demonstrate compliance.

In sharp contrast is the approach taken in *Hoffmaster v. City of San Diego (1997) 55 Cal.App.4th 1098*, where the court upheld a narrow challenge to the city's housing element for its failure to provide adequate sites for emergency shelters and transitional housing, despite considerable treatment of the issue in the element and amendments adopted under order of the trial court. The *Hoffmaster* court was willing to look at the circumstances behind the city's conclusions in order to give effect to the purpose and intent of the statute. In addition, the court adopted HCD's definition of adequate sites for homeless shelters as a logical extension of the legal requirement and, despite the lack of a specific statutory provision, held the city to this standard.

Growth control measures

The ruling in *Building Industry Association v. City of Oceanside (1994) 27 Cal.App.4th 744,* demonstrates the effect that housing element requirements may have on growth control measures. In that case, at the culmination of lengthy litigation, the court overturned the city's growth control initiative, in part because it conflicted with broad, general language in the housing element to "protect, encourage and, where feasible provide, low and moderate income housing opportunities."

Effect of voter initiatives

In *DeVita v. County of Napa (1995) 9 Cal.4th 763*, the issue was whether an initiative ordinance which prohibited the rezoning of agricultural land without a vote of the electorate conflicted with the county's ability to update its land use element in accordance with the law. The court upheld the initiative. It expressly noted, however, that the status of an initiative that either amends or conflicts with the housing element has not been determined, and that the ordinance might be reconsidered if it poses an obstacle to the adequacy of future revisions. The court emphasized that an initiative amendment must conform to all statutory specifications and may not cause the general plan to be internally inconsistent.

Remedies for invalidated general plan

Another case, *Committee for Responsible Planning v. City of Indian Wells (1989) 209 Cal.App.3d 1005,* exemplifies the type of action a court may take after it invalidates a general plan. After holding Indian Well's general plan invalid for failure to achieve internal consistency and failure to address various statutorily required issues in the housing element, the trial court ordered the city to bring its general plan into compliance with state law and imposed a moratorium. The court order prevented the city from granting building permits and discretionary land use approvals such as subdivision maps, rezoning, and variances until it updated its general plan.

In the meantime, a developer sought approval to record a final tract map. Pursuant to §65755(b), the

subdivider requested that the court waive the moratorium's restrictions. The court may do so when it finds that the project would "not significantly impair" the city's ability to adopt all or part of the new plan in compliance with statutory requirements. Recognizing the Legislature's statutory guidance reflecting the housing element's "preeminent importance," the court disagreed with the developer's arguments that the tract map would not affect the city's ability to adopt an adequate housing element. The court refused to allow approval of the map until the general plan was adopted.

Ideas for Data and Analysis

The following descriptions and suggestions for data are meant as a tool to guide analysis of the many unique needs in each locality. For further guidance, consult HCD's publication *Questions and Answers* and contact HCD for additional resources, assistance, and examples.

Analysis of existing housing needs (§§65583(a)(1) and (2))

Existing needs include current basic demographic and housing stock information such as the number and tenure of households, vacancies, affordability data such as sales prices and rental rates and household characteristic information such as the extent of lower-income households overpaying for housing and the number of households that are overcrowded. A community profile typically includes the following quantitative and qualitative data and descriptive household information, most of which is available from the most recent Census or the American Community Survey:

General information

- Total population and demographic data (e.g., age, sex, race/ethnicity, etc.). Many jurisdictions also discuss population changes over time.
- Total number of households in the community. DOF prepares annual estimates, including population, households, and dwelling units. The E-5 report is available annually in May.
- Tenure characteristics. The number and proportion of renter and owner households in the community.
- Total number of housing units. Where possible, the element should describe the distribution and recent activity of housing units by type (single-family, multifamily, mobilehomes). An analysis should also include information on current vacancies for owner and rental units.
- Housing affordability. A discussion of current sales and rental prices compared to local household incomes.

Specific existing needs to be analyzed

- Households overpaying. In comparing level of payment with ability to pay, the element should quantify and analyze the number of lower- income owner and renter households (those at or below 80 percent of the area median income) who are overpaying (more than 30 percent of gross income).
- The incidence of overcrowding. The Census defines overcrowded when occupancy exceeds more than one person per room (excluding bathrooms and kitchens). Households are considered severely overcrowded when more than 1.5 persons per room occupy the unit. Localities should include a qualitative and quantitative analysis of overcrowded and severely overcrowded households by tenure.

Analysis of special housing needs (§65583(a)(6))

The statute specifically requires an analysis of persons with special housing needs, including elderly, persons with disabilities, large families, farmworkers, families with female heads of households and families and persons in need of emergency shelters. An analysis should include:

- A quantification of the total number of persons or households.
- A quantification and qualitative description of the need.
- An identification of potential programs, policy options and resources to address the need the community's special housing needs.

For example, an analysis of homeless needs should include an estimate or count of the number of persons lacking permanent shelter, an inventory of the number, approximate location, and type of existing shelter beds, hotels/motel accepting vouchers, and units of transitional housing available and an estimate, derived from the figures above, of the number of additional beds or shelters and transitional housing units needed.

An analysis of farmworkers should quantify and separately discuss the housing needs of migrant and seasonal farmworkers. The analysis should discuss resources and programs addressing farmworker housing needs and shortfalls that exist in addressing those needs.

Land inventory (§65583(a)(3))

The purpose of the land inventory is to identify sites with appropriate zoning and development standards suitable for residential development, with adequate public facilities to accommodate the locality's share of the regional housing need within the planning period of the element. The land inventory must identify zoning of land; in addition to the general plan designations. The inventory should demonstrate how zoning and development standards encourage and facilitate a variety of housing types, including mobilehomes, multifamily, emergency shelters, transitional housing and farmworker housing. An analysis of the land inventory should also determine whether current zoning and densities are appropriate to accommodate the new construction need in total and by income level. Sites identified that require rezoning may be included as an adequate site as long as a program for accomplishing any necessary rezoning is included in the element.

An analysis of the land inventory should include a discussion of the suitability of land for residential development in the current planning period and future planning periods within the general plan horizon. The inventory should include sufficient information about identified sites to determine if the sites are appropriate to accommodate the community's regional housing need. While some information in the inventory may be presented in the aggregate (i.e., 30 acres zoned R-3), it must also include more detailed information about the suitability of the land. Land "suitable for residential development" has characteristics that make the sites appropriate for housing construction. These characteristics include:

- Physical features and general characteristics not impacted by flooding, seismic hazards, extreme wildfire hazards, slope instability or erosion, chemical contamination, or other environmental constraints. Suitability may also be impacted by proximity to hazardous industrial facilities and uses, and consistency with airport land use plans.
- Location and proximity to transit, job centers, and public and community services, etc. A thorough analysis of the land inventory should include a map of the suitable lands to help illustrate the suitability of the land in the inventory.
- Parcel size. A general discussion of the number and characteristics of parcels, their appropriateness in the five year planning period given any development, infrastructure or other constraints. The discussion should also address the extent of lands, identified in the land inventory, that are not readily feasible for development due to small parcel sizes.

The element should also identify the zones and densities that can accommodate the locality's share of the regional housing need for low- and moderate-income households. Particularly, the element should analyze how specific zoning districts with their allowed density can facilitate development of housing for low- and moderate-income households. This analysis should also cover whether development standards inhibit the ability to achieve maximum densities and whether sufficient sites exist with zoning to accommodate lower-income needs identified in the city's share of the regional housing need. The analysis of the appropriateness of zoning should also identify any standards or processing that impact the development capacity of the sites. For example, the element should identify requirements that limit densities to a midpoint range unless certain amenities are provided or that require a conditional use permit for multifamily projects within a multifamily zone.

In communities with limited vacant land, the land inventory should identify and analyze sites with redevelopment potential for new and more intensive residential development. In such cases, the land inventory should describe the acreage and current zoning of such sites, recent or historical development trends, market conditions, current or proposed development standards, realistic development capacity within the planning period of the element, and any incentives or policies to facilitate the development and/or reuse of such sites. The inventory should estimate the realistic (not theoretical) development capacity based on an analysis of these factors. Such sites may be made available by implementing programs applicable to redevelopment, recycling, infill, and/or redesignating and rezoning nonresidential sites to appropriate residential use.

The inventory must also discuss the availability of essential public facilities and services (e.g., sewer and water system trunklines and treatment facilities, roads, and storm drainage facilities) for sites identified for residential development. The analysis should describe and analyze existing capacity and the capacity that will be provided during the current planning period of the element.

Any phasing of plans relevant to a specific plan, development agreement or capital facilities financing plan should be described. Upon completing the infrastructure capacity analysis, the locality will be able to identify where facilities and services are lacking in order to establish program actions (capital improvement plans, financing through general obligation or special district bonds, etc.), that will permit the development of sufficient units to meet the new construction objectives within the planning period. In addition, in the case that

the element has identified lands within specific plans, the element should discuss how the phasing mechanisms within the specific plans affect the suitability of the lands to accommodate housing needs over the housing element planning period.

An analysis of adequate sites should include a discussion of whether sufficient land is available to address a variety of housing types, including emergency shelters, transitional housing and farmworker housing. An analysis of these housing types should describe the zones where housing for farmworkers is allowed, how the zoning and development standards including permit process encourages and facilitates development, evaluate whether sufficient opportunities for housing for these housing needs exists, and describe any conditions on development. In the case of farmworker housing needs, the element should identify sufficient land for permanent and migrant seasonal farmworkers.

In the case that the land inventory does not identify adequate sites to accommodate the locality's share of housing needs for all income groups, the locality will need to include programs to provide adequate sites, by-right, to accommodate the regional housing need within the planning period.

Analysis of governmental and non-governmental constraints (§§65583(a)(4) and (5))

Governmental

The element should describe and analyze each of the following areas:

- Land Use Controls: Zoning and development standards including density, parking requirements, lot coverage, lot sizes, unit sizes, floor area ratios, setbacks, moratoria and prohibitions against multifamily housing developments, growth controls, urban growth boundaries and open space requirements, etc.
- Codes and Enforcement: Any local amendments to state housing law or the Uniform Building Code and the type and degree of enforcement.
- On- and off-site improvement requirements: Street widths, curb, gutter, and sidewalk requirements, water and sewer connections, and circulation improvement requirements.
- Fees and exactions: Permit, planning, development and impact fees (e.g., park, school, open space, parking district, general plan amendments, rezone, etc.), in-lieu fees, land dedication requirements (e.g., streets, public utility and other right-of-ways, easements, parks, open space, etc.) and other exactions imposed on developers.
- Processing and permit procedures: Describe the types of permits, discretionary review and approval procedures, and processing time required for recent and current residential projects. The analysis should describe all permits applicable to residential development and additional mechanisms that place conditions and performance standards (i.e., Community Plan Implementation Zones, Hillside Overlay Zones, Environmentally Sensitive Areas, etc.) on development. Other applicable regulations and processes such as design review and planned districts should also be included. As part of this analysis, localities should describe and evaluate the permit and approvals process for a typical single-family subdivision and a typical multifamily project, as well as emergency shelters, transitional housing, group homes and farmworker housing.

The analysis should describe past or current efforts to remove any governmental constraints. Where the analysis identifies that a constraints exists, the element should include program responses to mitigate the effects of the constraint.

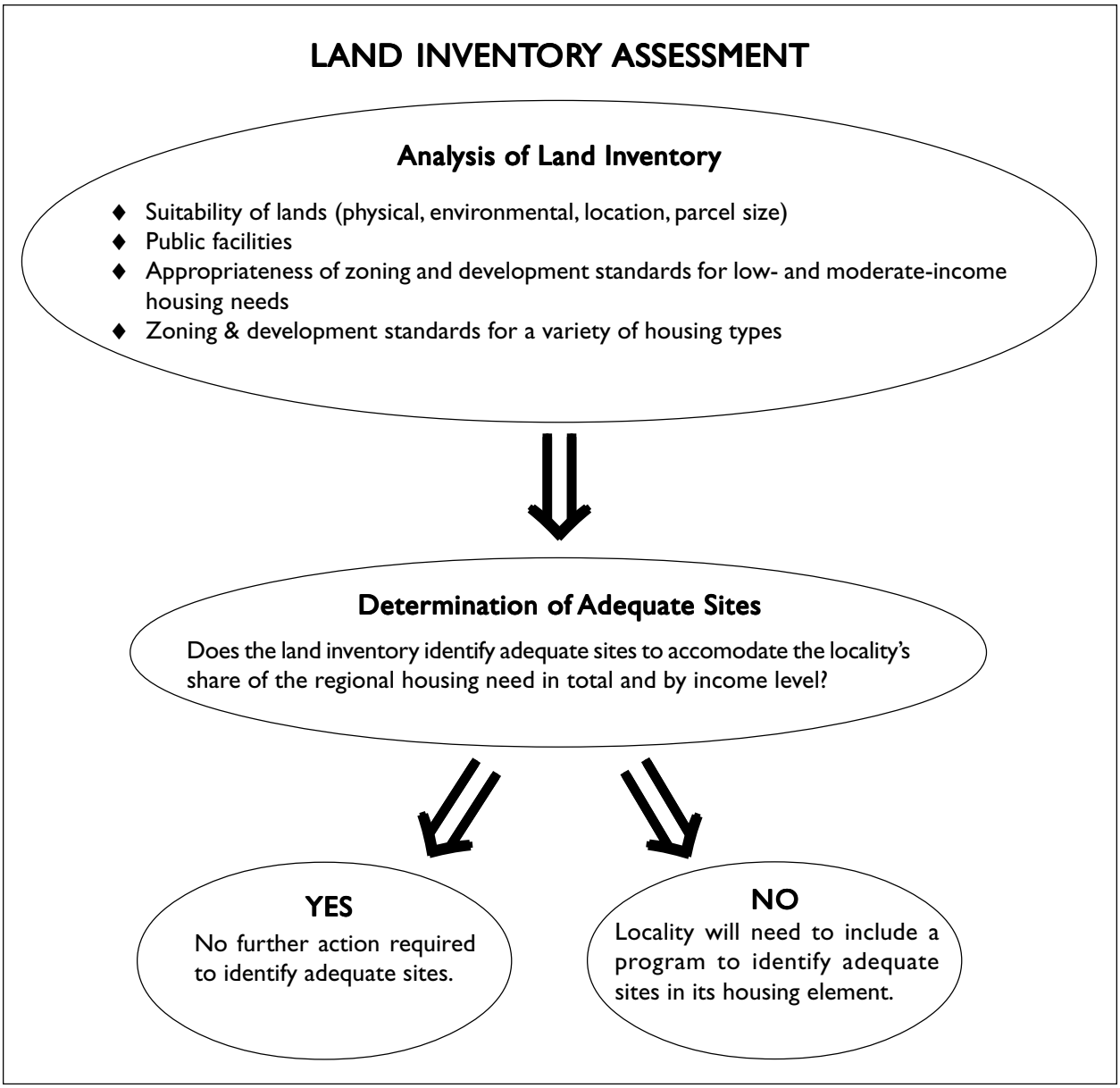
Ordinances, policies, procedures, or measures imposed by the local government that specifically limit the amount or timing of residential development should be analyzed as a potential governmental constraints and mitigated, where necessary. The analysis will vary depending on the nature of the measure. In general, the measure and its implementation procedures should specifically be described and analyzed as to the impact on the cost and supply of housing.

In accordance with recently enacted legislation (SB 520, Chapter 671, Statutes of 2001), the element should analyze the potential and actual governmental constraints on the development of housing for persons with disabilities and demonstrate the city's efforts to remove governmental constraints on housing for persons with disabilities, such as accommodating procedures for the approval of group homes, ADA retrofit efforts, an evaluation of the zoning code for ADA compliance or other measures that provide flexibility in the development of housing for persons with disabilities.

Non-governmental constraints

The housing element should include an analysis of non-governmental constraints, including

- Land Prices: In analyzing the price of land, estimate the average per unit cost of land, or the range of costs for developable parcels, in both single-family and multifamily zones.
- Construction Costs: The analysis of construction costs, for typical single-family and multifamily projects, should focus on the total cost to the de-



veloper, exclusive of profit, but including land, fees, material, labor, and financing.

- Financing Availability: An analysis of financing should consider whether financing is generally available in the community.

Analysis of energy conservation opportunities (§65583(a)(7))

The purpose of this analysis is to ensure the locality consider how energy conservation can be achieved in residential development and how energy conservation requirements may contribute to reducing overall development costs and therefore, the supply and affordability of units.

Analysis of assisted housing at risk of converting to market rate uses (§65583(a)(8))

The element should include a project inventory of multifamily rental housing that could be converted to market rate rents because of expiration of affordability restrictions in mortgage and/or rental subsidy contracts. The at-risk analysis should:

- Prepare an inventory of all units at risk of conversion within the current planning period and the subsequent 5-year period (e.g., 2000-2010).
- Assess the conversion risk.
- Estimate and analyze the costs of replacement versus preservation for units at risk in the current five-year planning period.

- Identify entities qualified to preserve at-risk units.
- Specify financing and subsidy resources.

Quantified objectives (§65583(b))

Quantified objectives should establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

Policies and Implementation Programs

Local governments have the responsibility to adopt a program that implements the policies, goals and objectives of the housing element through their vested powers, particularly over land use and development controls, regulatory concessions and incentives and the utilization of financial resources.

Programs are the specific action steps the locality will take to implement its policies and achieve its goals and objectives. Programs must include a specific time frame for implementation and identify the agencies or officials responsible for implementation. Effective program descriptions also include:

- Immediate, short-term and long-term action steps.
- Proposed measurable outcomes.
- Specific funding sources, where appropriate.

All housing elements must include programs to address the following six areas described below.

Adequate sites program (§65583(c)(1))

The purpose of the adequate sites program is to provide sufficient sites that will be made available through appropriate zoning and development standards and with public services and facilities to encourage and facilitate a variety of housing types and address the community's share of the regional housing need. Where the land inventory does not identify adequate sites to accommodate the locality's share of housing needs for all income groups, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily, by right, without a conditional use permit. The zoning should include density and development standards that accommodate and facilitate the feasibility of housing for very low- and lower-income households.

Providing sufficient sites may entail rezoning land to more appropriate densities or rezoning land from other uses to residential to facilitate development of housing for lower income households. When a community must provide sites in addition to those identified in the land inventory, the community should consider all lands such as residential, commercial and public institutional as a potential resource, while maintaining sound principles of land use compatibility. The community should also consider options that maximize the locality's land resources, such as a compact mix of uses.

A locality's ability to accommodate all units needed during the planning period is best served by designating appropriate zoning as early as possible. The most direct procedure is for the locality to undertake rezoning when the housing element is adopted. If a locality is unable to undertake rezoning concurrently with the housing element, the rezoning should occur early in the planning period in order to allow development to occur before the end of the housing element planning period.

Once a locality has designated the allowable residential density of lands in its sites inventory, there is a responsibility to maintain that density throughout the planning period. A city or county cannot reduce, through administrative, quasi-judicial or legislative action, the residential density of any parcel to a density lower than that used by HCD in determining compliance with housing element law unless certain findings are made (§65863). These findings, which must be in writing and supported by substantial evidence, are as follows: (1) the reduction is consistent with the general plan, including the housing element; and (2) the remaining identified sites are adequate to accommodate the jurisdictions share of the regional housing need. If these findings cannot be made, the city or county must identify additional adequate sites to ensure no net loss of residential unit capacity.

As part of the adequate sites requirement, communities with limited vacant land should focus programs on underutilized land with the potential for recycling or rezoning and opportunities for mixed uses (combining residential and commercial uses, for example). Programs to encourage redevelopment and/or reuse should describe actions to initiate any necessary rezoning, establish appropriate regulatory and/or financial incentives, relax development standards (parking, building height, setback requirements, etc.), support more compact and higher density residential developments, and facilitate the new construction of multifamily rental and owner-occupied units.

The element must also identify sites or zones where emergency shelters, transitional housing and farmworker housing (when farmworker housing needs are identified) are allowed by permitted or conditional use.

For emergency shelters and transitional housing, the element should specify:

- Location. The site should be located within the boundaries of the jurisdiction, close to public services and facilities, including transportation, and easily accessible from areas where homeless persons congregate.
- Zoning. Any zoning classification that allows the siting of a shelter and transitional housing project, and does not impede the development of the sites, or the conversation or use of an existing structure is appropriate. Any zoning application for emergency shelter or transitional housing should regulate the use, not the users.

Where farmworker housing needs are identified, the element should describe how the permit processes, zoning and development standards encourage and facilitate the development of a variety of farmworker housing for migrant and permanent farmworkers in addition to identifying land with zoning that can accommodate farmworker housing needs.

Programs to assist in the development of housing to meet the needs of low- and moderate-income households (§65583(c)(2))

Upon the completion of the assessment and identification housing needs of low- and moderate-income households, localities can develop programs to implement a significant number of diverse strategies to assist in developing adequate housing to meet identified needs.

Localities can offer direct support for the development of affordable housing through various financing mechanisms including the issuance of municipal and mortgage revenue bonds and use of redevelopment powers. Direct assistance can also be provided through the utilization of appropriate federal and state financing and subsidy programs to create rental and ownership opportunities. Localities can create first time homebuyer, equity sharing, or self-help housing programs to provide affordable homeownership opportunities. Local governments can also assist developers in making applications for other public or private housing funds or low-income housing tax credits to promote rental housing development.

Each city and county is required to adopt a bonus density ordinance. The ordinance shall provide for an increase in allowable residential density and at least one other incentive for certain affordable housing projects (§65915).

Local governments can indirectly facilitate the development of more affordable housing through effective administration of land use controls and by providing appropriate regulatory concessions and incentives. For example, communities can reduce development standards where appropriate to promote the development of housing for low and moderate income households.

Program to remove governmental constraints on housing (§65583(c)(3))

For each policy, requirement, or procedure identified as a governmental constraint, the element must include an appropriate program action to eliminate or modify the constraint or demonstrate how it will be offset by another policy or program. In accordance with recently enacted legislation (SB 520, Chapter 671, Statutes of 2001) the element should contain a program that removes constraints or provides reasonable accommodations for housing intended for persons with disabilities.

The following are some strategies that communities have found appropriate to remove regulatory barriers:

Land use controls

- Modify and/or reduce growth controls to ensure accommodation of projected housing needs and exempt affordable housing projects from growth control ordinances.
- Relax development standards. For example: lessen front yard set backs (20 feet or less), encourage small lot development (less than 5,000 square feet) and reduce parking requirements (less than two parking spaces).

Codes and enforcement procedures

- Allow use of alternative building design and construction materials and methods.
- Use state housing law codes without additional local requirement, except where local variations are necessary for reasons of climate, geology, or topography (Health and Safety Code §17958.5).

On- and off-site improvement requirements

- Provide opportunities for cluster development.
- Promote reduction of street widths (e.g., 36 feet or less) and right of ways (e.g., 56 feet or less).

Fees and exactions

- Reduce or waive fees, exactions, and/or development standards for particular types of development (e.g., rental or assisted housing, second units, mixed-use and infill projects, housing affordable

to low- and moderate-income households) on a basis that is predictable and transparent for the developer.

- Allow payment of fees upon certificate or occupancy, rather than prior to building permit issuance to reduce developer construction financing costs and overall development costs.

Processing and permit procedures

- Expedite permit processing (allow one-stop, consolidated, and concurrent permit processing).
- Eliminate conditional use permit requirements for multifamily projects when land is zoned multifamily.
- Prepare and present explanatory materials, adopt standards for findings of denial and mitigate additional layers of review, such as design review or additional parochial committees.

Programs to conserve and improve the conditions of the existing affordable housing stock (§65583(c)(4))

The existing affordable housing stock is a valuable resource that should be conserved and improved while maintaining affordability. Strategies used to conserve and improve the condition of the affordable housing stock include:

Conservation

- Provide stable zoning to preserve affordable housing. For example, change the underlying zoning for a mobilehome park from commercial to mobilehome park.
- Maintain long-term affordability restrictions on assisted rental units.

Improvement

- Access state and federal owner and rental rehabilitation grant and loan programs including HCD rental housing programs, Community Development Block Grant programs, HOME, etc.
- Rehabilitate residential hotels and motels (SROs) for very low- and low-income households including the homeless and those at-risk of homelessness.

Programs to promote equal housing opportunities for all persons (§65583(c)(5))

A local equal housing opportunity program should provide a means for the resolution of local housing discrimination complaints and should be promoted throughout the community. The local program should involve the dissemination of information on fair housing laws, and provide for referrals to appropriate investigative or enforcement agencies. Sites for display of fair housing information include buses, in public libraries, community and senior centers, local social service offices, and other public locations including civic centers and county administrative offices. In addition, where appropriate, local governments should distribute fair housing information in languages other than English and consider distributing information in various media (radio, television).

Programs to preserve for lower-income households the assisted housing development at risk of conversion to market rate uses (§65583(c)(6))

The nature of conversion risk varies significantly among projects depending on the type of subsidy and related affordability controls. Individual program responses should be tailored to the results of the analyses and specific local situations. Examples could include:

- Establish an early warning system and monitor at-risk units.
- Gauge owner's intent to prepay a federally assisted mortgage.
- Identify qualified entities interested in participating in the Offer of Opportunity to Purchase and Right of First Refusal programs (§65863.11).
- Respond to any federal and/or state notices.
- Facilitate refinancing or purchase by a qualified entity.

Housing Element Law and Community Redevelopment Law

California Community Redevelopment Law (CRL) is contained in Health and Safety Code §33000, et seq. CRL specifies requirements that enable communities to form a redevelopment agency, adopt a blighted area as a project area, and address housing and economic development within a project area. Agencies redevelop project areas by incurring debt that is repaid from the future increases in project area property taxes allocated to redevelopment agencies.

Although the majority of agency activities, funds, and expenditures relate to economic development, agencies also have a responsibility to increase, improve, and preserve the community's supply of low- and moderate-income housing. Agencies are required to deposit at least 20 percent of tax revenues into a separate Low-

and Moderate-Income Housing Fund strictly for affordable housing. In recognition of agencies' important role relevant to housing, the Legislature, over the years, revised and linked the following provisions of housing element and redevelopment law:

- The housing element should estimate the amount of funds expected to accrue to the Redevelopment Agency Low- and Moderate-Income Housing Fund (LMIHF) over the planning period of the element and describe the planned uses for those funds (§65583(c)).
- To use redevelopment powers, communities must have a housing element that substantially complies with state law before any area is designated for redevelopment (Health and Safety Code §33300 and §33302).
- Redevelopment agencies are required to develop project area implementation plans that are consistent with the housing element. Implementation plans are required to be updated every five years either in conjunction with the housing element cycle or the plan implementation cycle (Health and Safety Code §33413(b)(4)).
- Before an applicable redevelopment project area plan can be amended to extend the time limit to pay debt and receive tax increment, the community must have a current adopted housing element that the department has determined to be in substantial compliance (Health and Safety Code §33333.10(h) (SB 211, Chapter 741, Statutes of 2001).
- In order for a redevelopment agency to allocate less than the required set-aside amount to its Low- and Moderate-Income Housing Fund, the agency must determine that the current housing need is consistent with the current housing element that the department has determined to be in compliance (Health and Safety Code §33334.2(a)).
- Over the duration of a redevelopment plan, pursuant to Health and Safety Code §33334.4, the agency is required to spend housing funds on households that are at or below the moderate-income level. Assistance shall be provided to persons and to families with children. Persons shall be assisted in at least the same proportion as the community's total number of housing units needed for each income group bears to the total number of units needed for persons of very low, low, and moderate income (as determined under §65584). Families with children shall be assisted in at least the same proportion as the population under the age of 65 years bears to the total population of the community (as reported in the most recent census) (Health and Safety Code §33334.4) (AB 637, Chapter 738, Statutes 2001).

Relationship with Other Elements

Internal consistency

Section 65583(c) requires that the housing element describe "the means by which consistency will be achieved with other general plan elements and community goals." This requirement exists to ensure that housing elements will maintain the mandated internal consistency of the plan. The housing element program should evaluate any potential conflict between general plan elements and the housing element, and describe the means by which consistency will be achieved.

Housing elements are updated according to a particular schedule (§65588) and the scheduled updates are usually on a five year planning horizon. The five year planning horizon is much less than the traditional general plan horizon of 15 to 20 years. Due to the difference in planning periods, inconsistencies can arise between the assumptions in the housing element and the rest of the general plan, if the other elements are not required or updated in consideration of the housing element update. As a result, the preparation of the housing element should accommodate the difference in planning periods.

In order to comply with statutory requirements, the land inventory in the housing element will need to identify land with a variety of zoning and development standards (i.e., low and high density) to meet the local government's share of the regional housing need in the five year planning period. At the same time, the land use element will be setting a variety of land use designations with acreages that drive goals, policies and programs in other elements on a 20-year planning period. In order to maintain consistency with the housing element, a local government should pay particular attention to incorporate and anticipate land needed to accommodate their share of the regional housing need in the five-year planning period and the longer general plan horizon.

Since, the housing element affects a locality's policies for growth and residential land uses, the jurisdiction should review the entire general plan, especially land-use provisions, to ensure internal consistency is maintained upon any amendment to the housing element or other general plan elements.

Useful Definitions: **Housing Element**

Income Levels: Income categories are defined with respect to the area median income, and adjusted adjusted for household size. Are median income is determined for each county. For detailed definitions of these terms, the reader should consult Chapter 6.5 (commencing with §6910) of Title 25 of the California Code of Regulations. The income categories below are based on the following general parameters, but are adjusted for a number of factors, including household size, rent-income ratios, a statewide floor, and a national cap.

Very Low Income: No more than 50 percent of the area median income.

Other Lower Income: Between 50 and 80 percent of the area median income.

Lower Income: No more than 80 percent of the area median income (i.e., combination of very low income and other lower income).

Moderate Income: Between 80 and 120 percent of the area median income.

Above Moderate Income: Above 120 percent of the area median income.

Quantified Objective: The housing element must include quantified objectives that specify the maximum numbers of housing units that can be constructed, rehabilitated, and conserved by income level within a five-year time frame, based on the needs, resources, and constraints identified in the housing element (§65583(b)). The number of units that can be conserved should include a subtotal for the number of existing assisted units subject to conversion to non-low income uses that can be preserved for lower-income households. Whenever possible, objectives should be set for each particular housing program, establishing a numerical target for the effective period of the program.

Ideally, the sum of the quantified objectives will be equal to the identified housing needs. However, identified needs may exceed available resources. Where this is the case, the quantified objectives need not equal the identified housing needs, but should establish the maximum number of units that can be constructed, rehabilitated, and conserved (including existing subsidized units subject to conversion that can be preserved for lower-income use), given the constraints. See the definition of "objective" in Chapter 1.

Public participation

The housing element has a requirement for public participation that is in addition to public participation provisions in the preparation or update of the general plan (§65351). Specifically, housing element law requires the local government to describe and make diligent efforts to achieve public participation of all economic segments of the community in the development of the housing element.

An effective public participation process should begin at the outset of the housing element update process. Members of the community should be involved in evaluating the accomplishments of the previous element, identifying current needs, resources and constraints, as well as assisting in the development of community goals, policies and actions. Most communities engage residents in the process prior to preparing the draft element. In addition to holding required public hearings at the planning commission and city council or board of supervisor level, an adequate and effective citizen participation process must include additional steps to ensure the public participation of all economic segments of the community (including low- and moderate-income households). The housing element should describe efforts by the locality to:

- Include all economic segments of the community in the public participation process.
- Circulate the housing element among lower-income organizations and individuals.
- Involve such groups and persons in the development of the element.

Technical Assistance

The California Department of Housing and Community Development has extensive materials available to assist in the preparation of local housing elements and appreciates the opportunity to facilitate the preparation and implementation of housing elements. Housing element technical assistance information is available on HCD's website at www.hcd.ca.gov. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other items, the Housing Element section con-

tains the department's publication *Housing Element Questions and Answers* and the Government Code sections addressing state housing element law.

In addition to a variety of demographic data, including Census data, HCD's website includes information about planning and community development laws. HCD also operates a computerized database, the Clearinghouse for Affordable Housing and Community and Economic Development Finance, to provide up-to-date date information about financial resources available to local governments, housing developers and sponsors.

CONSERVATION ELEMENT

The conservation element provides direction regarding the conservation, development, and utilization of natural resources. Its requirements overlap those of the open-space, land use, safety, and circulation elements. The conservation element is distinguished by being primarily oriented toward natural resources.

Population growth and development continually require the use of both renewable and nonrenewable resources. One role of the conservation element is to establish policies that reconcile conflicting demands on those resources. In recent years, some jurisdictions have adopted policies related to mitigation banking, conservation easement programs, and the state and federal Endangered Species acts in their conservation elements. Other local jurisdictions have incorporated policies related to Natural Community Conservation Planning (NCCP) programs. NCCP is a broad-based approach to the regional protection of plants and animals and their habitats while allowing for compatible and appropriate economic activity. This and other programs, such as those under the Williamson Act (§51230, et seq.) and the Timberland Productivity Act (§51100, et seq.), provide important implementation tools.

Court and Attorney General Interpretations

As of this writing, the conservation element has not been the specific subject of either court decisions or legal opinions of the California Attorney General.

Relevant Issues

To the extent that they are relevant, the following issues must be addressed with regard to the conservation, development, and utilization of natural resources:

- Water and its hydraulic force
- Forests
- Soils
- Rivers and other waters
- Harbors
- Fisheries
- Wildlife
- Minerals
- Other natural resources

The discussion of water in the conservation element must be prepared in coordination with water suppliers and include any information on water supply and demand prepared pursuant to §65352.5. The conservation element may also cover the following optional issues:

- The reclamation of land and waters.
- The prevention and control of the pollution of streams and other waters.
- The regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- The prevention, control, and correction of the erosion of soils, beaches, and shores.
- The protection of watersheds.
- The location, quantity, and quality of rock, sand, and gravel resources and other minerals of statewide or local significance.
- Flood control and floodplain management.
- Biologic diversity and it implications for the ecologic sustainability of plant and wildlife habitats.

Ideas for Data and Analysis

Evaluating and quantifying a city's or county's natural resources, including the condition and sustainability of natural resources systems, is necessary for the preparation of a comprehensive conservation element. Analyses should be based upon sound ecologic principles and should recognize the relationships among natural communities and the importance of the natural environment in land use planning. The following is a list of ideas for data and analysis that should be considered in the development of locally relevant policies for the conservation, development, and utilization of natural resources.

Water

- Inventory water resources, including rivers, lakes, streams, bays, estuaries, reservoirs, groundwater basins (aquifers), and watersheds. (MAP) (L, O)

- Identify the boundaries of watersheds, aquifer recharge areas, and groundwater basins (including depths). (MAP) L, O)
  - Assess local and regional water supply and the related plans of special districts and other agencies.
  - Analyze the existing land use and zoning within said boundaries and the approximate intensity of water consumption.
- Map the boundaries and describe unique water resources (e.g., saltwater and freshwater marshes and wild rivers). (L, O)
- Assess the current and future quality of various bodies of water, water courses, and groundwater. (L, O)
- Inventory existing and future water supply sources for residential, commercial, industrial, and agricultural uses. (L, O)
- In conjunction with water suppliers, assess existing and projected demands upon water supply sources, including agricultural, commercial, residential, industrial, and public demands. (L, O)
- In conjunction with water suppliers, assess the adequacy of existing and future water supply sources. (L, O)
- Map riparian vegetation. (L, O)
- Assess the use of water bodies for recreational purposes. (L, O)

Forests

- Inventory forest resources and perform a comprehensive analysis of conservation needs for forests and woodlands and of the interrelationships forests and woodlands have with watersheds. (MAP) (L, O)
  - Describe the type, location, amount, and ownership of forests with a value for commercial timber production, wildlife protection, recreation, watershed protection, aesthetics, and other purposes.
  - Project alternative land uses within resource areas, including density and intensity of development.
  - Describe the types, location, amount, and lot sizes of land and timber resources subject to timberland production zoning (see Chapter 9).
  - Identify areas of five acres or more containing oak woodlands made up of Blue, Engelman, Valley, or Coast Live oak species. (MAP)

Soils

- Inventory soil resources. (MAP) (L, O)
  - Describe the location, acreage, and extent of different soil types and farmland soils (including prime farmland) in the planning area using the Natural Resources Conservation Service's Land Capability Classification System or the Storie Index (see "Useful Definitions: Conservation Element" box later in this chapter).
  - Identify areas subject to soil erosion and landslides.
  - Map land within Agricultural Preserves and/or subject to Williamson Act contracts or Farmland Security Zone contracts.
  - Identify additional areas potentially qualifying for inclusion in Agricultural Preserves or other agricultural preservation programs.

Harbors

- Assess the adequacy of port, harbor, and water-related transportation facilities and the need for expansion and improvements. (L, CI)
  - Gather historical data on the use of facilities.
  - Project future demand based on new or expanded economic activities and recreational trends.
  - Review harbor and port district plans for information on planned improvements.

Fisheries

- Identify water bodies and watersheds that must be protected or rehabilitated to promote continued recreational and commercial fishing, including key fish spawning areas.
- Evaluate water quality, temperature, and sources of contaminates.
- Identify physical barriers (man-caused or natural) to fish populations within the watershed.
- Identify water bodies used for subsistence fishing.

Wildlife

- Inventory natural vegetation, fish, wildlife, and their habitats, including rare, threatened, and endangered species. (MAP) (L, O)
  - Inventory plants, natural communities, and special animals using the Department of Fish and Game's Natural Diversity Database. The database covers all areas of the state and produces overlay printouts for use with USGS quadrangle maps.

- Identify the types of animals that might be found in a particular habitat, the time of year they might be found there, and their activities (e.g., winter range, breeding, etc.) using information from the Department of Fish and Game's Wildlife Habitat Relationships Program. Contact the Wildlife Management Division of the Department of Fish and Game for more information.
- Consult with the Department of Fish and Game and U.S. Fish and Wildlife Service regarding listed species
- Analyze any adopted Habitat Conservation Plan or Natural Communities Conservation Plan for pertinent policies. (O)

- Assess the potential effects of development on the continuity of plant and wildlife habitats.
  - Analyze the potential for development patterns to fragment plant and wildlife habitat.
  - Analyze regional trends in development to determine their effects on natural resources.

Minerals, including rock, sand, and gravel resources

- Inventory mineral resources. (MAP) (L, O)
  - Identify the type, location, extent, and quality of mineral, oil, gas, and geothermal resources. (O)
  - Locate mineral resource areas classified or designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act. (MAP) (L, O)
  - Identify existing mining areas and oil, gas and geothermal wells (and associated developments). (MAP) (L, O)

Reclamation of land

- Inventory lands adversely affected by mining, prolonged irrigation, landfill activities, the storage or disposal of hazardous materials, erosion, etc., for which reclamation may be feasible. (MAP) (L, O)
- Review existing mines for compliance with approved plans of operation. (L)
- Review previous reclamation projects for consistency with the approved standards of the reclamation plan.
  - Contact the Department of Conservation's Office of Mine Reclamation for information concerning mining activities, reclamation standards, and permitted mining sites.

Pollution of water bodies

- Examine the existing water quality in aquifers, streams, and other bodies of water.
- Identify existing and potential water pollution sources.
  - Inventory hazardous materials dumps, ponds, and storage sites using information plans developed pursuant to Health and Safety Code §25500, et seq.
  - Identify proposed, existing, and abandoned landfill sites. (MAP)
  - Examine the results of groundwater tests conducted in the vicinity of landfills and hazardous materials dumps, ponds, tanks, and storage areas.
  - Examine regulations regarding the use, storage, and disposal of hazardous materials.
  - Inventory existing and proposed land uses that could contribute to the pollution of streams and other waters.
- Identify the need for community sewage collection and treatment.
- Assess the capacity of sewers and the treatment capacity of sewage treatment plants.
  - Contact any of the state's nine Regional Water Quality Control boards for information concerning water quality, wastewater management, and other water-related topics.

Reclamation of water

- Identify polluted water sources for which reclamation is feasible.

Erosion

- Identify areas subject to erosion using soils data from the Natural Resources Conservation Service. (MAP)
- Assess historical data regarding beach and shore erosion.
- Identify areas subject to potential beach and shore erosion. (MAP)

Flood management

- Identify flood-prone areas using, among other things: (MAP) (L, S)
  - Reasonably foreseeable flood flows.
  - National Flood Insurance Program maps published by the Federal Emergency Management Agency.

  - Information available from the U.S. Army Corps of Engineers.
  - State Reclamation Board designated floodway maps.
  - Dam failure inundation maps prepared pursuant to §8589.5 (available from the Office of Emergency Services).
  - Historical data on flooding, including local knowledge.

- Identify present and possible flood control works, their effects and effectiveness, and their costs, including: (MAP) (L, S)
  - Dams
  - Reservoirs
  - Levees
  - Flood walls
  - Sea walls
  - Channel alterations
  - Diversion channels and weirs

- Describe federal, state, and local agencies involved in flood control, including information such as: (L, S)
  - Jurisdiction.
  - Regulatory powers.
  - Existing floodplain regulations, such as presidential or gubernatorial executive orders, interstate compacts, and statutes.
  - The Federal Emergency Management Agency's National Flood Insurance Program.
  - Available funding and technical assistance.

- Identify existing and planned development in floodplains, including:
  - Structures, roads, and utilities.
  - Construction methods or designs to protect against flooding.
  - Compliance with existing regulations for flood control (see "Flood Management Element" in Chapter 6).

Other natural resources (examples)

- Inventory agricultural resources, including grazing land. (L, OS)
  - Identify location, amount, and ownership of land in agricultural production. (MAP)
  - Describe agricultural production in the planning area by crop type.
  - Identify farmlands in accordance with the Natural Resources Conservation Service's land inventory and monitoring criteria, as shown on the "Important Farmland Maps" prepared by the Department of Conservation. (MAP)
  - Inventory irrigated versus non-irrigated agricultural land use

- Generally inventory wetlands.

- Assess air quality, consistent with regional air quality and transportation plans. (O, CI)
  - Analyze air quality trends.
  - Assess current air quality.
  - Analyze potential impacts on air quality of alternative plan proposals and implementation measures.
  - Identify air quality impacts from vehicle emissions.
  - Identify air quality impacts from all other sources.

- Inventory energy-producing resources and energy conservation opportunities.
  - Inventory resources, including wind, solar, hydroelectric, and biomass (using forest, domestic, and agricultural wastes).
  - Inventory energy conservation opportunities, including transportation economies, urban design (i.e., land use patterns), and residential, commercial, and industrial conservation programs.

Ideas for Development Policies

The conservation element should contain objectives, policies, principles, plan proposals, and standards for the conservation, development, and utilization of a jurisdiction's natural resources. Policies should be specific enough to cover the individual resources yet broad and inclusive enough to include the natural systems from which they are produced. The following is a list of subjects that should be considered during the preparation of the conservation element and included as development policies to the extent that they are locally relevant.

- The type and intensity of development in or adjacent to water bodies and courses. (L, O)
- The protection, use, and development of bodies of water and water courses (i.e., rivers, lakes, streams, bays, harbors, estuaries, marshes, and reservoirs). (O)
- The protection of and development in watersheds and aquifer recharge areas. (L, O)
- The enhancement and protection of the quality of surface water resources and the prevention of contamination.
- The protection or improvement of water quality. (O)

Useful Definitions: **Conservation Element**

Conservation: The management of natural resources to prevent waste, destruction, or neglect.

Erosion: The process by which soil and rock are detached and moved by running water, wind, ice, and gravity.

Habitat: The natural environment of a plant or animal.

Important Farmland Series Maps: Maps maintained by the California Department of Conservation's Farmland Mapping and Monitoring Program (www.conservation.ca.gov/dlrp/fmmp) to show farmland and urban areas in California. These maps are based in part on modern soil surveys published by the Natural Resources Conservation Service and cover much of the state. The maps and associated acreage data are for information only and do not constitute a state prescription for local land use. The maps use eight classifications: "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," "Grazing Land," "Urban and Built-up Land," "Other Land," and "Water." A separate overlay category of "Land Committed to Nonagricultural Use" is also maintained. The Department of Conservation has detailed definitions of these classifications. Generally they are defined as follows:

Prime Farmland: Farmland with the best combination of physical and chemical features able to sustain long term production of agricultural crops. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. The land must have been used for the production of irrigated crops at some time during the two update cycles prior to the mapping date.

Farmland of Statewide Importance: Farmland similar to "Prime Farmland," but with minor shortcomings, such as greater slopes, or with less ability to hold and store moisture. The land must have been used for the production of irrigated crops at sometime during the two update cycles prior to the mapping date.

Unique Farmland: Farmland of lesser quality soils used for the production of the state's leading agricultural crops. This land is usually irrigated, but may include nonirrigated orchards or vineyards as found in some climatic zones in California. The land must have been cropped at some time during the two update cycles prior to the mapping date.

Farmland of Local Importance: Land, of importance to the local economy, as defined by each county's local advisory committee and adopted by its Board of Supervisors. Farmland of Local Importance is either currently producing, or has the capability of production, but does not meet the criteria of Prime Farmland, Farmland of Statewide Importance, or Unique Farmland. Authority to adopt or to recommend changes to the category of Farmland of Local Importance rests with the Board of Supervisors in each county.

Grazing Land: Land on which the existing vegetation is suited to the grazing of livestock. This category is used only in California and was developed in cooperation with the California Cattlemen's Association, the University of California Cooperative Extension Service, and other groups interested in knowing the extent of grazing activities. The minimum mapping unit for Grazing Land is 40 acres.

Urban and Built-Up Land: Land occupied by structures with a building density of at least one unit to one and a half acres, or approximately six structures to a ten-acre parcel.

Land Committed to Nonagricultural Use: Land that is permanently committed by local elected officials to nonagricultural development by virtue of decisions which cannot be reversed simply by a majority vote of a city council or county board of supervisors. "Land Committed to Nonagricultural Use" must be designated in an adopted local general plan for future nonagricultural development. The resulting development must meet the requirements of "Urban and Built-up Land" or "Other Land." County boards of supervisors and city councils have the final authority to designate lands in this category.

Water: Water areas of at least 40 acres.

Land Capability Classification (U.S. Natural Resources Conservation Service): A grouping of soils into classes (I-VIII), subclasses, and units according to their suitability for agricultural use, based on soil characteristics and climatic conditions.

Minerals: Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal,

Useful Definitions: **Conservation Element (Continued)**

peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum (Public Resources Code §2005). Gold, sand, gravel, clay, crushed stone, limestone, diatomite, salt, borate, potash, etc., are examples of minerals. Despite the statutory definition of "mineral," local governments may also want to consider geothermal, petroleum and natural gas resources along with their planning for minerals.

Non-Renewable Natural Resources: Inanimate resources that do not increase significantly with time and whose use diminishes the total stock (e.g., minerals, fossil fuels and fossil water).

Prime Agricultural Land: "Prime agricultural land" means the following:

(1) All land which qualifies for rating as Class I or Class II in the Natural Resources Conservation Service land use capability classifications.

(2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.

(3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

(4) Land planted with fruit- or nut-bearing trees, vines, bushes, or crops that have a non-bearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre.

(5) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars ($200) per acre for three of the previous five years (§51201 (c)). (NOTE: This statutory definition may be somewhat dated.)

Renewable Natural Resources: Resources that can be replaced by natural ecological cycles or sound management practices (e.g., forests and plants).

Riparian Habitat: The land and plants bordering a watercourse or lake.

Storie Index: A numerical system (0-100) rating the degree to which a particular soil can grow plants or produce crops, based on four factors, including soil profile, surface texture, slope, and soil limitations.

Timber: "Trees of any species maintained for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned land, including Christmas trees, but does not mean nursery stock" (§51104(e)).

Timberland Production Zone: An area which has been zoned pursuant to §51112 or §51113 and is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses.

Watershed: The total area above a given point on a watercourse that contributes water to the flow of the watercourse; the entire region drained by a watercourse.

Wetlands: Areas that are permanently wet or periodically covered with shallow water, such as saltwater and freshwater marshes, open or closed brackish marshes, swamps, mud flats, vernal pools, and fens. This also includes wetlands under the jurisdiction of the U.S. Army Corps of Engineers which encompasses vernal pools and other areas with hydrology, soils, and vegetation meeting federal regulatory standards.

- The preservation of wetlands, including jurisdictional wetlands and saltwater and freshwater marshes consistent with federal and state requirements. (O)
- The protection of wild rivers and their watersheds. (O)
- The provision of domestic, industrial, and agricultural water. (O)
- The conservation of water supplies (ground and surface).
- The conservation of riparian vegetation. (O)
- The designation and utilization of hydroelectric power generating sites. (MAP) (L)
- The management and protection of forestry resources. (L, O)
- The conservation of forests for wildlife protection, recreation, aesthetic purposes, etc. (L, O)
- The protection and preservation of oak woodlands. (O)
- The application of timberland production zoning. (L)
- The rezoning of land zoned for timberland production. (L)

- The minimization of conflict between agricultural and urban land uses through transitions in land use designations. (L)
- The management and use of agricultural soils. (L, O)
- The control and prevention of erosion. (O, S)
- The encouragement of the use of public advisory committees to develop landscape-level goals, standards, and measures for protecting plant and wildlife communities and sensitive watersheds. (O)
- The development and improvement of port, harbor, and waterway facilities. (CI)
- The protection of water bodies and watersheds that are important for the management of commercial and recreational fishing. (L, O)
  - Protection of water bodies that are important for subsistence fishing.
- The protection of fish and wildlife and their habitats. (O)
- The protection of plant species and their habitats. (O)
- The preservation and protection of rare, threatened, or endangered species within the planning area, including candidate species and species of special concern consistent with state and federal regulations and law. (O)
- The promotion of congruency and cooperation with the management plans and policies of other local, state, and federal agencies, non-profits, and other groups involved with the preservation of resources.
- The recognition and implementation of enacted Habitat Conservation Plans (including multispecies plans) and Natural Communities Conservation programs. (O)
- The protection, use, and development of mineral deposits, including oil, gas, and geothermal resources. (This should include policies developed under the Surface Mining and Reclamation Act. See Chapter 9.) (O)
- Development adjacent to or near mineral deposits, mining sites, and oil, gas, and geothermal developments. (L, O)
- Land reclamation in areas where mining, prolonged irrigation, landfill activities, hazardous materials storage or disposal, erosion, etc., have occurred. (L)
- The establishment of resource conservation areas. (O)
- The elimination of existing water pollution sources.
- The development, improvement, and timing of major sewer, water, and storm drainage projects needed to maintain water quality. (L, CI)
- The siting of landfills in relation to water bodies (among other considerations).
- The siting of hazardous materials storage and disposal facilities with regard to nearby water bodies (among other considerations). (L)
- The control of hazardous materials in areas where water pollution is possible.
- The reclamation of polluted water bodies.
- Flood management.
  - Floodwater management. (O, S)
  - Floodplain management. (L, O, S)
- The conservation, development, and utilization of other natural resources, such as:
  - Farm and grazing lands. (L, O)
  - Air quality. (CI, L, O)
  - Energy resources. (H)
- The protection or improvement of air quality through coordinated efforts with other public agencies and jurisdictions. (L, CI, O)
- The enhancement and protection of archaeological, historical, and paleontological resources.

Technical Assistance

The following state agencies may provide information or assistance for the preparation of the land use element:

- Coastal Commission
- Coastal Conservancy
- Department of Boating and Waterways
- Department of Conservation, including the Division of Land Resource Protection and the Division of Mines and Geology
- Department of Fish and Game
- Department of Food and Agriculture
- Department of Forestry and Fire Protection
- Department of Water Resources
- Energy Commission
- Environmental Protection Agency
- Integrated Waste Management Board
- Wildlife Conservation Board

OPEN-SPACE ELEMENT

The open-space element guides the comprehensive and long-range preservation and conservation of "open-space land" (§65563). Open-space land is defined in statute as any parcel or area of land or water that is essentially unimproved and devoted to open-space use (§65560(b)).

Along with the housing element, the open-space element has the most detailed statutory intent (see §65561 and §65562) and, next to land use, is the broadest in scope. Because of this breadth, open-space issues overlap those of several elements and the open-space element is commonly combined with other elements.

For example, the land use element's issues around agriculture, natural resources, recreation, enjoyment of scenic beauty and, to a certain extent, public grounds are covered by open-space provisions. "Open space for the preservation of natural resources" and "open space used for the managed production of resources" encompass the concerns of the conservation element. "Open space for public health and safety" covers issues similar to those found in the safety element.

Court Interpretations

In *Save El Toro Association v. Days (1977) 74 Cal.App.3d 64*, the California Court of Appeal held that because the City of Morgan Hill had not adopted an open-space plan, the city could not acquire, regulate, or restrict open-space land or approve a subdivision map. Mere adoption, however, does not protect a local jurisdiction from the adverse consequences of a lawsuit challenging an open-space element. An open-space element must also meet the specifications of the Government Code.

Open-space elements have equal legal status with all other elements. In *Sierra Club v. Board of Supervisors of Kern County (1981) 126 Cal.App.3d 698*, the California Court of Appeal voided a precedence clause that gave a land use element priority over an open-space element on the grounds that it violated §65300.5 (which requires that elements of a general plan comprise an integrated, internally consistent, and compatible statement of policy).

No Oil, Inc. v. City of Los Angeles (1988) 196 Cal.App.3d 223 interprets the meaning of the term "open space for the managed production of resources." A citizens' group challenged the city's approval of oil drilling zones in a coastal area designated as open space by the Brentwood-Pacific Palisades district plan. Absent specific contradictory language in the district plan, the court held that because oil recovery is the managed production of a natural resource, it was therefore consistent with the plan's open-space designations. In light of this decision, OPR strongly suggests that local general plans specify the types of land use that are intended to comprise open space.

Relevant Issues

The following topics should be addressed in the open-space element to the extent that they are locally relevant:

- Open space for the preservation of natural resources including, but not limited to:
  - Areas required for the preservation of plant and animal life including habitat for fish and wildlife.
  - Areas required for ecologic and other scientific study; rivers, streams, bays and estuaries; and, coastal beaches, lake shores, banks of rivers and streams, and watersheds.
- Open space used for the managed production of resources including, but not limited to:
  - Forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber.
  - Areas required for recharge of ground water basins.
  - Bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries.
  - Areas containing major mineral deposits, including those in short supply.
- Open space for outdoor recreation including, but not limited to:
  - Areas of outstanding scenic, historical, and cultural value.
  - Areas particularly suited for park and recreational purposes, including access to lake shores, beaches, and rivers and streams.
  - Areas that serve as links between major recreational and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.
- Open space for public health and safety including, but not limited to:
  - Areas that require special management or regulation because of hazardous or special conditions, such as earthquake fault zones, unstable soil areas, floodplains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

- Open-space areas designed for fuel break and fuel reduction zones, helispots, and fire access. Open-space fire safety standards and policies can be implemented by the adoption of open-space zoning regulations. Such regulations would help eliminate the owner-by-owner agreements and public agency financing now necessary for construction and maintenance.
- Historical natural hazard boundaries, such as inundation areas, landslide paths, debris flows, sites of wildfires, and earthquake faults.

- Demands for trail-oriented recreational use (Public Resources Code §5076). (Cities and counties must consider such demands in developing specific open-space programs.)
- The retention of all publicly owned corridors for future use (e.g., abandoned rail lines, utility corridors, easements, etc.).
- The feasibility of integrating city and county trail routes with appropriate segments of the California Recreational Trails System (Public Resources Code §5076). (See the California Recreational Trails Act, commencing with Public Resources Code §5070.)

Ideas for Data and Analysis

The following are suggested topics for the data collection and analysis necessary for the development of open-space policies.

Open space for the preservation of natural resources

- Inventory of natural vegetation, fish and wildlife, and their habitats, including rare and endangered species. (MAP) (CO, L)
  - Inventory plants, natural communities, and special animals using the Department of Fish and Game's Natural Diversity Database. The database covers all areas of the state and produces overlay printouts for use with USGS quadrangle maps.
  - List the types of animals that might be found in a particular habitat, the time of year they might be found there, and their activities (e.g., breeding) using information from the Wildlife Habitat Relationships Program. Contact the Department of Fish and Game's Wildlife Management Division for information.
  - Inventory existing and proposed areas for ecologic and other scientific study.
  - Examine any adopted Habitat Conservation Plan (HCP) or Natural Communities Conservation Plan (NCCP).
  - Inventory oak woodlands. (CO)
    1. Identify existing oak woodlands where the density of trees is five or more oaks per acre and Blue, Engelman, Valle, or Coast Live oak species dominate. (MAP)
    2. Assess the effects of past land use decisions on oak woodlands and identify factors causing any decline in oak woodlands.
- Consult with the Department of Fish and Game and the U.S. Fish and Wildlife Service regarding species on the threatened or endangered species lists.
- Inventory water resources, including rivers, lakes, streams, bays, estuaries, reservoirs, groundwater basins (aquifers), and watersheds. (MAP) (CO)
  - Map water bodies.
  - Identify the uses of waterways and other bodies of water (e.g., transportation, harbors, and domestic, industrial, agricultural, and recreational use).
  - Delineate the boundaries of watersheds and aquifer recharge areas and the depth of groundwater basins.
  - Analyze seasonal factors in water availability.
- Assess the quality of various bodies of water, water courses, and groundwater. (CO)
  - Generally delineate the boundaries of and describe unique water resources (e.g., saltwater and freshwater marshes, wild rivers, etc.).
  - Map beaches, lakeshores, and river and stream banks.
  - Review plans prepared by the state for designated wild and scenic rivers. (MAP)

Open space for resource management

- Inventory forest resources. (L, CO)
  - Describe the type, location, amount, and ownership of forests with value for commercial timber production, wildlife protection, recreation, watershed protection, aesthetics, and other purposes. (MAP)
  - Describe the type, location, amount, and ownership of land and timber resources subject to timberland production zoning. (MAP)
- Inventory agricultural resources, including rangeland. (CO, L)

  - Identify the location, amount, and ownership of land in agricultural production. (MAP)
  - Describe agricultural production in the planning area by crop type.
- Inventory soil resources. (MAP) (CO)
  - Describe the location, acreage, and extent of different soil types and farmland soils (including prime farmland) in the planning area using the Natural Resources Conservation Service's Land Capability Classification System or the Storie Index (see "Useful Definitions: Conservation Element" box earlier in this chapter).
  - Identify areas subject to soil erosion.
- Inventory groundwater recharge areas. (MAP) (CO)
- Inventory water bodies that are important for the management of commercial fisheries. (MAP) (CO)
- Inventory mineral resources. (L, CO)
  - Identify the type, location, extent, and quality of mineral resources, including oil and gas. (MAP)
  - Describe the location and extent of geothermal resources. (MAP)
  - Describe the location of mineral resource areas classified and designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act. (MAP)

Open space for outdoor recreation

- Inventory areas of outstanding scenic beauty. (MAP) (L)
- Inventory historical and cultural resources, including archaeological sites and historically and architecturally significant structures, sites, and districts. (Note: Because of the possibility that archaeological sites may be vandalized, the exact locations of the sites must not be publicized.) (MAP)
- Assess the demand for public and private parks and recreational facilities and inventory areas particularly suited to parks and recreational purposes. (L)
  - Describe the type, location, and size of existing public (federal, state, regional, and local) and private parks and recreational facilities. (MAP)
  - Review federal, state, regional, and local plans and proposals for the acquisition and improvement of public parks. (MAP)
  - Assess present and future demands for parks and recreational facilities.
  - Identify underserved areas of the community.
- Inventory points of public access to lakeshores, beaches, rivers, and streams. (MAP) (L)
- Inventory scenic highway corridors.
  - Identify state highways included in the Master Plan of State Highways Eligible for Official State Designation as Scenic Highways, local highways of scenic significance, and National Scenic Byways and All-American Roads as designated by the U.S. Forest Service. (MAP)
  - Assess identified scenic highway corridors and their appropriate boundaries, scenic features, and relationship to surroundings; the incompatible, existing development within the corridor; the proposed realignments or improvements; and the potential for future public and private development within the corridor.
- Inventory recreational trails and areas and assess the demand for them. (MAP) (L)
- Inventory trails proposed by and developed under the California Recreational Trails Plan of 1978 (Department of Parks and Recreation. See Public Resources Code §5076 and §5070, et seq.).

Open space for public health and safety

- Review the general geology and seismic history of the region and the planning area. (S)
- Assess the potential for surface rupture. (S)
  - Perform a geologic evaluation of the potential for displacement along active and potentially active faults in the planning area. (MAP)
  - Map the location of earthquake fault zones designated by the State Geologist under the Alquist-Priolo Earthquake Fault Zoning Act (see Chapter 9). (MAP)
- Assess the potential for ground shaking. (S)
  - Identify active and potentially active faults in the region. (MAP)
  - Review historical data on seismic ground shaking within the planning area.
  - Perform a geologic evaluation of the potential for ground shaking based on a maximum credible earthquake. (MAP)
- Assess the potential for ground failure. (S)
  - Perform a geologic evaluation of the potential for seismically induced landslides, mudslides, liquefaction, and soil compaction. (MAP)

- Assess slope stability. (CO, S)
  - Review historical data on landslides and mudslides.
  - Perform a geologic evaluation of the potential for landslides and mudslides. (MAP)
- Assess the potential for cliff erosion. (S)
  - Review historical data on cliff erosion.
  - Perform a geologic evaluation of the potential for cliff erosion. (MAP)
- Assess the potential for land subsidence. (S)
  - Review historical data on land subsidence resulting from extraction of groundwater, gas, oil, and geothermal resources and from hydrocompaction and peat oxidation.
  - Perform a geologic evaluation of the potential for further subsidence. (MAP)
- Identify flood-prone areas using: (L, CO, S)
  - National Flood Insurance Program maps published by the Federal Emergency Management Agency.
  - Information from the U.S. Army Corps of Engineers.
  - State Reclamation Board designated floodway maps (for the Sacramento and San Joaquin valleys only).
  - Dam failure inundation maps prepared pursuant to §8589.5 (available from the Office of Emergency Services).
  - Locally prepared maps of flood-prone areas and repetitive flood damage sites.
  - Historical data on flooding, including information from conversations with long-time local residents.
- Identify watersheds and key areas for the protection of water quality and reservoirs. (MAP) (CO)
- Assess the risk of wildland fires. (S)
  - Identify areas of varying fire hazard severity based on fuel loading (vegetation), weather, slope, and historical data. (MAP)
  - Identify the developments, facilities, and people in and near hazardous areas.
  - Evaluate the adequacy of access to hazardous areas (e.g., types of roads, dead-end roads, etc.).
- Identify areas necessary for the protection and enhancement of air quality. (MAP)
- Identify areas with naturally occurring shallow gas deposits.

Ideas for Development Policies

The following are topics that might be covered by open-space element policies:

- The protection of fish and wildlife and their habitats, including rare and endangered species. (CO)
- The promotion of and consistency with adopted HCPs and NCCPs. (CO)
- The protection of rare and endangered plants. (CO)
- Development in or near existing and proposed areas of ecologic or other scientific study.
- The protection and preservation of oak woodlands and mandated replacement planting of native oaks where oak woodlands are proposed for alteration. (CO)
- The protection, use, and development of water bodies and water courses (e.g., rivers, lakes, streams, bays, harbors, estuaries, marshes, and reservoirs). (CO)
- The protection of beaches, lakeshores, and river and stream banks. (CO)
- The protection of aquifer recharge areas, including specification of minimum parcel sizes. (L, CO)
- The protection of water quality. (CO)
- The protection of designated wild and scenic rivers. (CO)
- The protection of forestry resources, including specifications for compatible uses and minimum parcel sizes. (L, CO)
- The use of timberland production zoning. (L, CO)
- The protection, use, and development of agricultural lands (e.g., field crops, orchards, grazing, etc.), including specifications for compatible uses and minimum parcel sizes. (L)
- The encouragement of the use of public advisory committees to develop landscape-level goals, standards, and measures for protecting plant and wildlife communities and sensitive watersheds. (O)
- The prevention of soil erosion. (CO, S)
- The preservation of groundwater recharge areas.
- The protection of water bodies and watersheds that are important for the management of commercial fisheries. (CO)
- Land use relationships in areas containing major mineral deposits, including policies, plan proposals, and standards developed under the Surface Mining and Reclamation Act (see Chapter 9). (L, CO)

- The protection of areas of outstanding scenic beauty. (L)
- The protection of archaeological sites. (L)
- The preservation of historically or culturally significant sites. (L)
- The type, location, acquisition, development, and management of public and private parks and recreational areas. (L)
- A framework for park exactions under the Subdivision Map Act (§66477(d)). (L)
- The protection of and improved access to lakeshores, beaches, rivers and streams. (L)
- The protection of local scenic highway corridors.
- The protection, improvement, development, and maintainence of recreational trails and related facilities.
- The coordination of trails with access to waterways required under the Subdivision Map Act.
- The integration of local trails with state and federal trail systems (see Public Resources Code §5076).
- The type, location, and intensity of development in areas of seismic hazards. (L, S)
- The type, location, and intensity of land uses in areas with unstable soils. (L, CO, S)
- Non-structural floodplain management approaches. (L, CO)
- The type, location, and intensity of land uses within flood-prone areas. (L, CO, S)
- The type, location, and intensity of development in areas subject to inundation from dam failures. (L, S)
- The type, location, and intensity of land uses in fire-hazard areas. (S)

Ideas for Open-Space Action Programs

Every local open-space element is required to contain a specific action program (§65564). What follows are some ideas for action programs to preserve open space. While the first item on the list (open-space zoning) is a state requirement for counties and general law cities, the other ideas are only suggestions and are meant to stimulate thinking about action programs. More detailed suggestions can be found in OPR's publication *Putting Action into the Open-Space Element*.

- Open-space zoning pursuant to §65910 (e.g., exclusive agriculture zones, large-lot zones, overlay zones for hazards areas, etc.).
- Public acquisition of open space (see Chapter 10).
- Private acquisition of open space (e.g., non-profit land trusts or conservancies).
- Preferential assessments (see Chapter 10).
- Application of the Quimby Act to subdivision approvals (see §66477).
- Provisions for open space in specific plans (see Chapter 10).
- Provisions for open space in development agreements (see Chapter 10).
- Transfer of development rights.
- Open space in planned unit developments.
- Action programs for open space within urbanized areas:
  - Connect existing open spaces to the population with the greatest need for these open spaces. This can be facilitated by:
    1. Extending the hours of existing recreational facilities by lighting them at night.
    2. Creating a "vacant lot" task force to examine ways to allow publicly owned vacant parcels to convert to interim passive use parks and community gardens.
    3. Expanding parks and schools and assisting schools to convert asphalt to turf.
    4. Funding and expanding various types of parks and recreational programs.
  - Impose impact fees on new development where justified:
    1. Include open-space acquisition in capital improvement programs.
    2. Employ land use controls to impose reasonable and proportional impact fees to acquire open space.

Technical Assistance

The following state agencies may provide information or assistance for the preparation of the open space element:

- Air Resources Board
- Coastal Commission
- Coastal Conservancy
- Department of Boating and Waterways
- Department of Conservation, including the Division of Land Resource Protection, the Division of Mines and Geology, and the Division of Oil, Gas and Geothermal Resources

- Department of Fish and Game
- Department of Forestry and Fire Protection
- Department of Parks and Recreation
- Department of Water Resources
- Resources Agency, including the Legacy Project
- Seismic Safety Commission
- Wildlife Conservation Board

NOISE ELEMENT

The purpose of the noise element is to limit the exposure of the community to excessive noise levels. In 1976, the Department of Health Services issued the first Noise Element Guidelines pursuant to Health and Safety Code §46050.1, followed shortly thereafter by a model noise ordinance. In 1984, revisions to the general plan statutes made extensive changes to the noise element requirements (Chapter 1009, Statutes of 1984). These revisions shortened the list of issues required by statute and gave flexibility to local governments in analyzing the issues and subjects pertinent to the local planning area.

Local governments must "analyze and quantify" noise levels and the extent of noise exposure through actual measurement or the use of noise modeling. Technical data relating to mobile and point sources must be collected and synthesized into a set of noise control policies and programs that "minimizes the exposure of community residents to excessive noise." Noise level contours must be mapped and the conclusions of the element used as a basis for land use decisions. The element must include implementation measures and possible solutions to existing and foreseeable noise problems. Furthermore, the policies and standards must be sufficient to serve as a guideline for compliance with sound transmission control requirements. The noise element directly correlates to the land use, circulation, and housing elements.

The noise element must be used to guide decisions concerning land use and the location of new roads and transit facilities since these are common sources of excessive noise levels. The noise levels from existing land uses, including mining, agricultural, and industrial activities, must be closely analyzed to ensure compatibility, especially where residential and other sensitive receptors have encroached into areas previously occupied by these uses.

Caltrans administers several freeway noise control programs. In general, these are applied to residential and school uses that preexisted the particular freeway. For instance, noise attenuating walls are installed along the freeway frontages of qualified residential development under the New Construction or Reconstruction and Community Noise Abatement programs. In addition, there are a number of schools adjacent to freeways that have qualified for School Noise Abatement Program funds for the acoustical attenuation of classrooms.

Local airports are subject to the noise requirements of the Federal Aviation Administration and noise standards under Title 21, §5000, et seq., of the California Code of Regulations. These standards are designed to cause the airport proprietor, aircraft operators, local governments, pilots, and Caltrans to work cooperatively to diminish noise problems. The Federal Aviation Act, however, preempts local regulations controlling noise at airports themselves and limits arrival and departure times of jet aircraft flights. (See *City of Burbank v. Lockheed Air Terminal (1973) 93 S.Ct 1854 and 53 Ops.Cal.Atty.Gen 75 (1970)*).

The Caltrans Office of Transportation Laboratory publishes the *Caltrans Noise Manual* and numerous reports on mitigating transportation noise. The *California Airport Land Use Planning Handbook*, published by Caltrans' Division of Aeronautics, includes noise information relating to airports.

Court and Attorney General Interpretations

As of this writing, no noise element prepared since the statutes' 1984 revision has been the subject of an appellate court decision or Attorney General opinion. However, three past appellate court cases remain germane.

The content of the noise element was one of the central issues in *Camp v. County of Mendocino (1981) 123 Cal.App.3d 334*. Mendocino County's element did not quantify noise levels, did not include an inventory of current and expected noise exposure (noise contours), and was apparently not supported by monitoring data. As a result, the court found the element to be inadequate. The county's argument that the existing element was sufficient for a quiet rural county was not persuasive to the court, since the statute was neither subjective nor geographical. The *Cam*p decision underscores the importance of comprehensive data collection and analysis.

The decision in *Neighborhood Action Group v. County of Calaveras (1984) 156 Cal.App.3d 1176*, highlights the importance of including the noise element in the land use decision-making process. In this instance, where a conditional use permit for a surface mining operation was at issue, the appeal court stated that "a quantitative inventory of existing transporta-

tion noise must be compared with that added by a particular project. The aggregate noise level must be measured against policy statements and standards required to be in the general plan." This decision makes clear that the noise element must be adequate to serve as the basis for analyzing projects that may potentially increase noise levels.

Pursuant to the decision in *Guardians of Turlock's Integrity v. City of Turlock (1983) 149 Cal.App.3d 584*, a general plan is invalid if it lacks a noise element. Furthermore, in the words of the court, "unless the general plan sets noise guidelines, an EIR addressing noise issues lacks meaning."

Relevant Issues

The noise element should cover those issues and sources of noise relevant to the local planning area. The element should utilize the most accurate and up-to-date information available to reflect the noise environment, stationary sources of noise, predicted levels of noise, and the impacts of noise on local residents. It should be as detailed as necessary to describe the local situation and offer solutions to local noise problems. Issues to be addressed by the noise element include the following:

- Major noise sources, both mobile and stationary.
- Existing and projected levels of noise and noise contours for major noise sources.
- Existing and projected land uses and locational relationship to existing and projected noise sources. (MAP) (L)
- Existing and proposed sensitive receptors, including:
  - Hospitals.
  - Convalescent homes.
  - Schools.
  - Churches.
  - Sensitive wildlife habitat, including the habitat of rare, threatened, or endangered species.
- The extent of "noise problems in the community."
  - Survey of community to determine location and extent.
- Methods of noise attenuation and the protection of residences and other sensitive receptors from excess noise.
- Implementation measures and possible solutions that address existing and foreseeable noise problems.

Ideas for Data and Analysis

The following are suggested topics for data collection and analysis:

Identification and appraisal of major noise sources

- Identify major noise sources, including:
  - Highways and freeways.
  - Primary arterials and major local streets.
  - Passenger and freight on-line railroad operations and ground rapid transit systems.
  - Commercial, general aviation, heliport, helistop, and military airport operations; aircraft overflights; jet engine test stands; and all other ground facilities and maintenance functions related to airport operation.
  - Local industry, including, but not limited to, railroad classification yards.
  - Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

Analysis and quantification of the local noise environment

- Select the method of noise measurement or modeling to be used in the noise element.
- Measure major sources of noise, including, but not limited to, highways and freeways, arterial and major streets, railroads, railroad yards, ground rapid transit, airports and aviation-related sources, industrial plants, and other stationary ground sources.
- Map noise level contours, expressed in CNEL or Ldn, for the area surrounding each of the identified noise sources.
- Project future noise sources, noise levels, and anticipated impacts upon existing and proposed land uses.
- Analyze the current and future impacts on community residents of noise emanating from the identified sources. (L)
- Analyze current and predicted levels of transportation noise consistent with the requirements of the Federal Intermodal Surface Transportation Efficiency Act. (CI)

Minimization of noise exposure

- Inventory existing and proposed sensitive uses, including residential areas, hospitals, convalescent homes, schools, churches, and sensitive wildlife habitat.
- Identify local noise problems and areas of conflict between noise sources and sensitive uses.

- Identify means of noise mitigation, such as soundproofing, landscaping and berms, building design and setbacks, buffer areas, operating hours of major sources, and other techniques.

Ideas for Development Policies

The following are the types of development policies that may be contained in a noise element, as locally relevant:

- The adoption of noise impact and attenuation standards, consistent with the Noise Element Guidelines and the Uniform Building Code.
- Guidance for zoning and development through the adoption of specified noise mitigation, including provisions for increased building setbacks, buffer areas, compatibility zoning, and other land use strategies. (L)
- The establishment of local standards and guidelines for noise evaluation, including baseline specifications.
- The evaluation of new residential and other sensitive uses for consistency with noise standards in areas adjacent to major sources of noise. (L)
- The review of all land use and development proposals for compliance with noise and land use compatibility standards.
- Guidance for the location and design of transportation facilities to maintain acceptable noise levels. (L, CI)
- The control of stationary noise at the source through the use of insulation, berms, building design/orientation, buffer areas, staggered operating hours, and other techniques. (L, O)
- The minimization of noise exposure around airports in correlation with the policies of the local Airport Land Use Plan and airport noise standards pursuant to Title 21, §5000, et seq., California Code of Regulations. (L)
- The correlatation of noise element concerns with the objectives, policies, and plan proposals of the land use, circulation, and open-space elements in order to minimize community noise exposure.
- The achievement of noise compatibility between residential and other surrounding land uses, including commercial and industrial.

TechnicalAssistance

Various noise prediction models can be used to address transportation and aircraft noise in the noise element. For example, the Federal Highway Administration's Traffic Noise Model can calculate noise levels using acoustical algorithms and emission levels for five standard vehicle types: automobiles, medium trucks, heavy trucks, buses, and motorcycles. More information can be obtained from the Federal Highway Administration's Turner-Fairbank Highway Research Center at www.tfhrc.gov. Information regarding noise models can also be obtained from the Federal Aviation Administration's Office of Environment and Energy at www.aee.faa.gov.

SAFETY ELEMENT

The aim of the safety element is to reduce the potential risk of death, injuries, property damage, and economic and social dislocation resulting from fires, floods, earthquakes, landslides, and other hazards. Other locally relevant safety issues, such as airport land use, emergency response, hazardous materials spills, and crime reduction, may also be included. Some local jurisdictions have even chosen to incorporate their hazardous waste management plans into their safety elements.

The safety element overlaps topics also mandated in the land use, conservation, and open-space elements. When preparing a new general plan or undertaking a comprehensive revision of an existing general plan, OPR suggests addressing these common topics in a single place rather than scattering them among four separate elements. The key concern should be to integrate effectively these common issues into the decision-making process.

The safety element must identify hazards and hazard abatement provisions to guide local decisions related to zoning, subdivisions, and entitlement permits. The element should contain general hazard and risk reduction strategies and policies supporting hazard mitigation measures. Policies should address the identification of hazards and emergency response, as well as mitigation through avoidance of hazards by new projects and reduction of risk in developed areas. Communities may use the safety element as a vehicle for defining "acceptable risk" and the basis for determining the level of necessary mitigation. Policies may address not only methods of minimizing risks, but also ways to minimize economic disruption and expedite recovery following disasters.

Seismic Hazards

The safety element must establish policies to minimize the loss of property and life as a result of earthquake. The Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code §2621, et seq.), the Seismic Hazards Mapping Act (Public Resources Code §2690,

et seq.), the Unreinforced Masonry Law (§8875, et seq.), and the associated maps and regulations of the State Board of Geologists and Geophysicists and the State Mining and Geology Board offer crucial information and a starting point for local policies.

The Department of Conservation's California Geological Survey (CGS, also known as the Division of Mines and Geology), the Seismic Safety Commission (SSC), the Office of Emergency Services (OES), and the U. S. Geological Survey (USGS) offer a number of publications that are very useful in identifying, analyzing, and addressing seismic hazards. The CGS has hazard maps and other information available online at www.conservation.ca.gov/cgs. The SSC's *California Earthquake Loss Reduction Plan 1997-2001* is a strategic plan for state and local government actions to mitigate earthquake hazards. Technical information about earthquake hazards is available online from USGS at http://quake.wr.usgs.gov (maps and reports); the Northern California Earthquake Data Center at http://quake.geo.berkeley.edu (technical earthquake data); and the Southern California Earthquake Center at www.scec.org (earthquake modeling and probability). In the San Francisco Bay Area, the Association of Bay Area Governments (ABAG) offers a variety of earthquake hazard and mitigation information on its website at http://quake.abag.ca.gov.

The Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code §2621, et seq.) restricts development on the surface traces of known active faults. The State Geologist has produced maps that identify faults throughout the state and makes copies available to planning agencies. The Seismic Hazards Mapping Act (Public Resources Code §2690, et seq.) directs the State Geologist to map potential ground shaking, liquefaction, earthquake-triggered landslides, and other identifiable earthquake-related hazards in California. Current information and an index map of the over 70 quadrangles zoned under the Seismic Hazards Mapping Act in Orange, Los Angeles, Ventura, Contra Costa, Alameda, Santa Clara, and San Mateo counties can be found on the website of the California Geological Survey, www.conservation.ca.gov/cgs. Call (916) 445-5716 for more information.

The Unreinforced Masonry Law (Government Code §8875, et seq.) requires cities and counties within Seismic Zone 4 to identify hazardous unreinforced masonry buildings and consider local regulations to abate potentially dangerous buildings through retrofitting or demolition. The 1990 Loma Prieta quake graphically illustrated the advantages of abatement ordinances: although seismic retrofitting is primarily aimed at saving lives rather than protecting buildings, structural damage was substantially less in communities that had enacted abatement ordinances than in neighboring communities that had not. Information on the Unreinforced Masonry Law, including the status of compliance as of 2000 and a 1995 model seismic retrofit ordinance, is available online from the Seismic Safety Commission at www.seismic.ca.gov. Call (916) 263-5506 for more information.

Flood Hazard

The safety element must also identify flood hazard areas and establish policies to avoid unreasonable flood risks. A comprehensive approach should include mapping floodplains; establishing general policies to keep intensive new development out of floodplains or to mitigate and protect against flood impacts if development is to be located in such areas; minimizing impacts on existing development where possible; establishing policies regarding capital improvements or acquisitions necessary to ensure flood protection; and establishing flood management policies which may include both structural and non-structural approaches to flood control using a multi-objective watershed approach. Flooding is often a regional problem that crosses multiple jurisdictional boundaries. Policies should be developed cooperatively with local, state, and federal agencies, including special districts, to create feasible solutions.

The Department of Water Resources' Division of Flood Management can provide floodplain management and flood control information, including floodplain maps where available (www.dfm.water.ca.gov). The Federal Emergency Management Agency (FEMA) also has helpful information on mitigation. It offers a flood insurance program for communities that enact zoning regulations to limit development within flood zones and prepares Flood Insurance Rate Maps delineating those zones. Information on maps can be found at http://web1.msc.fema.gov/MSC. The telephone number for the flood insurance program at FEMA's western regional office is (510) 627-7177. Another federal source of flood hazard information is the U.S. Army Corps of Engineers at (415) 977-8173. The Corps can develop or interpret data on flood depths or stages; the extent, duration, and frequency of flooding; and obstructions to flooding. The Corps also offers special studies on all aspects of floodplain management planning. The Natural Resources Conservation Service (NRCS), part of the U.S. Department of Agriculture, offers an Emergency Watershed

Protection program and can provide advice on erosion control. NRCS's California office can be contacted at (530) 792-5600.

Fire Hazard

The safety element must identify urban fringe and rural-residential areas that are prone to wildland fire hazards. It must also analyze systems, such as adequate evacuation routes and peakload water supplies, that can reduce fire hazards. The policies of the safety element should form the basis for adopting fire safe ordinances and strategic fire defense system zoning.

The State Board of Forestry has adopted the *California Fire Plan*, which describes the environment at risk for fire and the state's activities to reduce that risk. It has also adopted fire safe regulations for counties with State Responsibility Areas (SRAs) as a means of reducing pre-fire fuel loads (Title 14, §1270, et seq., California Code of Regulations). Although most of these regulations are too specific and regulatory in nature to include in a general plan, they offer useful ideas for local policies and can be adapted into local fire safe ordinances and regulations outside of SRAs. The statewide fire safe regulations include:

- Road standards, including width, surface, and grade, for emergency access and evacuation.
- Standards for signs identifying streets, roads, and buildings.
- Minimum water supply reserves for emergency fire use.
- Fuel breaks (i.e., defensible space) around structures and greenbelts around new subdivisions.

With certain exceptions, after July 1, 1991, all new construction and subdivisions within SRAs must meet the Title 14 standards or equivalent local requirements that have been certified by the State Board of Forestry. In addition, any city or county within an SRA is required to submit a copy of its draft safety element or any amendments to that element to the State Board of Forestry and to every local agency that provides fire protection in its jurisdiction for review and comment at least 90 days prior to adopting or amending the element (Public Resources Code §4128.5). If the city or county decides not to follow the board's or a local agency's recommendations, it must advise the board in writing as to its reasons for not doing so.

For SRAs, the California Department of Forestry and Fire Protection (CDF) and counties that contract with CDF for SRA fire protection can identify areas of high risk/high asset value under the *California Fire Plan*. The objective is to reduce the costs and losses from catastrophic fire by fostering public/private partnerships for prevention, fuels management, and other activities. The *California Fire Plan* may be obtained from CDF or viewed at http://www.fire.ca.gov. Individual data layers for counties can be obtained from local Ranger Unit offices.

Fire hazard severity zoning information developed by CDF pursuant to Government Code §51175-§51179 is available from the State Fire Marshal (http://osfm.fire.ca.gov) for adoption by local agencies. The State Fire Marshal, pursuant to §51189.5, has also developed a model ordinance for space and structure defensibility linking hazard severity zoning or classification with building standards.

General information about fire safety, including vegetation (fuel load) maps and fire management maps, is available from CDF's Fire and Resource Assessment Program at http://frap.cdf.ca.gov or (916) 227-2651.

Health and Safety Code §13143.5 allows local fire officials to change or modify state fire safety codes when reasonable and necessary because of local climate or geologic or topographical conditions. Any changes cannot be less restrictive than the minimum state standard.

Landslides

The landslides generated by the El Nino storms of 1998 and 1992 illustrated the hazards to life and property posed by debris flows and landslides. Deep-seated landslides are caused by the infiltration of water from rain or other origin into unstable material. Fast-moving debris flows are triggered by intense rains that oversaturate pockets of soil on hillsides. Landslides are the result of both natural conditions and the works of man. The California Geological Survey and the U.S. Geological Survey have published landslide inventory and landslide and debris-flow susceptibility maps at a variety of scales for selected areas of California. Areas prone to rainfall-triggered landslides overlap areas where earthquake-induced landslides, mapped under the Seismic Hazard Mapping Act, are likely.

Other Hazards

The Office of Emergency Services administers the Standardized Emergency Management System (SEMS), which provides a framework for coordinating multi-agency emergency responses (§8607 and Title 19, §2400, et seq., California Code of Regulations). SEMS

incorporates mutual aid agreements, establishes lines of communication during emergencies, and standardizes incident command structures, among other things. Local agencies are not required to participate in SEMS but are not eligible for reimbursement of response costs under disaster assistance programs unless they do so. The safety element may include general policies for cooperation and assistance consistent with SEMS. For information about emergency response planning, contact the OES Planning and Technological Assistance Branch at (916) 464-3200.

The safety element may address any other subjects that, in the judgment of the local legislative body, relate to the physical development of the county or city (§65303). A number of local jurisdictions have chosen to include the subject of crime safe community planning. The safety element may be used to establish programs and policies that promote neighborhood, institutional, governmental, and business safety. This need not be limited to protection against criminal activity, but may also include policies designed to avoid accidents throughout the community. These policies are commonly implemented through the design review process and address issues such as:

- Adequate lighting and landscaping for improved natural surveillance.
- Park and open-space usership, safety, and accident avoidance.
- Homelessness issues and residential shelters.
- Safety and accident prevention through design.

Urban Design as Crime Prevention

Planners, architects, and law enforcement officials have become increasingly aware of the relationship between urban design and crime prevention. Terms for this concept include Safescape and Crime Prevention Through Environmental Design (CPTED). Planning and design strategies that deter crime include natural surveillance (eyes on the street), walkable environments (human/pedestrian scale), demarcated public and private space, and mixed-use development (high levels of activity).

Resources:

- International CPTED Association, www.cpted.net
- *Safescape*, by Art Zelinka and Dean Brennan (APA Planners Press, 2001)

Prior to preparing or revising its safety element, a city or county must consult with the Office of Emergency Services and submit one copy of its draft safety element to the California Geological Survey for review (§65302(g)). These agencies can provide safety element advice, particularly in the areas of emergency response, inundation resulting from dam failure, seismic hazards, and geologic hazards. Local governments must consider the findings of the California Geological Survey prior to final adoption of the safety element. In addition, the Department of Water Resources, pursuant to §65303.4, may develop site design and planning policies to assist local agencies that request help in implementing flood control objectives and other land management needs.

Court and Attorney General Interpretations

As of this writing, the provisions of a safety element have not been the subject of a decision by an appellate court or an interpretation by the California Attorney General.

Relevant Issues

The safety element must examine issues related to protecting the community from any unreasonable risks associated with:

- Seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure.
- Slope instability leading to mudslides and landslides.
- Subsidence, liquefaction, and other seismic hazards identified on seismic hazard maps.
- Other known geologic hazards.
- Flooding.
- Wildland and urban fires.

It must also address the following as they relate to known fire and geologic hazards:

- Evacuation routes and signage.
- Peakload water supply requirements.
- Minimum road widths and turnouts.
- Clearances around structures.

The safety element must also contain a map or maps of known seismic and other geologic hazards. The official maps of the Alquist-Priolo Earthquake Fault Zones and seismic hazard zones, available from the California Geological Survey, may be included or incorporated by reference.

Ideas for Data and Analysis

The following are suggested as topics for consideration during the data collection and analysis phase of preparing a safety element.

The general geology and seismic history of the region and the planning area

- Map known seismic and geologic hazards. (MAP) (O)

The potential for seismically induced surface rupture

- Determine the location of active fault zones designated by the State Geologist under the Alquist-Priolo Earthquake Fault Zoning Act. (MAP) (O)
- Perform a geologic evaluation of the potential for displacement along active and potentially active faults in the planning area. (MAP) (O)

The potential for seismically induced ground shaking

- Identify active and potentially active faults in the region. (MAP) (O)
- Gather historical data on seismic ground shaking within the planning area.
- Perform a geotechnical evaluation of the potential for localized ground shaking based on the state probabilistic earthquake hazard map. (MAP)
- Identify hazardous or substandard structures that may be subject to collapse in the event of an earthquake, including, but not limited to, unreinforced masonry buildings (§8875, et seq.).

The potential for seismically induced ground failure

- Perform a geotechnical evaluation of the potential for earthquake-triggered landslide, mudslide, liquefaction, and soil compaction. (MAP) (O)
- Determine the location of zones of required investigation for liquefaction and earthquake-induced hazards on a seismic hazard zone map prepared by the State Geologist. (MAP) (O)

The potential for seismically induced dam failure

- Identify areas that would be inundated in the event of a dam failure. Dam inundation maps are available from the Office of Emergency Services. (MAP) (O)
- Identify the development, facilities, and people potentially at risk in areas subject to potential inundation. (O)

Slope instability and the associated risk of mudslides and landslides

- Gather historical data on landslides and mudslides. (O)
- Identify areas that are landslide-prone by using, among other sources, landslide features maps produced by USGS and the California Geological Survey's seismic hazard zone maps, landslide hazard identification maps, watershed maps, and geology for planning maps. (MAP) (O)
- Perform a geotechnical evaluation of the local potential for landslides and mudslides. (MAP) (O)

The potential for seismically induced seiches and tsunamis

- Gather historical data on the occurrence of tsunamis and seiches within the planning area. (O)
- Perform a geophysical evaluation of the potential "run-up" of tsunami and seiche waves. (MAP) (O)

The potential for land subsidence, liquefaction, and other seismic hazards

- Collect historical data on land subsidence resulting from extraction of groundwater, natural gas, oil, and geothermal resources and from hydrocompaction. (O)
- Identify areas of known risk from liquefaction, subsidence, or ground shaking. (MAP)
- Evaluate the potential risks associated with other known geologic hazards, such as volcanic activity, avalanche, or cliff erosion.
- Refer to information from the state seismic hazard maps, when available.

The risk of wildland fires

- Identify and classify areas of varying fire hazard severity based on degree of development, fuel loading (vegetation), weather and slope, accessibility to fire protection assistance (i.e., response time, availability of helispots, proximity of air tanker attack bases, etc.), historical data, and other pertinent information. (MAP) (O)
- Analyze the potential for fire to critically impact or eliminate habitat or open-space values. Identify the policy implications of fire safe or fuels reduction policies for both public and private conservation or open-space areas. (CO, O)

Useful Definitions: **Safety Element**

Alquist-Priolo Earthquake Fault Zone: A regulatory zone, delineated by the State Geologist, within which site-specific geologic studies are required to identify and avoid fault rupture hazards prior to subdivision of land and/or construction of most structures for human occupancy.

Critical Facility: Facilities that either (1) provide emergency services or (2) house or serve many people who would be injured or killed in case of disaster damage to the facility. Examples include hospitals, fire stations, police and emergency services facilities, utility facilities, and communications facilities.

Fault: A fracture or zone of closely associated fractures along which rocks on one side have been displaced with respect to those on the other side. A fault zone is a zone of related faults which commonly are braided, but which may be branching. A fault trace is the line formed by the intersection of a fault and the earth's surface.

Active Fault: A fault which has exhibited surface displacement within Holocene time (approximately the past 11,000 years).

Potentially Active Fault: A fault which shows evidence of surface displacement during Quaternary time (the last 2 million years).

Flooding: A rise in the level of a water body or the rapid accumulation of runoff, including related mudslides and land subsidence, that results in the temporary inundation of land that is usually dry. Riverine flooding, coastal flooding , mud flows, lake flooding, alluvial fan flooding , flash flooding, levee failures, tsunamis, and fluvial stream flooding are among the many forms that flooding takes.

Ground Failure: Mudslide, landslide, liquefaction or soil compaction.

Hazardous Building: A building that may be hazardous to life in the event of an earthquake because of partial or complete collapse. Hazardous buildings may include:

1. Those constructed prior to the adoption and enforcement of local codes requiring earthquake resistant building design.
2. Those constructed of unreinforced masonry.
3. Those which exhibit any of the following characteristics:
   - exterior parapets or ornamentation which may fall on passersby
   - exterior walls that are not anchored to the floors, roof or foundation
   - sheeting on roofs or floors incapable of withstanding lateral loads
   - large openings in walls that may cause damage from torsional forces
   - lack of an effective system to resist lateral forces
   - non-ductile concrete frame construction

Hazardous Material: An injurious substance, including pesticides, herbicides, toxic metals and chemicals, liquefied natural gas, explosives, volatile chemicals, and nuclear fuels.

Landslide: A general term for a falling, sliding, or flowing mass of soil, rocks, water, and debris. Includes mudslides, debris flows, and debris torrents.

Liquefaction: A process by which water-saturated granular soils transform from a solid to a liquid state during strong ground shaking.

Peakload Water Supply: The supply of water available to meet both domestic water and fire fighting needs during the particular season and time of day when domestic water demand on a water system is at its peak.

Seiche: An earthquake-induced wave in a lake, reservoir, or harbor.

Seismic Hazard Zone: A regulatory zone, delineated by the State Geologist, within which site-specific geologic, soils, and foundation engineering studies are required to identify and avoid earthquake-caused ground-failure hazards, or selected other earthquake hazards, prior to subdivision of land and for construction of most structures for human occupancy.

Subsidence: The gradual, local settling or sinking of the earth's surface with little or no horizontal motion (subsidence is usually the result of gas, oil, or water extraction, hydrocompaction, or peat oxidation, and not the result of a landslide or slope failure).

Seismically Induced Surface Rupture: A break in the ground's surface and associated deformation resulting from the movement of a fault.

Tsunami: A wave, commonly called a tidal wave, caused by an underwater seismic disturbance, such as sudden faulting, landslide, or volcanic activity.

Wildland Fire: A fire occurring in a suburban or rural area which contains uncultivated lands, timber, range, watershed, brush or grasslands. This includes areas where there is a mingling of developed and undeveloped lands.

The potential for flooding

- Define the reasonably foreseeable floodplain (MAP) (CO, L, O)
  - Identify areas subject to inundation by a 100-year flood and a 500-year flood.
- Collect historical data on flooding, such as frequency and intensity. (CO, L, O)
- Identify areas vulnerable to post-wildfire flooding.

The risk of fires in urban areas

- Identify and classify areas of varying fire hazard severity based on age, condition, size, occupancy and use of structures and the spacing between them; access; fire flows; fire crew and equipment availability; response time; historical fire data; and other pertinent information. (MAP)
- Assess the need for greenbelts, fuel breaks, fuel reduction, and buffer zones around communities for different levels or zones of fire hazard to mitigate potential losses.

Emergency evacuation routes as they relate to known fire and geologic hazards

- Evaluate the adequacy of access routes to and from hazardous areas relative to the degree of development or use (e.g., road width, road type, length of dead-end roads, etc.). (CI, O)
- Identify potential improvements necessary to avoid unreasonable community risk.

Peakload water supply requirements necessary to avoid unreasonable risks from known fire and geologic hazards

- Evaluate the adequacy of the existing peakload water supply.
- Project future peakload water supply and demand and needed improvements, if any, to ensure the provision of adequate water supplies.

Minimum road widths and clearances around structures necessary to avoid unreasonable risks from known fire and geologic hazards

- Evaluate the adequacy of existing standards.
- Analyze the need for revised standards.
- Assess the potential for disruption to evacuation routes from landslide movement, fault ruptures, earthquake-triggered failures, and volcanic eruption.

Emergency response

- Determine the service areas of emergency services, including fire, police, ambulance, etc.
- Evaluate the adequacy of existing service and the demand for additional service.

Ideas for Development Policies

Here are some ideas for the general types of policies that may be incorporated into the safety element to the extent that they are locally relevant. Policies may take the following forms:

- Development standards and restrictions to limit risk to acceptable levels within Alquist-Priolo Earthquake Fault Zones, including limits on allowable development, development intensity, and setbacks from the fault trace. (L, O)
- A determination of what constitutes an "acceptable risk" in the community (e.g., life safety—the statewide minimum or some higher standard).
- Requirements for a geologic evaluation of the potential for displacement prior to site development to limit risk to acceptable levels along identified active and potentially active faults. (O)
- Regular safety element revisions to incorporate new seismic hazard maps or other information as it becomes available.
- The removal or rehabilitation of hazardous or substandard structures that may be expected to collapse in the event of an earthquake, including, but not limited to, unreinforced masonry buildings, bridges, and critical facilities.
- Development standards and restrictions, such as limits on the types of allowable development, development intensity/density standards, and subdivision design policies, to limit risk to acceptable levels for sites subject to seismically induced landslide, mudslide, liquefaction, or subsidence. (L)
- Requirements for geotechnical evaluation of the potential for earthquake-triggered landslide, mudslide, liquefaction, and subsidence prior to site development to limit risk to acceptable levels in areas where such hazards have been identified. (L, O)
- Use of geologic hazard abatement districts to finance the prevention, mitigation, abatement, or control of geologic hazards. (Public Resources Code §26500, et seq.).
- Development standards and restrictions to limit risk to acceptable levels within areas that would be inundated as a result of dam failure. (L, O)

- Development standards and restrictions, such as subdivision design policies and building setbacks, to limit risk to acceptable levels within areas subject to inundation as a result of a tsunami or seiche. (L, O)
- Development standards and restrictions, such as limits on development and restrictions on water wells, in areas subject to subsidence. (L)
- Development policies, standards, and requirements, including setback requirements and subdivision design, to limit risk to acceptable levels within areas subject to other known geologic hazards (e.g., volcanic activity, avalanches, cliff erosion, etc.).
- Contingency plans for immediate post-earthquake response and longer-term reconstruction activities in areas potentially subject to significant damage.
- Requirements for evaluating the potential risks associated with other known geologic hazards, such as volcanic activity, avalanches, or cliff erosion, and for limiting risk to acceptable levels prior to development.
- Requirements for geotechnical evaluation prior to site development of the potential for liquefaction and earthquake-triggered landslides in identified seismic hazard zone. (O)
- Development standards and restrictions to limit the risk of loss to acceptable levels within identified floodplains or areas subject to potential inundation by a 100-year flood or by levee failuree. These might include subdivision design, setback requirements, and development intensity/density standards. (CO, L, O)
- Floodplain management policies, including both structural and non-structural approaches, and cooperative actions with other agencies. (CO, L, O)
- Policies to support the enactment of floodplain zoning necessary to qualify for FEMA's National Flood Insurance Program. (CO, L, O)
- Development policies, standards, and restrictions to reduce the risk of urban and wildland fires to an acceptable level, including:
  - Peakload water supply requirements and performance standards for urban, suburban, and rural development.
  - Clearances around structures (i.e., defensible space).
  - Property line setbacks for structures in wildland fire hazard areas.
  - Fire equipment response time.
  - Land use intensity/density standards.
  - Subdivision design for fire safety, including defensible space.
  - Fire safe building materials.
  - Standards conforming to the fire safety standards established by the State Board of Forestry for SRAs (Title 14 §1270, et seq., California Code of Regulations).
  - Road standards for fire equipment access.
  - Standards for signs identifying streets, roads, and buildings.
  - Minimum private water supply reserves for emergency fire use.
  - Land use policies and safety standards that take into account the recurrent nature of wildland fires.
- Strategies for both structural fire protection and for preventing or mitigating wildland fire impacts that correspond to different fire hazard levels (e.g., high or very high fire severity in LRAs or high risk/high value areas in SRAs).
- Policies and standards addressing multihazard evacuation and emergency access, including:
  - Evacuation routes. (MAP)
  - Design, reservation, and requirements for emergency access in new development.
  - Minimum road widths. (CI)
- Future service facilities. (MAP)
- Emergency preparedness protocol and procedures, including SEMS.
- Crime safe community policies and programs to encourage community support and involvement in crime and accident prevention through planning.

Technical Assistance

The following state agencies can provide information or assistance in the preparation of the safety element:

- Department of Conservation, including the California Geological Survey (also know as the Division of Mines and Geology) and the State Geologist
- Department of Forestry and Fire Protection
- Department of Transportation (Caltrans)
- Department of Water Resources
- Governor's Office of Planning and Research.
- Office of Emergency Services
- Seismic Safety Commission

CHAPTER 5

Format and Element Integration

All statutory references are to the California Government Code unless otherwise noted.

While state law specifies the basic content of the general plan, §65301(a) provides that the general plan may be adopted in any format the city or county chooses. A key consideration in deciding on a format is that the plan should be clear, concise, and easy to use.

The various issues identified in the seven mandatory elements overlap to a great extent. For example, simply following the statute would mean that flooding would have to be discussed separately in the land use, open-space, conservation, and safety elements. A good general plan avoids this sort of repetitiveness. Combining related elements, such as land use and circulation or open-space, conservation, and safety, is one effective way to do this. Organizing the general plan by issue area, such as community development, environmental resources management, and hazards, rather than by the individual mandatory elements, is another effective approach.

EQUAL STATUS AND INTERNAL CONSISTENCY

Every general plan must contain the seven mandatory elements: land use, housing, circulation, noise, conservation, open space, and safety (§65302). The plan and its elements must comprise "an integrated, internally consistent and compatible statement of policies…" (§65300.5). In other words, the land use element must be correlated with the circulation element, and so on. All elements of the general plan have equal legal status. No one element takes precedence over any other.

Statute requires that a general plan be integrated and internally consistent, both among the elements and within each element. For example, the data, assumptions, and growth projections in the various parts of the plan must be consistent with one another. This is called horizontal consistency.

Each jurisdiction is allowed to determine the appropriate format for its general plan and statute specifically allows elements to be combined (§65301). However, it is most common for jurisdictions to adopt elements individually, resulting in separate documents for each element. This practice creates problems, particularly if the elements are prepared and adopted over many years without proper correlation among elements.

The overarching requirement that general plans be internally consistent is easy to forget during the intensive public process of creating the individual elements. Part of the problem lies in the manner in which the format and elements of the general plan are described in planning statute. The general plan statutes describe the seven mandatory elements individually, giving the impression that each element is a stand-alone document. Most general plan amendments and revisions occur in an incremental fashion, one element at a time. While elements may be combined, general plan statutes give no clear direction on how or why.

Careful formatting and presentation style make the document easier to understand and make it easier to identify key policy issues that cross the boundaries of individual elements. Element consolidation is another means to achieve internal consistency within the general plan. Performing periodic comprehensive reviews and updates of the general plan can help to identify internal inconsistencies so that they may be corrected.

ELEMENT CONSOLIDATION

Merging or consolidating elements allows a city or county to combine the discussion of related issues into functional chapters and to eliminate redundancies within the general plan. This is easiest to do when a city or county is preparing to write a new general plan or to perform a comprehensive update of an existing plan. However, this approach can also be effective when revising two or more related elements of an existing general plan. Mentioned below are some of the ways that cities and counties have consolidated elements of their general plans to provide better integration of issues and policies.

Local Flexibility

Although planning law separates planning issues into seven elements (land use, housing, circulation, noise, conservation, open space, and safety), there is

no requirement that a general plan contain seven discrete sections having these titles. In fact, whereas a decade ago many general plans were comprised of several stand-alone elements under separate covers, nearly all new plans are written as a single document. Each of the issues is then addressed in a separate chapter or section of the document.

Numerous communities organize their general plans along functional lines, combining two or more issues into discrete chapters or sections with titles different from the seven elements enumerated in planning law. Most jurisdictions have at least one optional element, such as economic development, public facilities, environmental resources management, or community design. Each chapter of the general plan describes a set of related issues from the list of seven mandatory elements and the local jurisdiction's own optional elements. These consolidated elements may be entitled natural resources, community facilities, health and safety, environmental hazards, or community design, to name a few.

Advantages of Consolidation

The advantages of combining elements are many: internal consistency is easier to achieve; functionally related goals, objectives, and policies can be grouped together for easier reference; redundancy is minimized; and the general plan text can be held to a reasonable length, making the plan both easier to understand and easier to implement.

Streamlining to minimize duplication and overlap is a primary goal and benefit of element consolidation. For example, state planning law identifies flooding as an issue of concern in the land use, open-space, conservation, and safety elements. A consolidated plan might have an environmental hazards element containing a single set of goals and policies addressing issues such as flood hazards, floodplain management, flood control, and appropriate land uses for areas subject to flooding, in addition to treatment of seismic and fire hazards.

All too often, when separate general plan elements are revised or adopted, inconsistencies seep in among the goals, policies, objectives, and programs of the various elements. This is a real danger when the same or related issues are addressed independently in more than one discrete element. Consolidation reduces the possibility of inconsistencies by reducing duplication.

Because of the overlap among the planning issues required to be addressed in the general plan, there are certain elements that are particularly suited to consolidation. For example, the safety and noise elements share the goal of avoiding environmental hazards. The open-space and conservation elements have many resource-related issues in common. The land use, circulation, and housing elements all deal with the location and distribution of built facilities.

Consolidation Models

Around the state, the most recent trend is to consolidate elements into chapters that deal with cross-cutting issues, such as environmental resources management, community design, or community facilities. The following models and examples illustrate some of the ways in which consolidated plans may be organized. There is no "best" method; each community should select the format that best meets its particular needs. In practice, general plans often incorporate more than one of these methods of organization.

When selecting a format for the general plan, keep the following goals in mind:

- The plan and its parts must address the statutorily required issues to the extent that they are locally relevant.
- The general plan must be internally consistent.
- Goals, objectives, and policies must be understandable and practical to implement.
- The general plan document(s) should be as easy to use as possible.

One model for organizing the general plan is to consolidate along functional lines. For example, the planning issues identified in the seven mandatory elements can be reorganized into four elements:

- Housing and economic development (to address jobs, housing, and development in general)
- Resources (to address natural resources, including open space and resource conservation)
- Health and safety (to address noise, safety, and hazards of all types)
- Public and quasi-public facilities and services (to address support services for development, including transportation and other circulation issues)

A model well-suited to areas with a high concentration of natural resources or where there are numerous development constraints posed by natural resources is the resource-based general plan. Some communities with these characteristics have adopted an environmen-

tal resources management element that combines the open-space, conservation, and safety elements and the resource issues from the land use element (such as identification of flood-prone areas and timberland productivity zones). A general plan with a resource emphasis might satisfy statutory requirements by including the following four elements or chapters:

- Environmental resources management
- Land use and circulation
- Housing
- Noise

A variation of this theme is to organize the mandatory general plan issues around development constraints and opportunities as follows:

- Constraints element (issues: land use, open space, conservation, and safety)
- Opportunities element (issues: land use)
- Commercial and industrial element (issues: land use)
- Noise element
- Circulation element
- Housing element

A third model, which is often used in urban settings, involves a community development element that combines the issues that are central to land development. A model with a land use emphasis might combine mandatory issues as follows:

- Community development element (issues: land use, circulation, housing, and open space as it relates to resource production)
- Open-space and conservation element (issues: open space for the preservation of natural resources, outdoor recreation, and public health and safety)
- Noise element
- Safety element

Alternatively, the noise and safety elements in the example above can be consolidated further into a hazard management element.

A variation on the community development element used by some jurisdictions is the community form element. This element typically combines the land use and circulation elements, an optional design or historic preservation element, and possibly the housing element.

STYLE AND PRESENTATION

The following are some suggestions on style and presentation of information to make the general plan easy to understand and follow.

Clearly Identifying Policies

As statements of development policy, general plans should be functional and easily interpreted. Readers should be able to quickly reference objectives, policies, and programs without having to wade through technical data, explanations of methodology, or other miscellaneous information. Policies should flow coherently from objectives and implementation should be clearly described.

Ideally, any user of the plan, whether a staff member, decision-maker, member of the public, developer, or other person, should reach the same understanding when reviewing a given objective, policy, or plan proposal.

The general plan should clearly distinguish its objectives, policies, and plan proposals from background information and discussion. Although data and analysis are important to the preparation of the plan and help put the objectives and policies in context, including them in the main body of the general plan can obscure the primary purpose of the plan: to provide "a statement of development policies." A preferable approach is to include the data and analysis in a technical appendix or in a separate volume (often called a background report). This way, the policies are easily discernible but the background information is readily available as needed.

Keeping the Audience in Mind

A general plan will be used by decision-makers and the public as well as by professional planners, so it should be written with these audiences in mind. To the extent possible, the text should be free of jargon, acronyms, and overly technical language. A concise glossary can help in this regard.

The general plan should be available for anyone to study or review. Accordingly, the format should neither hinder nor make prohibitively expensive duplication. Designing the format so that it eventually may be placed online is worth considering.

When drafting the plan, the staff or consultants should encourage the advisory committee, planning commission, and/or city council or board of supervisors to avoid writing in a bureaucratic style. Objectives and policies should be written in the active voice. Avoid policies that either provide little in the way of guidance for decision-making (i.e., "pursue an orga-

nized system of open-spaces") or pass the buck (i.e., "encourage the preparation of a citywide parking study"). Try to stick to objectives and policies that are both feasible and concrete, as illustrated in the following examples: "Acquire open space along the north side of Alphabet Creek between Lincoln Park and Monroe Avenue for a Class I bike path" or "Parking in the Central Business District shall comply with the provisions of the 2001 Central Business District parking study."

Using Diagrams and Graphics

General plan diagrams should be clear and concise. They should be of a convenient size for easy reference and duplication. Whenever possible, the diagrams should share a common base map. Designations and symbols should be consistent between diagrams.

Text boxes enclosing short discussions or explanations of particular points can provide information without detracting from the flow of the text. Illustrations, whether photos of preferred commercial development types or renderings of multipurpose trail profiles, for example, enliven the text.

Combining with the EIR

Local agencies may choose to combine the general plan and its environmental impact report into a single document (CEQA Guidelines Section §15166). However, OPR does not generally recommend this approach because it loads a great deal of information into a single document and may make revisions difficult. Refer to Chapter 7 for a discussion of CEQA compliance.

CHAPTER 6

Optional Elements

All statutory references are to the California Government Code unless otherwise noted.

State law offers considerable flexibility to go beyond the mandatory elements of the general plan. Section 65303 enables a county or city to adopt "any other elements or address any other subjects, which, in the judgment of the legislative body, relate to the physical development of the county or city." Once adopted, an optional element carries the same legal weight as any of the seven mandatory elements and must be consistent with all other elements, as required by §65300.5.

Localities have adopted all kinds of optional elements on topics ranging from aesthetics to water resources. The flexibility of content and format offered by the Government Code allows cities and counties to fashion elements that uniquely address subjects of particular concern to them. This chapter offers some advice on several of the most common and useful optional elements: air quality, capital improvements/public facilities, community design, economic/fiscal development, energy, floodplain management, geothermal, parks and recreation, and water. Of course, these are only suggestions; the actual scope and level of detail contained in an optional element is left to the city or county to decide.

AIR QUALITY

Chronic exposure to air pollutants is a serious health risk to millions of California residents, particularly the young, the elderly, and people with heart disease and respiratory problems. Safeguarding public health has been the primary focus of federal and state air quality legislation and activities for many years. Air pollution also impacts local economies by damaging agricultural crops, natural vegetation, buildings, and other exposed materials. In addition, the economic health of an area can be affected adversely if insufficient air quality improvement triggers more stringent federally mandated air pollution controls on business. Air pollution also can impair visibility and obscure views. For these reasons, cities and counties should strive to reduce emissions for the benefit of both their own residents and those of other communities in their region and the state as a whole.

Local jurisdictions have responsibility for land use planning and can also significantly affect the design, creation, and management of development and the local circulation system. Local governments have an opportunity to address air quality issues through general plans, development ordinances, local circulation systems, transportation services, and other plans and programs. No other level of government has such responsibility, including air districts.

The general plan, as the foundation for all local planning and development, can be an important tool for implementing policies and programs beneficial to air quality. Communities may choose to adopt a separate air quality element or to integrate air quality-beneficial objectives, policies, and strategies in other elements of the plan, such as the land use, circulation, conservation, and community design elements. Currently, approximately 66 cities and counties in California have adopted air quality elements. Whichever method is selected, consistency among elements and policies within the plan is essential for successful implementation. In addition, cooperation between localities is important since air pollution does not stop at political boundaries.

Relevant Issues

Motor vehicles are a major source of carbon monoxide, fine particulates, and pollutants that combine to form ground-level ozone in the state's metropolitan areas. The dispersed growth patterns prevalent

Key to Abbreviations in Chapter 6

The following abbreviations are used in this chapter to denote other elements that might also address a particular issue:

L: Land Use
CI: Circulation
H: Housing
CO: Conservation
O: Open Space
N: Noise
S: Safety

MAP or **DIA** indicates information that can be shown on a map or diagram.

in many metropolitan areas of California have resulted in longer travel distances and have increased the need for reliance on motor vehicles. Land use and transportation planning and development patterns over the last 50 years have generally emphasized the use of the automobile. Less-polluting alternative modes of transportation, such as walking, bicycling, and public transit, have not been emphasized in many areas.

Land use patterns and transportation facilities can affect the number of vehicle trips, miles traveled, and related vehicle emissions per household. The location, density, accessibility, and design of buildings, streets, and other land uses in part determine the distances people need to travel to reach employment sites, stores, schools, and other destinations. These factors also influence which mode of transportation can be provided and used (i.e., car, vanpool, bus, train, walking, or bicycling). Recent research conducted in California has found that land uses and transportation infrastructure that are more friendly to alternative travel modes are associated with reduced per-household driving rates and related pollutant emissions while still affording people the mobility they need, especially in congested metropolitan areas.

Each community contains a unique combination of existing and planned land uses, transportation infrastructure, employment sites, open spaces, and other features. Therefore, strategies must be tailored to fit each area—there is no one-size-fits-all solution to land use, transportation, and air quality issues. In addition, the severity of local air pollution problems may affect the number and scope of strategies that communities may select.

Jurisdictions may also wish to address other activities related to air quality, such as energy conservation; cleaner-fuel vehicles; measures to reduce particulate emissions from roads, construction sites, and fireplaces; and public education programs.

Later in this chapter, guidance on an optional energy element is provided. The issues of energy and air quality are interrelated. Jurisdictions adopting or amending an optional air quality element should consider policies related to the production and use of energy, including energy used for transportation.

Jurisdictions should also examine land use policies affecting the siting of facilities that emit toxic air pollutants. While such facilities may require permits from the local air district, cities and counties retain their responsibility for land use decisions. Chapter 2 discusses the issues of land use compatibility and the overconcentration of hazardous industrial uses.

Ideas for Data and Analysis

Air quality elements typically include many of the following items:

- Local Environment: Brief description of the local setting, including location within a region, and meteorological conditions that may affect air quality.
- Air Quality Designation: Brief description of the area's current air quality designation, as well as projected attainment dates if applicable.
- Ambient Air Quality: Air quality data from local monitoring stations, if available, including the number of days that federal or state standards were exceeded.
- Air Quality Laws and Requirements: A summary of applicable federal and state standards and laws pertaining to air pollution.
- Sources of Air Pollution: A summary of the types of sources located in the jurisdiction or county. These typically include stationary sources, such as factories and power plants; mobile sources, including cars, trucks, buses, motorcycles, and off-road vehicles; area sources, such as lawn and garden equipment, construction activities, and consumer products; and sources of toxic air contaminants, which may include certain incinerators, landfills, and manufacturing facilities. (Air districts can provide this information.)
- Inventory of Emissions: A summary of the amounts of emissions produced by categories of sources of air pollution. (Air districts can also provide this data.) Emissions typically include the criteria pollutants for which there are currently national ambient air quality standards: carbon monoxide, ozone, particulates, nitrogen dioxide, and sulfur dioxide.
- Air Quality Plans and Programs: Reference to applicable local or regional air quality plans, which often contain policies, regulations, and programs that may affect local government activities. These may include stationary source permitting requirements, regulations related to major sources of toxic air contaminants, and transportation control measures (TCMs), such as voluntary ridesharing programs.
- Transportation: Local, regional, and state transportation programs, such as congestion management programs and regional transportation planning mandated by the federal Transportation Equity Act (TEA 21), affect the type and location of transportation facilities and therefore also relate to air quality. The federal Transportation Conformity Rule requires that Regional Transportation Plans (RTPs) conform to motor vehicle emission budgets in the

applicable air quality management plan. In addition, vehicle registration fee surcharges provide funding in many areas for local projects and programs that reduce emissions from motor vehicles. (These funds are distributed by air districts, except in the South Coast Air Quality Management District, where a portion of the funds is allocated directly to local governments.)

Ideas for Strategies

Air quality elements may also contain goals, objectives, and policies related to the density and location of land uses, the transportation and circulation system, community design, and other strategies that can help reduce per-household rates of driving and related vehicle emissions. Alternatively, these strategies could be placed in the other parts of the general plan, such as the land use, circulation, conservation, and community design elements.

Research has shown that certain land use and transportation strategies can lead to fewer per-household motor vehicle emissions from driving. These include:

- Concentrated activity centers, including downtowns, with mixed commercial, office, and residential land uses that can serve as focal points for transit and encourage pedestrian activity.
- Consolidated growth patterns, such as infill development within existing urban areas, higher-density housing within walking distance of transit stations, and clustered employment centers that enable alternative travel modes.
- Transit-oriented development (TOD) that provides higher-density mixed-use development around major transit stops.
- Mixed land uses that bring destinations closer together and make walking, bicycling, and transit use feasible and more attractive.
- Interconnected street networks that provide numerous routes for autos, pedestrians, and bicyclists rather than focusing traffic onto a few major arterials.
- Pedestrian and bicycle pathways that provide attractive and safe alternatives to driving.
- Transit service that provides convenient alternatives to single-occupant automobile travel, especially in congested metropolitan areas.

Several air districts have developed guidelines that suggest a number of strategies jurisdictions may consider. Some of these include land use and transportation-related strategies, such as those listed above, that can help reduce the need for reliance on automobiles. Jurisdictions are encouraged to contact their air district for additional suggestions and information.

The staff at the California Air Resources Board has created a computer program called Urbemis (Urban Emissions Model) that can be used to estimate emissions associated with land use development projects in California. Urbemis uses the vehicle emissions model Emfac to calculate motor vehicle emissions. For more information on this and other programs, please see the Bibliography under “Air Quality.”

CAPITAL IMPROVEMENTS/PUBLIC FACILITIES

Numerous cities and counties accentuate the importance of planning for capital improvements and public facilities by adopting a separate capital improvements and/or public facilities element. Capital improvements, such as roads, drainage facilities, sewer and water lines, treatment plants, and transit lines, are the framework that supports development. Their availability plays an important part in determining the pattern of land uses within the community, as well as the direction and intensity of growth. Public facilities, such as police and fire stations, city and county offices, libraries, and parks, are important to residents’ safety and quality of life. The ability to provide these facilities is important to the well-being of the community. Technology infrastructure, such as wired and wireless communication systems, also affect development patterns, quality of life, and economic opportunity.

Capital improvements and public facilities are subjects that are listed under the land use and circulation elements in §65302. In addition, §65401 requires that proposed public works projects be reviewed annually for conformity with the general plan. Further, §65402 prohibits acquisition or disposal of public property without a finding from the planning commission of conformity with the general plan.

A capital improvements/public facilities element provides the policy basis to guide shorter-term documents, such as the capital improvements program and the annual capital budget. The element should offer generalized long-term policies grounded in realistic analyses of existing capacity, future demand, and financing options. If facilities and services are to be provided to existing and future development in an efficient and cost-effective way, then the element must discuss the location of future facilities and improvements, acceptable levels of service, funding priorities, and the timing of facility or service availability.

Public facilities can also be important community design features. Although seldom done, it makes sense to incorporate general community design principles into the element. Good community design creates interesting and attractive spaces that provide positive experiences for those who live, work, or play there. The configuration, location, and orientation to their surroundings of public buildings, such as libraries, city halls, community centers, and schools, can define public space, create community focal points, foster neighborhood integrity, and generally help establish community identity. The capital improvements and/or public facilities element should encourage public structures and facilities that benefit community form. The siting of beneficial public facilities is discussed in Chapter 2.

Consultation with the city or county departments responsible for capital improvements and public facilities (e.g., public works, roads, solid waste, etc.) is one key to realistic planning. The city or county should also consult with other service providers, such as school districts, public water systems (required pursuant to §65352.5), special districts (e.g., fire, drainage, sewer, flood control, etc.), adjoining cities and counties, the Regional Transportation Planning Agency, and public utilities. Given the fiscal need for the efficient development and use of public facilities, the element may be a good place to address the issue of joint use Additionally, the element should consider the provisions of the city's or county's present and future capital improvements program or other programs for funding, maintaining, and installing specific capital improvements.

Although discussed here in the context of a separate element, a city or county need not adopt a separate capital improvements/public facilities element. In a general plan that has blended and consolidated the mandatory elements, capital improvements/public facilities might be addressed as one component of a land use and circulation section.

Relevant Issues

As always, the issues covered in a general plan element should be limited to those that are relevant to the community. The subjects covered in a capital improvements/public facilities element will depend on the size of the community, the age and adequacy of existing infrastructure and facilities, its fiscal situation, projected demand, the ability of other agencies to provide infrastructure and facilities, and many other factors. The following are some suggestions for the kinds of issues that may be important:

- General distribution, location, and extent of existing and proposed infrastructure (e.g., water treatment and distribution facilities, wastewater distribution and treatment facilities, streets and roads, drainage facilities, public utilities, flood control structures, etc.).
- General distribution, location, and extent of existing and proposed public facilities (e.g., police and fire stations, schools, parks, libraries, city hall, public buildings and grounds, etc.).
- The equitable distribution of new public facilities and services that increase and enhance community quality of life, given the fiscal and legal constraints that restrict the siting of these facilities.
- General extent of the existing and proposed service capacity of infrastructure and public facilities.
- Plans of other entities that provide public services or facilities, including service capacities.
- Schedule or timetable for improvements, expansion, and replacement of infrastructure and facilities.
- Sources of funding for improvements, expansion, retirement, and maintenance.
- Consultation/coordination with other service providers and public utilities.

Ideas for Data and Analysis

The following text expands upon the general issues listed above. A city or county may add or subtract items as relevant to its situation and the format and content of its general plan.

General distribution, location, and extent of existing and proposed infrastructure

- Inventory existing water distribution and treatment facilities (CI), wastewater collection and treatment facilities (L), streets and roads (L, CI), drainage facilities, public utilities (CI), and flood control structures (L, O, S).
- Analyze, in correlation with the land use element, projected demand for infrastructure and facilities. (L)
- Inventory the condition of existing infrastructure and analyze the estimated need for maintenance and improvements to meet projected demand.

General distribution, location, and extent of existing and proposed public facilities

- Inventory existing police and fire stations, parks, libraries, community centers, city and county government buildings, schools, and other public buildings and grounds.

- Identify areas underserved by public facilities that enhance community quality of life.
- Analyze, in correlation with the land use element, projected demand for public facilities. (L)
- Inventory the condition of existing facilities and analyze the estimated need for maintenance and improvements to meet projected demand.
- Consider community design standards where applicable.

Plans of other entities that provide public services or facilities

- Collect and review capital improvements and other plans of cities and counties, public utilities, water suppliers, special districts (e.g., fire protection, flood protection, wastewater treatment, schools, etc.), local child care planning and development councils, and other entities that may provide services.
- Identify opportunities for joint use projects (e.g., new schools and park facilities).
- Review the Regional Transportation Improvement Program.

Schedule or timetable for improvements, expansion, and replacement of facilities

- Identify needs of existing facilities.
- Estimate demand for new facilities.
- Review capital improvements programs, including those of other affected agencies.

Sources of funding for improvements, expansion, retirement, and maintenance

- Estimate costs of needed improvements, expansion, and maintenance.
- Identify viable sources of funding, correlated with the pace of improvements.

Consultation/coordination with other service providers and public utilities

- Contact other service providers and public utilities regarding service capacities, planned expansions, financing, and other common interests.

Ideas for Development Policies

The following list of suggestions is intended to stimulate ideas; it does not include all possible policies.

- Identify the locations of existing and proposed major roads and interchanges. (MAP) (CI)
- Identify the locations of existing and proposed major water transmission and sewer collection lines and treatment facilities. (MAP) (L)
- Identify the locations of existing and proposed police and fire protection facilities and their service area boundaries. (MAP) (L)
- Identify the locations of existing and proposed community facilities, such as libraries, community centers, auditoriums, city hall, county courthouse, etc. (MAP) (L)
- Specify the location, acquisition, development, and management of public parks and recreational areas, including level-of-service standards. (L)
- Identify the locations of schools and school facilities, coordinated with the plans of the local school district(s). (MAP) (L)
- Specify the relationship between the distribution of land uses and the local capital improvements program, including the timing and siting of capital improvements. (L)
- Specify level-of-service standards for specific types of infrastructure and facilities to guide the timing and siting of future capital improvements.
- Recognize and coordinate with the plans and programs of other cities and counties, public utilities, public water systems (urban water management plan and capital improvements program or plan), special districts (including fire protection, flood protection, and wastewater treatment, as relevant), and other entities that may provide services.
- Coordinate with the plans and programs of other public agencies that fund public improvements, such as the Regional Transportation Planning Agency (Regional Transportation Plan and Regional Transportation Improvement Program).
- Provide for the development, maintenance, and siting of existing and projected public facilities, including buildings and infrastructure.
- Promote joint use projects where appropriate.
- Specify the relationship between the element, the city's or county's local capital improvements program, if any, and the capital budget.
- Establish linkages with economic development programs and redevelopment agency activities, if any.
- Identify a menu of preferred financing methods for infrastructure (e.g., general fund, special tax measure, general obligation bond measure, benefit assessment, tax increment financing, impact fees, etc.), if any.

- Identify the type of capital improvements to be obtained through development exactions, the relative public/private cost share, and the basis for such exactions (this is expected to be a general guide for exactions, not the sole basis for such exactions).
- Establish standards for addressing capital improvements/capital facilities in specific plans and community plans.
- Adopt an energy resources plan, including conservation measures, alternative energy sources, and cost-effective supplies.
- Establish design standards for public facilities and grounds.

For useful references, see the Bibliography under "Funding and Financial Impact," "Infrastructure Planning," and "Urban Design."

COMMUNITY DESIGN

A community design element may provide additional direction, beyond that of the land use element, to the planning area's development pattern, form, structure, and sense of place. A community design element may provide the basis for aesthetic regulation of public and private land and structures, which is a valid exercise of the police power (see *Ehrlich v. Culver City, (1996) 12Cal.4th 854*). OPR's 1996 Local Government Survey identified 83 jurisdictions with adopted community design elements.

The policies and programs of a community design element may provide specific guidance to enhance the sense of place and quality of life in the planning area. It should bring together the principles of the other elements into an overall set of qualitative policies. It may be used to establish principles to guide the form and appearance of neighborhoods, streets, parks, public facilities, new development, and redevelopment.

Relevant Issues

The issues covered by the community design element should be relevant to the physical development of the planning area. The subjects analyzed should reflect those that are important to both public and private interests. The issues should reflect the changing community and the factors that form its existing identity. The following is a list of basic issues that should be covered.

- Community Form: Elements that define the character of the community (e.g., viewsheds, parks, open space, airport, freeways, ridgelines, rivers, etc.).
- Neighborhood Structure: Favorable features that characterize the neighborhoods in the planning area. Street types, parks, landscaping, lot sizes, boundary elements, and architectural types all contribute to the sense of place.
- Community Conservation: Patterns of open space, circulation, and landmarks provide identity to the planning area and neighborhoods, making them more livable. The positive attributes of existing neighborhoods should be preserved and utilized in planning for revitalization with common or related themes.
- Commercial/Industrial Connections: Office buildings and office and industrial parks may include patterns and features that enhance or detract from the existing community or the general plan vision of the future. Specific design policies should be developed with the input of both the public and business interests.

Ideas For Data And Analysis

The following list of ideas for data and analysis expands upon the relevant issues to provide some broad topics for consideration. Topics may be added or removed depending upon relevance and consistency with the issues pertinent to the planning area.

- Transition Areas: Identify areas in transition. These may include commercial or industrial areas where use

OPTIONAL ELEMENTS
IN ACTION

One example of the development and implementation of a community design element is the City of Dana Point's urban design element in its 1991 general plan. The intent of the element is to "...provide proposals and policies to improve the image, character, and quality of life of the city." The element includes urban design issues, goals, and policies for its viewsheds, civic center, beaches, and other related public and private spaces.

The element is implemented through design guidelines that contain specific standards for public and private projects subject to discretionary design review. These guidelines are intended to "promote higher quality design that is sensitive to Dana Point's natural setting, surrounding environment, and community design goals."

is declining or that have been abandoned. Consider implementing zoning and land use designations to allow for adaptive reuse. Analyze the possible causes for the loss of vitality.

- Commercial and Industrial Sites: Analyze criteria for measuring compatibility between proposed development and existing land uses. Formulate flexible development standards that promote solutions to common problems (e.g., unused parking, parking as dominant feature, noise, incompatible uses, etc.).
- New Residential Development: Develop concepts for residential design and identify features of the undeveloped land that will provide continuity with and connections to existing neighborhoods and areas of new development.
- Landmarks: Identify public places, buildings, and open spaces (including landmark trees) that distinguish the planning area and give it a sense of place. Encourage the placement of art within areas used for public gatherings. Consider the use of area history and cultural background as defining factors for public art and displays.
- Spatial Definition: Identify community features that define space (e.g., building mass, landscaping, streets, walls, etc.). Identify community spaces that are attractive (e.g., shopping districts, parks, landscaping, etc.). Analyze how good features may be duplicated through design requirements.
- Continuity and Connection: Identify existing features (e.g., creeks, trails, bike paths, streets, etc.) that provide continuity and connection throughout the planning area. Identify neighborhood and community attributes that can be strengthened to establish connections to the entire planning area.
- Landscaping and Trees: Analyze street landscaping, trees, and the types of landscaping on private residential and commercial lots for visual relief and shade effectiveness. Landscaping and trees provide energy conservation benefits and add distinctiveness, a sense of quality, spatial definition, and focal breaks to otherwise monotonous streetscapes.
- Historic Preservation: Identify historic and architecturally significant buildings and evaluate their condition. Inventory structures or landmarks that have been or should be designated as historic resources and establish policies for their preservation, protection, and maintenance.
- Street Design: Analyze the relationships between existing streets and the areas and uses they serve. Streets are not important only for transportation; when thoughtfully designed, they establish boundaries, provide focal relief, and contribute to the livability and safety of the community.
- Public Art: Identify existing public art, its location, and the public's reaction to its ability to enhance the community. Classify types of art and the suitable locations for its display. Public art may provide a focal point or social aspect to parks, public facilities, and structures, thereby enhancing the aesthetic environment.
- Signage: Inventory signs that are unique and reflective of the community. Identify sizes, shapes, and designs that are considered to be characteristic of specific areas or commercial districts. For example, commercial strips may be characterized by neon signs whereas the downtown core may be distinguished by natural colors and wooden signs.

Ideas for Development Policies

The following list of broad development policies is intended to provide general guidance in the development of more specific policies oriented to the particular issues facing a local jurisdiction. Many of these policies should be correlated with the land use and circulation elements to ensure that decisions incorporate community design principals.

- Encourage the development of pedestrian-friendly neighborhoods and communities.
- Define the urban extent of the community. Identify transitional spaces between the urban limits and the edge of the planning area. (L, O)
- Encourage community-based rehabilitation and neighborhood improvements, particularly in transition areas.
- Promote neighborhood cohesiveness through neighborhood-based design guidelines that are consistent with existing or proposed architectural themes. Consider spatial definition, continuity, and building scale.
- Pursue loan programs specific to the rehabilitation of existing neighborhoods.
- Foster new development that is consistent with the type, intensity, character, and scale of the area.
- Encourage higher-density housing near transit. (L)
- Adopt historic preservation ordinances to preserve and protect historic and cultural resources.
- Adopt development guidelines for central commercial and shopping areas that encourage compact (as opposed to strip) form, pedestrian access, and increased pedestrian traffic. (L)

- Design focal points and architectural features into the development or rehabilitation of existing neighborhoods.
- Establish siting and design criteria for public buildings and parks to enhance spatial definition, create focal points, and provide landscaping and trees.
- Design and install entry landscapes at the major entrances to the community and along transportation routes.
- Encourage cooperative efforts to provide art in public buildings and private businesses permanently or as part of a rotation of works of art.
- Streamline permit processes for the addition of public art and landmarks to exiting locations. Provide incentives for development with provisions for the display of art and favorable structural design.
- Amend or adopt a sign ordinance that regulates size, type, material, height, location, and lighting consistent with the policies and objectives of the community design element. (L)
- Finance and construct gateway structures at the major entrances to the community that are reflective of the community.
- Assist private business in the aesthetic improvement of buildings in the downtown business district.
- Preserve and protect natural land forms and features, such as rivers, ridgelines, and their viewsheds, that contribute to the identity of the community. (CO, O)
- Encourage new development projects to incorporate natural amenities (i.e., landmark trees and rock outcroppings) into their design.
- Require connections between neighborhoods, parks, and open space areas for bicycle and jogging paths. (L, CI)
- Incorporate flexibility in design and architectural features into development standards.
- Encourage and assist in the placement of overhead utilities underground.
- Adopt a cellular tower ordinance that promotes flexibility and creative design for placement on existing public and private buildings and structures (e.g., light poles).

For references on this topic, see the Bibliography under "Transportation and Circulation" and "Urban Design."

ECONOMIC/FISCAL DEVELOPMENT

The structure of a city's or county's economy plays an important role in the physical development of the planning area and the stability of the local tax base. The purpose of adopting an economic/fiscal development element varies by jurisdiction. However, most are based upon a desire to maintain and enhance the economic character of the community while providing for a stable annual budget. An effective element will establish a consistent set of policies that provide general direction to local government on how the community can focus resources to retain local business, attract new industries, support the tax base, and sustain the ability to provide public services for current and future residents.

Economic development elements can function beyond mere statements of policy. An effective element may be used as the basis for a more specific economic development strategy. Consideration should be given during the preparation of the element to the cumulative effectiveness of the integration of policies central to land use, circulation, and public facilities.

Relevant Issues

The contents of an economic/fiscal development element may vary widely between jurisdictions. The element may include any locally or regionally relevant issues and must take into account those issues identified in the other elements. The following is a list of general issues that may be covered:

- Business Retention and Development by Sector: The needs, limitations, and alternatives to existing businesses and potential improvements and strategies to encourage business retention.
- Employment Development: Areas of employment growth, shortages, and needs.
- Business Recruitment: The types, number, and success of existing and potential recruitment strategies. Identification of businesses that would be compatible with the objectives of the general plan and consistent with the carrying capacity of the land and infrastructure.
- Fiscal Stability: Existing and potential revenue resources, costs of services and facilities, and economic forecasts.
- Budgetary Structure: Existing outlays to departments, services, and comparable revenue recoupment mechanisms and levels. Comparison of facilities and services versus efficiency of providing the programs.

Ideas for Data and Analysis

Background analysis

- Historical Perspective on the Local Economy: Identify the major developments and trends in the local economy over time to provide a basis for future growth projections.
- Current Economic Conditions: Identify economic trends by sector to identify strengths, weaknesses, and opportunities. Use this information to formulate policies and objectives for the retention and attraction of business and employment.
- Projected Economic Conditions: Identify growing sectors of the economy to facilitate and plan for future development. Inventory weak sectors to plan for change or allocation of low-interest funding or other assistance for viable enterprises.
- Employment Characteristics/Demographics: Analyze existing and predicted employment characteristics and demographics. An economic development strategy must be based upon the internal capacity of the population to provide labor in different stages and sectors of the economy.

Land use

- Land Use Inventory and Analysis: Analyze the type, location, and intensity of land uses designated by the general plan and the ability to support existing and proposed uses consistent with the economic development strategy.

OPTIONAL ELEMENTS
IN ACTION

One example of the development and implementation of an economic/fiscal development element is Marin County's Economic Element in its 1994 Countywide Plan. The intent of the element is to "promote a sustainable local economy which will benefit present and future generations without detrimentally affecting resources or biological systems and which will result in balanced communities where residents have opportunities to enjoy the components of a high quality of life: employment, housing which is affordable, transportation services, and physical development..." As part of plan implementation, the Board of Supervisors established the Marin Economic Commission which facilitates economic activities and provides a forum for cooperative economic development in the cities and the county.

- Infrastructure Analysis: Analyze the capacity of existing and planned infrastructure to accommodate growth, which will directly affect the viability of economic development. Determining the ability of existing systems to support current and future demands and planning for future increases in capacity and extensions must be based on accurate, up-to-date information.

Financing

- Capital Improvements Financing: Analyze the viability, estimated costs, and potential funding sources for each project prior to its submission for approval. Identify effective programs for the replacement of structures and equipment.
- Fee Studies: Conduct comprehensive fee studies to identify the relative amount of recovery for the service provided as compared with other jurisdictions. Prepare long-term comprehensive fee structures and proposed changes, consistent with Proposition 218 of 1996.

Fiscal analysis

- Fiscal Stability: Identify programs that will maintain a diverse and stable revenue system. Evaluate the viability of revenue sources in order to identify those that enhance or limit tax burdens on residents and businesses.
- Historic and Projected General Fund Trends: Identify past, current, and future general fund revenue sources to plan for effective asset management and revenue collection. Provide for the cost-effective supply of services and recovery of costs.
- Balanced Budget: Identify current and prospective sources of revenue to establish funding programs in anticipation of future capital outlays. Identify the steps necessary to maintain a balanced budget to ensure that future obligations can be met by adding to reserves. Evaluate services to identify cost-cutting measures and efficient delivery systems.

Economic development and implementation

- Economic Objectives: Identify objectives for the local economy and develop economic indicators to measure the success of the implementing programs and policies.
- Economic Strategy: Identify a general strategy (process) for accomplishing economic objectives and a local agency with the ability to procure funding and implement the strategy.

- Business Recruitment: Identify areas that could support a variety of industrial, commercial, and professional businesses (consistent with the land use element), keeping in mind the desirability of mixed-use districts and also the need to keep certain industrial businesses away from other uses, such as residences, schools, and parks. Identify areas within older, established business districts that could similarly support new businesses.
- Business Retention: Identify strategies that include provisions for adequate infrastructure, qualified employees, funding resources, and regulatory policy designed to foster the competitiveness of existing businesses.
- Welfare-to-Work Programs: Develop strategies to encourage the business community to form partnerships with state and local efforts for job placement opportunities and training for welfare recipients.
- Influencing Factors and Trends: California's economy is in a period of transition, which is redefining the role of the workforce. The change is being influenced by an evolution in the perceived value of quality of life and an emphasis on child welfare and family time. Consider the increasing trend towards more home-based offices, telecommuting, and flexible work schedules. Consider designing flexibility into zoning and land use designations to encourage alternative office/living space arrangements. Policies and programs may directly influence the assumptions made in the housing and circulation elements of the general plan.

Ideas For Development Policies

The following is a laundry list of ideas that may lead to useful economic development policies:

- Develop and maintain public facilities and infrastructure to encourage business recruitment, support future demand, and ensure an adequate future supply.
- Encourage long-term partnerships between local government, businesses, and business organizations and the educational, arts, and environmental communities.
- Enhance recruitment and retention factors that draw employers, such as ambiance and educational, cultural, recreational, and environmental resources.
- Encourage the development of housing of types and at prices that are consistent with the housing requirements of workers in the community's various employment sectors.
- Develop a business recruitment program that includes permit assistance and other incentives.
- Hire or retain an economic development coordinator.
- For older, established business areas, hire an economic development coordinator, provide support for merchant organizations, and promote business district marketing strategies.
- Apply for inclusion in the California Main Street Program to develop a public/private strategy for revitalizing older downtowns through design, economic restructuring, organization, and promotion. (Contact the California Technology, Trade and Commerce Agency for more information, www.commerce.ca.gov.)
- Recover the cost of new facilities and infrastructure necessary for new development.
- Apply for and establish an Enterprise Zone. (Contact the California Technology, Trade and Commerce Agency for more information.)
- Maintain a stable revenue base that is promoted by a diversified economic base.
- Adopt a balanced budget.
- Establish an assistance program to aid businesses in the fulfillment of their employment objectives.
- Avoid short-term borrowing and long-term debt.
- Promote cultural amenities and facilitate community-based events.
- Develop incentive programs for business retention and recruitment in targeted areas.
- Encourage mutually reinforcing businesses to locate near one another.
- Adopt an economic development strategic plan. Consider smaller-scale strategic plans for older business areas.
- Aggressively pursue grants from state and federal sources.
- Achieve sustainable economic development by limiting growth to that which is compatible with the carrying capacity of the environment and the service infrastructure.
- Identify and implement ways in which workforce preparation can be improved and create training programs for welfare recipients to meet employers' needs.

For useful references on this topic, see the Bibliography under "Economic Development and Redevelopment."

ENERGY

Energy production and consumption are inextricably linked with the physical development of land. As the overarching policy document that guides the physical development of a city or county, there are important energy implications in the general plan. Choices about land use patterns and transportation systems greatly affect the need for and use of energy, which in turn affect the economy and the environment. For example, the density, mix, and spatial arrangement of land uses prescribed in a general plan result in either a large or a limited set of travel options and, therefore, commit the jurisdiction and each business and citizen to a level of gasoline consumption and tailpipe emissions. Setting policy with an awareness of the level of energy consumption it prescribes will help local governments see the interrelated benefits of conserved energy resources. These benefits include more dollars in the local economy, reduced air pollution, and enhanced economic viability for area businesses.

"You know you are on the right track when your solution to one problem . . . solves several others. You decide to minimize automobile use to conserve fossil fuels, for example, and realize that this will reduce noise, conserve land by minimizing streets and parking, multiply opportunities for social contact, beautify the neighborhood, and make it safer for children."

Michael Corbett, Developer

Communities may address energy production and consumption in the mandatory elements of the general plan or consolidate energy policies in an optional energy element. An energy element can help integrate the economic and environmental effects of energy costs and benefits into a city's or county's long-term growth planning. In this way, an energy element can be a useful component of a sustainable development strategy.

Planning for the efficient use and generation of energy is a good strategy for simultaneously accomplishing other general plan goals, including:

- Affordable Housing: Lower heating, cooling, and transportation-related costs increase the eligibility for home financing. The housing element requirements include "an analysis of opportunities for energy conservation with respect to residential development" (§65583(a)(7)).
- Greater Mobility Options and Reduced Traffic Congestion: Energy-efficient travel options, such as walking, biking, and public transit, can reduce automobile dependence. Improved land use patterns can reduce the number and length of automobile trips. Strategies to increase automobile occupancy can further reduce traffic congestion.
- Improved Air Quality and Reduced Greenhouse Gas Emissions: Fewer automobile trips and more efficient houses and businesses result in significantly fewer air pollutants and lower levels of greenhouse gas emissions.
- Reduced Cost to Provide Public Services: Policies that favor urban infill, redevelopment, and a better mix of uses in the urban core also reduce the length of water, sewer, natural gas, and electric lines needed to serve a community. Reduced length means a potential for significant savings in the construction, operation, and maintenance of lines, booster pumps, etc.
- Open Space and Agricultural Land Preservation: The efficient development of compact regions and cities reduces the amount of energy needed to build roads; fuel police cars, school buses, garbage trucks, and other public vehicles; and pump water and sewage.
- Increased Personal and Business Income: Energy savings translate into more disposable income for individuals and more working capital for businesses. These dollars tend to recirculate in the local economy, creating more economic benefit than dollars used to purchase energy.

Energy Efficiency vs. Energy Conservation

Although many people use these terms interchangeably, it is useful to differentiate between energy efficiency and conservation. Energy efficiency means using less energy/electricity to perform the same function. Conservation connotes "doing without" in order to save energy rather than using less energy to do the same thing. For example, turning off lights, turning down the air conditioner, and making fewer vehicle trips are all conservation measures. Installing lighting that uses less electricity, installing additional insulation, and switching to a vehicle with better gas mileage are energy efficiency measures.

- Job Retention and Creation: Reduced commercial and industrial energy costs and reinvestment of savings can mean better protection of existing jobs and greater potential for new jobs. Economic stability also makes a business more durable during periods of energy supply disruptions and price changes.
- Economic Security and Environmental Quality: Advanced planning to provide space for preferred energy generation options and necessary transmission infrastructure to meet industrial, commercial, and residential long-term needs is good for business and the environment. Preplanned energy supply will enhance the reliability of the energy supply system and help cut construction and operation costs. Environmentally preferred technologies can be integrated more easily if the general plan provides a recommended portfolio of preferred systems.

Relevant Issues

Land use

Inefficient land use patterns lead to inefficient energy use. Leapfrog development and large blocks of low-density development increase both transportation costs (by increasing vehicle miles traveled) and the cost to bring electric and natural gas transmission facilities to the new development. Private utility companies today are less willing to absorb all of the costs associated with serving new development. Compact and mixed-use development can reduce energy usage associated with travel and extending transmission facilities. Climate-sensitive development patterns that take advantage of natural landscapes and landscaping techniques can reduce energy costs associated with heating, cooling, and the transmission of water, sewer, and stormwater. Wide, unshaded streets and large paved areas without adequate landscaping add to cooling demands (a major source of energy usage) by creating heat islands.

Energy Commission Siting Authority

The California Energy Commission has the statutory authority to site and license thermal power plants that are rated at 50 megawatts and larger and related transmission lines, fuel supply lines, and other facilities. For more information about the Commission's Energy Facility Siting Procedures, please contact the California Energy Commission, Energy Facility Licensing Office Manager, 1516 Ninth Street, MS-15, Sacramento, CA 95814, (916) 654-5100.

Circulation

Transportation consumes 46 percent of all energy in California (*California Energy Demand 2000-2010*, California Energy Commission, June 2000). This is a function of the number of vehicles, total vehicle miles traveled, and the fuel efficiency of vehicles. Local governments can foster energy efficiency measures in all three of these areas. Development patterns that promote the use of alternative transportation modes, including transit use, can reduce the number of vehicles on the road. Encouraging working from home and/or telecommuting is another way to reduce the number of vehicle trips made. Infill development, compact development, and modified grid street patterns can reduce the number of vehicle miles traveled. Local agencies can encourage fuel efficiency by using alternative fuel vehicles in their own fleets and providing alternative fueling facilities in new development.

Subdivision design

The Subdivision Map Act requires the design of a subdivision to provide for future passive or natural heating or cooling opportunities (§66473.1). For example, lot size and orientation may take advantage of solar exposure for heating or prevailing breezes for cooling. In addition, the approving agency may require solar easements as a condition of approval (§55475.3). Properly placed shade trees and other vegetation is one of the most cost-effective and quality-enhancing urban design options for reducing ambient air temperature, air conditioning loads, and energy consumption.

Energy facility siting policies

Some local authority for siting energy facilities is preempted by the State of California. However, the state will consider locally adopted policy when making energy facility siting decisions. Also, many energy facilities fall outside of state siting authority.

Distributed generation

Distributed generation (DG) refers to small-scale power generation technologies (typically in the range of 3 to 10,000 kilowatts) located close to where electricity is used (e.g., a home or business). DG provides an alternative to or an enhancement of the traditional

electric power system. DG may include diesel engines, fuel cells, small and micro gas turbines, solar photovoltaic (PV), micro-hydro turbines, and wind turbines. Such technologies may also be combined with electric storage technologies (i.e., batteries). Applications include emergency and stand-by power; cogeneration and renewable energy systems to supplement utility supplies and sell excess power to the transmission grid; power to serve off-grid electric loads; uninterruptible power supplies for sensitive electronic equipment; peaking power to maintain the transmission grid during times of high demand; and facilities that allow customers to respond to price signals by switching to on-site power sources.

DG facilities are subject to the normal local building, zoning, and air district requirements. Local jurisdictions can promote energy independence by specifying suitable location and design standards for various DG technologies. These policies and standards should be carried through local zoning and building standards. Some communities have presented a. portfolio of acceptable energy technologies selected to contribute to air quality and economic development goals expressed in other parts of the general plan.

Small Wind Energy Systems

Government Code §65892.13 creates uniform standards for the approval of small wind energy systems by cities and counties. Cities and counties that do not adopt a small wind energy ordinance must use the state statute for approval of small wind energy systems and the conditions that may be placed on them.

Public facilities and fleets

The cost and reliability of energy systems in public facilities are a concern for local governments. Energy conservation, efficiency, and generation options should be considered when building, acquiring, or retrofitting public facilities. The location of public facilities can affect transportation costs for both employees and users of the facility. Alternative fuel vehicle fleets are in operation in many local governments in California, saving dollars and reducing air pollution from mobile sources.

Geothermal energy

Counties that adopt an optional geothermal element can exert local control over some aspects of geothermal energy exploration, recovery, and power production. Absent this delegation of authority to the county, the Department of Conservation's Division of Oil, Gas, and Geothermal Resources regulates geothermal well drilling, while the California Energy Commission licenses geothermal power plants of 50 megawatts (MW) or greater. Geothermal element guidelines appear later in this chapter.

Building standards

Title 24 of the California Code of Regulations incorporates energy efficiency standards into the uniform building code. However, communities can plan for greater energy efficiency in public and private construction than is minimally required by Title 24. A more comprehensive approach to energy conservation in building construction is known as "green building." Green building techniques integrate energy efficiency and sustainable building practices into the design and construction phases. There are several private and governmental rating systems for green buildings, such as the voluntary LEED (Leadership in Energy and Environmental Design) standard developed by the U.S. Green Building Council.

Water and wastewater

Energy represents the largest controllable cost of providing water and wastewater services to the public. California water and wastewater agencies spend more than $500 million each year on energy costs.

Environmental justice

Environmental justice concerns should be considered when siting new energy production facilities. Siting policies should seek to avoid overconcentration in proximity to residential dwellings and schools (see Chapter 2). Communities should also take advantage of opportunities to address environmental justice issues, such as through the encouragement of clean DG facilities to lessen the need for conventional power plants.

Ideas for Data and Analysis

Before establishing general plan policies for energy production and consumption, it is important to understand all of the factors that influence a local government's energy-related activities. Energy reliability, production, consumption, and conservation are among these factors. The data and analysis required to prepare an energy element may include the following:

- An analysis of historic and projected energy demands for residential, commercial, industrial, agricultural, and other land uses.
- An analysis of historic and projected numbers of vehicles and vehicle miles traveled (VMT). (CI)

- An analysis of energy supply, including local production (thermal power plants, hydroelectric, distributed generation, etc.) and imports.
- An inventory of existing and potential energy-producing resources, including wind, solar, hydroelectric, geothermal, and biomass. (CO)
- An inventory of energy conservation opportunities, including transportation, urban design, and residential, commercial, and industrial conservation programs.
- An inventory of existing energy transmission systems. (CI)
- The identification of the need for future transmission lines and preferred routes. (CI)
- An inventory of community facilities with distributed generation and back-up capacity for disaster preparedness.

Ideas for Policy Development

A good energy element should define the city's or county's role in energy production, distribution, and consumption. This role will vary with local circumstances. For example, some communities may have significant energy resources, while others may be primarily energy importers. Some communities may focus their efforts in areas of conservation and efficiency, while others may act as energy providers.

The following provides examples of policies that a jurisdiction may wish to include in an optional energy element:

- Policies, objectives, and standards for energy efficiency in new subdivision design. (L)
- Policies, objectives, and standards for infill development, compact development, transit-oriented development, and mixed-use development. (L)

California Solar Rights Act of 1978

The Solar Rights Act of 1978 authorizes cities and counties to require solar easements as a condition of subdivision approval to assure each parcel or unit the right to receive sunlight across adjacent parcels or units for any solar energy system. The Act precludes legislative bodies from enacting ordinances that would make the use of solar energy infeasible.

- Policies, objectives, and standards for energy efficiency in residential, commercial, industrial, and public buildings.
- Policies, objectives, and standards for energy efficiency in water and wastewater facilities.
- Policies, objectives, and standards for the development of new distributed generation.
- Policies on the siting of new energy production and transmission facilities. (CI, L, N)
- Policies for development of areas available for the production of renewable energy, such as wind, large solar PV, or geothermal. (L, CO)
- Policies to reduce vehicle miles traveled, including transit-supportive policies and development of bicycle and pedestrian facilities. (CI)
- Standards for bicycle and pedestrian facilities. (CI)
- Standards for the development of new streets, including width, landscaping, and grid or modified grid pattern. (CI)
- Policies and objectives related to alternative fuels for public vehicle fleets.

Technical Assistance and Resources

The California Energy Commission has a variety of information and resource available on its website, www.energy.ca.gov, including:

- *The Energy Yardstick: Using PLACE^{3}S to Create More Sustainable Communities*
- *The Energy-Aware Planning Guide*

Other useful information on energy-efficient buildings and communities available on the Internet includes the following:

- U.S. Green Building Council, www.usgbc.org
- Smart Communities Network, U.S. Department of Energy, www.sustainable.doe.gov

Information on energy-efficient school facilities is available from the following sources:

- Division of the State Architect, www.sustainableschools.dgs.ca.gov/sustainableschools
- Collaborative for High Performance Schools, www.chps.net

For other useful resources on this topic, see the Bibliography under "Energy."

FLOOD MANAGEMENT

Flooding is a natural function of every river, alluvial fan, and coastal area. In riverine systems, floodwaters enrich bottomlands and provide spawning habitats for native fish. There are ecological benefits to maintaining connections between the river and its floodplain.

Land use decisions directly influence the function of floodplains and may either reduce or increase potential flood hazards. The functions of floodplains include, but are not limited to, water supply, water quality, flood and erosion control, and fish and wildlife habitat. Development within floodplains may not only expose people and property to floods, but also increase the potential for flooding elsewhere and negatively impact floodplain ecosystems. Land use regulations, such as zoning and subdivision ordinances, are the primary means of implementing general plan policies established to minimize flood hazards. In addition to including floodplain management policies in the general plan, making related changes to zoning and subdivision ordinances is crucial to the success of a floodplain management program.

The following flood management element guidelines will discuss flood management at both the individual community level and the regional level. They are equally useful in situations where a city or county has unilaterally included flood management in its general plan and where an individual jurisdiction's flood management element is part of a larger regional strategy to be implemented by more than one agency.

Key Terms

Flood management is defined as the overarching term that encompasses both floodwater management and floodplain management.

Floodwater Management

Floodwater management includes actions to modify the natural flow of floodwaters to reduce losses to human resources and/or to protect benefits to natural resources associated with flooding. Examples of floodwater management actions include containing flows in reservoirs, dams, and natural basins; conveying flows via levees, channels, and natural corridors; managing flows through reservoir reoperation; and managing watersheds by decreasing rainfall runoff and providing headwater stream protection.

Floodplain Management

Floodplain management includes actions to the floodplain to reduce losses to human resources within the floodplain and/or to protect benefits to natural resources associated with flooding. Examples of floodplain management actions include minimizing impacts of flows (e.g., flood-proofing, insurance); maintaining or restoring natural floodplain processes (e.g., riparian restoration, meander corridors, etc.); removing obstacles within the floodplain voluntarily or with just compensation (e.g., relocating at-risk structures); keeping obstacles out of the floodplain (through subdivision and zoning decisions); education and emergency preparedness planning (e.g., emergency response plans, data collection, outreach, insurance requirements, etc.); and ensuring that operations of floodwater management systems are not compromised by activities in the floodplain.

Floodplain management measures interrelate and occasionally overlap with floodwater management measures to reduce losses within the floodplain. Examples of such measures include emergency response activities; realigning levees; reconnecting historical floodplains; and reoperation of reservoirs.

Multi-Hazard Mitigation Approach

Federal law directs states to develop a multi-hazard mitigation program (administered in California by the Office of Emergency Services) to implement effective hazard mitigation measures that reduce the potential damage from natural disasters to reduce the loss of life and property, human suffering, economic disruption, and disaster assistance costs resulting from natural disasters. While the state directs local governments through existing law to deal with fire and earthquakes in their local planning, the state does not play a major role with land use issues associated with flooding. The general plan law calls for the consideration of flood hazards, flooding, and floodplains in the land use, open-space, conservation, and safety elements. Local jurisdictions may benefit by taking a multi-hazard planning approach to meet multiple federal and state requirements.

Flood management also may be approached as a stand-alone program or as one component of the broader notion of watershed planning, which also includes objectives such as improved water quality, erosion control, system-wide flood management, and habitat conservation and enhancement. Where possible, a community should take a broader watershed approach to flood management, which would result in a coordinated regional approach to land use planning and flood loss reductions. When incorporated into the general plan, either as an optional element or as a section in the land use, open-space, conservation, or safety element, flood management principles will be reflected as long-term development policies.

Tips for Tackling a Regional Floodplain Management Plan

(adapted from U.S. EPA's "Top 10 Watershed Lessons Learned")

- Be sure that a watershed-based or risk-based planning process is needed and has broad community support.
- Invite all those with a stake in the outcome (landowners, residents, cities, counties, etc.) to participate.
- Establish a steering committee of community opinion leaders.
- Inform participants of the issues amd problems and a range of possible solutions.
- Identify sources of funding early in the process to help focus the range of potential actions.
- Respect the opinions of residents and other participants.
- Encourage a consensus approach, maintaining good communication among participants.
- Establish clear, measurable goals and feasible objectives.
- Assign responsibility and funding for specific aspects of the plan to each agency.
- Where possible, integrate floodplain management policies and regulations with local general plans, zoning ordinances, and subdivision ordinances.

Background

Relationship to the General Plan

Flood management may be addressed in an optional element pursuant to §65303. Once adopted, the flood management element becomes an integral part of and carries the same weight as the other elements of the general plan. Its objectives, policies, plan proposals, and implementation measures must be consistent with the entire general plan (§65303.5). The objectives and policies that are adopted as part of the flood management element must not conflict with the general plan as a whole nor with any individual element. A floodplain management element should provide direction and specific policies correlated with the land use, housing, conservation, safety, and open-space elements. For example, policies limiting development within the floodplain to compatible agricultural uses must also be reflected in and internally consistent with the land use, housing, open-space, and conservation elements. Policies regarding levee and channel maintenance might be reflected in the safety element. Many of the provisions under flood management will affect other elements of the general plan, and they should be cross-referenced as necessary.

Where a regional approach is being taken, the policies of a city's or county's flood management element should also correlate to the regional flood management plan. That plan should be specific enough to recognize the differing characteristics of the involved cities and counties and identify the respective roles of each. The regional plan may stipulate that participating cities and counties self-certify the consistency of their flood management elements with the regional plan.

Relationship to CEQA

The adoption or amendment of a floodplain management element is subject to the requirements of CEQA (described in Chapter 4). The element may have direct physical consequences on residential development, wildlife habitat, anadromous fish migration, agricultural resources, vector control, water quality, and other environmental resources common to rivers and their floodplains. The hydrologic and hydraulic characteristics of the rivers and associated floodplains and ecosystems of each river basin or hydrologic unit represents a complete and interconnected system. Changes to one part of the system may change other parts of the system. Floodwater and floodplain approaches must consider these factors. There may be flood management benefits from a watershed perspective for assessing potential impacts and opportunities for mitigation measures.

Flood Insurance

The most common means of planning to avoid or at least mitigate flood damage is participation in the National Flood Insurance Program (NFIP). The Federal Emergency Management Agency (FEMA) administers the program, which makes flood insurance available to those communities that have enacted local ordinances restricting development within the 100-year floodplain. The local floodplain ordinances must meet or exceed FEMA's regulations. As part of NFIP, FEMA prepares a Flood Insurance Rate Map (FIRM) delineating the theoretical boundaries of the 100-year floodplain (i.e., the area within which the statistical frequency of flooding is believed to be 1 in 100 in any given year). These maps form the basis for regulating floodplain development and the rating of flood insurance policies.

The responsibilities of cities and counties participating in NFIP include requiring that all new construction have its lowest floor elevated to or above the "base flood elevation" (this is calculated in conjunction with the 100-year floodplain delineation) and keeping records of development occurring within the designated floodplain. Under federal law, flood insurance must be purchased when obtaining a federally backed loan for a home within the FIRM 100-year floodplain. The availability of other federal funds also may be affected by participation in NFIP. The city or county must submit a biennial report to FEMA describing any changes in the community's flood hazard area, development activities that have taken place within the floodplain, and the number of floodplain residents and structures. As of April 1998, all but 20 of the cities and one of the counties in California participate in NFIP.

Participating in NFIP is no guarantee that a community will escape flood damage or that floods will not occur outside the boundaries of mapped floodplains. The program has a number of recognized shortcomings. For example, FEMA maps tend to underestimate the extent of the floodplain. Existing FIRM maps do not take into account the effects of future development when estimating flood potential and they are not updated frequently enough to reflect changes in the watershed or the floodplain with or without future conditions. New FEMA regulations allow FIRM maps to provide for consideration of future conditions, including build-out and changes to weather patterns associated with climate changes for either upstream or downstream areas that may affect local flood levels. If these maps are to be used as a planning tool, they should be updated using locally collected data to identify existing and future flood levels. The Department of Water Resources (DWR) is currently working in cooperation with FEMA to update many of these maps.

Residents and decision-makers are not always aware of the actual level of flood risk. The 100-year floodplain is a theoretical construct In many cases there is simply insufficient historical flood data to accurately judge flood frequency. In addition, the 100-year floodplain designation is commonly misunderstood by the public. It is simply a frequency and intensity probability, meaning that in reality, severe flooding may occur even more than once in any year and in any number of years over a 100-year span. NFIP is a program to enable communities to seek flood insurance and, along with its related mapping, should be viewed as the foundation on which to build comprehensive flood management policies. The general plan may augment this program by providing long-range guidance to avoid and reduce flood hazards.

Flood Management on a Regional Basis

Rivers, creeks, and other potential sources of flooding often cross jurisdictional boundaries. Thus, a regional watershed-based approach may be the most effective means of flood management. The broader scope offers the advantage of involving local governments, other public agencies, interest groups, landowners, and the general public throughout the watershed in a comprehensive, multi-jurisdictional program for reducing flood risk and potential damages and restoring and enhancing floodplain functions. The larger area may offer a wider range of potential projects and policy and regulatory options than would be available in a single jurisdiction. However, regional flood management is also more politically and logistically difficult than management undertaken within a single jurisdiction.

As a component of watershed management, flood management can reduce downstream flood stages and flood damages with benefits for water quality and supply and for ecosystems. The watershed-based approach maintains the floodplain functions of sedimentation, deposition, water filtering, and floodwater absorption. For additional discussion on watershed planning, refer to the optional water element later in this chapter.

Because the dynamics of regional flood management are very situation-specific, the following discussion of regional approaches is limited to generalities. For additional advice, refer to the technical and funding resources listed at the end of this section or refer to the Bibliography under "Flood Management."

Successfully developing a regional flood management plan that includes floodplain strategies depends on several basic prerequisites. There must be:

- General recognition that there is a regional flooding problem that requires a solution.
- Some impetus for the involvement of critical agencies and interest groups in the search for a solution.
- A willingness among the involved agencies and interest groups to work toward a consensus solution.
- At least one person, group, or agency that will sponsor or champion the process.
- A range of feasible and practical solutions available.
- A reasonable possibility that funding exists to pay for both the necessary planning and the implementation of the accepted plan.
- Specific criteria to measure the effectiveness of plan implementation.

Few of the regional flood management efforts currently being implemented around the state, including watershed management programs, are directly linked to city and county general plans. In fact, city and county land use planning agencies are often conspicuously low on the list of participants. When possible, city and county planners should take an active role in any regional flood management planning process. The local general plans, as well as zoning and subdivision ordinances, can play an important part in a comprehensive, multi-jurisdictional program for flood management. Cities and counties should amend their general plans and revise their zoning and subdivision ordinances when agreed to as part of a regional effort.

Methodology

The process of adopting a flood management element is the same as any other element of the general plan and must follow the procedures set forth by §65350 and §65400. Under state law, the planning agency must provide opportunities for involvement by residents, public agencies, public utility companies, and other community groups through public hearings and any other means found to be necessary or desirable. The planning agency should include in its process affected cities and counties, FEMA, the U.S. Army Corps of Engineers, DWR, reclamation districts, levee districts, resource conservation districts, and interest groups including environmentalists, farmers, builders, and other non-governmental organization (e.g., land trust, conservancy, etc.) that might have an interest in floodplains.

Establishing a steering committee may be useful. The committee can help identify floodplain issues and community objectives, develop policies, and draft the element. Members of the committee should be selected from among representatives of interested groups, agencies, organizations, and residents. Alternatively, a separate technical advisory group may also be established from among agency representatives.

An optional flood management element may be adopted in any format deemed necessary or appropriate. Flood management is interrelated with most, if not all, of the required elements of the general plan. OPR recommends taking particular care to correlate flood management objectives and policies with those of the land use, open-space, conservation, and safety elements.

Relevant Issues

When a flood management element is being prepared, the issues covered should be limited to those that are relevant to the community, the floodplain, and the watershed. The subjects covered by the flood management element will depend upon the community's location in relation to rivers, streams, alluvial fans, and the coast; the past or future potential for flood events; and the potential to be affected by upstream or to impact downstream land use decisions and flood potential. The following is a list of common issues, not all of which will be relevant in every jurisdiction.

- State Multi-Hazard Mitigation Plan, prepared by the Office of Emergency Services (OES).
- The reasonably foreseeable flood area.
- FEMA NFIP program and community rating system (to reduce flood insurance rates).
- DWR awareness mapping and other historical flooding resources.
- Repetitive losses.
- Land use designations and flood hazard overlay designations.
- Flood control facilities (i.e., structural approaches to flood management, such as dams, levees, etc.).
- Floodplain management approaches (i.e., non-structural approaches, including elevation, flood-proofing, floodplain storage, ring levees, etc.).
- Conformity with federal, state, and local regulations.
- Regulatory relationships, including permitting.
- Multi-jurisdictional coordination and watershed planning.
- Downstream impacts as consequences of land use decisions.
- Downstream land use planning considerations as consequences of upstream actions.
- Alternative non-structural allowable floodplain land uses.
- Multi-objective floodplain management planning with regional share housing needs; existing land uses; conservation of agricultural land, parks, and open space; habitat restoration; and flood management mitigation measures.
- Funding of management activities.

Ideas For Data and Analysis

In the process of preparing a flood management element, the city or county will have to collect a substantial amount of information concerning its floodplains and its watershed. There are a variety of sources for this information. FEMA maps are available for most communities. The U.S. Army Corps of Engineers will do floodplain delineation on a cost-sharing basis and

has information on floodplains and project levees. DWR also has floodplain information and a floodplain management program, as does the State Reclamation Board in the Central Valley. OES and DWR have information on past flooding and flood levels based on awareness mapping. Local levee districts and resource conservation districts may also have information to share.

The following are ideas for data and analysis to support the development of objectives, policies, and implementation measures.

- Comprehensively define the floodplain (FEMA vs. Army Corps of Engineers vs. State Reclamation Board vs. local agency definition).
- Determine the extent and depth of historic flooding. (MAP)
- Gather historical flooding data.
  - Frequency.
  - Intensity.
  - Duration.
  - Paleoflood.
  - Hydrologic modeling using transposition or meteorologic models.
- Gather alluvial fan floodplain data.
  - Reasonably foreseeable flood apex flow paths.
  - Flood flow path depths and velocities.
  - Debris and scour.
- Inventory land and land uses within the floodplain(s)
  - Open space.
  - Habitat.
  - Agriculture.
  - Flood control.
  - Developed (e.g., residential, commercial, industrial, etc.).
- Identify existing and future problems and opportunities.
  - Development within hazard areas.
  - Undeveloped land suitable for bypass construction.
  - Loss of productive farmland and opportunities for conjunctive farming and floodplain management activities.
  - Community apathy or support.
  - Funding shortfalls.
- Inventory flood control structures and areas managed for flood control and their controlling agencies.
  - Levees.
  - Flood walls.
  - Bypasses.
  - Dams and reservoirs.
- Inventory pertinent regulations of federal, state, and local agencies.
  - Regulatory authority.
  - Existing land use and zoning restrictions.
- Inventory ongoing floodplain or watershed management and planning activities.
  - Local/regional, including those of non-governmental organizations.
  - State.
  - Federal.
- Inventory past and planned management activities.
  - Local agencies.
  - Reclamation districts.
  - State and federal agencies.
- Identify sources of funding for planning efforts and for potential implementation activities.
- Benefit/cost analysis of alternative floodplain management strategies.

Ideas for Development Policies

A flood management element should conform to the pertinent policies, objectives, plans, and proposals central to the land use, conservation, open-space, and safety elements. Policies should recognize existing floodplain management programs and existing regulations. As always, policies must conform to constitutional prohibitions on "regulatory takings." Further, the policies selected should be physically and economically feasible to implement.

The following are ideas for the general types of policies that may be incorporated into the flood management element:

- Specify allowable uses within the floodway fringe and floodplains.
- Specify limits on and construction standards for development and encroachment within floodplains and floodway fringe (e.g., land use density and intensity, elevations, location, etc.), including areas of shallow flooding.
- Establish policies, plan proposals, and standards for dealing with constraints and minimizing land use and floodplain conflict.
- Retain and preserve floodplains for open space and recreation.
- Encourage compatible agricultural uses and practices with habitat banking where compatible with floodplains.
- Mitigate for impacts, such as loss of agricultural land or changes in flood characteristics.

- Cooperate with the programs of other agencies and non-governmental organizations, where applicable.
- Establish consultation procedures with other affected agencies and jurisdictions.
- Identify criteria for public agency acquisition of development rights in flood-prone areas.
- Encourage cooperation with non-governmental organizations to acquire development rights.
- Establish policies, guidelines, standards, and building criteria to ensure that new development will not be damaged by special risks associated with alluvial floods.
- Encourage multi-jurisdictional flood management cooperation when watersheds cross jurisdictional boundaries.
- Develop flood hazard mitigation measures within identified reasonable foreseeable flood hazard areas, where appropriate.
- Encourage coordination between flood management and multi-hazard management planning and mitigation.
- Retain and preserve connectivity between rivers or streams and their floodplains to preserve floodplain function and natural processes.

Ideas for Implementation

Local agencies should select the combination of implementation measures and strategies that best address the unique characteristics of the specific community and establish an effective long-term approach to floodplain management. The following examples illustrate the kinds of actions local governments may take to implement the floodplain management element:

- Adopt flood hazard zoning.
- Enact floodplain management standards as part of any development ordinance, such as zoning or subdivision ordinances.
- Consider improved building standards to exceed minimum federal flood insurance requirements.
- Adopt transfer of development rights programs.
- Adopt other land use development regulations.
- Reconnect the river and its floodplain through public land acquisition and structural modification of existing flood control devices.
- Include non-structural floodplain management approaches to help conserve beneficial uses and functions of the floodplain.
- Identify the capacity of the floodplain to recharge groundwater.
- Develop a program for preventative maintenance of active floodplains, control structures, riverbanks, and channels.
- Identify and utilize floodplain management grants and assistance to develop and implement floodplain management plans and programs.
- Develop public outreach programs and information.
- Incorporate watershed and floodplain mapping, from several sources if available, into the city or county geographic information system (GIS).
- Regularly review floodplain maps and update when new information becomes available.
- Participate in and provide assistance to stream gauges as appropriate.
- Develop reasonably foreseeable alluvial fan floodplain maps.
- Identify repetitive losses, if any (in cooperation with OES and DWR).
- Prepare and update emergency preparedness plans.
- Direct local emergency services offices to develop and implement flood warning systems.
- Establish resources and provide funding for public acquisition of private lands and structures within the floodplain and subject to flood hazards.
- Institute a planning mechanism and institutional framework to coordinate flood management programs with opportunities for agricultural conservation, ecosystem protection and restoration, and environmental management activities with local, state, federal agencies, and other stakeholders.
- Promote a multi-objective management approach in flood management projects.
- Initiate actions to avoid inadequate or unclear responsibilities among agencies.
- Enter into cooperative agreements (e.g., joint powers authority, memorandum of understanding, etc.) with other entities specifying relative roles.
- Facilitate the coordination of responsibilities and activities among agencies and the public for floodplain management.
- Develop aquatic and terrestrial habitat restoration plans consistent with floodplain and river channel use guidelines.

- Develop information and coordination plans with other agencies to educate the public and all planning agencies about floodplain management objectives.
- Refer to FEMA DMA 2000 Multi-Hazard Mitigation Plan Criteria.
- Develop awareness mapping.

Technical and Funding Assistance

The following governmental and nongovernmental organizations may provide technical and funding assistance in preparing and adopting a flood management element or incorporating its objectives, plans, policies, and implementation measures into other elements of the general plan.

Floodplain Management Association
4145 Maybell Way
Palo Alto, CA 94306
http://floodplain.org

United States Army Corps of Engineers
Floodplain Management Services
South Pacific Division
630 Sansome Street, Room 720
San Francisco, CA 94111
(415) 556-0914
www.usace.army.mil/inet/functions/cw/cwfpms

Federal Emergency Management Agency
1111 Broadway, Suite 1200
Oakland, CA 94607
(510) 627-7100
www.fema.gov
Funding mechanisms: Hazard Mitigation Grant Program, Public Assistance Section 406, National Flood Insurance Program, Performance Partnership Program, Community Assistance Program-State Support Services Element, Individual and Family Grant Program, Disaster Housing Assistance Program

Governor's Office of Emergency Services
Planning and Technological Assistance Branch
P.O. Box 419047
Rancho Cordova, CA 95741-9047
(916) 464-3200
or
Disaster Assistance Programs Branch
Hazard Mitigation Section
P.O. Box 419023
Rancho Cordova, CA 95741-9023
www.oes.ca.gov
Funding mechanism: Hazard Mitigation Grant Program

California Department of Water Resources
Floodplain Management Branch
P.O. Box 942836
Sacramento, CA 94236-0001
(916) 653-9902
www.water.ca.gov

United States Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
www.epa.gov
Funding mechanisms: Clean Water Act: 104(b)(3) State Wetland Protection Development Grant; 104(b)(3) NPDES demonstration projects

United States Department of Agriculture
Natural Resource Conservation Service
2121-C 2nd Street, Suite 102
Davis, CA 95616
www.nrcs.usda.gov

For more information on this topic, refer to the Bibliography under "Flood Management."

GEOTHERMAL

The Public Resources Code offers counties (but not cities) the opportunity to exert local control over some aspects of geothermal energy exploration, recovery, and power production. Counties that have adopted geothermal elements may be delegated lead agency responsibilities (defined in the California Environmental Quality Act) for exploratory geothermal well projects and primary permitting powers for large geothermal plants (Public Resources Code §3715.5 and §25540.5). Absent such delegation, these duties are otherwise administered by the Department of Conservation's Division of Oil, Gas, and Geothermal Resources and the California Energy Commission (CEC), respectively.

To put this into perspective, under usual circumstances the Division of Oil, Gas, and Geothermal Resources regulates geothermal well drilling (Public Resources Code §3700, et seq. and Title 14, Chapter 4, Subchapter 4, California Code of Regulations). CEC regulates the siting of geothermal power plants over 50 megawatts (MW) to the exclusion of local land use control. Counties may regulate exploratory wells and development-field wells through zoning and other land use controls provided that their regulations do not conflict with those of the state (59 Ops.Cal.Atty.Gen. 461 (1976)).

The administrative regulations adopted by CEC for delegating authority to counties require that OPR review proposed geothermal elements for adequacy (Title

Useful Definitions: **Geothermal Element**

Development Well: "...a well, other than an exploratory well, drilled for the purpose of producing either high-temperature or low-temperature geothermal fluids in commercial quantities" (Title 14, California State Code of Regulations, §1920.1(c)).

Equivalent Certification Program: "...a program, as further defined in §25540.5, administered by a county and approved by the [California Energy] commission, which may substitute for the site and related facility certification procedures established pursuant to this division." (Public Resources Code §25115)

Exploratory Geothermal Well: "...a well, other than a development well, drilled to discover or evaluate the presence of either low- or high-temperature geothermal fluids, including steam, where the surface location of the well is at least .8km or one-half mile from the surface location of an existing well capable of producing geothermal fluids in commercial quantities." (Title 14, California Code of Regulations, §1920.1(b))

Geothermal Element: "'Geothermal element' means an element of a county general plan consisting of a statement of geothermal development policies, including a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals, including a discussion of environmental damages and identification of sensitive environmental areas, including unique wildlife habitat, scenic, residential, and recreational areas, adopted pursuant to §65303 of the Government Code." (Public Resources Code §25133)

Geothermal Exploratory Project: "…a project...composed of not more than six wells and associated drilling and testing equipment, whose chief and original purpose is to evaluate the presence and characteristics of geothermal resources prior to commencement of a geothermal field project as defined in §65928.5 of the Government Code. Wells included within a geothermal exploratory project must be located at least one-half mile from geothermal development wells which are capable of producing geothermal resources in commercial quantities." (Public Resources Code §21065.5)

Geothermal Field Development Project: "...a development project...composed of geothermal wells, resource transportation lines, production equipment, roads, and other facilities which are necessary to supply geothermal energy to any particular heat utilization equipment for its productive life, all within an area delineated by the applicant." (Government Code §65928.5)

Geothermal Resources: "...the natural heat of the earth, the energy in whatever form below the surface of the earth present in, resulting from, created by, or from which may be extracted natural heat, and all minerals in solution or other products in whatever form obtained from naturally heated fluids, brines, associated gases and steam, excluding oil, hydrocarbon gas or other hydrocarbon substances." (Title 14, California Code of Regulations, §1920(e))

Thermal Power Plant: "Any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Exploratory, development, and production wells, resource transmission lines, and other related facilities used in connection with a geothermal field development project are not appurtenant facilities for the purposes of this division." (Public Resources Code §25120)

20, California Code of Regulations, §1862). OPR is responsible for developing geothermal element guidelines as a basis for this review. What follows is the current version of these guidelines.

Relationship to the General Plan

A county geothermal element is an optional element under §65303 of the Government Code. Once adopted, it becomes an integral part of the county general plan; its objectives, policies, plan proposals, and implementation measures must be consistent with the entire general plan (§65300.5). A geothermal element addresses land use, circulation, open-space, safety, housing, noise, and conservation issues. Consequently, its provisions affect each of the seven mandatory general plan elements. It may be necessary for a county to amend its mandatory elements (and any affected optional ones) concurrent with adoption of the geothermal element in order to maintain the internal consistency of its general plan.

When making subsequent amendments to the geothermal element, take care to ensure that the amendments do not conflict with the general plan as a whole or with any other individual element. In cases where a proposed amendment to the geothermal element would

conflict with the general plan, the county must either deny the proposed amendment or make related changes to the general plan.

Methodology

The process of adopting a geothermal element is the same as that for any other element of the general plan; counties must follow the procedures established by §65350 through §65400. The county must hold ublic hearings and provide opportunities for involvement by community groups, residents, public agencies, and utilities. The board of supervisors may appoint a planning advisory committee or other similar body in order to assist in the preparation of the element if it so desires.

Not all counties have reached the same stage in developing their geothermal energy resources. Consequently, the contents of the geothermal element will vary from county to county. In any case, preparation of the local geothermal energy element should follow the basic methodology established in Chapter 3, with a few additional considerations. When formulating objectives, for example, the county must recognize the alternative energy goals of the state as expressed in Public Resources Code §25008. During data gathering, it should contact the California Geological Survey and the Division of Oil, Gas and Geothermal Resources, both within the Department of Conservation, and the CEC for information on geothermal energy resources in the area. The element should enable the county to assume permit responsibilities, including adoption of any necessary ordinances. Furthermore, the element must discuss "environmental damages and identification of sensitive environmental areas, including unique wildlife habitat, scenic, residential, and recreational areas" (Public Resources Code §25133).

A county with existing geothermal exploration and development activities should be able to discuss issues in depth, presenting a detailed program for processing proposals. Counties without such background will be expected to proceed in a more anticipatory and prospective manner. In either case, the geothermal element must include policies that are consistent with the adopted policies of CEC "with respect to the development of geothermal resources for the generation of electrical energy" (Title 20, California Code of Regulations, §1860(b)).

The element must also provide for the following:

- Certification of geothermal areas as potential multiple facility sites, if so applied for.
- Processing of and decision on geothermal power plant applications within twelve months of the filing date.
- Periodic review and updating as may be required by law and CEC.
- Opportunity for input and review of proposed projects by the public and interested public agencies.
- Distribution of all applications to the CEC and responsible federal, state, and local agencies and provisions for the receipt of and response to the comments and recommendations of each agency.
- Public hearings and notice as required for general plan amendments. Hearings must include provisions for adjudication of disputed issues of fact through testimony taken under oath and refutation by cross-examination.
- Formal intervention by any person with a legally recognizable interest in the outcome of the proceedings.
- Distribution of a written decision on each power plant application. The decision shall contain each of the findings and conclusions required by §1752 through §1753 of Title 20 of the California Code of Regulations and shall be based upon the formal record of the proceedings.
- Appeal procedures, including appeals to CEC on substantive issues (Public Resources Code §25540.5 and Title 20, California Code of Regulations, §1863).

In addition, the element should:

- Identify areas of potential geothermal resources.
- Identify other land uses, including those that would be affected by geothermal resource exploration and recovery.
- Establish policies for minimizing conflicts between geothermal resource exploration and recovery activities and sensitive land uses (e.g., residential, scenic, habitat, schools, etc.).

Ideas for Data and Analysis

In the process of preparing a geothermal element, the county will have to collect a good deal of information on a specialized subject. This will include information on the geothermal energy regulatory scheme. Federal and state reports, as well as plans and environmental impact reports prepared for surrounding areas, should be the starting point in describing the environmental setting and the potential for geothermal devel-

opment. If there is little such information available, the county may have to contract for a report on geothermal potential. CEC's Siting and Environmental Division and the Department of Conservation's Division of Oil, Gas, and Geothermal Resources can provide help in understanding the regulations surrounding geothermal energy exploration and recovery.

The analysis should include, but is not limited to, the following information. If any of this information appears in other parts of the general plan, the geothermal element may simply refer to the appropriate sections.

- A description of geothermal resources, including:
  - The location of reservoirs (known and potential).
  - The location of existing and proposed wells.
  - An estimate of the ultimate magnitude of geothermal resources.
  - A brief history of local geothermal development.
  - The types of geothermal resources (e.g., steam, hot water, etc.), temperature, potential use (i.e., electric, non-electric), and deleterious materials that limit use.
  - A description of each phase in developing the geothermal resource.
    1. The exploratory phase.
    2. The development field phase.
    3. The power plant phase, if the geothermal energy will be used to generate electricity.
- A description of areas sensitive to geothermal energy activities, including:
  - Unique wildlife and/or plant habitats, migration routes, wintering grounds.
  - Scenic areas.
  - Recreational areas.
  - Residential areas.
  - Hospitals, schools, rest homes, and other uses that are sensitive to traffic and noise impacts.
  - Areas subject to subsidence, slope instability, and earthquakes.
  - Archaeological and other cultural sites.
- A description of the potential environmental, economic, and social effects of each phase of the geothermal development process, including:
  - Potential conflicts with other land uses (e.g., agriculture, forestry, mineral extraction, fish and wildlife habitats, recreation, residential, etc.).
  - Water use.
  - Water quality, both surface water and groundwater.
  - Noise and nuisance problems.
  - Demand for emergency services.
  - Disposal of hazardous and non-hazardous wastes.
  - Housing and employment.
  - Air quality.
  - Traffic.
  - Land subsidence.
  - Slope stability.
  - Seismic stability.
  - Soil erosion.
  - Community attitudes.
  - Costs and revenues to local governments.
- A description of the impacts of geothermal development on incorporated, state and federal lands within the county.

Ideas for Development Policies

The geothermal element's level of specificity will largely depend on the available data and the state of geothermal development in the county. Policies, plan proposals, and standards must be consistent with those found elsewhere in the general plan. At minimum, the geothermal element should include the following:

- Policies, plan proposals, and standards for dealing with constraints and minimizing conflicts between geothermal development and other land uses, such as agriculture, forestry, mineral extraction, fish and wildlife habitat, recreation, and residential.
- Policies and standards for minimizing environmental damage from geothermal development (i.e., environmental performance standards for each of the three phases of development).
- Policies and standards for minimizing aesthetic impacts resulting from facility and transmission line development.
- Policies, plan proposals, and standards for the disposal and recovery of resources from hazardous and non-hazardous geothermal wastes.
- Policies, plan proposals, and standards for evaluating the feasibility of proposed geothermal power plant sites.
- Policies, plan proposals, and standards for locating power line transmission corridors.
- Policies and standards for monitoring the environmental effects of geothermal development and mitigating adverse effects as necessary.

Ideas for Implementation Measures

The geothermal element should specify implementation measures, such as:

- Adoption of an ordinance that establishes a permit system for geothermal projects.
- Appointment of a planning body for the purpose of administering the geothermal permit program (for counties that process numerous permits annually).
- Adoption of geothermal overlay zoning for plant sites and buffer zoning for surrounding lands.
- Adoption of performance standards governing the environmental effects of geothermal development (e.g., air quality, water quality, waste disposal, noise, aesthetic, soil erosion, slope stability, subsidence, etc.).
- Establishment of a program to monitor the effects of geothermal development (e.g., subsidence, increase in seismic activity, air quality changes, erosion, etc.) and the mitigation measures adopted to lessen the significant effects identified in the EIR
- Amendment of the county's capital improvements program to include improvements to roads and facilities supporting geothermal development.

PARKS AND RECREATION

Public parks and the passive and active recreation opportunities they provide are important contributors to a community's quality of life. About one-third of the cities and 40 percent of the counties in California have adopted a parks and recreation element, according to OPR's 1996 local government planning survey. This number illustrates the importance placed upon parks and recreational facilities by local jurisdictions.

The Quimby Act (§66477) authorizes cities and counties to require the dedication of parks and recreational land or the payment of in-lieu fees as a condition of tentative subdivision map approval. The Quimby Act can only be invoked when the city or county "has adopted a general plan...containing policies and standards for parks and recreation facilities." A parks and recreation element can be used to meet this requirement. Keep in mind that these exactions are limited to the impacts caused by new residential development and they must bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the area (§66477(e)).

Parks and recreational facilities provide a variety of benefits. Urban parks can offer a soothing contrast to high-density office, commercial, and residential uses. Parks can provide active (e.g., baseball, basketball, soccer, horseback riding, etc.) and passive (e.g., picnicking, fishing, bird watching, etc.) recreational activities for a neighborhood, city, or region. Parks can preserve areas of beauty or historical significance. They can house facilities, such as nature centers, zoos, and historical displays, that educate residents about natural history or allow them to learn about the past.

The utility of parks can transcend simple recreational and educational uses. Bicycle paths offer a non-motorized alternative for commuters, providing traffic and air quality benefits. Urban parks can frame vistas, balance hard structures with massed plantings, and otherwise contribute to effective urban design. Managed open-space lands may also protect watersheds from development or provide habitat for threatened or endangered species. River parkways and golf courses can offer non-structural flood protection or high-water bypasses as part of a floodplain management strategy.

Relevant Issues

The subjects covered in a parks and recreation element and the level of detail at which they are addressed vary greatly among jurisdictions. The size of the jurisdiction, its level of urbanization, location, and funding base all direct the issues that may be included. The user base and the demands it makes on parks and recreational facilities also helps define the important issues. County issues often include regional parks, open-space or habitat preserves, watershed management, and trail systems. Cities, on the other hand, often address neighborhood parks and playgrounds, community parks, recreational facilities, school facilities joint use, and pocket parks. Some issues, such as river parkways and other inter-jurisdictional resources, can be important in both city and county plans.

The following are some basic suggestions for the kinds of issues that may be important:

- The general distribution, location, and extent of existing public park, recreation, and open-space land and facilities.
- Parks and recreation plans of adjacent cities and of regional, state, and federal agencies.
- Projected future demand for facilities, by user group and type of facility.
- Existing zoning and land uses.
- General plan land use designations and transportation plans. (CI, L)
- Park and recreational facility policies and standards (including level of service standards and support for Quimby Act exactions).

- Natural resource areas (e.g., habitat, natural land and water areas, floodplains, groundwater recharge areas, etc.) amenable to recreational open-space (i.e., passive recreational) use. (O)
- The general location of school district properties and their availability for joint use.
- Recreational trail systems (e.g., pedestrian, equestrian, bicycle, etc.).
- Interagency coordination with open-space districts, parks and recreation districts, other cities and counties, state parks, national parks, forests, monuments, and recreational areas, etc.
- Schedule or timetable for improvements, expansion, and retirement of infrastructure and facilities.
- Funding sources, including non-governmental sources (e.g., non-profit organizations, private donations, exactions, etc.).

Ideas for Data and Analysis

The following are ideas for data and analysis to support the development of objectives, policies, and implementation measures for the parks and recreation element. The suggestions are loosely based on the framework for park planning contained in the National Recreation and Park Association's publication *Park, Recreation, Open-Space, and Greenway Guidelines*. These are only suggestions, local circumstances and preferences may dictate broadening or narrowing the scope of inquiry.

- Inventory the general distribution, location, and condition of existing public park, recreation, and open-space land and facilities, including:
  - Neighborhood and community parks.
  - Recreation centers and playgrounds.
  - Recreational open space.
  - Parkways and greenways.
  - Trails and trail systems.
  - Regional, state, and federal parks.
  - Equipment and facilities (e.g., playground equipment, pools, tennis courts, sports fields, etc.).
- Review adjacent cities' parks and recreation plans, as well as the plans of regional, state, and federal agencies (e.g., parks districts, open-space districts, state parks, National Park Service, etc.).
- Project future demand for facilities by user group and type of facility.
  - Inventory existing facilities, types of facilities, and levels of use.
  - Identify major user groups and their park and recreational needs.
  - Project future demand for facilities, changes in demand, and capacity to meet future demand.
- Review existing land uses for potential sites and land use plans for compatible sites and policies, including:
  - General plan land use, conservation, and open-space designations.
  - Relative accessibility (circulation/transportation plans).
  - The general location and availability of school district properties for joint use as parks or recreational facilities.
  - Natural resource areas (e.g., habitat, natural land and water areas, floodplains, groundwater recharge areas, etc.) amenable to recreational open-space (i.e., passive recreational) use.

OPTIONAL ELEMENTS
IN ACTION

Santa Clara County's 1995-2010 General Plan dedicates Chapters G (countywide level) and N (rural unincorporated areas) to parks and recreation strategies, policies, and implementation measures. As a county, Santa Clara takes a regional (as opposed to a neighborhood) approach that focuses on regional parks and open-space, trails, and scenic highways. The County has long worked toward the goal of creating a "necklace of parks" encompassing important hillsides, environmentally sensitive lands, bay lands, and stream corridors, linked by a system of multi-use trails. To that end, its strategies, policies, and implementation measures address development standards, accessibility, the balance between recreational and environmental objectives, inter-jurisdictional cooperation relative to planning, acquisition, and operation (with the cities and Midpeninsula Open-Space District), involvement of the private and non-profit sectors in acquisition and operation, the planned trail network, and the designation of scenic highways and protection of scenic corridors. The General Plan pragmatically recognizes that projects such as linear parks and trail systems can take years to complete and involve give and take among agencies, the public, and landowners.

  - Park and recreational facility policies, standards, and principles.
- Identify feasible sources of funding for improvements, expansion, and maintenance.
  - Governmental funding (e.g., general obligation bonds, special tax, impact fees, etc.).
  - Non-profit organization funding.
  - Private sector funding.

Ideas for Development Policies

The following are some general ideas for development policies. These are intended to stimulate discussion; actual policies would be more focused.

- Identify the locations of existing and future public parks and recreational areas. (MAP) (L).
- Establish standards for park acreage by type of park (acres per 1000 residents).
- Establish standards for providing active and passive recreational facilities.
- Describe a range of park types (e.g., regional, areawide, neighborhood, pocket, etc.) to serve in specified situations and establish principles (e.g., access, service area, timing, parking, etc.) to guide the location of each type. (L)
- Establish policies for park and recreational facility accessibility consistent with the Americans with Disabilities Act.
- Establish policies for the dedication of public parks and recreational areas (or payment of in-lieu fees) in conjunction with new subdivisions, including standards for the amount and type or quality of parkland required, consistent with the Quimby Act. (L)
- Establish a policy framework for trails plans, balancing trail needs with environmental and landowner concerns. (CI)
- Establish policies for the use of utility corridors, reclaimed solid waste facilities, abandoned railroad rights of way, etc., for parks and trails.
- Establish general acquisition criteria/priorities for natural resources, historical resources, habitat, and watershed lands.
- Establish principles for preserving natural resources, historical resources, habitat, and watershed lands within parks. (O)
- Preserve visually and environmentally significant open spaces. (O)
- Provide for joint use of school properties as neighborhood parks and recreational centers. (L)
- Coordinate planning and standards with other agencies, such as cities, counties, regional parks districts, open-space districts, state parks, and national parks and forests.
- Establish policies to guide parks and recreational facilities funding, identifying preferable funding sources and general spending priorities.
- Encourage involvement by the non-profit and private sectors in acquisition, maintenance, and programs.
- Establish neighborhood, community, and regional park planning committees for consultation and input regarding park policy.
- Establish policies requiring linkages between past and future development projects through a network of parks, open space, and bicycle and walking paths.

For more information on this topic, see the Bibliography under “Parks and Recreation.”

WATER

Few resources are as intimately tied to the orderly growth and development and economic and environmental well being of California as water, and few present so many planning challenges. California’s 34 million residents, 9 million acres of irrigated agricultural land, and abundant environmental needs require over 80 million acre-feet of water in a normal year (in a drought, this drops to about 59 million acre-feet). By 2020, when California’s population will have grown by an additional 12 million people, the Department of Water Resources (DWR) projects that the state may be short by over 2 million acre-feet of water in a normal year and by over 6 million acre-feet in a drought year.

Since 1976, the state has seen major droughts of two and six years in duration. At the same time, due to the seasonal nature of California’s rainfall and runoff, flooding is commonplace during winter storm events. Water quality concerns are expanding to all parts of the state, especially areas that rely on groundwater for their water supply.

Given the importance of water to the state’s future, a community would be well served to create a separate water element in which each aspect of the hydrologic cycle is integrated into a single chapter of the general plan. With recent law that requires land use decisions to be linked to water availability, a water element takes on increased importance.

Water Supply Planning Legislation

In 2001, two water supply planning bills were enacted that require greater coordination and more extensive data to be shared between water suppliers and local land use agencies for large development projects and plans.

Senate Bill 610 (see California Water Code §10631, §10656, §10910, §10912, §10915, §10657) requires a water supply assessment for any development project or related land use plan of more than 500 housing units, 500,000 square feet of retail use, 250,000 square feet of office use, 500 hotel rooms, 40 acres, or 650,000 square feet of business park use or a mixed-use project with any combination equal to the scale noted above. The water supply assessment needs to be part of any CEQA document prepared for the project (EIR or negative declaration). If there is not adequate water to reliably supply the project (and all the other present and future water demands anticipated) in normal, dry, and multiple dry years, new water sources need to be identified. The Urban Water Management Plan may be used, in part, to satisfy the Water Supply Assessment requirement. A strong water element in the general plan that incorporates a coordinated effort between the land use agency and the water supply agency will facilitate implementation of SB 610.

Senate Bill 221 (see Government Code §66410, et seq.) prohibits any land use agency from approving a subdivision map of more than 500 housing units (or a proposed subdivisions of less than 500 units if the project represents 10 percent or more of all connections of a smaller water purveyor—one with fewer than 5,000 connections) unless there is written verification from a water provider that a sufficient and reliable water supply is available. Sufficient water supply is defined as adequate water to supply the new growth in normal, dry, and multiple dry years, taking account of existing and planned water demands on the system. The statute also sets a rigorous standard for considering new water sources. The water source must include water entitlements, capital financing, and all regulatory permits. If a water provider does not respond to requests by the land use agency for water supply data, or the water provider indicates that sufficient water is not available, the land use agency has the ability to seek other water sources to serve the subdivision. However, before the project can be approved, reliable water sources must be secured. Infill housing and exclusively affordable housing are exempt from these requirements. Urban Water Management Plans and related water system master plans are very valuable tools in demonstrating adequate water supplies. An up-to-date water element could be valuable in demonstrating a comprehensive basis for future water supply.

Water Resources in General Plan Statute and Related Requirements

Water resources are cited in various sections of general plan statute (see §65302, §65302.2, §65303.4, §65352 and §65352.5). However, water-related information, including policies, resource inventories, and supply and demand analysis, are typically fragmented throughout various chapters of the general plan.

Based on several recent state statutes, coordination of water supply and demand information with land use planning is required. Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency must send a copy of the proposed plan or amendment to any public water system, as defined in Health and Safety Code §4010.1, with 3000 or more service connections and that serves water to customers within the area covered by the proposal. The public water system has at least 45 days to comment on the proposed plan in accordance with §4010.1(b) and to provide the planning agency with the information set forth in §65958.1. Additionally, upon adoption or amendment of the general plan, the same referral must be made (§65357(a)). Furthermore, §65352.5 directs the water supplier to provide a copy of its most recent Urban Water Management Plan and other water supply information to the city or county upon receiving the aforementioned notice.

Issues and Potential Policy Strategies

One way to conceptualize a water element is to consider the entire hydrologic cycle and how community policies and actions affect each component of the system. The following discussion divides the hydrologic cycle into components and highlights a sampling of issues and general policy strategies that might be included in a water management element.

Water supply and demand

Based on statutes passed in 2001 (see discussion about Senate Bills 221 and 610 on previous page), land use decisions for major plans and projects now must be linked to a long-term reliable source of water. Additionally, state law requires that Urban Water Management Plans (water supply/demand plans required of all urban water purveyors of 3000 acre-feet of service or 3000 connections) must be sent to the local land use agency and considered in the general plan.

Typically, water supply issues are addressed as part of the conservation element or in an optional public facilities or services element. A comprehensive assessment would include the following:

- Inventory of existing water demands, supplies, and providers, as well as established programs for water use efficiency (conservation), recycling, transfers, and conjunctive use of surface and groundwater.
- Analysis of future water demands based on general plan land use build-out and cumulative demands in the region.
- Assessment of future opportunities for water use efficiency (conservation), recycling of water, water transfers, conjunctive use of groundwater and surface water, additional storage or water development projects, and other potential increases in water entitlements and supply.
- Assessment of any shortfalls in future water demands based on wet, normal, dry, and multiple dry year types and contingency plans for drought conditions.
- Inventory of existing ordinances that implement water management issues (e.g., Model Water Recycling Ordinance).

A typical policy response is to ensure the availability and timing of reliable water supplies for existing and future needs under changing hydrologic conditions. This entails realistic assessment of planned facilities and projects, additional water entitlements, and future regulatory requirements. Such analyses must be coordinated with the local water purveyor(s). Much of the data are contained in a purveyor's Urban Water Management Plan or Water Master Plan (or related document).

In particular, water use efficiency (conservation) and water recycling have become major "sources" for communities to stretch their available supplies and enable growth without costly or environmentally damaging water projects. State law requires that local jurisdictions implement landscape water conservation practices and low water use plumbing in new development. Agreements among many of the state's major water providers also require the use of best management practices for water conservation in the urban sector. These policies and actions should be incorporated into general plans.

The California Urban Water Conservation Council is a voluntary association of the major urban water purveyors in California. They have developed a list of best management practices in water use efficiency for members who have agreed to implement these practices in a consistent manner. Their website is www.cuwcc.org.

Many counties that rely heavily on groundwater also have general plan policies (and implementing ordinances) protecting local groundwater supplies from water quality degradation, excessive extraction, or export.

Before embarking on water supply policies, it is important to understand the institutions that provide water in the area, the various plans and projects in the works, and the constraints on future water supplies.

Water quality

General plans address water quality in various ways, usually in the mandatory conservation and open-space elements or in optional public facilities or environmental elements. Typical issues include:

- Groundwater contamination from specific sources, such as underground tanks, known spills, contamination sites, or landfills, or from generalized sources, such as septic systems.
- Sedimentation and related pollutants from land-based activities throughout the watershed, including resource extraction, such as logging or vineyard development, or grading for land development.
- Wastewater treatment and industrial discharges from point sources.
- Urban and rural stormwater runoff and related non-point source pollutants.

Policy responses vary from general policies to comply with state and federal water quality requirements to specific requirements related to local grading or erosion control ordinances and runoff standards. Many recent water quality requirements link directly to land use and development practices (see Stormwater section below). For example, §303(d) of the Clean Water

Act requires states to identify "impaired" water bodies (which California has done) and prepare Total Maximum Daily Load (TMDL) studies and plans to reduce pollutant loads in watersheds and clean up impaired streams or lakes. As these studies become more prevalent, land use plans and development policies and standards will need to be refined to improve water quality.

Wastewater treatment and disposal

Analysis and polices related to wastewater are usually included in the circulation element or in an optional public facilities element. At a minimum, the general plan should inventory existing and planned wastewater treatment and disposal facilities (and regulatory requirements) and any polices and requirements for on-site septic or related disposal systems. Best practices suggest that projections for wastewater demands should be based on the general plan land use build-out assumptions and closely linked to water supply demand assumptions. In addition, where appropriate, opportunities to utilize treated wastewater (recycled or reclaimed water) for landscape, recreational, industrial, or agricultural uses (so-called non-potable reuse) should be analyzed wherever feasible. Urban Water Management Plans are required to address opportunities for using recycled water.

Watershed features and processes

General plans typically identify and map important hydrologic features, such as wetlands, estuaries, streams, designated wild and scenic rivers, lakes, vernal pools, riparian zones, floodplains, and groundwater recharge areas. There are many reasons to protect such water resources, including aquatic biological value; maintaining "free" watershed functions, such as aquifer recharge and runoff filtering; and open space for aesthetic and recreational value. Policies to protect water features are often articulated in the conservation or open-space element.

There are hundreds of options for policies related to maintaining healthy and functional watersheds, ranging from land use designations (or minimum parcel sizes) that protect floodplains, recharge areas, riparian corridors, wetlands, and other ecologically significant lands to erosion control policies and standards to maintain water quality. Setbacks from riparian corridors, lakes, ponds, and wetlands are typical, as are low-intensity land uses in groundwater recharge zones or water supply watersheds. Watershed-based policies also provide an opportunity to integrate state and federal requirements for protection of wetlands and endangered species habitat.

Flood management

The safety element must identify flood hazard areas and establish policies to avoid unreasonable flooding risks. A comprehensive approach should include careful mapping of floodplains and high-risk areas, establishing polices to keep intensive uses out of these areas and mitigation measures or design requirements to reduce flood risk where improvements are at risk. Additionally, local or regional flood management plans and facilities should be incorporated. A watershed-based approach would employ both structural and non-structural solutions to maintain the floodplain functions of sedimentation, deposition, water filtering, and floodwater absorption. An optional floodplain management element was discussed earlier in this chapter.

Stormwater management

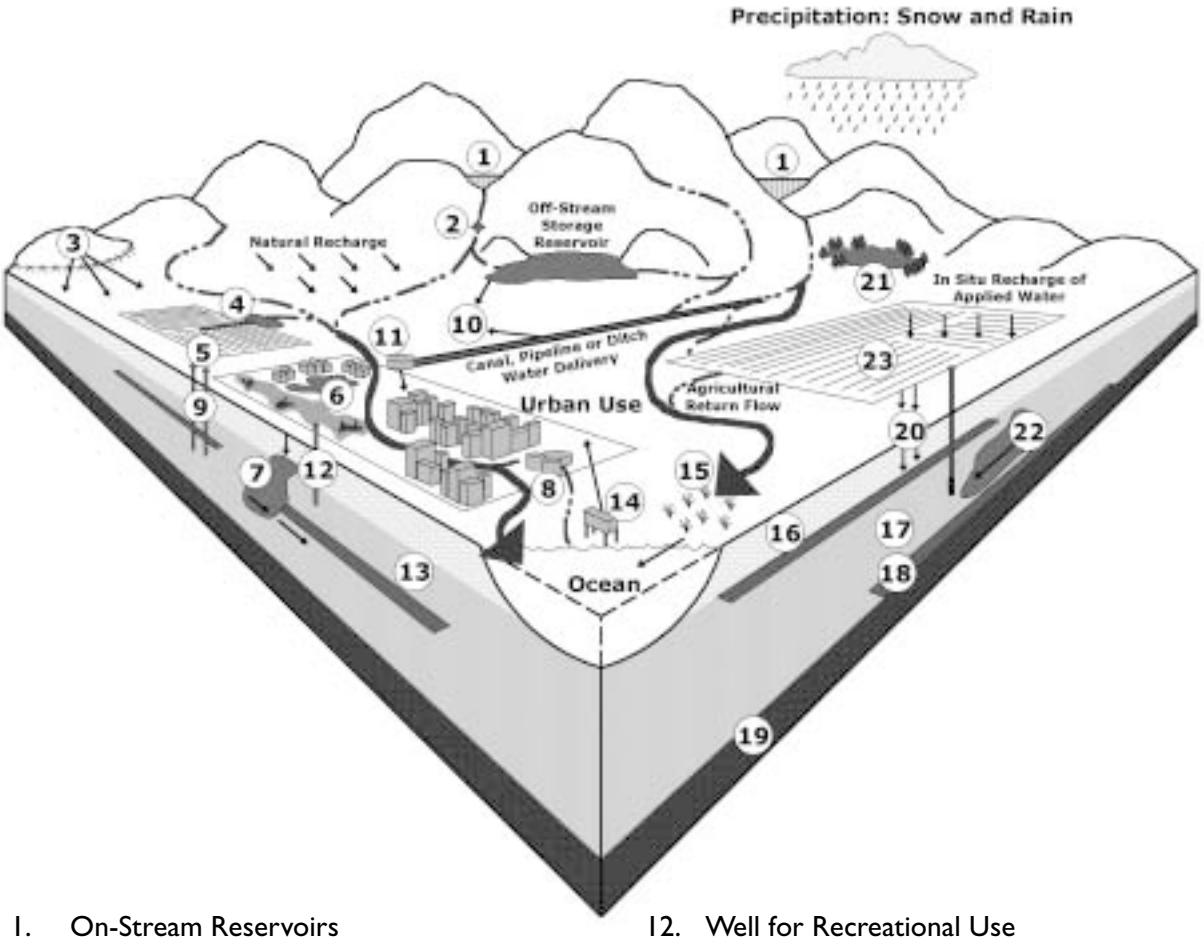
With the expansion of non-point source water quality regulations (under various sections of the Clean Water Act and the Porter Cologne Water Quality Control Act), communities throughout the state are being faced with strict requirements on urban stormwater runoff (and some rural runoff). As a result, general plans have begun to suggest (or require) runoff performance standards that result in an array of site planning and design techniques to reduce storm flows, capture runoff water, and allow it to percolate or filter/settle before being discharged to channels, streams, or lakes. Urban residential and commercial projects and even rural developments are being designed with multi-use stormwater basins, catchment basins and swales, parking lot capture systems, buffer strips to capture and filter water, and similar features to reduce peak storm flows and provide water quality benefit.

These type of facilities and site design features can also restore local aquatic habitat, maintain or enhance groundwater recharge, reduce local flooding peaks, and provide visual and recreational benefit to the community.

Interagency coordination and collaboration

Communities are often served by multiple districts, agencies, or companies for the different aspects of water management. State law requires coordination between water purveyors and land use planning agencies. State and federal regulators, such as the Department of Fish and Game, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the U.S. Army Corps of Engineers, the State Water Resources Control Board, and the Regional Water Quality Control Boards, are significantly involved in water resource protection and

Modified Land Use/Hydrologic Cycle as a Basis for an Optional Water Element



1. On-Stream Reservoirs
2. Fish Hatchery and Fisheries Restorantion Project
3. Runoff from Rangeland Opreatioin
4. Agricultural Tailings Water Pond for Habitat and Pollutant Reduction
5. In Situ Groundwater Treatment
6. Urban Retention Basin for Water Quality Benefit and Flood Management, Recreation, and Habitat
7. Groundwater Pollution from Urban Sources: Movement of Contaminated Plume
8. Wastewater Treatment and Disposal: Reclamation of Treated Effluent
9. Wells for Agricultural and Urban Use
10. Direct Groundwater Recharge
11. Surface Water Treatment
12. Well for Recreational Use
13. Useable Aquifer
14. Proposed Desalination Plant Location
15. Natural or Artificial Wetland to Clean Up Water
16. Unsaturated, Unconfined Aquifer
17. Saturated, Confined Aquifer
18. Confining Layer
19. Bedrock
20. Agricultural Pollution of Upper Groundwater Aquifer
21. Upstream Fisheries and Riparian Habitat Restoration Project
22. Lateral and Downslope Movement of Polluted Groundwater Plume
23. Agricultural Groundwater Use

Graphics: Lindsey Holm

enhancement. As a result, a water management element is a useful place to incorporate policies and procedures for coordinating all of the entities involved in water resources management.

Why a Water Element is Useful

There are a number of reasons why an integrated water element might be of benefit to a community. By having all water-related polices and actions in one place, the complex issues surrounding water resources are more accessible and understandable to the general public. Few people interact with water districts or the plans and documents they produce, but many lay people interact with a community's general plan.

By directly linking each aspect of the hydrologic system, the projections and forecasts used by the city, county, or special district can be more consistent. For example, future water supply demands, wastewater demands, and drainage needs could all rely on the same land use map and future growth and build-out assumptions. This will help with consistency between general plan elements and lead to more coordinated infrastructure and capital decisions. Each planning agency, whether a water, wastewater, or land-use agency, should consider relying on the general plan land use map and projections for all water-related infrastructure plans and policies.

An integrated water element can also lead to reduced costs and increased efficiencies for needed infrastructure. For example, placement and location of wastewater treatment and conveyance facilities may be better linked to potential land uses, such as industrial facilities or golf courses, that might take advantage of recycled water. Watershed protection policies might be better linked to groundwater recharge needs or stream and riparian protection policies. Once a watershed has been modified for urbanization or intensive agriculture (or similar use), it can be prohibitively expensive and potentially impossible to restore the water supply, water quality, and environmental protection value back into the ecosystem.

An integrated water management element might also help with other regulatory and planning functions, such as water quality discharge permits, wetland protection requirements, floodplain management, and water supply assessment needs. Finally, a single water management element might increase the visibility of water and highlight its importance in the future of the community.

Ideas for Data and Analysis

The type and quality of data on water resources will depend on many factors, including the water-related districts and agencies in the area, previous studies, and the level of public attention that has been devoted to water. For comprehensive planning purposes, the following data and analysis should be part of the general plan:

- Inventory of existing natural water-related features, such as wetlands, streams, lakes, bays, estuaries, reservoirs, and vernal pools. Information may be available from local, regional, and state GIS databases, specific studies, such as EIRs or specific plans, or from specialized databases such as the Resources Agency's Legacy Project or the CERES database. (CO, L, O)
- Delineation of the boundaries of watersheds, aquifer recharge areas, floodplains, and various parameters about groundwater basins (water levels, storage volume, safe or operational yield, etc.). General data on groundwater can be obtained from the Department of Water Resources (Bulletin 118-02 or the State Water Plan) or from individual basin studies. (CO, L, O, S)

OPTIONAL ELEMENTS
IN ACTION

Several jurisdictions have developed or are now preparing water elements or chapters. Imperial County, for example, developed an integrated water element that combines water supply, quality, flood management, wastewater and stormwater polices and analysis into a single General Plan element. This "one-stop" document has been useful to them as the County has engaged in complex negotiations over water transfers and supplies with neighboring jurisdictions. Inyo County has a separate water resources chapter that focuses on water quality, groundwater protection and restoration of water-related habitats. Santa Clara County has an extensive policy base for water supply, water quality and watershed protection as part of its Resource Conservation Element. Nevada County is currently working on a Water Element. Additionally, many jurisdictions have established comprehensive policies for water resource protection or management in different elements in the general plan. Mendocino County, for example, incorporated watershed management polices in its General Plan as early as 1981. Santa Cruz, Marin and Santa Barbara counties have extensive watershed management, water quality, stream and riparian protection polices.

- Analysis of existing water sources, treatment and distribution systems, service district boundaries, wastewater treatment and distribution systems, stormwater and drainage facilities, flood management facilities, and service districts. These data are available from each individual district or service provider. Urban Water Management Plans are a good source for water supply, demand, conservation, and related information. This information will be useful in meeting the information requirements of SB 610 and SB 221.
- Capacity of existing and planned water and wastewater infrastructure to accommodate new growth and support expansion and improvement. Typical data sources include the Urban Water Management Plans of local water purveyors, Water or Wastewater Master Plans or Integrated Resources Plans of water agencies, and capital improvements plans. Statewide and regional information is available in the State Water Plan. (CI)
- Water supply and demand balance in wet, normal, dry, and multiple dry years; analysis of new sources; drought contingency planning; opportunities for conservation, reuse, transfers, etc.
- Land-use based projections of build-out and water and wastewater demands specific to each land use. Different land uses and intensities have vastly different demands for water supply. There are also vast differences between different regions in the state.
- Analysis of generalized water quality in the watershed, available data on water pollution sources, and various programs and agencies working on these issues.
- Examination of existing water quality in the watershed.
    - Identify existing and potential water pollution sources.
    - Inventory hazardous materials dumps, ponds, and storage sites (using information plans developed pursuant to Health and Safety Code §25500, et seq.).
    - Identify proposed, existing, and abandoned landfill sites. (MAP)
    - Examine the results of groundwater tests conducted in the vicinities of landfills and hazardous materials dumps, ponds, tanks, and storage areas.
    - Examine regulations regarding the use, storage, and disposal of hazardous materials.
    - Inventory existing and proposed land uses that could contribute to the pollution of streams and other waters.
    - Data sources include the Water Quality Control Plan for the region, TMDL studies (if they are complete), watershed plans for the region, and specific data from the Regional Water Quality Control Board or local water purveyor.
- Identification of polluted water sources for which reclamation is feasible.
- Identification of watershed groups, programs, and studies in progress and environmental enhancement programs and projects that are water-related.
- Identification of water conservation programs that are, or will be, implemented by the water supplier or other entity supplying water to the city or county. This may include information contained in the Urban Water Management Plan or in the Water Recycling Ordinance.
- Assessment of the use of water bodies for recreational purposes. (CO, L, O)
- Identification of water bodies and watersheds that must be protected or rehabilitated to promote continued recreational and commercial fishing, including key fish spawning areas. (CO)

Ideas for Development Policies

Water element policies should conform to those found in other elements, such as the land use, circulation, conservation, open-space, and safety elements. Water-related policies can be centralized in a water element to avoid duplication. Such policies must be consistent with the general plan as a whole, including all mandatory and optional elements. The following provides examples of policies that a jurisdiction may wish to include in a water element:

- The development, improvement, timing, and location of community sewer, water, and drainage lines and facilities. (CI, CO, L)
- The protection, use, and development of water bodies and courses (rivers, lakes, streams, harbors, estuaries, and reservoirs). (CO, O)
    - Erosion control and sediment reduction policies.
- The siting of large new water users. (L)
    - Opportunities for recycled water use.

- The type and intensity of development in or adjacent to water bodies and courses. (CO, L, O)
  - Setback standards near sensitive water features.
- The protection of and development in watersheds and aquifer recharge areas. (CO, L, O)
  - Type and intensity of development.
  - Drainage runoff policies and performance standards.
- Expansion alternatives for new water supplies. (CO)
- Water efficiency and recycling policies.

- The protection of water bodies and watersheds that are important for the management of commercial fisheries. (CO, O)
- Floodplain management policies. (CO, L, O, S)
- Minimum private water supply reserves for emergency fire use. (S)

Challenges

Planners face challenges in preparing a single, standalone water element. Water districts, wastewater districts, or private water purveyors serve multiple cities and counties with other customers and other planning and reporting requirements. Some cities, such as San Jose, and counties, such as Alameda, have multiple water providers from many different sources. Often there is a wholesaler of water (such as Metropolitan Water District of Southern California), one or more retailers, and other districts and jurisdictions for wastewater, storm drainage, and flood management. The data for a comprehensive water element may be difficult to collect and analyze. The plans, time horizons, and projections made by various districts and jurisdictions may not be consistent or easily integrated. It is important that the water element neither contradict nor diminish already agreed upon community goals contained in other elements of the general plan. Still, given the complexity of the topic and the critical role water will play in every community's future, a water element is a valuable way to focus on key issues and policy choices.

Technical Assistance

There are hundreds of applicable references that can assist in water resources planning, just a few of which are listed here. Internet resources include:

- Association of California Water Agencies, www.acwanet.com
- CALFED Bay Delta Program, www.calfed.water.ca.gov
- California Department of Water Resources, www.water.ca.gov
- California Urban Water Conservation Council, www.cuwcc.org
- State Water Resources Control Board, www.swrcb.ca.gov
- Water Education Foundation, www.watereducation.org

Useful books and reports include:

- California Department of Water Resources, *State Water Plan Update, Bulletin 160-98*, 1998. (Note: An updated version is due out at the end of 2003.)
- Johnson and Loux, *Water and Land Use: Planning for the Future of California as if Water Mattered*, Solano Press Books, 2003.
- Littleworth and Gardner, *California Water*, Solano Press Books, 1995 (Note: An updated version is due out in 2003).
- Water Education Foundation, *Layperson's Guide to California Water*, 2000. (Note: 15 other *Layperson's Guides* are available on topics such as Environmental Restoration, Flood Management, etc.)

For more information on this topic, see the Bibliography under "Water."

CHAPTER 7

CEQA and the General Plan

All statutory references are to the California Government Code unless otherwise noted.

Adopting or amending a general plan or a general plan element is subject to the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) and often requires preparation and consideration of an environmental impact report (EIR). The primary purpose of an EIR is to inform decision-makers and the public of the potential significant environmental effects of a proposal, less damaging alternatives, and possible ways to reduce or avoid the possible environmental damage. This information enables environmental considerations to influence policy development, thereby ensuring that the plan's policies will address potential environmental impacts and the means to avoid them. This chapter discusses some aspects of the relationship between the general plan and its EIR. Refer to the Bibliography for sources of more detailed information about CEQA and its requirements.

EIR PREPARATION

The procedure for preparing and using an EIR is described in detail in the state CEQA Guidelines (Title 14, California Code of Regulations, §15000, et seq.), so we will not review the entire process here. The following discussion highlights some of the key points that are particularly important when preparing an EIR for a new general plan, an element, or a comprehensive revision. Since the environmental document for a privately initiated general plan amendment is usually project-specific, we will not discuss it at any length.

To the extent feasible, the planning process and the environmental analysis should proceed concurrently, sharing the same information. The plan EIR, to a certain extent, can be seen as describing the relationship between the proposed density and intensity of land use described by the plan and the carrying capacity of the area.

The EIR must describe the existing local and regional physical environment, emphasizing those features that are likely to be affected by the plan and the environmental constraints and resources that are rare or unique to the area. It should describe existing infrastructure, such as roads, water systems, and sewage treatment facilities, along with their capacities and current levels of use. It should also discuss any inconsistencies between the proposed plan and adopted regional plans as they may relate to environmental issues.

The EIR must describe the significant environmental effects that may result from the plan's policies and proposals. Effects that are found to be insignificant need only a brief discussion in the EIR (CEQA Guidelines §15006(p)). When a new general plan or a revision is being considered, the EIR must evaluate the proposed plan's or revision's effects on both the existing physical conditions of the actual environment and the environment envisioned by the existing general plan (*Environmental Planning and Information Council v. County of El Dorado (1982) 131 Cal.App.3d 354*).

In addition to the direct impacts of any immediate projects that will occur under the general plan, the EIR must focus on the secondary effects that can be expected to follow from the plan's adoption, including cumulative and growth-inducing effects. The general plan EIR need not be as detailed as an EIR for the specific projects that will follow (CEQA Guidelines §15146). Its level of detail should reflect the level contained in the plan or plan element being considered (*Rio Vista Farm Bureau Center v. County of Solano (1992) 5 Cal.App.4th 351*). At the same time, however, the lead agency cannot defer to later tiered EIRs its analysis of any significant effect of the general plan (*Stanislaus Natural Heritage Project, Sierra Club v. County of Stanislaus (1996) 48 Cal.App.4th 182*).

The EIR must identify mitigation measures and alternatives to avoid or minimize potential impacts, to the extent feasible. The general plan EIR is a particularly useful tool for identifying measures to mitigate the cumulative effects of new development. For example, a general plan might anticipate a significant increase in industrial employment in the community. If this proposal would lead to increased automobile commuting, the EIR could identify measures to reduce peak-hour traffic volumes, such as new transit routes or improved bicycle facilities. Where other agencies are responsible for mitigating the effects of the general plan, they should be identified in the EIR. Pursuant to Public Resources Code §21081.6, the general plan must incorporate the approved mitigation measures identified in the EIR into its policies and plan proposals.

Several alternative draft plans are typically considered en route to adopting a general plan. Similarly, the

EIR for the plan must describe a reasonable range of alternatives and analyze each of their effects (CEQA Guidelines §15126). Consistent with CEQA, the alternative plans should share most of the same objectives. Each of the alternatives should avoid or lessen one or more of the significant effects identified as resulting from the proposed plan. A reasonable range of alternatives would typically include different levels of density and compactness, as well as different locations and types of uses for future development. In a situation where the proposal is yet to be selected from among the alternatives, the competing alternatives should not all have the same level of impacts.

The EIR must also evaluate the "no project" alternative. This would describe what physical changes might reasonably be expected to occur in the foreseeable future if the new or revised general plan were not adopted, based on the existing general plan (if any) and available infrastructure and services.

Special studies prepared for the general plan will yield information useful to the EIR. For example, the traffic model developed to analyze the circulation impacts of proposed land use intensities should be used during EIR preparation to evaluate traffic impacts and alternative approaches to minimizing those impacts.

The EIR must analyze the cumulative effects of the plan's policies and proposals on the environment. For example, a planning policy authorizing rural residential uses in or near wild lands could cumulatively increase the potential severity of fire damage by hindering wildfire suppression efforts. Growth-inducing impacts must also be analyzed. These may include any policies, proposals, and programs of the general plan likely to stimulate community growth and development. Examples include plans for street and highway improvements in undeveloped areas, a proposal for wastewater treatment plant expansion, and proposals for the expansion of employment in basic industries, any of which is likely to increase pressure for or facilitate residential and other development.

TIMING

The CEQA process runs concurrently with the development, review, and approval of the general plan, element, or general plan revision. These parallel processes should be carefully synchronized so that neither time nor work will be wasted through unnecessary delay or duplication. When developing a draft work program for the general plan, staff should lay out the schedule for preparing the EIR. Pay particular attention to the point at which sufficient information will be available to prepare an informative NOP. The draft EIR must reflect the draft plan and examine the various alternative plans being proposed, so it should not be released for review until the draft plan is nearing completion. Try to anticipate the number and extent of changes that may be made to the draft plan as it moves through planning commission hearings. Time the release of the draft EIR after a preferred plan alternative has been identified. Otherwise, if the major changes in the plan necessitate substantial changes in the draft EIR, the EIR may need to be recirculated. If the planning process works as it should, with all levels of decision-makers well informed, this uncertainty can be avoided.

PUBLIC REVIEW OF THE EIR

Prior to writing the draft EIR, the city or county must send a Notice of Preparation (NOP) of the EIR describing the draft general plan proposal to a number of parties, including all affected state responsible and trustee agencies, any large water agency that may provide domestic water in the planning area, and the other agencies listed under §65352, to solicit their input. Their responses are intended to identify important issues and focus the scope and content of the draft EIR.

The draft EIR (incorporating the comments from the NOP) must be circulated among interested local and regional agencies and the public for review. Many cities and counties place copies in local libraries as well. Copies must also be sent to the State Clearinghouse within OPR for distribution to state agencies. The 45-day review period for a general plan's draft EIR offers a formal opportunity to comment on the potential environmental impacts of the proposed plan and the adequacy of the environmental analysis.

CEQA does not require a public hearing on the draft EIR, but many localities choose to hold one or more EIR hearings in conjunction with their consideration of the draft general plan. If a city or county does hold a separate hearing on the draft EIR, it should clearly advise attendees to direct their comments to the adequacy of that draft EIR (as opposed to their opinions about the draft general plan). Some cities and counties choose to hold a hearing during the draft EIR's review period to provide the opportunity for public comment. After the end of the draft EIR's review period, the jurisdiction must prepare a final EIR containing the comments received during the review period and its written responses to those comments.

ADOPTION AND CERTIFICATION

Before adopting the general plan, element, or revision for which the EIR was prepared, the city council or county board of supervisors must consider the final

EIR, certify its adequacy, and make explicit findings explaining how the significant environmental effects identified in the EIR have been or should be mitigated or explain why mitigation is not feasible (CEQA Guidelines §15091). The city or county cannot approve the general plan unless the approved plan will not result in a significant effect on the environment or, more commonly, the city or county has eliminated or substantially lessened all significant effects where feasible and made a written statement of overriding considerations explaining the reasons why any remaining unavoidable significant effects are acceptable (CEQA Guidelines §15093). The jurisdiction must also adopt a mitigation monitoring or reporting program to ensure that the mitigation incorporated into the plan in accordance with the EIR will be implemented.

PROGRAM AND MASTER EIRS

In order to minimize the need to reanalyze a series of projects related to the general plan, CEQA and the state CEQA Guidelines encourage using a general plan EIR to address subsequent discretionary projects, such as adopting zoning ordinances and approving specific capital improvement or development projects that are consistent with the general plan. This streamlined approach to environmental review is commonly called "tiering" (CEQA Guidelines §15152). By using a tiered approach, the environmental review for a subsequent project can be limited to those project-specific significant effects that either were not examined or not examined fully in the general plan EIR.

Later environmental analysis for more specific actions can be tiered from the general plan EIR in several ways. The following paragraphs present a brief discussion of program EIRs, master EIRs, tiering under Public Resources Code §21083.3, and the use of certain statutory exemptions.

Program EIRs

The program EIR prepared for a general plan examines broad policy alternatives, considers the cumulative effects and alternatives to later individual activities where known, and contains plan-level mitigation measures. Later activities that have been described adequately under the program EIR will not require additional environmental documents. When necessary, new environmental documents, such as a subsequent or supplemental EIR or a negative declaration, will focus on the project-specific impacts of later activities, filling in the information and analysis missing from the program EIR.

The "project" being examined in the program EIR is the general plan, element, or revision. The CEQA Guidelines recommend that program EIRs deal with the potential effects of a general plan, element, or revision "as specifically and comprehensively as possible." A good rule of thumb is that the program EIR's level of detail should be commensurate with the level of detail contained in the general plan element (*Rio Vista Farm Bureau Center v. County of Solano (1992) 5 Cal.App.4th 351*).

A program EIR should pay particular attention to the following EIR components:

- The significant environmental effects, including cumulative effects of anticipated later activities under the plan or element.
- Mitigation measures, including plan-wide measures.
- Alternatives to the basic policy considerations set forth by the plan or element.

When evaluating a later activity to determine whether it is eligible for consideration under a program EIR, OPR suggests the following sequential approach.

First, the lead agency must determine whether the activity meets both of the following criteria and, if so, adopt findings to that effect:

1. It is consistent with the plan or element for which the program EIR was certified. A general plan amendment obviously would not qualify (*Sierra Club v. County of Sonoma (1992) 6 Cal.App.4th 1307*).
2. It incorporates the feasible mitigation measures and alternatives developed in the program EIR. (Additional mitigation measures and alternatives may also be applied when a subsequent or supplemental EIR is prepared.)

Second, the lead agency must evaluate the later activity and its location to determine whether the environmental effects of that activity were adequately examined in the program EIR. If there are any new significant effects from the later activity, the lead agency must prepare an initial study to determine the significance of those effects. No subsequent EIR is necessary for a project that is essentially part of the "project" described by the general plan's program EIR unless:

1. The later project would propose substantial changes in the plan that were not described in the program EIR, requiring revisions to the program EIR due to the involvement of a new significant effect or a substantial increase in the severity of a previously identified effect.

2. Substantial changes have occurred in the circumstances under which the general plan was undertaken, requiring revisions to the program EIR due to the involvement of a new significant effect or a substantial increase in the severity of a previously identified effect.
3. New information of substantial importance that was not known and could not have been known at the time the program EIR was certified indicates that significant effects were not adequately analyzed or that mitigation measures or alternatives should be revisited (CEQA Guidelines §15162).

If no subsequent EIR is required, the project is deemed to be within the scope of the program EIR and the program EIR can be certified for that project. No additional environmental document would be required.

A subsequent EIR is subject to the standard EIR content requirements (i.e., project description, environmental setting, significant effects, mitigation measures, etc.). However, the subsequent EIR need not duplicate information and analysis that is already included in the program EIR. This may include such areas as environmental setting, project alternatives, and cumulative impacts. Pertinent discussions from the program EIR, to the extent that it examines regional influences, secondary effects, cumulative effects, broad alternatives, and other factors that apply to the later project, should be incorporated by reference into the subsequent EIR.

Master EIRs

Another option is to prepare and certify a master EIR (MEIR, Public Resources Code §21157, et seq. and CEQA Guidelines §15175, et seq.). The MEIR is intended to be the foundation for analyzing the environmental effects of subsequent projects. Those projects that have been described in some detail in the MEIR may avoid the need for a later EIR or negative declaration. Other projects will need to be analyzed in a focused EIR that examines project-specific impacts while referencing the MEIR's analysis of cumulative and growth-inducing impacts.

Section 15178 of the CEQA Guidelines specifically allows an MEIR to be re-certified for later projects that are consistent with the land use designations and the permissible densities and intensities of use described in the general plan. This avoids the need for another EIR or negative declaration. The OPR publication *Focusing on Master EIRs* offers detailed technical information about using MEIRs.

In practice, an MEIR is similar to a program EIR. However, there are at least three differences worth noting. First, the requirements for preparing and applying an MEIR and its associated focused EIRs are described in detail in both statute and the CEQA Guidelines. The program EIR is less specifically described in the CEQA Guidelines. Second, once a subsequent project is determined to be within the scope of the MEIR, a focused EIR must be prepared whenever it can be fairly argued on the basis of substantial evidence in the record that the project may have a significant effect, even if evidence exists to the contrary. In contrast, when a program EIR has been certified, a subsequent EIR is required only when the evidence of a significant effect is incontrovertible. Third, MEIRs must be re-examined and, if necessary, supplemented at least once every five years. This ensures that the analysis contained in an MEIR remains topical. Although there is no "freshness date" on program EIRs, agencies that are using a program EIR must be just as careful not to rely on outdated analysis.

Tiering

A more generic approach to tiering is found in Public Resources Code §21083.3. When an EIR has been certified for a general plan, the CEQA analysis of later projects can be limited to those significant effects that "are peculiar to the project" and that either were not addressed as significant effects in the plan's EIR or that new information shows will be more significant than when the plan's EIR was certified. The requirements of this option are detailed in CEQA Guidelines §15183.

The CEQA Guidelines specify that any EIR or negative declaration using the tiering principle must refer to the prior EIR, state where a copy of that document may be examined, and state that tiering is being used. Tiering cannot be employed when the project is inconsistent with the general plan or zoning (CEQA Guidelines §15152(c)). Overall, tiering can result in significant cost savings to local governments and applicants because it reduces the processing time for subsequent projects and simplifies the environmental review process.

COMBINING THE GENERAL PLAN AND ITS EIR

Because a general plan and its EIR overlap in content and are prepared as part of a single planning process, a few local governments have combined them into a single document or set of documents as authorized under CEQA Guidelines §15166.

A local government may prepare a combined general plan and EIR as a set of three documents. The first document would contain information on the physical and environmental setting, including inventories of soils, geology, hydrology, air quality, vegetation, wildlife, energy, cultural heritage, ambient noise, existing land use, transportation, population, public services, and water quality. It might also describe federal and state laws and regional plans concerning these issues. This document would provide the data and analysis out of which general plan policies would evolve and would constitute the "environmental setting" section of the EIR. The second document would consist of the policies, plan proposals, standards, and implementation program of the draft general plan. In essence, it would constitute the "project description" for purposes of CEQA. The third document would consist of the environmental assessment—that is, the discussion of effects, mitigation measures, and alternatives needed to satisfy the requirements of an EIR.

Revisions to the three documents would occur throughout the planning process. The first would change as new data became available. The second would change to reflect the public's comments, as well as decisions by the planning commission and elected officials. It would also be revised to reflect the analysis of effects in the third document, the environmental assessment. The environmental assessment would be modified in response to input from the public and other agencies and to ongoing revisions in the proposal itself.

The three documents would be circulated together for review as the draft EIR and ultimately certified as the EIR. The city council or board of supervisors would adopt the policy document and perhaps the data and analysis by resolution to become the general plan.

A cautionary note on using this approach: combining the general plan and its EIR is often impractical. The draft combined plan/EIR can be unwieldy for reviewers to analyze and expensive to revise and reproduce. Additionally, unless the final plan is carefully purged of those mitigation measures and alternatives identified in the EIR that were rejected upon plan approval, it will contain extraneous policies and plan proposals that were not intended to be carried out. In addition, where an inconsistency exists between the plan and its EIR section (essentially this would be an internal inconsistency in the general plan), the statute of limitations would not be the usual 30 to 180 days under CEQA but could be extended to such time as a land use decision is made based on the general plan.

FINDINGS

Upon certifying a general plan EIR, the city or county must make findings pursuant to CEQA Guidelines §15091 for each of the significant effects identified in the EIR. These findings require the jurisdiction to state which mitigation measures or alternatives are to be imposed on the plan, which are the responsibility of other agencies to carry out, and which are infeasible. These findings must be supported by substantial evidence in the record.

In addition, CEQA Guidelines §15093 requires the city or county to make a statement of overriding considerations for any significant effects that cannot be mitigated. This statement must describe the specific economic, legal, social, technological, or other benefits of the project that outweigh the unavoidable significant effects identified in the EIR. This statement of reasons must be based on the information that is in the EIR or is part of the record. The record includes all of the information that was available to decision-makers during the course of considering the general plan.

MITIGATION MONITORING AND IMPLEMENTATION

When a general plan is enacted or amended based upon an EIR or a mitigated negative declaration, the city council or board of supervisors must also adopt a reporting or monitoring program for ensuring compliance with the adopted mitigation measures (Public Resources Code §21081.6). The city or county should coordinate general plan policies and environmental mitigation measures during the planning process so that the mitigation measures will be reflected in the plan policies and those policies realistically can be implemented.

The city or county must adopt a specific program that will enable it to track compliance with the mitigation measures. One approach is to use the yearly "state of the plan" report prepared for the city council or board of supervisors pursuant to §65400(b) as the reporting program for a new general plan. See OPR's publication *Tracking Mitigation Measures Under AB 3180* for more information about designing a mitigation monitoring program.

A general plan can be measured by how well its objectives, policies, and programs are implemented. The same is true for the mitigation measures identified in the plan's EIR. When drafting mitigation measures, consider how they can be reflected in plan objectives, policies, and programs and how they will be implemented. The mitigation measures should be an integral part of the plan, not an afterthought.

MASTER ENVIRONMENTAL ASSESSMENT

A local government may prepare a master environmental assessment (MEA) inventorying the physical and biological characteristics of an area and discussing air and water quality and supply, the capacities and levels of use of existing services and facilities, and the effects of different development projects by type, scale, and location (CEQA Guidelines §15169). The MEA is essentially a collection of environmental data—a resource that simplifies the data gathering for future negative declarations or EIRs. Unlike a master EIR, it does not analyze environmental effects.

An MEA may be put together from the information gathered during the process of preparing the general plan and its EIR. In this case, it will be available for later project-specific environmental analyses.

The bulk and cost of project-level environmental documents can be reduced by referencing the applicable data from the MEA in a project-specific EIR or negative declaration. This approach necessitates regularly updating the MEA with new information as it becomes available.

EXEMPTIONS

A general plan EIR can facilitate the use of certain CEQA statutory exemptions for later projects. A project that is described by a statutory exemption is exempt from the requirements of CEQA. In 2002, several statutory exemptions for housing projects were changed. Certain low-income housing, farmworker housing, and infill housing projects may qualify for an exemption under CEQA if they meet certain criteria (Public Resources Code §21159.21). Among these criteria are consistency with the general plan (thus eliminating projects requiring a general plan amendment) and the completion of a "community-level environmental review." An EIR prepared for a general plan adoption or revision qualifies as a community-level environmental review.

CHAPTER 8

Public Participation

All statutory references are to the California Government Code unless otherwise noted.

When a general plan is written or amended, state law requires the planning agency to provide opportunities for the involvement of public agencies, public utility companies, community groups, and the general public through public hearings or other appropriate methods (§65351). The law also requires that a jurisdiction make a diligent effort to include all economic groups when drafting its housing element (§65583).

Statute requires two public hearings before a jurisdiction can adopt or amend a general plan: one by the planning commission and another by the legislative body (either the city council or the board of supervisors). However, this minimal number of hearings does not constitute what most planners would consider an adequate public participation program for adopting or updating a general plan.

People have come to expect that public participation—the process by which the public can give input or otherwise participate in decision-making—will be a part of any planning process. Excluding the public can be time consuming, expensive, and divisive. Failure to allow the public to meaningfully participate in planning decisions that affect their communities can result in litigation or ballot initiatives that may overturn the results of a general plan process.

There are many benefits to including ample opportunities for public input and involvement in a planning process. This chapter discusses these benefits, as well as ways to successfully engage and include the public.

ENVIRONMENTAL JUSTICE

State and federal environmental justice laws and policies have further emphasized the need for public participation in the decision-making process. Concern that minority and low-income populations were shouldering a disproportionate share of environmental and health burdens led to President Clinton issuing Executive Order 12898 in 1994, which focused federal agency attention on environmental equity issues.

In 1999, California became one of the first states to pass legislation codifying environmental justice in statute. State law defines environmental justice as, "The fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations and policies" (§65040.12).

Section 65040.12 requires OPR to develop guidelines for cities and counties to address environmental justice matters in their general plans. The relationship between environmental justice and the general plan is discussed in Chapter 2. Although not expressly addressed by §65040.12, public participation is an important part of environmental justice. A well-designed public participation process allows planners, decision-makers, and the community to engage in a meaningful dialogue about the future development of the city or county.

OPEN MEETINGS

In addition to any organized participation activities, state law allows the public to attend all meetings of appointed advisory committees, planning commissions, and local legislative bodies, with a few exceptions (Brown Act, §54950, et seq.) For more information on Brown Act requirements, see the California Attorney General's Office's publication *The Brown Act: Open Meetings for Local Legislative Bodies* (2003).

GOALS AND OUTCOMES

There are many practical reasons to involve the public in the general plan process or in any other planning process. These include:

- Providing valuable information leading to more informed policy development by decision-makers.
- Insuring the plan's successful implementation by building a base of long-term support with the public.
- Reducing the likelihood of conflict and drawn-out battles by addressing public concerns during the general plan process rather than on a case-by-case basis in the future. This can also speed the development process and reduce project costs.

Public participation as part of the general plan process can have positive impacts on the entire community, including:

- Educating the public about community issues.

- Increasing the public's ability and desire to participate in the community.
- Enhancing trust in government by strengthening the relationship between elected officials, government staff, and the public.
- Working towards community consensus and creating a vision for the future.
- Laying the groundwork for community revitalization and increased investment in the community.
- Obtaining public input regarding plan policies and community issues and objectives.
- Providing the public with opportunities to evaluate alternative plans and to participate in developing and choosing a plan that works for their community.
- Informing decision-makers about public opinion.

PROCESS DESIGN

A general plan process is a valuable opportunity to focus on current issues in the community. If you are strategic in your process design, your community can get more out of the process than just an updated plan. As was noted above, the general plan process can be a learning opportunity for the community. It can build civic capacity and encourage ongoing citizen involvement. It can also strengthen trust between government and community members. The following are some important points to consider when designing a public participation process:

- Public participation processes take time and resources. If a jurisdication fails to dedicate adequate staff time and other resources to the process, this may imply a lack of committment to the process.
- Community members should be included in the general plan process as soon as possible. A visioning process, focus groups, or an advisory committee can be used to identify issues and involve the community before the process is designed.
- Participants need to know up front what they can expect from their participation and what the process sponsors will do with the information that comes out of the process.
- It is critical to understand the issues that are important to different segments of the community, including residents, business owners, and elected decision-makers. Address their issues and concerns during the process. Make sure that all stakeholder groups feel that they have an opportunity to give input early in the process.
- The process should be simple and transparent; participants should be updated frequently as the process moves forward.
- The process should be designed to meet the needs of your community. No two processes should be the same. Questions to consider include: Will community members need childcare in order to attend meetings? Are residents more likely to participate on a weekend or early in the morning due to work obligations? Will providing refreshments influence more people to attend? How do community members get their information? How comfortable are they with technology? Is translation necessary?
- The entire process should be documented. This includes keeping a record of and reporting on all groups that have been contacted, any information that is used to inform the process, and all decisions that are made. Documentation can be done through media stories, a website, newsletters, or other materials in order to keep the public informed.
- The process should be as engaging, interactive, and fun as possible.

Sponsorship

It is important to the public that the process they participate in has an impact on the final product. Community members often do not participate in public participation processes because they suspect that their input will not be used or that the outcome of the process will be disregarded. In order to encourage the public to be involved, participants need to know that the process has the support of local elected officials and that decision-makers will respect the outcome. The city council, board of supervisors, or planning commission should act as the sponsor, providing its support and endorsement of the process. Trusted community groups can act as partners or co-sponsors in the process as a means to increase community support.

Inclusiveness

All affected stakeholders should be represented in any public participation process. In a general plan process, this is the entire community. Stakeholder groups in the general plan process may include:

- Community and neighborhood groups.
- Utility and public service providers.
- Educational institutions.
- Industry and business.
- Civic and community service organizations.

- Non-governmental organizations.
- Religious communities.
- Other public agencies.

Planners should seek to engage the complete range of community interests, such as environmentalists, developers, the elderly, youth, lower-income residents, special needs populations, etc. Inclusive representation is critical in the planning process, as highlighted by the growth of the environmental justice movement. It is not enough to contact community groups. The process must be open and accessible to the entire community. This can be accomplished in a number of ways.

"The general plan update process is an opportunity to build community connections by bringing people together to work for a better future. It is also an opportunity to educate community members about their community and build a sense of pride."

Bruce Race
Planning Consultant

Language

All communication should be done in all of the major languages spoken in the community. This includes any advertising and written background materials. Some documents, such as the draft general plan or the draft environmental impact report associated with the general plan, may be infeasible to translate in their entirety. In such cases, the planning agency should consider translating an executive summary into the major languages spoken in the community. Translators should be available at meetings when necessary. Those conducting the process should avoid using jargon, which can make it difficult for participants to understand the proceedings and also can make translation difficult.

Advertising and outreach activities

Identify the outlets where different segments of the population get their information, such as the local newspaper, the radio, church, civic or social clubs, and schools. Work with community leaders to identify the best ways to advertise the process and events to their constituencies.

Location and time

Hold events in locations where participants feel welcome and that are familiar to them. This may mean holding meetings in several different neighborhoods. Work with stakeholders to understand which locations to choose. Some groups may feel comfortable meeting at local schools, while other groups may feel intimidated by schools. Meeting sites should be close to public transportation and comply with the requirements of the Americans with Disabilities Act.

Schedule a variety of meeting times based on the needs of your community. Working families most often attend evening meetings at which childcare is provided. However, evening meeting times may not work for the elderly, young people, or those with special needs. They may also preclude participation by those with evening jobs. A mix of weekday, weeknight, and weekend meetings will allow all segments of the community to participate.

Partnerships

Work with a variety of stakeholder groups so that their members feel comfortable participating in the process. It is important to identify and include groups whose rejection of the outcome will make adoption or implementation of the plan difficult.

Information

Participants should have access to information about the issues that are being addressed by the process. This information should be objective and fairly represent different planning alternatives. Providing adequate information helps participants work through emotionally charged and controversial issues. The process should allow time for participants to discuss the issues and the impacts of alternatives.

Communication

Communication between the community, the planning agency, and other process sponsors should be an interactive dialogue. Participants should be able to voice their questions and ideas to the process sponsors. The sponsors should respond to participant concerns.

TOOLS

There are a wide variety of tools that can be used to inform and engage your community in a public participation process. Pick tools based on the needs, strengths, and resources of the community. Use a variety of tools. Different people understand and access information in different ways. By using different techniques, you will reach a wider range of community residents. Below are examples of different tools you may wish to employ.

PUBLIC PARTICIPATION CASE STUDY: **Cutler-Orosi**

Culter and Orosi are two unincorporated towns in Tulare County in the southern San Joaquin Valley. The majority of these low-income communities' populations are Latino: Cutler is 97 percent Latino and Orosi is 82 percent. Farmworkers make up a large portion of the population in both communities. The two towns are connected and intersected by a state highway, SR-63. In 2001, the Tulare County Redevelopment Agency received a Caltrans planning grant to redesign the highway to make it safer for all users, including automobiles, bicycles, and pedestrians. While not a general plan update, the community involvement strategies could be adopted for an update process.

PROCESS DESIGN

Working with the Local Government Commission, a statewide nonprofit organization, the redevelopment agency engaged in extensive community outreach to involve the community in the project. Tools and techniques included:

- A resident advisory committee to help plan the process. This committee, which already existed to advise on redevelopment issues, suggested that the workshops have a festive atmosphere, including food and music. They also let planners know which days and times would not work for community members.
- The formation of partnerships with community organizations that were already trusted by the community, such as churches, civic groups, and local advocacy groups.
- Focus groups with community partners and community members in a variety of accessible and unintimidating locations where residents were used to going, such as churches, community centers, multifamily housing complexes, peoples' homes, local restaurants, and schools.
- Youth activities to prepare for the design charrette, including a focus group with 5th graders and an activity with high-school students. This also helped to involve parents.
- Multiple methods of event advertising, in both English and Spanish, including:
    - Religious and other community groups announcing workshops to their constituencies
    - Advertisments in local newspaper
    - School districts sending home information with children
    - Caltrans posting the meetings on their portable road signs along the highway
- A design charrette activity consisting of two community meetings, one to collect input and the other to get feedback on the proposed design.

LESSONS LEARNED

Over 240 residents and stakeholders participated in two large community events and in several focus group meetings. The organizers credit their success to:

- Involving community members and organizations in the early planning stages and incorporating their suggestions in the outreach efforts and charrette activities.
- Identifying sources that the community uses to receive information and using those sources to advertise.
- Taking information to the community by holding workshops in locations that were accessible and familiar.
- Making workshops and information available in the languages of the participants.
- Designing workshops to appeal to the community.

A group of community residents is in the process of forming a nonprofit, the Cutler-Orosi Visioning Committee, to follow up on the recommendations of the charrette.

For more information contact:
Steve Hoyt, Local Government Commission, (916)448-1198, shoyt@lgc.org
James Brown, Tulare County Redevelopment Agency, (559) 733.6291, jbrown@co.tulare.ca.us

Mailings

Mailings can be used to advertise your process, request input, or share information. They can include:

- Mass mailings with response coupons or surveys.
- Brochures inserted into local utility bills.
- Newsletters.
- E-mail announcements.

The types of mailing you use should be based on what you want to accomplish. Mass surveys or opinion mailings work well to broaden the range of participants in the process and can also share information about process scope, timelines, and issues. Newsletters work to keep the public updated on the progress of the process. E-mailed or mailed announcements or brochures are too short to contain detailed information and are best used to publicize the process or an event associated with the process, or to direct residents to locations where they can obtain more information.

Surveys

Surveys are most often used in the beginning of a general plan process to help identify community issues and concerns and to identify residents' opinions about the strengths and weaknesses of their community. A survey can help identify issues to be addressed by the general plan and areas where residents would like more information. Surveys can be designed to provide statistically accurate data or more qualitative responses. Surveys can also be in the form of interviews. In-depth interviews with selected stakeholders may help to supplement the results of a broader written survey.

Surveys can be distributed in a variety of ways, including:

- Mailing them.
- Including them in community newsletters.
- Inserting them in utility bills.
- Printing them in local newspapers.
- Leaving them in city hall or county offices, coffee shops, and other community gathering places.
- Posting them on a website.

One of the criticisms of surveys is that they solicit opinions from a public that may or may not yet understand the issues. Often, educational materials precede or are included with surveys to address this issue. A good survey includes the public early on in the process, broadens the range of those involved by including residents who do not come to meetings, and publicizes the general plan process. A statistically valid survey, while more difficult to conduct, can be very persuasive to decisions-makers and the public.

Data

Providing good, unbiased information will help participants address complicated, emotional issues. Data and information can be presented through issue papers, case studies, reports, and scientific studies. The drawback is that this information is sometimes difficult to understand. Holding a workshop where topic experts explain the issues and answer residents' questions may help increase understanding of complex issues.

Partnerships

Partnerships are valuable ways to build community awareness and enthusiasm for a general plan process. Civic groups can encourage their members to participate, hold informational meetings, and distribute information.

General plan process events can be held in conjunction with other community events. You can set up a booth, distribute surveys, answer questions, and share information about the process.

The media can also be a partner. Media outlets can publicize the process by announcing and reporting on events, discussing the issues, printing educational information, and publishing surveys and their results.

Committees

Committees can be used to provide guidance and information and more intensive involvement in the day-to-day general plan process. They are not a replacement for outreach and activities that require wider representation from the community. Different types of committees can include:

- Focus groups to identify issues and help strategize on outreach efforts.
- Neighborhood associations.
- Task forces developed around the specific issues or elements of the plan.
- Planning advisory committees and technical review committees to provide specialized input.
- A steering committee to provide ongoing policy and process direction and to address any problems that may arise.

Meetings

Identify what you want a meeting's outcomes to be when you are designing it. Do you want community input, such as identifying issues and community needs? Do you want to share information? Do you want feedback?

Think about how you want each meeting to move the process forward. For example, is your meeting intended to help identify the five highest community priorities or is it a meeting to build trust?

Plan meetings at key points during the general plan process based on the desired outcome. Tell participants what the outcome of the meeting is intended to be and how the information from the meeting will be used in the process.

Meetings should be held in a variety of locations to attract different segments of the population. Including refreshments will add to the cost of the meeting but may improve turnout and encourage participants to stay for the entire meeting. Community sponsors may be able to help with refreshments. On-site childcare, while also an additional expense, may allow for the participation of more families, particularly at evening and weekend meetings.

Meeting types can vary depending on purpose, participants, and a variety of other factors. Meeting types include:

- Public hearings.
- Town hall meetings.
- Open houses.
- Panel discussions.
- Neighborhood meetings.
- Focus groups.
- Small in-home meetings.

Workshops and Activities

Workshops can educate community members and help identify community values and issues. Community members who understand the issues can better participate in identifying feasible solutions. Many workshops use interactive activities and games to engage participants. Workshops can also consist of a series of speakers. Examples of activities may include:

Tours to other municipalities to show decision-makers and participants examples from other communities and help them visualize ideas for their community. Organized tours of recent or proposed projects within the community may also provide a good basis of discussion for decision-makers and participants.

Open houses that allow community members to view plan proposals, data, and maps in a casual environment. Open houses can be held at a church, school, community center, local business, or other location easily accessible to the public. Planners should be available to talk informally about the planning process with visitors. Consider having translators present. Open houses can be combined with other tools, such as written or visual surveys.

Visual preference/community image surveys, which can accomplish the same thing as tours but work for larger groups and take less time. These surveys usually consist of pictures of civic buildings, housing, streets, and design elements, which participants rate based on what they like and feel would work in their community. Pictures are a very powerful way to help community members understand the implications of general plan language. The surveys can be adapted to television or video format so community members can take them at their convenience.

Design charrettes and design workshops, which also allow participants to visualize issues and solutions. A charrette is an intensive, interactive design process where the public is part of an interdisciplinary team that can include planners, architects, engineers, and artists. This team meets for several days. They identify issues and needs and produce strategies and implementation documents for complex design and planning projects. While charrettes are often used for specific plans and individual projects, they can also help community members visualize what they want their community to look like. These preferences can then be translated into general plan goals and specifications. Design workshops, like charrettes, engage community members in visual problem-solving, but they are usually short in duration. For more information on charrettes visit www.charretteinstitute.org.

Visioning processes, which bring community members together to identify key community values and goals. The resulting vision statement should provide the broad goals to be achieved by the general plan. A visioning process can occur as part of the general plan process or can happen before the plan process begins. Starting the general plan process with visioning also will help to educate the public about issues facing the community and will lay the groundwork for evaluating plan alternatives.

Interactive games, such as creating physical maps showing where new development or desired community amenities should be built, which can help participants understand issues, appreciate different opinions, and actively participate in problem-solving.

Technology

New technologies are constantly expanding the tools available for public participation. However, technology can be expensive and may not be the right tool for every process. Make sure that using technology adds to the effectiveness of your process. If technology is the right tool for your community but is unaffordable, there may be opportunities for your jurisdiction to partner with a local university, company, or non-profit organization to experiment with innovative technology.

Websites allow for information- and idea-sharing between the process sponsor and participants and among participants themselves. They are also a good way to keep people up to date on the process. Many jurisdictions use their city or county website to post information about the general plan process, such as progress, meeting dates and times, and supporting materials. A city or county may also choose to create a separate website specifically for the general plan process. Online technology offers the opportunity for community members to share ideas and ask questions and can allow for a greater number of people to participate without having to attend meetings or workshops. E-mail can be used to send meeting reminders and updates to the public, as well as to receive input on planning issues. However, not everyone has access to this technology. Always provide information in several different ways; for example, mail out a survey, send e-mails to those with Internet access pointing them to a website where they can fill out the survey, print the survey in the local paper, advertise the website address, and advertise a phone number where residents can call and request that the survey be mailed to them.

Electronic voting technology uses hand-held polling devices so participants can share their opinions with each other in real time at a meeting and give feedback to decision-makers. Some companies market electronic town hall meetings. These meetings use electronic voting and other technology, such as networked laptops, instead of flip charts to share information and opinions more quickly.

Computer simulation and modeling lets the community see how proposed projects and policies would look. This can make new ideas easier to understand and support. Some communities are putting modeling programs on their websites and allowing participants to create and submit scenarios. Many of the modeling programs use a geographic information system (GIS) to map existing conditions. Examples of modeling programs include:

- The Index model, which evaluates proposed changes and their cost and impact on a wide range of issues, including traffic, the environment, energy use, and quality of life. For more information visit www.crit.com/index.
- PLACE^{3}S, which is based on the Index software. It focuses on energy as a measure for how a plan will impact a community's environment and economy. For more information visit www.energy.ca.gov/places.
- CommunityViz, which is an interactive 3-D modeling program that uses planning data to create multidimensional images of proposed plans and alternatives. For more information visit www.communityviz.com.

The U.S. Department of Energy maintains an online database of community design and decision-making tools. To view this database, visit www.ncat.org/comtool. Another useful source of information on these types of tools is www.placematterstools.org.

CHAPTER 9

Implementing the General Plan

All statutory references are to the California Government Code unless otherwise noted.

A good plan goes to waste if it isn't implemented. For its implementation, the general plan primarily relies upon regulations, such as specific plans, the zoning ordinance, and subdivision ordinances, and public project consistency requirements. State law requires cities and counties to have subdivision and building regulations and open-space zoning, while most of the other measures described in this chapter are adopted at the discretion of the city or county. If the objectives, policies, and proposals of the general plan are to be served effectively, implementing measures must be carefully chosen, reflective of local needs, and carried out as an integrated program of complementary and mutually reinforcing actions.

ZONING

Zoning is one of the primary means of implementing a general plan. In contrast to the long-term outlook of the general plan, zoning classifies the specific, immediate uses of land. The success of a general plan, and in particular the land use element, rests in part upon the effectiveness of a consistent zoning ordinance in translating the long-term objectives and policies contained in the plan into everyday decisions.

The typical zoning ordinance regulates land use by dividing the community into districts or "zones" and specifying the uses that are to be permitted, conditionally permitted, and prohibited within each zone. Text and map(s) describe the distribution and intensity of land uses in such categories as residential, commercial, industrial, and open space. On the zoning maps, land uses of compatible intensity are usually grouped together and obnoxious or hazardous uses are separated from residential areas to the extent possible. Written regulations establish procedures for considering projects, standards for minimum lot size, building height and setback limits, fence heights, parking, and other development parameters within each land use zone.

In counties, general law cities, and charter cities with a population of more than two million, zoning provisions must be consistent with the general plan (§65860). Charter cities with a population of under two million are exempt from the zoning consistency requirement unless their charters provide otherwise. An in-depth discussion of zoning consistency can be found later in this chapter under the heading "Consistency in Implementation."

Zoning Tools

The following are some common examples of zoning provisions that can be used to further general plan objectives and policies.

- **Cluster zoning**: A district that allows the clustering of structures upon a given site in the interest of preserving open space. Cluster zones typically have a low standard for gross residential density and a high minimum open-space requirement to encourage the clustering of structures.
- **Conditional use permit (CUP)**: A discretionary permit that enables a city or county to consider, on an individual basis, specific land uses that might otherwise have undesirable effects upon an area and to approve such uses when conditions can be placed on them that would avoid those effects.
- **Design review**: Required review of project design and/or architectural features for the purpose of ensuring compatibility with established standards. It is often used in historic districts or areas that have a distinct character worthy of protection. Design review is a means of enforcing aesthetic standards.
- **Floating zone**: A district described in the zoning ordinance but not given a specific location on the zoning maps until a property owner or developer applies for it. Planned Unit Development (PUD) zoning is a common example of a floating zone. Floating zones can implement development standards established in the general plan.
- **Floodplain zone**: A district that restricts development within delineated floodplains in order to avoid placing people and structures in harm's way and obstructing flood flows. The zone may allow for agricultural, open-space or similar low-intensity uses.
- **Hillside development ordinance**: Provisions regulating development on steep slopes, often by es-

tablishing a direct relationship between the degree of slope and minimum lot size. This can implement specific policies and standards that may be found in the land use, open-space, and safety elements.

- **Mixed-use zoning**: An ordinance provision that authorizes several land uses to be combined in a single structure or project. It is often used for office/commercial/high-density residential projects, such as San Francisco's Embarcadero Center, and increasingly for urban projects that combine ground floor retail/commercial with residential units above.
- **Open-space zoning**: Section 65910 specifically requires the adoption of open-space zoning to implement the open-space element. Similarly, the Timberland Productivity Act (§51100, et seq.) requires local governments with qualifying timberlands to adopt Timberland Productivity Zoning (TPZ) for qualifying timberlands.
- **Overlay zone**: Additional regulations superimposed upon existing zoning in specified areas. Subsequent development must comply with the requirements of both the overlay zone and the base district. Historic districts, airport height restrictions, and floodplain regulations are commonly established by overlay zones.
- **Planned unit development (PUD) zoning**: A type of floating zone designed to provide flexibility in project design and standards. It is usually characterized by comprehensive site planning, clustering of structures, and a mixture of land uses. A PUD can implement specific density, open-space, community design, and hazard mitigation standards contained in the general plan.
- **Specific plan zone**: A district that mandates the preparation of a specific plan prior to development. The specific plan establishes zoning regulations tailored to that site, consistent with the general plan.
- **Transfer of development rights (TDR)**: A device by which the development potential of a site is severed from its title and made available for transfer to another location. The owner of a site within a transfer area retains property ownership but not approval to develop. The owner of a site within a receiving area may purchase transferable development credits, allowing a receptor site to be developed at a greater density. The California Coastal Commission has used this technique to "retire" antiquated subdivision lots in environmentally sensitive areas.
- **Tree preservation ordinance**: Regulations that limit the removal of specified types of trees and require replacement of trees that are removed.

Form-Based Codes

Conventional zoning divides municipalities into a series of mapped districts (zones), and then assigns a permitted use(s) to each zone. Critics of conventional zoning point out that it ignores the importance of design. One alternative to conventional zoning is known as the form-based code. Compared with traditional zoning, a form-based code doesn't focus on specific uses. Instead, you start with a question—what does the community want to look like—and then work back from there.

Physical patterns—the design of buildings, streetscapes, and civic infrastructure are the central issue. Form-based codes control only the most important physical attributes of a group of buildings. This often includes their alignment on a street, the disposition of space between them, and their overall height. Typically, such controls are not expressed as absolutes, but rather as ranges of acceptable values. Form-based codes are more visual in nature and are thus more understandable to the community than complicated zoning regulations.

The emphasis on design encourages mixed-use development and allows uses to evolve as the market changes. One can study older towns and find that in their development over time, land use regulation was secondary to form. The mix of uses has responded to market forces and buildings have changed their uses any number of times since they were built.

A form-based code is a useful implementation measure for achieving certain general plan goals, such as walkable neighborhoods and mixed-use and transit-oriented development. As of this writing, no community in California has entirely replaced its conventional zoning ordinance with a form-based code. However, form-based codes have been used in selected planning areas.

Zoning-Related Statutes

Although local governments have broad discretion in zoning matters, there are a number of state-mandated zoning requirements that directly relate to the general plan. The following summarizes most of the requirements that apply to general law cities, charter cities with a population above two million, and counties:

- **Surplus school sites**: School districts may request the rezoning of certain surplus school sites (§65852.9). The city or county must then zone the site consistently with the general plan. The local government may not rezone surplus school sites to open-space, recreational, or park uses unless surrounding lands are similarly zoned or the school district agrees to the rezoning.
- **Prezoning**: Section 65859 allows a city to prezone adjacent unincorporated territory. The prezoning action is subject to the requirements applicable to zoning in the city, including the requirement for consistency with the general plan. Prezoning has no regulatory effect until the property is annexed to the city. Local agency formation commission (LAFCO) law requires prezoning as part of the annexation process.
- **Interim ordinance**: Cities and counties may enact interim ordinances prohibiting uses that may conflict with a contemplated general plan, specific plan, or zoning proposal (§65858). Interim zoning may be imposed for an initial period of 45 days and extended for up to two years. It can be used effectively when the general plan is being revised or when major rezonings are being undertaken in order to achieve general plan consistency. Local governments should exercise caution when imposing land use controls or moratoriums, even if they are only temporary. Excessive restrictions may constitute a regulatory taking entitling affected landowners to just compensation. City and county officials should consult with their legal counsel to determine what degree of development control is reasonable.
- **Regional housing needs**: Local governments must consider the effects of proposed ordinances on regional housing needs and balance them against the availability of public services, fiscal resources, and environmentally suitable sites. A zoning ordinance limiting the number of new housing units must contain findings regarding the public health, safety, and welfare that justify reducing regional housing opportunities (§65863.6). Pursuant to §65913.1, the local government must zone a sufficient amount of vacant land for residential use to maintain a balance with land zoned for nonresidential use and to meet the community's housing needs as projected in the housing element. In addition, §65863 restricts the ability of a city or county to reduce, through administrative, quasi-judicial, or legislative action, the residential density of any parcel to a density lower than that used by the Department of Housing and Community Development (HCD) in determining compliance with housing element law.
- **Housig develpment projects:** Section 65589.5 restricts cities and counties from disapproving housing development project affordable to very low-, low- or moderate-income households except under certain circumstances. These circumstances include inconsistency with the general plan, specific unavoidable impacts on the public health and safety, and overconcentration of low-income households, among others. This code section further restricts the ability of cities and counties to disapprove or lower the density of a housing development project that is consistent with general plan and zoning standards unless there is an impact on the public health and safety that cannot otherwise be mitigated.
- **Density bonus**: Local governments must provide incentives to developers of specified housing developments. A density bonus and at least one other regulatory incentive must be provided when a developer pledges to set aside specific percentages of the total amount of housing for low- or very low-income residents, seniors, or—for condominium projects only—moderate-income residents (§65915). In return, the developer must reserve these units for this purpose for a certain number of years. Incentives may include a reduction in site development standards or approval of mixed-use zoning. A bonus density must exceed the maximum allowable general plan or zoning density by at least 25 percent.
- **Second units**: Local governments may, by ordinance, provide for the creation of second residential units in single family and multifamily zoning districts (§65852.2). The ordinance may designate areas where second units are permitted, based on specified criteria, as well as impose certain zoning and design conditions. Second unit applications must be considered ministerially without discretionary review or a hearing. A local government cannot adopt an ordinance totally precluding second units unless it makes certain findings. In the absence of any local ordinance, state law provides for the approval of second units that meet the required standards.

SPECIFIC PLANS

A specific plan is a great tool for systematically implementing the general plan within all or a portion of the planning area (§65450, et seq.). Any interested party may request the adoption, amendment, or repeal of a specific plan. A plan may be prepared by either the public or private sector, however, responsibility for its adoption, amendment, and repeal lies with the city council or county board of supervisors. As a legislative act, a specific plan can also be adopted by voter initiative and is subject to referendum.

At a minimum, a specific plan must include a statement of its relationship to the general plan (§65451(b)) and text and diagram(s) specifying all of the following in detail:

- The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.
- The proposed distribution, location, extent, and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
- Standards and criteria by which development will proceed and standards for the conservation, development, and utilization of natural resources, where applicable.
- A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out the provisions of the preceding three paragraphs (§65451(a)).
- Any other subjects that, in the judgment of the planning agency, are necessary or desirable for general plan implementation (§65452).

Requirements Related to General Plan Implementation

Pursuant to §65103, each planning agency shall perform all of the following functions:

- Prepare, periodically review, and revise, as necessary, the general plan.
- Implement the general plan through actions including, but not limited to, the administration of specific plans and zoning and subdivision ordinances.
- Annually review the capital improvements program of the city or county and the local public works projects of other local agencies for their consistency with the general plan, pursuant to Article 7 of the Government Code (commencing with §65400).
- Endeavor to promote public interest in, comment on, and understanding of the general plan and regulations relating to it.
- Consult and advise with public officials and agencies; public utility companies; civic, educational, professional, and other organizations; and the general public concerning implementation of the general plan.
- Promote the coordination of local plans and programs with the plans and programs of other public agencies.
- Perform other functions as the legislative body provides, including conducting studies and preparing plans other than those required or authorized by Title 7 of the Government Code.

After the legislative body has adopted all or part of a general plan, §65400 requires the planning agency to do both of the following:

- Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or elements of the general plan so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and efficient expenditure of public funds relating to the subjects addressed in the general plan.
- Provide an annual report to the legislative body of the city or county, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the plan and progress in its implementation, including the progress in meeting the jurisdiction's share of regional housing needs determined pursuant to §65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of §65583.

A specific plan is especially useful for large projects, as well as for sites with environmental and fiscal constraints. A specific plan may be adopted by resolution (like a general plan) or ordinance (like a zoning ordinance). Some jurisdictions have chosen to adopt the policy portions of their specific plans by resolution and the regulatory portions by ordinance. This enables a city or county to assemble, in one package, a set of land use specifications and implementation programs tailored to the unique characteristics of a particular site.

A regulatory specific plan often has advantages over zoning. A community's control of development phasing provides a good example. The regulatory effects of zoning are immediate, while the provisions of a general plan are long term. If a general plan's implementation is limited to zoning, phasing a long-term development so that it meets the general plan's objectives can be difficult. The one-time adoption of a specific plan that stipulates development timing or schedules infrastructure installation can solve the problem.

Statutory provisions allow streamlined permitting once a specific plan is in place. For example, residential development projects are exempt from CEQA if they implement and are consistent with a specific plan for which an EIR or supplemental EIR has been prepared (§65457).

A specific plan can reduce development costs. For example, the specific plan's land use specifications, in combination with its capital improvements program, can eliminate uncertainties as to future utility capacities and help avoid costly oversizing.

A specific plan must be consistent with the jurisdiction's general plan (§65454). In turn, zoning ordinances, subdivisions (including tentative tract and parcel maps), public works projects, development agreements, and land projects (as defined in Business and Professions Code §11004.5) must be consistent with any applicable specific plan (§65455, §66473.5, §66474(a), §66474.5(b), §66474.61(a), and §65867.5). Furthermore, a special district, school district, or joint powers authority may not carry out its capital improvements program (prepared pursuant to §65403) if the affected city or county finds the program or any part inconsistent with a specific plan. The district or local agency may carry out an inconsistent project only if it explicitly overrules the city's or county's finding (§65403(c)).

A specific plan is prepared, adopted, and amended in the same manner as a general plan, except that it may be adopted by resolution or ordinance and it may be amended as often as the local legislature deems necessary (§65453(a)). A specific plan is repealed in the same manner as it is amended (§65453(b)). To defray the cost of specific plan preparation, a city or county may impose a fee upon persons whose projects must be consistent with the plan. The fee must be prorated according to the benefit a person receives from the specific plan (§65456).

For more information about specific plans, see OPR's publication *The Planner's Guide to Specific Plans*.

SUBDIVISION REGULATIONS

Land cannot be subdivided for sale, lease, or financing in California without local government approval. The Subdivision Map Act (§66410, et seq.) establishes statewide uniformity in local subdivision procedures while giving cities and counties the authority to regulate the design and improvement of subdivisions, require dedications of public improvements or related impact fees, and require compliance with the objectives and policies of the general plan. This includes the authority to approve and design street alignments, street grades and widths, drainage and sanitary facilities, lot size and configuration, traffic access, and other measures "as may be necessary or convenient to insure consistency with, or implementation of, the general plan or any applicable specific plan" (§66418 and §66419).

These regulatory powers can promote the usual array of land use, circulation, open-space, and safety element objectives, policies, and plan proposals. Good subdivision design can encourage pedestrian access, residential street calming, urban forestry, tree preservation, floodplain management, wildland fire safety, and other principles or policies that may be articulated in the general plan.

Subdivisions provide infrastructure that will serve the new lots being created. Local governments can require dedications of public improvements or the payment of in-lieu fees for:

- Streets, alleys, drainage, public utility easements, and public easements. (§66475)
- Local transit facilities, such as bus turnouts, benches, shelters, and landing pads. (§66475.2)
- Bicycle paths. (§66475.1)
- Parks and recreational facilities, if the city's general plan or specific plan contains policies and standards for such facilities. (Quimby Act, §66477)
- School sites (this is actually a reservation with a right to purchase at a later date). (§66478)
- Access to waterways, rivers, and streams. (§66478.11)

- Access to coastline or shoreline. (§66478.11)
- Access to public lakes and reservoirs. (§66478.12)
- Drainage and sanitary sewer facilities. (§66483)
- Bridges and major thoroughfares. (§66484)

No tentative subdivision map or parcel map can be approved unless the city or county finds that the subdivision, together with design and improvement provisions, is consistent with all aspects of the general plan or any applicable specific plan (§66473.5, §66474, and §66474.61). Lot line adjustments must also be consistent with the general plan (§66412). The local government must deny a proposed subdivision if it finds that the proposed subdivision map is inconsistent with the general plan or any applicable specific plan; the design or improvement of the subdivision is inconsistent with the general plan or any applicable specific plan; the site is physically ill-suited for either the type or proposed density of development; or the subdivision's design or types of improvements are likely to cause substantial environmental damage, substantially and avoidably injure fish or wildlife or their habitat, or cause public health problems. Cities and counties must make written findings of fact supported by substantial evidence for each of these matters when deciding upon a subdivision.

The special rules applicable to vesting tentative maps are worth noting, as detailed in §66498.1, et seq. When subdividers receive city or county approval of a vesting tentative map, they also obtain a limited right to develop the subdivision in substantial compliance with those ordinances, policies, and standards (§66498.1(b)) in effect at the time the application was deemed complete (*Kaufman and Broad v. City of Modesto (1994) 25 Cal.App.4th 1577*). If, however, a local agency has initiated formal proceedings to amend applicable plans or regulations prior to the application being deemed complete, the amendments, if adopted, will apply to the vesting map. The local agency may condition or deny building permits for parcels created under a vesting tentative map if the agency determines that a failure to do so would threaten community health or safety or the condition or denial is required by state or federal law. The vesting tentative map law applies to all subdivisions, including commercial and industrial tracts.

CAPITAL FACILITIES

Capital facilities must be consistent with the general plan (*Friends of B Street v. City of Hayward (1980) 106 Cal.App.3d 988*). The network of publicly owned facilities, such as streets, water and sewer facilities, public buildings, and parks, forms the framework of a community. Although capital facilities are built to accommodate present and anticipated needs, some (most notably water and sewer facilities and roads) play a major role in determining the location, intensity, and timing of development. For instance, the availability of sewer and water connections can have a profound impact upon the feasibility of preserving agricultural or open-space lands.

The general plan should identify existing capital facilities and the need for additional improvements. The circulation element is the most obvious place to address infrastructure issues, but it is not the only element where capital improvements come into play. For example:

- The housing element implementation program must identify adequate sites for various housing types based in part on public services and facilities.
- The safety element must "address evacuation routes, peakload water supply requirements, and minimum road widths...as those items relate to fire and geologic hazards" (§65302(g)).
- The land use element must include education-related land uses, open-space for recreation, public buildings and grounds (the placement of public buildings may play an important role in urban design), and solid and liquid waste disposal facilities.
- The open-space element may consider "open-space for outdoor recreation...areas particularly suited for park and recreation purposes" (§65560(b)(3)). It may also address open-space areas for protecting water quality and for water reservoirs.
- The conservation element can address flood control measures and is required to be developed in coordination with any countywide water agency and with all district and city agencies that have "developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared" (§65302(b)).

Local governments can underscore their interest in public services and facilities by adopting an optional public facilities element, as is discussed in Chapter 6. According to OPR's 1997 local government survey, nearly 20 percent of cities and counties have some form of public facilities element in their general plan.

Each year, the local planning agency is required to "review the capital improvement program of the city or county and the local public works projects of other local agencies for consistency with their general plan" (§65103(c)). To fulfill this requirement, all departments within the city or county and all other local govern-

mental agencies (including cities, counties, school districts, and special districts) that construct capital facilities must submit a list of proposed projects to the planning agency (§65401).

In lieu of considering individual projects or only those projects to be undertaken in a single year, many cities and counties prepare and annually revise a 5- to 7-year capital improvement program (CIP). The CIP projects annual expenditures for acquisition, construction, maintenance, rehabilitation, and replacement of public buildings and facilities, including sewer, water, and street improvements; street lights; traffic signals; parks; and police and fire facilities. In rapidly developing areas, a CIP coordinated with a general plan can help shape and time growth according to adopted policies. In an older city with a declining tax base and deteriorating capital facilities, a CIP can help stimulate private investment or stabilize and rehabilitate older neighborhoods by demonstrating a public commitment to the provision of key public facilities on a predetermined schedule.

Many federal grant programs, including those under the Clean Air Act and the Transportation Equity Act for the 21st Century (TEA 21), require or promote consistency between federally assisted capital projects and local, regional, and state plans. For example, the Clean Air Act requires that the population projections used in planning capital facilities conform to the assumptions contained in the regional air quality management plan adopted as part of the State Implementation Plan (SIP) when federal funding or approval is sought. The federal government gives priority to implementing those programs that conform to the SIP and will not fund those that do not.

Capital improvements also have regional implications. The growing interrelatedness of planning issues among local governments applies directly to local capital improvement projects. The location of major roads, sewer facilities, water trunk lines, and emergency service buildings within the city or county can affect surrounding communities by encouraging or deflecting the direction of growth. Although the LAFCO exists to encourage the orderly provision of services within cities and special districts, it is seldom an effective substitute for every city and the county consulting and cooperating with its neighbors.

REDEVELOPMENT

State community redevelopment law (Health and Safety Code §33000, et seq.) authorizes cities and counties to carry out redevelopment projects in blighted areas. Redevelopment is one of the most powerful tools available to a local government for implementing its general plan, and particularly its land use and housing elements. Where the private sector alone is unable or unwilling to assemble land and invest the necessary capital for revitalizing blighted areas, redevelopment is a means of focusing resources to transform a deteriorating area into a healthier part of the community.

The city or county planning commission must review a redevelopment plan before it is adopted by the city council or board of supervisors. The law requires that a city or county have an adequate general plan before it adopts a redevelopment plan. Any redevelopment plan must conform to the adopted general plan (Health and Safety Code §33302 and §33331). A redevelopment plan must include, among other things, plans for streets, buildings, and open space; a statement of the effect of the plan on existing residents of the area; a description of the proposed financing methods; and a plan for the participation of affected property owners.

Only predominantly urban areas that are physically and economically blighted qualify for inclusion in a redevelopment area. “Physical blight” includes any of the following: unsafe or unhealthy buildings; factors that prevent or hinder economically viable use of buildings or lots; proximate incompatible uses that prevent economic development; or lots of irregular shape and form in multiple ownership that are not useful or developable. “Economic blight” includes one of the following: depreciated or stagnant property values or impaired investments, abnormally high business vacancies, low lease rates, high turnover rate, abandoned buildings or excessive numbers of vacant lots, a lack of necessary commercial facilities, residential overcrowding or an excess of bars and liquor stores, or a high crime rate.

Agricultural and open-space lands that are enforceably restricted, such as land enrolled in Williamson Act contracts, may not be included within a redevelopment project area. Nonrestricted agricultural land larger than two acres may not be included unless specified findings are made. If a project area contains agricultural land, the project’s draft EIR must be circulated to the Department of Conservation, specified agricultural entities, and general farm organizations (Health and Safety Code §33333.3(b)).

Redevelopment agency powers may be put to use to meet land use element objectives, such as revitalizing a depressed urban center. Within the project area, the agency may acquire land, manage property, relocate people and businesses, prepare sites, build facilities, sell land, and rehabilitate buildings and structures. A redevelopment agency may acquire land by purchase,

lease, or gift or by eminent domain (Health and Safety Code §33391). It may construct public improvements alone or in cooperation with other public authorities (Health and Safety Code §33421). It may clear and grade land for lease or resale to people who agree to develop the land in accordance with the redevelopment plan (Health and Safety Code §33432). The agency is required to prepare a relocation plan for people and local community institutions that a redevelopment project temporarily or permanently displaces (Health and Safety Code §33411).

Redevelopment agencies also have the power to improve and develop housing. Thus, agency funding can play a crucial role in meeting regional fair share housing needs. Each redevelopment agency is required to set aside 20 percent of its tax increment revenues in a special Low and Moderate Income Housing Fund (L&M Fund) unless the agency makes certain findings. Reports filed with HCD for fiscal year 1995-96 indicated that ending balances in L&M Funds statewide totaled over $515 million. These funds can be an important source of financing for housing element initiatives.

Most redevelopment agencies rely primarily on tax increment financing to fund their activities. The tax increment is the growth in property tax revenue above the level that existed prior to creation of the redevelopment area. The increased margin or increment of tax revenues from subsequent improvements goes to the redevelopment agency instead of being turned over to the usual taxing agency (i.e., city, county, or special district). This lasts until the project is completed and any project bonds repaid.

In addition to using tax increment financing, the agency may accept loans or grants from agencies of the federal government, state government, or any other public agency. One of the main funding sources for redevelopment has been the federal Community Development Block Grant program.

DEVELOPMENT AGREEMENTS

A development agreement is a contractual agreement between a city or county and a developer that identifies vested rights that apply to a specific development project. By its nature, it offers opportunities for a city or county to assure that general plan objectives, policies, and plan proposals will be implemented as development occurs within an area.

A development agreement provides that, for a specified time period, the rules, regulations, and policies that are applicable to a particular development will not change. This gives developers who have otherwise yet to attain a vested right to develop a degree of assurance that their project preparations will not be nullified by some future local policy or regulation change (e.g., the rezoning of a commercial project site to residential), with limited exceptions. In exchange for the privilege of a regulation "freeze," the city or county usually will obtain certain concessions from the developer. For example, the developer might provide extra affordable housing, open space, or public facilities.

Development agreements must specify the duration of the agreement, the permitted uses of property, the density or intensity of use, the maximum height and size of proposed buildings, and the provisions for reservation or dedication of land for public purposes (§65865.2). In addition, development agreements may include the conditions, terms, restrictions, and requirements for subsequent discretionary actions; provide that such stipulations shall not prevent development of the land with regard to the uses, densities, and intensities set forth in the agreement; specify the timing of project construction or completion; and set forth the terms and conditions relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

One advantage of development agreements is that the developer may be asked to obligate the project to improvements that exceed the usual legal limits on exactions. The limits do not apply when the developer has voluntarily entered into a contract with the city or county. A disadvantage of development agreements is that a city or county may be unable to respond to a changing market or apply new regulations to a project that is controlled by a long-term development agreement.

A city can enter into a development agreement covering unincorporated territory that is within its sphere of influence. This allows for planning in advance of an annexation. Such an agreement is not operative unless annexation proceedings are completed within the period of time specified by the agreement (§65865). If territory covered by a county development agreement becomes part of a newly incorporated city or is annexed to a city, the agreement is valid for its original duration or eight years from the date of incorporation, whichever is earlier.

It is important to stipulate the existing rules, regulations, and policies that will be subject to a development agreement. In the absence of such specification, all development rules, regulations, and official policies noted in §65866 that are in force upon the execution of a development agreement will be frozen. This could result in unanticipated consequences for both a developer and a city or county. A detailed specific plan prepared and adopted prior to a development agreement is one way to specify development details for a

site, including the regulations and policies that would apply under the development agreement. Specific plan preparation can also facilitate further citizen participation in planning a development.

BUILDING AND HOUSING CODES

A community's building and housing codes implement primarily the land use, housing, noise, and safety elements. Building and housing codes have their greatest effect on new construction and rehabilitation, but certain parts of the codes apply to the use, maintenance, change in occupancy, and public health and safety hazards of existing buildings.

State housing law (Health and Safety Code §17910, et seq.) requires cities and counties to adopt regulations imposing substantially the same requirements as those contained in the various uniform industry codes: the Uniform Housing Code, the Uniform Building Code, the Uniform Plumbing Code, the National Electrical Code, and the Uniform Mechanical Code. State housing law applies to buildings such as apartments, hotels, motels, lodging houses, manufactured housing, and dwellings but not to mobilehomes. In addition to meeting the requirements of state housing law, local codes must also comply with other state requirements related fire safety, noise insulation, soils reports, earthquake protection, energy insulation, and access for the disabled.

State law allows a city or county, when adopting the uniform codes, to make such changes "as it determines ... are reasonably necessary because of local climatic, geological or topographical conditions" (Health and Safety Code §17958.5). Further, the local building department can authorize the use of materials and construction methods other than those specified in the uniform codes where the department finds the proposed design satisfactory and the materials or methods at least equivalent to those prescribed by the uniform codes with regard to performance, safety, and the protection of life and health (Health and Safety Code §17951). These provisions can be used to promote the construction of affordable housing and the rehabilitation of substandard housing.

Other provisions are particularly useful where a community intends to encourage historic preservation. Health and Safety Code §17958.8 allows the use of original materials and construction methods in older buildings. Health and Safety Code §17980(b)(2) requires local enforcement agencies to consider needs expressed in the housing element when deciding whether to require abandonment or repair of a substandard dwelling. In the reconstruction of older buildings that would be hazardous in the event of an earthquake, the law allows cities and counties to use building standards that provide for the protection of the occupants but that are less rigorous in other respects than current building standards (Health and Safety Code §19160, et seq.).

Code enforcement and abatement procedures are another means of implementing the general plan, particularly the housing and safety elements. Various state laws and regulations spell out abatement procedures that local government may enforce upon buildings that, because they are substandard or unsafe, constitute a public nuisance. The most common procedures involve citation and misdemeanor action on the part of the city or county to mandate abatement by repair, abandonment, or demolition.

ACQUISITION

City and county acquisition of real property rights can help to implement the plan proposals of the land use, circulation and open-space elements. In implementing the land use element, cities and counties may acquire land designated for government offices, police and fire stations, parks, access easements, etc., or for public purposes such as urban redevelopment. With regard to the circulation element, local governments may acquire land for public rights-of-way (e.g., streets, sidewalks, bicycle paths, etc.), transit terminals, airports, etc. Cities and counties may advance open-space element policies and proposals through the acquisition of open-space and conservation easements.

Open-space acquisition has some advantages over purely regulatory approaches to implementation, such as zoning. Ownership ensures that the land will be controlled by either the city or county or another public agency. Acquiring an open-space or conservation easement rather than full ownership ensures that development will be limited, while the private landowner who continues to hold the underlying rights is compensated for lost development opportunities. This avoids the question of whether regulatory limitations have unconstitutionally "taken" private property without just compensation.

The primary disadvantage to acquisition is its cost. Land often is expensive, particularly when urbanization is imminent or where the supply of potentially developable land is limited Funding sources, such as taxes and assessments, are limited in this post-Proposition 13 and post-Proposition 218 environment. A successful acquisition program often involves the resourceful blending of several funding sources.

Acquisition can take various forms. An overall program can be tied to general plan consistency or a capi-

tal improvements program. A city or county, in consultation with its legal counsel, may wish to consider the following:

- **Fee simple absolute interests**: A fee simple absolute estate in land consists of all the real property interests associated with the land, including the rights to sell, lease, and develop the property. Consequently, fee simple absolute ownership entitles a city or county to develop or not develop the land as it chooses.
- **Easement interests:** An easement consists of a portion of the rights to real property, such as the right to travel over the property or the right to build structures. The seller retains all property rights not stipulated in the easement. Travelways and open space are the two most common uses of easements.
- **Leasing:** The lessee possesses and occupies leased real property for a determinable time period, although the landlord retains full ownership. A city or county may lease land from a property owner for access purposes, open-space preservation, etc.
- **Lease-purchase agreements**: Real property may be leased by a city or county and rental payments may be put toward purchasing the property. If a local jurisdiction does not have enough capital to buy the land outright, the lease-purchase method can spread payments over time.
- **Purchase and resale or lease**: Once a city or county has purchased a parcel of land or the parcel's development rights, the jurisdiction may preserve open space (or otherwise control land use) by selling the land or the development rights with deed restrictions specifying permitted land uses. A local jurisdiction may also lease property subject to a rental contract specifying permitted uses. These techniques enable the jurisdiction to recover at least a portion of its purchasing expenses.
- **Joint acquisition**: Two or more local governments may combine their funding resources to acquire joint ownership of real property rights. Joint acquisition allows local governments to share the financial burden of purchasing land.
- **Land swapping**: Local governments may exchange some of their land for parcels owned by private landowners or other jurisdictions in order to obtain desirable open space, park sites, etc.
- **Eminent domain**: Eminent domain involves the compensated taking of property for a public use or purpose, such as the acquisition of open space for a city greenbelt. This may include fee simple interest and less-than-fee interests such as easements. An owner whose property is taken is entitled to receive just compensation through the payment of fair market value for the loss (California Constitution, Article I, §19). Cities and counties are authorized to exercise the power of eminent domain (§25350.5 for counties and §37350.5 for cities) in accordance with eminent domain law (Code of Civil Procedure, §1230.010 to §1230.020).

PREFERENTIAL PROPERTY TAX ASSESSMENTS

Preferential assessment programs provide landowners an economic incentive to keep their land in agricultural, timber, open-space, or recreational use. This can help implement the land use, open-space, and conservation elements by protecting areas designated for such uses from premature development. State law provides local governments with several preferential assessment programs, the most common of which are discussed below.

Williamson Act

The Legislature enacted the California Land Conservation Act (§51200, et seq.) in response to the rapid loss of agricultural land in areas of increasing land values. Typically, as development approaches an agricultural area, the price of land is driven upward by owners and buyers speculating on the future development potential of the land. The increase in prices leads to a corresponding increase in the assessed value of the land and to the owner's property taxes. At some point, the increased tax burden makes it uneconomical to continue farming and encourages the sale of the land for development.

The Williamson Act allows counties and cities to establish agricultural preserves and to assess agricultural and open-space land on the basis of its agricultural, rather than market, value. Owners of qualified land located in an agricultural preserve contract with the county or city to continue agricultural or compatible activities for a period of at least ten years. The state annually reimburses the local agency for a portion of its resultant tax losses.

A Williamson Act contract automatically renews itself each year. Termination of the contract may be accomplished by one of three methods. The landowner or local government can file a notice of "nonrenewal." The notice halts the yearly contract renewal, resulting in its expiration at the end of ten years. Alternatively, a local government may immediately cancel a contract after making certain strict findings. Such a cancellation requires the owner to pay penalty fees. A contract

may be rescinded without penalty when the city or county has entered into an agreement with the landowner to simultaneously place an equal or greater amount of equally suitable agricultural land into an agricultural conservation easement (§51256). The value of the proposed conservation easement must be at least 12.5 percent of the land subject to contract rescission and other restrictions apply. Nonrenewal is intended to be the normal route for ending a Williamson Act contract. Cancellation is meant to be reserved for special circumstances (*Lewis v. City of Hayward (1986) 177 Cal.App.3d 103*) and rescission is intended to provide more flexibility.

Williamson Act contracts are voluntary, which is both their greatest strength and weakness. On the positive side, voluntary contracts lessen the potential for litigation over the uncompensated taking of land that is sometimes alleged when land uses are restricted. Also, because the owner is directly involved in entering the program, responsibility is imparted to the landowner for ensuring that the program works. On the other hand, the potential profits anticipated from future development on the urban fringe may outweigh the tax advantages of the contract. Thus, in the very areas where it could be most effective in preventing the premature conversion of farmland, there are strong economic incentives not to join the program.

In 1998, in response to the perceived weaknesses of the Williamson Act program, the Legislature added additional nonregulatory protection in the form of farmland security zones for specific classifications of farmland, including prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance. Land can be entered into a farmland security zone contract for a 20-year term rather than the 10-year term of Williamson Act contracts. During this time, the land is assessed at 65 percent of either its Williamson Act valuation or its Proposition 13 valuation, whichever is lower, rather than on the actual use of the land for agricultural purposes as is required under the Williamson Act. Cities and special districts that provide non-agricultural services are generally prohibited from annexing land enrolled under a farmland security zone contract, with certain exceptions. Additionally, contracted land cannot be used for school facility purposes or acquired by school districts. Farmland security zone contracts also provide that any voter-approved special taxes levied after January 1, 1999, for urban-related services be levied upon the contracted land or the trees, vines, or crops on the land at a reduced rate, unless the urban service directly benefits the land or living improvements.

For more information on the Williamson Act and farmland security zone contracts, contact the Department of Conservation's Division of Land Resource Protection at (916) 324-0850 or go to their website at www.conservation.ca.gov/dlrp.

Timberland Productivity Act

The Timberland Productivity Act of 1982 requires all counties and cities with productive private timberland to establish timberland production zones (TPZs) to discourage the premature conversion of timberland to other uses (§51100, et seq.). The land use element must reflect the distribution of existing TPZs and have a land use category that provides for timber production. A city or county also may use TPZs to implement the conservation element's timber resource provisions.

Patterned after the Williamson Act, TPZs are rolling 10-year contracts that provide preferential tax assessments to qualified timberlands. Under this program, assessments on timber are based on the value of the timber at the time of harvest rather than on the market value of standing timber. Assessment of zoned timberland is based on a statutory value of land that is related to site capability and is annually indexed to changes in the periodic immediate harvest value.

During the first two years of the Act, local governments could adopt TPZs on qualified parcels without approval of the property owner, provided that statutory procedures were followed. Currently, additions to local programs are limited to requests from property owners. Subject to approval by the local legislative body, land may be removed from a TPZ by rezoning. The effective date of the new zone generally must be deferred until expiration of the 10-year restriction. However, the local legislative body may, under special circumstances, approve immediate rezonings.

The Timberland Productivity Act did not rely on voluntary inclusion during its beginning stages. This was advantageous because restrictions could be applied in a more comprehensive manner than Williamson Act contracts and could provide coherent preserves of timberland. The primary disadvantage is that there is greater potential for conflict between property owners and local governments over the designation of lands.

Conservation, Open-Space, and Scenic Easements

State law provides several means of conserving open space through easements. Easements are attractive because they are less expensive than full-fee rights, can be more effective than zoning, do not displace property owners, and may yield property or inheritance tax

Examples of Transportation System Management Techniques

Listed below are various transportation system management (TSM) techniques aimed at improving the efficiency of circulation on highway and transit systems by improving flow, reducing congestion, and increasing the carrying capacity of existing facilities. Caltrans has divided these techniques into seven categories, each containing particular measures that may be applied to specific TSM cases.

Programs to Improve Traffic Flow
- Signalization
- Traffic signal synchronization
- One-way streets
- Changeable message signs
- Computerized traffic systems
- Integrated single-system traffic operations systems
- Reversible lanes
- Ramp meters
- Intersection widening

Provision for Pedestrians, Bicycles, and the Disabled
- Bicycle lanes/paths
- Bicycle storage
- Pedestrian and/or transit malls
- Pedestrian signals
- Bicycle-actuated signals
- Bicycle/transit integration
- Weather- and theft-resistant bicycle parking facilities at places of employment, shopping areas, etc.
- Shower and locker facilities at places of employment for bicycling employees
- Universal access improvements

Actions to Reduce Motor Vehicle Use
- Carpool/vanpool matching program
- Carpool public information
- Carpool/vanpool incentives
- Neighborhood ridesharing
- Highway surveillance
- Subsidized rideshare vehicles
- Guaranteed ride home for carpoolers, transit riders, etc.
- Transportation management associations
- Inter-city urban commuter rail

Preferential Treatment for Transit and Other High-Occupancy Vehicle (HOV) Strategies
- Exclusive highway bus or bus/carpool lanes
- Contra-flow HOV lanes
- Reserved lanes or dedicated streets for buses and HOVs
- Bus turnouts
- Bus-actuated signals
- Ramp meter bypass lanes for HOVs

Changes in Work Schedules, Fares, and Tolls
- Work hour management (compressed work week, flexible work hours)
- Transit/HOV bypass at toll plazas
- Bus fare restructuring/subsidies
- Telecommuting

Improved Public Transit
- Feeder services improvements
- Demand responsive system
- Shelters and other passenger amenities
- Rehabilitated/expanded bus fleet
- Passenger information system improvements
- Transit marketing

Management/Control of Parking
- On-street parking controls
- Increased parking fees
- Park-and-ride facilities
- Preferential parking for carpools/vanpools
- Residential permit parking
- Removal of on-street parking
- Strict enforcement of on-street parking codes
- Graduated parking fees with higher fees for single-occupant vehicles
- Metered on-street parking

advantages to the grantor. Recording the easement in the office of the County Recorder places future owners on notice of the easement's provisions.

The Conservation Easement Act (Civil Code §815-§816) enables a local government or a non-profit organization to acquire perpetual easements for the conservation of agricultural and open-space lands and for historic preservation. Granting of a conservation easement may qualify as a charitable contribution for tax purposes. The easement may also qualify as an enforceable restriction for purposes of preferential assessment.

The Open-Space Easement Act of 1974 (§51070-§51097) authorizes local governments to accept easements granted to them or to non-profit organizations

for the purpose of conserving agricultural and open-space lands. These easements are established for a 10-year period and renew annually. They must be consistent with the general plan and are considered enforceable restrictions of land under a preferential taxation program. The local government is prohibited from granting building permits for land subject to such easements. Procedures for termination by nonrenewal and by abandonment are set out in statute.

The Agricultural Land Stewardship Program (ALSP) Act of 1995 (Public Resources Code §10200-§10277) authorizes the Department of Conservation to provide grants to local governments and qualified non-profit land trusts to assist in the voluntary acquisition of agricultural conservation easements. In order to be eligible for consideration, the ALSP requires that a parcel be large enough and be located in an area that is conducive to sustained commercial agricultural production. In addition, the local government within whose jurisdiction the parcel is located must support the easement acquisition and have a general plan that demonstrates a long-term commitment to agricultural land conservation. Finally, there must be evidence that without protection, the parcel is likely to be converted to a nonagricultural use in the foreseeable future.

There are other noteworthy open-space provisions in the Government Code. The Scenic Easement Deed Act (§6950-§6954) authorizes a local government to purchase fee rights or scenic easements but does not promote a specific mechanism for obtaining them. Sections §65870 through §65875 enable local governments to adopt an ordinance for the purpose of establishing open-space covenants with property owners. These are deed restrictions regulating land uses.

LAND TRUSTS

A land trust is a private non-profit organization established for the purpose of preserving or conserving natural resource and agricultural lands through acquisition. A city or county may establish cooperative policies with a local land trust or one of the national trusts, such as the Nature Conservancy, the Trust for Public Land, or the American Farmland Trust, to promote the objectives and policies of the land use, open-space, conservation, and safety elements of its general plan.

Land trusts, whether local, statewide, or national, are often funded through membership dues and donations from individuals, businesses, and foundations. Working in cooperation with landowners and governmental agencies but outside of the structure of government, a land trust can quickly, flexibly, and confidentially obtain land or development rights that would otherwise enter the open market. In many cases, particularly where natural lands are being preserved, after obtaining the land or development rights the trust transfers its rights to a governmental agency at below-market rate for the agency to manage.

TRANSPORTATION SYSTEM MANAGEMENT

Transportation system management (TSM) is a means of improving the efficiency of the existing transportation system through more effective utilization of facilities and selective reduction of user demand. TSM strategies, either individually or as a package of supportive programs, attempt to reduce existing traffic congestion and vehicle miles traveled and increase the person-carrying capacity of the transportation system. Other benefits of TSM include improved air quality, conservation of energy resources, reduction of new transportation and parking facility needs, and prolonged life of existing transportation facilities.

Generally, TSM strategies cost less than traditional capacity-increasing capital projects. To achieve the highest degree of success, transportation and planning agencies, transit providers, developers, and employers should all coordinate in the planning and implementation of TSM.

TSM policies can be used to help correlate the land use and circulation elements by assuring that planned street and highway capacities will adequately accommodate traffic generated by planned land uses. TSM programs that discourage single-passenger car commutes and that promote flexible hours at places of employment may improve the levels of service of area streets and highways by reducing peak-hour flows. If a jurisdiction's conservation element includes clean air or energy conservation policies, such provisions may be implemented through TSM programs that reduce motor vehicle trips and thereby air pollution and energy use.

INFRASTRUCTURE FUNDING MECHANISMS

The timing, type, and quality of development is often directly related to the availability of infrastructure and public services. The principal funding sources for local government infrastructure are taxes, benefit assessments, bonds, and exactions (including impact fees). The following discussion briefly describes each of these. For more information, consult *A Planner's Guide to Financing Public Improvements*, published by OPR.

Taxes

Taxes are either general or special. A general tax, such as the ad valorem property tax (which is capped at one percent of assessed valuation by Proposition 13), a utility tax, or a hotel tax, is collected and placed in

the city's or county's general fund. General taxes are not dedicated to any specific purpose and are usually imposed to pay for capital improvements or services that will used by the entire community.

A special tax is a non-ad valorem tax that is either levied by a city or county and dedicated to a particular use or levied by a special district (e.g., a school district a transit district, etc.) to finance its activities. Special taxes often finance specific projects or services, such as flood control or ambulance service.

The Mello-Roos Community Facilities Act of 1982 authorizes a special tax that is primarily intended and commonly used to finance the infrastructure needs of new development. Under the Mello-Roos Act, cities, counties, and special districts create "community facilities districts" and levy special taxes within those districts to finance new public improvements, police and fire protection, and school construction (§53311, et seq.). The Mello-Roos Act also authorizes the issuance of bonds.

Proposition 218, approved by voters in November 1996, requires a popular election in order to levy a local general tax (with a simple majority needed for approval) or a special tax (with a two-thirds majority needed for approval). It also requires a simple majority election in order to levy certain service fees, although generally not development impact fees.The effect of Proposition 218 on local financing has been profound. Prior to its passage, an election usually was not required in order to impose or increase taxes, so a jurisdiction could more easily raise needed revenue.

Benefit Assessments

Benefit assessments (also known as special assessments) are among the oldest techniques for financing the construction and maintenance of such physical improvements as sidewalks, sewers, streets, storm drains, lighting, and flood control that benefit distinct areas. Most of the numerous assessment acts authorize the use of bonds, paid for by an assessment.

Unlike general taxes, benefit assessments are not subject to a two-thirds vote requirement. Instead, as a result of Proposition 218 or 1996, a proposed assessment is subject to a ballot procedure that enables property owners to reject the proposal by majority protest among those returning ballots. Property owners' ballots are weighted: those who would pay a larger assessment have a greater vote.

A benefit assessment cannot be levied on a parcel that does not receive a direct benefit from the improvement or service being financed. The amount assessed to a parcel is strictly limited to the pro-rata share of benefit being received. The improvement must provide a special benefit to each assessed parcel, above and beyond any general benefit that might accrue.

Proposition 218 created important limitations on the use of benefit assessments. Prior to levying any such assessment, OPR recommends reviewing Proposition 218 and any implementing statutes. For more information, see the following sources: *Proposition 218 Implementation Guide* (League of California Cities, 1997), *Understanding Proposition 218* (Office of the Legislative Analyst, 1996), and *A Planner's Guide to Financing Public Improvements* (OPR, 1997).

Bonds

Cities, counties, school districts, and other districts may issue general obligation (G.O.) bonds for the acquisition or improvement of real property, such as buildings, streets, sewers, water systems, and other infrastructure, upon approval by two-thirds of the voters casting ballots. G.O. bonds are secured by local governments' ability to levy property taxes but may also be repaid from other revenue sources as available.

Revenue bonds are secured by the future revenues of the facility or enterprise they are financing. Stadiums, wastewater treatment facilities, and parking facilities are three examples of the types of revenue-producing facilities that are commonly financed by revenue bonds. The Revenue Bond Law of 1941 (§54300, et seq.) provides for a source of funds for the construction of hospitals, water facilities, sewer plants, parking facilities, bridges, auditoriums, and other such public facilities. Because revenue bonds are secured by the proceeds from the enterprise they fund, they generally carry higher interest rates than general obligation bonds.

Lease revenue bonds are a similar tool. Instead of being issued by the city or county, lease revenue bonds are issued by a non-profit corporation or a special authority that constructs a facility and leases it to the city or county. Lease payments provide the revenue to pay off the bond. When the bond is retired, the facility is turned over to the city or county. Some local agencies have used this method to finance administrative centers and schools.

Exactions

Exactions are dedications of land, improvements, or impact fees imposed on new development to fund the construction of capital facilities. They cannot be used for operations and maintenance. The authority to impose exactions on development derives from the police power and statute. An exaction is levied to finance a specific activity, facility, or service and can only be levied once, at the time of project approval.

Exactions may only be imposed where they will advance a legitimate state interest (e.g., health, safety, and welfare issues, such as smooth traffic flow, availability of recreational facilities, sewer and water service, etc.) and are necessary to mitigate the adverse impact to that interest that would otherwise result from the project (*Nollan v. California Coastal Commission (1987) 107 S.Ct. 3141*). This principle is reflected in the Mitigation Fee Act (§66000, et seq.), which lays out the groundrules for imposing development impact fees and other exactions.

While the general plan may form a policy basis for exactions, keep in mind that it does not preempt constitutional limits on regulatory "takings" or enable any exaction that would conflict with state law. The *Nollan* decision established that there must be a nexus between the exaction and the state interest being advanced. The U.S. Supreme Court, in *Dolan v. City of Tigard (1994) 114 S.Ct. 2309,* added a second step to the analysis: there must be a "rough proportionality" between the exaction being imposed and the relative need created by the project. Reducing *Dolan* to its simplest terms, the court overturned the city's requirements for bicycle path and floodway dedications because they were out of proportion to the impact on flooding and the contribution to bicycle traffic that would have resulted from the proposed expansion of a plumbing supply store, even though Tigard's comprehensive plan contained definitive policies relating to such dedications.

The California Supreme Court clarified the *Nollan* and *Dolan* principles in *Ehrlich v. City of Culver City (1996) 12 C4th 854*. The court made two key points:

1. Developers who wish to challenge a development fee on either statutory or constitutional grounds must do so under provisions of the Mitigation Fee Act (§66020).
2. The two part *Nollan/Dolan* test applies only to ad hoc fees and dedications of land (as opposed to legislatively enacted fee ordinances). The "rough proportionality" component does not apply to legislatively enacted fees, such as Culver City's Art in Public Places (here the court also held that this ordinance, which was enacted to enhance aesthetics, was a reasonable use of the city's police power under *Nollan*).

In some jurisdictions, where development may adversely affect the availability of low- and moderate-income housing, exactions are levied upon developers to finance the construction of sufficient housing to alleviate that impact. San Francisco, for example, has an inclusionary housing program that mandates the construction of affordable housing or payment of in-lieu fees in accordance with a prescribed formula, which links projected employment to the number of housing units, as a condition of new downtown office development.

Public Needs and Private Dollars, by William Abbott, Marian E. Moe, and Marilee Hansen (see the Bibliography) discusses the legal basis for development exactions and offers practical, California-specific advice about calculating and imposing them.

Privatization

Recent years have seen a growth in the popularity of privatization--the use of private contractors or private ownership--to provide local services, such as garbage collection, fire protection, and street maintenance. Although not strictly a financing measure, privatization is a strategy that can help stretch limited public funds. Privatization has certain advantages: local governments need not purchase and maintain specialized machinery, personnel for specialized or seasonal tasks need not be maintained on salary, and the costs to local governments of providing services may be reduced. It also has disadvantages: special skills are needed to establish and manage the contract with the private-service provider, quality is beyond the direct control of the local government and elected officials, and, if it is necessary to replace the contractor, residents may face a period of interrupted service.

TRANSPORTATION FINANCING METHODS

Caltrans' Division of Transportation Planning has provided the following descriptions of general categories and examples of measures to generate additional funds for transportation projects:

- Business license taxes, which are often based upon gross receipts or number of employees, since business activity and employment concentration affect traffic congestion. San Francisco has used this method to provide funds for the operation of its municipal railway.
- Parking regulations, such as neighborhood parking stickers, parking meters, and daily tickets, which can bring in substantial funds in urban areas. These revenues can be used for a variety of local transportation programs.
- Transportation impact fees (also called traffic impact mitigation fees, system development charges, and adequate public facilities fees) based upon the traffic projected to be generated and/or the cost estimates of public transportation facilities necessitated by development. In the Westchester area of

Los Angeles, a one-time fee is collected for each p.m. peak-hour trip generated by new commercial and office development to cover needed areawide improvements. In Thousand Oaks, the city requires traffic mitigation fees to pay for signals, the cost of paving adjacent arterials, and off-site improvements, all of which are made necessary by the traffic resulting from new development. To offset development impacts on the local transit system, San Francisco charges a transit impact fee based on building square footage.

- Airspace leasing, which taps the value of public rights-of-way in urban areas. A governmental agency may capitalize on that value by leasing to the private sector unoccupied space over, under, or within the right-of-way. This has been used for a variety of purposes, including parks, parking lots, cellular communications, office buildings, restaurants, and public facilities.
- Public/private partnerships, development agreements, and cost-sharing, which involve developing agreements between the private and public sectors that split responsibilities for the cost of infrastructure provision, operation, and maintenance. This technique tends to be more flexible and less bound by legal constraints than other measures.
- Privatization, which may reduce or eliminate the need for public funds for transportation infrastructure if the prospect of profit exists. California's first modern toll roads were built in Orange County by private funds. Private provision of transit services is becoming more common as it is connected to specific developments. Individual developers and employers have designed and initiated traffic mitigation programs, such as traffic flow improvements, flexible work hours, and bicycle facilities. In addition, recent trends show groups of developers, employers, and businesses banding together in transportation management associations to address mutual traffic concerns in a specific area and developing programs such as those mentioned above. Such measures have been established in the cities of El Segundo, Pleasanton, and Berkeley (in cooperation with the University of California).

CONSISTENCY IN IMPLEMENTATION

The general plan is largely implemented through zoning and subdivision decisions. In 1971, the Legislature made consistency with the general plan a determinative factor for subdivision approvals. Since then, lawmakers have continued to add consistency requirements to California's planning and land use laws. Other statutes, while not mandating consistency, require findings or a report on whether various local actions conform to the general plan. Consistency statutes and legal precedents are detailed below.

In order for zoning and other measures to comply with consistency requirements, the general plan itself must first be complete and adequate (i.e., it must address all locally relevant issues and be internally consistent). In 1984, the Court of Appeal ruled that a finding of consistency based on an inadequate general plan was a legal impossibility (*Neighborhood Action Group v. County of Calaveras (1984) 156 Cal.App.3d 1176, 1184*, based on *58 Opps. Cal.Atty.Gen 21, 24 (1975)*). More recently, the appeals court ruled that a subordinate land use approval, such as a subdivision map, can only be challenged on the basis of an internal general plan inconsistency when there is a nexus between the particular approval and the claimed inconsistency in the general plan (*Garat v. Riverside (1991) 2 Cal.App.4th 259*).

The California Attorney General has opined that "the term 'consistent with' is used interchangeably with 'conformity with'" (*58 Ops.Cal.Atty.Gen. 21, 25 (1975)*). A general rule for consistency determinations can be stated as follows: "An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment."

The city or county is responsible for determining whether an activity is consistent with the general plan. A city council's finding of a project's consistency with the plan would be reversed by a court if, based on the evidence before the council, a reasonable person could not have reached the same conclusion (*No Oil, Inc. v. City of Los Angeles (1987) 196 Cal.App.3d 223*).

In *Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (1998) 62 Cal.App.4th 1332*, the court held that "[The] nature of the policy and the nature of the inconsistency are critical factors to consider." A project is clearly inconsistent when it conflicts with one or more specific, fundamental, and mandatory policies of the general plan (*Families Unafraid, supra*). However, any given project need not be in perfect conformity with each and every policy of the general plan if those policies are not relevant or leave the city or county room for interpretation (*Sequoayah Hills Homeowners Association v. City of Oakland, (1998) 23 Cal.App 4th 704 (1993)*).

Placer County's Online General Plan is one method to help ensure consistency. Upon receiving a development proposal or other entitlement request, county staff enters distinguishing project features into a computer program. The program analyzes the proposal by checking for general plan and community plan consistency, identifying goals and policies by topic, and preparing a report of its results. The software can compare project characteristics to the goals and policies of the general plan and each of its elements, providing an unbiased consistency analysis.

ZONING CONSISTENCY

Counties, general law cities, and charter cities with populations of more than two million are required to maintain consistency between their zoning ordinance and their adopted general plan (§65860). Charter cities with populations under two million are not subject to this mandate but may choose to enact their own code requirements for consistency (§65803 and §65860).

Where the consistency requirement applies, every zoning action, such as the adoption of new zoning ordinance text or the amendment of a zoning ordinance map, must be consistent with the general plan. A zoning ordinance that is inconsistent with the general plan at the time it is enacted is "invalid when passed" (*Sierra Club v. Board of Supervisors (1981) 126 Cal.App.3d 698*).

By the same token, when a general plan amendment makes the zoning inconsistent, the zoning must be changed to re-establish consistency "within a reasonable time" (§65860(c)). According to the California Supreme Court, "[t]he Planning and Zoning Law does not contemplate that general plans will be amended to conform to zoning ordinances. The tail does not wag the dog." (*Lesher Communications v. City of Walnut Creek (1990) 52 Cal.3d 531)*.

State law does not prescribe what constitutes "a reasonable time" for reconciling the zoning ordinance with the general plan. OPR suggests that when possible, general plan amendments and necessary related zoning changes be heard concurrently (§65862). When concurrent hearings are not feasible, OPR suggests the following time periods:

- For minor general plan amendments (those involving a relatively small area), six months.
- For extensive amendments to the general plan (such as a revision that results in the inconsistency of large areas), two years.

Zoning-related initiatives and referenda must also maintain general plan consistency. An initiative seeking to impose growth management regulations was invalidated when it was found to be inconsistent with the general plan (*Lesher Communications v. City of Walnut Creek, supra*). A referendum that sought to overturn a rezoning approval was invalidated because the rezoning was necessary to maintain or achieve consistency with the general plan (*deBottari v. City of Norco (1985) 171 Cal.App.3d 1204*; *City of Irvine v. Irvine Citizens Against Overdevelopment (1994) 25 Cal.App.4th 868*).

Assessing and Achieving Zoning Consistency

Zoning consistency can be broken down into three parts: uses and standards, spatial patterns, and timing. These are described below.

The local agency's general plan and zoning ordinance contain text and maps that specify development standards and the proposed location of uses for the community. The development standards and uses specified for all land use categories in the zoning ordinance—density, lot size, height, and the like—must be consistent with the development standards and uses specified in the general plan's text and diagram of proposed land use. This has several implications.

The zoning scheme, with its range of zoning districts and their associated development standards or regulations, must be broad enough to implement the general plan. For example, if a general plan contains three residential land use designations, each with its own residential intensity and density standard, then the zoning ordinance should have at least as many zoning districts with appropriate standards. Similarly, if the general plan identifies seismic hazard areas and calls for zoning measures to implement safety policies, the zoning ordinance must contain appropriate provisions, such as a hazard overlay zone, or specific development standards.

When a new element or major revision to a general plan is adopted, the zoning scheme should be thoroughly reviewed for consistency. It must be amended if necessary to ensure that it is adequate to carry out the new element or revisions.

When rezoning occurs, the newly adopted zoning must be appropriate and consistent with all elements of the general plan. This includes not only the land uses and development standards, but also the transportation, safety, open-space, and other objectives and policies contained in the plan.

Both the general plan diagram of proposed land use and the zoning map should set forth similar pat-

Hypothetical General Plan/Zoning Compatability Matrix

General Plan Designations ····▶

◀···· Zoning District

		Residential (units per net acre)					Commercial					Industrial	Public			Parks and Open Space			Rural	
		0.1 – 2.0	2.1 – 8.0	8.1 – 15.0	15.1 – 25.0	25.1 – 35.0	Neighborhood	Community	CBD	Highway	Heavy		Schools	Institutional	Government	Parks	Golf Course	Nat. Resource	Agriculture	Hillside
Residential	R-1		▲																	
	R-2			▲																
	R-3				▲															
	R-4					▲														
Commercial	C-1						▲	▲	●											
	C-2							●	▲											
	C-3									▲	▲									
Mixed Use	MRX				●	●	▲	▲	▲											
Industrial	M-L										●	▲								
	M-H										●	▲								
Public	P-F												▲	●	▲	▲	●	●		●
Open Space	O-S														●	▲	●	▲	▲	
Flood Plain	F-P															▲	▲	▲	▲	
Agriculture	A-G	▲																▲	▲	▲
New Zone Recommended		N						N			N								N	N

▲ Zones that are compatible with general plan designation

● Zones that the city could find compatible under specified circumstances, but that generally are not compatible

N Formulation of a new zoning district is recommended

terns of land use distribution. However, the maps need not be identical if the general plan text provides for flexibility of interpretation or for future development (*Las Virgenes Homeowners v. County of Los Angeles (1986) 177 Cal.App.3d 312*). For example, a land use diagram may designate an area for residential development while the zoning map may show the same area as predominantly residential with a few pockets of commercial use. Despite the residential designation, the commercial zoning could be consistent with the general plan if the plan's policies and standards allow for neighborhood commercial development within residen-

tial areas. Likewise, more than one zoning classification may be consistent with any one of the general plan's land use categories. For example, both R-1 (residential) and PUD (planned unit development) may be consistent zoning for a low-density residential category in the plan.

The timing of development is closely linked to the question of consistency of spatial patterns. A general plan is long term in nature, while zoning responds to shorter-term needs and conditions. In many cases, zoning will only gradually fulfill the prescriptions of the general plan. Timing may be particularly important in rural areas designated for future urbanization. If the general plan contains policies regarding orderly development, adequate public services, and compact urban growth, rezoning a large area from a low-intensity use (e.g., agriculture) to a more intensive one (e.g., residential) before urban services are available would be inconsistent with the general plan. Conversely, an inconsistency may be created when general plan policies promote high-intensity development in an area but the jurisdiction instead permits low-intensity uses.

Since timing can be a problem, general plans should provide clear guidance for the pace of future development, perhaps by using five-year increments or by establishing a set of conditions to be met before consistent zoning would be considered timely.

Local governments have devised a number of ways to evaluate and achieve zoning consistency. A fairly common approach is to employ a matrix comparing the general plan's land use categories and associated development standards with the zoning districts and their corresponding zoning ordinance development standards. To indicate the degree of zoning consistency with the plan, many matrices feature categories ranging from "highly compatible" to "clearly incompatible." An intermediate category, "conditionally compatible," could reflect zoning that by itself is not compatible but could become compatible if measures such as a PUD overlay were imposed to reduce or eliminate potential conflicts. The chart on the previous page illustrates a hypothetical matrix. It may be modified to match local conditions.

The matrix approach has its limitations. By itself, a matrix cannot answer questions about the zoning's compatibility with the objectives, policies, and programs of the general plan, nor can it answer questions about timing. A number of local governments use a checklist to evaluate the consistency of individual zoning proposals. The checklist repeats the major goals and policies of the general plan and rates the degree to which the proposed zoning conforms to each of them (e.g., "furthers," "deters," "no effect"). A point system that rates development projects by their level of consistency with the goals, objectives, and policies of the general plan is a similar approach.

Subdivision Consistency

Before a city or county may approve a subdivision map (including parcel maps) and its provisions for design and improvement, the city or county must find that the proposed subdivision map is consistent with the general plan and any applicable specific plans (§66473.5). These findings can only be made when the local agency has officially adopted a general plan and the proposed subdivision is "compatible with the objectives, policies, general land uses and programs specified in such a plan."

Section 66474 and §66474.61 require a city or county to deny approval of a tentative map if it makes either of the following findings: the proposed map is not consistent with applicable general and specific plans or the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

The checklist on the following page demonstrates one way to evaluate subdivision consistency.

ENFORCEMENT AND REMEDIES

Any resident, property owner, or other aggrieved party, including a public agency, may sue to enforce the requirements for the adoption of an adequate general plan (*58 Ops.Cal.Atty.Gen. 21 (1975)*). The same is true for zoning consistency with the general plan (§65860(b)), and for subdivisions (§66499.33). As the state's chief law enforcement officer, the Attorney General may do the same (§12606 and California Constitution, Article V, §13). Additionally, persons living outside a city have standing to sue if the city's zoning practices exclude them from residing in the city or raise their housing costs by adversely affecting the regional housing market (*Stocks v. City of Irvine (1981) 114 Cal.App.3d 520*).

The courts may impose various remedies for failure to have a complete and adequate general plan or for inconsistency of zoning and subdivision actions and public works projects (§65750, et seq.). One is a writ of mandate to compel a local government to adopt a legally adequate general plan. The courts also have general authority to issue an injunction to limit approvals of additional subdivision maps, parcel maps, rezonings, and public works projects or (under limited circumstances) the issuance of building permits pending adop-

Sample Checklist for Subdivision Consistency with the General Plan

When the following questions can be answered in the affirmative, the subdivision will normally be consistent with the general plan.

Land Use

Do land uses proposed in conjunction with the subdivision conform to the general plan's land use designations?

Density and Intensity

Are the proposed lot sizes appropriate for the uses prescribed for the area by the general plan and consistent with the applicable general plan standards for population density and building intensity? This is more than consistency with the general plan diagram: the subdivision must also be consistent with the plan's written policies and standards regarding uses, density, and intensity.

On-Site Improvements

Does the subdivision provide adequate on-site improvements consistent with the general plan, including street design, drainage and sanitary facilities, and easements?

Circulation

Does the map respond to projected traffic levels indicated in the circulation element?

Does the design of the subdivision take into account thoroughfares identified in the circulation element, such as major arterials, expressways, collectors, etc.?

Does the subdivision design effectively correlate circulation element policies with those of the land use element pursuant to the court's decision in *Concerned Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal.App.3d 90?

Off-Site Improvements

Does the subdivision include provisions for off-site improvements or the payment of fees for off-site improvements consistent with the general plan, including temporary school facilities, road and bridge improvements, parks, and sewers?

Environmentally Sensitive Areas

Is the subdivision designed to accommodate and protect environmentally sensitive areas identified in the general plan? Environmentally sensitive areas are ones susceptible to flooding and to geologic or seismic hazards and fires, areas of special biological significance, areas of special cultural significance, such as archaeological sites, and the like.

Timing

Does the subdivision conform to the schedule for growth or phasing set forth in the general plan?

Other General Plan Provisions

Does the subdivision's design take into account noise attenuation standards set forth in the noise element?

Does the subdivision's design accommodate the recovery of important mineral resources?

Does the subdivision's design conform to the open-space element's policies and designations?

Is the subdivision consistent with all other general plan policies pertaining to subdivisions, possibly including policies for a mixture of housing types, lot orientation for solar heating, limitations on congestion of public facilities, and the like?

tion of a complete and adequate general plan (*58 Ops.Cal.Atty.Gen. 21 (1975), Friends of "B" Street v. City of Hayward (1980) 106 Cal.App.3d 988, Camp v. Mendocino (1981) 123 Cal.App.3d 334*). Where a court finds that specific zoning or subdivision actions or public works projects are inconsistent with the general plan, it may set aside such actions or projects. Under certain circumstances, the court may impose any of these forms of relief prior to a judicial determination of a general plan's inadequacy (§65757). These provisions, however, do not limit the court's authority to impose other appropriate remedies.

ANNUAL PROGRESS REPORTS

After the general plan has been adopted, §65400(b) requires the planning agency to provide an annual report to their legislative body, OPR, and HCD on the status of the plan and progress in its implementation. The report

must detail progress in meeting the jurisdiction's share of regional housing needs determined pursuant to §65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to §65583(c)(3).

The annual progress report must be provided to the legislative body, OPR, and HCD on or before October 1 of each year. Some jurisdictions report on a calendar-year basis (January 1 through December 31), and others on a fiscal-year basis (July 1 through June 30). The October 1 deadline allows time to prepare an annual progress report regardless of the reporting period that is used.

There is no standardized format for the preparation of the annual progress report. The form and content of the report may vary based on the circumstances, resources, and constraints of each jurisdiction. This section is meant to provide general guidance to cities and counties in the preparation of their annual progress reports.

Purpose of the Report

- To provide enough information to allow local legislative bodies to assess how the general plan is being implemented in accordance with adopted goals, policies, and implementation measures.
- To provide enough information to identify necessary course adjustments or modifications to the general plan as a means to improve local implementation.
- To provide a clear correlation between land use decisions that have been made during the 12-month reporting period and the goals, policies, and implementation measurescontained in the general plan.
- To provide information regarding local agency progress in meeting its share of regional housing needs and local efforts to remove governmental constraints to the development of housing (as defined in §65584 and §65583(c)(3)).

Format of the Report

The following describes ways in which various cities and counties have organized and formatted their annual progress reports:

- **Focus on individual policies and implementation measures:** Provide a comprehensive listing of all general plan policies, categorized by element, with a commentary on how each policy was implemented during the reporting period (i.e., a description of the activities underway or completed for implementation of each policy). This listing can most easily be accomplished by using a table format. (Examples: Carlsbad, Citrus Heights)
- **Focus on development activities and projects approved:** Provide a comprehensive listing of all development applications that the planning agency received and processed with commentary on how the agency's actions on these development applications further the goals, policies, and/or implementation measures of the general plan. Link the major projects, including public projects, to the general plan using policy numbers or by element. (Examples: Placer County, Signal Hill)
- **Focus on general plan elements:** Provide a general summary of each of the mandatory and optional elements of the general plan with a brief description of various actions taken by the agency (e.g., development application approvals, adoption of ordinances or plans, agency-initiated planning studies, etc.) that advanced specific goals and policies of each element. (Examples: Camarillo, San Luis Obispo, Redlands)
- **Broad annual report format:** Incorporate the annual progress report into a broadly focused annual report on all of the activities and programs of the jurisdiction, drawing upon data and sources such as an annual performance report on budgeting, processing of land use entitlements, redevelopment activities, housing construction, or other programs or "state of the city/county" reports. (Example: Windsor)

Contents of the Report

Each jurisdiction should determine which locally relevant issues are important to include in the annual report. The following items may be useful in the annual progress report:

- Introduction.
- Table of contents.
- Date of presentation to and acceptance by the local legislative body.
- List of major agency-initiated planning activities that were initiated, in progress, or completed during the reporting period (i.e., master plans, specific plans, master environmental assessments, annexation studies, and other studies or plans carried out in support of specific general plan

Consistency Provisions in State Law and Legal Precedents

All statutory references are to the California Government Code unless otherwise noted

Agricultural Preserves

- §51234 requires that agricultural preserves established under the Williamson Act be consistent with the general plan.
- §51282 requires a city or county, when approving a Williamson Act contract cancellation, to make a finding that the proposed alternate use is consistent with the general plan.

Capital Improvements

- §65401 and §65402 require planning agencies to review and report on the consistency with the applicable general plan of proposed city, county, and special district capital projects, including land acquisition and disposal.
- §65103(c) requires planning agencies to review annually their city or county capital improvement programs and other local agencies' public works projects for consistency with the general plan.
- *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988 held that governmental capital facilities projects must be consistent with the general plan.
- §53090, et seq., require that most public works projects undertaken by special districts, including school districts, must be consistent with local zoning, which in turn must be consistent with the general plan. A special district governing board may render the zoning ordinance inapplicable if it makes a finding after a public hearing that there is no feasible alternative to the project (§53096). State entities are an exception to this consistency requirement (*Rapid Transit Advocates, Inc. v. Southern California Rapid Transit District (1986) 185 Cal.App.3d 996*).

Condominium Conversion

- §66427.2 requires that when the general plan contains objectives and policies addressing the conversion of rental units to condominiums, any conversion must be consistent with those objectives and policies.

Development Agreements

- §65867.5 requires development agreements to be consistent with the general plan.

Housing Authority Projects

- Health and Safety Code §34326 declares that all housing projects undertaken by housing authorities are subject to local planning and zoning laws.

Integrated Waste Management

- Public Resources Code §4170 states that if a county determines that the existing capacity of a solid waste facility will be exhausted within 15 years or if the county desires additional capacity, then the countywide siting element of the county's hazardous waste management plan must identify an area or areas, consistent with the applicable general plan, for the location of new solid waste transformation or disposal facilities or for the expansion of existing facilities.
- Public Resources Code §41702 states that an area is consistent with the city or county general plan if:
  1. The city or county has adopted a general plan.
  2. The area reserved for the new or expanded facility is located in, or coextensive with, a

implementation measures). Include a brief comment on how each of these activities advances the goals, policies, and/or implementation measures contained in the general plan. Provide specific reference to individual elements where applicable.

- List each of the general plan amendments that have been processed, along with a brief description and the action taken (e.g., approval, denial, etc.). This listing should include agency-initiated as well as applicant-driven amendments.
- List each of the development applications that have been processed, along with a brief description, the action taken (e.g., approval, denial, etc.), and a brief comment on how each action furthers the goals, policies, and/or implementation measures of the general plan. Provide specific reference to individual elements where applicable.

Consistency Provisions in State Law and Legal Precedents, Continued

All statutory references are to the California Government Code unless otherwise noted

land use area designated or authorized by the applicable general plan for solid waste facilities.

3. The adjacent or nearby land use authorized by the applicable general plan is compatible with the establishment or expansion of the solid waste facility.

- Public Resources Code §41703 requires that, except as provided in Public Resources Code §41710(a), any area or areas identified for the location of a new solid waste transformation or disposal facility be located in, coextensive with, or adjacent to a land use area authorized for a solid waste transformation or disposal facility in the applicable city or county general plan.
- Public Resources Code §41710(a) states that a county may tentatively reserve an area or areas for the location of a new or expanded solid waste transformation or disposal facility even though that reservation is inconsistent with the applicable city or county general plan. A reserved area is tentative until it is made consistent with the applicable general plan.
- Public Resources Code §41711 requires that a tentatively reserved area be removed from the countywide siting element if a city or county fails or has failed to find that the area is consistent with the general plan.
- Public Resources Code §41720 requires that the countywide siting element submitted to the California Integrated Waste Management Board include a resolution from each affected city or the county stating that any areas identified for the location of a new or expanded solid waste transformation or disposal facility pursuant to Public Resources Code §41701 is consistent with the applicable general plan.

Interim Classroom Facilities

- §65974(a)(5) specifies that when local governments obtain the dedication of land, the payment in lieu thereof, or a combination of both for interim elementary or high school classroom facilities, such facilities must be consistent with the general plan.

Local Coastal Programs

- Public Resource Code §30513 requires the zoning ordinances of the Local Coastal Program to conform to the certified coastal land use plan (a portion of the general plan).

Low and Moderate Income Housing

- §65589.5(d) states that a city or county may disapprove a low- or moderate-income housing project if the jurisdiction finds that the development is inconsistent with the general plan land use designation, as specified in any plan element.

Mineral Resources

- Public Resources Code §2763 requires that city and county land use decisions affecting areas with minerals of regional or statewide significance be consistent with mineral resource management policies in the general plan.
- Public Resources Code §2762 states that the general plan must establish mineral resource management policies if the State Geologist has identified resources of statewide or regional significance within the city or county.

- Identify priorities for land use decision-making that have been established by the local legislative body (e.g., passage of moratoria, emergency ordinances, development of community or specific plans, etc.).
- Quantify, where appropriate, existing and projected housing needs for all income levels pursuant to housing element law (§65583) with regard to:
  - The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of state housing goals.
  - The effectiveness of the housing element in attaining the community's housing goals and objectives.
  - The progress in implementing the housing element.

Consistency Provisions in State Law and Legal Precedents, Continued

All statutory references are to the California Government Code unless otherwise noted

On-Site Wastewater Disposal Zones

- Health and Safety Code §6965 requires a finding that the operation of an on-site wastewater disposal zone created under Health and Safety Code §6950, et seq., will not result in land uses that are inconsistent with the applicable general plan.

Open Space

- §65566 requires that acquisition, disposal, restriction, or regulation of open-space land by a city or county be consistent with the open-space element of the general plan.
- §65567 prohibits the issuance of building permits, approval of subdivision maps, and adoption of open-space zoning ordinances that are inconsistent with the open-space element of the general plan.
- §65910 specifies that every city and county must adopt an open-space zoning ordinance consistent with the open-space element of the general plan.
- §51084 requires cities and counties accepting or approving an open-space easement to make a finding that preservation of the open-space land is consistent with the general plan.

Park Dedications

- §66477 enables local governments to require as a condition of subdivision and parcel map approval the dedication of land or the payment of in lieu fees for parks and recreational purposes if the parks and recreational facilities are consistent with adopted general or specific plan policies and standards.

Parking Authority Projects

- Streets and Highway Code §32503 specifies that parking authorities, in planning and locating any parking facility, are subject to the relationship of the facility to any officially adopted master plan or sections of such master plan for the development of the area in which the authority functions to the same extent as if it were a private entity.

Planning Commission Recommendations

- §65855 requires that the planning commission's written recommendation to the legislative body on the adoption or amendment of a zoning ordinance include a report on the relationship of the proposed adoption or amendment to the general plan.

Project Review Under CEQA

- Title 14, California Code of Regulations, §15125(b) (CEQA Guidelines) requires examination of projects subject to the provisions of CEQA for consistency with the general plan.
- Public Resources Code §21080.10 and 21080.14 exempt specified housing projects from the

- The annual progress report should identify goals, policies, objectives, standards, or other plan proposals that need to be added, deleted, amended, or otherwise adjusted.
- If the jurisdiction is in the process of a comprehensive general plan update, the progress report can be limited to a brief letter describing the scope of work and anticipated completion date.

Suggested Reporting Methods on Regional Housing Needs

HCD recommends the following step-by-step approach for cities and counties to report their progress in meeting their share of the regional housing needs.

First, determine the total net housing units added in the reporting year. If the progress report is based on the calendar year, one approach is to report the change in the Department of Finance's (DOF) total units estimate over the year. If the progress report is based on the fiscal year or other time period, local estimates will need to be prepared using DOF and local data. A local estimate of net units added should reflect the following:

- An estimate or records for total units completed.
- If unit completion data is not available, units completed may be estimated from permit issuance data with the use of an estimate of the average time lag between permit issuance and completion and an

Consistency Provisions in State Law and Legal Precedents, Continued

All statutory references are to the California Government Code unless otherwise noted

requirements of CEQA, but only when consistent with the general plan and meeting other criteria.

Redevelopment Plans

- Health and Safety Code §33331 requires every redevelopment plan to conform to the adopted general plan.

Reservations of Land Within Subdivisions

- §66479 specifies that reservations of land for parks, recreational facilities, fire stations, libraries, and other public uses within a subdivision must conform to the general plan.

Special Housing Programs

- Health and Safety Code §50689.5 specifies that housing and housing programs developed under Health and Safety Code §50680, et seq., for the developmentally disabled, mentally disordered, and physically disabled must be consistent with the housing element of the general plan.

Specific Plans

- §65359 requires that a specific plan be reviewed and amended as necessary to make it consistent with the applicable general plan.
- §65454 specifies that a specific plan may not be adopted or amended unless the proposed plan is consistent with the general plan.

Street, Highway, and Service Easement Abandonments

- Streets and Highways Code §8313 specifies that prior to vacating a street, highway, or public service easement, the legislative body must consider the applicable general plan.

Transit Village Development Plan

- §65460.8 states that a transit village plan prepared under the Transit Village Development Planning Act of 1994 must be consistent with the city or county general plan.

Transmission Lines

- Public Utilities Code §12808.5 requires cities and counties approving electrical transmission and distribution lines of municipal utility districts to make a finding concerning the consistency of the lines with the general plan.

Use Permits

- *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176 provides that conditional use permits must be consistent with the local general plan. While state statutes do not expressly require such consistency, the court found an implicit requirement since use permits are struck from the mold of local zoning and zoning must conform to the adopted general plan.

estimate of the percentage of permits issued that were not used.

- An estimate or records for total units removed.
- A definition of what constitutes a new unit for regional share purposes.

On the latter point, for example, shared housing arrangements do not produce new dwelling units as the term is used in DOF estimates and in regional projected needs shares and should not be included. In general, a unit should be counted if it meets DOF's functional definition for inclusion in its annual unit estimates.

Second, determine affordability characteristics of units added in the reporting year. Third, compare units added to regional share objectives.

Submitting the Report to OPR and HCD

Annual progress reports can be submitted to OPR in either electronic or paper format. If you wish to submit your annual report to OPR electronically, e-mail it to state.clearinghouse@opr.ca.gov and limit the file size to 2 KB or less. Word, Excel, PowerPoint, text, RTF, PDF, or PageMaker are the only acceptable file formats. Printed copies of the annual report should be sent to Governor's Office of Planning and Research, State Clearinghouse and Planning Unit, P.O. Box 3044, Sacramento, CA 95812-3044.

A copy of the report must also be sent to the Department of Housing and Community Development, Housing Policy Division, 1800 Third St., Rm. 430, Sacramento, CA 95814.

CHAPTER 10

Special General Plan Considerations

All statutory references are to the California Government Code unless otherwise noted.

A number of state and federal statutes and regulatory programs can have a direct bearing on the general plan and need to be considered in any general plan process. For example, the California Coastal Act requires each community within the coastal zone to prepare a local coastal program (LCP), including a coastal land use plan. The Surface Mining and Reclamation Act (SMARA) requires cities and counties containing minerals of regional or statewide significance to adopt policies protecting mineral resources from incompatible uses. The California Integrated Waste Management Act requires counties, with the concurrence of a majority of the cities containing a majority of the incorporated county population, to prepare and adopt solid waste management plans. The Alquist-Priolo Earthquake Fault Zoning Act requires cities and counties with designated fault zones to limit new development within those zones. The Airport Land Use Commission Law requires cities and counties to amend their general plans to conform with adopted airport land use plans.

Regional transportation planning laws require an identification of regional transportation and road projects and provide a basis for obtaining federal and state funding. As part of this, Congestion Management Plans (CMPs) must be prepared within each of the 31 California counties containing an urbanized area. Although these CMPs are not necessarily prepared by local planning agencies, because they affect the transportation system they will directly affect local planning efforts.

Environmental regulations have a direct impact on the location, intensity, and types of land uses that may be allowed. Just as a general plan should reflect regional planning efforts, it should recognize pertinent state and federal environmental regulations. The California and Federal Endangered Species Acts prohibit the killing, disturbing, or harassing of endangered species of plants and animals, except under limited circumstances and with express permission from the Department of Fish and Game and the U.S. Fish and Wildlife Service. The state and federal Clean Air Acts mandate regional air quality planning through air quality management and air pollution control districts, as well as enforceable air basin regulations to reduce the production of specified air pollutants. The federal Clean Water Act empowers the U.S. Army Corps of Engineers to review and regulate land use activities that would fill or otherwise disturb jurisdictional wetlands.

This chapter summarizes the key points of the major statutes and programs that relate to and impact the planning process. It should not be considered a substitute for reading the full texts of the laws and any other related materials that fully explain their provisions and requirements. Not everything mentioned in this chapter is relevant to every community. However, when a particular law or program is relevant to your jurisdiction, you should be aware of its requirements and incorporate them into your planning process from the outset.

CALIFORNIA COASTAL ACT

The California Coastal Act of 1976 (Public Resources Code §30000, et seq.) was enacted to "protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources" (Public Resources Code §30001.5). The Coastal Act applies to the coastal zone, a strip along the California coast generally "extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea" (Public Resources Code §30103). The actual coastal zone boundary is delineated on a set of maps adopted by the Legislature and located at the Coastal Commission's San Francisco office. The coastal zone excludes the area of jurisdiction of the San Francisco Bay Conservation and Development Commission. The Coastal Act otherwise applies to all those portions of cities (charter and general law) and counties that lie within the coastal zone (*70 Ops.Cal.Atty.Gen. 220 (1987)*).

The Coastal Commission regulates development within portions of the coastal zone and oversees coastal planning efforts along the entire coast. The Act's policies (Public Resources Code §30200, et seq. and §30702, et seq.) are implemented through cooperative action between the Commission and local governments. A central feature of this joint action is the local coastal

program (LCP). With certain exceptions, development within the coastal zone is subject to a coastal development permit issued either by a local government pursuant to a certified LCP or, where no certified LCP exists, by the Coastal Commission. A city or county that lacks a certified LCP surrenders a good deal of planning authority within the coastal zone.

Each city or county lying in whole or in part within the coastal zone is supposed to prepare an LCP for that part of its jurisdiction within the zone. However, any local government may request, in writing, that the commission prepare an LCP for them (Public Resources Code §30500(a)). An LCP adopted by the local government may be certified by the Coastal Commission as advancing the policies of the Coastal Act. Until an LCP has been certified, the local government cannot take over the issuance of coastal development permits (Public Resources Code §30519(a) and §30600(d)). Decisions made under an LCP may be appealed to the Commission (Public Resources Code §30603). The Commission retains permanent jurisdiction over development on coastal zone tidelands, submerged lands, and public trust lands (Public Resources Code §30519(b)).

An LCP consists of a coastal land use plan, (i.e., portions of a city's or county's general plan), zoning ordinance, zoning district maps, and where required, other programs necessary to implement the Coastal Act. In addition, it must contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided (Public Resources Code §30500).

The Coastal Act provides that the precise content of each LCP shall be determined by the local government, consistent with §30501, in full consultation with the Commission and with full public participation (Public Resources Code §30500(c)). The Commission's methodology for preparing LCPs can be found at Title 14, Division 5.5 of the California Code of Regulations, §13506 through §13514.

Amendments to certified LCPs must be submitted to the Commission for review and, in the case of major amendments, certification (*70 Ops.Cal.Atty.Gen. 220 (1987)*). LCP amendments that are minor in nature or that require rapid or expeditious action are reviewed by the Commission's executive director (Public Resources Code §30514; Title 14 of the California Code of Regulations, §13554 and §13555).

The Coastal Act has special requirements for the coastal zone portions of the ports of Hueneme, Long Beach, and Los Angeles and the San Diego Unified Port District. Rather than preparing LCPs, these ports must prepare master plans and have them certified by the Coastal Commission (Public Resources Code §30711 and §30714). With certain exceptions, each development within a port requires a development permit and must conform to the port's master plan (Public Resources Code §30715(a) and §30715.5). The cities and counties that have these ports within their jurisdictions must, for informational purposes, incorporate the master plan into their LCPs (Public Resources Code §30711(a)).

Useful Definitions: **California Coastal Act**

Land Use Plan: The relevant portions of a local government's general plan or local coastal element that are sufficiently detailed to indicate the kinds, location, and intensity of land uses; the applicable resource protection and development policies; and, where necessary, a listing of implementing actions (Public Resources Code §30108.5)

Local Coastal Element: That portion of a general plan applicable to the coastal zone that may be prepared by local government pursuant to the California Coastal Act, or any additional elements of the local government's general plan prepared pursuant to §65303 of the Government Code, as the local government deems appropriate. (Public Resources Code §30108.55)

Local Coastal Program: A local government's land use plans, zoning ordinances, zoning district maps, and, within sensitive coastal resources areas, other implementing actions, that, when taken together, meet the requirements of and implement the provisions and policies of the California Coastal Act at the local level. (Public Resources Code §30108.6)

Relation to the General Plan

Coastal cities and counties are subject to both planning and zoning laws and the California Coastal Act. Ideally, an LCP links Coastal Act policies to local planning. The contents of coastal land use plans overlap some of the required provisions of general plans. For instance, the Coastal Act requires policies concerning diking, dredging, filling, and shoreline structures (Public Resources Code §30233 and §30235), while planning and zoning law does not. Conversely, planning and zoning law requires the general plan to address noise, while the Coastal Act does not. To simplify implementation, coastal zone communities should integrate

both sets of requirements into a coherent and internally consistent local general plan

There are many ways to integrate the general and coastal plan policies. Some communities have adopted coastal elements within their general plans. Another option is to incorporate coastal plan policies, plan proposals, and standards directly into the general plan's land use, open-space, and conservation elements. A third option is to adopt a specific plan or community plan for urbanized areas within the coastal zone. A community plan focuses the general plan's policies on coastal issues. A specific plan may also do that, as well as enact coastal land use regulations.

If a jurisdiction wants to submit its general plan as part of the LCP, it must describe how coastal policies are addressed therein. In many cases, new coastal plans or elements will be needed to address the Coastal Act's specific requirements. In order to encourage the general plan amendments necessary to preparing a certified LCP, such actions do not count toward the limit of four general plan amendments per year (65358(d)).

A general plan need not be parcel-specific. The Coastal Act, however, specifies that coastal land use plan provisions be sufficiently detailed to indicate the kind, location, and intensity of land uses (Public Resources Code §30108.5). According to the Coastal Commission's legal staff, this standard may require that the coastal land use plan specify the principal permitted use, the specific conditional uses, and the specific standards that will be used in reviewing development proposals for the various land use categories.

Pursuant to Public Resources Code §30108.5 and §30108.55, a coastal land use plan is incorporated into the community's general plan, therefore it must be consistent with the rest of the plan. For instance, proposed development within the coastal zone must conform to community-wide policies for concerns not prescribed by the Coastal Act, such as noise. Likewise, development proposed within the coastal zone that would be permissible elsewhere within the community may be subject to unique policy considerations under the Coastal Act. For example, a commercial development within the coastal zone may need to provide visitor-serving commercial uses rather than, or in addition to, general commercial uses.

There is a special situation where a community has a certified coastal land use plan but has not prepared the necessary implementing measures to obtain full LCP certification. If such communities adopt general plan amendments without updating the land use plan (through amendments that must be certified by the Coastal Commission), discrepancies may arise between land uses and densities authorized under the general plan and those authorized in the coastal land use plan. If the general plan and coastal land use plan diverge significantly, problems will arise when a project applies to the Commission for a coastal development permit. Communities may avoid these problems by reviewing all general plan amendments affecting the coastal zone for consistency with their coastal land use plan. Communities can more efficiently control their planning process and obtain the authority to issue coastal development permits locally by completing their LCPs and seeking full certification from the Coastal Commission.

Housing Requirements in the Coastal Zone

In 1981 the Legislature deleted housing policies from the Coastal Act and established within the Government Code special requirements for the protection and provision of low- and moderate-income housing within the coastal zone (§65590). These requirements supplement housing element requirements. They apply only to cities and counties whose LCPs were certified on or after January 1, 1982. Any amendments to the housing provisions in previously certified LCPs must be consistent with the 1981 requirements (§65590(f)).

Section 65588, subdivisions (c) and (d), states that when coastal jurisdictions update their housing elements, they must document the number of low- and moderate-income housing units converted or demolished and the number of replacement units provided. This helps the locality determine whether affordable housing stock in the coastal zone is being protected and provided as required by §65590.

SURFACE MINING AND RECLAMATION ACT

The Surface Mining and Reclamation Act (SMARA) is California's answer to two seemingly contradictory demands—the need for a continuing supply of mineral resources and the assurance that the significant adverse impacts of surface mining will be mitigated. SMARA requires that local governments address mineral recovery activities at two levels: through direct regulation of mining operations (including reclamation) and through planning policies that harmonize the mineral resource needs of the state and region with the maintenance of local environmental quality. SMARA also contains strong policies for the conservation of known mineral deposits in the face of competing development so that they will be available for extraction and use.

SMARA requires cities and counties to adopt ordinances in accordance with state policy for the review and approval of reclamation plans and for the issuance of permits to conduct surface mining operations (Public Resources Code §2774). With certain exceptions, issuance of a surface mining permit is conditional upon approval of a reclamation plan and financial assurances for reclamation (Public Resources Code §2770). Local ordinances adopted to implement this requirement must be reviewed and certified by the State Mining and Geology Board for conformity with state law and the Board's policies and procedures (Public Resources Code §2774.3 and §2774.5). *California Surface Mining and Reclamation Policies and Procedures*, available from the California Geological Survey, describes SMARA in detail.

Classification/Designation

SMARA establishes a two-step mineral lands inventory process called "classification-designation," intended to ensure that important mineral deposits are identified and protected for continued and further extraction.

Classification

During the classification phase, the State Geologist prepares a geological inventory of selected important mineral commodities within defined study regions. The objectives of a classification report include identifying the market area of the commodity, projecting the future needs for the commodity within the study region, and geologically classifying the lands within the region as to the presence or absence of mineral resources. Classification is based solely on geological factors and does not consider existing land uses. The priority by which areas are classified is based upon an evaluation of which potential mineral lands are most likely to be converted to uses that are incompatible with mining or that would preclude mining.

Under SMARA and the Board's 1979 Guidelines, the State Geologist classified mineral areas as one of four Mineral Resource Zones (MRZ) or a Scientific Zone (SZ):

- MRZ-1: Areas where adequate information indicates that no significant mineral deposits are present or where it is judged that little likelihood exists for their presence.
- MRZ-2: Areas where adequate information indicates that significant mineral deposits are present or where it is judged that a high likelihood for their presence exists.
- MRZ-3: Areas containing mineral deposits the significance of which cannot be evaluated from available data.
- MRZ-4: Areas where available information is inadequate for assignment to any other MRZ zone.
- SZ: Areas containing unique or rare occurrences of rocks, minerals, or fossils that are of outstanding scientific significance shall be classified in this zone.

As the classification of each area is completed and approved, the state board sends copies of the State Geologist's report and maps classifying the mineral lands to the affected cities and counties. Within twelve months of receiving the maps and report, the city or county must, as part of its general plan, adopt mineral resource management policies that:

- Recognize the mineral classification information, including the classification maps, transmitted to it by the Board.
- Assist in the management of land uses that affect areas of statewide and regional significance.
- Emphasize the conservation and development of identified significant mineral deposits. (Public Resources Code §2762(a))

Proposed city or county policies must be submitted to the Board for review and comment prior to adoption. The same is true of any subsequent amendments to these policies. If a use is proposed that might threaten the potential recovery of minerals from an area that has been classified MRZ-2, the city or county must specify its reasons for permitting the use, provide public notice of those reasons, and forward a copy of its statement of reasons to the State Geologist and the Board (Public Resources Code §2762(d)).

Designation

In contrast to classification, which disregards land use, the purpose of designation is to identify those deposits that are of prime importance to the future needs of the study region and that are available from a land use perspective. Designation fine-tunes the findings of the classification report.

Following a public hearing and consultation with the affected cities and counties, the State Mining and Geology Board may designate all or part of the areas classified MRZ-2 or SZ as areas containing significant mineral resources of statewide or regional significance. As is the case following state classification, the Board

must transmit a report of its action to the affected city or county. Within twelve months of receiving this report, the city or county must:

- Recognize and include in its general plan the designated areas of statewide or regional significance transmitted to it by the Board.
- Develop and adopt policies for the management of land use of areas classified MRZ-2 or SZ and designated by the Board as areas of statewide and regional significance to protect those areas from premature development incompatible with mining.
- Emphasize the conservation and development of mineral deposits designated by the Board to be of statewide or regional significance.

Prior to adopting its mineral resource management policies, the city or county must submit them to the Board for review and comment. It must also submit subsequent amendments prior to adoption (Public Resources Code §2762(c)).

While SMARA describes the classification and designation process as two separate steps, designation usually closely follows classification. Thus, a city or county

Useful Definitions: **Surface Mining and Reclamation Act**

Area of Regional Significance: An area that has been designated by the State Mining and Geology Board pursuant to Public Resources Code §2790 that is known to contain a deposit of minerals that are of prime importance in meeting future area mineral needs and that, if developed in a non-compatible use, would result in the permanent loss of regionally significant minerals.

Area of Statewide Significance: An area that has been designated by the State Mining and Geology Board pursuant to Public Resources Code §2790 that is known to contain a deposit of minerals that are of prime importance to meeting the future needs of the state and that, if developed with non-compatible uses, could result in the loss of minerals that are of statewide significance.

Compatible Land Uses: Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures and land improvements and that may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low-impact industrial, recreational, agricultural, silvicultural, grazing, and open-space. (California Code of Regulations, Title 14, §3675)

Incompatible Land Uses: Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high-density residential, low-density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial. (California Code of Regulations, Title 14, §3675)

Minerals: "Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum." (California Code of Regulations, Title 14, §3501)

Reclamation: "… the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures." (Public Resources Code §2733)

Surface Mining Operations: "…all, or any part of, the process involved in the mining of minerals on mined lands by removing the overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to: (a) In place distillation or retorting or leaching; (b) The production and disposal of mining waste; and (c) Prospecting and exploring activities." (Public Resources Code §2735)

should have to amend its general plan only once to incorporate the information and policies for both the classification and the designation.

Relation to the General Plan

An affected city or county must amend its general plan to recognize classification or designation information, assist in the management of land uses that affect areas with minerals of statewide and regional significance, and adopt policies that emphasize the conservation and extraction of identified mineral deposits (Public Resources Code §2762). The land use, conservation, and open-space elements are the most common locations for such policies. Alternatively, several jurisdictions have adopted mineral resources elements.

The criteria to be used by affected cities and counties in developing their own mineral resource management policies are laid out by the State Mining and Geology Board (California Code of Regulations, Title 14, §3676). Local policies should include:

- A summary of the data and analysis provided in the classification and/or designation reports, incorporation of Public Resources Code §2710, et seq., and state policy by reference (together with maps of the identified mineral deposits), or incorporation by reference of the classification and/or designation reports and maps.
- Policies that recognize the mineral information transmitted by the state Board, assist in the management of land uses affecting areas of regional and statewide significance, and emphasize the conservation and development of the identified mineral deposits.
- Implementation measures, including:
  - Reference in the general plan to the location of identified mineral deposits and a discussion of those areas targeted for conservation and possible future resource extraction.
  - Use of maps to clearly delineate identified mineral deposits and those areas targeted for conservation and possible future resource extraction.
  - At least one of the following:
    1. Special purpose overlay zones, mineral resource/open-space zoning, or any other appropriate zoning that identifies the presence of mineral deposits and restricts the encroachment of incompatible land uses in those areas that are to be conserved.
    2. Requirements for recording notice of the presence of identified mineral deposits in the chain of property title.
    3. Conditions placed upon incompatible land uses within and next to any areas containing identified mineral deposits for the purpose of mitigating any significant land use conflicts.

Once policies have been incorporated into the general plan to protect areas containing minerals of regional or statewide significance, all of the city's or county's land use decisions affecting the designated areas must be in accordance with those policies. When making land use decisions involving identified mineral deposits, the jurisdiction must consider the importance of the mineral resource to the market region for deposits of regional significance or to the state and the nation for deposits of statewide significance rather than simply their importance within the jurisdiction (Public Resources Code §2763).

If a city or county intends to approve a use that would threaten the potential to extract minerals from an area designated as either of regional or statewide significance, the city or county must submit a statement specifying its reasons to the State Mining and Geology Board (Public Resources Code §2762 and §2763). Unless the project is subject to CEQA, which has its own public notice requirements, the city or county must also provide notice of the availability of this statement, make the statement available for public review for at least 60 days, and hold a public hearing for the purpose of receiving public comments. Prior to approving the use, the agency must evaluate all comments received and make a written response to each explaining its reasons for approval (Public Resources Code §2762(a)).

Undesignated lands

Public Resources Code §2764 requires that when an area has not been designated as having mineral deposits of statewide or regional significance and where the local jurisdiction has not adopted mineral resource policies in its general plan, the local agency must amend its general plan or the applicable specific plan or adopt a new specific plan whenever so requested by the operator of an existing surface mine or other interested person (the party requesting the designation is responsible for paying its estimated cost).

The affected city or county must "plan for future land uses in the vicinity of, and access routes serving, the [existing] surface mining operation in light of the

importance of the minerals to their market region as a whole, not just their importance to the lead agency's area of jurisdiction" (Public Resources Code §2764). Evaluations prepared for the purpose of making amendments to the general plan or adopting a new specific plan must be sent to the State Geologist and the Mining and Geology Board.

When adopting such amendments or a new specific plan, the city or county must make written findings relative to the compatibility of the land uses and access routes to the continuing surface mining operation. If the land uses and access routes are not compatible with the continuation of surface mining, the city or county must also state why incompatible uses are to be provided for in the face of the regional importance of the operation (Public Resources Code §2764).

CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT

In 1989, the state comprehensively revised its approach to solid waste management and established the goal of reducing the state's production of solid waste by 25 percent by 1995 and 50 percent by 2000. The California Integrated Waste Management Act of 1989 (Public Resources Code §40000, et seq.) codified this approach.

At the state level, the Integrated Waste Management Board ensures that the Act is enforced (Public Resources Code §40400, et seq.). The Board reports annually to the Legislature on the progress of the integrated waste management program, writes local waste management planning guidelines, and provides technical assistance to local agencies. The Act gives the Integrated Waste Management Board authority to oversee local waste management programs.

Each county must prepare a Countywide Integrated Waste Management Plan (CIWMP) promoting the policies of the Act and establishing local waste management policies to be adopted cooperatively by the county and its cities. The CIWMP must provide a summary of the significant waste management problems facing the county, an overview of the specific steps that its local agencies will take to meet the goals of the Act, and a statement of countywide goals and objectives relative to waste management. These plans and the related elements are intended to complement, but stand separate from, the local general plan. References to "element" in the Act are not intended to mean a general plan element.

Upon completion, each element of the CIWMP must be submitted to the Integrated Waste Management Board for review and approval or disapproval (Public Resources Code §41800). Once it has been approved by the Board, each jurisdiction shall review its source reduction and recycling element or the countywide integrated waste management plan at least once every five years to correct any deficiencies in the element or plan (Public Resources Code §41822). If any revisions are made, they must also be submitted to the Board for approval or disapproval. In addition, each year after approval of a jurisdiction's source reduction and recycling element, household hazardous waste element, nondisposal facility element, or countywide siting element and summary plan, the jurisdiction must submit a progress report to the Board (Public Resources Code §41821 and §41821.1).

The CIWMP is, in effect, a cooperative statement of policies by the county and its cities (or a regional agency and its constituent counties and cities) regarding solid waste management issues of countywide or regional concern; the need for solid waste collection systems, processing facilities, and marketing strategies; and the development of multi-jurisdictional arrangements for marketing recyclable materials. To the extent possible, the CIWMP mediates conflicts and inconsistencies among individual city source reduction and recycling elements. The CIWMP must include:

- The county's and all cities' source reduction and recycling elements.
- The county's and all cities' household hazardous waste elements.
- The countywide siting element.
- The county's and all cities' nondisposal facility elements. (Public Resources Code §41750)

The countywide siting element and any amendments to it must be approved by the county board of supervisors and by the councils of a majority of the cities containing a majority of the county's population (Public Resources Code §41760). Upon receiving the draft countywide siting element and summary plan, or amended countywide siting element and summary plan for consideration, a city must ratify or reject it within 90 days. Failure to act within that time period constitutes approval.

Countywide Siting Element

The county must prepare a countywide siting element describing the areas to be developed as disposal or transformation facilities (Public Resources Code §41700). The siting element must be consistent with the development and implementation of the individual county and city source-reduction and recycling elements. The countywide siting element must contain:

- Goals and policies for the environmentally safe transformation or disposal of solid waste that cannot be reduced, recycled or composted.
- An estimate of the total capacity that will be needed for a 15-year planning period to handle solid wastes generated within the county that cannot be reduced, recycled or composted.
- A statement of the remaining combined capacity of existing solid waste transformation and disposal facilities at the time that the element was prepared or revised.
- Identification of specific areas for new or expanded solid waste transformation or disposal facilities, consistent with the applicable county or city general plan. This is only required if the county determines that existing capacity will be exhausted within the 15-year planning horizon.
- For elements submitted or revised on or after January 1, 2003, a description of the actions taken to solicit public participation by the affected communities, including, but not limited to, minority and low-income populations.

Source Reduction and Recycling Elements

The county and each of its constituent cities must prepare their own source reduction and recycling elements (Public Resources Code §41000, et seq., for cities and §41300, et seq., for counties). These elements must:

- Identify the constituents of solid waste by volume and weight, type of material, and source.
- Describe the methods, including recycling and composting, by which the jurisdiction will reduce the amount of solid waste being generated.
- Identify and describe projected costs, revenues, and revenue sources necessary to implement the element.
- Describe existing handling and disposal practices for special wastes such as asbestos and sewage sludge.

Useful Definitions: **Integrated Waste Management Act**

Disposal Facility: Any facility or location where the disposal of solid waste occurs (Public Resources Code §40121).

Disposal Site: The place, location, tract of land, area, or premises in use, intended to be used, or that has been used for the landfill disposal of solid wastes, including a solid waste landfill (Public Resources Code §40121).

Hazardous Waste: A waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may either: (a) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (b) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored transported, or disposed of, or otherwise managed (Public Resources Code §40141).

Recycling: The process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste and returning them to the economic mainstream in the form of raw material for products which meet the quality standards to be used in the marketplace (Public Resources Code §40180).

Solid Waste: All putrescible and nonputrescible solid, semisolid, and liquid wastes, including: garbage; trash; refuse; paper; rubbish; ashes; industrial wastes; demolition and construction wastes; abandoned vehicles and parts thereof; discarded home and industrial appliances; dewatered, treated, or chemically fixed sewage sludge that is not hazardous waste; manure, vegetable, or animal solid and semisolid wastes; and other discarded solid and semisolid wastes (Public Resources Code §40191). Solid waste does not include hazardous waste.

Solid Waste Facility: A disposal facility, disposal site, or solid waste transfer/processing station (Public Resources Code §40194).

Source Reduction: Any action that causes a net reduction in the generation of solid waste. This includes, but is not limited to: reducing the use of nonrecyclable materials; replacing disposable materials and products with reuseable materials and products; reducing packaging; reducing the amount of yard wastes generated; establishing garbage rate structures with incentives to reduce the amount of wastes that generators produce; and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials in the manufacturing process. Source reduction does not include steps taken after the material becomes solid waste or action that would impact air or water resources in lieu of land (Public Resources Code §40196).

The source reduction, recycling, and composting components of the element must contain specific action programs as well as schedules for meeting the Act's diversion goals. The source reduction component must also identify and evaluate programs and economic incentives to reduce the use of non-recyclable materials, and to replace disposable materials and products with reusable materials and products.

Household Hazardous Waste Elements

The county and its cities must each prepare and adopt a household hazardous waste element identifying a program for the safe collection, treatment, and disposal of hazardous wastes generated by residences that should be separated from the rest of the solid waste stream. (Public Resources Code §41500 for cities and §41510 for counties).

Nondisposal Facility Elements

The county and its cities each must prepare and adopt a nondisposal facility element (Public Resources Code §41730 for cities and §41731 counties). This element describes any new solid waste facilities and expansions of existing solid waste facilities needed to implement the jurisdiction's source reduction and recycling element. Facilities that will recover or recycle at least five percent of the total volume of materials they receive must be included in the element. Transfer stations that recover less than five percent of the volume of materials received for reuse or recycling must be included in the element, but those portions of the element are not subject to Board approval.

Relation to the General Plan

Sound planning practice suggests close coordination of waste management planning with local general plans. General plans contain information, assumptions, and projections that should serve as the basis for county waste management planning. General plans, for example, project future population growth and economic activity and designate areas proposed for residential, commercial, industrial, agricultural, and institutional land uses. General plans also contain information regarding transportation routes, existing land uses, and environmental conditions. This information is critical to developing estimates in the integrated waste management plans.

The countywide siting element of the CIWMP and the land use elements of the affected city and county general plans are the primary vehicles for planning the location of solid waste disposal or transformation sites. The siting element must correlate with local general plans. Accordingly, all siting elements submitted to the Integrated Waste Management Board as part of a CIWMP must contain a resolution from each affected city and the county stating that any area identified for location of new or expanded facilities is consistent with the applicable general plan (Public Resources Code §41720). Furthermore, the Act establishes standards for determining consistency (Public Resources Code §41702).

A siting element may tentatively reserve an area for a new or expanded waste facility even though the area is not consistent with the applicable general plan. However, the designation will not become permanent unless the affected city or county expressly finds that the area is consistent with its plan. The designation will not become permanent if the affected agency finds that the area should not be used for a facility (Public Resources Code §41710-§41712).

The land use element is required to designate future locations for solid waste disposal facilities (§65302(a)). Similarly, the countywide siting element must identify and reserve sites for the establishment or expansion of solid waste transformation or disposal facilities consistent with applicable city or county general plans (Public Resources Code §41702).

An area is consistent with the city or county general plan when the adopted general plan complies with state planning law, the area being reserved for a new or expanding solid waste facility is located in or adjacent to an area designated for that use on the applicable general plan, and the land uses authorized in the area adjacent or near the area being reserved for a solid waste transformation or disposal facility are compatible with the establishment or expansion of such a facility. (Public Resources Code §41702)

The law provides no direction for what constitutes compatible land uses or how much area around a site is subject to the compatibility requirement. Cities and counties, therefore, must make their own determinations. Their land use elements should contain goals, objectives, and policies addressing the question of compatibility. When developing policies for allowable uses near solid waste facilities, cities and counties should pay special attention to particularly sensitive uses such as schools, hospitals and health care facilities, residential development, and commercial and office developments.

COUNTY HAZARDOUS WASTE MANAGEMENT PLANS

A county may, at its discretion, prepare and adopt a hazardous waste management plan (HWMP) for managing all hazardous wastes produced in the county (Health and Safety Code §25135, et seq.). State law

creates a strong incentive for doing so by giving the state authority to supersede local land use powers over the siting and permitting of new hazardous waste facilities if the county does not have an approved HWMP (Health and Safety Code §25199, et seq.). As a result, most counties have adopted a HWMP.

County hazardous waste management planning is a cooperative effort. The county, the cities within the county, the public, and industry jointly develop a county or regional HWMP. The HWMP must discuss the volume of the waste stream, existing and projected additional facilities, facility siting policies, and implementation actions, among other things (Health and Safety Code §25135.1(d)). In addition, it may include a description of any other local programs the county determines to be necessary to provide for the proper management of hazardous wastes.

A HWMP must be prepared with the assistance of a locally appointed advisory committee (Health and Safety Code §25135.2) and it must be adopted by the sponsoring county. In addition, it must be approved by a majority of the cities within the county that contain a majority of the population of the incorporated area. The plan must be submitted to the state Department of Health Services for review and final approval before it becomes effective. The state will review the plan for its compliance with statute and the Department of Health Services' guidelines for preparing and adopting hazardous waste management plans (Health and Safety Code §25135.5 and §25135.7). The schedules for preparing and adopting an HWMP are specified in Health and Safety Code §25135.6 and §25135.7.

Relation to the General Plan

The HWMP must either be incorporated by reference into a county's general plan or a county must enact an ordinance requiring that all applicable zoning, subdivision, conditional use permit, and variance decisions be consistent with its HWMP (Health and Safety Code §21135.7(b)). Obviously, consistency with the land use element is important in order to avoid policy conflicts. The safety element may also be involved if, for example, the element addresses hazardous waste handling and transport.

ALQUIST-PRIOLO EARTHQUAKE FAULT ZONING ACT

The Legislature originally enacted the Alquist-Priolo Act in 1972 (Public Resources Code §2621, et seq.) to assure that homes, offices, hospitals, public buildings, and other structures for human occupancy are not built on active faults. The Act requires a geological investigation before a local government can approve most development projects in the vicinity of known earthquake faults.

The State Geologist maps earthquake fault zones along the traces of known potentially and recently active major faults. These zones usually are one-quarter mile or less in width (Public Resources Code §2622). The State Geologist periodically revises these maps and designates new zones as studies identify hazardous faults. Before the zones are designated officially by

Useful Definitions: **Earthquake Fault Zoning Act**

Active Fault: A fault that has had surface displacement within Holocene time (approximately the past 11,000 years). (California Code of Regulations, Title 14, §3601(a))

Fault Trace: The line formed by the intersection of a fault and the earth's surface. It is the representation of a fault as depicted on a map, including maps of earthquake fault zones. (California Code of Regulations, Title 14, §3601(b))

Project: Any of the following (Public Resources Code §2621.6):

- Any subdivision of land that is subject to the Subdivision Map Act (Division 2, commencing with §66410, of the Government Code), and that contemplates the eventual construction of structures for human occupancy.
- Structures for human occupancy, with the exception of:
  - Single-family wood frame dwellings to be built on parcels of land for which geologic reports have been approved pursuant to the provisions of paragraph (1) of this subdivision.
  - A single-family wood frame dwelling not exceeding two stories when such dwelling is not part of a development of four or more dwellings. A mobilehome whose body width exceeds eight feet is considered to be a single-family wood frame dwelling not exceeding two stories.

Structure for Human Occupancy: Any structure used or intended for supporting or sheltering any use or occupancy, which is expected to have a human occupancy rate of more than 2,000 person hours per year. (California Code of Regulations, Title 14, §3601(e))

the Mining and Geology Board, preliminary maps are sent to all affected cities, counties, and state agencies for review and comment (Public Resources Code §2622). Within 90 days of final approval of an earthquake fault zones map by the Board, the State Geologist must send copies to affected cites and counties. The Board provides specific policies and criteria to guide cities and counties in implementing the law.

The affected city or county must inform the public of the locations of all designated earthquake fault zones. Disclosure can be made by reference in general plans, specific plans, property maps, or other appropriate local maps (Title 14, California Code of Regulations, §3603(b)). The city or county must also adopt procedures for reviewing and approving permits for new buildings located within fault zones. For example, before the city or county can approve a project within an earthquake fault zone, the applicant must submit a registered geologist's report describing any possibility of a surface rupture. If the city or county finds that no undue hazard exists, it can waive the requirement for a geologic report with the approval of the State Geologist (Public Resources Code §2623).

The California Geological Survey's *Fault-Rupture Hazard Zones in California* contains guidelines for evaluating hazards, a suggested outline for geologic reports on faults, and other useful items.

Relation to the General Plan

The Alquist-Priolo Act states that its purpose is to provide for "the adoption and administration of zoning laws, ordinances, rules, and regulations by cities and counties in implementation of the general plan." (Public Resources Code §2621.5). The Act's provisions should be reflected in the plan's land use, safety, and open-space elements. As with other planning issues, the Alquist-Priolo program should be addressed at three levels: data and analysis, policy; and implementation.

The data on the State Geologist's maps, including the approximate location of the faults and the boundaries of the earthquake fault zones, should be transferred to the hazard maps already included in the general plan. The general plan should incorporate Alquist-Priolo Act policies restricting building within fault zones. A city or county may also establish policies and criteria more restrictive than those of the Act or adopted by the State Mining and Geology Board. Implementation may occur through disclosure requirements as well as through zoning and subdivision requirements.

SEISMIC HAZARDS MAPPING ACT

The Seismic Hazards Mapping Act (Public Resources Code §2690, et seq.) complements the Alquist-Priolo Act by requiring the State Geologist to compile maps identifying seismic hazard zones—those areas that during an earthquake are susceptible to ground shaking, landslides, or liquefaction. Where official seismic hazard maps exist, cities and counties must require that the developer prepare a geotechnical report delineating any seismic hazard and proposing mitigation measures before they may approve any project in a seismic hazard zone (Public Resources Code §2697). The minimum level of mitigation for a project should be to reduce the acceptable risk of ground failure in an earthquake to a level that does not cause the collapse of buildings for human occupancy (note that this level would not preclude ground failure or major damage to structures short of collapse). Further, before real estate may be sold, the seller must disclose to the prospective buyer the existence of a seismic hazard zone. To view official seismic hazard maps, go to the website for the Seismic Hazards Mapping Program within the Department of Conservation's California Geological Survey at www.conservation.ca.gov/cgs.

Relation to the General Plan

The Seismic Hazards Mapping Act specifically requires cities and counties to take into account the information available in seismic hazard maps when

Useful Definitions: **Seismic Hazards Mapping Act**

Acceptable Level of Risk: The level that provides reasonable protection of the public safety, though it does not necessarily ensure continued structural integrity and functionality of the project. (California Code of Regulations, Title 14, §3721)

Project: The same meaning as in the Alquist-Priolo Earthquake Fault Zoning Act, except as follows:

- A single-family dwelling otherwise qualifying as a project may be exempted by the city or county having jurisdiction.
- "Project" does not include alterations or additions to any structure within a seismic hazard zone that do not exceed either 50 percent of the value of the structure or 50 percent of the existing floor area of the structure. (Public Resources Code §2693)

preparing their safety elements and when adopting or revising land use planning regulations such as zoning (Public Resources Code §2699). Policies may also be included in the open-space and land use elements when not redundant. The State Mining and Geology Board's *Guidelines for Evaluating and Mitigating Seismic Hazards* offers useful suggestions for compliance.

COBEY-ALQUIST FLOODPLAIN MANAGEMENT ACT

This act encourages local governments to plan, adopt, and enforce floodplain management regulations (Water Code §8400, et seq.). Where a federal flood control project report has been issued designating floodway boundaries, the Department of Water Resources or the State Reclamation Board will not appropriate money in support of the project unless the applicable agency has enacted floodplain regulations. Those regulations must provide that:

- Construction of structures in the floodway that may endanger life or significantly reduce its carrying capacity shall be prohibited.
- Development will be allowed within the "restrictive zone" between the floodway and the limits of the floodplain as long as human life and the carrying capacity of the floodplain are protected. (Water Code §8410)

Relation to the General Plan

The Act supports restrictive general plan policies and zoning provisions with respect to floodplain management. Policies and programs providing for protection and prevention of community flood hazards should be incorporated into the safety element. Further, floodways and floodplain boundaries should be designated and a consistent land use designation given to affected lands in the land use element (including its diagram).

AIRPORT LAND USE COMMISSION LAW

Each county containing one or more public use airport is required to either establish an airport land use commission (ALUC) or, in cooperation with affected cities and Caltrans' Division of Aeronautics, adopt processes and designate an alternative agency for the purpose of preparing an airport land use plan for each such airport (Public Utilities Code §21670 and §21670.1). Adjoining counties may also establish an inter-county ALUC when there is an airport that straddles county lines (Public Utilities Code §21670.4). The airport land use plan (ALUP) provides for the orderly growth of each public use airport over a 20-year span and minimizes land use conflicts over height and noise with the surrounding area. The ALUP may include building height restrictions, specify allowable land uses, and determine building standards (including soundproofing) within the planning area of each airport.

Public Utilities Code §21674 empowers the ALUC to do the following:

- Assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses.
- Coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation while at the same time protecting the public health, safety, and welfare.
- Prepare and adopt an ALUP pursuant to Public Utilities Code §21675.
- Review the plans, regulations, and other actions of local agencies and airport operators pursuant to Public Utilities Code §21676.

The ALUC does not, however, have the power to regulate airport operations.

Until an ALUC adopts an ALUP, a city or county considering a project within the vicinity of a public-use airport must submit the proposal to the ALUC for review and approval. (Public Utilities Code §21675.1) In effect, the ALUC is making land use decisions in place of the city or county during this period. Projects may only be approved when the ALUC finds that it is making progress toward completing its plan, the action will probably be consistent with that plan, and there is little probability that the project will interfere with the future plan, even if the action is ultimately inconsistent with that plan. If a project is denied by the ALUC, the city's or county's legislative body may overrule that decision by a two-thirds vote if it makes findings that doing so is consistent with the purpose of ALUCs (Public Utilities Code §21670).

In some counties that choose not to establish an ALUC or delegate its duties, the county and affected cities can prepare an ALUP for each airport and adopt processes for the amendment of general and specific plans to be consistent with the comprehensive ALUPs. These processes are subject to review and ratification by Caltrans' Division of Aeronautics. Other exceptions to the rule on establishing an ALUC are described in Public Utilities Code §21670.1.

Relation to the General Plan

Once an ALUP has been adopted, pertinent city and county general plans and other local land use and building regulations must be made consistent with it unless the city council or county board of supervisors votes by a two-thirds majority to overrule the ALUC and makes specific findings to justify not amending their regulations and plans (Public Utilities Code §21676). The findings must show that the action of the legislative body:

- Provides for the orderly development of each public use airport and the area surrounding such airports in such a manner as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Public Utilities Code §21669 (Title 21, California Code of Regulations, §5000, et seq.) and prevent the creation of new noise and safety problems.
- Protects public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that such areas are not already devoted to incompatible uses (Public Utilities Code §21670 and §21676(b)).

Subsequent changes to the general plan, specific plans, zoning ordinance, or building regulations affecting areas covered by an ALUP must also be referred to the ALUC before being adopted by the city or county (Public Utilities Code §21676(b)). The ALUC has 60 days to determine whether the proposed action is consistent with the airport land use plan. If the ALUC determines that the proposed action is inconsistent with its plan, the city council or board of supervisors must either modify the proposed action or overrule the ALUC's determination by a two-thirds vote after a public hearing. Where an alternative approach to airport land use planning has been approved by the Division of Aeronautics, consistency protocols will be established by the county and affected cities and ratified by the Division.

ALUPs apply to land use, noise, and other development issues that also are addressed in the local general plan. The local general plan should incorporate, at least in summary form, essential background data from the ALUPs, such as information regarding safety zones and areas affected by aircraft noise. The noise contours for each airport in the planning area should be part of the noise element.

The general plan should contain development policies, plan proposals, and standards for land use and development around airports, including:

- Policies consistent with the purposes of the Airport Land Use Commission Law.
- Land use designations specifying allowable uses that are compatible with identified hazards and noise problems.
- Standards for building heights that minimize hazards from aircraft.
- Standards for noise insulation at least as rigorous as those required by the state and the airport land use plans.
- Objective criteria for determining when it may be appropriate to override the recommendations of the land use commission or alternative body in accordance with the policies of Public Resources Code §21670.

The *California Airport Land Use Planning Handbook*, prepared by the Division of Aeronautics, is the state's primary reference for airport land use planning. The publication discusses the requirements of the state statutes, overriding findings, noise compatibility planning, safety aspects of airport planning, height restrictions, and airport master plans. CEQA specifically requires use the *California Airport Land Use Planning Handbook* (Public Resources Code §21096).

CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKHA) establishes procedures for local government changes of organization, including a city incorporation, annexation to a city or special district, and consolidation of cities or special districts (§56000, et seq.).

The Local Agency Formation Commission (LAFCO) of each county is the agency with the authority and responsibility to regulate these activities. LAFCOs have numerous powers under CKHA, but those of primary concern are the power to act on local agency boundary changes and to adopt spheres of influence (SOIs) for local agencies.

Incorporation is the formation, creation, and establishment of a city with corporate powers (§56043). Incorporation must be initiated by voter petition, followed by a study and approval process supervised by the LAFCO.

Annexation is the inclusion, attachment, or addition of territory to a city or district (§56017). Annexation is a type of boundary change that increases the jurisdictional area of a city or special district. Annexation may be initiated by voter petition or by resolution of the governing body of a city or special district.

A sphere of influence is a plan for the probable physical boundaries and service area of a city or district, as determined by the LAFCO (§56076). This plan serves as a basis for making future annexation decisions and is intended to provide for orderly growth and development. Annexation of land outside the SOI is generally not allowed.

LAFCOs are subdivisions of the state. They have no authority to dictate the land use policies of cities and counties and no direct land use control. However, CHKA assigned LAFCOs a prominent role in regional planning issues by charging them to consider a wide range of land use and growth factors when acting on matters under their jurisdiction. A LAFCO has broad statutory responsibility to facilitate planned, orderly, efficient patterns of urban development; preserve agricultural lands; and discourage urban sprawl. LAFCO decisions must balance the competing needs for affordable housing, economic opportunities, and the preservation of natural resources. Because of this, some consider LAFCOs to be the state's only true regional growth management agencies.

By making decisions about the extent of the geographic area over which a local government or special district may control planning and development, the LAFCO can exert great influence over the extent and rate of growth and development both locally and regionally.

Relationship to the General Plan

LAFCO actions have a direct bearing on general plans, especially those of cities, through the LAFCO's direct role as an approval authority and indirect role as a commenting agency.

A community that desires to incorporate must receive LAFCO approval after a public process that weighs numerous factors, including fiscal balance, housing needs, and natural resource protection. The LAFCO establishes the new city's SOI at the time of incorporation or shortly thereafter. In addition, the LAFCO must review and update SOIs every five years, which means that it periodically considers whether the city's or district's growth warrants changes to the physical limits of its ultimate service area. A city or district may apply to the LAFCO for an amendment to the SOI but approval is subject to review based on LAFCO policy objectives. As discussed in Chapter 1, the SOI frequently serves as a starting point for the city or county planning area.

A city must receive approval from the LAFCO to annex land to the city. By law, the LAFCO must require as a condition of annexation that a city prezone the territory to be annexed (§56375(a)). Prezoning may take place prior to an application for annexation or at the same time as the annexation proposal. The LAFCO may review the type and intensity of development that is proposed for the area to be annexed before making its decision.

In making any of the above decisions, the LAFCO must review applicable local general plan policies and development proposals to ensure that LAFCO objectives for efficient development are achieved and that legal findings can be made. Local general plan policies may need to be reconciled with LAFCO policies in order for the city or district to receive LAFCO approval. The LAFCO, for instance, may be unable to approve an annexation or SOI amendment if those actions could be construed to encourage sprawl development on prime agricultural land.

LAFCOs also have an important role in consultation on local general plans. State planning law requires cities and counties to refer their general plans to the LAFCO before adopting or amending the general plan (§65352). LAFCOs act as both lead agency and responsible agency when making CEQA determinations.

LAFCOs can have a powerful influence on local land use planning decisions through participation in city and county general plan processes. On one hand, LAFCOs must consider consistency with local general plans when making boundary decisions, but LAFCOs also have the ability to influence the nature of those general plans through active participation in their creation.

A LAFCO has responsibilities under the California Environmental Quality Act (CEQA) that require it to act as either a lead agency or responsible agency. The LAFCO serves as the lead agency under CEQA for incorporations and establishment of SOIs and is therefore responsible for conducting the appropriate environmental review. The LAFCO acts as a CEQA responsible agency for annexations and prezoning actions, with the city serving as the lead agency. In its capacity as a responsible agency, the LAFCO must consult with the affected city and county prior to giving its approval. In either case the consistency of the proposed action with the general plan is an important CEQA consideration.

LAFCOs should be an integral participant in regional growth and planning forums. Local and regional planners should involve the LAFCO in any discussions regarding long range planning issues.

REGIONAL TRANSPORTATION PLANNING

Transportation planning is much more than mapping future freeway alignments. It involves planning for various modes of transportation, complex traffic modeling, conformity with air quality standards, congestion management, and many other factors. Regional transportation planning is a complex field populated by multitudinous state and federal laws and regulations. Effective in 1998, California revised its local transportation planning process to give greater authority to regional transportation planning agencies and to specify that most state transportation funds allocated through the regional transportation planning process must go to regional projects (Chapter 622, Statutes of 1997). The following is a brief discussion of the major points, but is not intended to be a comprehensive review of the requirements and processes involved in this branch of planning.

State law requires each of California's Regional Transportation Planning Agencies (RTPAs) to prepare a Regional Transportation Plan (RTP) and a Regional Transportation Improvement Program (RTIP) that coordinate and balance the regional transportation system, addressing such topics as highways, railroads, mass transportation, bicycle and pedestrian facilities, aviation facilities, and ships (§65080, et seq.).

The RTP and the RTIP, as part of the California Transportation Commission's process of selecting projects for the State Transportation Improvement Program (STIP), establish the basis for state funding of local and regional transportation projects. Federal law also requires an RTP as a prerequisite to funding such projects. Under federal requirements, a Transportation Improvement Program (TIP) identifies individual projects that may be eligible for available funding.

Most of the state's regional councils of government function as RTPAs (most are also designated as Metropolitan Planning Organizations under federal law). The Metropolitan Transportation Commission and the Tahoe Regional Planning Agency are designated as the RTPAs for the nine-county San Francisco Bay Area and the Lake Tahoe region, respectively. The RTPAs coordinate with the public, advocacy groups, local governments, transit operators, congestion management agencies, air quality districts, Caltrans and other state agencies, and federal transportation and environmental protection agencies when preparing their plans and programs.

Pursuant to §65080, et seq., the RTP must include:

- A policy element setting out the area's transportation objectives and policies, consistent with the financial element.
- An action element describing the programs and actions necessary for specified agencies to implement the plan over its 20-year lifespan and integrating county congestion management programs.
- A financial element summarizing the cost of plan implementation, including a comparison of available revenues to expected costs, and recommendations for the allocation of funds and development of new revenue sources. The element is based on Caltrans' four-year estimate of available state and federal funding.

Each RTPA whose planning area includes a primary air carrier airport must include within its RTP an airport ground access improvement program (§65081.1). The program must address the development and extension of mass transit lines to the airport.

The RTIP identifies and prioritizes specific transportation projects within the region on a five-year schedule, updated every two years (§65082). A project study must be done for each project included in the RTIP (§14527(f)). The RTIP is submitted to Caltrans and the California Transportation Commission, which consider it for inclusion in the STIP. The Commission may reject an RTIP that does not meet Commission guidelines or that is not cost-effective, but cannot reject individual projects within an RTIP. Projects included in the STIP are eligible for state funding of project planning, programming, and monitoring.

State law provides that 25 percent of the funds made available through the STIP must be programmed and expended for interregional improvements (the Interregional Transportation Improvement Program, or ITIP) and mandates that 75 percent go to regional improvements (the RTIPs) (Streets and Highways Code §164(a)). The STIP must specify the funding for permits and environmental studies, planning, right-of-way acquisition, and construction for each project in the program (§14529).

Under state law, each county containing an urbanized area must establish a congestion management agency (CMA) to prepare and adopt a congestion management plan (CMP) (§65089, et seq.). The CMP establishes programs for mitigating the traffic impacts of new development, including deficiency programs where congestion is extreme, and monitoring the performance of system roads relative to established Level of Service standards. The CMP is expected to link land use, transportation, and air quality concerns. At a minimum it must include all state highways and all principal arterial roads.

The CMP must contain the following components:

- An element defining the CMP transportation system and Level of Service (LOS) standards for the highway portion of the system.
- A performance element evaluating system performance across several modes.
- A travel demand element.
- A program for analyzing the impact of land use decisions.
- A seven-year capital improvement program. (§65089)

In addition to these components, the CMA must develop a traffic database for use in a countywide traffic model.

CMPs are integrated into the RTP's action element and their projects are included in the RTIP. If the CMA finds that a local agency has not complied with the adopted CMP, it must so inform the State Controller and California Transportation Commission. The state will then withhold the local agency's share of state transportation funds.

A county may exempt itself from the CMP requirements when a majority of the cities and county representing a majority of the population of the county adopt resolutions of exemption (§65088.3). In that case, the requirements for incorporating the CMP into the RTIP do not apply (§65082(f)).

Federal law also imposes transportation planning requirements. The Federal Clean Air Act imposes "conformity" requirements on transportation planning, programming, and projects in non-attainment areas under federal air quality standards. RTPs must be project-specific, cover at least a 20-year timeframe, and reflect reasonably expected fiscal restraints and ability to either meet emission budgets in the federal EPA-approved air quality plan (State Implementation Plan, or SIP) or demonstrate lower emissions with the proposed projects than without. Transportation Improvement Programs (TIPs) must implement the projects from the RTP in the TIP timeframe or a new 20-year conformity analysis must be prepared and the RTP amended to reflect the revisions to the transportation system that differs from the prior RTP approval. Regionally significant transportation projects and all transportation projects that receive federal funding must demonstrate through the environmental review process (NEPA and/or CEQA) that they come from a conforming RTP and TIP, will not create a "hot spot" for certain types of emissions, and will not interfere with implementing transportation control measures. All transportation projects that receive federal funding must either do the conformity analysis or demonstrate that they are exempt from conformity requirements. Federal transportation enabling legislation generally offers flexible funding of a multimodal range of projects, including projects specifically targeted to air quality improvements such as the funded through the Congestion Mitigation and Air Quality (CMAQ) program.

Relation to the General Plan

The policies and plan proposals contained in the land use and circulation elements should reflect the RTP and RTIP. Clearly, transit standards, congestion management measures, proposed facilities, and transportation-related funding may directly affect land use patterns and capital improvements. Although there is no explicit requirement that the RTP and RTIP be consistent with local general plans, good practice dictates that cities and counties should address these regional goals, policies, and programs to the extent they are relevant. The city or county should consult with the RTPA and CMA when updating or adopting a circulation element or when considering changes to the land use element that would involve traffic or transportation issues.

ENDANGERED SPECIES LAWS

Although there are several laws and regulations that protect animals and plants in California (see Other Laws), the two that have the most impact are the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA).

Enacted in 1973, the federal Endangered Species Act (16 USC §1531, et seq.) is one of the most powerful environmental laws to date. The United States Supreme Court has described the ESA as "the most comprehensive legislation for the preservation of endangered species ever enacted by any nation...The plain intent of Congress was to halt and reverse the trend toward species extinction, whatever the cost" (*Tennessee Valley Authority v. Hill, (1973) 437 U.S. 153, 180,184 (1973)*). The purpose of the act is not only to protect endangered and threatened species and the ecosystems upon which they depend, but also to facilitate the recovery of these species (16 USC §1531(b)).

The California Endangered Species Act (Fish and Game Code §2050, et seq.), was first enacted in 1970 and substantially revised in 1984. The revised act was modeled after the ESA and is intended to provide additional protection to endangered and threatened species in California. The CESA does not supersede the ESA, but rather operates in conjunction with it. Species may be listed as endangered or threatened under one act and not

the other, or under both acts, in which case the provisions of the act that provides greater protection for the species in question applies (16 USC §1535(f)).

Jurisdiction

The Secretary of the Interior and the Secretary of Commerce (acting through the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, respectively) are responsible for the administration of the ESA. The Secretary of Commerce has jurisdiction over all but a few marine species. The Secretary of the Interior is responsible for all other species (16 USC §1532(15) and §1533(a)(2); 50 CFR §402.01(b)). The term "Secretary" as used in this section refers to the Secretary who has jurisdiction over the species in question.

Under the CESA, the California Fish and Game Commission is responsible for the listing of species (Fish and Game Code §2070) and the California Department of Fish and Game (DFG) is responsible for administering and enforcing all other aspects of the Act.

Listing

The cornerstone of both the ESA and the CESA is the listing of species. Once a species is placed on either the endangered or threatened list it is granted the substantial protections of the Act (see Prohibitions below). In California, CESA protections are also extended to those species that the Fish and Game Commission has formally noticed as a candidate species (Fish and Game Code §2085).

Several factors are considered in the decision to place a species on the list, including the current status of the species and the nature of the threat (50 CFR §424.10, §424.11; 14 California Code of Regulations §670.1(b)). Listing decisions must be based on the best available scientific data and the status of listed species must be reviewed every five years to determine if the conditions leading to the original listing are still present (16 USC §1533(c)(2)(A); Fish and Game Code §2077). Economic impacts are not taken into consideration in the listing process (16 USC §1533(b)(1)(A)).

Both the ESA and the CESA provide that individuals, organizations, or other agencies may petition the administering agency to add, delete, or change the listing status of any species (16 USC §1533(b); Fish and Game Code §2071). Both acts also contain emergency listing provisions, allowing normal listing procedures to be bypassed and a species to be immediately placed on the endangered or threatened list if there is a serious risk of the species becoming extinct before other adequate measures can be taken (16 USC §1533(b)(7); Fish and Game Code §2076.5).

Critical Habitat

Under the federal ESA, in addition to listing a species, the Secretary is required to designate critical habitat. This may include areas of land, water, and air space required by a listed species for its survival and recovery. Although critical habitat may be designated on private or state lands, activities on these lands are not restricted by the ESA unless direct harm to a listed species would result or a federal agency is involved, directly or indirectly, in the activity. If a federal agency is involved, the activities can proceed only if the Secretary determines that they will not result in the destruction or adverse modification of the habitat (16 USC §1536(a); see Agency Consultation section on the next page).

Economic impacts are considered when designating critical habitat. The Secretary may exclude any area from critical habitat determination if he finds, based on the best scientific and commercial data available, that the benefits of such an exclusion outweigh the benefits of inclusion and the exclusion will not result in the extinction of the species concerned (16 USC §1533(b)(2)).

Recovery Plans

Besides listing and the designation of critical habitat under the ESA, the Secretary is also responsible for the development and implementation of recovery plans (16 USC §153(f)(1)). The intention of these plans is not only to stem the decline of the species, but also to facilitate its recovery. Either single species or multi-species plans may be prepared, but the Secretary is required to give priority to those endangered or threatened species that are most likely to benefit from such plans, especially those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity (16 USC §1533(f)(1)(A)).

Recovery plans must contain the following:

- A description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species.
- Objective, measurable criteria that, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list.
- Estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal. (16 USC §1533(f)(1)(B)).

Prohibitions

The ESA makes it illegal to import, export, take, possess, purchase, sell, deliver, or transport any endangered fish or wildlife species (16 USC §1538(a)(1)). With respect to endangered plants, the prohibitions are the same, except that take prohibitions apply only to areas under federal jurisdiction or when done in knowing violation of any law or regulation of any state or in the course of any violation of a state criminal trespass law (16 USC §1538(a)(2)). Threatened species of fish, wildlife, and plants have similar, but slightly weaker, protections (50 CFR §17.31, §17.71).

The CESA provides similar protections to endangered and threatened species, making it illegal to import, export, take, possess, purchase, or sell any endangered or threatened species (Fish and Game Code §2080). Additionally, the CESA extends these protections to candidate species (Fish and Game Code §2085).

Although both the ESA and the CESA prohibit the taking of a listed species, a significant difference lies in their definitions of take. The broader ESA definition includes the terms harass and harm (see Glossary). The Fish and Wildlife Service's regulatory definition of harm includes any action that "may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering." (50 CFR §17.3)

In contrast, CESA does not recognize habitat modification or degradation or any act as a taking unless it is the "proximate cause of death of an individual of a listed species or the natural and probable consequences of which would lead to the death of any listed species." The California Attorney General further clarified the relationship between habitat modification and taking in a May 15, 1995 opinion stating that unlike the ESA, the CESA "does not prohibit indirect harm to a state-listed endangered or threatened species by way of habitat modification." (*78 Ops. Cal.Atty Gen. 137 (1995)*).

Agency Consultation

Both the ESA and CESA impose a number of procedural requirements to ensure that federal and state agencies do not carry out any actions that would jeopardize the continued existence of any listed species or result in the destruction or adverse modification of habitat essential to its existence.

Under Section 7 of the ESA, any federal agency proposing to authorize, fund, or carry out a major construction activity or any action that will "significantly affect the quality of the human environment" as referred to in the National Environmental Policy Act (NEPA) (42 USC §4332(2)(c)), must first inquire of the Secretary whether any federally listed species or designated critical habitat may be present in any area directly or indirectly affected by the proposed action (16 USC Section §1536(c)(1); 50 CFR §402.02, §402.12(c)).

If any federally listed species or designated critical habitat may be present in the area, the agency must prepare a biological assessment to determine whether the action is likely to affect the species (16 USC §1536(c)(1); 50 CFR §402.12(d)(2)). The purpose of a biological assessment is threefold:

- To evaluate the effects of the action on listed and proposed species and critical habitat.
- To determine the need for consultation or conference with the Secretary.
- To achieve compliance with the ESA and the NEPA.

Biological assessments are combined with environmental review documents required by NEPA (16 USC §1536(c)(1); 50 CFR §402.06(a)). For instance, in cases where the agency's action may affect a federally listed species, both a biological assessment and an environmental impact statement (EIS) will be required and may be combined into one document (50 CFR §402.06(b)). However, a federal agency's compliance with other laws does not relieve the agency of its duty to comply with all other requirements of the ESA (50 CFR §402.06(a)).

If the biological assessment determines that the proposed federal agency action may affect the listed species, the agency must formally consult with the Secretary (16 USC §1536(a)(4); 50 CFR §402.12(k)(1)). During the formal consultation period all relevant information concerning the species and/or critical habitat must be reviewed, the proposed action's direct and indirect impacts must be evaluated, and the Secretary must formulate conservation recommendations concerning the species and/or critical habitat (50 CFR §402.14(g)).

After consultation between the parties is complete, the Secretary must provide the agency with a written biological opinion evaluating the proposed action's impact on the species or critical habitat (50 CFR §402.02). If the opinion finds that the proposed action may jeopardize the species' continued existence or destroy or adversely modify critical habitat, the opinion must also include reasonable and prudent alternatives

to the proposed action (16 USC §1536(b)(3)(A); 50 CFR §402.14(h)).

The CESA has similar provisions for formal consultations under the CEQA process. Consultation is triggered when a state lead agency under CEQA proposes to authorize, fund, or carry out any project that is likely to jeopardize the continued existence of any state-listed species (Fish and Game Code §2090(a); Public Resources Code §21104.2). Formal consultation is typically initiated at the time the state lead agency has determined to prepare an EIR or a mitigated negative declaration under CEQA and is completed upon certification of the EIR or approval of the negative declaration.

During consultation, DFG reviews all relevant information regarding species potentially present in the project area and evaluates the proposed project's effects on state-listed species and their essential habitats. At the end of the process, DFG will issue a written finding evaluating the proposed action's impact on the species and essential habitat (Fish and Game Code §2090(b)). If DFG finds that the proposed action will have an adverse impact on either the species or its habitat, DFG must also include reasonable and prudent alternatives to the proposed action (Fish and Game Code §2091).

Exemptions

Both the ESA and the CESA provide for a number of exemptions to the above prohibitions. The ESA contains provisions for incidental takings through the agency consultation process (16 USC §1536(b)(4); 50 CFR §402.14(i)(1)), takings in conjunction with cooperative agreements (16 USC §1535(g)(2)(A)), and the regulated taking of specific threatened species (16 USC §1533(d)). The ESA also provides economic hardship (16 USC §1539(b)(2); 50 CFR §17.23, §17.63, and §17.32(a)(1)); scientific (16 USC §1539(a)(1)(A); 50 CFR §17.22(a), §17.32(a), §17.62, and §222.308), and Endangered Species Committee exemptions (16 USC §1536(o)(1)).

Useful Definitions: **Endangered Species**

Candidate Species: Under the CESA, any native species of fish, wildlife, or plant that the Fish and Game Commission has "formally noticed as being under review by the department for addition to either the list of endangered species or the list of threatened species, or a species for which the commission has published a notice of proposed regulation to add the species to either list." (Fish and Game Code §2068)

Critical Habitat: Under the ESA, "the specific areas within the geographical area occupied by the species… which are… essential to the conservation of the species and which may require special management considerations or protection; and specific areas outside the geographical area occupied by the species…upon determination by the Secretary [of the Interior] that such areas are essential for the conservation of the species." (16 USC §1532(5)(A))

Endangered Species: Any species that is in danger of extinction throughout all or a significant portion of its range. (16 USC §1532(6) and Fish and Game Code §2062)

Federal Action Agency: Any department, agency, or instrumentality of the U.S. proposing to authorize, fund, or carry out an action.

Incidental Take: "Any taking otherwise prohibited, if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity."(50 CFR §17.3)

Species: Under the ESA, "any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature"(16 USC §1532). Under the CESA, "a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant." (Fish and Game Code §6072)

Take: Under the ESA, "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (16 USC §1532(19)). The CESA defines *take* as "[to] hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish and Game Code §86)

Threatened Species: Any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. (16 USC §1532(20); Fish and Game Code §2067)

Trustee Agency: A state agency having jurisdiction over natural resources affected by a project that are held in trust for the people of California. The DFG is the trustee agency with regard to the fish and wildlife of the state and those plants designated as threatened or endangered. (CEQA Guidelines §15386)

For private, local, and state government projects that do not require any kind of federal agency involvement, the ESA also provides for incidental take permits (16 USC §1539(a)). These permits, issued in conjunction with an approved habitat conservation plan (see below), allow for the otherwise prohibited taking of a species listed under the ESA if:

- The taking will be incidental.
- The applicant will, to the extent practical, minimize and mitigate the impacts of the taking and will ensure that adequate funding is available to do so.
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species.
- The applicant will ensure that other measures that are deemed necessary or appropriate by the Secretary will be provided (16 USC §1539(a)(2)(B); 50 CFR §17.22(b)(2), §17.32(b)(2)).

To help minimize and mitigate the impacts of the anticipated take, the incidental take permit applicant must submit a Habitat Conservation Plan (HCP). HCPs vary in size, scope, and the activities that they address, from small-scale, single-species plans to large, multi-species, multi-jurisdictional arrangements. Regardless of size, all HCPs must contain the following:

- The likely impacts of the proposed take.
- The steps the applicant will undertake to monitor, minimize, and mitigate such impacts, the funding that will be made available to implement these steps, and the procedures to deal with any unforeseen circumstances.
- Any alternatives to the taking that the applicant considered and why they were rejected.
- Any additional measures the Secretary requires to be addressed. (16 USC §1539(a)(2)(A); 50 CFR §17.22(b)(1)(iii) and §17.32(b)(1)(iii)(c))

Pursuant to CESA, DFG may similarly excuse state agencies from the incidental take of an endangered, threatened, or candidate species through the consultation process. The Department may, under Fish and Game Code §2081, issue permits or memoranda of understanding (MOU) that authorize individuals, public agencies, universities, zoological gardens, and scientific or educational institutions to import, export, take, or possess any endangered species, threatened species, or candidate species for scientific, educational, or management purposes.

DFG's authority to issue §2081 permits for incidental take is specified in subdivision (b) of that section. The department may issue permits when the incidental take:

- Is in conjunction with an otherwise lawful activity.
- Is minimized and fully mitigated.
- The permit is consistent with DFG regulations.
- The applicant commits to adequate funding of mitigation and monitoring compliance and effectiveness.

No permit can be issued where it would jeopardize the continued existence of the species.

Farm and Ranch Activities

The CESA contains special provisions for the take of species in the course of ranch or farm activities (Article 3.5 (commencing with §2086) of Chapter 1.5 of Division 3 of the Fish and Game Code). Until December 31, 2002, the accidental take of candidate, threatened, or endangered species resulting from inadvertent or ordinary negligent acts that occur on a farm or a ranch in the course of otherwise lawful routine and ongoing agricultural activities is not prohibited (Fish and Game Code §2087). Further, Fish and Game Code §2086 directs DFG to adopt regulations (to be developed in cooperation with the Department of Food and Agriculture and other interested parties) for locally designed, voluntary programs for habitat conservation on farms and ranches. The programs must: (1) include management practices to avoid or minimize the take of species while enhancing habitat; (2) be based on the best available scientific information; (3) be consistent with CESA; (4) be designed to be flexible enough to encourage participation; and (5) contain provisions allowing farmers or ranchers to withdraw from the program without penalty. DFG would be required to reauthorize such programs every five years.

Other Laws

In California there are several additional laws and regulations that, directly and indirectly, protect fish, wildlife, and plant species, including the National Forest Management Act, the Marine Mammal Protection Act, the Migratory Bird Treaty Act, Section 404 of the Clean Water Act, the California Native Plant Protection Act, the California Z'Berg/Nejedly Forest Practice Act of 1973, certain provisions of the Fish and Game Code, and local and state government land use and permitting processes.

Natural Community Conservation Planning Act

Enacted in 1991, the Natural Community Conservation Planning Act (NCCPA) represents a shift from the traditional single-species protection approach to a broader, multi-species approach centered on ecosystems. The Act is intended to minimize the conflicts between land use development and endangered species protection by protecting species and their habitats in advance of listing and encouraging cooperation between often competing interests.

The NCCPA (Fish and Game Code §2800) achieves these goals through the development and implementation of Natural Community Conservation Plans (NCCPs). These plans, which may be undertaken by local, state, and federal agencies independently or in cooperation with other persons, identify and provide for regional or areawide protection and perpetuation of natural wildlife diversity while allowing compatible and appropriate development and growth. The plans are required to provide comprehensive management and conservation of multiple wildlife species and may include any wild animals, birds, plants, amphibians, and related ecological communities, including the habitat that the wildlife depends upon.

Plan implementation often includes, but is not limited to, the following elements:

- **Conservation Strategy**—The strategy might include such techniques as habitat reserve assembly or watershed management designed to promote biodiversity; provide for high likelihoods for persistence for covered species and ecosystem function, and provide for no net loss of habitat values from the present, taking into account management and enhancement. This means no net reduction in the ability of the planning region involved to maintain viable populations of target or indicator species over the long term.
- **Adaptive Management**—Adaptive management allows for changes in management strategies that may be necessary to reach long-term goals. This recognizes that environmental conditions and scientific information evolve over time.
- **Monitoring**—Implementation of the plan includes a monitoring program to ensure that data will be properly collected, analyzed, and used to adjust management strategies as appropriate, and to measure compliance with plan implementation mechanisms and biological performance.

NCCPA requirements do not supplant the requirements of the ESA and the CESA. NCCPs are required to be developed and implemented consistent with the ESA, CESA, NEPA, and CEQA (Fish and Game Code §2825(a)(6), (b)). Compliance with the NCCPA, however, is designed to meet some of the requirements of these other laws. For instance, the approval of an NCCP constitutes authority to take any identified species whose conservation and management is provided for in the plan, whether or not the species is listed under the ESA or CESA (Fish and Game Code §2830).

Pilot program

Begun in late 1991, the NCCPA pilot program known as the Coastal Sage Scrub Natural Community Conservation Plan (CSS NCCP) focuses on the coastal sage scrub habitat area of Southern California. The area is home to the endangered California gnatcatcher and approximately 90 other potentially threatened or endangered species of plants and animals. The planning area covers over 6,000 square miles and includes large portions of Orange, San Diego, and Riverside counties and smaller portions of Los Angeles and San Bernardino counties. Approximately 60 local government jurisdictions, scores of landowners and developers, state and federal wildlife authorities, and environmental groups are actively participating in the program.

The program's goal is the development and implementation of 10 to 15 subregional NCCPs within the CSS planning area and will include the acquisition of lands, the creation of conservation banks, and the incorporation of habitat conservation plans (HCPs). Achievements of the pilot program include:

- The San Diego Multiple Species Conservation Program (MSCP), a 582,000-acre habitat plan that establishes a 172,000-acre preserve system, protecting 85 species and 23 vegetation types.
- The Orange County Central Coastal NCCP Subregional Plan, a 37,380-acre wildlife preserve that includes 12 major habitat types and 39 sensitive plant and animal species;
- The Poway HCP/NCCP Subarea Plan, a 25,000 acre plan, establishing a 13,300 acre Mitigation Area and providing incidental take coverage for 43 species.
- The San Diego Gas and Electric Company (SDG&E) NCCP Subarea Plan, providing a combination of land, easements, mitigation measures, and habitat connectivity in areas where little natural habitat remains. The plan project covers 110 species and extends south from southern Orange County to the Mexican Border.

Official Policy on Conservation Banks

In April 1995, the California Secretary for Resources and the Secretary for Environmental Protection established the Official Policy on Conservation Banks. Built on the concept of mitigation banking, which has been used in California since the mid-1970s, the policy officially recognizes mitigation banking and provides a state-sanctioned approach to the establishment and maintenance of these banks.

A conservation bank is a parcel or series of parcels of land whose natural resource values—habitat types or species present—are sold or traded as credits to individuals, firms, or agencies that are required under law to compensate for adverse environmental impacts of a development or other activity. These credits fund habitat restoration at the site of the conservation bank and provide a permanent endowment for operation of the bank as a wildlife preserve.

Any individual or entity, public or private, can establish a conservation bank. There is no minimum or maximum size for the bank. However, the bank and each of its subparcels, if it contains any, must be large enough to be self sustaining or be part of a larger conservation strategy that has a "reasonable expectation of being accomplished." (Policy Section 3).

Although the creation of the banks is established pursuant to a regulatory agreement between the bank developer and the appropriate regulatory agency (Policy Section 2), the price of credits and the financial arrangements surrounding their sale are determined by bankers and buyers.

Before selling bank credits, a proposed conservation bank should be approved by the appropriate resource management agency(s). Basic elements in any approvable bank proposal should include, but are not limited to:

- Identification of a bank manager.
- Identification of the geographical boundaries of the bank and the service area of the bank.
- Provision for fundamental property protection measures (e.g., fencing some or all of the bank property if deemed appropriate, control of off-road vehicle use, etc.).
- Provisions for the resolution of current or prospective land use conflicts involving the bank lands (e.g., rights-of-way issues, existing use issues, adjacent land-use issues, etc.).
- Provisions requiring an annual report by the bank manager to be submitted to the appropriate regulatory agency(s).

Natural Diversity Database

The Natural Diversity Database (NDDB) is a computerized inventory of information on the general location and condition of California's sensitive populations of plants, animals, and natural communities, including all federal and state listed plants and animals and all species that are candidates for listing.

The NDDB, which was initiated by the Nature Conservancy in 1979 and incorporated into the Department of Fish and Game's Natural Heritage Division in 1981, is used by developers, local government planners, state and federal agencies, and conservation groups to determine where declining species and natural communities are located and if planned projects will affect them. The information is also used to identify biologically rich areas that can be targeted for protection through land conservation actions.

As of April 1994, the NDDB contained over 22,800 records for nearly 1,200 native species and natural communities. The data for the NDDB comes from several different sources. Locational information comes from private consultants, biologists from other state and federal agencies, academicians, and DFG field biologists.

Information from the NDDB is made available in three formats:

- Text, which can be generated by 7.5 minute quad, 1:100,000 scale map, by county or custom area.
- Overlay, computer generated for any scale base map.
- Rarefind2, a microcomputer database application program that can include the entire state or be customized to include just one or several counties.

Information may be obtained from the California Department of Fish and Game, Wildlife and Habitat Data Analysis Branch, 1807 13th Street, Suite 202, Sacramento, CA 95814, (916) 322-2493 or www.dfg.ca.gov/whdab.

Relation to the General Plan

The requirements of the various endangered species laws affect the general plan in two ways. First, the plan should include objectives, policies, principles, plan proposals, and standards to address the preservation and protection of any endangered, threatened, or candidate species. Most often these will be located within the conservation, open-space, and land use elements.

Section 65302(d) requires that the general plan include a conservation element for "the conservation,

development, and utilization of natural resources including fisheries [and] wildlife" (see Conservation Element in Chapter 4). Development policies concerning the preservation and protection of endangered, threatened, or candidate species should therefore be addressed within this element, including the promotion of congruency and cooperation with the management plans and policies of other agencies or organizations and recognition and implementation of enacted HCPs and NCCPs.

Development policies designed to protect endangered, threatened, or candidate species may also be included in the open-space element. Government Code §65560(b)(1) provides that land designated in the open-space element may include "open-space for the preservation of natural resources including areas required for the preservation of plant and animal life, including habitat for fish and wildlife species" (see Open Space Element in Chapter 4). Open-space development policies are often used to preserve and protect habitat or to provide land to mitigate for the destruction or adverse modification of habitat by development in other areas. As with the conservation element, congruency and cooperation with management plans and policies of other agencies or organizations should be part of the open-space element.

Areas designated for the preservation and protection of endangered, threatened, or candidate species, such as HCP and NCCP planning areas, conservation banks, and areas determined as critical habitat, should be identified within the land use element. Government Code §65302(a) requires that the land use element designate "the proposed general distribution and general location and extent of the uses of land" (see Land Use Element in Chapter 4). Other important wildlife habitats, such as migration routes, breeding grounds, and nesting areas for endangered, threatened, or candidate species may also be identified. The evaluation and regulation of these areas, as well as the impacts to endangered, threatened, or candidate species from new development allowed by the plan, should also be addressed.

The second way in which endangered species laws may affect the general plan is through CEQA requirements. Adopting or amending a general plan or an element of a general plan is a project under CEQA (see Chapter 7). According to §15064(a)(1) of the CEQA Guidelines, "if there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR." A project is usually considered to have a significant effect on the environment if it will substantially affect an endangered, rare, or threatened species of animal or plant or the habitat of the species. Where a significant effect is found to exist, CEQA obligates the city or county to incorporate mitigation measures into the policies of the general plan (Public Resources Code §21081.6). The city or county must also adopt a reporting or monitoring program for ensuring compliance with these mitigation measures. The CEQA process should be informed by existing HCPs and similar plans.

WETLANDS PROTECTION

Wetlands are the subject of federal, state, and local regulation due to their importance as a natural resource and the historic loss of a large percentage of California's pre-European era wetlands. Wetlands represent important wildlife habitat, are natural filters of water contaminants, and act to regulate the temperature and levels of water bodies including bays, estuaries, and river deltas. Wetland regulations are implemented by a number of agencies, and are typically triggered by development proposals.

Federal Regulatory Programs

The Clean Water Act provides federal agencies the authority to monitor and restrict discharges of pollution into waters of the United States. Under §404 of this act, the U.S. Army Corps of Engineers regulates by permit the placement of fill or dredged material into water bodies (broadly interpreted to include wetlands). The U.S. Army Corps of Engineers also has permitting authority pursuant to §10 of the federal Rivers and Harbors Act.

Other federal acts that influence wetland regulations include the federal ESA, the National Environmental Policy Act (NEPA), the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and the Coastal Zone Management Act. The requirements are triggered by projects undertaken or funded by federal agencies that often involve wetlands. Projects affecting wetlands in the coastal zone must be consistent with the Coastal Zone Management Act. The Act requires state agencies to adopt management programs for coastal resources. The ESA is particularly pertinent where wetlands provide habitat for endangered species.

The distinction between federal and state programs is not always clear cut. The next section discusses regulatory activities established under federal law but operated by state agencies in addition to regulatory programs established solely under state law.

Agencies with Wetlands Jurisdiction

Federal Agencies

U.S. Fish and Wildlife Service (USFWS)
(www.usfws.gov)
Responsible for the implementation of the Endangered Species Act. Actions under §404 of the Clean Water Act where endangered species may be present in wetland habitat requires consultation with the USFWS.

U.S. Army Corps of Engineers
(www.usace.army.mil)
Authorized under §404 of the Clean Water Act to regulate the placement of dredged or fill material into wetlands. Delineates wetlands under its jurisdiction.

U.S. Environmental Protection Agency
(www.epa.gov)
Enforcement and commenting authority under §404 of the Clean Water Act, the Endangered Species Act, and the National Environmental Policy Act concerning wetlands and habitat protections.

Other federal agencies with indirect wetlands authority:
National Marine Fisheries Service
Natural Resources Conservation Service
National Park Service

State Agencies

California Coastal Commission
(www.coastal.ca.gov)
Permitting authority pursuant to the Coastal Act and the Public Resources Code for projects within the coastal zone, including permit requirements involving wetlands and associated habitat.

California Department of Fish and Game
(www.dfg.ca.gov)
A Trustee Agency for California's natural resources with permitting authority for the alteration of water bodies, including wetlands under §1603 of the Fish and Game Code. Requirements for consultation under the California Endangered Species Act where wetland habitat supports rare, threatened, or endangered species.

San Francisco Bay Conservation and Development Commission (BCDC)
(www.bcdc.ca.gov)
The BCDC is the state coastal management agency for San Francisco Bay and has jurisdiction to administer the State McAteer-Petris Act pursuant to §66651, the San Francisco Bay Plan, and the Suisun Marsh Preservation Act. Its primary role is the protection, enhancement, and restoration of wetlands. All projects proposed in tidal wetlands in the planning area require an approved BCDC permit.

Delta Protection Commission (www.delta.ca.gov)
Pursuant to Public Resources Code §29760 and the Delta Protection Act of 1992, the Delta Protection Commission's *Land Use And Resource Management Plan For The Primary Zone of the Delta* (February 23,1995), established policies and programs for the preservation and restoration of wetlands and associated habitat in a 500,000 acre area of central California. Local agencies within the planning area are required to maintain consistency between the policies of the management plan and their respective general plans.

Other state agencies with indirect wetlands authority:
State Water Resources Control Board/Regional Water Quality Control Boards
State Lands Commission
State Coastal Conservancy
Department of Water Resources
Wildlife Conservation Board
Department of Parks and Recreation

State Regulatory Programs

California's wetlands conservation policy includes the goal to achieve no overall net loss and a long-term net gain in wetlands acreage and values. This goal is in part through combined federal and state agency implementation of §401 and §404 of the federal Clean Water Act, as well as through the California Coastal Act, the California Fish and Game Code, and the Porter-Cologne Water Quality Control Act. Additional restrictions are imposed under CESA and CEQA.

The Water Quality Certification Program is established by §401 of the federal Clean Water Act and is run by the individual states. Applicants for federal licenses or permits involving activities that may result

in a pollutant discharge to national jurisdictional waters must seek state certification that any such discharge will comply with state and federal water quality standards. In California, certifications are issued by the State Water Resources Control Board (State Board) in close consultation with the Regional Water Quality Control Boards (Regional Boards). This is addressed in more detail in the water quality section that follows.

Another federal program managed by the states may also help protect wetlands. Point sources of pollution are regulated through Clean Water Act §402, National Pollutant Discharge Elimination System (NPDES), municipal storm water permits, and construction general permits. In California, these permits are issued by the Regional Boards and the State Board.

Not all regulatory programs originated at the federal level. California Water Code §13000, et seq., known as the Porter-Cologne Water Quality Control Act, establishes various regulatory authorities under which the State Board and the Regional Boards protect beneficial uses of surface and ground waters, including wetlands. Beneficial use categories listed in water quality control plans include uses of water related directly to wetlands protection. The water quality agencies may choose to regulate discharges to wetlands and other surface waters under the Clean Water Act program or by using their Porter-Cologne authorities.

The Coastal Act is implemented through the California Coastal Commission, which has jurisdiction over wetlands within the coastal zone. Pursuant to Public Resources Code §30233(a), the Coastal Commission requires that development within the coastal zone include measures that minimize or avoid adverse impacts to wetlands (see *Procedural Guidance for Evaluating Wetland Mitigation Projects in California's Coastal Zone*, California Coastal Commission, September 1995).

The Department of Fish and Game is a Trustee Agency with respect to the natural resources of California and, in particular, the wetland communities associated with lakes, rivers, and other water bodies. The Department's Fish and Game Code §1603 Stream Bed and Bank Alternation Agreements may allow for the modification of stream channels or banks provided that there is adequate mitigation or no net loss of wetlands. Projects involving wetlands habitat that supports rare, threatened, or endangered species are subject to review by DFG for consistency with CESA and the California Fish and Game Code.

For a detailed discussion of wetlands and pertinent regulations, see *Wetlands Regulation* in the Bibliography. For more information regarding specific programs, see the California Wetlands Information System via the Internet at http://ceres.ca.gov/wetlands

Relation to the General Plan

As a long-term plan for the physical development of the community, the general plan should reflect the value and importance of wetlands and their associated habitat. Wetlands are a natural resource that can be dramatically affected by the physical development within a planning area and should be an important consideration in the development of the general plan and its policies. Policies, especially those of the land use element, should proactively promote the identification and protection of wetlands.

Policies should address the preservation and protection of wetlands through the conservation and open-space elements or as a limitation on development in the land use element. Wetlands may be broadly identified in the general plan diagrams of the land use, open-space and conservation elements as natural resource communities or potential development constraints. This helps to inform landowners that their properties may be subject to the stringent requirements of federal wetlands laws.

Although the general plan should provide protective policies, it must also recognize that the precise delineation of wetlands and specific mitigation that will be applied to development projects lies within the statutory responsibilities of federal and state agencies such as the USFWS and DFG. Accordingly, the general plan should refrain from policies that dictate specific standards for replacement ratios and site-specific mitigation measures. Similarly, there is no need for the general plan to attempt to precisely delineate all wetlands—that will be done by the federal and state regulatory agencies. Where adoption of the general plan may adversely impact wetlands, protection and mitigation should be addressed by the CEQA document and mitigation measures identified. These measures must be incorporated into the policies of the general plan (Public Resources Code §21081.6).

The general plan may establish programs and general standards for the implementation of wetlands policy. For example, areas may be designated and set aside for wetlands banking purposes. Policies for open space and parks may also designate areas for the protection or revitalization of larger areas.

Adopting or amending a general plan is a project subject to CEQA and often requires the preparation and consideration of an EIR. The effect that the plan's policies and programs may have on wetlands

must be taken into consideration in the plan EIR. Mitigation or alternatives selected to avoid, reduce, compensate for, or otherwise lessen the effects of the plan must be adopted as plan policies (Public Resources Code §21081.6).

AIR QUALITY

California has 35 air pollution control districts (APCDs) and air quality management districts (AQMDs). These cover one or more counties and are governed by locally elected officials. These air districts have regulatory control over stationary sources of air pollutants such as industrial and manufacturing facilities. They are also responsible for local plans and programs to reduce emissions from transportation sources such as cars, trucks, motorcycles, and buses. In addition, air districts prepare air quality plans that specify how federal and state air quality standards will be met. In some areas, Councils of Government (COGs) also carry out certain components of air quality planning. In addition, COGs with transportation planning responsibilities must address air quality in order to ensure that regional transportation plans and programs conform to air quality plans.

The California Air Resources Board (ARB) sets standards for the amount of pollutants that can be emitted by new motor vehicles sold in California. California's strict motor vehicle emission standards have resulted in dramatic decreases in the amount of pollutants produced by motor vehicles throughout the state. Although these standards will continue to greatly improve air quality, especially in areas where motor vehicle emissions are a significant source of air pollution, continuing increases in population and driving partially offset the benefits of cleaner motor vehicles.

National ambient air quality standards (NAAQS) were established in 1970 by the federal Clean Air Act for six pollutants: carbon monoxide, ozone, particulates, nitrogen dioxide, sulfur dioxide, and lead. The Act requires states with air pollution exceeding NAAQS to prepare air quality plans demonstrating how the standards would be met. The federal Clean Air Act was amended in 1977 and again in 1990 to extend deadlines for compliance and the preparation of revised State Implementation Plans (SIPs).

The 1990 amendments also established categories of severity for non-attainment areas (from marginal to extreme). Air quality program requirements vary depending on the degree of severity. In 1994, the California Air Resources Board adopted a revised State Implementation Plan for ozone to meet the requirements of the 1990 amendments. The 1994 SIP is California's blueprint for achieving the federal ozone standards by the applicable dates (which vary for different parts of the state). It contains commitments to adopt regulations and implement programs that significantly reduce pollutants from stationary, mobile, and area sources to be implemented by federal, state, and local agencies. The U.S. EPA approved California's SIP in September of 1996.

In July 1997, U.S. EPA revised the NAAQS for ozone and total inhalable particulate matter (PM10). In addition, U.S. EPA also adopted new standards for fine particulate matter 2.5 microns in size and smaller (PM2.5). The creation of PM2.5 standards represents a significant increase in nationwide health protection from the smallest particles. The 1994 California SIP and local plans to reduce PM10 levels lay the foundation for meeting the new federal PM2.5 standard. Some areas may need additional emission reductions to meet this standard.

The 1988 California Clean Air Act (CCAA), which was amended in 1992 and again in 1996, requires attainment of California's ambient air quality standards, which are more health-protective than the national standards. In general, the CCAA requires regions whose air quality exceeds state standards to reduce pollutants by five percent or more per year or to implement all feasible measures to meet state air quality standards as expeditiously as possible.

In 2001, the CCAA was amended to require air districts with one million residents or more to ensure that not less than fifty percent of the funds for certain mobile source programs are expended in communities with the most significant exposure to air contaminants, including, but not limited to, low-income or minority communities, or both. Although this new requirement would only affect the five most populous air districts, the legislation includes language that encourages the other 30 districts with less than one million residents to expend these funds in a similar manner to the requirements of the largest districts. This requirement will expire on January 1, 2007.

Relation to the General Plan

Land use and air quality are linked by automobile use. Over the past 30 years, the total number of vehicle miles traveled (VMT) in the state has increased at a much faster rate than population growth. Between 1970 and 1995, total annual VMT in California more than doubled, increasing from 103 billion miles to over 270 billion miles of travel per year. During the same time period, the state's population grew by about 60 percent, increasing from 20 to 32 million people. Relationships between land use patterns, traffic circula-

tion, and accessibility can have an impact on the amount and type of travel, which in turn affects air quality. Urban design that reduces the need for vehicle trips or the distances people need to drive and that provides ready access to public transit, bike paths, and pedestrian facilities can have a positive impact on air quality.

Cities and counties have an opportunity to address air quality issues in their general plans, development and zoning ordinances, circulation systems, and other local programs. Especially important is the inclusion of strategies that are beneficial to air quality in the land use and circulation elements of the general plan. In addition, optional air quality elements may be adopted that include additional strategies and programs.

The staff at the California Air Resources Board has created a computer program called Urbemis (Urban Emissions Model), which can be used to estimate emissions associated with land use development projects in California. Urbemis uses the vehicle emissions model EMFAC to calculate motor vehicle emissions. For more information, go to the ARB's website at http://www.arb.ca.gov.

WATER QUALITY

California is divided into nine water quality regions, each under the regulatory authority of a Regional Water Quality Control Board (RWQCB). Under §208 of the federal Clean Water Act Amendments of 1982, COGs or other regional agencies also carry out water quality planning in metropolitan areas. In all other areas, the state has assumed these responsibilities. Section 208 plans include control measures for improving water quality and institutional and financial mechanisms to implement the control measures for municipal and industrial wastewater, storm runoff, and similar sources. All permits for liquid waste discharge must be consistent with the plan. Only those water pollution control facilities consistent with the plan may receive federal grants.

The National Pollution Discharge Elimination System (NPDES) requires permits for point source pollution, such as that from sewage treatment plants, as well as non-point source pollution, essentially pollutants introduced by water runoff into streams, storm drains, and sewer systems. Although NPDES permitting is the responsibility of the State Water Resources Control Board and the RWQCBs, the nature of non-point source pollution necessitates local participation if polluted runoff is to be minimized.

Besides the federal plan, there are state water quality planning requirements. Each RWQCB must prepare a regional water quality control plan for its jurisdiction (Water Code §13240, et seq.). The plan is similar in function to the §208 document.

Relation to the General Plan

Water quality is an issue that is required to be addressed in the conservation element. Water quality may also be addressed in an optional water element. Local general plans should incorporate water quality policies from regional plans to the extent that they are relevant. Policies may address wetlands and stream protection and stormwater runoff controls, for example. In addition, a general plan should reflect the water quality regulatory framework so that property owners, decision-makers, and the public have an accurate picture of the permitting requirements and development limitations that may exist as a result.

APPENDIX A

Pertinent State Code Sections

GOVERNMENT CODE

General Plans

§65300 Plan required

Each planning agency shall prepare and the legislative body of each county and city shall adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency's judgment bears relation to its planning. Chartered cities shall adopt general plans which contain the mandatory elements specified in Section 65302.

(Amended by Stats. 1984, Ch. 1009)

§65300.5 Internal consistency

In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.

(Added by Stats. 1965, Ch. 1104)

§65300.7 Local implementation

The Legislature finds that the diversity of the state's communities and their residents requires planning agencies and legislative bodies to implement this article in ways that accommodate local conditions and circumstances, while meeting its minimum requirements.

(Added by Stats. 1980, Ch. 837)

§65300.9 Balance of local situation/compliance with state and federal laws

The Legislature recognizes that the capacity of California cities and counties to respond to state planning laws varies due to the legal differences between cities and counties, both charter and general law, and to differences among them in physical size and characteristics, population size and density, fiscal and administrative capabilities, land use and development issues, and human needs. It is the intent of the Legislature in enacting this chapter to provide an opportunity for each city and county to coordinate its local budget planning and local planning for federal and state program activities, such as community development, with the local land use planning process, recognizing that each city and county is required to establish its own appropriate balance in the context of the local situation when allocating resources to meet these purposes.

(Added by Stats. 1984, Ch. 1009)

§65301 Adoption and format

(a) The general plan shall be so prepared that all or individual elements of it may be adopted by the legislative body, and so that it may be adopted by the legislative body for all or part of the territory of the county or city and such other territory outside its boundaries which in its judgment bears relation to its planning. The general plan may be adopted in any format deemed appropriate or convenient by the legislative body, including the combining of elements. The legislative body may adopt all or part of a plan of another public agency in satisfaction of all or part of the requirements of Section 65302 if the plan of the other public agency is sufficiently detailed and its contents are appropriate, as determined by the legislative body, for the adopting city or county.

(b) The general plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area.

(c) The general plan shall address each of the elements specified in Section 65302 to the extent that the subject of the element exists in the planning area. The degree of specificity and level of detail of the discussion of each such element shall reflect local conditions and circumstances. However, this section shall not affect the requirements of subdivision (c) of Section 65302, nor be construed to expand or limit the authority of the Department of Housing and Community Development to review housing elements pursuant to Section 50459 of the Health and Safety Code. The requirements of this section shall apply to charter cities.

(Amended by Stats. 1985, Ch. 67)

§65301.5 Judicial standard of review

The adoption of the general plan or any part or element thereof or the adoption of any amendment to such plan or any part or element thereof is a legislative act which shall be reviewable pursuant to Section 1085 of the Code of Civil Procedure.

(Added by Stats. 1980, Ch. 837)

65302 Seven mandated elements

The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to those areas. The land use element shall designate, in a land use category that provides for timber production, those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Prevention and control of the pollution of streams and other waters.

(3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(4) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(5) Protection of watersheds.

(6) The location, quantity and quality of the rock, sand and gravel resources.

(7) Flood control. The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise. The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and land-

slides; subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards. Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the Division of Mines and Geology of the Department of Conservation and the Office of Emergency Services for the purpose of including information known by and available to the department and the office required by this subdivision.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for developing the safety element. The division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision. The legislative body shall consider the division's findings prior to final adoption of the safety element or amendment unless the division's findings are not available within the above prescribed time limits or unless the division has indicated to the city or county that the division will not review the safety element. If the division's findings are not available within those prescribed time limits, the legislative body may take the division's findings into consideration at the time it considers future amendments to the safety element. Each county and city shall provide the division with a copy of its adopted safety element or amendments. The division may review adopted safety elements or amendments and report its findings. All findings made by the division shall be advisory to the planning agency and legislative body.

(Amended by Stats. 1995, Ch. 881)

§65302.2 Urban water management plan

Upon the adoption, or revision, of a city or county's general plan, on or after January 1, 1996, the city or county shall utilize as a source document any urban water management plan submitted to the city or county by a water agency.

(Added by Stats. 1980, Ch. 837)

§65302.3 Consistency with airport land use plans

(a) The general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.

(b) The general plan, and any applicable specific plan, shall be amended, as necessary, within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.

(c) If the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

(Amended by Stats. 1987, Ch. 1018)

§65302.5 Safety element review

With respect to the safety element required in the general plan, pursuant to subdivision (g) of Section 65302, each county which contains state responsibility areas, as determined pursuant to Section 4125 of the Public Resources Code, shall comply with Section 4128.5 of the Public Resources Code.

(Added by Stats. 1989, Ch. 778)

§65302.8 Findings on housing limits

If a county or city, including a charter city, adopts or amends a mandatory general plan element which operates to limit the number of housing units which may be constructed on an annual basis, such adoption or amendment shall contain findings which justify reducing the housing opportunities of the region. The findings shall include all of the following:

(a) A description of the city's or county's appropriate share of the regional need for housing.

(b) A description of the specific housing programs and activities being undertaken by the local jurisdiction to fulfill the requirements of subdivision (c) of Section 65302.

(c) A description of how the public health, safety, and welfare would be promoted by such adoption or amendment.

(d) The fiscal and environmental resources available to the local jurisdiction.

(Added by Stats. 1980, Ch. 823)

§65303. Optional elements and subjects

The general plan may include any other elements or address any other subjects which, in the judgment of the legislative body, relate to the physical development of the county or city.

(Repealed and added by Stats. 1984, Ch. 1009)

§65303.4 Assistance in flood control and land management needs

The Department of Water Resources and the Department of Fish and Game may develop site design and planning policies to assist local agencies which request help in implementing the general plan guidelines for meeting flood control objectives and other land management needs.

(Added by Stats. 1984, Ch. 1130)

Preparation, Adoption, and Amendment of the General Plan

§65350 Procedure

Cities and counties shall prepare, adopt, and amend general plans and elements of those general plans in the manner provided in this article.

(Repealed and added by Stats. 1984, Ch. 1009)

§65351 Public involvement

During the preparation or amendment of the general plan, the planning agency shall provide opportunities for the involvement of citizens, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the city or county deems appropriate.

(Repealed and added by Stats. 1984, Ch. 1009)

§65352 Referral of plans

(a) Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency shall refer the proposed action to all of the following entities:

(1) Any city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency.

(2) Any elementary, high school, or unified school district within the area covered by the proposed action.

(3) The local agency formation commission.

(4) Any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

(5) Any federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.

(6) Any public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65352.5.

(7) The Bay Area Air Quality Management District for a proposed action within the boundaries of the district.

(b) Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

(Amended by Stats. 1996, Ch. 799)

§65352.2 Coordination with school districts

(a) It is the intent of the Legislature in enacting this section to foster improved communication and coordination between cities, counties, and school districts related to planning for school siting.

(b) Following notification by a local planning agency pursuant to paragraph (2) of subdivision (a) of Section 65352, the governing board of any elementary, high school, or unified school district, in addition to any comments submitted, may request a meeting with the planning agency to discuss possible methods of coordinating planning, design, and construction of new school facilities and school sites in coordination with the existing or planned infrastructure, general plan, and zoning designations of the city and county in accordance with subdivision (d). If a meeting is requested, the planning agency shall meet with the school district within 15 days following notification.

(c) At least 45 days prior to completion of a school facility needs analysis pursuant to Section 65995.6 of the Education Code, a master plan pursuant to Sections 16011 and 16322 of the Education Code, or other long range plan, that relates to the potential expansion of existing school sites or the necessity to acquire additional school sites, the governing board of any school district shall notify and provide copies of any relevant and available information, master plan, or other long range plan, including, if available, any proposed school facility needs analysis, that relates to the potential expansion of existing school sites or the necessity to acquire additional school sites, to the planning commission or agency of the city or county with land use jurisdiction within the school district. Following notification, or at any other time, the affected city or county may request a meeting in accordance with subdivision (d). If a meeting is requested, the school district shall meet with the city or county within 15 days following notification. After providing the information specified in this section within the 45-day time period specified in this subdivision, the governing board of the affected school district may complete the affected school facility needs analysis, master plan, or other long-range plan without further delay. (d) At any meeting requested pursuant to subdivision (b) or (c) the parties may review and consider, but are not limited to, the following issues:

(1) Methods of coordinating planning, design, and construction of new school facilities and school sites in coordination with the existing or planned infrastructure, general plan, and zoning designations of the city and county.

(2) Options for the siting of new schools and whether or not the local city or counties existing land use element appropriately reflects the demand for public school facilities, and ensures that new planned development reserves location for public schools in the most appropriate locations.

(3) Methods of maximizing the safety of persons traveling to and from school sites.

(4) Opportunities to coordinate the potential siting of new schools in coordination with existing or proposed community revitalization efforts by the city or county.

(5) Opportunities for financial assistance which the local government may make available to assist the school district with site acquisition, planning, or preparation costs.

(6) Review all possible methods of coordinating planning, design, and construction of new school facilities and school sites or major additions to existing school facilities and recreation and park facilities and programs in the community.

(Added by Stats. 2001, Ch. 396. Effective January 1, 2002)

§65352.5 Water supply coordination

(a) The Legislature finds and declares that it is vital that there be close coordination and consultation between California's water supply agencies and California's land use approval agencies to ensure that proper water supply planning occurs in order to accommodate projects that will result in increased demands on water supplies.

(b) It is, therefore, the intent of the Legislature to provide a standardized process for determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

(c) Upon receiving, pursuant to Section 65352, notification of a city's or a county's proposed action to adopt or substantially amend a general plan, a public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, shall provide the planning agency with the following information, as is appropriate and relevant:

(1) The current version of its urban water management plan, adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) The current version of its capital improvement program or plan, as reported pursuant to Section 31144.73 of the Water Code.

(3) A description of the source or sources of the total water supply currently available to the water supplier by water right or contract, taking into account historical data concerning wet, normal, and dry runoff years.

(4) A description of the quantity of surface water that was purveyed by the water supplier in each of the previous five years.

(5) A description of the quantity of groundwater that was purveyed by the water supplier in each of the previous five years.

(6) A description of all proposed additional sources of water supplies for the water supplier, including the estimated dates by which these additional sources should be available and the quantities of additional water supplies that are being proposed.

(7) A description of the total number of customers currently served by the water supplier, as identified by the following categories and by the amount of water served to each category:

(A) Agricultural users.

(B) Commercial users.

(C) Industrial users.

(D) Residential users.

(8) Quantification of the expected reduction in total water demand, identified by each customer category set forth in paragraph (7), associated with future implementation of water use reduction measures identified in the water supplier's urban water management plan.

(9) Any additional information that is relevant to determining the adequacy of existing and planned future water supplies to meet existing and planned future demands on these water supplies.

(Amended by Stats. 1996, Ch. 1023)

§65353 Commission notice and hearing

(a) When the city or county has a planning commission authorized by local ordinance or resolution to review and recommend action on a proposed general plan or proposed amendments to the general plan, the commission shall hold at least one public hearing before approving a recommendation on the adoption or amendment of a general plan. Notice of the hearing shall be given pursuant to Section 65090.

(b) If a proposed general plan or amendments to a general plan would affect the permitted uses or intensity of uses of real property, notice of the hearing shall also be given pursuant to paragraphs (1) and (2) of subdivision (a) of Section 65091.

(c) If the number of owners to whom notice would be mailed or delivered pursuant to subdivision (b) is greater than 1,000, a local agency may, in lieu of mailed or delivered notice, provide notice by publishing notice pursuant to paragraph (3) of subdivision (a) of Section 65091.

(d) If the hearings held under this section are held at the same time as hearings under Section 65854, the notice of the hearing may be combined.

(Amended by Stats. 1988, Ch. 859.)

§65354 Commission recommendations

The planning commission shall make a written recommendation on the adoption or amendment of a general plan. A recommendation for approval shall be made by the affirmative vote of not less than a majority of the total membership of the commission. The planning commission shall send its recommendation to the legislative body.

(Repealed and added by Stats. 1984, Ch. 1009)

§65354.5 Appeal procedure required

(a) A city or county with a planning agency, other than the legislative body itself, which has the authority to consider and recommend the approval, conditional approval, or disapproval of a proposed amendment to a general plan, shall establish procedures for any interested party to file a written request for a hearing by the legislative body with its clerk within five days after the planning agency acts on the proposed amendment. Notice of the hearing shall be given pursuant to Section 65090.

(b) The legislative body may establish a fee to cover the cost of establishing the procedures and conducting the hearing pursuant to subdivision (a). The legislative body shall impose the fee pursuant to Section 66016.

(Amended by Stats. 1990, Ch. 1572)

§65355 Legislative body notice and hearing

Prior to adopting or amending a general plan, the legislative body shall hold at least one public hearing. Notice of the hearing shall be given pursuant to Section 65090.

(Repealed and added by Stats. 1984, Ch. 1009)

§65356 Referral of changes

The legislative body shall adopt or amend a general plan by resolution, which resolution shall be adopted by the affirmative vote of not less than a majority of the total membership of the legislative body. The legislative body may approve, modify, or disapprove the recommendation of the planning commission, if any. However, any substantial modification proposed by the legislative body not previously considered by the commission during its hearings, shall first be referred to the planning commission for its recommendation. The failure of the commission to report within 45 calendar days after the reference, or within the time set by the legislative body, shall be deemed a recommendation for approval.

(Repealed and added by Stats. 1984, Ch. 1009)

§65357 Copies of plans

(a) A copy of the adopted general plan or amendment to the general plan shall be sent to all public entities specified in Section 65352 and any other public entities that submitted comments on the proposed general plan or amendment to the general plan during its preparation. Failure to send the adopted general plan or amendment as provided in this section shall not affect its validity in any manner.

(b) Copies of the documents adopting or amending the general plan, including the diagrams and text, shall be made available to the general public as follows:

(1) Within one working day following the date of adoption, the clerk of the legislative body shall make the documents adopting or amending the plan, including the diagrams and text, available to the public for inspection.

(2) Within two working days after receipt of a request for a copy of the adopted documents adopting or amending the plan, including the diagrams and text, accompanied by payment for the reasonable cost of copying, the clerk shall furnish the requested copy to the person making the request.

(c) A city or county may charge a fee for a copy of the general plan or amendments to the general plan that is reasonably related to the cost of providing that document.

(Amended by Stats. 1985, Ch. 338)

§65358 Amendments

(a) If it deems it to be in the public interest, the legislative body may amend all or part of an adopted general plan. An amendment to the general plan shall be initiated in the manner specified by the legislative body. Notwithstanding Section 66016, a legislative body that permits persons to request an amendment of the general plan may require that an amount equal to the estimated cost of preparing the amendment be deposited with the planning agency prior to the preparation of the amendment.

(b) Except as otherwise provided in subdivision (c) or (d), no mandatory element of a general plan shall be amended more frequently than four times during any calendar year. Subject to that limitation, an amendment may be made at any time, as determined by the legislative body. Each amendment may include more than one change to the general plan.

(c) The limitation on the frequency of amendments to a general plan contained in subdivision (b) does not apply to amendments of the general plan requested and necessary for a single development of residential units, at least 25 percent of which will be occupied by or available to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code. The specified percentage of low- or moderate-income housing may be developed on the same site as the other residential units proposed for development, or on another site or sites encompassed by the general plan, in which case the combined total number of residential units shall be considered a single development proposal for purposes of this section.

(d) This section does not apply to the adoption of any element of a general plan or to the amendment of any element of a general plan in order to comply with any of the following:

(1) A court decision made pursuant to Article 14 (commencing with Section 65750).

(2) Subdivision (b) of Section 65302.3.

(3) Subdivision (d) of Section 56032 of the Health and Safety Code.

(4) Subdivision (b) of Section 30500 of the Public Resources Code.

(Amended by Stats. 1990, Ch. 1572)

§65359 Local plan consistency

Any specific plan or other plan of the city or county that is applicable to the same areas or matters affected by a general plan amendment shall be reviewed and amended as necessary to make the specific or other plan consistent with the general plan.

(Repealed and added by Stats. 1984, Ch. 1009)

§65360 Deadline for new city/county to adopt plan

The legislative body of a newly incorporated city or newly formed county shall adopt a general plan within 30 months following incorporation or formation. During that 30-month period of time, the city or county is not subject to the requirement that a general plan be adopted or the requirements of state law that its decisions be consistent with the general plan, if all of the following requirements are met:

(a) The city or county is proceeding in a timely fashion with the preparation of the general plan.

(b) The planning agency finds, in approving projects and taking other actions, including the issuance of building permits, pursuant to this title, each of the following:

(1) There is a reasonable probability that the land use or action proposed will be consistent with the general plan proposal being considered or studied or which will be studied within a reasonable time.

(2) There is little or no probability of substantial detriment to or interference with the future adopted general plan if the proposed use or action is ultimately inconsistent with the plan.

(3) The proposed use or action complies with all other applicable requirements of state law and local ordinances.

(Repealed and added by Stats. 1984, Ch. 1009)

§65361 Extension of time to adopt plan

(a) Notwithstanding any other provision of law, upon application by a city or county, the Director of Planning and Research shall grant a reasonable exten-

sion of time not to exceed two years from the date of issuance of the extension, for the preparation and adoption of all or part of the general plan, if the legislative body of the city or county, after a public hearing, makes any of the following findings:

(1) Data required for the general plan shall be provided by another agency and it has not yet been provided.

(2) In spite of sufficient budgetary provisions and substantial recruiting efforts, the city or county has not been able to obtain necessary staff or consultant assistance.

(3) A disaster has occurred requiring reassignment of staff for an extended period or requiring a complete reevaluation and revision of the general plan, or both.

(4) Local review procedures require an extended public review process that has resulted in delaying the decision by the legislative body.

(5) The city or county is jointly preparing all or part of the general plan with one or more other jurisdictions pursuant to an existing agreement and timetable for completion.

(6) Other reasons exist that justify the granting of an extension, so that the timely preparation and adoption of a general plan is promoted.

(b) The director shall not grant an extension of time for the preparation and adoption of a housing element except in the case of a newly incorporated city or newly formed county that cannot meet the deadline set by Section 65360. Before the director grants an extension of time pursuant to this subdivision, he or she shall consult with the Director of Housing and Community Development.

(c) The application for an extension shall contain all of the following:

(1) A resolution of the legislative body of the city or county adopted after public hearing setting forth in detail the reasons why the general plan was not previously adopted as required by law or needs to be revised, including one or more of the findings made by the legislative body pursuant to subdivision (a), and the amount of additional time necessary to complete the preparation and adoption of the general plan.

(2) A detailed budget and schedule for preparation and adoption of the general plan, including plans for citizen participation and expected interim action. The budget and schedule shall be of sufficient detail to allow the director to assess the progress of the applicant at regular intervals during the term of the extension. The schedule shall provide for adoption of a complete and adequate general plan within two years of the date of the application for the extension.

(3) A set of proposed policies and procedures which would ensure, during the extension of time granted pursuant to this section, that the land use proposed in an application for a subdivision, rezoning, use permit, variance, or building permit will be consistent with the general plan proposal being considered or studied.

(d) The director may impose any conditions on extensions of time granted that the director deems necessary to ensure compliance with the purposes and intent of this title. Those conditions shall apply only to those parts of the general plan for which the extension has been granted. In establishing those conditions, the director may adopt or modify and adopt any of the policies and procedures proposed by the city or county pursuant to paragraph (3) of subdivision (c).

(e) During the extension of time specified in this section, the city or county is not subject to the requirement that a complete and adequate general plan be adopted, or the requirements that it be adopted within a specific period of time. Development approvals shall be consistent with those portions of the general plan for which an extension has been granted, except as provided by the conditions imposed by the director pursuant to subdivision (d). Development approvals shall be consistent with any element or elements that have been adopted and for which an extension of time is not sought.

(f) If a city or county that is granted a time extension pursuant to this section determines that it cannot complete the elements of the general plan for which the extension has been granted within the prescribed time period, the city or county may request one additional extension of time, which shall not exceed one year, if the director determines that the city or county has made substantial progress toward the completion of the general plan. This subdivision shall not apply to an extension of time granted pursuant to subdivision (b).

(g) An extension of time granted pursuant to this section for the preparation and adoption of all or part of a city or county general plan is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

(Amended by Stats. 1996, Ch. 872)

§65362 Appeals

Any city, county, or city and county whose application for an extension of time under Section 65361 has been denied or approved with conditions by the director may appeal that denial or approval with conditions to the Planning Advisory and Assistance Council. The council may review the action of the director and act upon the application and approve, conditionally approve, or deny the application, and the decision of the

council shall be final. If the council acts on an appeal and by doing so grants a one-year extension, that extension of time shall run from the date of the action by the council.

(Added by Stats. 1984, Ch. 1009)

§65400 Implementation of plan

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

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

(b) (1) Provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the plan and progress in its implementation, including the progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(2) The housing portion of the annual report required to be provided to the Office of Planning and Research and the Department of Housing and Community Development pursuant to this subdivision shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of, Chapter 4 (commencing with Section 11370) of, and Chapter 5 (commencing with Section 11500) of, Part 1 of Division 3 of Title 2). This report shall be provided to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on or before October 1 of each year.

(Amended by Stats. 2000, Ch. 506)

§65401 Review of public works projects for conformity with plan

If a general plan or part thereof has been adopted, within such time as may be fixed by the legislative body, each county or city officer, department, board, or commission, and each governmental body, commission, or board, including the governing body of any special district or school district, whose jurisdiction lies wholly or partially within the county or city, whose functions include recommending, preparing plans for, or constructing, major public works, shall submit to the official agency, as designated by the respective county board of supervisors or city council, a list of the proposed public works recommended for planning, initiation or construction during the ensuing fiscal year. The official agency receiving the list of proposed public works shall list and classify all such recommendations and shall prepare a coordinated program of proposed public works for the ensuing fiscal year. Such coordinated program shall be submitted to the county or city planning agency for review and report to said official agency as to conformity with the adopted general plan or part thereof.

(Amended by Stats. 1970, Ch. 1590.)

§65402 Restrictions on acquisition and disposal of real property

(a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

(b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the

corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.

(c) A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. If the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency.

Local agency as used in this paragraph (c) means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. Local agency does not include the state, or county, or a city.

(Amended by Stats. 1974, Ch. 700)

§65403 Optional school/special district CIPs

(a) Each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that constructs or maintains public facilities essential to the growth and maintenance of an urban population may prepare a five-year capital improvement program. This section shall not preclude, limit, or govern any other method of capital improvement planning and shall not apply to any district or agency unless it specifically determines to implement this section. As used in this section, "public facilities" means any of the following:

(1) Public buildings, including schools and related facilities.

(2) Facilities for the storage, treatment, and distribution of nonagricultural water.

(3) Facilities for the collection, treatment, reclamation, and disposal of sewage.

(4) Facilities for the collection and disposal of storm waters and for flood control purposes.

(5) Facilities for the generation of electricity and the distribution of gas and electricity.

(6) Transportation and transit facilities, including, but not limited to, streets, roads, harbors, ports, airports, and related facilities.

(7) Parks and recreation facilities. However, this section shall not apply to a special district which constructs or maintains parks and recreation facilities if the annual operating budget of the district does not exceed one hundred thousand dollars ($100,000).

(b) The five-year capital improvement program shall indicate the location, size, time of availability, means of financing, including a schedule for the repayment of bonded indebtedness, and estimates of operation costs for all proposed and related capital improvements. The five-year capital improvement program shall also indicate a schedule for maintenance and rehabilitation and an estimate of useful life of all existing and proposed capital improvements.

(c) The capital improvement program shall be adopted by, and shall be annually reviewed and revised by, resolution of the governing body of the district or local agency. Annual revisions shall include an extension of the program for an additional year to update the five-year program. At least 60 days prior to its adoption or annual revision, as the case may be, the capital improvement program shall be referred to the planning agency of each affected city and county within which the district or agency operates, for review as to its consistency with the applicable general plan, any

applicable specific plans, and all elements and parts of the plan. Failure of the planning agency to report its findings within 40 days after receipt of a capital improvement program or revision of the program shall be conclusively deemed to constitute a finding that the capital improvement program is consistent with the general plan.

A district or local agency shall not carry out its capital improvement program or any part of the program if the planning agency finds that the capital improvement program or a part of the capital improvement program is not consistent with the applicable general plan, any specific plans, and all elements and parts of the plan. A district or local agency may overrule the finding and carry out its capital improvement program.

(d) Before adopting its capital improvement program, or annual revisions of the program, the governing body of each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement shall hold at least one public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 65090. In addition, mailed notice shall be given to any city or county which may be significantly affected by the capital improvement program.

(Amended by Stats. 1984, Ch. 1009)

Open-Space Lands

§65560 Definitions

(a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water which is essentially unimproved and devoted to an open-space use as defined in this section, and which is designated on a local, regional or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.

(2) Open space used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of ground water basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

(Repealed and added by Stats. 1972)

§65561 Policy

The Legislature finds and declares as follows:

(a) That the preservation of open-space land, as defined in this article, is necessary not only for the maintenance of the economy of the state, but also for the assurance of the continued availability of land for the production of food and fiber, for the enjoyment of scenic beauty, for recreation and for the use of natural resources.

(b) That discouraging premature and unnecessary conversion of open-space land to urban uses is a matter of public interest and will be of benefit to urban dwellers because it will discourage noncontiguous development patterns which unnecessarily increase the costs of community services to community residents.

(c) That the anticipated increase in the population of the state demands that cities, counties, and the state at the earliest possible date make definite plans for the preservation of valuable open-space land and take positive action to carry out such plans by the adoption and strict administration of laws, ordinances, rules and regulations as authorized by this chapter or by other appropriate methods.

(d) That in order to assure that the interests of all its people are met in the orderly growth and development of the state and the preservation and conservation of its resources, it is necessary to provide for the development by the state, regional agencies, counties and cities, including charter cities, of statewide coordinated plans for the conservation and preservation of open-space lands.

(e) That for these reasons this article is necessary for the promotion of the general welfare and for the protection of the public interest in open-space land.

(Added by Stats. 1970, Ch. 1590)

§65562 Intent

It is the intent of the Legislature in enacting this article:

(a) To assure that cities and counties recognize that open-space land is a limited and valuable resource which must be conserved wherever possible.

(b) To assure that every city and county will prepare and carry out open-space plans which, along with state and regional open-space plans, will accomplish the objectives of a comprehensive open-space program.

(Added by Stats. 1970, Ch. 1590)

§65563 Deadlines for adoption and submission of open-space plans

On or before December 31, 1973, every city and county shall prepare, adopt and submit to the Secretary of the Resources Agency a local open-space plan for the comprehensive and long-range preservation and conservation of open-space land within its jurisdiction. Every city and county shall by August 31, 1972, prepare, adopt and submit to the Secretary of the Resources Agency, an interim open-space plan, which shall be in effect until December 31, 1973, containing, but not limited to, the following:

(a) The officially adopted goals and policies which will guide the preparation and implementation of the open-space plan; and

(b) A program for orderly completion and adoption of the open-space plan by December 31, 1973, including a description of the methods by which open-space resources will be inventoried and conservation measures determined.

(Amended by Stats. 1973, Ch. 120)

§65564 Implementation

Every local open-space plan shall contain an action program consisting of specific programs which the legislative body intends to pursue in implementing its open-space plan.

(Added by Stats. 1970, Ch. 1590)

§65566 Consistency of acquisitions, disposal, and regulation

Any action by a county or city by which open-space land or any interest therein is acquired or disposed of or its use restricted or regulated, whether or not pursuant to this part, must be consistent with the local open-space plan.

(Added by Stats. 1970, Ch. 1590)

§65567 Consistency of building permits, subdivision maps, and zoning

No building permit may be issued, no subdivision map approved, and no open-space zoning ordinance adopted, unless the proposed construction, subdivision or ordinance is consistent with the local open-space plan.

(Added by Stats. 1970, Ch. 1590)

§65568 Provisions

If any provision of this article or the application thereof to any person is held invalid, the remainder of the article and the application of such provision to other persons shall not be affected thereby.

(Added by Stats. 1970, Ch. 1590)

Housing Element

§65580 Policy

The Legislature finds and declares as follows:

(a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.

(b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.

(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.

(d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

(e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.

(Amended by Stats. 1999, Ch. 967)

§65581 Intent

It is the intent of the Legislature in enacting this article:

(a) To assure that counties and cities recognize their

responsibilities in contributing to the attainment of the state housing goal.

(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.

(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.

(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

(Added by Stats. 1980, Ch. 1143)

§65582 Definitions

As used in this article:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(e) "Low- and moderate-income households" means persons and families of low or moderate incomes as defined by Section 50093 of the Health and Safety Code.

(Amended by Stats. 1990, Ch. 1441)

§65583 Housing element content

The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (4) of subdivision (a), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in sub-

division (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project by project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate- income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) (A) Identify adequate sites which will be made available through appropriate zoning and development standards and with services and facilities, including sewage collection and treatment, domestic water supply, and septic tanks and wells, needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing in order to meet the community's housing goals as identified in subdivision (b).

(i) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low and low-income households.

(ii) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker

housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(B) For purposes of this paragraph, the phrase "use by right" shall mean the use does not require a conditional use permit, except when the proposed project is a mixed-use project involving both commercial or industrial uses and residential uses. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(C) The requirements of this subdivision regarding identification of sites for farmworker housing shall apply commencing with the next revision of housing elements required by Section 65588 following the enactment of this subparagraph.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

(Amended by Stats. 2001, Ch. 671. Effective January 1, 2002)

§65583.1 Closed military bases; housing element

(a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for consistency with state law, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 if the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been cited and found by the local code enforcement agency or a court to be unfit for human habitation and vacated or subject to being vacated because of the existence for not less than 120 days of four of the conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation, except that if the period is less than 20 years, only one unit shall be credited as an identified adequate site for every three units rehabilitated pursuant to this section, and no credit shall be allowed for a unit required to remain affordable for less than 10 years.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located in a multifamily rental housing complex of 16 or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

(i) The unit is made available at a cost affordable to low- or very low income households.

(ii) At the time the unit is identified for acquisition, the unit is not available at a cost affordable to low- or very low income households.

(iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) The acquisition price is not greater than 120 percent of the median price for housing units in the city or county.

(vi) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low or very low income for not less than 30 years.

(C) Units that will be preserved at affordable hous-

ing costs to persons or families of low or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to and reserved for occupancy by persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is multifamily rental housing that receives governmental assistance under any of the following state and federal programs: Section 221(d)(3) of the National Housing Act (12 U.S.C. Sec. 1715l(d)(3) and (5)); Section 236 of the National Housing Act (12 U.S.C. Sec. 1715z-1); Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q); for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. Sec. 1701s); under Section 515 of the Housing Act of 1949, as amended (42 U.S.C. Sec. 1485); and any new construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance, under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f); any state and local multifamily revenue bond programs; local redevelopment programs; the federal Community Development Block Grant Program; and other local housing assistance programs or units that were used to qualify for a density bonus pursuant to Section 65916.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any such housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, "committed assistance" means that the city or county enters into a legally enforceable agreement during the first two years of the housing element planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.

(5) For purposes of this subdivision, "net increase" includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, "the time the unit is identified" means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) On July 1 of the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails

to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

(Amended by Stats. 1998, Ch. 796)

§65584 Regional housing needs

(a) For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a general plan of the city or county. The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, the loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions, and the housing needs of farmworkers. The distribution shall seek to reduce the concentration of lower income households in cities or counties that already have disproportionately high proportions of lower income households. Based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, and in consultation with each council of governments, the Department of Housing and Community Development shall determine the regional share of the statewide housing need at least two years prior to the second revision, and all subsequent revisions as required pursuant to Section 65588. Based upon data provided by the department relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. Within 30 days following notification of this determination, the department shall ensure that this determination is consistent with the statewide housing need. The department may revise the determination of the council of governments if necessary to obtain this consistency. The appropriate council of governments shall determine the share for each city or county consistent with the criteria of this subdivision and with the advice of the department subject to the procedure established pursuant to subdivision (c) at least one year prior to the second revision, and at five-year intervals following the second revision pursuant to Section 65588. The council of governments shall submit to the department information regarding the assumptions and methodology to be used in allocating the regional housing need. As part of the allocation of the regional housing need, the council of governments, or the department pursuant to subdivision (b), shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. The department shall submit to each council of governments information regarding the assumptions and methodology to be used in allocating the regional share of the statewide housing need. As part of its determination of the regional share of the statewide housing need, the department shall provide each council of governments with data describing the assumptions and methodology used in calculating its share of the statewide housing need. The councils of governments shall provide each city and county with the department's information. The council of governments shall provide a subregion with its share of the regional housing need, and delegate responsibility for providing allocations to cities and a county or counties in the subregion to a subregional entity if this responsibility is requested by a county and all cities in the county, a joint powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or the governing body of a subregional agency established by the council of governments, in accordance with an agreement entered into between the council of governments and the subregional entity that sets forth the process, timing, and other terms and conditions of that delegation of responsibility.

(b) For areas with no council of governments, the department shall determine housing market areas and define the regional housing need for cities and counties within these areas pursuant to the provisions for the distribution of regional housing needs in subdivision (a). If the department determines that a city or county possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the cities and counties within these areas.

(c) (1) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a city or county may propose to revise the determination of its share of the regional housing need

in accordance with the considerations set forth in subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.

(2) Within 60 days after the time period for the revision by the city or county, the council of governments or the department, as the case may be, shall accept the proposed revision, modify its earlier determination, or indicate, based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the regional housing need.

(A) If the council of governments or the department, as the case may be, does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.

(B) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(C) The date of the hearing shall be at least 30 days from the date of the notification.

(D) Before making its final determination, the council of governments or the department, as the case may be, shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographical restraints on the production of housing.

(3) If the council of governments or the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the council of governments or the department grants a revised allocation pursuant to paragraph (1), the council of governments or the department shall ensure that the current total housing need is maintained. If the council of governments or the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the council of governments or the department.

(4) The determination of the council of governments or the department, as the case may be, shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(5) The council of governments or the department shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(A) One or more cities within the county agree to increase its share or their shares in an amount that will make up for the reduction.

(B) The transfer of shares shall only occur between a county and cities within that county.

(C) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(D) The council of governments or the department, whichever assigned the county's share, shall have authority over the approval of the proposed reduction, taking into consideration the criteria of subdivision (a).

(6) The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

(d) (1) Except as provided in paragraph (2), any ordinance, policy, or standard of a city or county that directly limits, by number, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots that may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(2) Paragraph (1) does not apply to any city or county that imposes a moratorium on residential construction for a specified period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision pursuant to subdivision (c), adopt findings that specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.

(e) Any authority to review and revise the share of a city or county of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

(f) A fee may be charged to interested parties for any additional costs caused by the amendments made to subdivision (c) by Chapter 1684 of the Statutes of 1984 reducing from 45 to 7 days the time within which materials and data shall be made available to interested parties.

(g) Determinations made by the department, a council of governments, or a city or county pursuant to this section are exempt from the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

(Amended by Stats. 2001, Ch. 159. Effective January 1, 2002)

§65584.3 City of Industry

(a) A city that is incorporated to promote commerce and industry, that is located in the County of Los Angeles, and that has no residentially zoned land within its boundaries on January 1, 1992, may elect to adopt a housing element that makes no provision for new housing or the share of regional housing needs as determined pursuant to Section 65584 for the current and subsequent revisions of the housing element pursuant to Section 65588, for the period of time that 20 percent of all tax increment revenue accruing from all redevelopment projects, and required to be set aside for low- and moderate-income housing pursuant to Section 33334.2 of the Health and Safety Code, is annually transferred to the Housing Authority of the County of Los Angeles.

(b) (1) The amount of tax increment to be transferred each year pursuant to subdivision (a) shall be determined at the end of each fiscal year, commencing with the 1992-93 fiscal year. This amount shall be transferred within 30 days of the agency receiving each installment of its allocation of tax increment moneys, commencing in 1993.

(2) On or before December 31, 1992, the agency shall make an additional payment to the Housing Authority of the County of Los Angeles that eliminates any indebtedness to the low- and moderate-income housing fund pursuant to Section 33334.3. This amount shall be reduced by any amount actually expended by the redevelopment agency for principal or interest payments on agency bonds issued prior to the effective date of the act that adds this section, when that portion of the agency's tax increment revenue representing the low- and moderate-income housing set-aside funds was lawfully pledged as security for the bonds, and only to the extent that other tax increment revenue in excess of the 20-percent low- and moderate-income set-aside funds is insufficient in that fiscal year to meet in full the principal and interest payments.

(c) The Department of Housing and Community Development shall annually review the calculation and determination of the amount transferred pursuant to subdivisions (a) and (b). The department may conduct an audit of these funds if and when the Director of Housing and Community Development deems an audit appropriate.

(d) The amount transferred pursuant to subdivisions (a) and (b) shall fulfill the obligation of that city's redevelopment agency to provide for housing for low- and moderate-income families and individuals pursuant to Sections 33334.2 to 33334.16, inclusive, of the Health and Safety Code. The use of these funds for low- and moderate-income families in the region of the Southern California Association of Governments within which the city is located shall be deemed to be of benefit to the city's redevelopment project areas.

(e) (1) The amount transferred pursuant to subdivisions (a) and (b) to the Housing Authority of the County of Los Angeles shall be expended to provide housing and assistance, including, but not limited to, that specified in subdivision (e) of Section 33334.2 of the Health and Safety Code for low-and moderate-income families and individuals, in the region of the Southern California Association of Governments within which the city is located.

(2) Funds expended pursuant to this subdivision shall be expended in accordance with all of the following:

(A) The funds shall be expended for the construction of low- and moderate-income housing located no further than 15 miles from the nearest boundary line of the City of Industry.

(B) The low- and moderate-income housing constructed pursuant to this subdivision shall be in addition to any other housing required by the housing element of the general plan of the jurisdiction in which the low- and moderate-income housing is constructed.

(C) Funds may be encumbered by the Housing Authority of the County of Los Angeles for the purposes of this subdivision only after the authority has prepared a written plan for the expenditure of funds to be transferred to the authority pursuant to this subdivision and has filed a copy of this expenditure plan with the Department of Housing and Community Development.

(f) A city that meets the conditions specified in subdivision (d) shall continue to have responsibility for preparing a housing element pursuant to Section 65583 only to the extent to which the assessment of housing needs, statement of goals and objectives, and the five-year schedule of actions relate to the city's plan to maintain, preserve, and improve the housing that exists in the city on the effective date of the act which adds this section.

(g) This section shall not become operative unless and until a parcel of land, to be dedicated for the construction of a high school, is transferred pursuant to a written agreement between the City of Industry and the Pomona Unified School District, and a copy of this agreement is filed with the County Clerk of the County of Los Angeles.

(Amended by Stats. 1998, Ch. 829)

§5584.5 Housing share transfer

(a) A city or county may transfer a percentage of its share of the regional housing needs to another city or county, if all of the following requirements are met:

(1) Both the receiving city or county and the transferring city or county comply with all of the conditions specified in subdivision (b).

(2) The council of governments or the department reviews the findings made pursuant to paragraph (2) of subdivision (c).

(3) The transfer does not occur more than once in a five-year housing element interval pursuant to subdivision (b) of Section 65588.

(4) The procedures specified in subdivision (c) are met.

(b) (1) Except as provided in paragraph (5) of subdivision (c) of Section 65584, a city or county transferring a share of its regional housing needs shall first have met, in the current or previous housing element cycle, at least 15 percent of its existing share of the region's affordable housing needs, as defined in Section 65584, in the very low and lower income category of income groups defined in Section 50052.5 of the Health and Safety Code if it proposes to transfer not more than 15 percent. In no event, however, shall the city or county transfer more than 500 dwelling units in a housing element cycle.

(2) A city or county shall transfer its regional housing needs in the same proportion by income group as the jurisdiction has met its regional housing needs.

(3) The transfer shall be only between jurisdictions that are contiguously situated or between a receiving city or county that is within 10 miles of the territory of the community of the donor city or county. If both the donor community and receiving community are counties, the donor county shall be adjacent to, in the same council of governments region as, and in the same housing market as, the receiving county. The sites on which any transferred housing units will be constructed shall be in the receiving city or county, and within the same housing market area as the jurisdiction of the donor city or county.

(4) The transferring and receiving city or county shall have adopted, and shall be implementing, a housing element in substantial compliance with Section 65583.

(5) The transferring city or county and the receiving city or county shall have completed, and provided to the department, the annual report required by subdivision (b) of Section 65400.

(c) (1) The donor city or county and the receiving city or county shall, at least 45 days prior to the transfer, hold a public hearing, after providing notice pursuant to Section 6062, to solicit public comments on the draft contract, including its terms, conditions, and determinations.

(2) The transferring and the receiving city or county shall do all of the following:

(A) Adopt a finding, based on substantial evidence on the record, that the transfer of the regional housing need pursuant to the terms of the agreement will not cause or exacerbate racial, ethnic, or economic segregation and will not create a detrimental financial impact upon the receiving city or county.

(B) Adopt a finding, based on substantial evidence on the record, that the transfer of the regional housing need will result in the construction of a greater number of similar type dwelling units than if the transfer does not occur.

(3) (A) The transferring city or county and the receiving city or county shall enter into an agreement to transfer units eligible under subdivision (b). A copy of this agreement shall be sent to the council of governments and the department to be kept on file for public examination.

(B) The agreement shall include a plan and schedule for timely construction of dwelling units, including, in addition to site identification, identification of and timeframes for applying for sufficient subsidy or mortgage financing if the units need a subsidy or mortgage financing, and a finding that sufficient services and public facilities will be provided.

(4) At least 60 days prior to the transfer, the receiving city or county planning agency and the transferring city or county planning agency shall submit to the department a draft amendment to reflect the identified transferred units. A transferring agency may reduce its housing needs only to the extent that it had not previously reduced its housing needs pursuant to paragraph (2) of subdivision (b) of Section 65583. A county planning agency that has its share of the regional housing need reduced pursuant to paragraph (5) of subdivision (c) of Section 65584 shall comply with this section. A receiving city or county shall, in addition to any other provisions of the article, identify in its housing element sufficient sites to meet its initial low- and moderate-income housing needs and sufficient sites to meet all transferred housing needs.

(5) The department shall review the draft amendment and report its written findings to the planning agency within 45 days of its receipt.

(6) The department's review shall follow the same procedure, requirements, and responsibilities of Sections 65583, 65585, 65587, and 65589.3. The court shall consider any written findings submitted by the department.

(d) No transfer made pursuant to this section shall affect the plans for a development that have been submitted to a city or county for approval 45 days prior to the adoption of the amendment to the housing element.

(e) No transfer made pursuant to this section shall be counted toward any ordinance or policy of a locality that specifically limits the number of units that may be constructed.

(f) The Attorney General or any other interested person shall have authority to enforce the terms of the agreement and the provisions of this section.

(g) For a period of five years after the transfer occurs, the report required by subdivision (b) of Section 65400 shall include information on the status of transferred units, implementation of the terms and conditions of the transfer contract, and information on any dwelling units actually constructed, including the number, type, location, and affordability requirements in place for these units.

(h) (1) At least 60 days prior to the proposed transfer, the donor city or county shall submit the proposed agreement to the council of governments, or to the department if there is no council of governments that serves the city or county, for review. The governing board of the council or the director shall determine whether there is substantial evidence to support the terms, conditions, and determinations of the agreement and whether the agreement complies with the substantive and procedural requirements of this section. If the council or the director finds that there is substantial evidence to support the terms, conditions, and determinations of the agreement, and that the agreement complies with the substantive and procedural requirements of this section, the participating jurisdictions may proceed with the agreement. If the governing board or the director finds that there is not substantial evidence to support the terms, conditions, and findings of the agreement, or that the agreement does not comply with the substantive and procedural requirements of this section, the board or the director may make recommendations for revising or terminating the agreement. The participating jurisdictions shall then include those revisions, if any, or terminate the agreement.

(2) The council or the director may convene a committee to advise the council or the director in conducting this review. The donor city or county and the receiving community shall pay the council's or the department's costs associated with the committee. Neither the donor city or county, nor the receiving city or county, may expend moneys in its Low and Moderate Income Housing Fund of its redevelopment agency for costs associated with the committee.

(3) Membership of the committee appointed pursuant to paragraph (2) shall include all of the following:

(A) One representative appointed by the director.

(B) One representative appointed by the donor agency.

(C) One representative appointed by the receiving community.

(D) Two low- and moderate-income housing advocates, appointed by the director, who represent those persons in that region.

(i) (1) The receiving city or county shall construct the housing units within three years of the date that the transfer contract is entered into pursuant to this section. This requirement shall be met by documenting that a building permit has been issued and all fees have been paid.

(2) Any portion of a regional share allocation that is transferred to another jurisdiction, and that is not constructed within the three-year deadline set forth in paragraph (1), shall be reallocated by the council of governments to the transferring city or county, and the transferring city or county shall modify its zoning ordinance, if necessary, and amend its housing element to reflect the reallocated units.

(3) If, at the end of the five-year housing element planning period, any portion of a regional share allocation that is transferred to another jurisdiction is not yet constructed, the council of governments shall add the unbuilt units to the normal regional fair share allocation and reallocate that amount to either of the following:

(A) The receiving city, if the three-year deadline for construction has not yet occurred; or

(B) The transferring city, if the three-year deadline for construction has occurred.

(4) If the transferred units are not constructed within three years, the nonperforming jurisdictions participating in the transfer of regional share allocations shall be precluded from transferring their regional shares, pursuant to this section, for the planning period of the next periodic update of the housing element.

(j) On or after January 1, 2000, no transferring city or county shall enter into an agreement pursuant to this section unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

(k) If Article XXXIV of the California Constitution is applicable, the receiving city or county shall certify that it has sufficient authority under Article XXXIV of the California Constitution to allow development of units transferred pursuant to this section.

(l) The receiving city or county shall not, within three years of the date of the transfer agreement entered into pursuant to this section, or until transferred units are constructed, whichever is longer, enter into a contract to transfer units outside the territorial jurisdiction of the agency pursuant to this section.

(m) Communities that have transferred a portion of their share of the regional housing need to another city or county pursuant to this section shall comply with all other provisions of law for purposes of meeting the remaining regional housing need not transferred, including compliance with the provisions of Section 65589.5.

(n) As used in this section, "housing market area" means the area determined by a council of governments or the department pursuant to Section 65584, and based upon market demand for housing, employment opportunities, the availability of suitable sites and public facilities, and commuting patterns.

(o) This section shall not be construed to interfere with the right of counties to transfer shares of regional housing needs pursuant to paragraph (5) of subdivision (c) of Section 65584.

(Added by Stats. 1994, Ch. 1235)

§65584.6 Napa County

(a) The County of Napa may, during its current housing element planning period, identified in Section 65588, meet up to 15 percent of its existing share of the regional housing need for lower income households, as defined in Section 65584, by committing funds for the purpose of constructing affordable housing units, and constructing those units in one or more cities within the county, only after all of the following conditions are met:

(1) An agreement has been executed between the county and the receiving city or cities, following a public hearing held by the county and the receiving city or cities to solicit public comments on the draft agreement. The agreement shall contain information sufficient to demonstrate that the county and city or cities have complied with the requirements of this section and shall also include the following:

(A) A plan and schedule for timely construction of dwelling units.

(B) Site identification by street address for the units to be developed.

(C) A statement either that the sites upon which the units will be developed were identified in the receiving city's housing element as potential sites for the development of housing for lower-income households, or that the units will be developed on previously unidentified sites.

(D) The number and percentage of the county's lower-income housing needs previously transferred, for the appropriate planning period, pursuant to this section.

(2) The council of governments that assigned the county's share receives and approves each proposed agreement to meet a portion of the county's fair share housing allocation within one or more of the cities within the county after taking into consideration the criteria of subdivision (a) of Section 65584. If the council of governments fails to take action to approve or disapprove an agreement between the county and the receiving city or cities within 45 days following the receipt of the agreement, the agreement shall be deemed approved.

(3) The city or cities in which the units are developed agree not to count the units towards their share of the region's affordable housing need.

(4) The county and the receiving city or cities, based on substantial evidence on the record, make the following findings:

(A) Adequate sites with appropriate zoning exist in the receiving city or cities to accommodate the units to be developed pursuant to this section. The agreement shall demonstrate that the city or cities have identified sufficient vacant or underutilized or vacant and underutilized sites in their housing elements to meet their existing share of regional housing need, as allocated by the council of governments pursuant to subdivision (a) of Section 65584, in addition to the sites needed to construct the units pursuant to this section.

(B) If needed, additional subsidy or financing for the construction of the units is available.

(C) The receiving city or cities have housing elements that have been found by the Department of Housing and Community Development to be in compliance with this article.

(5) If the sites upon which units are to be developed pursuant to this section were previously identified in the receiving city's housing element as potential sites for the development of housing sufficient to accommodate the receiving city's share of the lower income household need identified in its housing element, then the receiving city shall have amended its housing element to identify replacement sites by street address for housing for lower-income households. Additionally, the Department of Housing and Community Development shall have received and reviewed the amendment and found that the city's housing element continues to comply with this article.

(6) The county and receiving city or cities shall have completed, and provided to the department, the annual report required by subdivision (b) of Section 65400.

(7) For a period of five years after a transfer occurs, the report required by subdivision (b) of Section 65400 shall include information on the status of transferred units, implementation of the terms and conditions of the transfer agreement, and informa-

tion on any dwelling units actually constructed, including the number, type, location, and affordability requirements.

(8) The receiving city demonstrates that it has met, in the current or previous housing element cycle, at least 20 percent of its share of the regional need for housing for very low-income households allocated to the city pursuant to Section 65584.

(b) The credit that the county receives pursuant to this section shall not exceed 40 percent of the number of units that are affordable to lower income households and constructed and occupied during the same housing element cycle in unincorporated areas of the county. The county shall only receive the credit after the units have been constructed and occupied. Within 60 days of issuance of a certificate of occupancy for the units, the county shall inform the council of governments and the department in writing that a certificate of occupancy has been issued.

(c) Concurrent with the review by the council of governments prescribed by this section, the Department of Housing and Community Development shall evaluate the agreement to determine whether the city or cities are in substantial compliance with this section. The department shall report the results of its evaluation to the county and city or cities for inclusion in their record of compliance with this section.

(d) If at the end of the five-year period identified in subdivision (c) of Section 65583, any percentage of the regional share allocation has not been constructed as provided pursuant to subdivision (a), or, after consultation with the department, the council of governments determines that the requirements of paragraphs (5) and (7) of subdivision (a) have not been substantially complied with, the council of governments shall add the unbuilt units to Napa County's regional share allocation for the planning period of the next periodic update of the housing element.

(e) Napa County shall not meet a percentage of its share of the regional share pursuant to subdivision (a) on or after June 30, 2007, unless a later enacted statute, that is enacted before June 30, 2007, deletes or extends that date.

(Amended by Stats. 2000, Ch. 358)

§65585 Housing element guidelines

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

(b) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department. The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.

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

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

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

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

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

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

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

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

(Amended by Stats. 2000, Ch. 471)

65585.1 SANDAG self certification

(a) The San Diego Association of Governments (SANDAG), if it approves a resolution agreeing to participate in the self-certification process, and in consultation with the cities and county within its jurisdiction, its housing element advisory committee, and the de-

partment, shall work with a qualified consultant to determine the maximum number of housing units that can be constructed, acquired, rehabilitated, and preserved as defined in paragraph (11) of subdivision (e) of Section 33334.2 of the Health and Safety Code, and the maximum number of units or households that can be provided with rental or ownership assistance, by each jurisdiction during the third and fourth housing element cycles to meet the existing and future housing needs for low- and very low income households as defined in Sections 50079.5, 50093, and 50105 of the Health and Safety Code, and extremely low income households. The methodology for determining the maximum number of housing units that can be provided shall include a recognition of financial resources and regulatory measures that local jurisdictions can use to provide additional affordable lower income housing. This process is intended to identify the available resources that can be used to determine the maximum number of housing units each jurisdiction can provide. The process acknowledges that the need to produce housing for low-, very low, and extremely low income households may exceed available resources. The department and SANDAG, with input from its housing element advisory committee, the consultant, and local jurisdictions, shall agree upon definitions for extremely low income households and their affordable housing costs, the methodology for the determination of the maximum number of housing units and the number each jurisdiction can produce at least one year before the due date of each housing element revision, pursuant to paragraph (4) of subdivision (e) of Section 65588. If SANDAG fails to approve a resolution agreeing to participate in this pilot program, or SANDAG and the department fail to agree upon the methodology by which the maximum number of housing units is determined, then local jurisdictions may not self-certify pursuant to this section.

(1) The "housing element advisory committee" should include representatives of the local jurisdictions, nonprofit affordable housing development corporations and affordable housing advocates, and representatives of the for-profit building, real estate and banking industries.

(2) The determination of the "maximum number of housing units" that the jurisdiction can provide assumes that the needs for low-, very low, and extremely low income households, including those with special housing needs, will be met in approximate proportion to their representation in the region's population.

(3) A "qualified consultant" for the purposes of this section means an expert in the identification of financial resources and regulatory measures for the provision of affordable housing for lower income households.

(b) A city or county within the jurisdiction of the San Diego Association of Governments that elects not to self-certify, or is ineligible to do so, shall submit its housing element or amendment to the department, pursuant to Section 65585.

(c) A city or county within the jurisdiction of the San Diego Association of Governments that elects to self-certify shall submit a self-certification of compliance to the department with its adopted housing element or amendment. In order to be eligible to self-certify, the legislative body, after holding a public hearing, shall make findings, based on substantial evidence, that it has met the following criteria for self-certification:

(1) The jurisdiction's adopted housing element or amendment substantially complies with the provisions of this article, including addressing the needs of all income levels.

(2) For the third housing element revision, pursuant to Section 65588, the jurisdiction met its fair share of the regional housing needs for the second housing element revision cycle, as determined by the San Diego Association of Governments.

In determining whether a jurisdiction has met its fair share, the jurisdiction may count each additional lower income household provided with affordable housing costs. Affordable housing costs are defined in Section 6918 for renters, and in Section 6925 for purchasers, of Title 25 of the California Code of Regulations, and in Sections 50052.5 and 50053 of the Health and Safety Code, or by the applicable funding source or program.

(3) For subsequent housing element revisions, pursuant to Section 65588, the jurisdiction has provided the maximum number of housing units as determined pursuant to subdivision (a), within the previous planning period.

(A) The additional units provided at affordable housing costs as defined in paragraph (2) in satisfaction of a jurisdiction's maximum number of housing units shall be provided by one or more of the following means:

(i) New construction.

(ii) Acquisition.

(iii) Rehabilitation.

(iv) Rental or ownership assistance.

(v) Preservation of the availability to lower income households of affordable housing units in developments which are assisted, subsidized, or restricted by a public entity and which are threatened with imminent conversion to market rate housing.

(B) The additional affordable units shall be provided in approximate proportion to the needs defined in paragraph (2) of subdivision (a).

(4) The city or county provides a statement regarding how its adopted housing element or amendment addresses the dispersion of lower income housing within its jurisdiction, documenting that additional affordable housing opportunities will not be developed only in areas where concentrations of lower income households already exist, taking into account the availability of necessary public facilities and infrastructure.

(5) No local government actions or policies prevent the development of the identified sites pursuant to Section 65583, or accommodation of the jurisdiction's share of the total regional housing need, pursuant to Section 65584.

(d) When a city or county within the jurisdiction of the San Diego Association of Governments duly adopts a self-certification of compliance with its adopted housing element or amendment pursuant to subdivision (c), all of the following shall apply:

(1) Section 65585 shall not apply to the city or county.

(2) In any challenge of a local jurisdiction's self-certification, the court's review shall be limited to determining whether the self-certification is accurate and complete as to the criteria for self-certification. Where there has not been a successful challenge of the self-certification, there shall be a rebuttable presumption of the validity of the housing element or amendment.

(3) Within six months after the completion of the revision of all housing elements in the region, the council of governments, with input from the cities and county within its jurisdiction, the housing element advisory committee, and qualified consultant shall report to the Legislature on the use and results of the self-certification process by local governments within its jurisdiction. This report shall contain data for the last planning period regarding the total number of additional affordable housing units provided by income category, the total number of additional newly constructed housing units, and any other information deemed useful by SANDAG in the evaluation of the pilot program.

(e) This section shall become inoperative on June 30, 2009, and as of January 1, 2010, is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2001, Ch. 159. Effective January 1, 2002)

§65586 Deadline for adoption

Local governments shall conform their housing elements to the provisions of this article on or before October 1, 1981. Jurisdictions with housing elements adopted before October 1, 1981, in conformity with the housing element guidelines adopted by the Department of Housing and Community Development on December 7, 1977, and located in Subchapter 3 (commencing with Section 6300) of Chapter 6 of Part 1 of Title 25 of the California Administrative Code, shall be deemed in compliance with this article as of its effective date. A locality with a housing element found to be adequate by the department before October 1, 1981, shall be deemed in conformity with these guidelines.

(Added by Stats. 1980, Ch. 1143)

§65587 Deadline extension

(a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981, and the deadlines set by Section 65588. Except as specifically provided in subdivision (b) of Section 65361, the Director of Planning and Research shall not grant an extension of time from these requirements.

(b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article.

(c) If a court finds that an action of a city, county, or city and county, which is required to be consistent with its general plan, does not comply with its housing element, the city, county, or city and county shall bring its action into compliance within 60 days. However, the court shall retain jurisdiction throughout the period for compliance to enforce its decision. Upon the court's determination that the 60-day period for compliance would place an undue hardship on the city, county, or city and county, the court may extend the time period for compliance by an additional 60 days.

(Amended by Stats. 1990, Ch. 1441)

§65588 Periodic review and revision

(a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but not less than every five years, to reflect the results of this periodic review.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Notwithstanding subdivision (b) or the date of adoption of the housing elements previously in existence, the dates of revisions for the housing element shall be modified as follows:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2000, for the third revision, and June 30, 2005, for the fourth revision.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2001, for the third revision, and June 30, 2006, for the fourth revision.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, and June 30, 2007, for the fourth revision.

(4) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, and June 30, 2007, for the fourth revision.

(5) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 1999, for the third revision cycle ending June 30, 1999, and June 30, 2004, for the fourth revision.

(6) All other local governments: December 31, 2003, for the third revision, and June 30, 2008, for the fourth revision.

(7) Subsequent revisions shall be completed not less often than at five-year intervals following the fourth revision.

(Amended by Stats. 2001, Ch. 85)

§65588.1 Housing element annual review

(a) The planning period of existing housing elements prepared pursuant to subdivision (b) of Section 65588 shall be extended through the housing element due date prescribed in subdivision (e) of Section 65588. Local governments shall continue to implement the housing program of existing housing elements and the annual review pursuant to Section 65400.

(b) The extension provided in this section shall not limit the existing responsibility under subdivision (b) of Section 65588 of any jurisdiction to adopt a housing element in conformance with this article.

(c) It is the intent of the Legislature that nothing in this section shall be construed to reinstate any mandates pursuant to Chapter 1143 of the Statutes of 1980 suspended by the Budget Act of 1993-94.

(Amended by Stats. 2000, Ch. 117)

§65589 Legal effect

(a) Nothing in this article shall require a city, county, or city and county to do any of the following:

(1) Expend local revenues for the construction of housing, housing subsidies, or land acquisition.

(2) Disapprove any residential development which is consistent with the general plan.

(b) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which

may exist of a local government to impose rent controls or restrictions on the sale of real property.

(c) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which may exist of a local government with respect to measures that may be undertaken or required by a local government to be undertaken to implement the housing element of the local general plan.

(d) The provisions of this article shall be construed consistent with, and in promotion of, the statewide goal of a sufficient supply of decent housing to meet the needs of all Californians.

(Added by Stats. 1980)

§65589.3 Rebuttable presumption

In any action filed on or after January 1, 1991, taken to challenge the validity of a housing element, there shall be a rebuttable presumption of the validity of the element or amendment if, pursuant to Section 65585, the department has found that the element or amendment substantially complies with the requirements of this article.

(Added by Stats. 1990, Ch. 1441.)

Public Resources Code

§2762 Mineral resources

(a) Within 12 months of receiving the mineral information described in Section 2761, and also within 12 months of the designation of an area of statewide or regional significance within its jurisdiction, every lead agency shall, in accordance with state policy, establish mineral resource management policies to be incorporated in its general plan which will:

(1) Recognize mineral information classified by the State Geologist and transmitted by the board.

(2) Assist in the management of land use which affect areas of statewide and regional significance.

(3) Emphasize the conservation and development of identified mineral deposits.

(b) Every lead agency shall submit proposed mineral resource management policies to the board for review and comment prior to adoption.

(c) Any subsequent amendment of the mineral resource management policy previously reviewed by the board shall also require review and comment by the board.

(d) If any area is classified by the State Geologist as an area described in paragraph (2) of subdivision (b) of Section 2761, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a), or otherwise has not yet acted pursuant to subdivision (a), then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare, in conjunction with preparing any environmental document required by Division 13 (commencing with Section 21000), or in any event if no such document is required, a statement specifying its reasons for permitting the proposed use, and shall forward a copy to the State Geologist and the board for review.

If the proposed use is subject to the requirements of Division 13 (commencing with Section 21000), the lead agency shall comply with the public review requirements of that division. Otherwise, the lead agency shall provide public notice of the availability of its statement by all of the following:

(1) Publishing the notice at least one time in a newspaper of general circulation in the area affected by the proposed use.

(2) Directly mailing the notice to owners of property within one-half mile of the parcel or parcels on which the proposed use is located as those owners are shown on the latest equalized assessment role.

The public review period shall not be less than 60 days from the date of the notice and shall include at least one public hearing. The lead agency shall evaluate comments received and shall prepare a written response. The written response shall describe the disposition of the major issues raised. In particular, when the lead agency's position on the proposed use is at variance with recommendations and objections raised in the comments, the written response shall address in detail why specific comments and suggestions were not accepted.

(e) Prior to permitting a use which would threaten the potential to extract minerals in an area classified by the State Geologist as an area described in paragraph (3) of subdivision (b) of Section 2761, the lead agency may cause to be prepared an evaluation of the area in order to ascertain the significance of the mineral deposit located therein. The results of such evaluation shall be transmitted to the State Geologist and the board.

(Amended by Stats. 1990, Ch. 1097)

§2763 Land use decisions

(a) If an area is designated by the board as an area of regional significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted

pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of regional significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of these minerals to their market region as a whole and not just their importance to the lead agency's area of jurisdiction.

(b) If an area is designated by the board as an area of statewide significance, and the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a) of Section 2762, or otherwise has not yet acted pursuant to subdivision (a) of Section 2762, then prior to permitting a use which would threaten the potential to extract minerals in that area, the lead agency shall prepare a statement specifying its reasons for permitting the proposed use, in accordance with the requirements set forth in subdivision (d) of Section 2762. Lead agency land use decisions involving areas designated as being of statewide significance shall be in accordance with the lead agency's mineral resource management policies and shall also, in balancing mineral values against alternative land uses, consider the importance of the mineral resources to the state and nation as a whole.

(Amended by Stats. 1990, Ch. 1097.)

§2764 Compatible future land uses; general plan amendments

(a) Upon the request of an operator or other interested person and payment by the requesting person of the estimated cost of processing the request, the lead agency having jurisdiction shall amend its general plan, or prepare a new specific plan or amend any applicable specific plan, that shall, with respect to the continuation of the existing surface mining operation for which the request is made, plan for future land uses in the vicinity of, and access routes serving, the surface mining operation in light of the importance of the minerals to their market region as a whole, and not just their importance to the lead agency's area of jurisdiction.

(b) In adopting amendments to the general plan, or adopting or amending a specific plan, the lead agency shall make written legislative findings as to whether the future land uses and particular access routes will be compatible or incompatible with the continuation of the surface mining operation, and if they are found to be incompatible, the findings shall include a statement of the reasons why they are to be provided for, notwithstanding the importance of the minerals to their market region as a whole or their previous designation by the board, as the case may be.

(c) Any evaluation of a mineral deposit prepared by a lead agency for the purpose of carrying out this section shall be transmitted to the State Geologist and the board.

(d) The procedure provided for in this section shall not be undertaken in any area that has been designated pursuant to Article 6 (commencing with Section 2790) if mineral resource management policies have been established and incorporated in the lead agency's general plan in conformance with Article 4 (commencing with Section 2755).

(Added by Stats. 1986, Ch. 82)

§4102 State responsibility area

"State responsibility areas" means areas of the state in which the financial responsibility of preventing and suppressing fires has been determined by the board pursuant to Section 4125, to be primarily the responsibility of the state.

(Repealed and added by Stats. 1965, Ch. 1144)

§4125 Classification of state responsibility areas

(a) The board shall classify all lands within the state, without regard to any classification of lands made by or for any federal agency or purpose, for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state. The prevention and suppression of fires in all areas that are not so classified is primarily the responsibility of local or federal agencies, as the case may be.

(b) On or before July 1, 1991, and every 5th year thereafter, the department shall provide copies of maps identifying the boundaries of lands classified as state responsibility pursuant to subdivision (a) to the county assessor for every county containing any of those lands. The department shall also notify county assessors of any changes to state responsibility areas within the county resulting from periodic boundary modifications approved by the board.

(c) A notice shall be posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map, and of any information received by the county subsequent to

the receipt of the map regarding changes to state responsibility areas within the county.

(Amended by Stats. 1998, Ch. 65)

§4128.5 Submission of draft safety element

(a) It is the intent of the Legislature that decisions affecting the use of land in state responsibility areas result in land uses which protect life, property, and natural resources from unreasonable risks associated with wild land fires.

(b) At least 90 days prior to the adoption or amendment to the safety element of its general plan, the planning agency of each county which contains state responsibility areas shall submit the draft element or draft amendment to the board and to every local agency which provides fire protection to unincorporated territory in the county. The board shall, and a local agency may, review the draft and report its written recommendations to the planning agency within 60 days of its receipt of the draft. The board and local agency shall review the draft for consistency with the intent of this section. The board and local agency may offer written recommendations for changes to the draft which would make the draft consistent with the intent of this section.

(c) Prior to the adoption of its draft element or draft amendment, the board of supervisors of the county shall consider the recommendations made by the board and any local agency which provides fire protection to unincorporated territory in the county. If the board of supervisors determines not to accept all or some of the recommendations, if any, made by the board or local agency, the board of supervisors shall communicate in writing to the board or local agency its reasons for not accepting the recommendations. The communication shall explain how its decisions affecting the uses of land and policies in state responsibility areas will protect lives, property, and natural resources from unreasonable risks associated with wild land fires.

(d) If the board's or local agency's recommendations are not available within the time limits set by this section, the board of supervisors may act without them. The board of supervisors shall take the recommendations into consideration at the next time it considers future amendments to the safety element.

(Added by Stats. 1989, Ch. 778)

APPENDIX B

Court and Attorney General Opinions

This appendix summarizes major planning-related litigation and pertinent opinions of the California Attorney General. The brief summaries highlight one or more pertinent principles, but are by no means comprehensive discussions of each case or opinion. The intent is to bring these cases to your attention; please refer to the full text of the cases and opinions for in-depth information. For advice regarding the applicability of a case to specific situations, particularly those cases involving "takings," consult your counsel.

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U.S. SUPREME COURT CASES

Dolan v. City of Tigard *(1994) 114 S.Ct. 2309*

As conditions of approval for a building permit, the City of Tigard required that the owners of a plumbing supply store dedicate a strip along their street frontage for a bicycle lane and dedicate the drainage ditch along the side of their property for flood control purposes. Tigard cited its land use plan as the basis for these exactions. The owners sued, alleging that the dedication requirements amounted to regulatory takings for which just compensation was due.

The U.S. Supreme Court reversed the lower court's decision and overturned Tigard's exactions. The court held that in addition to the essential "nexus" described in the court's *Nollan* decision, the extent of an exaction must have a "rough proportionality" to the demand or impact of the project. The court found that the city's exactions exceeded the proportional impact the enlarged store would contribute to bicycle traffic and flooding.

This case demonstrates the Supreme Court's concern over regulations that attempt to place an unfair burden on a single property owner. A general plan can provide the broad basis for ordinances that impose exactions to implement the plan, but may not be specific enough to be the sole basis for exactions.

Nollan v. California Coastal Commission *(1987) 107 S.Ct. 3141*

The Nollans wished to demolish and rebuild their single family residence in the coastal zone. The Coastal Commission approved a permit for the new residence, conditional upon the Nollans dedicating a strip of land along the property's beach frontage for public access. The purpose of the dedication was to carry out the goals of the Coastal Act in preserving the public's view of the ocean from Highway 1. The Nollans sued, alleging that the dedication was a regulatory "taking," unconstitutional under the Fifth Amendment of the U.S. Constitution, which prohibits governmental taking of private property without just compensation.

The Supreme Court overturned the lower court's decision and held for the Nollans. Government's power to regulate land uses is well established in law. However, such regulations must advance a legitimate public purpose and be linked to the land use's impacts on that public purpose. In this case, the Commission may legitimately regulate development along the coast in a manner that protects public views of the ocean from Highway 1. However, the dedication of beachfront land for public access is not necessary, nor is it related to this purpose.

This case introduced the word "nexus" to the lexicon of exactions. *Nollan* instructs that governments must document the link, or nexus, between the exactions being imposed, the legitimate public purpose being served, and the necessity of the exaction to remedy projects' impacts on that public purpose.

CALIFORNIA SUPREME COURT CASES

DeVita v. County of Napa *(1995) 9 Cal.4th 763*

In 1990, Napa County voters approved an initiative amending the county's general plan to limit development in agricultural areas for a 30-year period and to restrict the ability of the Board of Supervisors to consider, with certain exceptions, general plan amendments that would change agricultural designations. Proposed general plan amendments in agricultural areas would be subject to a countywide election. DeVita challenged the initiative, arguing that the measure rendered the general plan internally inconsistent and that amending the general plan is the responsibility of the Board of Supervisors and not properly undertaken by initiative. The trial court and the court of appeal held for the county.

The Supreme Court affirmed, holding that the reference to "legislative body" in Government Code §65356 and §65358 does not limit the authority to amend a general plan solely to a city council or county board of supervisors. The initiative power reserved to the voters by the California Constitution allows them to take any legislative action that is otherwise within the power of their elected legislative body, unless such power is specifically restricted to the legislative body. In this case, the court concluded that the statute was not so specific as to exclude the electorate from acting as the legislative body. As a valid amendment to the general plan, the measure did not create any internal inconsistency.

Lesher Communications v. City of Walnut Creek *(1990) 52 Cal.3d 531*

Walnut Creek voters approved an initiative linking the level of allowable office development to the level of service on key roads within the city. Its effect was to limit future development throughout the city. Lesher Communications sued, alleging, in part, that the initiative failed to amend the general plan and thus was inconsistent with the plan.

The Supreme Court agreed, concluding that the voter initiative was a zoning change rather than a general plan amendment and, because of its inconsistency with the plan, was invalid when passed. Simply be-

cause a measure is passed by the voters rather than adopted by the city council does not absolve it from meeting the consistency requirement.

***Yost v. Thomas** (1984) 36 Cal.3d 561*

The Park Plaza Corporation filed several applications, including a specific plan, to authorize construction of a 360-room hotel and conference center under the City of Santa Barbara's certified Local Coastal Program (LCP). After the council had approved the project, a local citizens' group attempted to file a referendum petition to reverse the council's action. The petition was rejected by city clerk Thomas. The city argued that its approval was ministerial under the Coastal Act and not subject to referendum. The citizens' group sued and the trial court found for the city, holding that the city's actions were administrative under the Act and that the powers of initiative and referendum apply only to legislative actions by a local governing body.

The Supreme Court reversed, citing the established principle that a referendum applies only to legislative acts. Since adopting or amending a general plan and rezoning are legislative acts, the court reasoned that specific plans are likewise legislative. The court also concluded that in enacting the Coastal Act, the Legislature had not intended to limit local authority to a point beyond the reach of referendum. While the Coastal Commission may disapprove an LCP that is inconsistent with state policy or too weak to effectively implement it, the Commission may not specify the precise content of the LCP. Furthermore, local governments may choose the means of implementing the Coastal Act and may be more restrictive of particular development than state policies require.

***Arnel Development Company v. City of Costa Mesa** (1980) 28 Cal.3d 511 (California Court of Appeal (1981) 126 Cal.App.3d 330)*

Arnel Development Company (Arnel) proposed to develop a 50-acre parcel in Costa Mesa. The city approved a specific plan and rezoned the Arnel property to planned development residential low-density and planned development residential medium-density. A final development plan and a tentative subdivision map were also approved.

After the city's action, city voters approved an initiative measure rezoning the Arnel property and adjacent agricultural parcels to single-family residential. Thereafter, the city refused to process Arnel's applications for a final subdivision map and building permits. In response, Arnel sought to have the initiative invalidated, arguing that the rezoning of specific, relatively small parcels was an adjudicative, rather than a legislative, act and thus could not be enacted by initiative.

The Supreme Court ruled for the city, concluding that enactment or amendment of a zoning ordinance is a legislative act regardless of the size or ownership of the land involved and is subject to enactment by initiative. It noted that an initiative may be declared invalid because it is arbitrary or unreasonable, it bears no reasonable relationship to the regional welfare, or it deprives property owners of substantially all use of their land. Furthermore, zoning changes, even those adopted by initiative, must conform to the general plan.

The Supreme Court remanded the case to the California Court of Appeal to address the other arguments made by Arnel contesting the validity of the initiative. The California Court of Appeal ruled for Arnel, holding that the initiative ordinance was arbitrary and unreasonable and, therefore, invalid. In contrast to the zoning adopted by the city after 18 months of planning and 30 public hearings, the zoning initiative was not based on any significant change in circumstances, but enacted for the sole purpose of thwarting the Arnel project. Further, the zoning initiative was invalid because it failed to meet the regional welfare test set out in *Associated Homebuilders of the East Bay v. City of Livermore (1976) 18 Cal.3d 582*. By precluding development of multifamily residences in the area, the initiative ordinance did not effect a reasonable accommodation of the competing interest on a regional basis and was, therefore, an invalid exercise of the police power.

***Youngblood v. Board of Supervisors of San Diego County** (1978) 22 Cal.3d 644*

In 1974, the Santa Fe Company filed a tentative map for 131 lots based on the adopted San Dieguito Community Plan. The Planning Commission and the Board of Supervisors determined that the map was consistent with the community plan and granted approval. Shortly thereafter, the Board of Supervisors adopted an amended the San Dieguito Community Plan. The board denied a request by Youngblood and other neighboring property owners to rezone Santa Fe's property to the lower density called for in the amended plan. Santa Fe filed a final map in 1975, which the county approved.

Youngblood sued to force the board to rezone the property "within a reasonable time" to the reduced density specified in the amended general plan. Youngblood alleged that the board abused its discretion by refusing to rezone the property to conform to the amended plan and by approving final subdivision maps that did not conform to the amended

plan. Youngblood claimed that the Subdivision Map Act requirement for consistency of final subdivision maps with general and specific plans should be interpreted to mean the general and specific plans in effect at the time of review of the final map, even if different from the plans in effect at the time of the tentative map approval.

Youngblood argued alternatively that if consistency with the general plan is determined upon approval of the tentative map, a tentative map is not actually approved until all the conditions placed on the map are met. Thus, consistency with the plan would not be determined until the conditions are satisfied, not when the map is submitted. This would subject the tentative map to any changes in the general plan or specific plans occurring in the interim.

The California Supreme Court ruled for the county, holding that "approval" of a tentative map occurs when it is approved by the local body, not upon fulfillment of the imposed conditions. In addition, since the 1967 community plan did not specify a minimum lot size, only a density range of 0 to 0.75 dwelling units per acre, a subdivision map allowing 0.6 dwelling units per acre was consistent with that plan. The appropriate plan for determining consistency, then, was the plan in effect at the time of the tentative map's approval.

Associated Homebuilders of the East Bay v. City of Livermore *(1976) 18 Cal.3d 582*

Livermore voters enacted an initiative ordinance in April 1972 restricting the issuance of building permits. No permits were to be issued unless it could be shown by the developer that the project would not lead to school overcrowding or double sessions in the local school district and would not exceed sewage treatment and water supply capacity as regulated by the Regional Water Quality Control Board.

Associated Homebuilders (Builders) sued, arguing that the ordinance was vague and that its effect would be to unconstitutionally bar immigration. The trial court issued an injunction against the city on the basis that the ordinance was unconstitutionally vague and precluded by *Hurst v. City of Burlingame (1929) 207 Cal.3d 134*, which held that state statutes requiring notice and hearing to precede enactment of zoning ordinances also applied to initiatives. The city appealed.

The Supreme Court held in favor of the city. The court reversed its earlier *Hurst* decision, concluding that to require notice and hearing would preclude the use of initiatives in general law cities and unconstitutionally limit the electorate's constitutional right to the initiative process. Further, it held that the ordinance was not vague. By interpreting the ordinance to incorporate standards established by the Livermore Valley Joint School District and the Regional Water Quality Control Board, the court found its terms to be sufficiently specific to allow their implementation. The failure to designate a person or agency to determine when the standards are met was likewise not unconstitutionally vague. The duty to enforce the ordinance lies with the city's building inspector.

Finally, the court rejected the claim that the ordinance unconstitutionally barred immigration. The court established a standard based not upon sustainability by a compelling state interest, but rather upon a reasonable relationship to "the welfare of the region affected by the ordinance." In other words, the city does not exceed its police powers when they are "reasonably related" not only to the welfare of the city's residents, but also to those of the surrounding region.

CALIFORNIA COURT OF APPEAL CASES

Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors *(1998) Cal.App.4th 1332*

In March of 1998, the 3rd District California Court of Appeal considered allegations that the El Dorado County Board of Supervisors failed to comply with the county's Draft General Plan and the California Environmental Quality Act in approving a residential subdivision encompassing 566 lots on 7,868 acres.

The appellate court found that the project was submitted at the time when the county was preparing a general plan update and was subject to the conditions of a general plan extension as approved by the Office of Planning and Research (OPR). As it was authorized to do, OPR required the county to make specific findings reasonably supported by evidence in the record that any development approved be consistent with the county's draft general plan and that there be little or no probability that the development would be detrimental to or interfere with the future adopted general plan. The draft general plan included a policy stating that designations for developments the size of the subject proposal only be assigned to lands contiguous to "Community Regions and Rural Centers." The project was not contiguous to any such lands.

In reviewing this matter, the court relied on *Corona-Norco Unified School District v. City of Corona (1993) 17 Cal.App.4th 985*, in which the court, quoting the *General Plan Guidelines*, held that a project is consistent with the general plan "if, considering all its aspects, it will further the objectives and policies of the

general plan and not obstruct their attainment." The court concluded that the project was inconsistent with clear and essential policies of the land use element of the draft general plan, and the county's finding of consistency was not supported by substantial evidence.

Hoffmaster v. City of San Diego *(1997) 55 Cal.App.4th 1098*

In 1994, Mr. and Mrs. Hoffmaster, as class representatives for the homeless of the city, sued San Diego asserting that its general plan housing element did not identify adequate sites for homeless emergency shelters and transitional housing as required by Government Code §65583(c)(1) and that the element had not been revised in a timely manner.

The trial court found that the city failed to adopt a housing element meeting the statutory requirements of Government Code §65588(b)(3) and ordered the city to adopt an adequate element within 120 days. The city adopted a revised element in March of 1995, which prompted the filing of a subsequent amended complaint that the revised element was again not adequate. The trial court again found that the city had not identified adequate emergency shelters or transitional housing. Finding again for the plantiffs, the court ordered the city to revise its housing element and ordered it to approve all use permits for emergency shelters and transitional housing until compliance was achieved.

The Court of Appeal also found that the revised element failed to "substantially comply" with housing element law (Government Code §65583(c)(1)) requiring agencies to identify adequate sites designed to facilitate the development of emergency shelters and transitional housing. The Court of Appeal directed the trial court to stay for 60 days its order that the city approve all use permit applications for emergency shelters and transitional housing until compliance was reached, giving the city additional time to adopt an element consistent with statutory requirements.

Chandis Securities Co. v. City of Dana Point *(1997) 52 Cal.App.4th 475*

The Dana Point City Council approved Chandis' general plan amendment and specific plan for a hotel and 370-unit residential development on the Headlands. Petitions were filed forcing a successful voter referendum against the project and, as a result, the council's action was reversed.

The court held that although the city council acted reasonably to approve the project, the electorate is empowered to reverse that action, particularly since reversal did not conflict with the general plan and maintained the status quo. The court held that the restriction on denying a "development project" under Government Code §65589.5 does not apply to legislative projects.

City of Santa Cruz v. Superior Court of Santa Cruz County (Bombay Corp.) *(1995) 40 Cal.App.4th 1146*

The City of Santa Cruz adopted a new general plan after numerous public hearings. The plan included an area identified as a greenbelt that was to be restricted to open-space uses. During deliberations on the plan, Bombay Corp. had unsuccessfully requested that the city exclude its property from the greenbelt. Bombay sued to overturn the city's general plan adoption, charging that city officials had failed to proceed as required by law because they had allegedly predetermined not to allow development of the greenbelt, regardless of the evidence presented to them. The trial court ordered depositions from city officials seeking to define their motives in ignoring Bombay's request.

The Court of Appeal reversed, holding that judicial inquiry into the motives of officials is prohibited by the separation of powers doctrine, absent some evidence of illegal activity. The city's decision was upheld.

Alameda County Land Use Association v. City of Hayward *(1995) 38 Cal.App.4th 1716*

Alameda County and the cities of Hayward and Pleasanton entered into a Memorandum of Understanding (MOU) pledging to use their "best efforts" to adopt common open-space designations for the 13,100-acre Ridgelands Area, which lay, in part, in each of their jurisdictions. The MOU prohibited any change in these general plan designations without the approval of all three entities. The Alameda County Land Use Association sued, alleging that the MOU invalidly restrained the cities and the county from acting independently, even when an amendment would be in the public interest. The jurisdictions countered that these claims were not ripe for review and the trial court dismissed the case on those grounds.

The Court of Appeal reversed. The court found that the MOU impaired the jurisdictions' future exercise of their exclusive power to amend their respective general plans. This would have effectively provided each jurisdiction with veto power over outside jurisdictions' future general plan amendments.

San Mateo County Coastal Landowners Association v. County of San Mateo *(1995) 38 Cal.App.4th 523*

In 1986, San Mateo County voters approved initiative Measure A amending the county's Local Coastal Program (LCP). The initiative, with minor exceptions, did not amend the substance of the LCP, but rather identified a number of LCP land use policies and provided that those policies could only be amended by voter approval. These amendments were subsequently certified by the Coastal Commission. The Coastal Landowners Association sued, alleging, among other things, that Measure A dealt with a matter of statewide concern that could not be addressed by local initiative and that it conflicted with the Coastal Act by circumventing the statutory requirements for public hearings, participation, and involvement by the Coastal Commission otherwise applicable to LCP amendments. The trial court held for the county.

The Court of Appeal affirmed the trial court's decision. Under *Yost v. Thomas (1984) 36 Cal.3d 561* and the Coastal Act, local governments have broad discretion to determine the content of the land use plan portion of their LCP. Accordingly, Measure A was not preempted by the Coastal Act. In addition, *DeVita v. County of Napa (1995) 9 Cal.4th 763* supported amendment of the county general plan, of which the land use plan was a part, by initiative. Based on *DeVita*, the court opined that none of the procedural requirements of the Coastal Act can limit proper exercise of the initiative power. The county's coastal protection initiative did not conflict with and was not preempted by the California Coastal Act.

Hernandez v. City of Encinitas *(1994) 28 Cal.App.4th 1048*

Low-income and homeless residents brought suit against the city, claiming that, among other things, in quantifying its housing needs and goals for low-income residents the city had not used "regional fair share" data in identifying adequate housing opportunities for low-income and homeless people.

The court reviewed the general plan based upon the well-established standard for determining the adequacy of a general plan: the plan must be in "substantial compliance" with the law and the review cannot be based upon the "merits" of the plan.

The court upheld the city's land use and housing elements, finding actual compliance with the law and describing many of the arguments as being based on the "merits" of the general plan and thus beyond the scope of the review.

Marblehead v. City of San Clemente *(1991) 226 Cal.App.3d 1504*

In 1988, San Clemente voters approved Measure E, which established traffic levels of service intended to serve as standards by which future general plan amendments, specific plans, rezonings, and other land use decisions were to be judged. Measure E purported itself to be a general plan amendment and directed the city to revise its zoning ordinance accordingly. Marblehead sued.

The Court of Appeal concluded, after examining Measure E, that the initiative was not a general plan amendment but rather a resolution by voters that the general plan and zoning should be amended to reflect the Measure's principles. Although the electorate is empowered to enact legislation such as a general plan amendment or rezoning, the initiative power does not enable voters to direct the city council to amend the plan or effectuate a rezoning.

No Oil, Inc. v. City of Los Angeles *(1988) 196 Cal.App.3d 223*

Occidental Petroleum (Occidental) filed applications with the City of Los Angeles to establish three oil drilling districts and a drill site in Pacific Palisades. The proposed drilling zones were designated for open-space use in the city's Brentwood-Pacific Palisades district plan. The city planning commission considered the applications and project EIR and denied the rezonings. Occidental appealed to the city council, which reversed the commission's decision. When the ordinances were referred back to the planning commission, the commission denied them again and Occidental made another appeal to the council, which granted final approval.

No Oil, an association of area landowners, filed suit. The trial court held for No Oil and this appeal ensued. No Oil cross-appealed, contending, in part, that the drilling ordinances were inconsistent with the city's district plan and with the open-space and conservation elements of its general plan. Their argument rested on two main points: that oil drilling is an exclusively industrial use and that the project site's open-space designation precludes industrial uses.

The Court of Appeal reversed and held that under the provisions of the city's plans and Government Code §65560, "open-space land" may include open space used for "the managed production of resources" in areas containing major mineral deposits. Since oil recovery is managed production of a natural resource, the project could reasonably be found consistent with

the policies of the general and district plans. With regard to zoning, the city did not act in an arbitrary manner or reach a conclusion that could not reasonably be made given the evidence before it. The city's zoning scheme did not limit oil drilling exclusively to industrial zones. It was apparent that drilling and production could be approved in any zone upon approval of a supplemental use district.

Under this interpretation of Government Code §65560(b), open-space uses could be construed to include such resource recovery operations as oil production facilities. In light of this, it behooves local governments to specify the types of open-space land being designated in their open-space elements (e.g., is it open space for the preservation of natural resources, for the managed production of resources, for outdoor recreation, or for public health and safety).

Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles *(1986) 177 Cal.App.3d 300*

Los Angeles County approved a project proposing 1,192 dwelling units, one million square feet of light industrial space, and various public uses on 516 rural acres located south of the Ventura Freeway in the Santa Monica Mountains. The Las Virgenes Homeowners Federation (Homeowners) filed suit against the county and the developer, alleging, among other things, that the Malibu/Santa Monica Mountains Area Plan (MSMMAP) was inconsistent with the county plan and that the project was inconsistent with both plans. The trial court held for the county and the developer. Homeowners appealed.

The Court of Appeal affirmed the lower court decision and found the following. Los Angeles County's plan consists of general elements that set countywide policy and community plans that deal with local issues. The MSMMAP's purpose is "to identify specific land uses, determine actual boundaries between land use categories, and establish specific residential density ranges within the parameters established by the countywide goals and policies." Although a 35-acre portion of the project was not literally consistent with the densities shown on the county's planning maps, the court held that the project was consistent when the maps were read with the text of the MSMMAP. Since the general plan map did not apply at a small scale, the MSMMAP was the pertinent land use policy document and there was no inconsistency between the countywide plan and the MSMMAP. As a result, the court held that project density did not exceed the overall ceiling set by the MSMMAP and was consistent with both the MSMMAP and the county general plan.

Elysian Heights Residents Association v. City of Los Angeles *(1986) 182 Cal.App.3d 21*

Morton Park Associates (Morton) intended to construct a 46-unit apartment complex as allowed by existing city zoning. Morton obtained the necessary city permits, demolished existing structures, and began site preparation. The Elysian Heights Residents Association (Elysian) attempted to halt construction by appealing the issuance of the building permit. They claimed that the project density exceeded the twelve-unit per acre maximum prescribed by the city's Silver Lake-Echo Park district plan and, by inference, the city general plan.

While Elysian's administrative appeals were in progress, as a result of an unrelated lawsuit the Superior Court ordered the city to bring its zoning into consistency with its general plan. To demonstrate its good faith, the city enacted an ordinance prohibiting further issuance of permits for projects that were incompatible with the general plan. This ordinance exempted previously issued permits such as Morton's.

Elysian filed suit against the city claiming that the building permit issued by the city was inconsistent with the district and citywide plans. The trial court dismissed Elysian's case, ruling that Morton had a vested right to proceed. Elysian appealed.

The California Appeal Court affirmed. It opined that "neither the language of [Government Code] Section 65860 nor the statutory scheme in general mandates that building permits be scrutinized for plan consistency...[H]ad the legislature intended to fashion such a requirement, it clearly had the power to do so." In dismissing Elysian's central argument—that case law had established a link between the general plan and all land use decisions—the court held that *Neighborhood Action Group v. County of Calaveras (1984) 156 Cal.App.3d 1176* was distinguishable from this case because it was based upon an alleged inadequacy of the Calaveras County general plan. Elysian had not claimed that the city general plan was inadequate.

Furthermore, there was no local requirement for consistency between the plan and building permits. The ordinance in effect at the time Morton's permit was issued required only consistency between the zoning and the use. The city's interim ordinance, which required consistency with the plan, was not applicable in the case because it took effect after Morton had obtained permits.

Buena Vista Garden Apartments Association v. City of San Diego Planning Department *(1985) 175 Cal.App.3d 289*

The 56-acre Buena Vista Gardens Apartments complex represented approximately 34 percent of the available rental housing in the San Diego community of Clairemont Mesa. At the request of the developers, the city council conditionally approved a planned residential development permit allowing demolition of 1,023 apartments and their replacement with 2,287 condominiums over a ten-year period. The Buena Vista Gardens Apartments Association and others (together Association) brought suit. The Association claimed that San Diego lacked the authority to approve the development permit because portions of the city's housing element failed to comply with the requirements of the Government Code.

San Diego countered Association's challenges to its housing element by maintaining that the standard of review for a housing element was found in *Bownds v. City of Glendale (1980) 113 Cal.App.3d 875* ("Absent a complete failure or at least substantial failure on the part of a local governmental agency to adopt a plan which approximates the Legislature's expressed desires, the courts are ill-equipped to determine whether the language used in a local plan is 'adequate' to achieve the broad general goals of the Legislature."). Further, the city claimed that the housing element requirements interfered with San Diego's charter city status. In the city's view, the statute wrongfully required San Diego to use its legislative and administrative authority to accomplish the state's housing goal. The trial court decided in favor of the city and Association appealed.

The California Court of Appeal affirmed in part and reversed in part, holding as follows. San Diego's housing element lacked necessary programs for conserving existing affordable housing opportunities and, therefore, did not substantially comply with Government Code §65583(c)(4). The court granted a writ directing the lower court to refuse approval of the development permit until the housing element was brought into compliance. The court rejected use of *Bownds*, noting that "the *Bownds* decision no longer accurately reflects the state of the legislatively mandated housing element nor its standard of review. The standard of review is not limited to whether there is a 'complete' or 'substantial' failure of a city to adopt a plan which 'approximates the Legislature's expressed desires' (*Bownds v. City of Glendale, supra*) but whether there is 'actual compliance' (*Camp v. Board of Supervisors, 123 Cal.App.3d 334, 348*) with specified requirements. Bownds retains validity to the extent it prohibits a court from examining the 'merits' of an element."

The court observed that both the Legislature and the judiciary have found housing to be a matter of statewide concern. As a result, "if a matter is of state-wide concern, then charter cities [such as San Diego] must yield to the applicable general state laws regardless of the provisions of its [sic] charter."

deBottari v. City Council of Norco *(1985) 171 Cal.App.3d 1204*

The Norco City Council approved a general plan amendment that redesignated a parcel of land from residential/agricultural (up to two units per acre) to residential-low density (three to four units per acre). The council also rezoned the site accordingly.

Louis deBottari circulated referendum petitions challenging the zone change ordinances. After the Norco city clerk certified the correctness of the petitions, they were presented to the Norco City Council pursuant to California Elections Code §4055, which requires the council to either repeal the rezoning ordinances or call a referendum. The council refused to do either, contending that a repeal of the ordinances would result in zoning that was inconsistent with the city's general plan. deBottari then sought a writ of mandate to compel the council to act. The trial court denied the writ and deBottari appealed.

The California Court of Appeal affirmed. Normally, Norco's city council would have been required by the Election Code to act on the referendum. Additionally, court review of a challenged referendum is usually more appropriate after the election than before. However, two exceptions exist to this general rule. First, a court will intervene before an election if the voters are not empowered to adopt the disputed proposal. The court noted, for example, that election officials have been required to withhold initiative and referendum proposals from the ballot when such measures were not legislative in nature. Secondly, pre-election review would be warranted if the substantive provisions of a ballot measure were legally invalid. The court agreed with the city that a repeal of the challenged ordinances would have violated Government Code §65860, making the city's zoning ordinance inconsistent with its general plan.

Concerned Citizens of Calaveras County v. Board of Supervisors of Calaveras County *(1985) 166 Cal.App.3d 90*

In 1982, the Calaveras County Board of Supervisors adopted a new general plan. Subsequently, Concerned Citizens of Calaveras County (Citizens) filed suit, alleging that the general plan was inadequate be-

cause the circulation and the land use elements were internally inconsistent and insufficiently correlated, solid and liquid waste disposal facilities were not designated, and the plan omitted population density standards for three areas of the county.

The trial court concluded that the circulation element was adequate and areas for waste disposal did not need to be designated in the general plan until they were identified by the county. However, the land use element's omission of population density standards rendered it legally inadequate. Citizens appealed.

The Court of Appeal reversed the trial court on the adequacy of the circulation element. Section 65300.5 of the Government Code requires that a general plan and its elements comprise an integrated, internally consistent, and compatible statement of policies. Section 65302(b) requires that a general plan contain a circulation element that addresses transportation infrastructure and that is correlated with the land use element. The court found that one portion of the element indicated that county roads were sufficient to accommodate the projected traffic, while another described a worsening traffic situation aggravated by continued subdivision activity and development in areas with inadequate roads. The court concluded that the circulation element was internally inconsistent.

On the issue of correlation between the land use and the circulation elements, the court interpreted §65302(b) to mean that the circulation element must describe, discuss, and set forth standards and proposals reflecting any change in demands on the various roadways or transportation facilities of the county as a result of changes in uses of land contemplated by the plan. The court noted that the land use element, which provided for substantial growth, neither discussed the potential inadequacy of the roadways nor contained proposals by which growth would be restricted in the event the road system was overwhelmed. At the same time, the circulation element pointed out current and expected deficiencies in the state highways serving the county. Further, the element's only policy for rectifying the situation was to "lobby for funds." No other funding sources were identified. The court concluded that the land use and circulation elements were not sufficiently correlated and violated §65302(b).

Neighborhood Action Group v. County of Calaveras *(1984) 156 Cal.App.3d 1176*

The Calaveras County Planning Commission approved a conditional use permit (CUP) to allow processing of sand and gravel from hydraulic mine tailings near the town of Jenny Lind and certified a final environmental impact report (EIR). The Neighborhood Action Group (NAG), an association of neighbors, appealed the matter to the Board of Supervisors which subsequently upheld the commission's decision. NAG filed suit, claiming that the CUP was invalid because the county's general plan did not comply with state statute and the CUP did not conform to the current general plan. The trial court ruled for the county and NAG appealed.

The Court of Appeal reversed. Upon reviewing relevant law, the court held that although there is no explicit requirement that a CUP be consistent with an adequate general plan, it's validity is derived from compliance with the hierarchy of planning laws—a CUP is governed by zoning, which in turn must comply with the adopted general plan, which in turn must conform to state law. According to the court, a general plan that fails to provide the required statutory criteria relevant to the use being sought, will not provide a valid measure by which a CUP can be evaluated. The court also found the county noise element lacking. The EIR prepared for the CUP could not adequately assess the potential noise impacts of the project without the noise standards that should have been provided by the noise element.

Twain Harte Homeowners Association, Inc. v. County of Tuolumne *(1982) 138 Cal.App. 3d 664*

The Tuolumne County Board of Supervisors certified an EIR for a new general plan. At the same hearing, the board made several wording changes to the draft plan, referring it back to the planning commission for consideration. When the planning director later declared the wording changes to be consistent with the EIR, the board adopted the modified plan.

The Twain Harte Homeowners Association (Association) filed suit to compel the county to rescind certification of the EIR (claiming that the wording changes created potential environmental impacts not addressed) and prepare a new plan (alleging the land use, circulation, and housing elements to be inadequate). The trial court ruled for the county, except to require the county to reconsider including certain timberlands in the general plan. Association appealed.

The California Court of Appeal reversed. The court found that the EIR was an adequate, reasoned analysis, and a good-faith effort at full disclosure; however, it was deficient in addressing the wording changes made to the draft plan after certification of the EIR. These changes deleted provisions restricting heavy industrial development in a certain area and amended a policy statement regarding seismic safety. The court

held that these changes, without further analysis in the EIR, constituted an abuse of the county's authority.

Regarding the general plan, the court found that the housing element was adequate but not the land use and circulation elements. The land use element failed to include standards of population density and building intensity as required by Government Code §65302(a). The court reasoned that population density refers to numbers of people in a given area and not to dwelling units per acre, unless the basis for correlation between the measure of dwelling units per acre and numbers of people is set forth in the plan. Tuolumne County's plan contained no such correlation. Further, the plan contained no standards for building intensity for the nonresidential areas of the county. In addition, the court could not discover whether in fact the circulation element was correlated with the land use element as required by Government Code §65302(b), and so concluded that it was not.

Sierra Club v. Board of Supervisors of Kern County *(1981) 126 Cal.App.3d 698*

The Kern County Board of Supervisors approved a zoning change from agricultural to residential use on property owned by the Ming Center Investment Company. At the time of the zoning approval, the residential zoning was consistent with the land use element of the general plan but inconsistent with the open-space/conservation element. Anticipating possible conflicts between elements of the general plan, the board adopted a statement as part of the land use element that its policies would take precedence over those of the adopted open-space/conservation element where conflicts existed.

The Sierra Club filed suit to set aside the zoning approval, arguing that the zoning change was invalid on several grounds, including inconsistencies between the land use and open-space/conservation elements. After the trial court ruled against the Sierra Club, the county adopted the Rosedale Community Plan, which eliminated the inconsistency between elements.

The California Court of Appeal ruled in part for the Sierra Club, holding that the general plan, at the time the zoning ordinance amendment for Ming Center was adopted, was internally inconsistent. Accordingly, the zoning ordinance amendment was invalid when passed. The use of a precedence clause subordinating the open-space element to another element violated the general plan internal consistency requirement, as well as specific requirements of the Open-Space Lands Act. However, the issue of internal consistency was moot as applied to the Ming Center zoning because adoption of the Rosedale Community Plan had eliminated the problem. Since the zoning was consistent with the community plan and the general plan was now internally consistent, no purpose would be served by setting aside the zoning ordinance and requiring the board of supervisors to rezone the property.

Camp v. County of Mendocino *(1981) 123 Cal.App.3d 334*

The Mendocino County Board of Supervisors adopted its general plan as a collection of elements over the period between 1967 and 1977. In 1978 the county approved several tentative subdivision maps, including two for projects known as Eden Valley Ranch and Waunita Meadows. Walter Camp filed a writ of mandate to set aside the tentative map approval for Waunita Meadows. Other local residents and the State Attorney General filed additional writs to overturn the board's approval of the Eden Valley Ranch map. In each suit, the plaintiffs alleged that the general plan was inadequate and, as a result, tentative subdivision maps could not be approved.

The plaintiffs sought several remedies, including a declaratory order that the general plan was legally inadequate, an order compelling the county to set aside the Waunita Meadows and the Eden Valley Ranch approvals, an order requiring the county to adopt an adequate general plan, and an injunction against future subdivision activity until an adequate plan was prepared. The county challenged the authority of the court to examine the plan for its adequacy, alleging that this constituted an impermissible inquiry into the merits of the plan.

The Court of Appeal combined the three cases and ruled for the plaintiffs. Courts have the authority to review a general plan for substantial compliance with the requirements of the Government Code. The land use element failed to comply with the requirements of Government Code §65302(a) because it did not identify population and building density standards. In addition, the circulation element was legally deficient because it was not correlated with the land use element. The housing element was inadequate because it did not include standards and plans for improving housing and for the provision of adequate sites for housing. It also lacked adequate provisions for the housing needs of all economic segments of the community and a comprehensive problem-solving strategy. The noise element was inadequate because it contained no noise exposure information and the county failed to monitor areas deemed noise sensitive. The county's argument that the existing element was adequate for a quiet rural

county did not persuade the court since the statutory requirement is neither subjective nor geographical.

Prohibiting the processing of zoning changes and certificates of compliance was an appropriate court remedy where the county failed to adopt an adequate general plan. However, the county could not be enjoined from approving final maps that were in substantial compliance with a tentative map approved prior to the injunction and not subject to court challenge (approval of a final map is ministerial under *Youngblood v. Board of Supervisors (1978) 22 Cal.3d 644).*

Karlson v. City of Camarillo *(1980) 100 Cal.App.3d 789*

Camarillo amended its land use element in October of 1977, changing a 132-acre parcel from agricultural to low-density residential. Two months later, the city amended its land use element for a 10-acre parcel, changing it from agricultural to commercial use. This parcel was adjoined by agricultural land on three sides, which would remain agricultural. An amendment for a third parcel was considered, but rejected by the council.

Mr. Karlson sued, alleging that the city failed to comply with the internal consistency requirement in Government Code §65300.5 because the two amendments were inconsistent with general plan policies on leapfrog development and conversion of agricultural lands; violated the former §65361 (now §65358) by exceeding the allowable number of yearly general plan amendments; and violated §65356 by failing to return the set of general plan amendments to the planning commission for recommendation after revising the commission's recommendations.

The Court of Appeal ruled for the city, holding that a general plan amendment, regardless of the size or ownership of the parcel affected, is a legislative act. Therefore, the appropriate standard for judicial review is Code of Civil Procedure §1085, which limits the scope of review to an examination of the proceedings before the local agency to determine whether its actions were arbitrary or capricious or entirely lacking in evidentiary support and whether it has proceeded in the manner prescribed by law. The internal consistency requirement does not modify this scope of review. A difference of opinion over changes in the general plan does not warrant a court's rejection of a city's action if opposing viewpoints were presented, extensively considered, and on the basis of the evidence, the city council selected one of the alternatives.

Section 65361 limited the number of occasions on which amendments to a general plan could be considered to three per calendar year [now four]. The court opined that there is no limit on the number of parcels that can be considered on each of those occasions.

Friends of B Street v. City of Hayward *(1980) 106 Cal.App.3d 988*

The City of Hayward approved a city project to widen B Street and construct a bridge. The project would have removed existing residences and businesses, as well as 153 mature trees. The citizens' group Friends of B Street filed suit, seeking to set aside the decision to improve B Street. The group also sought an injunction on the grounds that the public works project was inconsistent with the city's general plan and that the city's general plan lacked a noise element.

The Court of Appeal ruled for Friends of B Street, holding that in requiring cities and counties to prepare general plans, it must have been the Legislature's intent that all local decisions involving future growth, including decisions by a city to undertake public works projects, be consistent with the general plan. An injunction against a public works project is an appropriate remedy until the local government adopts a complete and adequate general plan. Any appropriate legal or equitable remedy, including an injunction or writ of mandate, is available as relief for the failure of a general plan to contain a mandatory element.

Save El Toro Association v. Days *(1977) 74 Cal.App.3d 64*

The City of Morgan Hill adopted its open-space element in 1973. Later that year, it adopted a policy stating that all lands on El Toro Mountain above the 800-foot elevation would remain in permanent open space. In 1976, the city approved final subdivision maps for 52 acres of land below the 800-foot elevation and created an assessment district to fund necessary improvements. Save El Toro Association (El Toro) sued the city to halt the proposal and to annul approval of the maps and the resolution creating the district. El Toro alleged that the city's actions were unlawful because any action that restricted the use of open-space land must be consistent with the open-space plan and the city had not adopted a legally valid open-space element or general plan.

The Court of Appeal ruled for El Toro, holding that for the open-space element to be adopted as a part of the general plan, there must be a general plan. Although the city offered a number of ordinances that it claimed fulfilled the statutory requirements for a general plan, these ordinances did not approach satisfying the requirements of state law. Of the nine elements then re-

quired, the plan lacked five. As the city did not have a general plan, it could not have adopted an open-space element as part of that plan. Further, without an inventory of available open-space resources, there could not be a plan as contemplated in the Open-Space Lands Act. Instead, only isolated, uncoordinated projects would occur—the type of development the Act specifically intended to prevent. Morgan Hill had also failed to adopt the open-space zoning ordinance required by the Act. In light of the above, the court concluded, the city could not take any action to acquire or regulate open-space land or to approve a subdivision map.

STATE ATTORNEY GENERAL OPINIONS

78 Ops.Cal.Atty.Gen. 327 (1995)

Subject: Posting of Public Hearing Agenda

Question: Are weekend hours counted as part of the 72-hour period for posting an agenda prior to the regular meeting of a local agency? Does posting within a public building that is locked during evening hours count toward the 72-hour posting?

Conclusion: The Ralph M. Brown Open Meeting Act (Government Code 54950, et seq.) requires that the agenda of a regular public meeting of a local agency be posted 72 hours in advance of that meeting. Weekend hours do count as part of the notice period. However, posting within a building that is inaccessible for a portion of the 72-hour period does not meet the requirements of the Brown Act. The notice must be posted in a location where it may be read by the public at any time during the 72 hours prior to the meeting.

75 Ops.Cal.Atty.Gen 89 (1992)

Subject: Public Testimony at Public Hearings

Question: May the legislative body of a public agency limit public testimony on particular issues at its meetings to five minutes or less for each speaker, depending upon the number of speakers?

Conclusion: Yes, it may, depending upon the circumstances, such as the number of speakers.

67 Ops.Cal.Atty.Gen. 75 (1984)

Subject: City and County General Plan Diagrams

Question: Is a parcel-specific map required for the land use element of a general plan adopted by a city or county, as described in Government Code §65302?

Conclusion: A parcel-specific map is not required. The Legislature used the word "diagram" in §65302 rather than "map." When the Legislature recodified the statutory requirements for general plans in 1965, it substituted the word "diagram" for the term "map," which had been used previously. When the Legislature has used the term "map," it has required preciseness, exact location, and detailed boundaries (for example, a subdivision map). A diagram, on the other hand, is defined in *Webster's* as "a graphic design that explains rather than represents: a drawing that shows arrangement and relations."

Various commentators have concluded that the purpose of the general plan is to provide general guidance for land use decision-making. A specific mapping of land uses should not be necessary for this purpose if the plan's policies are detailed in reflecting community objectives for the spatial relationships among land uses. Use of a parcel-specific map can hinder the making of logical connections between various land use decisions and the community's goals and objectives as presented in the plan text. This may lead to over-reliance upon a precise map in place of the plan as an integrated whole.

This does not mean, however, that the owner of a specific parcel of land may not be able to determine the range of possible uses of his or her property. Although the diagram locations are general, the plan's policies should be detailed enough when applied to a particular parcel to identify the possible uses.

97 Ops.Cal.Atty.Gen. 815 (1998)

Subject: Combined general plan and zoning land use designations

Question: May a county adopt a single set of land use designations to serve both the general plan and zoning ordinance? If that is done, may it then repeal its zoning ordinances and replace them with a single ordinance that requires all land use activity to conform to the general plan?

Conclusion: Yes to both questions. The California Codes provide sufficient flexibility to allow a general plan to be parcel-specific and to address issues of local importance, such as zoning. Similarly, the Codes allow flexibility in zoning schemes, so a county may repeal its zoning ordinances and replace them with a single ordinance that requires all land use activity in the county to conform to its general plan, including the incorporated zoning ordinances. The opinion points out possible pitfalls of a combined general plan/zoning approach, such as loss of long-term perspective.

APPENDIX C

Guidelines for the Preparation and Content of the Noise Element of the General Plan

The noise element of the general plan provides a basis for comprehensive local programs to control and abate environmental noise and to protect citizens from excessive exposure. The fundamental goals of the noise element are:

- To provide sufficient information concerning the community noise environment so that noise may be effectively considered in the land use planning process. In so doing, the necessary groundwork will have been developed so that a community noise ordinance may be utilized to resolve noise complaints.
- To develop strategies for abating excessive noise exposure through cost-effective mitigating measures in combination with zoning, as appropriate, to avoid incompatible land uses.
- To protect those existing regions of the planning area whose noise environments are deemed acceptable and also those locations throughout the community deemed "noise sensitive."
- To utilize the definition of the community noise environment in the form of CNEL or Ldn noise contours as provided in the noise element for local compliance with the State Noise Insulation Standards. These standards require specified levels of outdoor to indoor noise reduction for new multifamily residential constructions in areas where the outdoor noise exposure exceeds CNEL (or Ldn) 60 dB.

The 1976 edition of the *Noise Element Guidelines*, prepared by the California Department of Health Services (DHS), was a result of SB 860 (Beilenson, 1975), which became effective January 1, 1976. SB 860, among other things, revised and clarified the requirements for the noise element of each city and county general plan and gave DHS the authority to issue guidelines for compliance thereto. Compliance with the 1976 version of these guidelines was mandated only for those noise elements that were not submitted to the Office of Planning and Research by the effective date of SB 860 and to subsequent revisions of previously submitted noise elements.

A comparison between the 1976 *Noise Element Guidelines* and this revised edition will not reveal substantial changes. The basic methodology advanced by that previous edition remains topical. Where necessary, code references have been updated and the text revised to reflect statutory changes.

DEFINITIONS

Decibel, dB: A unit of measurement describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

A-Weighted Level: The sound level in decibels as measured on a sound level meter using the A-weighting filter network. The A-weighting filter de-emphasizes the very low and very high frequency components of the sound in a manner similar to the response of the human ear and gives good correlation with subjective reactions to noise.

L10: The A-weighted sound level that is exceeded ten percent of the sample time. Similarly, L50, L90, etc.

Leq: Equivalent energy level. The sound level corresponding to a steady-state sound level containing the same total energy as a time-varying signal over a given sample period. Leq is typically computed over 1-, 8-, and 24-hour sample periods.

CNEL: Community Noise Equivalent Level. The average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five decibels to sound levels in the evening from 7 p.m. to 10 p.m. and after addition of 10 decibels to sound levels in the night from 10 p.m. to 7 a.m.

Ldn: Day-Night Average Level. The average equivalent A-weighted sound level during a 24-hour day, obtained after the addition of 10 decibels to sound levels in the night after 10 p.m. and before 7 a.m. (Note: CNEL and Ldn represent daily levels of noise exposure averaged on an annual or daily basis, while Leq represents the equivalent energy noise exposure for a shorter time period, typically one hour.)

Noise Contours: Lines drawn about a noise source indicating equal levels of noise exposure. CNEL and Ldn are the metrics utilized herein to describe annoyance due to noise and to establish land use planning criteria for noise.

Ambient Noise: The composite of noise from all sources near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

Intrusive Noise: That noise which intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency, and time of occurrence, and tonal or informational content as well as the prevailing noise level.

Noisiness Zones: Defined areas within a community wherein the ambient noise levels are generally similar (within a range of 5 dB, for example). Typically, all other things being equal, sites within any given noise zone will be of comparable proximity to major noise sources. Noise contours define different noisiness zones.

NOISE ELEMENT REQUIREMENTS

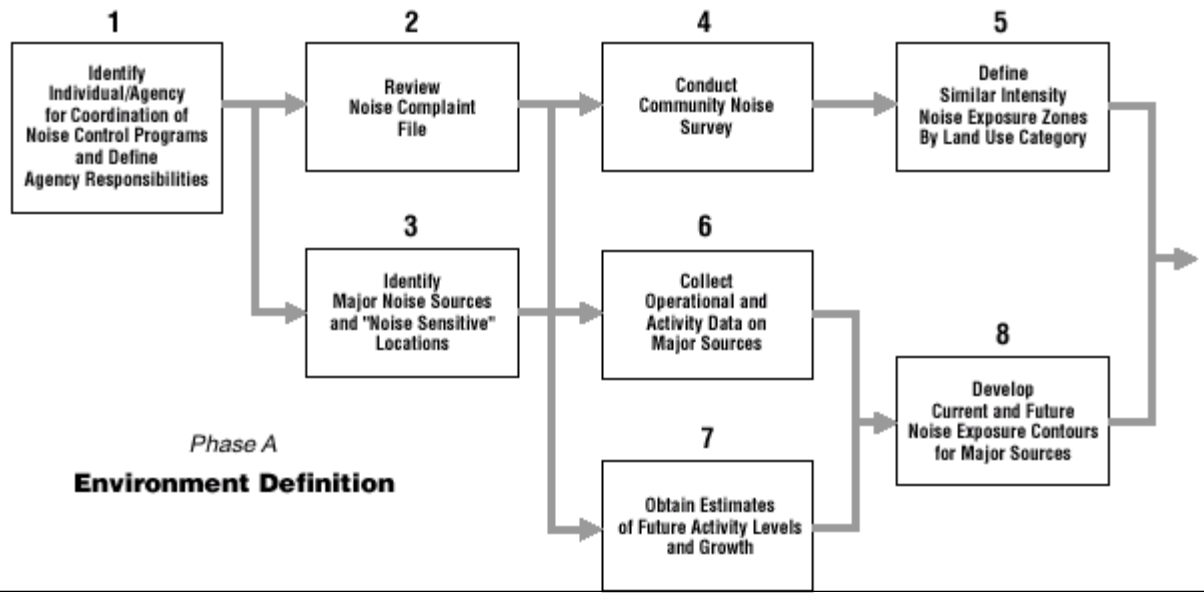
Government Code Section 65302(f): A noise element shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

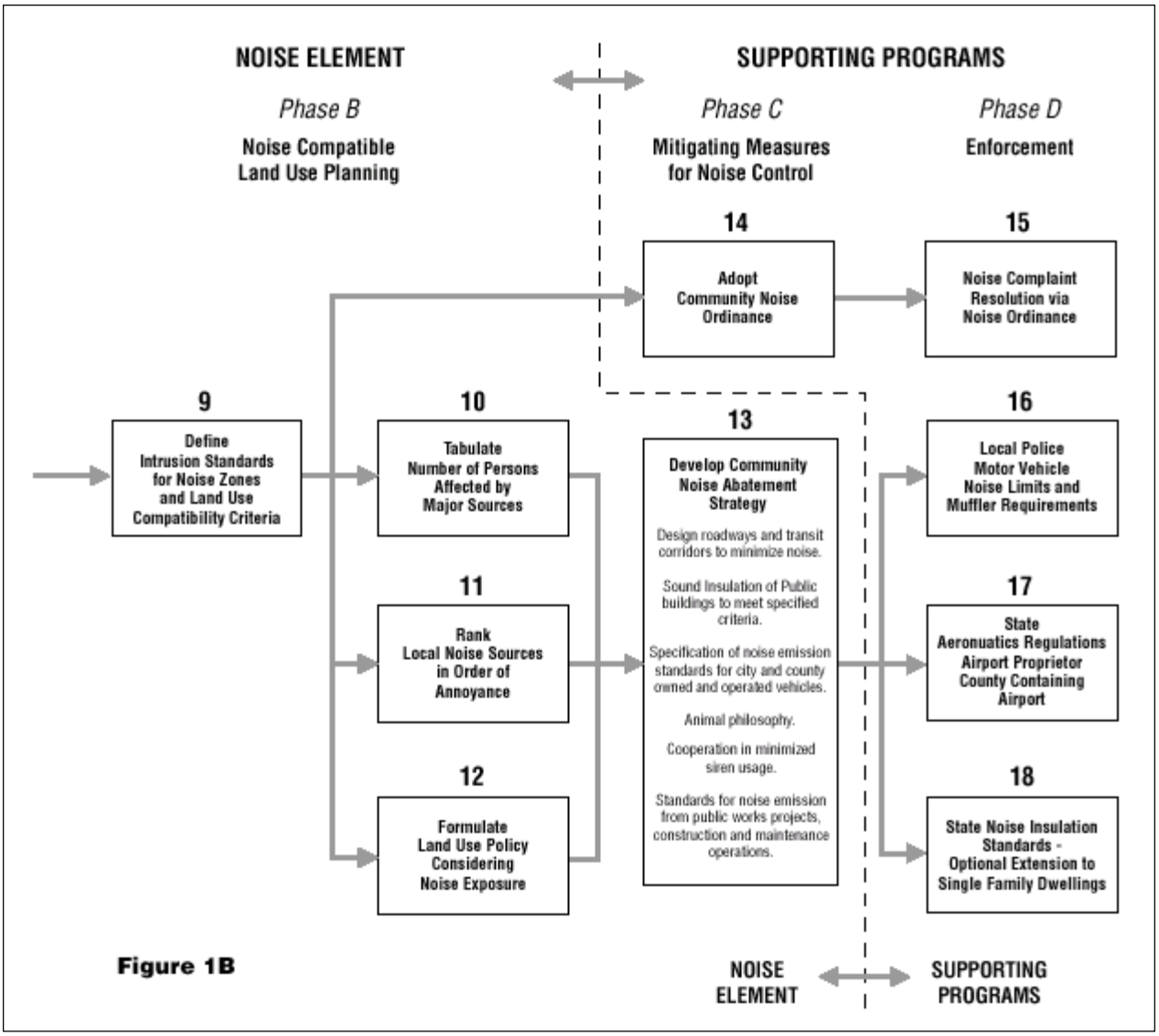
1. Highways and freeways.
2. Primary arterials and major local streets.
3. Passenger and freight on-line railroad operations and ground rapid transit systems.
4. Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.
5. Local industrial plants, including, but not limited to, railroad classification yards.
6. Other ground stationary sources identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

Figure 1A





The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

NOISE ELEMENT DEVELOPMENT PROCESS

The sequential steps for development of a noise element as an integral part of a community's total noise control program are illustrated in the flow diagrams of figures 1A and 1B. The concept presented herein utilizes the noise element as the central focus of the community's program and provides the groundwork for all subsequent enforcement efforts. The process may be described in terms of four phases:

Phase A: Noise Environment Definition

Phase B: Noise-Compatible Land Use Planning

Phase C: Noise Mitigation Measures

Phase D: Enforcement

These phases encompass a total of eighteen defined tasks, the first thirteen of which relate directly to the statutory requirements contained in Government Code §65302(f). The remainder relate to critical supportive programs (noise ordinances, etc.). Citations from §65302(f) are contained within quotation marks.

Phase A: Noise Environment Definition

The purpose of this phase is to adequately identify and appraise the existing and future noise environment of the community in terms of Community Noise Equivalent Level (CNEL) or Day-Night Average Level

(Ldn) noise contours for each major noise source and to divide the city or county into noise zones for subsequent noise ordinance application.

Step 1:

Identify a specific individual or lead agency within the local government to be responsible for coordination of local noise control activities. This individual or agency should be responsible for coordinating all intergovernmental activities and subsequent enforcement efforts.

Step 2:

Review noise complaint files as compiled by all local agencies (police, animal control, health, airport, traffic department, etc.) in order to assess the following:

1. Location and types of major offending noise sources.
2. Noise-sensitive areas and land uses.
3. Community attitudes towards specific sources of noise pollution.
4. Degree of severity of noise problems in the community.
5. Relative significance of noise as a pollutant.

Step 3:

Specifically identify major sources of community noise based upon the review of complaint files and interagency discussion and the following statutory subjects:

1. Highways and freeways.
2. Primary arterials and major local streets.
3. Passenger and freight on-line railroad operations and ground rapid transit systems.
4. Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.
5. Local industrial plants, including, but not limited to, railroad classification yards.
6. Other ground stationary noise sources identified by local agencies as contributing to the community noise environment. (§65302(f))

In addition, the land uses and areas within the community that are noise sensitive should be identified at the same time.

Step 4:

Given the identification of major noise sources and an indication of the community's attitude toward noise pollution (when available), it is advisable to conduct a community noise survey. The purposes of the survey are threefold:

First and foremost, to define by measurement the current noise levels at those sites deemed noise sources and to establish noise level contours around them. The noise contours must be expressed in terms of CNEL or Ldn.

Second, the collected data will form the basis for an analysis of noise exposure from major sources.

Finally, the survey should define the existing ambient noise level throughout the community. Intrusive noises over and above this general predetermined ambient level may then be controlled through implementation of a noise ordinance.

Step 5:

Given the definition of existing ambient noise levels throughout the community, one may proceed with a classification of the community into broad regions of generally consistent land uses and similar noise environments. Because these regions will be varying distances from identified major noise sources, the relative levels of environmental noise will be different from one another. Therefore, subsequent enforcement efforts and mitigating measures may be oriented towards maintaining quiet areas and improving noisy ones.

Step 6:

Directing attention once again to the major noise sources previously identified, it is essential to gather operations and activity data in order to proceed with the analytical noise exposure prediction. This data is somewhat source-specific but generally should consist of the following information and be supplied by the owner/operator of the source:

1. Average daily level of activity (traffic volume, flights per day, hours of operation, etc.).
2. Distribution of activity over day and night time periods, days of the week, and seasonal variations.
3. Average noise level emitted by the source at various levels of activity.
4. Precise source location and proximity to noise-impacted land uses.
5. Composition of noise sources (percentage of trucks on highway, aircraft fleet mix, industrial machinery type, etc.).

Step 7:

In addition to collecting data on the variables affecting noise-source emission for the existing case, future values for these parameters need to be assessed. This is best accomplished by correlating the noise element with other general plan elements (i.e. land use, circulation, housing, etc.) and regional transportation plans and by coordination with other responsible agencies (Airport Land Use Commission, Caltrans, etc.).

Step 8:

Analytical noise exposure modeling techniques may be utilized to develop source-specific noise contours around major noise sources in the community.

"The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques..." (§65302(f))

Simplified noise prediction methodologies are available through the Department of Health Services for highway and freeway noise, railroad noise, simple fixed stationary and industrial sites, and general aviation aircraft (with less than twenty percent commercial jet aircraft activity—two engine jet only). Noise contours for larger airport facilities and major industrial sites are sufficiently complex that they must be developed via sophisticated computer techniques available through recognized acoustical consulting firms. (Airport contours generally have already been developed in accordance with requirements promulgated by Caltrans' Division of Aeronautics: Noise Standards, Title 21, Section 5000, et seq., California Code of Regulations.)

Although considerable effort may go into developing noise contours that, in some instances, utilize rather sophisticated digital programming techniques, the present state of the art is such that their accuracy is usually no better than +/- 3 dB. In fact, the accuracy of the noise exposure prediction decreases with increasing distance from the noise source. In the near vicinity of the source, prediction accuracy may be within the range of +/- 1 dB, while at greater distances this may deteriorate to +/- 5 dB or more. At greater distances, meteorological and topographic effects, typically not totally accounted for in most models, may have significant influence. Thus, while dealing with the concept of noise contours, it is best not to think of them as absolute lines of demarcation on a map (such as topographical contours), but rather as bands of similar noise exposure.

In addition to assessment of the present-day noise environment, it is recommended that the noise exposure data be projected through the time horizon of the general plan. The noise element should be updated and corrected every five years, or sooner as is necessary, and, at that time, the forecasted noise exposure should be projected an additional five years.

Phase B: Noise-Compatible Land Use Planning

A noise planning policy needs to be rather flexible and dynamic to reflect not only technological advances in noise control, but also economic constraints governing application of noise-control technology and anticipated regional growth and demands of the community. In the final analysis, each community must decide the level of noise exposure its residents are willing to tolerate within a limited range of values below the known levels of health impairment.

Step 9:

Given the definition of the existing and forecasted noise environment provided by the Phase A efforts, the locality preparing the noise element must now approach the problem of defining how much noise is too much. Guidelines for noise-compatible land use are presented in Figure 2. The adjustment factors given in Table 1 may be used in order to arrive at noise-acceptability standards that reflect the noise-control goals of the community, the particular community's sensitivity to noise (as determined in Step 2), and the community's assessment of the relative importance of noise pollution.

Step 10:

As a prerequisite to establishing an effective noise-control program, it is essential to know, in quantitative terms, the extent of noise problems in the community. This is best accomplished by determining, for each major noise source around which noise contours have been developed, the number of community residents exposed and to what extent. It is also useful to identify those noise-sensitive land uses whose noise exposure exceeds the recommended standards given in Figure 2. The exposure inventory can be accomplished by using recent census data, adjusted for regional growth, and tabulating the population census blocks within given noise contours.

Step 11:

Once the noise exposure inventory is completed, the relative significance of specific noise sources in the community (in terms of population affected) will become apparent. The local agencies involved may wish to use this information to orient their noise-control and abatement efforts to achieve the most good. Clearly, control of certain major offending sources will

be beyond the jurisdiction of local agencies; however, recognition of these limitations should prompt more effective land use planning strategies.

Step 12:

A major objective of the noise element is to utilize this information to ensure noise-compatible land use planning:

"The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise." (§65302(f))

The intent of such planning is to:

(1) Maintain those areas deemed acceptable in terms of noise exposure.

(2) Use zoning or other land use controls in areas with excessive noise exposure to limit uses to those which are noise compatible and to restrict other, less compatible uses.

Phase C: Noise Mitigation Measures

Step 13:

Based upon the relative importance of noise sources in order of community impact and local attitudes towards these sources, "[t]he noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any" (§65302(f)).

Selection of these noise-mitigating measures should be coordinated through all local agencies in order to be most effective. Minimization of noise emissions from all local government-controlled or sanctioned activities should be a priority item. This includes low noise specifications for new city or county owned and operated vehicles (and noise reduction retrofitting where economically possible) and noise emission limits on public works projects. Local governments should insure that public buildings (especially schools) are sufficiently insulated to allow their intended function to be uninterrupted by exterior noise. Local agencies can work with state and federal bodies to minimize transportation noise, primarily through transitway design, location, or configuration modifications.

Additional measures might include such policies as limitation of siren usage by police, fire, and ambulance units within populated areas. Animal control units may be encouraged to minimize barking dog complaints through use of an improved public relations campaign termed "Animal Philosophy." This involves working with pet owners to determine why the dog barks and attempting solutions rather than just issuing citations. Local zoning and subdivision ordinances may require the use of noise-reducing building materials or the installation of sound-insulating walls along major roads in new construction and subdivisions.

In general, local noise reduction programs need to address the problems specific to each community, with the ultimate goals being the reduction of complaint frequency and the provision of a healthful noise environment for all residents of the community.

The remaining steps are beyond the scope of the noise element requirements, but pertain to coordination with other state noise-control programs and achievement of the goals set forth in the noise element through development of an active local noise-control effort.

Step 14:

While the noise element identifies problem areas and seeks to develop medium- and long-range solutions to them, a community noise ordinance is the only viable instrument for short-term or immediate solutions to intrusive noise. A model noise ordinance that can be tailored to the specific needs of a given community by simply incorporating those sections deemed most applicable has been developed by the Department of Health Services. The model ordinance also suggests a cure for non-stationary or transient types of noise events, for which noise contours are generally meaningless.

Phase D: Enforcement

To adequately carry out the programs identified in the noise element and to comply with state requirements for certain other noise-control programs, specific enforcement programs are recommended at the local level.

Step 15:

Adopt and apply a community noise ordinance for resolution of noise complaints.

Step 16:

Recent studies have shown that the most objectionable feature of traffic noise is the sound produced by vehicles equipped with illegal or faulty exhaust systems. In addition, such hot rod vehicles are often operated in a manner that causes tire squeal and excessively loud exhaust noise. There are a number of statewide vehicle noise regulations that can be enforced by local authorities as well as the California Highway Patrol. Specifically, Sections 23130, 23130.5, 27150, 27151,

and 38275 of the California Vehicle Code, as well as excessive speed laws, may be applied to curtail this problem. Both the Highway Patrol and the Department of Health Services (through local health departments) are available to aid local authorities in code enforcement and training pursuant to proper vehicle sound-level measurements.

Step 17:

Commercial and public airports operating under a permit from Caltrans' Aeronautics Program are required to comply with both state aeronautics standards governing aircraft noise and all applicable legislation governing the formation and activities of a local Airport Land Use Commission (ALUC). The function of the ALUC is, among other things, to develop a plan for noise-compatible land use in the immediate proximity of the airport. The local general plan must be reviewed for compatibility with this Airport Land Use Plan and amended if necessary (Public Utilities Code §21676). Therefore, the developers of the noise element will need to coordinate their activities with the local ALUC to

FIGURE 2

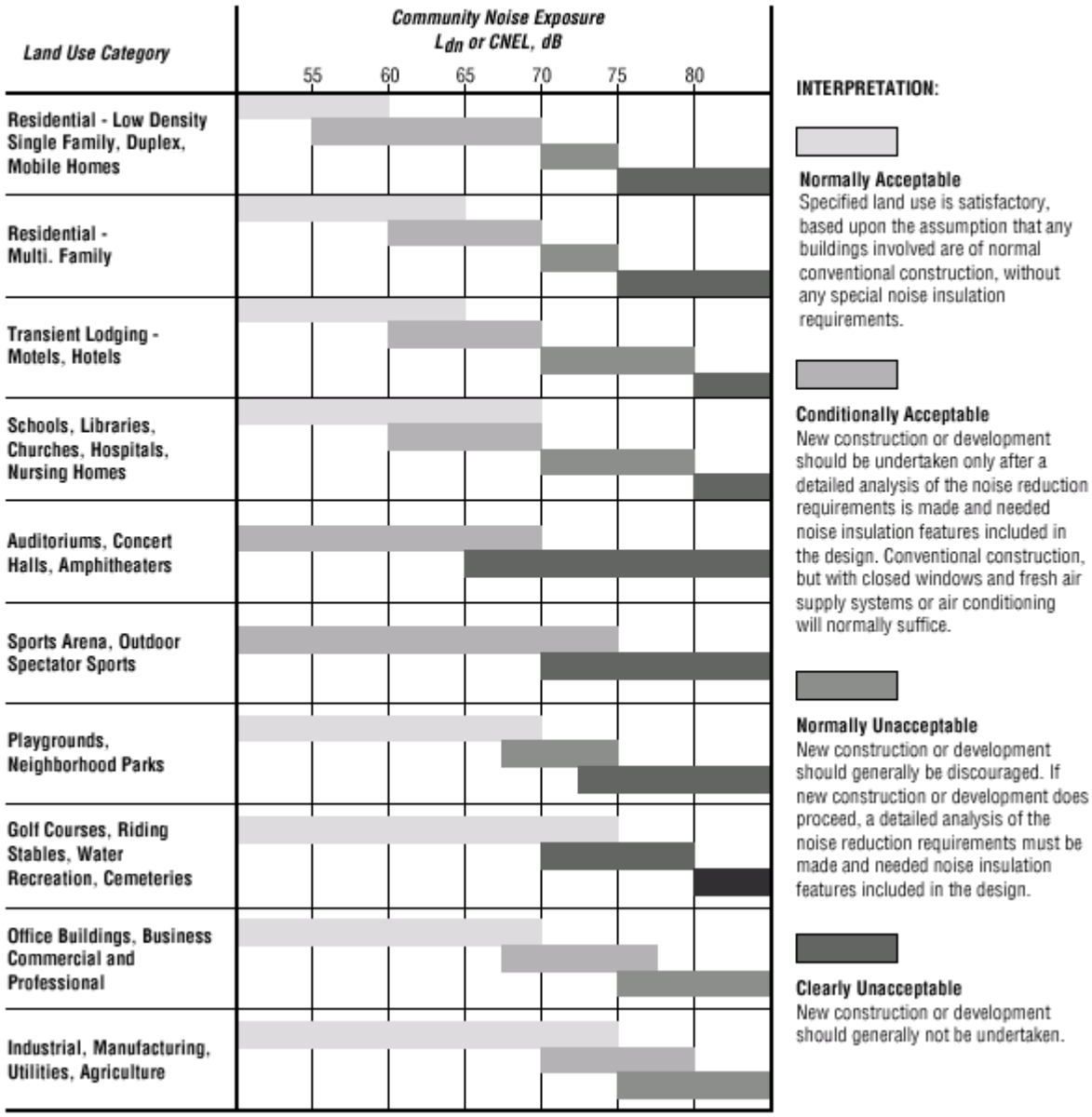


Table 1

Type of Correction	*Description*	*Amount of Correction to be Added to Measured CNEL in dB*
Seasonal Correction	Summer (or year-round operation)	**0**
	Winter only (or windows always closed)	**- 5**
Correction for Outdoor Residual Noise Level	Quiet suburban or rural community (remote from large cities and from industrial activity and trucking).	**+ 10**
	Quiet suburban or rural community (not located near industrial activity).	**+ 5**
	Urban residential community (not immediately adjacent to heavily traveled roads and industrial areas).	**0**
	Noisy urban residential community (near relatively busy roads or industrial areas.	**- 5**
	Very noisy urban residential community.	**- 10**
Correction for Previous Exposure and Community Attitudes	No prior experience with the intruding noise.	**+ 5**
	Community has had some previous exposure to intruding but little effort is being made to control the noise. This correction may also be applied in a situation where the community has not been exposed to the noise previously, but the people are aware that bona fide efforts are being made to control the noise.	**0**
	Community has had considerable previous exposure to the intruding noise and the noise maker's relations with the community are good.	**- 5**
	Community aware that operation causing noise is very necessary and it will not continue indefinitely. This correction can be applied for an operation of limited duration and under emergency circumstances.	**- 10**
Pure Tone or Impulse	No pure tone or impulsive character.	**0**
	Pure Tone or impulsive character present.	**+ 5**

ensure that compatible standards are utilized throughout the community and that the noise element develops as part of a coherent master plan, of which the ALUP forms an integral component.

Step 18:

"The adopted noise element shall serve as a guideline for compliance with the State's noise insulation standards." (§65302(f))

Recognizing the need to provide acceptable habitation environments, state law requires noise insulation of new multifamily dwellings constructed within the 60 dB (CNEL or Ldn) noise exposure contours. It is a function of the noise element to provide noise contour information around all major sources in support of the sound transmission control standards (Appendix, Chapter 2-35, Part 2, Title 24, California Code of Regulations).

RELATIONSHIP OF THE NOISE ELEMENT TO OTHER GENERAL PLAN ELEMENTS

The noise element is related to the land use, housing, circulation, and open-space elements. Recognition of the interrelationship of noise and these four other mandated elements is necessary in order to prepare an integrated general plan. The relationship between noise and these four elements is briefly discussed below.

- **Land Use**—A key objective of the noise element is to provide noise exposure information for use in the land use element. When integrated with the noise element, the land use element will show acceptable land uses in relation to existing and projected noise contours. Section 65302(f) states that: "The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise."
- **Housing**—The housing element considers the provision of adequate sites for new housing and standards for housing stock. Since residential land use is among the most noise sensitive, the noise exposure information provided in the noise element must be considered when planning the location of new housing. Also, state law requires special noise insulation of new multifamily dwellings constructed within the 60 dB (CNEL or Ldn) noise exposure contour. This requirement may influence the location and cost of this housing type. In some cases, the noise environment may be a constraint on housing opportunities.
- **Circulation**—The circulation system must be correlated with the land use element and is one of the major sources of noise. Noise exposure will thus be a decisive factor in the location and design of new transportation facilities and the possible mitigation of noise from existing facilities in relation to existing and planned land uses. The local planning agency may wish to review the circulation and land use elements simultaneously to assess their compatibility with the noise element.
- **Open Space**—Excessive noise can adversely affect the enjoyment of recreational pursuits in designated open space. Thus, noise exposure levels should be considered when planning for this kind of open-space use. Conversely, open space can be used to buffer sensitive land uses from noise sources through the use of setbacks and landscaping. Open-space designation can also effectively exclude other land uses from excessively noisy areas.

SELECTION OF THE NOISE METRIC

The community noise metrics to be used in noise elements are either CNEL or Ldn (as specified in §65302(f)). A significant factor in the selection of these scales was compatibility with existing quantifications of noise exposure currently in use in California. CNEL is the noise metric currently specified in the State Aeronautics Code for evaluation of noise impacts at specific airports that have been declared to have a noise problem. Local compliance with state airport noise standards necessitates that community noise be specified in CNEL. The Ldn represents a logical simplification of CNEL. It divides the day into two weighted time periods (Day—7 a.m. to 10 p.m. and Night—10 p.m. to 7 a.m.) rather than the three used in the CNEL measure (Day—7 a.m. to 7 p.m., Evening—7 p.m. to 10 p.m., and Night—10 p.m. to 7 a.m.) with no significant loss in accuracy.

CRITERIA FOR NOISE-COMPATIBLE LAND USE

Figure 2 summarizes the suggested use of the CNEL/Ldn metrics for evaluating land use noise compatibility. Such criteria require a rather broad interpretation, as illustrated by the ranges of acceptability for a given land use within a defined range of noise exposures.

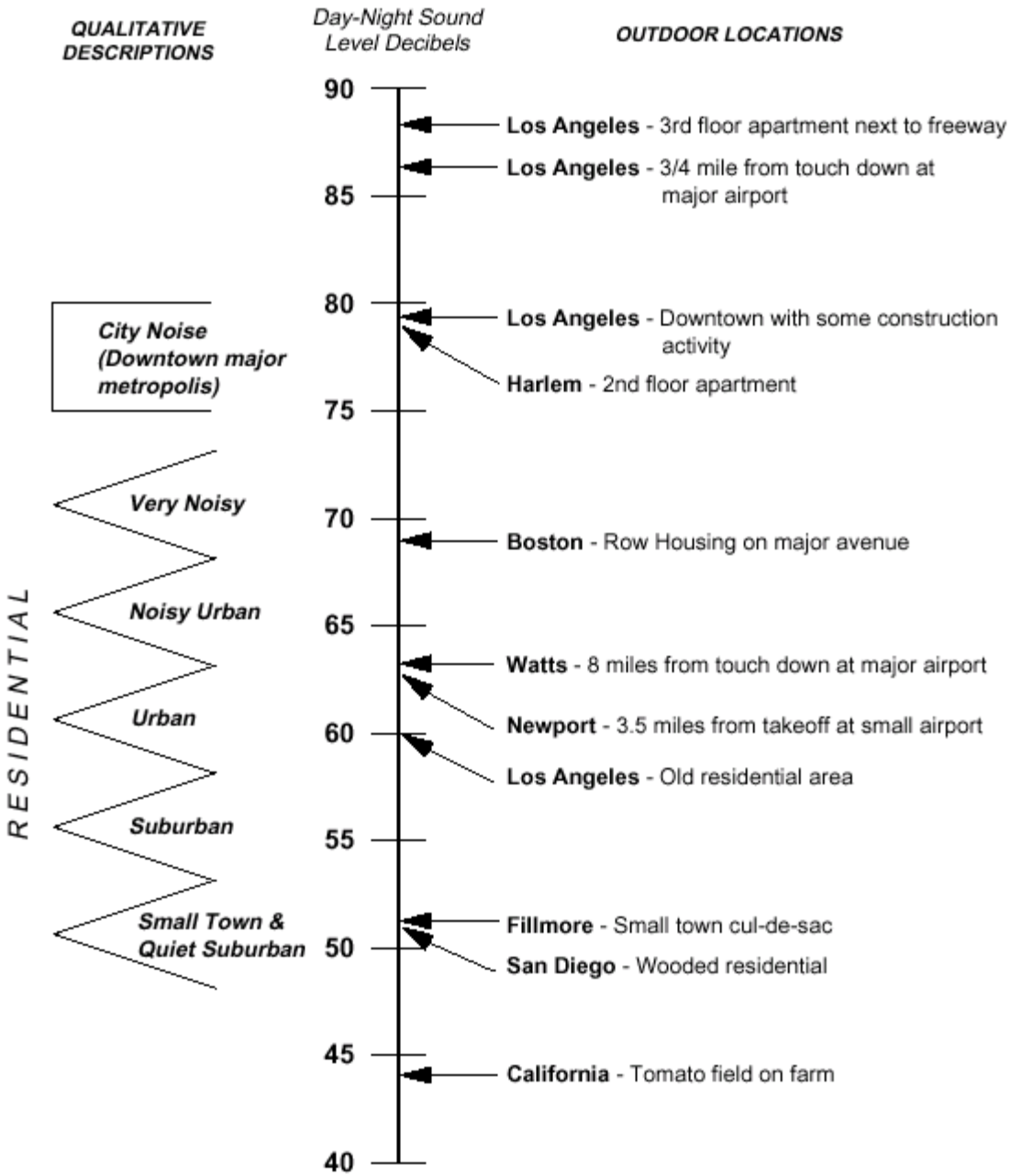
Denotation of a land use as "normally acceptable" on Figure 2 implies that the highest noise level in that band is the maximum desirable for existing or conventional construction that does not incorporate any special acoustic treatment. In general, evaluation of land use that falls into the "normally acceptable" or "normally unacceptable" noise environments should include consideration of the type of noise source, the sensitivity of the noise receptor, the noise reduction likely to be provided by structures, and the degree to which the noise source may interfere with speech, sleep, or other activities characteristic of the land use.

Figure 2 also provides an interpretation as to the suitability of various types of construction with respect to the range of outdoor noise exposure.

The objective of the noise compatibility guidelines in Figure 2 is to provide the community with a means of judging the noise environment it deems to be generally acceptable. Many efforts have been made to account for the variability in perceptions of environmental noise that exist between communities and within a given community.

Beyond the basic CNEL or Ldn quantification of noise exposure, one can apply correction factors to the measured or calculated values of these metrics in order to account for some of the factors that may cause

Figure 3



the noise to be more or less acceptable than the mean response. Significant among these factors are seasonal variations in noise source levels, existing outdoor ambient levels (i.e., relative intrusiveness of the source), general societal attitudes towards the noise source, prior history of the source, and tonal characteristics of the source. When it is possible to evaluate some or all of these factors, the measured or computed noise exposure values may be adjusted by means of the correction factors listed in Table 1 in order to more accurately assess local sentiments towards acceptable noise exposure.

In developing these acceptability recommendations, efforts were made to maintain consistency with the goals defined in the federal EPA's "Levels Document" and the State Sound Transmission Control Standards

for multifamily housing. In both of these documents, an interior noise exposure of 45 dB CNEL (or Ldn) is recommended to permit normal residential activity. If one considers the typical range of noise reduction provided by residential dwellings (12 to 18 dB with windows partially open), the 60 dB outdoor value identified as "clearly acceptable" for residential land use would provide the recommended interior environment.

Figure 3 has been included in order to better explain the qualitative nature of community noise environments expressed in terms of Ldn. It is apparent that noise environments cover a broad range and that, in general, it may be observed that the quality of the environment improves as one moves further away from major transportation noise sources.

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Glossary

The terms in this glossary are adapted from the *California General Plan Glossary* (1997), published by the California Planning Roundtable, Naphtali H. Knox, AICP, and Charles E. Knox, Editors. Any errors are the responsibility of the Governor's Office of Planning and Research.

ABBREVIATIONS

ADT: Average daily trips made by vehicles or persons in a 24-hour period
ALUC: Airport land use commission
BMR: Below-market rate dwelling unit
CBD: Central business district
CC&Rs: Covenants, conditions, and restrictions
CDBG: Community development block grant
CEQA: California Environmental Quality Act
CFD: Mello-Roos community facilities district
CHFA: California Housing Finance Agency
CIP: Capital improvements program
CMP: Congestion management plan
CNEL: Community noise equivalent level
COG: Council of governments
CRA: Community redevelopment agency
dB: Decibel
EIR: Environmental impact report (California)
EIS: Environmental impact statement (Federal)
FAR: Floor area ratio
FAUS: Federal aid to urban systems
FEMA: Federal Emergency Management Agency
FHWA: Federal Highway Administration
FIR: Fiscal impact report
FIRM: Flood insurance rate map
FmHA: Farmers Home Administration
GMI: Gross monthly income
OPR: Governor's Office of Planning and Research (State of California)
HAP: Housing Assistance Plan
HCD: Department of Housing and Community Development (State of California)
HOV: High-occupancy vehicle
HUD: U.S. Department of Housing and Urban Development
JPA: Joint powers authority
LAFCO: Local agency formation commission
LHA: Local housing authority
LOS: Level of service
LRT: Light-duty rail transit
NEPA: National Environmental Policy Act
PUD: Planned unit development
UBC: Uniform Building Code
UHC: Uniform Housing Code
UMTA: Urban Mass Transportation Administration
SRO: Single-room occupancy
TDM: Transportation demand management
TDR: Transfer of development rights
TOD: Transit-oriented development
TSM: Transportation systems management
VMT: Vehicle miles traveled

DEFINITIONS

Acceptable Risk: A hazard that is deemed to be a tolerable exposure to danger given the expected benefits to be obtained. Different levels of acceptable risk may be assigned according to the potential danger and the criticalness of the threatened structure. The levels may range from "near zero" for nuclear plants and natural gas transmission lines to "moderate" for open-space, ranches and low-intensity warehouse uses.

Acres, Gross: The entire acreage of a site. Most communities calculate gross acreage to the centerline of proposed bounding streets and to the edge of the right-of-way of existing or dedicated streets.

Acres, Net: The portion of a site that can actually be built upon. The following generally are not included in the net acreage of a site: public or private road rights-of-way, public open-space, and flood ways.

Adaptive Reuse: The conversion of obsolescent or historic buildings from their original or most recent use to a new use. For example, the conversion of former hospital or school buildings to residential use, or the conversion of an historic single-family home to office use.

Affordable Housing: Housing capable of being purchased or rented by a household with very low, low, or moderate income, based on a household's ability to make monthly payments necessary to obtain housing. "Affordable to low-and moderate-income households" means that at least 20 percent of the units in a development will be sold or rented to lower income households, and the remaining units to either lower or moderate income households. Housing units for lower income households must sell or rent for a monthly cost not greater than 30 percent of 60 percent of area

median income as periodically established by HCD. Housing units for moderate income must sell or rent for a monthly cost not greater than 30 percent of area median income.

Agricultural Preserve: Land designated for agriculture or conservation. (See "Williamson Act.")

Agriculture: Use of land for the production of food and fiber, including the growing of crops and/or the grazing of animals on natural prime or improved pasture land.

Air Rights: The right granted by a property owner to a buyer to use space above an existing right-of-way or other site, usually for development.

Airport-Related Use: A use that supports airport operations including, but not limited to, aircraft repair and maintenance, flight instruction, and aircraft chartering.

Ambient: Surrounding on all sides; used to describe measurements of existing conditions with respect to traffic, noise, air and other environments.

Annex, *v.*: To incorporate a land area into an existing district or municipality, with a resulting change in the boundaries of the annexing jurisdiction.

Approach Zone: The air space at each end of a landing strip that defines the glide path or approach path of an aircraft and which should be free from obstruction.

Aquifer: An underground, water-bearing layer of earth, porous rock, sand, or gravel, through which water can seep or be held in natural storage. Aquifers generally hold sufficient water to be used as a water supply.

Arable: Land capable of being cultivated for farming.

Architectural Control; Architectural Review: Regulations and procedures requiring the exterior design of structures to be suitable, harmonious, and in keeping with the general appearance, historic character, and/or style of surrounding areas. A process used to exercise control over the design of buildings and their settings. (See "Design Review.")

Arterial: Medium-speed (30-40 mph), medium-capacity (10,000-35,000 average daily trips) roadway that provides intra-community travel and access to the county-wide highway system. Access to community arterials should be provided at collector roads and local streets, but direct access from parcels to existing arterials is common.

Assessment District: See "Benefit Assessment District."

Assisted Housing: Generally multifamily rental housing, but sometimes single-family ownership units, whose construction, financing, sales prices, or rents have been subsidized by federal, state, or local housing programs including, but not limited to Federal §8 (new construction, substantial rehabilitation, and loan management set-asides), Federal §213, §236, and §202, Federal §221(d)(3) (below-market interest rate program), Federal §101 (rent supplement assistance), CDBG, FmHA §515, multifamily mortgage revenue bond programs, local redevelopment and in lieu fee programs, and units developed pursuant to local inclusionary housing and density bonus programs.

Attainment: Compliance with state and federal ambient air quality standards within an air basin. (See "Non-attainment.")

Base Flood: In any given year, a 100-year flood that has a one percent likelihood of occurring, and is recognized as a standard for acceptable risk.

Below-market rate (BMR): (1) Any housing unit specifically priced to be sold or rented to low- or moderate-income households for an amount less than the fair-market value of the unit. Both the State of California and HUD set standards for determining which households qualify as "low income" or "moderate income." (2) The financing of housing at less than prevailing interest rates.

Benefit Assessment District: An area within a public agency's boundaries that receives a special benefit from the construction of one or more public facilities. A Benefit Assessment District has no independent life; it is strictly a financing mechanism for providing public infrastructure as allowed under various statutes. Bonds may be issued to finance the improvements, subject to repayment by assessments charged against the benefiting properties. Creation of a Benefit Assessment District enables property owners in a specific area to cause the construction of public facilities or to maintain them (for example, a downtown, or the grounds and landscaping of a specific area) by contributing their fair share of the construction and/or installation and operating costs.

Bicycle Lane (Class II Facility): A corridor expressly reserved for bicycles, existing on a street or roadway in addition to any lanes for use by motorized vehicles.

Bicycle Path (Class I Facility): A paved route not on a street or roadway and expressly reserved for bicycles traversing an otherwise unpaved area. Bicycle paths may parallel roads but typically are separated from them by landscaping.

Bicycle Route (Class III Facility): A facility shared with motorists and identified only by signs, a bicycle route has no pavement markings or lane stripes.

Bikeways: A term that encompasses bicycle lanes, bicycle paths, and bicycle routes.

Biotic Community: A group of living organisms characterized by a distinctive combination of both animal and plant species in a particular habitat.

Blight: A condition of a site, structure, or area that may cause nearby buildings and/or areas to decline in attractiveness and/or utility. The Community Redevelopment Law (Health and Safety Code §33031 and §33032) contains a definition of blight used to determine eligibility of proposed redevelopment project areas.

Blueline Stream: A watercourse shown as a blue line on a U.S. Geological Service topographic quadrangle map.

Bond: An interest-bearing promise to pay a stipulated sum of money, with the principal amount due on a specific date. Funds raised through the sale of bonds can be used for various public purposes.

Brownfield: An area with abandoned, idle, or underused industrial and commercial facilities where expansion, redevelopment, or reuse is complicated by real or perceived environmental contamination. (See "Greenfield.")

Buffer Zone: An area of land separating two distinct land uses that acts to soften or mitigate the effects of one land use on the other.

Buildout; Build-out: Development of land to its full potential or theoretical capacity as permitted under current or proposed planning or zoning designations. (See "Carrying Capacity")

Busway: A vehicular right-of-way or portion thereof-often an exclusive lane-reserved exclusively for buses.

California Environmental Quality Act (CEQA): A state law requiring state and local agencies to regulate activities with consideration for environmental protection. If a proposed activity has the potential for a significant adverse environmental impact, an environmental impact report (EIR) must be prepared and certified as to its adequacy before taking action on the proposed project.

California Housing Finance Agency (CHFA): A state agency established by the Housing and Home Finance Act of 1975 that is authorized to sell revenue bonds and generate funds for the development, rehabilitation, and conservation of low- and moderate-income housing.

Caltrans: California Department of Transportation.

Capital Improvements Program (CIP): A program established by a city or county government and reviewed by its planning commission, which schedules permanent improvements, usually for a minimum of five years in the future, to fit the projected fiscal capability of the local jurisdiction. The program generally is reviewed annually, for conformance to and consistency with the general plan.

Carrying Capacity: Used in determining the potential of an area to absorb development: (1) The level of land use, human activity, or development for a specific area that can be accommodated permanently without an irreversible change in the quality of air, water, land, or plant and animal habitats. (2) The upper limits of development beyond which the quality of human life, health, welfare, safety, or community character within an area will be impaired. (3) The maximum level of development allowable under current zoning. (See "Buildout.")

Central Business District (CBD): The major commercial downtown center of a community. General guidelines for delineating a downtown area are defined by the U.S. Census of Retail Trade, with specific boundaries being set by the local municipality.

Channelization: (1) The straightening and/or deepening of a watercourse for purposes of storm-runoff control or ease of navigation. Channelization often includes lining of stream banks with a retaining material such as concrete. (2) At the intersection of roadways, the directional separation of traffic lanes through the use of curbs or raised islands that limit the paths that vehicles may take through the intersection.

Clear Zone: That section of an approach zone of an airport where the plane defining the glide path is 50 feet or less above the center-line of the runway. The clear zone ends where the height of the glide path above ground level is above 50 feet. Land use under the clear zone is restricted.

Clustered Development: Development in which a number of dwelling units are placed in closer proximity than usual, or are attached, with the purpose of retaining an open-space area.

Collector: Relatively-low-speed (25-30 mph), relatively-low-volume (5,000-20,000 average daily trips) street that provides circulation within and between neighborhoods. Collectors usually serve short trips and are intended for collecting trips from local streets and distributing them to the arterial network.

Community Care Facility: Housing for the elderly licensed by the Department of Social Services within the California Health and Human Services Agency, typically for residents who are frail and need supervision. Services normally include three meals daily, housekeeping, security and emergency response, a full activities program, supervision in the dispensing of medicine, personal services such as assistance in grooming and bathing, but no nursing care. Sometimes referred to as residential care or personal care. (See "Congregate Care.")

Community Development Block Grant (CDBG): A grant program administered by HUD on a formula basis for entitlement communities and by HCD for non-entitlement jurisdictions. This grant allots money to cities and counties for housing rehabilitation and community development, including public facilities and economic development.

Community Facilities District: Under the Mello-Roos Community Facilities Act of 1982 (§53311, et seq.), a legislative body may create within its jurisdiction a special tax district that can finance tax-exempt bonds for the planning, design, acquisition, construction, and/or operation of public facilities, as well as public services for district residents. Special taxes levied solely within the district are used to repay the bonds.

Community Noise Equivalent Level (CNEL): A 24-hour energy equivalent level derived from a variety of single-noise events, with weighting factors of 5 and 10 dBA applied to the evening (7 p.m. to 10 p.m.) and nighttime (10 p.m. to 7 a.m.) periods to allow for greater sensitivity to noise during these hours.

Community Park: Land with full public access intended to provide recreation opportunities beyond those supplied by neighborhood parks. Community parks are larger in scale than neighborhood parks but smaller than regional parks.

Community Redevelopment Agency (CRA): A local agency created under California Redevelopment Law (Health and Safety Code §33000, et. seq.), or a local legislative body that has been elected to exercise the powers granted to such an agency, for the purpose of planning, developing, re-planning, redesigning, clearing, reconstructing, and/or rehabilitating all or part of a specified area with residential, commercial, industrial, and/or public (including recreational) structures and facilities. The redevelopment agency's plans must be compatible with adopted community general plans.

Community Service District (CSD): A geographic subarea of a city or county used for the planning and delivery of parks, recreation, and other human services based on an assessment of the service needs of the population in that subarea. A CSD is a taxation district with independent administration.

Concurrency: Installation and operation of facilities and services needed to meet the demands of new development simultaneous with the development.

Condominium: A structure of two or more units, the interior spaces of which are individually owned; the balance of the property (both land and building) is owned in common by the owners of the individual units.

Congestion Management Plan (CMP): A mechanism employing growth management techniques, including traffic level of service requirements, standards for public transit, trip reduction programs involving transportation systems management and jobs/ housing balance strategies, and capital improvement programming, for the purpose of controlling and/or reducing the cumulative regional traffic impacts of development.

Consistency; Consistent with: Free from significant variation or contradiction. The various diagrams, text, goals, policies, and programs in the general plan must be consistent with each other, not contradictory or preferential. The term "consistent with" is used interchangeably with "conformity with." The courts have held that the phrase "consistent with" means "agreement with; harmonious with." The term "conformity" means in harmony therewith or agreeable to (*Sec 58 Ops.Cal.Atty.Gen. 21, 25 [1975]*). California law also requires that a general plan be internally consistent and also requires consistency between a general plan and implementation measures such as the zoning ordinance. As a general rule, an action program or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.

C**ovenants, Conditions, and Restrictions (CC&Rs)**: A term used to describe restrictive limitations that may be placed on property and its use, and which usually are made a condition of holding title or lease.

Critical Facility: Facilities housing or serving many people, that are necessary in the event of an earthquake or flood, such as hospitals, fire, police, and emergency service facilities, utility "lifeline" fa-

cilities, such as water, electricity, and gas supply, sewage disposal, and communications and transportation facilities.

Cul-de-sac: A short street or alley with only a single means of ingress and egress at one end and with a large turnaround at its other end.

Cumulative Impact: As used in CEQA, the total impact resulting from the accumulated impacts of individual projects or programs over time.

Day-Night Average Sound Level (Ldn): The A-weighted average sound level for a given area (measured in decibels) during a 24-hour period with a 10 dB weighting applied to night-time sound levels. The Ldn is approximately numerically equal to the CNEL for most environmental settings.

dBA: The "A-weighted" scale for measuring sound in decibels; weighs or reduces the effects of low and high frequencies in order to simulate human hearing. Every increase of 10 dBA doubles the perceived loudness though the noise is actually ten times more intense.

Decibel (dB): A unit used to express the relative intensity of a sound as it is heard by the human ear. See Appendix C: Noise element Guidelines) for a technical definition.

Dedication: The turning over by an owner or developer of private land for public use, and the acceptance of land for such use by the governmental agency having jurisdiction over the public function for which it will be used. Dedications for roads, parks, school sites, or other public uses often are made conditions for approval of a development by a city or county.

Dedication, In lieu of: Cash payments that may be required of an owner or developer as a substitute for a dedication of land, usually calculated in dollars per lot, and referred to as in lieu fees or in lieu contributions.

Defensible Space: (1) In firefighting and prevention, a 30-foot area of non-combustible surfaces separating urban and wildland areas. (2) In urban areas, open-spaces, entry points, and pathways configured to provide maximum opportunities to rightful users and/or residents to defend themselves against intruders and criminal activity.

Deficiency Plan: An action program for improving or preventing the deterioration of level of service on the Congestion Management Agency street and highway network.

Density, Residential: The number of permanent residential dwelling units per acre of land. Densities specified in the general plan may be expressed in units per gross acre or per net developable acre. (See "Acres, Gross," and "Developable Acres, Net.")

Density Bonus: The allocation of development rights that allows a parcel to accommodate additional square footage or additional residential units beyond the maximum for which the parcel is zoned. Under Government Code §65915, a housing development that provides 20 percent of its units for lower-income households, ten percent of its units for very-low income households, or 50 percent of its units for seniors is entitled to a density bonus and other concessions.

Density, Employment: A measure of the number of employed persons per specific area (for example, employees per acre).

Density Transfer: A way of retaining open space by concentrating densities—usually in compact areas adjacent to existing urbanization and utilities—while leaving unchanged historic, sensitive, or hazardous areas. In some jurisdictions, for example, developers can buy development rights of properties targeted for public open space and transfer the additional density to the base number of units permitted in the zone in which they propose to develop. (See "Transfer of Development Rights.")

Design Review; Design Control: The comprehensive evaluation of a development and its impact on neighboring properties and the community as a whole, from the standpoint of site and landscape design, architecture, materials, colors, lighting, and signs, in accordance with a set of adopted criteria and standards. "Design Control" requires that certain specific things be done and that other things not be done. Design Control language is most often found within a zoning ordinance. "Design Review" usually refers to a system set up outside of the zoning ordinance, whereby projects are reviewed against certain standards and criteria by a specially established design review board or committee. (See "Architectural Control.")

Detachment: Withdrawal of territory from a special district or city; the reverse of annexation.

Detention Dam/Basin/Pond: Dams may be classified according to the broad function they serve, such as storage, diversion, or detention. Detention dams are constructed to retard flood runoff and minimize the effect of sudden floods. Detention dams fall into two main types. In one type, the water is temporarily stored and released through an outlet

structure at a rate that will not exceed the carrying capacity of the channel downstream. Often, the basins are planted with grass and used for open space or recreation in periods of dry weather. The other type, most often called a retention pond, allows for water to be held as long as possible and may or may not allow for the controlled release of water. In some cases, the water is allowed to seep into the permeable banks or gravel strata in the foundation. This latter type is sometimes called a water-spreading dam or dike because its main purpose is to recharge the underground water supply. Detention dams are also constructed to trap sediment. These are often called debris dams.

Developable Acres, Net: The portion of a site that can be used for density calculations. Some communities calculate density based on gross acreage. Public or private road rights-of-way are not included in the net developable acreage of a site.

Developable Land: Land that is suitable as a location for structures and that can be developed free of hazards to, and without disruption of, or significant impact on, natural resource areas.

Development Agreement: A legislatively approved contract between a jurisdiction and a person having legal or equitable interest in real property within the jurisdiction (Government Code §65865, et seq.) that "freezes" certain rules, regulations, and policies applicable to development of a property for a specified period of time, usually in exchange for certain concessions by the owner.

Development Fee: See "Impact Fee."

Easement: Usually the right to use property owned by another for specific purposes or to gain access to another property. For example, utility companies often have easements on the private property of individuals to be able to install and maintain utility facilities.

Easement, Conservation: A tool for acquiring open space with less than full-fee purchase, whereby a public agency buys only certain specific rights from the land owner. These may be positive rights (providing the public with the opportunity to hunt, fish, hike, or ride over the land) or they may be restrictive rights (limiting the uses to which the land owner may devote the land in the future.)

Easement, Scenic: A tool that allows a public agency to use an owner's land for scenic enhancementsuch as roadside landscaping or vista preservation.

Elderly: Persons age 62 and older. (See "Seniors.")

Elderly Housing: Typically one- and two-bedroom apartments or condominiums designed to meet the needs of and restricted to occupancy by persons 62 years of age and older or, if more than 150 units, persons 55 years of age and older.

Emergency Shelter: A facility that provides immediate short-term housing and supplemental services for the homeless. Shelters come in many sizes, but an optimum size is considered to be 20 to 40 beds. Supplemental services may include food, counseling, and access to other social programs. (See "Transitional Housing.")

Eminent Domain: The right of a public entity to acquire private property for public use by condemnation and the payment of just compensation.

Emission Standard: The maximum amount of pollutant legally permitted to be discharged from a single source, either mobile or stationary.

Endangered Species: A species of animal or plant whose prospects for survival and reproduction are in immediate jeopardy from one or more causes.

Environment: In CEQA, "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, mineral, flora, fauna, noise, and objects of historic or aesthetic significance."

Environmental Impact Report (EIR): A report required pursuant to the California Environmental Quality Act that assesses all the environmental characteristics of an area, determines what effects or impacts will result if the area is altered or disturbed by a proposed action, and identifies alternatives or other measures to avoid or reduce those impacts. (See "California Environmental Quality Act.")

Environmental Impact Statement (EIS): Under the National Environmental Policy Act, a statement on the effect of development proposals and other major actions that significantly affect the environment.

Environmental Justice: The fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies (Government Code §65040.12).

Erosion: (1) The loosening and transportation of rock and soil debris by wind, rain, or running water. (2) The gradual wearing away of the upper layers of earth.

Exaction: A contribution or payment required as an authorized precondition for receiving a development permit; usually refers to mandatory dedication (or fee in lieu of dedication) requirements found in many subdivision regulations.

Expansive Soils: Soils that swell when they absorb water and shrink as they dry.

Expressway: A divided multi-lane major arterial street for through traffic with partial control of access and with grade separations at major intersections.

Exurban Area: The region that lies beyond a city and its suburbs.

Fair Market Rent: The rent, including utility allowances, determined by HUD for purposes of administering the Section 8 Existing Housing Program.

Family: (1) Two or more persons related by birth, marriage, or adoption (U.S. Bureau of the Census). (2) An individual or a group of persons living together who constitute a bona fide single-family housekeeping unit in a dwelling unit, not including a fraternity, sorority, club, or other group of persons occupying a hotel, lodging house or institution of any kind (California).

Farmers Home Administration (FmHA): A federal agency that provides loans and grants for improvement projects and low-income housing.

Fault: A fracture in the earth's crust forming a boundary between rock masses that have shifted.

Feasible: Capable of being accomplished in a successful manner within a reasonable time taking into account economic, environmental, social, and technological factors.

Field Act: Legislation, passed after a 1933 Long Beach earthquake that collapsed a school, that established more stringent structural requirements and standards for construction of schools than for other buildings.

Fire Hazard Zone: An area where, due to slope, fuel, weather, or other fire-related conditions, the potential loss of life and property from a fire necessitates special fire protection measures and planning before development occurs.

Fiscal Impact Analysis: A projection of the direct public costs and revenues resulting from population or employment change to the local jurisdiction(s) in which the change is taking place. Enables local governments to evaluate relative fiscal merits of general plans, specific plans, or projects.

Flood, 100-Year: The magnitude of a flood expected to occur on the average every 100 years, based on historical data. The 100-year flood has a 1/100, or one percent, chance of occurring in any given year.

Flood Insurance Rate Map (FIRM): For each community, the official map on which the Federal Insurance Administration has delineated areas of special flood hazard and the risk premium zones applicable to that community.

Floodplain: The relatively level land area on either side of the banks of a stream regularly subject to flooding. That part of the floodplain subject to a one percent chance of flooding in any given year is designated as an "area of special flood hazard" by the Federal Insurance Administration.

Floodplain Fringe: All land between the floodway and the upper elevation of the 100-year flood.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the "base flood" without cumulatively increasing the water surface elevation more than one foot. No development is allowed in floodways.

Floor Area, Gross: The sum of the horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including any space where the floor-to-ceiling height is less than six feet. Some cities exclude specific kinds of space (e.g., elevator shafts, parking decks) from the calculation of gross floor area.

Floor Area Ratio (FAR): The gross floor area permitted on a site divided by the total net area of the site, expressed in decimals to one or two places. For example, on a site with 10,000 net square feet of land area, a floor area ratio of 1.0 will allow a maximum of 10,000 gross square feet of building floor area to be built. On the same site, an FAR of 1.5 would allow 15,000 square feet of floor area; an FAR of 2.0 would allow 20,000 square feet; and an FAR of 0.5 would allow only 5,000 square feet. Also commonly used in zoning, FARs typically are applied on a parcel-by-parcel basis as opposed to an average FAR for an entire land use or zoning district.

Freeway: A high-speed, high-capacity, limited-access road serving regional and countywide travel. Such roads are free of tolls, as contrasted with turnpikes or other toll roads. Freeways generally are used for long trips between major land use generators. At Level of Service E, they carry approximately 1,875 vehicles per lane per hour in both directions. Major streets cross at a different grade level.

Granny Flat: See "Second Unit."

Ground Failure: Ground movement or rupture caused by strong shaking during an earthquake. Includes landslide, lateral spreading, liquefaction, and subsidence.

Ground Shaking: Ground movement resulting from the transmission of seismic waves during an earthquake.

Groundwater: Water under the earth's surface, often confined to aquifers capable of supplying wells and springs.

Groundwater Recharge: The natural process of infiltration and percolation of rainwater from land areas or streams through permeable soils into water-holding rocks that provide underground storage (aquifers).

Growth Management: The use by a community of a wide range of techniques in combination to determine the amount, type, and rate of development desired by the community and to channel that growth into designated areas. Growth management policies can be implemented through building permit caps, public facilities/infrastructure ordinances ("concurrence"), urban limit lines, standards for levels of service, phasing, and other programs. (See "Congestion Management Plan.")

Guideway: A roadway system that guides the vehicles using it as well as supporting them. A monorail is one such system. The most familiar and still most used guideway is the railroad. Most guideway transit systems make use of wayside electrical power for propulsion.

Habitat: The physical location or type of environment in which an organism or biological population lives or occurs.

Hazardous Material: Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes, but is not limited to, hazardous substances and hazardous wastes.

High-Occupancy Structure: All pre-1935 buildings with over 25 occupants and all pre-1976 buildings with over 100 occupants.

High-Occupancy Vehicle (HOV): Any vehicle other than a driver-only automobile (e.g., a vanpool, a bus, or a car carrying two or more persons).

Historic Preservation: The preservation of historically significant structures and neighborhoods in order to facilitate restoration and rehabilitation of the building(s) to a former condition.

Household: All those persons, related or unrelated, who occupy a single housing unit. (See "Family.")

Households, Number of: The count of all year-round housing units occupied by one or more persons. The concept of household is important because the formation of new households generates the demand for housing. Each new household formed creates the need for one additional housing unit or requires that one existing housing unit be shared by two households. Thus, household formation can continue to take place even without an increase in population, thereby increasing the demand for housing.

Housing and Community Development, Department of (HCD): The state agency that has principal responsibility for assessing, planning for, and assisting communities to meet the needs of low- and moderate-income households.

Housing and Urban Development, U.S. Department of (HUD): A cabinet-level department of the federal government that administers housing and community development programs.

Housing Authority, Local (LHA): A local housing agency established in state law, subject to local activation and operation. Originally intended to manage certain federal subsidies, but vested with broad powers to develop and manage other forms of affordable housing.

Housing Unit: A house, an apartment, a mobilehome or trailer, a group of rooms, or a single room that is occupied as a separate living quarters, or, if vacant, is intended for occupancy as a separate living quarters (2000 U.S. Census definition).

Impact Fee: A fee, also called a development fee, levied on the developer of a project by a city, county, or other public agency as compensation for otherwise-unmitigated impacts the project will produce. Government Code §66000, et seq., specifies that development fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged. To lawfully impose a development fee, the public agency must verify its method of calculation and document proper restrictions on use of the fund. Impact/development fees may be used to pay for preparing and updating general plans and specific plans.

Impacted Areas: Census tracts where more than 50 percent of the dwelling units house low- and very-low income households.

Impervious Surface: A surface through which water cannot penetrate, such as a roof, road, sidewalk, or paved parking lot. The amount of impervious surface increases with development and establishes the need for drainage facilities to carry the increased runoff.

Inclusionary Zoning: Provisions established by a public agency to require that a specific percentage of housing units in a project or development remain affordable to very low and low-income households for a specified period.

Incorporation: Creation of a new city.

Incubator Space: Retail or industrial space that is affordable to new, low-margin businesses.

Industrial: The manufacture, production, and processing of consumer goods. Industrial is often divided into "heavy industrial" uses, such as construction yards, quarrying, and factories; and "light industrial" uses, such as research and development and less intensive warehousing and manufacturing.

Infill Development: Development of vacant land (usually individual lots or leftover properties) within areas that are already largely developed.

Infrastructure: Public services and facilities such as sewage-disposal systems, water-supply systems, other utility systems, schools, and roads.

In-Lieu Fee: (See "Dedication, In lieu of.")

Institutional Uses: (1) Publicly or privately owned and operated activities such as hospitals, convalescent hospitals, intermediate care facilities, nursing homes, museums, and schools and colleges; (2) churches and other religious organizations; and (3) other non-profit activities of a welfare, educational, or philanthropic nature that cannot be considered residential, commercial, or industrial. (See "Public and Quasi-Public Facilities.")

Intensity, Building: For residential uses, the actual number or the allowable range of dwelling units per net or gross acre. For non-residential uses, the actual or the maximum permitted floor area ratios (FARs).

Interagency: Indicates cooperation between or among two or more discrete agencies in regard to a specific program.

Interest, Fee: Entitles a land owner to exercise complete control over use of land, subject only to government land use regulations.

Interest, Less-than-fee: The purchase of interest in land rather than outright ownership; includes the purchase of development rights via conservation, open-space, or scenic easements. (See "Easement, Conservation," "Easement, Scenic," "Lease," and "Leasehold Interest.")

Intermittent Stream: A stream that normally flows for at least thirty (30) days after the last major rain of the season and is dry a large part of the year.

Issues: Important unsettled community matters or problems that are identified in a community's general plan and dealt with by the plan's objectives, policies, plan proposals, and implementation programs.

Jobs/Housing Balance; Jobs/Housing Ratio: The availability of affordable housing for employees. The jobs/housing ratio divides the number of jobs in an area by the number of employed residents. A ratio of 1.0 indicates a balance. A ratio greater than 1.0 indicates a net in-commute; less than 1.0 indicates a net out-commute.

Joint Powers Authority (JPA): A legal arrangement that enables two or more units of government to share authority in order to plan and carry out a specific program or set of programs that serves both units.

Land Banking: The purchase of land by a local government for use or resale at a later date. Banked lands have been used for development of low- and moderate-income housing, expansion of parks, and development of industrial and commercial centers. Federal rail-banking law allows railroads to bank unused rail corridors for future rail use while allowing interim use as trails.

Landmark: (1) A building, site, object, structure, or significant tree having historical, architectural, social, or cultural significance and marked for preservation by the local, state, or federal government. (2) A visually prominent or outstanding structure or natural feature that functions as a point of orientation or identification.

Landslide: Downslope movement of soil and/or rock, which typically occurs during an earthquake or following heavy rainfall.

Land Use Classification: A system for classifying and designating the appropriate use of properties.

Lateral Spreading: Lateral movement of soil, often as a result of liquefaction during an earthquake.

Leapfrog Development: New development separated from existing development by substantial vacant land.

Lease: A contractual agreement by which an owner of real property (the lessor) gives the right of possession to another (a lessee) for a specified period of time (term) and for a specified consideration (rent).

Leasehold Interest: (1) The interest that the lessee has in the value of the lease itself in condemnation award determination. (2) The difference between the total remaining rent under the lease and the rent the lessee would currently pay for similar space for the same time period.

Leq: The energy equivalent level, defined as the average sound level on the basis of sound energy (or sound pressure squared). The Leq is a "dosage" type measure and is the basis for the descriptors used in current standards, such as the 24-hour CNEL used by the State of California.

Level of Service (LOS) Standard: A standard used by government agencies to measure the quality or effectiveness of a municipal service such as police, fire, or library, or the performance of a facility, such as a street or highway.

Level of Service (Traffic): A scale that measures the amount of traffic that a roadway or intersection can accommodate, based on such factors as maneuverability, driver dissatisfaction, and delay.

Level of Service A: Indicates a relatively free flow of traffic, with little or no limitation on vehicle movement or speed.

Level of Service B: Describes a steady flow of traffic, with only slight delays in vehicle movement and speed. All queues clear in a single signal cycle.

Level of Service C: Denotes a reasonably steady, high-volume flow of traffic, with some limitations on movement and speed, and occasional backups on critical approaches.

Level of Service D: Designates the level where traffic nears an unstable flow. Intersections still function, but short queues develop and cars may have to wait through one cycle during short peaks.

Level of Service E: Represents traffic characterized by slow movement and frequent (although momentary) stoppages. This type of congestion is considered severe but is not uncommon at peak traffic hours, with frequent stopping, long-standing queues, and blocked intersections.

Level of Service F: Describes unsatisfactory stop-and-go traffic characterized by traffic jams and stoppages of long duration. Vehicles at signalized intersections usually have to wait through one or more signal change and "upstream" intersections may be blocked by the long queues.

Life-Cycle Costing: A method of evaluating a capital investment that takes into account the sum total of all costs associated with the investment over the lifetime of the project.

Light-Duty Rail Transit (LRT): Streetcars or trolley cars that typically operate entirely or substantially in mixed traffic and in non-exclusive, at-grade rights-of-way. Passengers typically board vehicles from the street level (as opposed to a platform that is level with the train) and the driver may collect fares. Vehicles are each electrically self-propelled and usually operate in one or two-car trains.

Linkage: With respect to jobs/housing balance, a program designed to offset the impact of employment on housing need within a community, whereby project approval is conditioned on the provision of housing units or the payment of an equivalent in-lieu fee. The linkage program must establish the cause-and-effect relationship between a new commercial or industrial development and the increased demand for housing.

Liquefaction: The transformation of loose, wet soil from a solid to a liquid state, often as a result of ground shaking during an earthquake.

Live-Work Quarters: Buildings or spaces within buildings that are used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work.

Local Agency Formation Commission (LAFCO): A five- or seven-member commission within each county that reviews and evaluates all proposals for formation of special districts, incorporation of cities, annexation to special districts or cities, consolidation of districts, and merger of districts with cities. Each county's LAFCO is empowered to approve, disapprove, or conditionally approve such proposals. The LAFCO members generally include two county supervisors, two city council members, and one member representing the general public. Some LAFCOs include two representatives of special districts.

Local Coastal Program (LCP): A combination of a local government's land use plans, zoning ordinances, zoning district maps, and (within sensitive coastal resources areas) other implementing actions that together meet the local requirements of, and implement the provisions and policies of, the California Coastal Act of 1976.

Local Coastal Program Land Use Plan: The relevant portion of a local government general plan or coastal element that details type, location, and intensity of land use, applicable resource protection and development policies, and, where necessary, implementation actions.

Low-Income Household: A household with an annual income usually no greater than 80 percent of the area median family income adjusted by household size, as determined by a survey of incomes conducted by a city or a county, or in the absence of

such a survey, based on the latest available eligibility limits established by HUD for the Section 8 housing program.

Low-Income Housing Tax Credits: Tax reductions provided by the federal and state governments for investors in housing for low-income households.

L10: A statistical descriptor indicating peak noise levels—the sound level exceeded ten percent of the time. It is a commonly used descriptor of community noise and has been used in Federal Highway Administration standards and the standards of some cities and counties.

Manufactured Housing: Residential structures that are constructed entirely in the factory and that, since June 15, 1976, have been regulated by the federal Manufactured Home Construction and Safety Standards Act of 1974 under the administration of HUD. (See "Mobilehome" and "Modular Unit.")

Mean Sea Level: The average altitude of the sea surface for all tidal stages.

Median Strip: The dividing area, either paved or landscaped, between opposing lanes of traffic on a roadway.

Mello-Roos Bonds: Locally issued bonds that are repaid by a special tax imposed on property owners within a community facilities district established by a governmental entity. The bond proceeds can be used for public improvements and for a limited number of services. Named after the program's legislative authors.

Mercalli Intensity Scale: A subjective measure of the observed effects (human reactions, structural damage, geologic effects) of an earthquake. Expressed in Roman numerals from I to XII.

Microclimate: The climate of a small, distinct area, such as a city street or a building's courtyard; can be favorably altered through functional landscaping, architecture, or other design features.

Mineral Resource: Land on which known deposits of commercially viable mineral or aggregate deposits exist. This designation is applied to sites determined by the Califiornia Geological Survey as being a resource of regional significance and is intended to help maintain the quarrying operations and protect them from encroachment of incompatible land uses.

Minipark: A small neighborhood park of approximately one acre or less.

Mixed Use: Properties on which various uses such as office, commercial, institutional, and residential are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design. A "single site" may include contiguous properties.

Mobilehome: A structure, transportable in one or more sections, built on a permanent chassis and designed for use as a single-family dwelling unit that (1) has a minimum of 400 square feet of living space; (2) has a minimum width in excess of 102 inches; (3) is connected to all available permanent utilities; and (4) is tied down (a) to a permanent foundation on a lot either owned or leased by the homeowner or (b) is set on piers, with wheels removed and skirted, in a mobilehome park. (See "Manufactured Housing" and "Modular Unit")

Moderate-Income Household: A household with an annual income between the lower income eligibility limits and 120 percent of the area median family income adjusted by household size, usually as established by HUD for the Section 8 housing program. (See "Area" and "Low-Income Household.")

Modular Unit: A factory-fabricated, transportable building or major component designed for use by itself or for incorporation with similar units on site into a structure for residential, commercial, educational, or industrial use. Differs from mobilehomes and manufactured housing by (in addition to lacking an integral chassis or permanent hitch to allow future movement) being subject to California housing law design standards. California standards are more restrictive than federal standards in some respects (e.g., plumbing and energy conservation). Also called factory-built housing and regulated by state law of that title. (See "Mobilehome" and "Manufactured Housing.")

Multiplier Effect: Refers to the impact the recirculation of money through the economy has on job and wealth creation. For example, money paid as salaries to industrial and office workers is spent on housing, food, clothing, and other locally available goods and services. This spending creates jobs in housing construction, retail stores, and professional offices. The wages paid to workers in those industries is again re-spent, creating still more jobs. Overall, one job in basic industry is estimated to create approximately one more job in non-basic industry.

Municipal Services: Services traditionally provided by local government, including water and sewer, roads, parks, schools, and police and fire protection.

National Ambient Air Quality Standards: The prescribed level of pollutants in the outside air that cannot be exceeded legally during a specified time in a specified geographical area.

National Environmental Policy Act (NEPA): An act passed in 1974 establishing federal legislation for national environmental policy, a council on environmental quality, and the requirements for environmental impact statements.

National Flood Insurance Program: A federal program that authorizes the sale of federally subsidized flood insurance in communities where such flood insurance is not available privately.

National Historic Preservation Act: A 1966 federal law that established a National Register of Historic Places and the Advisory Council on Historic Preservation, and that authorized grants-in-aid for preserving historic properties.

National Register of Historic Places: The official list, established by the National Historic Preservation Act, of sites, districts, buildings, structures, and objects significant in the nation's history or whose artistic or architectural value is unique.

Natural State: The condition existing prior to development.

Neighborhood: A planning area commonly identified as such in a community's planning documents, and by the individuals residing and working within the neighborhood. Documentation may include a map prepared for planning purposes, on which the names and boundaries of the neighborhood are shown.

Neighborhood Park: City- or county-owned land intended to serve the recreation needs of people living or working within one-half mile radius of the park.

Neighborhood Unit: According to one widely-accepted concept of planning, the neighborhood unit should be the basic building block of the city. It is based on the elementary school, with other community facilities located at its center and arterial streets at its perimeter. The distance from the school to the perimeter should be a comfortable walking distance for a school-age child; there would be no through traffic uses. Limited industrial or commercial would occur on the perimeter where arterials intersect. This was a model for American suburban development after World War II.

Neotraditional Development: An approach to land use planning and urban design that promotes the building of neighborhoods with a mix of uses and housing types, architectural variety, a central public gathering place, interconnecting streets and alleys, and edges defined by greenbelts or boulevards. The basic goal is integration of the activities of potential residents with work, shopping, recreation, and transit all within walking distance.

Noise: Any sound that is undesirable because it interferes with speech and hearing, or is intense enough to damage hearing, or is otherwise annoying. Noise, simply, is "unwanted sound."

Noise Attenuation: Reduction of the level of a noise source using a substance, material, or surface, such as earth berms and/or solid concrete walls.

Noise Contour: A line connecting points of equal noise level as measured on the same scale. Noise levels greater than the 60 Ldn contour (measured in dBA) require noise attenuation in residential development.

Non-Attainment: The condition of not achieving a desired or required level of performance. Frequently used in reference to air quality. (See "Attainment.")

Non-conforming Use: A use that was valid when brought into existence, but by subsequent regulation becomes no longer conforming. "Non-conforming use" is a generic term and includes (1) non-conforming structures (by virtue of size, type of construction, location on land, or proximity to other structures), (2) non-conforming use of a conforming building, (3) non-conforming use of a non-conforming building, and (4) non-conforming use of land. Thus, any use lawfully existing on any piece of property that is inconsistent with a new or amended general plan, and that in turn is a violation of a zoning ordinance amendment subsequently adopted in conformance with the general plan, will be a non-conforming use. Typically, non-conforming uses are permitted to continue for a designated period of time, subject to certain restrictions.

Notice (of Hearing): A legal document announcing the opportunity for the public to present their views to an official representative or board of a public agency concerning an official action pending before the agency.

Official County Scenic Highway: A segment of state highway identified in the Master Plan of State Highways Eligible for Official Scenic Highway Designation and designated by the Director of the Department of Transportation (Caltrans).

Open-Space Land: Any parcel or area of land or water that is essentially unimproved and devoted to an open-space use for the purposes of (1) the preservation of natural resources, (2) the managed production of resources, (3) outdoor recreation, or (4) public health and safety.

Ordinance: A law or regulation set forth and adopted by a governmental authority, usually a city or county.

Outdoor Advertising Structure: Any device used or intended to direct attention to a business, profession, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the lot where such device is located.

Outdoor Recreation Use: A privately or publicly owned or operated use providing facilities for outdoor recreation activities.

Outer Approach Zone: Airspace in which an air-traffic controller initiates radar monitoring for incoming flights approaching an airport.

Overlay: A land use designation on the General Plan Land Use Map, or a zoning designation on a zoning map, that modifies the basic underlying designation in some specific manner.

Parcel: A lot in single ownership or under single control, usually considered a unit for purposes of development.

Park Land; Parkland: Land that is publicly owned or controlled for the purpose of providing parks, recreation, or open-space for public use.

Parking, Shared: A public or private parking area used jointly by two or more uses.

Parking Area, Public: An open area, excluding a street or other public way, used for the parking of automobiles and available to the public, whether for free or for compensation.

Parking Management: An evolving TDM technique designed to obtain maximum utilization from a limited number of parking spaces. Can involve pricing and preferential treatment for HOVs, non-peak period users, and short-term users. (See "High Occupancy Vehicle" and "Transportation Demand Management.")

Parking Ratio: The number of parking spaces provided per 1,000 square of floor area, e.g., 2:1 or "two per thousand."

Parking Space, Compact: A parking space (usually 7.5 feet wide by 16 feet long when perpendicular to a driveway or aisle) permitted in some localities on the assumption that many modern cars are significantly smaller, and require less room, than a standard automobile. A standard parking space, when perpendicular to a driveway or aisle, is usually 8.5 feet wide by 18 feet long.

Parks: Open-space lands whose primary purpose is recreation. (See "Open-Space Land," "Community Park," and "Neighborhood Park")

Parkway: An expressway or freeway designed for non-commercial traffic only; usually located within a strip of landscaped park or natural vegetation.

Parkway Strip: A piece of land located between the rear of a curb and the front of a sidewalk, usually used for planting low ground cover and/or street trees, also known as "planter strip."

Performance Standards: Zoning regulations that permit uses based on a particular set of standards of operation rather than on particular type of use. Performance standards provide specific criteria limiting noise, air pollution, emissions, odors, vibration, dust, dirt, glare, heat, fire hazards, wastes, traffic impacts, and visual impact of a use.

Plan Line: A precise line that establishes future rights-of-way along any portion of an existing or proposed street or highway and which is depicted on a map showing the streets and lot line or lines and the proposed right-of-way lines, and the distance thereof from the established centerline of the street or highway, or from existing or established property lines.

Planned Community: A large-scale development whose essential features are a definable boundary; a consistent, but not necessarily uniform, character; overall control during the development process by a single development entity; private ownership of recreation amenities; and enforcement of covenants, conditions, and restrictions by a master community association.

Planned Unit Development (PUD): A description of a proposed unified development, consisting at a minimum of a map and adopted ordinance setting forth the regulations governing, and the location and phasing of all proposed uses and improvements to be included in the development.

Planning Area: The area directly addressed by the general plan. A city's planning area typically encompasses the city limits and potentially annexable land within its sphere of influence.

Planning Commission: A body, usually having five or seven members, created by a city or county in compliance with California law (65100) which requires the assignment of the planning functions of the city or county to a planning department, planning commission, hearing officers, and/or the legislative body itself, as deemed appropriate by the legislative body.

Pollution, Non-Point: Sources for pollution that are less definable and usually cover broad areas of land, such as agricultural land with fertilizers that are carried from the land by runoff, or automobiles.

Pollution, Point: In reference to water quality, a discrete source from which pollution is generated before it enters receiving waters, such as a sewer outfall, a smokestack, or an industrial waste pipe.

Poverty Level: As used by the U.S. Census, families and unrelated individuals are classified as being above or below the poverty level based on a poverty index that provides a range of income cutoffs or "poverty thresholds" varying by size of family, number of children, and age of householder. The income cutoffs are updated each year to reflect the change in the Consumer Price Index.

Prime Agricultural Land: (1) Land used actively in the production of food, fiber, or livestock. (2) All land that qualifies for rating as Class I or Class II in the Natural Resources Conservation Service land use compatibility classifications. (3) Land that qualifies for rating 80 through 100 in the Storie Index Rating. (See "Storie Index.")

Prime Farmland: Land which has the best combination of physical and chemical characteristics for the production of crops. Prime Farmland must have been used for the production of irrigated crops within the last three years. Prime Farmland does not include publicly-owned lands for which there is an adopted policy preventing agricultural use.

Private Road/Private Street: Privately owned (and usually privately maintained) motor vehicle access that is not dedicated as a public street. Typically the owner posts a sign indicating that the street is private property and limits traffic in some fashion. For density calculation purposes, some jurisdictions exclude private roads when establishing the total acreage of the site; however, aisles within and driveways serving private parking lots are not considered private roads.

Pro Rata: Refers to the proportionate distribution of something to something else or to some group, such as the cost of infrastructure improvements associated with new development apportioned to the users of the infrastructure on the basis of projected use.

Public and Quasi-Public Facilities: Institutional, academic, governmental and community service uses, either owned publicly or operated by non-profit organizations, including private hospitals and cemeteries.

Public Services: See "Municipal Services."

Ranchette: A single dwelling unit occupied by a non-farming household on a parcel of 2.5 to 20 acres that has been subdivided from agricultural land.

Reclamation: The reuse of resources, usually those present in solid wastes or sewage.

Reconstruction: As used in historic preservation, the process of reproducing by new construction the exact form and detail of a vanished structure, or part thereof, as it appeared during a specific period of time. Reconstruction is often undertaken when the property to be reconstructed is essential for understanding and interpreting the value of an historic district and sufficient documentation exists to insure an exact reproduction of the original.

Recreation, Active: A type of recreation or activity that requires the use of organized play areas including, but not limited to, softball, baseball, football and soccer fields, tennis and basketball courts and various forms of children's play equipment.

Recreation, Passive: Type of recreation or activity that does not require the use of organized play areas.

Redevelop: To demolish existing buildings; or to increase the overall floor area existing on a property; or both; irrespective of whether a change occurs in land use.

Regional: Pertaining to activities or economies at a scale greater than that of a single jurisdiction, and affecting a broad geographic area.

Regional Housing Needs Plan/Share: A quantification by a COG or by HCD of existing and projected housing need, by household income group, for all localities within a region.

Regional Park: A park typically 150-500 acres in size focusing on activities and natural features not included in most other types of parks and often based on a specific scenic or recreational opportunity.

Rehabilitation: The repair, preservation, and/or improvement of substandard housing.

Retrofit: To add materials and/or devices to an existing building or system to improve its operation, safety, or efficiency. Buildings have been retrofitted to use solar energy and to strengthen their ability to withstand earthquakes, for example.

Rezoning: An amendment to the map and/or text of a zoning ordinance to effect a change in the nature, density, or intensity of uses allowed in a zoning district and/or on a designated parcel or land area.

Richter Scale: A measure of the size or energy release of an earthquake at its source. The scale is logarithmic; the wave amplitude of each number on the scale is 10 times greater than that of the previous whole number.

Ridgeline: A line connecting the highest points along a ridge and separating drainage basins or small-scale drainage systems from one another.

Right-of-Way: A strip of land occupied or intended to be occupied by certain transportation and public use facilities, such as roads, railroads, and utility lines.

Riparian Lands: Riparian lands are comprised of the vegetative and wildlife areas adjacent to perennial and intermittent streams. Riparian areas are delineated by the existence of plant species normally found near freshwater.

Sanitary Landfill: The controlled placement of refuse within a limited area, followed by compaction and covering with a suitable thickness of earth and other containment material.

Sanitary Sewer: A system of subterranean conduits that carries refuse liquids or waste matter to a plant where the sewage is treated, as contrasted with storm drainage systems (that carry surface water) and septic tanks or leech fields (that hold refuse liquids and waste matter on-site). (See "Septic System")

Scenic Highway Corridor: The area outside a highway right-of-way that is generally visible to persons traveling on the highway.

Scenic Highway/Scenic Route: A highway, road, drive, or street that, in addition to its transportation function, provides opportunities for the enjoyment of natural and man-made scenic resources and access or direct views to areas or scenes of exceptional beauty or historic or cultural interest. The aesthetic values of scenic routes often are protected and enhanced by regulations governing the development of property or the placement of outdoor advertising. Until the mid-1980s, general plans in California were required to include a Scenic Highways element.

Second Unit: A self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on a single lot. "Granny Flat" is one type of second unit intended for the elderly.

Section 8 Rental Assistance Program: A federal (HUD) rent-subsidy program that is one of the main sources of federal housing assistance for low-income households. The program operates by providing "housing assistance payments" to owners, developers, and public housing agencies to make up the difference between the "Fair Market Rent" of a unit (set by HUD) and the household's contribution toward the rent, which is calculated at 30 percent of the household's adjusted gross monthly income (GMI). "Section 8" includes programs for new construction, existing housing, and substantial or moderate housing rehabilitation.

Seiche: An earthquake-generated wave in an enclosed body of water such as a lake, reservoir, or bay.

Seismic: Caused by or subject to earthquakes or earth vibrations.

Seniors: Persons age 62 and older. (See "Elderly.")

Senior Housing: See "Elderly Housing."

Septic System: A sewage-treatment system that includes a settling tank through which liquid sewage flows and in which solid sewage settles and is decomposed by bacteria in the absence of oxygen. Septic systems are often used for individual-home waste disposal where an urban sewer system is not available. (See "Sanitary Sewer.")

Settlement: (1) The drop in elevation of a ground surface caused by settling or compacting. (2) The gradual downward movement of an engineered structure due to compaction. Differential settlement is uneven settlement, where one part of a structure settles more or at a different rate than another part.

Siltation: (1) The accumulating deposition of eroded material. (2) The gradual filling in of streams and other bodies of water with sand, silt, and clay.

Single Room Occupancy (SRO): A single room, typically 80-250 square feet, with a sink and closet, but which requires the occupant to share a communal bathroom, shower, and kitchen.

Solar Access: The provision of direct sunlight to an area specified for solar energy collection when the sun's azimuth is within 45 degrees of true south.

Solar System, Active: A system using a mechanical device, such as a pump or a fan, and energy in addition to solar energy to transport a conductive medium (air or water) between a solar collector and the interior of a building for the purpose of heating or cooling.

Solar System, Passive: A system that uses direct heat transfer from thermal mass instead of mechanical power to distribute collected heat. Passive systems rely on building design and materials to collect and store heat and to create natural ventilation for cooling.

Solid Waste: Any unwanted or discarded material that is not a liquid or gas. Includes organic wastes, paper products, metals, glass, plastics, cloth, brick, rock, soil, leather, rubber, yard wastes, and wood, but does not include sewage and hazardous materials. Organic wastes and paper products comprise about 75 percent of typical urban solid waste.

Specific Plan: A tool authorized by Government Code §65450, et seq. for the systematic implementation of the general plan for a defined portion of a

community's planning area. A specific plan must specify in detail the land uses, public and private facilities needed to support the land uses, phasing of development, standards for the conservation, development, and use of natural resources, and a program of implementation measures, including financing measures.

Sphere of Influence: The probable physical boundaries and service area of a local agency, as determined by the Local Agency Formation Commission of the county.

Standards: (1) A rule or measure establishing a level of quality or quantity that must be complied with or satisfied. Government Code §65302 requires that general plans spell out the objectives, principles, "standards," and proposals of the general plan. Examples of standards might include the number of acres of park land per 1,000 population that the community will attempt to acquire and improve, or the "traffic Level of Service" (LOS) that the plan hopes to attain. (2) Requirements in a zoning ordinance that govern building and development as distinguished from use restrictions-for example, site-design regulations such as lot area, height limit, frontage, landscaping, and floor area ratio.

State Responsibility Areas: Areas of the state in which the financial responsibility for preventing and suppressing fires has been determined by the State Board of Forestry (pursuant to Public Resources Code 4125) to be primarily the responsibility of the State.

Stock Cooperative Housing: Multiple-family ownership housing in which the occupant of a unit holds a share of stock in a corporation that owns the structure in which the unit is located.

Storie Index: A numerical system (0-100) rating the degree to which a particular soil can grow plants or produce crops, based on four factors: soil profile, surface texture, slope, and soil limitations. (See "Prime Agricultural Land.")

Street Tree Plan: A comprehensive plan for all trees on public streets that sets goals for solar access, and standards for species selection, maintenance, and replacement criteria, and for planting trees in patterns that will define neighborhood character while avoiding monotony or maintenance problems.

Streets, Local: See "Streets, Minor."

Streets, Major: The transportation network that includes a hierarchy of freeways, arterials, and collectors to service through traffic.

Streets, Minor: Local streets not shown on the Circulation Plan, Map, or Diagram, whose primary intended purpose is to provide access to fronting properties.

Streets, Through: Streets that extend continuously between other major streets in the community.

Structure: Anything constructed or erected that requires location on the ground (excluding swimming pools, fences, and walls used as fences).

Subdivision: The division of a tract of land into defined lots, either improved or unimproved, which can be separately conveyed by sale or lease, and which can be altered or developed. "Subdivision" includes a condominium project as defined in §1350 of the California Civil Code and a community apartment project as defined in §11004 of the Business and Professions Code.

Subdivision Map Act: Section 66410, et seq. of the California Government Code, this act vests in local legislative bodies the regulation and control of the design and improvement of subdivisions, including the requirement for tentative and final maps.

Subregional: Pertaining to a portion of a region.

Subsidence: The sudden sinking or gradual downward settling and compaction of soil and other surface material with little or no horizontal motion. Subsidence may be caused by a variety of human and natural activity, including earthquakes. (See "Settlement")

Subsidize: To assist by payment of a sum of money or by the granting of terms or favors that reduce the need for monetary expenditures. Housing subsidies may take the forms of mortgage interest deductions or tax credits from federal and/or state income taxes, sale or lease at less than market value of land to be used for the construction of housing, payments to supplement a minimum affordable rent, and the like.

Substandard Housing: Residential dwellings that, because of their physical condition, do not provide safe and sanitary housing.

Sustainability: Community use of natural resources in a way that does not jeopardize the ability of future generations to live and prosper.

Sustainable Development: Development that maintains or enhances equity, economic opportunity, and community well-being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

Tax Increment: Additional tax revenues that result from increases in property values within a redevelopment area. State law permits the tax increment to be earmarked for redevelopment purposes but requires at least 20 percent to be used to increase and improve the community's supply of low- and very-low income housing.

Telecommuting: Working at home or in a location other than the primary place of work and communicating with the workplace and conducting work via wireless or telephone lines, using modems, fax machines, or other electronic devices in conjunction with computers.

Traffic Model: A mathematical representation of traffic movement within an area or region based on observed relationships between the kind and intensity of development in specific areas. Many traffic models operate on the theory that trips are produced by persons living in residential areas and are attracted by various non-residential land uses. (See "Trip")

Transfer of Development Rights: Also known as "Transfer of Development Credits," a program that can relocate potential development from areas where proposed land use or environmental impacts are considered undesirable (the "donor" site) to another ("receiver") site chosen on the basis of its ability to accommodate additional units of development beyond that for which it was zoned, with minimal environmental, social, and aesthetic impacts.

Transit: The conveyance of persons or goods from one place to another by means of a local public transportation system.

Transit, Public: A system of regularly-scheduled buses and/or trains available to the public on a fee-per-ride basis. Also called mass transit.

Transit-Dependent: Refers to persons unable to operate automobiles or other motorized vehicles, or those who do not own motorized vehicles. Transit-dependent citizens must rely on transit, paratransit, or owners of private vehicles for transportation. Transit-dependent citizens include the young, the handicapped, the elderly, the poor, and those with prior violations in motor vehicle laws.

Transit-Oriented Development (TOD): Moderate- to higher-density development, located within easy walk of a major transit stop, generally with a mix of residential, employment, and shopping opportunities designed for pedestrians without excluding the auto. TOD can be new construction or redevelopment of one or more buildings whose design and orientation facilitate transit use. (*Statewide Transit-Oriented Development Study*, California Department of Transportation, 2002).

Transition Zone: Controlled airspace extending upward from 700 or more feet above the ground wherein procedures for aircraft approach have been designated. The transition zone lies closer to an airport than the outer approach zone and outside of the inner approach zone. (See "Approach Zone" and "Outer Approach Zone")

Transitional Housing: Shelter provided to the homeless for an extended period, often as long as 18 months, and generally integrated with other social services and counseling programs to assist in the transition to self-sufficiency through the acquisition of a stable income and permanent housing. (See "Emergency Shelter.")

Transportation Demand Management (TDM): A strategy for reducing demand on the road system by reducing the number of vehicles using the roadways and/or increasing the number of persons per vehicle. TDM attempts to reduce the number of persons who drive alone on the roadway during the commute period and to increase the number in carpools, vanpools, buses and trains, walking, and biking. TDM can be an element of TSM (see below).

Transportation Systems Management (TSM): A comprehensive strategy developed to address the problems caused by additional development, increasing trips, and a shortfall in transportation capacity. Transportation Systems Management focuses on more efficiently utilizing existing highway and transit systems rather than expanding them. TSM measures are characterized by their low cost and quick implementation time frame, such as computerized traffic signals, metered freeway ramps, and one-way streets.

Trees, Street: Trees strategically planted-usually in parkway strips, medians, or along streets-to enhance the visual quality of a street.

Trip: A one-way journey that proceeds from an origin to a destination via a single mode of transportation; the smallest unit of movement considered in transportation studies. Each trip has one "production end," (or origin—often from home, but not always), and one "attraction end," (destination). (See "Traffic Model.")

Trip Generation: The dynamics that account for people making trips in automobiles or by means of public transportation. Trip generation is the basis for estimating the level of use for a transportation sys-

tem and the impact of additional development or transportation facilities on an existing, local transportation system. Trip generations of households are correlated with destinations that attract household members for specific purposes.

Truck Route: A path of circulation required for all vehicles exceeding set weight or axle limits, a truck route follows major arterials through commercial or industrial areas and avoids sensitive areas.

Tsunami: A large ocean wave generated by an earthquake in or near the ocean.

Uniform Building Code (UBC): A national, standard building code that sets forth minimum standards for construction.

Uniform Housing Code (UHC): State housing regulations governing the condition of habitable structures with regard to health and safety standards and providing for the conservation and rehabilitation of housing in accordance with the Uniform Building Code (UBC).

Urban: Of, relating to, characteristic of, or constituting a city. Urban areas are generally characterized by moderate and higher density residential development (i.e., three or more dwelling units per acre), commercial development, and industrial development, and the availability of public services required for that development, specifically central water and sewer, an extensive road network, public transit, and other such services (e.g., safety and emergency response). Development not providing such services may be "non-urban" or "rural." (See "Urban Land Use.") CEQA defines "urbanized area" as an area that has a population density of at least 1,000 persons per square mile (Public Resources Code §21080.14(b)).

Urban Design: The attempt to give form, in terms of both beauty and function, to selected urban areas or to whole cities. Urban design is concerned with the location, mass, and design of various urban components and combines elements of urban planning, architecture, and landscape architecture.

Urban Growth Boundary: An officially adopted and mapped line dividing land to be developed from land to be protected for natural or rural uses. Urban growth boundaries (also called urban limit lines) are regulatory tools, often designated for long periods of time (20 or more years) to provide greater certainty for both development and conservation goals. (Source: Greenbelt Alliance).

Urban Land Use: Residential, commercial, or industrial land use in areas where urban services are available.

Urban Reserve: An area outside of an urban service area but within an urban growth boundary, in which future development and extension of municipal services are contemplated but not imminent.

Urban Services Area: (1) An area in which urban services will be provided and outside of which such services will not be extended. (2) Developed, undeveloped, or agricultural land, either incorporated or unincorporated, within the sphere of influence of a city, which is served or will be served during the first five years of an adopted capital improvement program by urban facilities, utilities, and services. The boundary around an urban service area is called the "urban service area boundary" and is to be developed in cooperation with a city and adopted by the county's local agency formation commission (Government Code §56080).

Urban Services: Utilities (such as water, gas, electricity, and sewer) and public services (such as police, fire, schools, parks, and recreation) provided to an urbanized or urbanizing area

Urban Sprawl: Haphazard growth or outward extension of a city resulting from uncontrolled or poorly managed development.

Utility Corridors: Rights-of-way or easements for utility lines on either publicly or privately owned property. (See "Right-of-Way" or "Easement")

Vehicle-Miles Traveled (VMT): A key measure of overall street and highway use. Reducing VMT is often a major objective in efforts to reduce vehicular congestion and achieve regional air quality goals.

Very-Low Income Household: A household with an annual income usually no greater than 50 percent of the area median family income adjusted by household size, as determined by a survey of incomes conducted by a city or a county, or in the absence of such a survey, based on the latest available eligibility limits established by HUD for the Section 8 housing program.

View Corridor: The line of sight - identified as to height, width, and distance - of an observer looking toward an object of significance to the community (e.g., ridgeline, river, historic building, etc.); the route that directs the viewers attention.

Viewshed: The area within view from a defined observation point.

Volume-to-Capacity Ratio: A measure of the operating capacity of a roadway or intersection, in terms of the number of vehicles passing through, divided by the number of vehicles that theoretically could

pass through when the roadway or intersection is operating at its designed capacity. Abbreviated as "V/C." At a V/C ratio of 1.0, the roadway or intersection is operating at capacity. If the ratio is less than 1.0, the traffic facility has additional capacity. Although ratios slightly greater than 1.0 are possible, it is more likely that the peak hour will elongate into a "peak period." (See "Level of Service")

Water-Efficient Landscaping: Landscaping designed to minimize water use and maximize energy efficiency.

Watercourse: Natural or once natural flowing (perennially or intermittently) water including rivers, streams, and creeks. Includes natural waterways that have been channelized, but does not include manmade channels, ditches, and underground drainage and sewage systems.

Watershed: The total area above a given point on a watercourse that contributes water to its flow; the entire region drained by a waterway or watercourse that drains into a lake, or reservoir.

Waterway: See "Watercourse."

Wetlands: Transitional areas between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by shallow water. Under a "unified" methodology now used by all federal agencies, wetlands are defined as "those areas meeting certain criteria for hydrology, vegetation, and soils."

Wildlife Refuge: An area maintained in a natural state for the preservation of both animal and plant life.

Williamson Act: Known formally as the California Land Conservation Act of 1965, it was designed as an incentive to retain prime agricultural land and open-space in agricultural use, thereby slowing its conversion to urban and suburban development. The program entails a ten-year contract between the City or County and an owner of land whereby the land is taxed on the basis of its agricultural use rather than its market value. The land becomes subject to certain enforceable restrictions, and certain conditions need to be met prior to approval of an agreement.

Woodlands: Lands covered with woods or trees.

Zero Lot Line: A detached single family unit distinguished by the location of one exterior wall on a side property line.

Zone, Combining: A special purpose zone that is superimposed over the regular zoning map. Combining zones are used for a variety of purposes, such as airport compatibility, floodplain or wetlands protection, historic designation, or special parking regulations. Also called "overlay zone."

Zone, Interim: A zoning designation that temporarily reduces or freezes allowable development in an area until a permanent classification can be fixed; generally assigned during general plan preparation to provide a basis for permanent zoning.

Zone, Traffic: In a mathematical traffic model the area to be studied is divided into zones, with each zone treated as producing and attracting trips. The production of trips by a zone is based on the number of trips to or from work or shopping, or other trips produced per dwelling unit.

Zoning: The division of a city or county by legislative regulations into areas, or zones, that specify allowable uses for real property and size restrictions for buildings within these areas; a program that implements policies of the general plan.

Zoning District: A designated section of a city or county for which prescribed land use requirements and building and development standards are uniform.

Zoning, Exclusionary: Development regulations that result in the exclusion of low- and moderate-income and/or minority families from a community.

Zoning, Incentive: The awarding of bonus credits to a development in the form of allowing more intensive use of land if public benefits-such as preservation of greater than the minimum required open-space, provision for low- and moderate-income housing, or plans for public plazas and courts at ground level-are included in a project.

Zoning, Inclusionary: Regulations that increase housing choice by providing the opportunity to construct more diverse and economical housing to meet the needs of low- and moderate-income families. Often such regulations require a minimum percentage of housing for low- and moderate-income households in new housing developments and in conversions of apartments to condominiums.

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