

Prohousing Policies Framework Paper and Survey



**State of California
Governor Gavin Newsom**

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Purpose

The Department of Housing and Community Development (HCD) has prepared this paper with initial proposed approaches to implement the Prohousing Designation Program as authorized by the passage of the 2019-20 Budget Act. The purpose of this paper is to gather feedback on HCD's approach in key areas. Feedback will inform several subsequent processes, including the development of emergency regulations to determine which jurisdictions will be designated as Prohousing in 2020.

Most immediately, HCD seeks to provide initial direction to local governments that may elect to utilize Local Early Action Planning (LEAP) and Regional Early Action Planning (REAP) grants to establish Prohousing policies and eventually earn a Prohousing Designation. These funds are anticipated to be available in late 2019 to early part of 2020.

The purpose of this paper is to gather input on broader concepts and approaches to facilitate direction to local and regional governments in advance of planning grant funding availability. It is not to solicit feedback on terminology, titles, sentence structure, word choice, etc. More detailed input on the Prohousing Designation Program, including definitions, monitoring strategies, and application requirements, will be gathered through subsequent opportunities, including a formal emergency regulation adoption process. Generally, HCD is seeking input in the following areas:

- Principles
- Threshold Requirements
- Prohousing Policy Areas
- Geographic Considerations (e.g., urban, suburban and rural)
- Technical Assistance and Resources

This paper will present each of the above areas along with a survey intended to gather feedback (See Attachment 1). The survey can be emailed back to HCD at prohousingpolicies@hcd.ca.gov.

Background

The 2019-20 Budget Act provides a spectrum of support, incentives, resources and accountability to meet California's housing goals. Some specific elements include:

- Planning Support (local and regional planning grants)
- Incentives (Prohousing preference and infill incentive grants)
- Funding Resources
- Accountability (penalties for non-compliant housing plans)
- Reform (collaborative processes to reform regional housing needs)

The 2019-20 Budget Act requires HCD to develop the Prohousing designation emergency regulations by no later than July 1, 2021. This program will allow HCD to designate jurisdictions as “Prohousing,” when they demonstrate policies and strategies to accelerate housing production. In turn, Prohousing jurisdictions will be awarded additional points or preference in programs such as the Affordable Housing and Sustainable Communities (AHSC), Transformative Climate Communities (TCC) and Infill Incentive Grant (IIG) programs. HCD anticipates developing emergency regulations and Prohousing designations prior to July 1, 2021 and will seek to designate jurisdictions prior to future rounds of AHSC, TCC and IIG programs.

Topic Areas for Input

In preparation for the design and launch of the program and to set initial direction for future planning grants, HCD is seeking input on the following areas:

Principles

In determining how to designate jurisdictions as Prohousing, HCD will be adhering to the following principles:

- *Housing Production:* Facilitate the planning, approval and construction of a variety of housing types through actions such as increasing supply, facilitating affordability, removing barriers and streamlining approval
- *Strategic Communities:* Achieve integrated planning and development consistent with state planning priorities (Government Code Section 65041.1), including location efficient development and other priorities such as climate change mitigation and adaptation and hazard mitigation
- *Access to Opportunity:* Promote inclusive and stable communities with adequate, affordable and available housing and infrastructure pursuant to Government Code Section 8899.50
- *Geographic Consideration:* Avoid overly prescriptive and complicated approaches in order to create criteria that consider the needs of all California jurisdictions and allow flexibility for innovation to address unique circumstances such as urban, suburban and rural, under-resourced, coastal, inland, northern and southern communities
- *Coordination and Alignment:* Collaborate with other state, regional and local agencies to align policies and programs

Threshold Requirements

Jurisdictions will not be eligible or could have a Prohousing designation rescinded if threshold requirements are not met or are not maintained, including:

- An adopted housing element that HCD has found to be in substantial compliance with the law;
- Housing Element Annual Progress Report submission pursuant to Government Code Section 65400 for the current or prior year;
- Proof of completion of any rezone program or zoning required to address a shortfall of capacity to accommodate the regional housing need pursuant to Government Code Section 65583(c)(1). This threshold requirement will target rezone programs that are past due pursuant to statutory deadlines;
- Compliance with all other statutory requirements of housing law, such as housing element law, “No Net Loss” law (Government Code Section 65863), Housing Accountability Act (Government Code Section 65589.5) State Density Bonus Law (Government Code Section 65915), and anti-discrimination law (Government Code Section 65008);
- Absence of measures, laws, policies, procedures or any other local governmental actions that are detrimental to housing production such as moratoriums, lack of multifamily zoning, overly burdensome zoning, development standards and permit procedures;
- Demonstration of actions consistent with state planning priorities (Government Code Section 65041.1) including location efficient development and other priorities such as climate change mitigation and adaptation and hazard mitigation; and
- Demonstration of actions to Affirmatively Further Fair Housing pursuant to Government Code Section 8899.50.

Prohousing Policy Areas

Pursuant to Government Code Section 65589.9(f)(2), Prohousing policies “... mean policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:

- (A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.
- (B) Reduced parking requirements for sites that are zoned for residential development.
- (C) Adoption of zoning allowing for use by right for residential and mixed-use development.

(D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.

(E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Section 65852.2, as determined by the department.

(F) Reduction of permit processing time.

(G) Creation of objective development standards.

(H) Reduction of development impact fees.

(I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.”

To keep Prohousing designations simple and flexible, the program will aggregate the above policies and additional policies into broader categories and create menus within each of those categories. Prohousing jurisdictions will need at least one policy in each of the categories that significantly contribute to accelerating housing production and some minimum number (to be determined, along with potential to weight each policy relative to impact) within each of the categories or a total minimum across all categories. Preliminarily, the categories and menus are as follows:

Category 1: Favorable Zoning and Land Use

Menu Items:

- Zoning allowing residential and mixed uses by right (without discretionary action)
- Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle
- Complete planning level California Environmental Quality Act (CEQA) analysis and specific plan Environmental Impact Reports (EIR) to promote streamlined approvals at the project level
- Reduced parking requirements for sites that are zoned for residential development
- Expanded density bonus programs that exceed statutory requirements
- Intensification of existing low-density land use patterns (e.g., elimination of single-family zoning, automatic exception processes for minimum lot sizes, allowing two or more unit structures, permitting more than one accessory dwelling unit
- Other demonstrated actions favorable for zoning and land use that significantly accelerate and increase housing production

Category 2: Decreasing Production Timeframes

Menu Items:

- Creation of objective development standards
- Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200
- Establishment of a standardized application form with all requirements for development
- One-stop-shop permitting process with single point of contact
- Priority permit processing for ADUs, multifamily, and affordable homes
- Limitations on the total number of hearings on a project to 3 or less
- Full permitting process that takes no more than 4 months for 85% of projects
- Other demonstrated actions significantly decreasing productions timeframes

Category 3: Reducing Construction and Development Costs (e.g., land, construction, fees)

Menu Items:

- Adoption of accessory dwelling unit (ADU) ordinances or other mechanisms that reduce barriers for property owners to create ADUs beyond the requirements outlined in Section 65852.2, as determined by HCD. Examples include additional parking reductions, development standards reductions, and permit processing improvements, dedicated ADU staff and pre-approved ADU design packages
- Reduction of permit processing time
- Creation of objective development standards
- Reduction of development impact fees and other fee strategies such as a published fee schedule and calculators, reduced fees for infill, TOD, affordable development and ADUs (beyond statutory requirements) and Enhanced Infrastructure Financing Districts (EIFDs) or similar financing mechanism to fund infrastructure from sources other than new construction fees
- Other demonstrated actions significantly reducing construction or development costs

Category 4: Providing Financial Subsidies

Menu Items:

- Local housing trust funds
- Collaboration on region housing trust funds
- Low-interest loans for ADU construction affordable to lower and moderate income households
- Financial investments in affordable housing for a minimum of 5 years (e.g. pass a bond measure for housing)
- Establishment of an Enhanced Infrastructure Financing District or similar local financing tool
- Directing residual redevelopment (i.e. “boomerang”) funds to affordable housing
- Prioritization of general funds for affordable housing
- Donation/write-down of publically owned local land to affordable housing
- Innovative affordable housing finance mechanisms (e.g. land banking, Transit Oriented Affordable Housing predevelopment loans, land value recapture)
- Development and regular funding of a flexible housing subsidy pool
- Other demonstrated actions that significantly assist obtaining financial resources

Geographic Considerations (e.g., urban, suburban and rural)

California is a diverse state and each local government has unique circumstances and conditions. Prohousing policies can have differing effects because of these unique conditions and statute (Government Code Section 65589.5(a)) requires HCD to account for these differences. For example, upzoning and establishing by-right processes might have a different impact in coastal northern California than southern San Joaquin Valley. Also, some local governments may have more resources and expertise to reduce fees or assign staff for ADU processing. At the same time, the Prohousing designation must also have an impact on housing and criteria should be established accordingly. To address this challenge, the Prohousing designation will require jurisdictions to have measures in each of the broad Prohousing categories. Jurisdictions will be allowed to select from a menu within each of the categories including allowing a jurisdiction to demonstrate other actions (not listed) that have a significant effect in the category.

Technical Assistance and Resources

HCD intends to provide initial direction on Prohousing policies around the same time that HCD makes available the Local Early Action Planning (LEAP) grants, and prior to the Regional Early Action Planning (REAP) grants. These funds are anticipated to be made available in late 2019 to the early part of 2020. The goal is to support jurisdictions’ eligibility for a Prohousing designation. In addition, the SB 2 Planning Grants Program encourages planning consistent with Prohousing policies through [Priority Policy Areas](#) and ongoing technical assistance to be provided through June 2021. HCD will likely be seeking additional outreach and direct assistance to jurisdictions similar to the [SB 2 planning grant technical assistance](#).

Next Steps

HCD will be undertaking a variety of efforts, as follows:

Activity	Description	Timing
Framework Paper and Survey	A paper describing initial conceptual approaches with a survey to collect input	Fall 2019
Initial Direction for Incorporation in Planning Grants	A preliminary description of Prohousing policies to provide direction to jurisdictions for best utilizing upcoming planning grants. The description will likely accompany the local planning grant Notice of Funding Availability and application anticipated in late 2019 to early 2020.	Winter 2019/2020
Emergency Regulations	Preparation of emergency regulations to implement the Prohousing designation program	Spring/Summer 2020
Designation of Prohousing Jurisdictions	HCD to conduct a process for Prohousing designation with a likely ongoing component, including re-submittals and technical assistance	Summer 2020 and ongoing
Integration of Prohousing Designation in Funding Programs	HCD to coordinate with Strategic Growth Council and other agencies and departments to facilitate integration of Prohousing policies into funding programs	Summer/Fall 2020
Monitoring and Maintenance	HCD to monitor jurisdictions to maintain the Prohousing designation list by adding and, where necessary, removing jurisdictions	Ongoing

Attachment 1: Input Survey

Prohousing Policies Survey

As part of implementation of Governor’s Newsom housing framework, the Department of Housing and Community Development (HCD) will be preparing emergency regulations to designate jurisdictions as Prohousing to award preference for competitive housing and infrastructure funding resources. This survey is meant to provide input to HCD on its approach to key topic areas. For additional information on the key topic areas, please see HCD’s Prohousing framework paper.

This survey should take you approximately 5 minutes. You will have the option at the end to share your name and email address with HCD; otherwise, your responses will remain anonymous.

Thank you for sharing your feedback with HCD. If you have any questions, please contact us at Prohousingpolicies@hcd.ca.gov.

Principles

Questions 1: Should the Prohousing designation add, delete or modify the proposed principles? If so, please describe:

Yes

No

Describe:

Threshold Requirements

Questions 2: Should threshold requirements be added, deleted or modified? If so, please describe:

Yes

No

Describe:

Questions 3: What other policies, procedures, etc. should be considered detrimental to accelerating housing production:

Describe:

Prohousing Policy Areas

Questions 4: Should other Prohousing categories should be considered? If so, please describe:

Yes

No

Describe:

Questions 5: Should other menu items should be considered within the Prohousing categories? If so, please describe:

- Yes
- No

Describe:

Questions 6: To be designated Prohousing, HCD will require at least one menu item per category and a minimum number of menu items and could weight policies based on impact to create a point scoring system. Should a minimum number of menu items be required for each category (e.g., 2 per category) or across all categories (e.g., 8 across all 4 categories)? Should a weighted point scoring system be developed?

- A minimum number should be required for each category
- A minimum number should be required across all categories
- Weight menu of policies based on impact and create a point scoring system

Other (please describe):

Questions 7: Should jurisdictions be allowed to propose Prohousing policies not listed as a menu item within each of the broad categories? If so, please describe how to demonstrate unlisted policies have a significant and positive impact on housing.

- Yes
- No

Describe:

Contact Information

Thank you for sharing your feedback with HCD. If you would like to share your name or other identifying information with HCD, please do so here. Otherwise, your responses will remain anonymous.

Name:

Organization:

Email:

Telephone Number:

Attachment 2: Statutory Requirements for Prohousing Policies

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

The Legislature finds and declares the following:

- (a) The gap between available and needed housing is increasing the cost of living in our state and negatively impacting middle class Californians.
- (b) Addressing the housing cost crisis will require action by the state, local governments, and the private sector to increase housing production and preserve available affordable housing.
- (c) The 2019–20 Budget Act provides approximately \$8 billion in funding to address California’s housing and homelessness crisis.
- (d) A key element of increasing housing production is to ensure that local governments are implementing state law, particularly their planning and zoning obligations. To that end, this act establishes incentives, due process requirements, and penalties. Specifically, this act expands judicial remedies that may be imposed by the court when a city, county, or a city and county is found to be out of substantial compliance with housing element law, is provided by the act more than one year to come into substantial compliance, and continues not following the law.
- (e) The additional judicial remedies in this act are intended to be used only as a last resort where a jurisdiction has continued to not fulfill its responsibilities under housing element law and disregards the direction of the court.

SECTIONS 1 THROUGH 4 HAVE BEEN OMITTED FOR CONCISENESS

SEC. 5.

Section 65589.9 is added to the Government Code, to read:

65589.9.

- (a) It is the intent of the Legislature to create incentives for jurisdictions that are compliant with housing element requirements and have enacted Prohousing local policies. It is the intent of the Legislature that these incentives be in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It is the intent of the Legislature that, in adopting regulations related to Prohousing local policy criteria, the department shall create criteria that consider the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.
- (b) For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585, and that have been designated Prohousing pursuant to subdivision (c) based upon their adoption of Prohousing local

policies, shall be awarded additional points or preference in the scoring of program applications for the following programs:

(1) The Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.

(2) The Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.

(3) The Infill Incentive Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.

(4) Additional bonus points may be awarded to other state programs when already allowable under state law.

(c) The department shall designate jurisdictions as Prohousing pursuant to the emergency regulations adopted pursuant to subdivision (d) and report these designations to the Office of Planning and Research, and any other applicable agency or department, annually and upon request.

(d) By July 1, 2021, the department, in collaboration with stakeholders, shall adopt emergency regulations to implement this section.

(e) On or before January 1, 2021, and annually thereafter, the Department of Finance shall publish on its internet website the list of programs included under subdivision (b).

(f) For purposes of this section, the following definitions shall apply:

(1) "Compliant housing element" means an adopted housing element that has been found to be in substantial compliance with the requirements of this article by the department pursuant to Section 65585.

(2) "Prohousing local policies" means policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:

(A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.

(B) Reduced parking requirements for sites that are zoned for residential development.

(C) Adoption of zoning allowing for use by right for residential and mixed-use development.

(D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.

(E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Section 65852.2, as determined by the department.

(F) Reduction of permit processing time.

(G) Creation of objective development standards.

(H) Reduction of development impact fees.

(I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.

SECTIONS 6 THROUGH 32 HAVE BEEN OMITTED FOR CONCISENESS.