FLOOR ALERT TO: MEMBERS OF THE LEGISLATURE

FROM: **American Planning Association, California Chapter**
League of California Cities
Rural County Representatives of California
California State Association of Counties
Urban Counties of California

DATE: **August 1, 2017**

SUBJECT: **LOCAL GOVERNMENT POSITIONS ON HOUSING BILLS**

APA California, the League, RCRC, CSAC and UCC strongly support the passage of a balanced housing package which will:

- **Produce more housing** rather than adding more analysis and paperwork.
- **Provide funding** for affordable housing, infrastructure to support that housing, and planning.
- **Increase enforcement** of existing housing laws in a manner that respects due process, does not target cities and counties which actively support housing, and does not add additional housing element analysis and causes for private lawsuits that will likely be used by both those that support and oppose development.
- **Streamline development** using strategies that can be realistically met.

To illustrate the reason for the above principles, attached is a chart listing more than three dozen legislative changes to the housing element required to be implemented by local governments signed into law in the last 18 years. Below is a list of the key housing bills and our position based on the above principles, in numerical order. Many of these bills have been the subject of substantial negotiation over the year. Unfortunately, recent late amendments to several of the bills have halted those negotiations and have resulted in oppose or amend positions that could otherwise have been support if time were allowed to discuss more realistic options.

AB 72	**SANTIAGO AND CHIU**	**AG ENFORCEMENT OF HOUSING LAW AND HCD POWER TO FIND AN APPROVED HOUSING ELEMENT IN NONCOMPLIANCE**	**POSITION: AMEND**

This bill provides new mechanisms for enforcement of key housing laws which we support. However, amendments are necessary to:

1. Allow 90 to 180 days, rather than 30, to respond and cure any findings of non-compliance before a city's or county's housing element compliance can be revoked.
2. Eliminate Housing Accountability Act (HAA) and density bonus violations from California Department of Housing and Community Development's (HCD) findings of non-compliance.
3. Add due process to Attorney General (AG) enforcement actions, providing notification to the city or county and adding the ability to cure a violation and limit AG enforcement to clearly defined housing statutes.

AB 73	**CHIU**	**NEW HOUSING SUSTAINABILITY DISTRICTS (HSD)**	**POSITION: SUPPORT**

This bill will give a new option to a city or county to encourage housing by creating a housing sustainability district (HSD). With an HSD, cities and counties would complete upfront zoning and environmental review, substantially speeding up development approvals, in order to receive incentive payments for development projects that are consistent with the HSD's ordinance.

AB 571	**E. GARCIA**	**TAX CREDITS FOR FARMWORKER HOUSING**	**POSITION: SUPPORT**

AB 571 makes improvements to the existing Farmworker Housing Assistance Tax Credit Program to utilize the state's entire private activity tax-exempt bond authority to expand the number of much-needed farmworker housing units, and fully access the 4% low-income housing tax credits.

AB 678/SB 167	**Bocanegra/ Skinner**	**SUBSTANTIALLY STRENGTHENS HOUSING ACCOUNTABILITY ACT (HAA)**	**POSITION: NEUTRAL ON HAA PROVISIONS; AMEND RECENT HOUSING PACKAGE CHANGES**

These now identical bills make major changes to the HAA, including changing the standard of review, in the event of a challenge, from "substantial evidence" to "preponderance of the evidence". Even though we believe that "preponderance of the evidence" will be difficult to apply to land use law, we agreed to the change after the authors and sponsors agreed to retain the ability of cities and counties to cure a HAA violation before hefty new fines are imposed, and to amend or remove unworkable provisions in the bill. As a result of those amendments, our organizations were neutral on the bill. However, a last-minute amendment needs clarification so that local governments understand what they will be required to do to comply:

- The new definition of "lower density' "includes conditions that have the same effect or impact on the ability of the project to provide housing." This requirement isn't clear. Instead, it should read: "lower density" includes conditions that have the effect of lowering density.
- The ability of a judge to increase fines if a city or county fails to make "progress in meeting its target RHNA" should be changed to instead allow increased fees based on an accounting of applications received and applications approved/entitled. There is no requirement for a city or county to build housing to meet the RHNA.

AB 879	**GRAYSON**	**NEW HOUSING ELEMENT MANDATES**	**POSITION: OPPOSE UNLESS AMENDED**

Recent amendments to AB 879 have moved our position from support to oppose:

- **Requires mitigation fees to be substantially reduced without providing other funding for services and infrastructure to serve new development and undermines a US Supreme Court Decision.** California's existing Mitigation Fee Act implements the US Supreme Court's requirement that local infrastructure fees must be based on the impact of a project and only cover the cost of the infrastructure necessary to serve the project. **This bill will undermine that US Supreme Court decision**. Additionally, a blanket statement to "substantially" reduce fees will not fund infrastructure and services needed to serve new housing.
- **Adds substantial analysis to the housing element that won't produce more housing** by requiring the analysis of governmental constraints in the housing element to include any ordinances that directly impact the cost and supply of residential development. All ordinances could be determined to impact the cost of housing including critical ordinances like utility infrastructure such as sewer and water connection fees not under the control of local governments; drought requirements; building and fire code requirements like fire sprinklers; lighting; fencing; and, road and other infrastructure improvements. If there is something of specific concern, that should be addressed directly rather than requiring a review of every single local ordinance.
- **Imposes an unfunded mandate to be paid by fees imposed on new housing projects.**

AB 1397	**LOW**	**RESTRICTIONS ON DESIGNATION OF ADEQUATE SITES IN HOUSING ELEMENT**	**POSITION: AMEND**

This bill would place restrictions on the ability of cities and counties to designate non-vacant sites as suitable for housing development and would require all designated sites to have water, sewer, and utilities available and accessible to support housing development. Many of the most onerous requirements for these sites in the original versions of the bill have already been removed. However, we are asking for amendments that:

- Ensure that built-out cities are able to identify adequate sites, as the bill places severe restrictions on the designation of sites to be redeveloped.
- Clarify that utility requirements can be determined based upon the information provided to the city and county by the utility provider.
- Eliminate a new amendment requiring cities and counties to demonstrate local efforts to remove "non-governmental constraints" over which they have no control, including the cost of land or rental rates.

AB 1505/ SB 277	**BLOOM/ BRADFORD**	**RESTORATION OF INCLUSIONARY HOUSING AUTHORITY FOR RENTAL UNITS**	**POSITION: SUPPORT**

These bills clarify the Legislature's intent to supersede the holding in the *Palmer/Sixth Street Properties L.P. v. City of Los Angeles* decision, to the extent that the decision conflicts with a local jurisdiction's authority to impose inclusionary housing ordinances on rental projects. As inclusionary requirements are one of the few options cities and counties have to increase affordable rental housing, this is an important clarification.

AB 1515	**DALY**	**CHANGE IN HAA TO ALLOW PROJECT APPLICANT TO "DEEM" PROJECTS CONSISTENT WITH GENERAL PLAN AND ZONING**	**POSITION: OPPOSE UNLESS AMENDED**

This bill specifies that a housing development project or emergency shelter is "deemed consistent, compliant, and in conformity" with an applicable plan, ordinance, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the project is consistent, compliant, or in conformity. We have no problem with the "reasonable person" portion of this new standard. **However, the "deemed consistent" automatic approval should be deleted -** it goes too far and upends the accountability for local land use decision-making. Under current law, a city council or board of supervisors weighs the evidence and reaches a decision based on established principles of democratic decision-making -- local governments are ultimately held accountable for their decisions by the local electorate. AB 1515 would replace the judgment of local elected officials with that of any "reasonable person," including the project developer who has a fundamental economic interest in the project. When fundamental land use decisions, like general plan consistency, are made by developers rather than elected representatives, local government accountability is compromised and the recourse available to the electorate is taken away. AB 1515 will allow the applicant, rather than the local agency or a judge, to determine consistency of a development with the General Plan and zoning by allowing the applicant to provide contrary reasons why the project is consistent. As a result, the issue will be whether a "reasonable person" could conclude that the project is consistent – not whether the city or county had substantial evidence to back up its conclusion.

AB 1521	**BLOOM**	**NOTICE OF LOSS OF ASSISTED HOUSING DEVELOPMENTS**	**POSITION: SUPPORT**

This bill strengthens the law to ensure the preservation of assisted affordable housing developments and gives HCD additional enforcement authority.

AB 1568	**BLOOM**	**NEW SALES TAX OPTION AND STREAMLINING FOR ENHANCED INFRASTRUCTURE FINANCING DISTRICTS (NIFTI)**	**POSITION: SUPPORT WITH CLARIFYING AMENDMENTS** ***Note: League does not have a position on this measure***

This bill establishes the Neighborhood Infill and Transit Improvements (NIFTI) Act in Enhanced Infrastructure Financing Districts (EIFD) law. It allows EIFDs to receive sales and use and transaction and use taxes to finance affordable housing, and the infrastructure to serve that housing, in infill areas, as agreeable to parties involved.

SB 35	**WIENER**	**DEVELOPER OPTION FOR A MINISTERIAL APPROVAL PROCESS FOR HOUSING**	**POSITION: AMEND**

This bill requires cities and counties to offer to developers a new ministerial approval process for developments that meet certain conditions, including inclusionary units and prevailing wage, if a local agency does not "meet" its RHNA by income level. The bill also adds new requirements to the annual report, including the number of units entitled. Although we are supportive of streamlined housing approvals, this bill unfortunately imposes consequences on a city or county based on actions beyond their control and that can only be completed by the developer. Our organizations believe that the trigger for the ministerial approval process should be based on the number of entitled and approved applications, a process that a local agency controls, rather than building permits, which a developer will not pull until they are ready to construct a project entitled by a local government. Additionally, a "safe harbor" for pro-housing communities must be included in SB 35 so that these communities are not punished for actions/circumstances they do not control.

SB 166	SKINNER	MANDATED CONTINUOUS REZONINGS OF HOUSING SITES AND WITHOUT ABILITY TO COMPLY WITH CEQA	POSITION: AMEND

This bill would mandate that cities and counties implement a rolling adequate sites and rezoning requirement by income level, rather than total units. Although we agree that no jurisdiction should be left with only a few or no sites that can accommodate affordable housing by the end of the housing element planning period, the remedy of continuous rezonings is an extremely onerous requirement for cities and counties -- there aren't enough subsidies to build on 100% of sites designated for affordable housing and the HAA prevents jurisdictions from denying a market-rate housing project proposed on a site that is designated for affordable housing – a Catch 22. We have asked for two amendments:

- **Provide the option of less onerous alternatives to the continuous rezonings** by allowing cities and counties to rezone sites designated as suitable for affordable housing just once in the planning period, in year 4, if the number of sites that can accommodate affordable housing goes below 50% of the RHNA, or require market rate multi-family housing approved on affordable sites to include an inclusionary requirement similar to that in former RDA law.
- **For rezonings that are subject to CEQA, the 180-day rezoning time limit should be extended** by the number of days, if any, required by CEQA. The 180-day time period to complete the rezoning is too short to accommodate any necessary review of CEQA.

SB 540	**ROTH**	**WORKFORCE HOUSING OPPORTUNITY ZONES TO STREAMLINE HOUSING APPROVALS**	**POSITION: SUPPORT**

This bill would streamline the housing approval process by authorizing a city or county to establish a Workforce Housing Opportunity Zone (WHOZ) by preparing an EIR and by adopting a specific plan. Once a WHOZ is established, and for five years thereafter, the bill will substantially streamline development and provide certainty for developers by requiring approval of eligible housing developments within a WHOZ within 60 days without requiring the preparation of an EIR or negative declaration under CEQA. Requires at least 50% of total housing units within a WHOZ to be affordable to persons or families at or below moderate income.

THE APA, THE LEAGUE, AND CSAC SUPPORT SB 2 AND SB 3:

SB 2	**ATKINS**	**PERMANENT SOURCE OF AFFORDABLE HOUSING FUNDING AND FUNDING FOR PLANNING THROUGH A DOCUMENT FEE ON NON-HOUSING TRANSACTIONS**	**POSITION: SUPPORT** ***NOTE: RCRC AND UCC DO NOT HAVE A POSITION ON THIS MEASURE***

This bill would provide a permanent source of funding of about $225 million per year for affordable housing, a portion of which will be available to use for local planning to accelerate housing production.

SB 3	**BEALL**	**HOUSING BOND FOR AFFORDABLE HOUSING**	**POSITION: SUPPORT** ***NOTE: RCRC AND UCC DO NOT HAVE A POSITION ON THIS MEASURE***

This measure would authorize a $3 billion general obligation bond for housing, which would go to voters for approval in 2018.

For questions please contact Sande George, APA California, sgeorge@stefangeorge.com; Jason Rhine, League, jrhine@cacities.org; Kiana Valentine, CSAC, kvalentine@counties.org; Tracy Rhine, RCRC, TRhine@rcrcnet.org ; Jolena Voorhis, Urban Counties, Jolena@UrbanCounties.com.

LEGISLATION & TITLE	AUTHOR & CHAPTER #	NEW REQUIREMENTS
Statutes of 1999		
AB 1505: Farmworker Housing	Ducheny Ch. 967	• Requires local general plans' housing elements to identify adequate sites with public services and facilities for housing for agricultural employees to meet the city or county's regional share of farmworker housing. • Prescribes additional criteria relative to the time period for approving or disapproving housing for agricultural employees.
SB 948: Affordable Housing Developments	Alarcon Ch. 968	• Makes changes to (a) state housing element law, (b) anti-NIMBY law, (c) density bonus law, (d) the Permit Streamlining Act. • Clarifies that a party challenging the adequacy of a housing element may file suit within 60 days of Chad's review or after providing the jurisdiction 60 days to correct the cited deficiencies. • Tightens up the findings that a city or county must make in order to deny an affordable housing project as follows: 1. Defines specific adverse impact to mean a significant, quantifiable, direct, and unavoidable impact based on objective, identified written public health or safety standards policies or conditions as they existed on the date the application was deemed complete. 2. Provides that the project must be inconsistent with both the general plan and the zoning ordinance. • Further defines what it means to "disapprove the development project" and requires the court to issue an order or judgment if the local governmental body disapproves the project without making "sufficient findings supported by substantial evidence." The court shall retain jurisdiction to ensure compliance and, if after 60 days, the order is not carried out, the court can take further action. • Requires the local government to grant the density bonus without approval of a general plan amendment, zoning change, or other discretionary approval.
Statutes of 2001		
AB 369: Affordable Housing Development: Attorney's Fees	Dutra Ch. 237	• Requires a court to award attorney's fees and cost of suit to a developer if the court determines that a local agency disapproved housing for very low, low- or moderate-income families or imposed conditions that made the development infeasible without making sufficient findings based on substantial evidence. • Allows a court to make the determination that the award of attorney's fees and costs of suit would not further the purposes of the state's anti-not in my back yard (NIMBY) law and in that case should not be awarded to a plaintiff.

SB 520: Planning and Zoning: Discrimination	Chesbro Ch. 671	• Adds to the list of prohibited housing discrimination and requires the housing element of a general plan to consider housing needs for persons with disabilities: 1. Adds "familial status and disability" to the list of prohibited discrimination by a local government entity if it results in denial or hindrance of access to housing. 2. Adds "persons with disabilities" to the requirement of an analysis of special needs housing as required by housing element law. 3. Adds "familial status" and "disability" to the groups for which housing opportunities shall be promoted by the local housing element. • Clarifies the existing law requirement that the housing element of a local general plan shall address and seek to remove constraints to the development of housing for all income levels and housing for persons with disabilities. • Provides that the program shall remove constraints or provide reasonable accommodations for housing for persons with disabilities.
Statutes of 2002		
AB 1721: Farmworker Housing	Soto Ch. 147	• Prohibits a local agency from denying farmworker housing affordable to low- and moderate-income households without making written findings based upon substantial evidence. • Prohibits a local agency from using design review standards to deny a housing development for low- or moderate-income households.
AB 1866: Density Bonus	Wright Ch. 1062	• Specifies that an application for a second unit shall be considered ministerially without discretionary review or a hearing. • Provides that cities and counties shall not be required to adopt or amend an ordinance for the creation of second units. • Decreases the percentage of moderate-income units from 50% to 20% to trigger density bonus eligibility in a condominium project. • Clarifies the requirement that the city or county grant the concession or incentive unless they make a written finding that either: a) The concession or incentive is not required to provide for affordable housing; or, b) The concession would have an adverse impact upon the health and safety or environment or on any property listed in the California Register of Historical Resources, unless there is a feasible way to mitigate the adverse impact without making the development unaffordable to low- or moderate-income households. • Clarifies that all density calculations that result in fractional units shall be rounded up to the next whole number.

SB 1468: General Plans: Military Bases	Knight Ch. 971	• Requires the land use element to consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land or other territory adjacent to those military facilities, or underlying designated military aviation routes and airspace. • Requires the circulation element to consist of the general location and extent of existing and proposed military airports and ports • Provides that a city or county is not required to comply with these provisions until a specified agreement is entered into between the federal government and the state to fully reimburse all claims approved by the Commission on State Mandates and paid by the Controller that cities and counties would be eligible to file as a result of the enactment of this bill and until the city's or county's next general plan revision. This bill makes these provisions inoperative on the January 1 following the date that this agreement is terminated.
Statutes of 2003		
AB 1192: No Net Loss	Dutra	• Requires that that a local government is solely responsible for compliance with the existing requirement to identify adequate sites to ensure no net loss in residential unit capacity subsequent to a downzoning except when a project applicant makes specified requests in an initial application. • States that the intent of this section of the Government Code is to require a city, county, or city and county be solely responsible for compliance with its provisions. • Prohibits the section from being construed to require changes in zoning designations for a specific parcel or general plan residential density designations. • Prohibits the section from being construed to change a local jurisdiction's zoning or parcel plan description or impose a new minimum density standard for any parcel. • Prohibits the section from being construed to apply to parcels that were subject to a development agreement or for which an application for a subdivision map had been submitted prior to January 1, 2003.

SB 619: Housing	Ducheny Ch. 793	• Prohibits discrimination against multifamily housing in zones designated for multifamily housing. • Requires multifamily residential housing to be permitted, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least 10% of the units are available to very low - income households, or at least 20% of the units are available to lower income households, or at least 50% of the units are available to moderate-income households, for a period of at least 30 years if either of the following: a) It meets all of the criteria provided in SB 1925 (Sher), Chapter 1039, Statutes of 2002 relating to "in-fill" housing development; or, b) The project meets all of the following: i. The project is subject to a discretionary decision other than a conditional use permit and a negative or mitigated negative declaration has been adopted for the project under the CEQA following a public hearing; ii. The project is consistent with both the jurisdiction's zoning ordinance and general plan; iii. The project is located in an area that is covered by a general plan, revised general plan, community plan, or specific plan; iv. The project is 100 units or less with a minimum density of not less than 12 units per acre; v. The project is located in an "urbanized area" as defined in existing law, or an area with a population density of at least 5,000 persons per square mile, or if the project consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons; and vi. The project is located on an "infill" site as defined in existing law. • Allows a local agency to apply design and site review standards in existence at the time the development application was deemed complete. • Specifies that a court may award attorney's fees and costs to a prevailing nonprofit housing corporation (i.e., that is the real party in interest and the housing permit applicant) in an action against a local government to enjoin, or obtain a writ of mandate relative to, the carrying out or approval of a housing development where the court makes certain findings.
Statutes of 2004		
AB 2158: Housing Element: Regional Housing Need	Lowenthal Ch. 696	• Requires the regional housing needs plan to be consistent with increasing the mix of housing types and equitable distribution of allocations for low- and very-low income households, promoting infill development, promoting jobs-housing balance, and avoiding disproportionate allocation of housing need for a particular income level. • Exempts the determinations made by HCD, a COG, or a city or county from the CEQA.

		• Authorizes two or more cities and a county or counties to form a subregional entity for the purpose of allocation of the subregion's housing need. • Prohibits any ordinance, policy, voter-approved measure that directly or indirectly limits residential building permits from serving as a justification for a reduction in the jurisdiction's allocation. • Requires each COG to distribute a draft allocation to its member jurisdictions at least 18 months prior to the next scheduled housing element revision, authorizes any local government or subregion to request a revision of its share of the allocation within 60 days of receipt, requires a COG to act on the request within 60 days of receipt from the local government, and provides for an appeals process if a COG does not accept the request. • Creates a RHNA process for cities and counties without a COG in which HCD takes on the substantive role of a COG for purposes of RHNA. • Creates a mechanism for reallocation of RHNA shares in the event of the incorporation of a new city.
AB 2348: Housing Element: Regional Housing Need	Mullin Ch. 724	• Revises the criteria for the inventory of sites that can be developed for housing within the planning period of the general plan to accommodate that portion of a city's or county's share of the regional housing need for all income levels, and expands the relocation assistance available to persons displaced by sites identified for substantial rehabilitation. • Revises the requirements that may be imposed on a development project that contributes to meeting the regional housing need. • Allows a city, county, or city and county to reduce its share of the regional housing needs by 15% for each income group under prescribed conditions. • Specifies that "use by right," as defined, does not exempt any subdivision of the relevant sites from local ordinances implementing the Subdivision Map Act.
SB 1818: Density Bonus	Hollingsworth Ch. 928	• Lowers the number of housing units required to be provided at below market rate in order to qualify for a density bonus as follows: a) From 20 percent to 10 percent of the total units of a housing development, for lower income households. b) From 10 percent to five percent of the total units of a housing development, for very low income households. c) From 50 percent of the total units for seniors to any senior citizen housing development as allowed under existing law. From 20 percent to 10 percent of the units in a condominium development, for moderate-income households. • Lowers the density increase from 25 percent to 20 percent for low, very low or senior housing and lowers to five percent for moderate income, with respect to the number of extra units that may be included over the otherwise maximum allowable residential density under the local zoning ordinance. • Requires that the density bonus increase incrementally according to the following.

		a) For each one percent increase above 10 percent for lower income households, the density bonus shall increase by 1.5 percent to a maximum of 35 percent. b) For each one percent increase above five percent for very low income households, the density bonus shall increase by 2.5 percent to a maximum of 35 percent. c) For each one percent increase above 10 percent for moderate-income households, the density bonus shall increase by one percent to a maximum of 35 percent. • Requires local governments to provide a developer the following number of incentives or concessions if below market rate units are included within the project: a) One incentive or concession if the project includes at least 10% of the total units for low-income, or five percent very low-income, or 10 percent for moderate-income households. b) Two incentives or concessions if the project includes at least 20 percent of the total units for low-income, or 10 percent very low-income, or 20 percent for moderate-income households. c) Three incentives or concessions if the project includes at least 30 percent of the total units for low-income, or 15 percent very low-income, or 30 percent for moderate-income households. • Requires that the local government ensure that the initial occupants of the moderate-income units are actually moderate income. • Provides that the local government shall recapture its proportionate share of appreciation, which shall be used within three years for promotion of affordable homeownership. • Provides a 15 percent density bonus to the developer of any market rate housing project who donates land to a local government that could accommodate housing for very low income households equal to at least 10 percent of the number of units in the market rate development. • Provides that to be eligible for the bonus allowed above, all of the following conditions must be met a) The applicant must donate and transfer the land no later than the approval of the final subdivision map, parcel map or development application. b) The land being donated is suitable to accommodate at least 10% of the number of residential units of the proposed development. c) The transferred land is at least one acre or can accommodate 40 units, has the appropriate general plan designation, is appropriately zoned for affordable housing, can be served by infrastructure, and the land has all the necessary permits and approvals. d) The land is subject to deed restrictions ensuring continued affordability. e) The land is donated to the local agency or to a housing developer approved by the local agency. f) The transferred land shall be either within the boundary or _ mile of the proposed development. • Requires that incentives or concessions offered by the local government result in identifiable,

		financially sufficient, and actual cost reductions. • Clarifies that local governments may still grant density bonuses greater or lower than what is provided under these provisions. • Provides that, upon the developer's request, the local government may not require parking standards greater than the following (the developer may, however request additional parking incentives or concessions): a) Zero to one bedrooms: one onsite parking space. b) Two to three bedrooms: two onsite parking spaces. c) Four or more bedrooms: two and one-half parking spaces.

Statutes of 2005		
AB 1233: Housing Element: Regional Housing Need	Jones Ch. 614	• Requires, for housing elements due on or after January 1, 2006, that, for purposes of making the assessment and inventory for meeting the locality's share of the regional housing need for the new planning period, if the locality in the prior planning period failed to identify or make available adequate sites to accommodate that portion of the regional housing need allocated, then the locality shall, within the first year of the planning period of the new housing element, zone or rezone adequate sites to accommodate the unaccommodated portion of the regional housing need allocation from the prior city or county's share of the regional housing need shall include that portion of the share from the prior planning period that remains unmet due to the city's or county's failure to zone or rezone within the prior planning period.
SB 326: Land Use: Housing Elements	Dunn Ch. 598	• Expands existing law to provide that any attached housing development is a permitted use not subject to a conditional use permit in a residential zone if various criteria are met. • Reduces the density requirement from 12 units per acre to eight units per acre if the attached housing development contains four or fewer units. • Excludes second units and condominium conversions of existing residential units from the definition of attached housing development. • Specifies the provisions of the bill apply to charter cities.
SB 1087: Housing Element: Services	Florez Ch. 727	• Requires public agencies and private entities that provide "municipal and industrial" (including residential) water or sewer services or connections to adopt a written policy with "specific objective standards" for allocation of water and sewer services to affordable housing developments. • Prohibits such water service agencies or entities from denying, conditioning approval, or reducing the amount of water service to new service applicants (i.e., housing developers) based on inclusion of affordable housing in the project, unless the agency or entity makes specific written findings of necessity based on one or more of the following: a) Insufficient water supply, as defined by existing statutes. b) State Department of Health Services prohibition of new water connections. c) Insufficient water treatment or collection capacity, based on a written engineering analysis and report. d) Regional water quality control board prohibition on new sewer connections. e) Applicant's failure to agree to reasonable terms and conditions, such as compliance with local, state or federal laws and regulations or payment of a fee or charge.

SB 435: Housing: Density Bonus	Hollingsworth Ch. 496	• Clarifies that the percentage of affordability for purposes of determining the applicable density bonus is calculated by dividing the number of affordable units by the total number of units before any density bonus is applied. • Alters the density bonus for moderate-income units by expanding it to all common interest developments, as opposed to just condominium or planned developments, but also by requiring that the units be for sale as opposed to rented by the developer. • Clarifies that upon resale of a moderate-income unit, the local government shall recapture both the initial subsidy and a proportionate share of appreciation, unless in conflict with another funding source or law. • Clarifies that a local government must grant incentives and concessions only to applicants for a traditional density bonus, not to applicants for a land donation density bonus.
Statutes of 2006		
AB 2511: Land Use: Housing	Jones Ch. 888	• Extends existing anti-discrimination provisions by prohibiting a local government agency from discriminating in its planning and zoning activities against persons or families of very low-income. • Prohibits a city, county, or other local government agency from disapproving a housing development project or conditioning the approval of a housing development project in a manner that renders the project infeasible if the basis for the disapproval or conditional approval includes forms of discrimination prohibited by the Planning and Zoning Law. • Requires a local entity to approve or disapprove a development project within 90 days if at least 49% of the units are affordable to very low- or low-income households. • Prohibits a local government agency from disapproving a housing development project or conditioning its approval in a manner that renders the project infeasible, if the basis for the disapproval or condition includes a form of discrimination.

AB 2634: Housing Elements	Lieber Ch. 891	• Requires that the analysis of population and employment trends and quantification of a city or county's existing and projected housing needs for all income levels in the housing element of its general plan shall include extremely low-income households, defined as those earning no more than 30% of the median income. • Specifies that local agencies shall calculate the subset of very low-income households that qualify as extremely low-income households by either using available census data to calculate the percentage of very low-income households that qualify as extremely low- income households or presuming that 50% of the very low-income households qualify as extremely low-income households. • Specifies that the required analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing include multifamily rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single room occupancy or efficiency units, emergency shelters, and transitional housing. • Adds "single room occupancy or efficiency units" to the types of housing for which sites are to be identified to accommodate a city or county's share of the regional housing need that could not be accommodated in its inventory of land suitable for residential development. • Requires that, except as otherwise provided, amendments to housing element law that alter the required content of a housing element shall apply to both of the following: a) A housing element or housing element amendment timely prepared pursuant to statutory requirements for periodic housing element revisions, when a city, county, or city and county submits a draft to the HCD for review pursuant to Government Code Section 65585 more than 90 days after the effective date of the amendment; and b) Any housing element or housing element amendment prepared pursuant to statutory requirements for periodic housing element revisions, when the city, county, or city and county fails to submit the first draft to HCD before the due date specified for the revision.

Statutes of 2007		
AB 162: **Land Use:** **Water Supply**	Wolk Ch. 369	• Add 200-year floodplain maps and maps of levee protection zones to the list of information regarding flood hazards to be identified in a revised safety element of a general plan. • Authorizes a council of governments (COG) or, for cities and counties without a COG, the HCD to exclude from its determination of available land suitable for urban development lands where FEMA or the DWR has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding. • Requires the mandatory land use element of a general plan to identify and annually review those areas covered by the general plan that are subject to flooding as identified by floodplain mapping prepared by FEMA or DWR. • Requires, upon the next revision of the mandatory housing element, on or after January 1, 2008, the mandatory conservation element of a general plan to identify rivers, creeks, streams, flood corridors, riparian habitat, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management. • Requires, upon the next revision of the housing element, on or after January 1, 2008, the mandatory safety element of a general plan to identify, among other things, information regarding flood hazards and establish a set of comprehensive goals, policies, and objectives, based on specified information for the protection of the community from, among other things, the unreasonable risks of flooding. • Requires a local planning agency, upon each revision of the housing element, to review, and if necessary, to identify new information that was not available during the previous revision of the safety element.

AB 1019: **Land Use:** **Annexation:** **Housing**	Blakeslee Ch. 165	• Creates a process for reallocating a county's share of the regional housing need to a city in the event that unincorporated land is annexed to the city. • Specifies that if the annexed land was subject to a development agreement that was entered into by the city and a landowner prior to January 1, 2008, the revised housing needs determination shall be based upon the number of units allowed by the development agreement. • States that no revised determination of housing needs shall be made if all of the following apply: a) The annexed land was within the city's sphere of influence when the council of governments (COG), or the Department of Housing and Community Development (HCD) in areas where there is no COG, allocated the regional housing need; b) The COG or HCD certifies that the annexed land was fully incorporated into the methodology for determining the city's share of the regional housing need; and c) The annexed land is the same as the area that was incorporated into the methodology. • Specifies that in the event unincorporated land is annexed to a city after the COG, and HCD in areas without a COG, has adopted its final housing needs allocation plan, the city and county may reach a mutually acceptable agreement on a revised determination for their share of the regional housing need and report the revision to the COG and HCD. • States that if the city and county cannot reach a mutually acceptable agreement, either party may request that the COG, or HCD in areas without a COG, consider the facts, data, and methodology presented by both parties and make the revised determination. • Specifies that the revised determination shall reallocate a portion of the affected county's share of regional housing needs, if appropriate, to the annexing city. • States that the revised determination shall neither reduce the total regional housing needs nor change the previous allocation of the regional housing needs to other cities within the affected county.

SB 2: **Local Planning**	Cedillo Ch. 633	• Requires cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit, and requires cities and counties to treat transitional and supportive housing projects as a residential use of property. • Requires cities and counties to treat transitional and supportive housing projects as residential use of property, and delete the requirement requiring local agencies to designate zones where special needs facilities and transitional housing are a permitted use, either by right or subject to a conditional use permit. • Requires cities and counties to identify in their housing elements a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit. • Specifies that the identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter. • Requires that each local government identify a zone(s) that can accommodate at least one year-round emergency shelter. • Specifies that if the local government cannot identify a zone(s) with sufficient capacity, the local government shall include a program to amend its zoning ordinance to include such a zone(s) within one year of the adoption of the housing element. • Allows the local government to identify additional zones where emergency shelters are permitted with a conditional use permit. • Requires the local government to demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of emergency shelters. • States that emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone, except that a local government may apply written, objective standards that include all of the following: a) The maximum number of beds or persons permitted to be served nightly by the facility. b) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone. c) The size and location of exterior and interior onsite waiting and client intake areas. d) The provision of onsite management. e) The proximity to other emergency shelters, provided that emergency shelters are not required to by more than 300 feet apart. f) The length of stay. g) Lighting. h) Security during hours that the emergency shelter is in operation. • Specifies that the application of the permit processing, development, and management standards is

		not a discretionary act under the California Environmental Quality Act (CEQA). • Allows a local government that can demonstrate to the satisfaction of the HCD the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate its need for emergency shelter to comply with the zoning requirements of the bill by identifying a zone(s) where new emergency shelters are allowed with a conditional use permit. • Specifies that a local government with an existing ordinance or ordinances that comply with the requirements of the bill must describe in its housing element how the existing ordinances, policies, and standards comply but do not have to take additional action to identify zones for emergency shelter. • Requires the housing element's analysis of governmental constraints on housing to also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for supportive housing, transitional housing, and emergency shelter. • Specifies that transitional housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. • Requires local governments to assess the need for emergency shelter based on annual and seasonal need. • Allows local governments to reduce the need for emergency shelter by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period. • Specifies that the Housing Accountability Act does not prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies, as long as the standards, conditions, and policies are applied to facilitate and accommodate the development of the shelter.

Statutes of 2008		
SB 375: Sustainable Communities	Steinberg Ch. 728	• Establishes an Eight Year Planning Period in Non-Attainment Regions. Local governments within a region classified as "non-attainment" under the Clean Air Act and local governments within a region that has elected to adopt an RTP every four years are required to revise their housing element every eight years (instead of the current 5 years). All other local governments remain on the five-year schedule. Local governments in non-attainment areas are required to adopt their fifth revision of the housing element no later than 18 months after the adoption of the first RTP adopted after September 30, 2010. Local governments that have elected to adopt the RTP every four years are required to adopt their next housing element 18 months after the adoption of the first RTP following the election. • Timeline for RHNA Allocation and the Housing Element. In areas where the 8-year planning period applies, the MPO will allocate the RHNA number to the individual cities and counties at approximately the same time it adopts the RTP (which includes the requirement that the SCS must accommodate the 8 year RHNA allocation). Once the city or county receives its RHNA allocation, it has 18 months to prepare its housing element and submit it to the Department of Housing and Community Development (HCD). • Consequence of Failing to Submit a Timely Housing Element. Local agencies that fail to submit a housing element to HCD within the 18 month timeline fall out of the 8-year housing element cycle and must submit their housing element every four years to HCD. These agencies must still complete their zoning within three years and 120 days of the deadline for adoption of the housing element of or be subject to the sanctions provision described below. • Timeline to Re-Zone Sites to Meet RHNA Need. Each housing element includes an inventory that identifies sites to accommodate the jurisdiction's RHNA. Jurisdictions with an 8-year housing element must rezone sites to accommodate that portion of the RHNA not accommodated in the inventory no later than three years after the date the housing element is adopted or the date that is 90 days after receipt of the department's final comments, whichever is earlier. Rezoning of the sites includes adoption of minimum density and development standards. A local agency that cannot meet the 3-year requirement may be eligible for a 1-year extension if it can prove that it has completed 75 percent of its zoning requirement and was unable to rezone for one of the following reasons: 1) because of an action or inaction beyond the control of the local agency; 2) because of infrastructure deficiencies due to fiscal or regulatory restraints; or 3) because it must undertake a major revision to its general plan in order to accommodate the housing related policies of an SCS or APS. • Scheduling Actions Required by the Housing Element Program. Current law also requires a housing

element to include a program of actions that the local agency intends to undertake during the planning period to encourage that the needs of all economic segments of the community will be met. SB 375 requires local agencies to develop a schedule and timeline for implementation as to when specific actions will have "beneficial impacts" within the planning period.

- Public Hearing for HCD Annual Report. Local governments must now hold a public hearing and provide an annual report on the progress made during the year on the programs within the housing element. This requirement to make this report on an official form approved by HCD has been in the law since 1995, but has not been officially applicable because HCD has not yet finalized the form under the administrative rulemaking process.
- Extension of Anti-NIMBY for Affordable Housing Projects. SB 375 extends a strict anti-NIMBY law protection (now called the Housing Accountability Act) for housing development projects, which are defined as projects where at least 49 percent of the units are affordable to families of lower- income households. (In most circumstances, a development that meets the 49 percent threshold is a development where 100 percent of the units are affordable to lower-income households.) The new anti-NIMBY provision applies to an agency's failure to zone a site for low- and very low-income households within the three year time limit (four years if an agency qualifies for an extension). If an affordable project is proposed on that site and the project complies with applicable, objective general plan and zoning standards, including design review standards, then the agency may not disapprove the project, nor require a conditional use permit, planned unit development permit, or other discretionary permit, or impose a condition that would render the project infeasible, unless the project would have a specific, adverse impact upon the public health or safety and there is no feasible method to satisfactorily mitigate or avoid the adverse impact.
- Potential "Sanctions" for Failing to Meet Zoning Timeline. Any interested person may bring an action to compel compliance with the zoning deadline and requirements for the new 8-year housing element. If a court finds that a local agency failed to complete the rezoning, the court is required to issue an order or judgment, after considering the equities of the circumstances presented by all parties, compelling the local government to complete the rezoning within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out, the court is required to issue further orders to ensure compliance and may impose sanctions on the local agency, but must consider the equities presented by all affected parties before doing so.
- Adoption or Self Certification of Housing Element Remains the Same. Although SB 375 changed the housing element planning period from 5 years to 8 years for some jurisdictions, and added time frames for completing certain actions which must be taken during the planning period, SB 375 did not change either the way in which the housing element is adopted except to the extent that the regional housing allocation plan must be consistent with the SCS. Self-certification of the housing

		element remains an option (and triggers the three year requirement to zone).
Statutes of 2009		
SB 575: Local Planning: Housing Element	Steinberg Ch. 354	• Revises timelines for the adoption of the fifth revision of the housing element by specified local governments, provides for timelines for subsequent housing element revisions. • Requires all local governments within the regional jurisdiction of the San Diego Association of Governments (SANDAG) to adopt the fifth revision of the housing element no later than 18 months after adoption of the first regional transportation plan update after September 30, 2010. • Specifies, for the fifth revision, that a local government within the jurisdiction of SANDAG that has not adopted a housing element for the fourth revision by January 1, 2009, shall revise its housing element not less than every four years. • Provides, that if a local government does not adopt a housing element within 120 days of the applicable deadlines, the local government shall be subject to a housing element revision cycle of not less than every four years until the local government has adopted two consecutive revisions by the statutory deadline. • Clarifies that the deadline for completing required rezoning shall be extended by one year if the local government has completed the rezoning at densities sufficient to accommodate at least 75 percent of the units for low- and very-low income households (current law references "sites" instead of "units"). • Specifies, for the fifth revision, that a local government within the jurisdiction of the San Diego Association of Governments that has not adopted a housing element for the fourth revision by January 1, 2009, shall revise its housing element not less than every four years, unless the local government does both of the following: a) Adopts a housing element for the fourth revision no later than March 31, 2010, which is in substantial compliance with this article; and, b) Completes any rezoning contained in the housing element program for the fourth revision by June 30, 2010. • Provides, for subsequent revisions, that if a local government does not adopt a housing element within 120 days of the applicable deadlines, the local government shall be subject to a housing element revision cycle of not less than every four years until the local government has adopted two consecutive revisions by the statutory deadline. • Provides, if necessary, that the local government shall adopt three consecutive four-year revisions by the statutory deadline to ensure that when the local government adopts its next housing element covering an eight-year planning period, it does so at the deadline for adopption for other local governments within the region also covering an eight-year planning period. • Requires that the MPO or regional transportation planning agency for a region that has an eight-

		year revision interval notify HCD and the Department of Transportation (DOT) in writing of the estimated adoption date for its next RTP at least 12 months prior to the estimated adoption date. • Requires that the regional housing need for the new projection period begins on the date of December 31 or June 30 that most closely precedes the end of the previous projection period.
Statutes of 2011		
SB 244: Disadvantaged Communities	Wolk Ch. 513	• Requires cities, counties, and local agency formation commissions (LAFCOs) to plan for disadvantaged communities. • Prohibits, in specified circumstances, a LAFCO from approving an annexation to a city of any territory greater than 10 acres, or as determined by LAFCO policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer. Specifies that an application to annex a contiguous disadvantaged community is not required if either of the following apply: a) A prior application for annexation of the same disadvantaged community has been made in the preceding five years; or, b) The LAFCO finds, based upon written evidence, that a majority of the residents within the affected territory are opposed to annexation. • Requires the LAFCO, in determining the sphere of influence of each local agency, to additionally consider, for a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence, beginning with the next sphere of influence update on or after July 1, 2012. • Requires the LAFCO, in the written statement of its determinations for a municipal service review to additionally consider the following: a) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence; and, b) Present and planned capacity of public facilities and adequacy of public services, and deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the agency's proposed sphere of influence. • Requires, on or before the due date for the next adoption of its housing element, each city or county to review and update the land use element of its general plan to include all of the following: a) In the case of a city, an identification of each unincorporated island or fringe community,

		within the city's sphere of influence; b) In the case of a county, an identification of each legacy community within the boundaries of the county, but not including any area within the sphere of influence of any city; c) Requires that the identification include a description of the community and a map designating its location; d) For each identified community, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies; and, e) An analysis, based on then existing available data, of benefit assessment districts or other financing alternatives that could make the extension of services to identified communities financially feasible. • Requires, on or before the due date for each subsequent revision of its housing element, each city or county to review, and if necessary amend, its general plan to update the analysis, as specified.
Statutes of 2013		
AB 325: Land Use Planning: Cause of Action: Time Limitations	Alejo Ch. 767	• Revises the time limits for a party to initiate a challenge to certain city or county actions, including the adoption or amendment of a housing element, if the challenge is brought "in support of or to encourage or facilitate the development of housing that would increase the community's supply of [affordable] housing." • Provided that an entity initiating a challenge in support of affordable housing to certain city or county actions may serve a deficiency notice as follows: a) For a challenge to the adoption or revision of a housing element that HCD has found to substantially comply with the requirements of Housing Element Law, the deficiency notice may be served up to 270 days after the city's or county's action to revise or adopt. b) For a challenge to the adoption or revision of a housing element that HCD has not found to substantially comply with the requirements of Housing Element Law, a city or county action related to the Least Cost Zoning Law, annual limits on housing permits, or the adoption or revision of a density bonus ordinance, the deficiency notice may be served up to three years after the city's or county's action. • Provided that after 60 days or the date on which the city or county takes final action in response to the deficiency notice, whichever occurs first, the challenging party has the following time limits for filing an action in court: a) For a challenge to a housing element that HCD has found to substantially comply with the requirements of the law, six months. b) For all other challenges, one year. • Provided that after 60 days or the date on which the city or county takes final action in response

		to the deficiency notice, whichever occurs first, the challenging party has the following time limits for filing an action in court: a) For a challenge to a housing element that HCD has found to substantially comply with the requirements of the law, six months. b) For all other challenges, one year. • Removed from the current list of city or county actions that a party may challenge pursuant to the notice and accrual provision described above those actions related to the Housing Accountability Act, the Subdivision Map Act, and the application of a Density Bonus ordinance to a particular project, all of which are project-specific actions. • Clarified that in any action brought pursuant to the notice and accrual provisions described above, no legal remedy or injunction shall abrogate, impair, or otherwise interfere with the full exercise of the rights and protections granted to an applicant for a tentative map or a vesting tentative map under specified provisions of the Subdivision Map Act or to a developer under a specified provision relating to development agreements. • Provided that a housing element from a prior planning period may not be challenged if the city or county has adopted housing element for the new planning period. • Provided that if a third party challenges the adequacy of a housing element in court and the court finds that the housing element substantially complies with all of the requirements of housing element law, the element shall be deemed to be in compliance for purposes of state housing grant programs.
Statutes of 2014		
AB 1690: Local Planning: Housing Elements	Gordon Ch. 883	• Authorizes a city or county, when it fails to identify adequate sites in its housing element and must adopt a rezoning program, to accommodate all of its very low- and low-income housing need on sites designated for mixed uses only if those sites allow 100% residential use and require at least 50% residential floor area of a mixed-use project.
AB 2135: Surplus Land: Affordable Housing	Ting Ch. 677	• Amends the procedure for the disposal of surplus land by local agencies and expands the provisions relating to the prioritization of affordable housing development if the surplus land will be used for residential development. • Increases the time a local agency has to conduct good faith negotiations with certain types of entities desiring to purchase or lease surplus land from 60 days to 90 days. • Provides that, in the event that any local agency disposing of surplus land receives offers for the purchase or lease of that land from more than one notified entity, the local agency must give first priority to the entity that agrees to make available at least 25% of the units in the development at an affordable housing cost to low-income households, subject to exceptions relating to land used or designated for park and recreational use. In addition, the following

		requirements must be recorded against the property and are enforceable by the local agency or eligible residents: a) Affordable rental units must remain affordable and occupied by eligible households for 55 years. b) Affordable ownership units must be subject to an equity sharing agreement. • Provides that, if more than one notified entity agrees to make available at least 25% of the units in the development at an affordable housing cost to low-income individuals, then the local agency must give priority to the entity that proposes to provide the greatest number of affordable units at the deepest level of affordability. • Provides that, if the local agency does not agree to price and terms with a notified entity and the surplus land is developed with 10 or more residential units, at least 15% of the units in the development must be at an affordable housing cost to low-income households. In addition, the following requirements must be recorded against the property and are enforceable by the local agency or eligible residents: a) Affordable rental units must remain affordable and occupied by eligible households for 55 years. b) Affordable ownership units must be subject to an equity sharing agreement. • Provides that the payment period for surplus land sold for housing for person and families of low- and moderate-income may exceed 20 years, but the payment period shall not exceed the term that the land is required to be used for low- or moderate-income housing.
AB 2222: Housing: Density Bonus	Nazarian Ch. 682	• Prohibits an applicant from receiving a density bonus unless the proposed housing development or condominium project would, at a minimum, maintain the number and proportion of affordable housing units within the proposed development. • Prohibits an applicant from receiving a density bonus or any other incentives or concessions if a proposed housing development or condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, been: a) Occupied by very low- or low-income households; b) Subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of very low- or low-income; or c) Subject to any other form of rent or price control through a public entity's valid exercise of its police power. • Provides that a developer may overcome the above prohibition if the proposed housing development or condominium project would replace the existing affordable units with at least the same number and type of affordable units and either of the following applies: a) For mixed-income housing, the development must include additional affordable units at the percentage required by existing density bonus law, inclusive of the units replaced pursuant to

		this bill; or, b) For 100% affordable developments all units, except for the manager's unit or units, are occupied by either very low- or low- income households. • Provides that rental replacement units must be subject to a recorded affordability restriction for at least 55 years. • Increases the affordability requirement of all very low- and low-income rental units that qualified an applicant for a density bonus from 30 years or longer to 55 years or longer. • Provides that affordable ownership units that qualify a development for a density bonus must be subject to an equity sharing agreement, as opposed to a resale restriction. • Clarifies that, other than through the incentive or concession provisions under density bonus law, the granting of a density bonus does not require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards. • Provides that this bill does not apply to applicants for density bonuses with applications submitted to, or processed by, a local government before January 1, 2015.
Statutes of 2015		
AB 744: Density Bonus	Chau Ch. 552	• Requires a local government, upon the request of a developer that receives a density bonus, to reduce the minimum parking requirements for a housing development, if it meets specified criteria. • Provides that if a development is 100% affordable to lower income families then upon the request of a developer, a city, county, or city and county, shall reduce the minimum parking requirements for the development, as follows: a) If the development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit. b) If the development is a for-rent housing development for individuals who are 62 years of age or older, the ratio shall not exceed 0.5 spaces per unit. The development must have either paratransit service or have unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day. c) If the development is a special needs housing development, the ratio shall not exceed 0.3 spaces per unit. The development must have either paratransit service or have unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day. • Provides that when a developer agrees to include the maximum number of very low- or low-income units under Density Bonus Law, and the development is within one-half mile of a major transit stop and with unobstructed access to the major transit stop from the development, then upon the request of the developer a city, county, or city and county shall not impose a parking

		ratio that exceeds 0.5 spaces per bedroom. • Requires the above specified parking ratios to be inclusive of handicapped and guest parking. • Provides that this bill does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for developments of any type or location. • Allows a city, county, or city and county that conducted an area-wide or jurisdiction-wide parking study within the last seven years to impose a higher vehicular parking ratio that does not exceed the standard under Density Bonus Law. The study must be based on substantial evidence and include, but not be limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized development, and the lower rates of car ownership for very low- and low- income individuals, including seniors and special needs individuals. Any new study shall be paid for by the city, county, or city and county. • Requires the city, county, or city and county which has completed a parking study and imposes a higher standard to make findings supporting the need for the higher parking ratio.
Statutes of 2016		
AB 1934: Development Bonuses: Mixed-Use Projects	Santiago Ch. 747	• Creates a development bonus when a commercial developer enters into an agreement for partnered housing to contribute affordable housing through a joint project or two separate projects encompassing affordable housing. • Provides that when a commercial developer has entered into an agreement for partnered housing to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the local government must grant the commercial developer a development bonus. • Provides that the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the city, county, or city and county. • States housing shall be constructed on the site of the commercial development or on a site that is all of the following: a) Within the boundaries of the local government; b) In close proximity to public amenities including schools and employment centers; and c) Located within one-half mile of a major transit stop, as defined in Section 21155(b) of the Public Resources Code**.** • Defines "partner" as the formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial development applicant and the affordable housing developer are each partners, members, shareholders or other participants, or a contract or agreement between a commercial development applicant and affordable

		housing developer for the development of both the commercial and the affordable housing properties. • Provides that the development bonus for the commercial developer means: incentives, mutually agreed upon by the developer and the jurisdiction, that may include, but are not limited to, any of the following: a) Up to a 20% increase in maximum allowable intensity in the General Plan, zoning ordinance, or other regulation. b) Up to a 20% increase in maximum allowable floor area ratio. c) Up to a 20% increase in maximum height requirements. d) Up to a 20% increase in minimum parking requirements. e) Use of a limited-use/limited-application elevator for upper floor accessibility. f) An exception to a zoning ordinance or other land use regulation. • Provides that affordable housing may be contributed by the commercial developer in one of the following manners: a) The commercial developer may directly build the units. b) The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing. c) The commercial developer may make a cash payment to the affordable housing developer that must be used towards the cost of constructing the affordable housing project. • States that the affordable housing replacement provisions in State Density Bonus Law apply. • Provides that nothing shall preclude any additional allowances or incentives offered to developers by local governments pursuant to law or regulation. • Provides that, if the developer of affordable units does not commence construction of the units in accordance with the agreed upon timeline, the local government may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units. • Requires, in order to qualify for a development bonus, a commercial developer to partner with a housing developer that provides at least 30% of the total units for low-income households or at least 15% of the total units for very low-income households. • Provides that nothing in this section shall preclude an affordable housing developer from seeking a density bonus, concessions or incentives, waivers or reductions of development standards, or parking ratios under existing density bonus law. • Provides that a development bonus shall not include a reduction or waiver of the requirements within an ordinance that requires the payment of a fee by a commercial developer for the promotion or provision of affordable housing. • Provides that a city or county shall submit to the Department of Housing and Community Development, as part of the annual report, information describing an approved commercial

		development bonus, including the terms of the agreements between the commercial developer and the affordable housing developer, and the developers and the local jurisdiction, and the number of affordable units constructed as part of the agreements. • Provides that no reimbursement is required by this act because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay the program or level of service. • Makes findings and declarations that the development of affordable housing is a matter of statewide concern and it is not a municipal affair, and therefore, this bill applies to all cities including charter cities. • Provides a sunset date of January 1, 2022.
AB 2180: Development Project Review	Ting Ch. 566	• Expedites timelines for approval or disapproval by a public agency for certain types of development projects. • This bill expedites, for a public agency, the review process for certain development projects, pursuant to the Permit Streamlining Act, specifically those development projects that are either: a) residential units only; or, b) mixed-use developments consisting of residential and nonresidential uses in which the nonresidential uses are less than 50% of the total square footage of the development and are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. • This bill requires any public agency that is the lead agency for a development project to approve or disapprove the project within 120 days from the date of certification by the lead agency of the environmental impact report (EIR), if an EIR is prepared for that development project. The bill also requires a public agency that is a responsible agency for a development project that has been approved by the lead agency to approve or disapprove the development project within whichever of the following periods of time is longer: a) Within 90 days from the date on which the lead agency has approved the project; or, b) Within 90 days of the date on which the completed application for the development project has been received and accepted as complete by that responsible agency.
AB 2208: Housing Element: Inventory of Land for Residential Development	Santiago Ch. 460	• Adds to the list of the types of sites that a local government can identify as suitable for residential development in the housing element. • Adds the following to the list of "land suitable for residential development:" a) Provides, for residentially zoned sites that are capable of being developed at a higher density, that this includes the airspace above sites owned or leased by a city, county, or city and county. b) Provides, for sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use, that this includes above sites owned or leased by a city, county, or city and county. • States that the Department of Housing and Community Development (HCD) shall provide

		guidance to local governments to properly survey, detail, and account for sites listed in the housing element.
AB 2299: Housing: 2nd Units	Bloom Ch. 735	• Provides that a local government may adopt an ordinance allowing ADUs in single-family and multifamily residential zones, and the ordinance must do all of the following: a) Designate areas where ADUs may be permitted based on criteria that may include the adequacy of water and sewer services and the impact on traffic flow and public safety. b) Impose parking, height, setback, lot coverage, landscape, architectural review, maximum unit size and standards that prevent adverse impacts on any property listed in the California Register of Historic Places. c) Reduce or eliminate parking requirements, if a local government so chooses. d) Provide that ADUs do not exceed the allowable density for the lot on which it is located and that ADUs are a residential use that is consistent with the existing general plan and zoning designation on a lot. e) Require the ADUs to comply with all of the following: i) The unit is not intended for sale separate from the primary residence and may be rented. ii) The lot is zoned for single-family or multifamily use. iii) The ADU is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling. iv) The increased floor area of an attached ADU shall not exceed 50% of the existing living area. v) The total area of floorspace for a detached ADU shall not exceed 1,200 square feet. vi) No passageway shall be required in conjunction with the construction of an ADU. vii) No setback shall be required for an existing garage that is converted to an ADU, and a setback of no more than five feet from the side and rear lot lines shall be required for an ADU that is constructed above a garage. viii) Local building code requirements that apply to detached dwellings, as appropriate. ix) Approval by the local health officer where a private sewage disposal system is being used, if required. x) Parking requirements for ADUs shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway. xi) Off-street parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction. xii) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, and the local agency requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the

		ADU, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. • Requires a local agency that has not adopted an ADU ordinance to review ADU permit applications pursuant to the above-listed standards. • Provides that a local agency must ministerially review and approve or disapprove ADU permits within 120 days after receiving an application. Any existing ordinance governing the creation of ADUs by a local agency or any such ordinance subsequently adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of ADUs and shall not include any discretionary processes, provisions, or requirements for those units except as otherwise provided in this subdivision. • Specifies that in the event that a local agency has an existing ADU ordinance that fails to meet the requirements of state law, that ordinance shall be null and void and that agency shall thereafter apply the standards established in state law for the approval of ADUs, unless and until the agency adopts an ordinance that complies with this section. • Removes the provision permitting additional parking upon a finding that additional parking is required related to the use of the ADU and consistent with existing neighborhood standards. • Deletes language from existing law that prohibits local agencies from adopting an ordinance, which totally precludes ADUs, unless the ordinance contains specified findings.
AB 2406: Housing: Junior Accessory Dwelling Units	Thurmond Ch. 755	• Allows a local agency to create an ordinance for junior accessory dwelling units in single-family residential zones. • Provides that the ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit and shall do all of the following: a) Limits the number of junior accessory dwelling units to be one per residential lot zoned for single-family residences with a single-family residence already built on the lot. b) Requires the single-family residence in which the junior accessory dwelling unit is located to be occupied by the owner. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner occupancy is not required for a governmental agency, land trust, or housing organization. c) Requires a deed to be recorded with the permitting agency that must include both of the following: i) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction can be enforced against future purchasers; and ii) A restriction on the size and attributes of the junior accessory dwelling unit. d) Requires a permitted junior accessory dwelling unit to be constructed within the existing walls of the structure and require the inclusion of an existing bedroom. e) Requires a permitted junior accessory dwelling unit to include a separate entrance from the

		main entrance to the structure with an interior entry in to the main living room. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation. f) Requires a permitted junior accessory dwelling unit to include an efficiency kitchen. g) Prohibits an ordinance from requiring additional parking as a condition of granting a permit. • Provides that a local agency can require an inspection and impose a fee for the inspection to determine if the junior accessory dwelling unit is in compliance with the applicable building standards. • Provides that for purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit is not considered a separate or new dwelling unit. • A city, county, city and county or other local public entity may adopt an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit as long as the ordnance or regulation applies uniformly to all single-family residences within the zone regardless of whether or not the residence includes a junior accessory dwelling unit or not.
AB 2442: Density Bonus	Holden Ch. 756	• Requires local agencies to grant a density bonus, when an applicant for a housing development agrees to construct housing for transitional foster youth, disabled veterans, or homeless persons. • Requires a local agency to grant one density bonus, when an applicant for a housing development seeks and agrees to construct a housing development that contains 10% of the total units for transitional foster youth, disabled veterans, or homeless persons, as those terms are defined in code. • Requires the units to be subject to a recorded affordability restriction of 55 years and to be provided at the same affordability level as very low-income units. • Specifies, for housing developments meeting the criteria, that the density bonus shall be 20% of the number of the type of units giving rise to a density bonus, as specified, thus making the density bonus consistent with density bonus that a developer receives for senior housing units.
AB 2501: Housing: Density Bonus	Bloom Ch. 758	• Clarifies that when an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within the jurisdiction of a city or county, that local government shall provide the applicant with waiver and reduction of development standards for the production of housing units and child care facilities, in addition to incentives or concessions, as currently provided in density bonus law. • Prohibits a local government from conditioning the submission, review, or approval of an application for a density bonus on the preparation of an additional report or study that is not otherwise described in density bonus law. • Allows a local government to require reasonable documentation to establish eligibility for a density bonus, incentives and concessions, waivers of development standards, and parking ratios.

		• Requires, in order to provide for the expeditious processing of a density bonus application, the local government to do all of the following: a) Adopt procedures and timelines for processing a density bonus application; b) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete, consistent with density bonus law; and, c) Notify the applicant for a density bonus whether the application is complete in a manner that is consistent with the Permit Streamlining Act (Act). • Modifies the circumstance under which a local government can refuse to grant a concession or incentive to a developer to when a concession or incentive "does not result in identifiable and actual cost reductions" to provide for affordable housing costs or rents for the targeted units rather than when it "is not required in order" to provide for the affordable housing costs. • Provides that a local government must bear the burden of proof for the denial of a requested concession or incentive. • Clarifies that "density bonus" means the maximum allowable gross residential density. • Clarifies that a developer that makes an application for a density bonus may elect to accept no increase in the density of a project. • Adds "mixed use development" to the definition of "housing development." Mixed use development means developments consisting of residential and nonresidential uses in which the nonresidential uses are less than 50% of the total square footage of the development and are limited to neighborhood commercial use and to the first floor of the buildings that are two or more stories. Neighborhood commercial means small scale-general or specialty stores that furnish goods and services primarily to residents of the neighborhood. • Provides that the granting of a concession or incentive cannot, in and of itself, require a special study. • Deletes the requirement that incentives or concessions proposed by a developer or local government result in "identifiable, financially sufficient" and actual cost reductions, and instead, require the "identifiable" and actual cost reductions. • Clarifies that each component of any density bonus calculation, including base density and bonus density, resulting in fractional units will be separately rounded up to the next whole number. Finds and declares that this provision is declaratory of existing law. • Provides that the density bonus law shall be interpreted liberally in favor of producing the maximum number of total housing units. • Provides that a request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled.

AB 2556: Housing: Density Bonus	Nazarian Ch. 761	• Requires, in cases where a proposed development is replacing affordable housing units, a jurisdiction to apply a rebuttable presumption regarding the number and type of affordable housing units necessary for density bonus eligibility. • Requires, if the income of the household that occupies the unit is not known, it to be rebuttably presumed that lower-income renter households occupied these units in the same proportion of lower-income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States (U.S.) Department of Housing and Urban Development's (HUD) Comprehensive Housing Affordability Strategy database. • Requires, for unoccupied units in a development with occupied units, replacement units to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from HUD's Comprehensive Housing Affordability Strategy database. • Requires, in cases where all dwelling units have been vacated or demolished within the five-year period preceding the density bonus application and the incomes of the occupants at the high point of the affordable units is not known, that it be rebuttably presumed that low-income and very low-income renter households occupied these units in the same proportion of low-income and very low-income renter households to all renter households within the jurisdiction, as determined by the most recently available data from HUD's Comprehensive Housing Affordability Strategy database. • Allows a city or county, in cases where a proposed development is replacing existing affordable units, for any dwelling unit that is or was, within the five-year period preceding the density bonus application, subject to a form of rent or price control through a local government's valid exercise of police power and that is or was occupied by persons of families above lower income, to do either of the following: a) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to existing law. b) Require that units be replaced in compliance with the jurisdiction's rent- or price-control ordinance, provided that each affordable rental unit, including those that were vacated or demolished in the five years leading to the application, is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

		• Specifies that the proposed housing development shall provide at least the same number of replacement units of equivalent size.
AB 2584: Land Use: Housing Development	Daly Ch. 420	• Authorizes a "housing organization" to enforce the Housing Accountability Act. This bill defines "housing organization" to mean a trade or industry group whose local members are primarily engaged in the construction or management of affordable housing units or a nonprofit organization whose mission includes providing or advocating for increased access to affordable housing for low-income households and have filed written or oral comments with the local agency prior to action on the project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency.
AB 2685: Housing Element: Adoption	Lopez Ch. 271	• Requires a local planning agency staff to collect and compile public comments and provide them to each member of the legislative body prior to the adoption of the housing element.
SB 1000: Land Use: General Plans: Safety and Environmental Justice	Leyva Ch. 587	• Requires a city or county to include in the general plan an EJ element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities within the area covered by the general plan of that city or county, if the city or county has a disadvantaged community. • Requires the EJ element, or related EJ goals, policies, and objectives integrated in other elements, to do all of the following: a) Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity; b) Identify objectives and policies to promote civil engagement in the public decision-making process; and, c) Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities. • Requires a city or county to adopt or review the EJ element, or the EJ goals, policies, and objectives in other elements, upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018.
SB 1069: Land Use: Zoning	Wieckowski Ch. 720	• Requires an ordinance for the creation of accessory dwelling units (ADUs) to include specified provisions regarding areas where ADUs may be located, standards, and lot density. This bill revises requirements for the approval or disapproval of an ADU application when a local agency has not adopted an ordinance. • Requires a local agency, in its ADU ordinance, to do the following: a) Designate areas within the jurisdiction where ADUs may be permitted, which may be based upon criteria including but not limited to the adequacy of water and sewer services and the

		impact of ADUs on traffic flow and public safety. b) Impose standards on ADUs including but not limited to parking, height, setback, lot coverage, architectural review, and maximum size of the unit. Notwithstanding parking restrictions under this chapter, a local agency may not impose parking standards in the following instances: i) The ADU is located within ½ mile of public transit or shopping ii) The ADU is located within an architecturally and historically significant historic district iii) The ADU is part of an existing primary residence iv) When on-street parking permits are required, but not offered to the occupant of the ADU v) When there is a car-share vehicle located within one block of the ADU c) Provide that second units do not exceed the allowable density for the lot upon which the second unit is located, and that the second unit is consistent with the existing general plan and zoning designation for the lot. • Requires a local agency with an ADU ordinance to consider permits within 90 days of submittal of a complete building permit application. • Provides that a local agency that has not adopted an ADU ordinance, upon receipt of its first application, shall accept or disapprove the application ministerially without discretionary review, unless it adopts an ordinance in accordance with this chapter within 90 days after receiving the application. • Requires a local agency that has not adopted an ADU ordinance to approve the creation of an ADU if the ADU meets specified requirements. • Removes the exemption for a local agency to adopt an ADU ordinance upon findings that the ordinance may limit housing opportunities in the region, and further contains findings that specific adverse impacts on the public health, safety, and welfare would result. • Provides that a local agency may establish maximum and minimum unit size requirements for both attached and detached ADUs. No maximum or minimum size for an ADU, or size based upon a percentage of the existing dwelling unit, shall be established by ordinance for either attached or detached dwellings that does not permit at least a 500-foot ADU or a 500-foot efficiency unit to be constructed in compliance with local development standards. • Establishes the maximum standards that local agencies shall use to evaluate proposed ADUs on lots zoned for residential use that contain an existing single-family dwelling. No additional standards shall be utilized or imposed, except that a local agency may require an applicant for a permit to be an owner-occupant or that the property be used for rentals or terms longer than 30 days. • Removes the provision permitting additional parking upon a finding that additional parking is required related to the use of the ADU and consistent with existing neighborhood standards. Parking may be provided, however, as tandem parking in an existing driveway. Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through

		tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon fire and life safety conditions. • Requires ministerial approval by a local agency for a building permit to create an ADU if the ADU is contained within an existing single-family home, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. ADUs shall not be required to provide fire sprinklers if they are not required for the primary residence. • Provides that ADUs shall not be considered new residential uses for the purposes of calculating private or public utility connection fees, including water and sewer service. Local agencies shall not require an ADU applicant to install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee capacity charge if the ADU is contained within the existing space of a single-family residence or accessory structure. A local agency may require a new or separate utility connection fee between an ADU and the utility if the ADU is not contained within the existing space of a single-family residence or accessory structure.