

**AMENDMENT TO RESOLUTION 10-05-05**

**TEXT OF RESOLUTION**

RESOLVED that the Conference of Delegates recommends that legislation be sponsored to modify Government Code Sections 65583 as follows:

- 1 § 65583  
2 The housing element shall consist of an identification and analysis of existing and projected  
3 housing needs and a statement of goals, policies, quantified objectives, financial resources, and  
4 scheduled programs for the preservation, improvement, and development  
5 of housing. The housing element shall identify adequate sites for housing, including rental housing,  
6 factory-built housing, ~~and~~ mobilehomes, transitional housing and emergency shelters and shall make  
7 adequate provision for the existing and projected needs of all economic segments of the community.  
8 The element shall contain all of the following:  
9 (a) An assessment of housing needs and an inventory of resources and constraints relevant to the  
10 meeting of these needs. The assessment and inventory shall include all of the following: (1)  
11 An analysis of population and employment trends and documentation of projections and a  
12 qualification of the locality's existing and projected housing needs for all income levels. These  
13 existing and projected needs shall include the locality's share of the regional housing need in  
14 accordance with Section 65584. (2) An analysis and documentation of household characteristics,  
15 including level of payment compared to ability to pay, housing characteristics, including  
16 overcrowding, and housing stock condition.  
17 (3) An inventory of land suitable for residential development, including vacant sites and sites having  
18 potential for redevelopment, and an analysis of the relationship of zoning and public facilities and  
19 services to these sites.  
20 (4) An analysis of potential and actual governmental constraints upon the maintenance,  
21 improvement, or development of housing for all income levels and for persons with disabilities as  
22 identified in the analysis pursuant to paragraph (6), including land use controls, building codes and  
23 their enforcement, site improvements, fees and other exactions required of developers, and local  
24 processing and permit procedures. The analysis shall also demonstrate local efforts to remove  
25 governmental constraints that hinder the locality from meeting its share of the regional housing need  
26 in accordance with Section 65584 and from meeting the need for housing for persons with disabilities  
27 identified pursuant to paragraph (6).  
28 (5) An analysis of potential and actual nongovernmental constraints upon the maintenance,  
29 improvement, or development of housing for all income levels, including the availability of financing,  
30 the price of land, and the cost of construction.  
31 (6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities,  
32 large families, farmworkers, families with female heads of households, ~~and~~ families and persons in  
33 need of emergency shelter. The department shall adopt regulations to implement this paragraph,  
34 including parts of this paragraph determined by the department or any other state agency or a court  
35 to be a reimbursable state mandate. For any revision of a housing element required pursuant to  
36 Section 65588 that occurs subsequent to the adoption of those regulations, any actions undertaken  
37 by the locality beyond those specified in the regulations are at that  
38 locality's option and are not required by this section.  
39 (7) At the option of local government, an analysis of opportunities for energy conservation with  
40 respect to residential development.  
41 (8) An analysis of existing assisted housing developments that are eligible to change from low-  
42 income housing uses during the next 10 years due to termination of subsidy contracts, mortgage  
43 prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose  
44 of this section, shall mean multifamily rental housing that receives governmental assistance under  
45 federal programs listed in subdivision (a) of Section 65863.10,

46 state and local multifamily revenue bond programs, local redevelopment programs, the federal  
47 Community Development Block Grant Program, or local in-lieu fees. "Assisted housing  
48 developments" shall also include multifamily rental units that were developed pursuant to a local  
49 inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.  
50 (A) The analysis shall include a listing of each development by project name and address, the type of  
51 governmental assistance received, the earliest possible date of change from low-income use and the  
52 total number of elderly and nonelderly units that could be lost from the locality's low-income housing  
53 stock in each year during the 10-year period. For purposes of state and federally funded projects,  
54 the analysis required by this subparagraph need only contain information available on a statewide  
55 basis.  
56 (B) The analysis shall estimate the total cost of producing new rental housing that is comparable in  
57 size and rent levels, to replace the units that could change from low-income use, and an estimated  
58 cost of preserving the assisted housing developments. This cost analysis for replacement housing  
59 may be done aggregately for each five-year period and does not have to contain a project-by-project  
60 cost estimate.  
61 (C) The analysis shall identify public and private nonprofit corporations known to the local  
62 government which have legal and managerial capacity to acquire and manage these housing  
63 developments.  
64 (D) The analysis shall identify and consider the use of all federal, state, and local financing and  
65 subsidy programs which can be used to preserve, for lower income households, the assisted  
66 housing developments, identified in this paragraph, including, but not limited to, federal Community  
67 Development Block Grant Program funds, tax increment funds received by a redevelopment agency  
68 of the community, and administrative fees received by a housing authority operating within the  
69 community. In considering the use of these financing and subsidy programs, the analysis shall  
70 identify the amounts of funds under each available program which have not been legally obligated for  
71 other purposes and which could be available for use in preserving assisted housing developments.  
72 (b) (1) A statement of the community's goals, quantified objectives, and policies relative to the  
73 maintenance, preservation, improvement, and development of housing.  
74 (2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed  
75 available resources and the community's ability to satisfy this need within the content of the general  
76 plan requirements outlined in Article 5 (commencing with Section 65300). Under these  
77 circumstances, the quantified objectives need not be identical to the total housing needs. The  
78 quantified objectives shall establish the maximum number of housing units by income category that  
79 can be constructed, rehabilitated, and conserved over a five-year time period.  
80 (c) A program which sets forth a five-year schedule of actions the local government is undertaking or  
81 intends to undertake to implement the policies and achieve the goals and objectives of the housing  
82 element through the administration of land use and development  
83 controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal  
84 and state financing and subsidy programs when available and the utilization of moneys in a low- and  
85 moderate-income housing fund of an agency if the locality has established a redevelopment project  
86 area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000)  
87 of the Health and Safety Code). In order to make adequate provision for the housing needs of all  
88 economic segments of the community, the program shall do all of the following:  
89 (1) (A) Identify adequate sites which will be made available through appropriate zoning and  
90 development standards and with services and facilities, including sewage collection and treatment,  
91 domestic water supply, and septic tanks and wells, needed to facilitate and encourage the  
92 development of a variety of types of housing for all income levels, including multifamily rental  
93 housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency  
94 shelters, and transitional housing in order to meet the community's housing goals as identified in  
95 subdivision (b).  
96 (i) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify  
97 adequate sites to accommodate the need for groups of all household income levels pursuant to  
98 Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied

99 and rental multifamily residential use by right, including density and development standards that  
100 could accommodate and facilitate the feasibility of housing for very low and low-income households.  
101 (ii) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify  
102 adequate sites to accommodate the need for farmworker housing, the program shall provide for  
103 sufficient sites to meet the need with zoning that permits farmworker housing use by right, including  
104 density and development standards that could accommodate and facilitate the feasibility of the  
105 development of farmworker housing for low- and very low income households.  
106 (B) For purposes of this paragraph, the phrase "use by right" shall mean the use does not require a  
107 conditional use permit, except when the proposed project is a mixed-use project involving both  
108 commercial or industrial uses and residential uses. Use by right for all rental multifamily residential  
109 housing shall be provided in accordance with subdivision (f) of Section 65589.5.  
110 (C) The requirements of this subdivision regarding identification of sites for farmworker housing shall  
111 apply commencing with the next revision of housing elements required by Section 65588 following  
112 the enactment of this subparagraph.  
113 (2) Assist in the development of adequate housing to meet the needs of low- and moderate-income  
114 households.  
115 (3) Address and, where appropriate and legally possible, remove governmental constraints to the  
116 maintenance, improvement, and development of housing, including housing for all income levels and  
117 housing for persons with disabilities. The program shall remove constraints to, or provide  
118 reasonable accommodations for housing designed for, intended for occupancy by, or with supportive  
119 services for, persons with disabilities.  
120 (4) Conserve and improve the condition of the existing affordable housing stock, which may include  
121 addressing ways to mitigate the loss of dwelling units demolished by public or private action.  
122 (5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status,  
123 ancestry, national origin, color, familial status, or disability.  
124 (6) (A) Preserve for lower income households the assisted housing developments identified pursuant  
125 to paragraph (8) of subdivision (a). The program for preservation of the assisted housing  
126 developments shall utilize, to the extent necessary, all available federal, state,  
127 and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where  
128 a community has other urgent needs for which alternative funding sources are not available. The  
129 program may include strategies that involve local regulation and technical  
130 assistance.  
131 (B) The program shall include an identification of the agencies and officials responsible for the  
132 implementation of the various actions and the means by which consistency will be achieved with  
133 other general plan elements and community goals. The local government shall make a diligent effort  
134 to achieve public participation of all economic segments of the community in the development of the  
135 housing element, and the program shall describe this effort.  
136 (d) The analysis and program for preserving assisted housing developments required by the  
137 amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to  
138 the housing element by July 1, 1992.  
139 (e) Failure of the department to review and report its findings pursuant to Section 65585 to the local  
140 government between July 1, 1992, and the next periodic review and revision required by Section  
141 65588, concerning the housing element amendment required by the amendments to this section by  
142 the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance  
143 administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and  
144 Safety Code.

(Proposed new language underlined; deleted language stricken.)

**RESOLUTION 10-05-05**

**DIGEST**

Land Use Planning: Adds non-recreational camping to the land use element of a city's general plan.  
Amends Government Code section 65683 to expand the housing element of a general plan to include non-recreational camping areas for the homeless.

**RESOLUTIONS COMMITTEE RECOMMENDATION**  
**DISAPPROVE**

History: This resolution is similar to 10-06-05.

Reasons:

This resolution amends Government Code section 65683 to expand the housing element of a general plan to include non-recreational camping areas for the homeless. This resolution should be disapproved because such areas would not attract the target population and the burden should not be placed on cities to establish unsightly and expensive alternative housing to that already required.

In 1980, the Legislature found that the attainment of decent housing was a public priority of the highest order. (Gov. Code, §65580, subd. (a).) In pursuit of this public policy, cities were mandated to develop housing plans that projected the needs and means for housing, including the homeless. (Gov. Code §65583.) Currently, cities must designate areas in which traditional-construction homeless shelters can be constructed. (*Hoffmaster v. City of San Diego* (1997) 55 Cal.App.4<sup>th</sup> 1098.) This resolution would additionally require that cities designate non-recreational camping areas for the homeless. It would place too great a burden on a city's resources to provide alternative types of housing for the homeless. In addition, there is no statistical evidence that homeless persons who do not desire the confined living of a traditional building would be willing to give up the freedom of the streets to live in a less permanent structure.

**TEXT OF RESOLUTION**

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- 1    § 65583
- 2    The housing element shall consist of an identification and analysis of existing and projected
- 3    housing needs and a statement of goals, policies, quantified objectives, financial resources, and
- 4    scheduled programs for the preservation, improvement, and development
- 5    of housing. The housing element shall identify adequate sites for housing, including rental housing,
- 6    factory-built housing, ~~and~~ mobilehomes, transitional housing, emergency shelters, and non-
- 7    recreational camping and shall make adequate provision for the existing and projected needs of all
- 8    economic segments of the community. The element shall contain all of the following:
- 9    (a) An assessment of housing needs and an inventory of resources and constraints relevant to the
- 10   meeting of these needs. The assessment and inventory shall include all of the following:           (1)
- 11   An analysis of population and employment trends and documentation of projections and a
- 12   qualification of the locality's existing and projected housing needs for all income levels. These
- 13   existing and projected needs shall include the locality's share of the regional housing need in
- 14   accordance with Section 65584. (2) An analysis and documentation of household characteristics,
- 15   including level of payment compared to ability to pay, housing characteristics, including
- 16   overcrowding, and housing stock condition.
- 17   (3) An inventory of land suitable for residential development, including vacant sites and sites having
- 18   potential for redevelopment, as well as land suitable for non-recreational camping, and an analysis of
- 19   the relationship of zoning and public facilities and services to these sites.

20 (4) An analysis of potential and actual governmental constraints upon the maintenance,  
21 improvement, or development of housing for all income levels and for persons with disabilities as  
22 identified in the analysis pursuant to paragraph (6), including land use controls, building codes and  
23 their enforcement, site improvements, fees and other exactions required of developers, and local  
24 processing and permit procedures. The analysis shall also demonstrate local efforts to remove  
25 governmental constraints that hinder the locality from meeting its share of the regional housing need  
26 in accordance with Section 65584 and from meeting the need for housing for persons with disabilities  
27 identified pursuant to paragraph (6).

28 (5) An analysis of potential and actual nongovernmental constraints upon the maintenance,  
29 improvement, or development of housing for all income levels, including the availability of financing,  
30 the price of land, and the cost of construction.

31 (6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities,  
32 large families, farmworkers, families with female heads of households, ~~and~~ families and persons in  
33 need of emergency shelter, and homeless individuals and families who need to, or prefer to, camp.  
34 The department shall adopt regulations to implement this paragraph, including parts of this  
35 paragraph determined by the department or any other state agency or a court to be a reimbursable  
36 state mandate. For any revision of a housing element required pursuant to Section 65588 that  
37 occurs subsequent to the adoption of those regulations, any actions undertaken by the locality  
38 beyond those specified in the regulations are at that  
39 locality's option and are not required by this section.

40 (7) At the option of local government, an analysis of opportunities for energy conservation with  
41 respect to residential development.

42 (8) An analysis of existing assisted housing developments that are eligible to change from low-  
43 income housing uses during the next 10 years due to termination of subsidy contracts, mortgage  
44 prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose  
45 of this section, shall mean multifamily rental housing that receives governmental assistance under  
46 federal programs listed in subdivision (a) of Section 65863.10,  
47 state and local multifamily revenue bond programs, local redevelopment programs, the federal  
48 Community Development Block Grant Program, or local in-lieu fees. "Assisted housing  
49 developments" shall also include multifamily rental units that were developed pursuant to a local  
50 inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

51 (A) The analysis shall include a listing of each development by project name and address, the type of  
52 governmental assistance received, the earliest possible date of change from low-income use and the  
53 total number of elderly and nonelderly units that could be lost from the locality's low-income housing  
54 stock in each year during the 10-year period. For purposes of state and federally funded projects,  
55 the analysis required by this subparagraph need only contain information available on a statewide  
56 basis.

57 (B) The analysis shall estimate the total cost of producing new rental housing that is comparable in  
58 size and rent levels, to replace the units that could change from low-income use, and an estimated  
59 cost of preserving the assisted housing developments. This cost analysis for replacement housing  
60 may be done aggregately for each five-year period and does not have to contain a project-by-project  
61 cost estimate.

62 (C) The analysis shall identify public and private nonprofit corporations known to the local  
63 government which have legal and managerial capacity to acquire and manage these housing  
64 developments.

65 (D) The analysis shall identify and consider the use of all federal, state, and local financing and  
66 subsidy programs which can be used to preserve, for lower income households, the assisted  
67 housing developments, identified in this paragraph, including, but not limited to, federal Community  
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69 of the community, and administrative fees received by a housing authority operating within the  
70 community. In considering the use of these financing and subsidy programs, the analysis shall  
71 identify the amounts of funds under each available program which have not been legally obligated for  
72 other purposes and which could be available for use in preserving assisted housing developments.

73 (b) (1) A statement of the community's goals, quantified objectives, and policies relative to the  
74 maintenance, preservation, improvement, and development of housing.

75 (2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed  
76 available resources and the community's ability to satisfy this need within the content of the general  
77 plan requirements outlined in Article 5 (commencing with Section 65300). Under these  
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80 can be constructed, rehabilitated, and conserved over a five-year time period.

81 (c) A program which sets forth a five-year schedule of actions the local government is undertaking or  
82 intends to undertake to implement the policies and achieve the goals and objectives of the housing  
83 element through the administration of land use and development  
84 controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal  
85 and state financing and subsidy programs when available and the utilization of moneys in a low- and  
86 moderate-income housing fund of an agency if the locality has established a redevelopment project  
87 area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000)  
88 of the Health and Safety Code). In order to make adequate provision for the housing needs of all  
89 economic segments of the community, the program shall do all of the following:

90 (1) (A) Identify adequate sites which will be made available through appropriate zoning and  
91 development standards and with services and facilities, including sewage collection and treatment,  
92 domestic water supply, and septic tanks and wells, needed to facilitate and encourage the  
93 development of a variety of types of housing for all income levels, including multifamily rental  
94 housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency  
95 shelters, ~~and~~ transitional housing, and free or nominal cost non-recreational camping areas for  
96 homeless individuals and families in order to meet the community's housing goals as identified in  
97 subdivision (b).

98 (i) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify  
99 adequate sites to accommodate the need for groups of all household income levels pursuant to  
100 Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied  
101 and rental multifamily residential use by right, including density and development standards that  
102 could accommodate and facilitate the feasibility of housing for very low and low-income households.

103 (ii) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify  
104 adequate sites to accommodate the need for farmworker housing, the program shall provide for  
105 sufficient sites to meet the need with zoning that permits farmworker housing use by right, including  
106 density and development standards that could accommodate and facilitate the feasibility of the  
107 development of farmworker housing for low- and very low income households.

108 (B) For purposes of this paragraph, the phrase "use by right" shall mean the use does not require a  
109 conditional use permit, except when the proposed project is a mixed-use project involving both  
110 commercial or industrial uses and residential uses. Use by right for all rental multifamily residential  
111 housing shall be provided in accordance with subdivision (f) of Section 65589.5.

112 (C) The requirements of this subdivision regarding identification of sites for farmworker housing shall  
113 apply commencing with the next revision of housing elements required by Section 65588 following  
114 the enactment of this subparagraph.

115 (2) Assist in the development of adequate housing to meet the needs of low- and moderate-income  
116 households.

117 (3) Address and, where appropriate and legally possible, remove governmental constraints to the  
118 maintenance, improvement, and development of housing, including housing for all income levels and  
119 housing for persons with disabilities. The program shall remove constraints to, or provide  
120 reasonable accommodations for housing designed for, intended for occupancy by, or with supportive  
121 services for, persons with disabilities.

122 (4) Conserve and improve the condition of the existing affordable housing stock, which may include  
123 addressing ways to mitigate the loss of dwelling units demolished by public or private action.

124 (5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status,  
125 ancestry, national origin, color, familial status, or disability.

126 (6) (A) Preserve for lower income households the assisted housing developments identified pursuant  
127 to paragraph (8) of subdivision (a). The program for preservation of the assisted housing  
128 developments shall utilize, to the extent necessary, all available federal, state,  
129 and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where  
130 a community has other urgent needs for which alternative funding sources are not available. The  
131 program may include strategies that involve local regulation and technical  
132 assistance.  
133 (B) The program shall include an identification of the agencies and officials responsible for the  
134 implementation of the various actions and the means by which consistency will be achieved with  
135 other general plan elements and community goals. The local government shall make a diligent effort  
136 to achieve public participation of all economic segments of the community in the development of the  
137 housing element, and the program shall describe this effort.  
138 (d) The analysis and program for preserving assisted housing developments required by the  
139 amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to  
140 the housing element by July 1, 1992.  
141 (e) Failure of the department to review and report its findings pursuant to Section 65585 to the local  
142 government between July 1, 1992, and the next periodic review and revision required by Section  
143 65588, concerning the housing element amendment required by the amendments to this section by  
144 the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance  
145 administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and  
146 Safety Code.

(Proposed new language underlined; deleted language stricken.)

PROPONENT: Ventura County Bar Association

STATEMENT OF REASONS:

Existing Law: The existing law requires cities and counties to include low and moderate income housing in the housing elements of their general plans, but no requirement mandates an area be designated where homeless people can legally camp. Most cities and counties find themselves unable to comply with their current housing element requirements with respect to low income housing because of the growing demand for housing coupled with the growth of low-paying jobs, and the pressures of current real estate market conditions. Many individuals and families are forced to live in their cars or tents, because they cannot find housing. Those who are forced to live outside, or choose to do so for a variety of reasons, should have a place where they can legally camp without time limits or expensive recreation fees. Many local jurisdictions currently remove the homeless population, by force or intimidation, directing them to neighboring jurisdictions. Unless each local city and county has a requirement to set aside an area where homeless can legally camp, no one jurisdiction will be able to provide a more humane way of treating the homeless without fear that it will trigger an increase in its homeless population by those fleeing more restrictive areas.

This Resolution: Would modify existing law by requiring cities and counties to incorporate into the housing elements of their general plans designated areas where the homeless can legally camp.

The Problem: Currently homeless people who live in their cars or create makeshift encampments are cited for misdemeanors and infractions related to illegal camping because they have no place where they can legally camp. Public campgrounds generally have a 15 day or similar time limit and often charge substantial fees for use of the recreational campground facilities. While affordable housing, transitional housing, and homeless shelters are all needed, for a substantial part of the homeless population, these are not viable options. Transitional housing and shelters often prohibit pets, which for many homeless suffering from isolation, depression, and mental disabilities, provide the only love and companionship in

their lives. For others, a shelter setting can trigger paranoia making it difficult to sleep or function on a day-to-day basis.

The consequence for those cited for illegal camping is generally a fine, which the homeless cannot afford to pay. Many times these turn into failure to appear warrants, resulting in arrest, and release after several days in jail. The cost to society for arresting, prosecuting and incarcerating otherwise law-abiding people simply because they are homeless is far greater than the cost of setting aside an area for the homeless to legally camp. The human rights cost for criminalizing homelessness is impossible to measure.

#### IMPACT STATEMENT

This proposed resolution affects California Government Code Sections 65302 and 65583.

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