



Office of the Mayor

CONSENT CALENDAR  
May 28, 2019

To: Honorable Mayor and Members of the City Council  
From: Mayor Jesse Arreguín and Councilmembers Sophie Hahn and Ben Bartlett  
Subject: Support of SB 48 – Right to Shelter

RECOMMENDATION

Adopt a Resolution supporting SB 48 – Right to Shelter, introduced by State Senator Scott Wiener. Send a copy of the Resolution to Governor Gavin Newsom, State Senators Nancy Skinner and Scott Wiener, and Assemblymember Buffy Wicks.

BACKGROUND

It is undeniable that California is in a homeless crisis. While the state accounts for around 15% of the country's population, it is home to about a quarter of the country's homeless population. According to the Public Policy Institute of California, California is home to about half of the nation's unsheltered homeless population, showing that California is far behind other states in its ability to provide shelters. In fact, as of 2018, 69% of California's homeless were unsheltered, compared to a nationwide average of 35%.

According to the 2017 EveryOne Home survey, Berkeley's homeless population was 972, with 68% being unsheltered. While the City has expanded the number of shelters and beds since 2017, a City report from March 2019 concludes that over the course of a year, up to 2,000 people experience homelessness of some duration in Berkeley. In January 2016, the Berkeley City Council declared a Homeless Shelter Crisis (Resolution No. 67,357-N.S.) which waived permitting requirements to the creation of new shelters among other points. The declaration was renewed in October 2017 (Resolution No. 68,206–N.S.), extending it to January 2020. In February 2019, the Council voted to call upon the State of California to declare a statewide homeless crisis (Resolution No. 68.792-N.S.).

A recent high profile battle over the creation of shelters took place in San Francisco, where opponents of the proposed Embarcadero Navigation Center raised over \$100k on GoFundMe to fight the project (only to be outdone by a competing GoFundMe by supporters of the project). While the San Francisco Port Commission unanimously approved the project on April 23<sup>rd</sup>, nearby condo owners are threatening litigation to stop the project going forward. This example highlights the painful divisions in society on how to deal with the homeless crisis and shows the major hurdles that can take place to move forward on the creation of new shelters.

SB 48, introduced by State Senator Scott Wiener, would allow for by-right approval of shelters. Beyond being in compliance with state and local building and health and safety codes, such shelters must allow for the storage of possessions, allow individuals to remain with partners and pets, provide accommodations for those with disabilities, and provide services to connect people with permanent housing. Additionally, the bill would prohibit the use of parking requirements for shelters.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

The creation of more emergency shelters would reduce the number of people living on the streets, therefore reducing the environmental health impacts associated with such conditions.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

- 1: Resolution
- 2: Text of SB 48
- 3: SB 48 Factsheet

RESOLUTION NO. ##,###-N.S.

IN SUPPORT OF SB 48 – RIGHT TO SHELTER

WHEREAS, despite accounting for around 15% of the country’s population, California is home to about a quarter of the nation’s homeless population and half of the unsheltered homeless population; and

WHEREAS, in 2018, 69% of California’s homeless population was unsheltered, compared to a nationwide average of 35%, showing that California is far behind other states in its ability to provide shelters; and

WHEREAS, in January 2016, the Berkeley City Council approved Resolution No. 67,357-N.S., declaring a Homeless Shelter Crisis which waived permitting requirements to the creation of new shelters among other points; and

WHEREAS, this declaration was renewed in October 2017 under Resolution No. 68,206–N.S., extending it to January 2020; and

WHEREAS, in February 2019, the Council approved Resolution No. 68.792-N.S., calling upon the State of California to declare a statewide homeless crisis; and

WHEREAS, the opening of new shelters to provide reprieve to the state’s growing homeless population has come across challenges, most notably the fight to open San Francisco’s largest navigation shelter at the Embarcadero; and

WHEREAS, the struggle to open up new shelters shows that major hurdles are in place which must be addressed in order to meet the needs of the unsheltered population; and

WHEREAS, SB 48, introduced by State Senator Scott Wiener, would allow for by-right approval of shelters; and

WHEREAS, such shelters must allow for the storage of possessions, allow individuals to remain with partners and pets, provide accommodations for those with disabilities, and provide services to connect people with permanent housing; and

WHEREAS, SB 48 would ensure that shelters are available throughout the entire state, creating a geographically equitable approach while addressing the needs of the unsheltered population.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports SB 48 – Right to Shelter.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Gavin Newsom, State Senators Nancy Skinner and Scott Wiener, and Assemblymember Buffy Wicks.

AMENDED IN SENATE APRIL 29, 2019

AMENDED IN SENATE MARCH 25, 2019

AMENDED IN SENATE MARCH 6, 2019

**SENATE BILL**

**No. 48**

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**Introduced by Senator Wiener**

December 3, 2018

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An act to amend Section 65583 of, and to add *and repeal* Article 12 (commencing with Section 65660) ~~to~~ of Chapter 3 of Division 1 of Title 7 of, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 48, as amended, Wiener. Interim ~~housing~~ *shelter* intervention developments.

(1) The Planning and Zoning Law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city that includes a housing element. Existing law requires that the housing element identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and to make adequate provision for the existing and projected needs of all economic segments of a community. ~~Existing law requires that supportive housing be a use by right, as defined, in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development meets specified requirements.~~

This bill would revise the requirements of the housing element, as described above, in connection with the identification of zones where emergency shelters are allowed as a permitted use with a conditional use or other discretionary permit. The bill would generally require that

emergency shelters be in areas that allow residential use, including mixed-use areas, but would permit designation in industrial zones if a local government can demonstrate that the zone is connected to specified amenities and services. The bill would remove the authorization granted to local government to require off-street parking, as specified, in connection with standards applied to emergency shelters. The bill would require that zones where emergency shelters are allowed include sites that meet at least one of certain prescribed standards.

*(2) The Planning and Zoning Law requires that supportive housing be a use by right, as defined, in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development meets specified requirements.*

This bill would require that an interim shelter intervention development be a use by right, as defined, *in areas zoned for mixed uses* if it meets specified requirements. The bill would define “interim shelter intervention” as housing or shelter in which a resident may live temporarily while waiting to move into permanent housing. The bill would authorize these developments to include recuperative or respite care, motel vouchers, navigation centers, transitional housing, and emergency shelters. The *bill would define the term “use by right” in this context—would to mean that the local government’s review of the interim shelter intervention may not impose certain requirements, such as a conditional use permit or other discretionary local government review or approval could not be imposed on an interim shelter intervention if it meets specified requirements. approval.* The bill would require that an interim shelter intervention development meet state and local health and safety requirements and state and local building codes and, among other things, that it allow for the presence of partners, pets, and the storage of possessions. The bill also would require that an interim shelter intervention development provide privacy, accommodations for people with ~~disabilities~~, *disabilities* and services to connect people to permanent housing. The bill would prohibit a local jurisdiction from imposing parking requirements on an interim shelter intervention development.

The bill would prescribe requirements for notifying a developer that its application for an interim housing intervention is complete and for the local jurisdiction to complete its review of the application. The bill would declare that interim housing intervention developments are essential tools for alleviating the homelessness crisis in this state and

are a matter of statewide concern and thus applicable to charter cities.  
~~The bill would make legislative findings and declarations.~~

*The bill would repeal these provisions as of January 1, 2027.*

~~By~~

(3) *By* increasing the duties of local planning officials, this bill would impose a state-mandated local program.

~~(2)~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Homelessness in California is no longer confined to urban  
4 corridors. It pervades both urban and rural communities across the  
5 state and puts stress on local resources, from emergency rooms to  
6 mental health and social services programs to jails.

7 (b) California has a growing homelessness crisis. Homelessness  
8 is a diverse problem, but one glaring aspect of the problem is the  
9 number of unsheltered homeless in our state. California accounts  
10 for about one-half of all unsheltered homeless in the nation, despite  
11 having about 15 percent of our nation’s homeless population.  
12 Further, of the 130,000 homeless people living in California, 69  
13 percent are unsheltered.

14 (c) The homelessness crisis is driven by the lack of affordable  
15 rental housing for people with lower incomes. The state recognizes  
16 that while shelter solves sleep, only permanent housing solves  
17 homelessness.

18 (d) People experiencing homelessness deserve to be treated with  
19 dignity and respect, and to have access to decent, affordable places  
20 to live. Interim interventions, like shelters and navigation centers,  
21 allow people to access services more easily and connect to  
22 permanent housing. Therefore, it is the intention of the Legislature  
23 to create permanent solutions for California’s homeless population  
24 by promoting interim housing intervention developments that

1 provide residents both shelter and access to the services necessary  
2 to get permanent housing.

3 SEC. 2. Section 65583 of the Government Code is amended  
4 to read:

5 65583. The housing element shall consist of an identification  
6 and analysis of existing and projected housing needs and a  
7 statement of goals, policies, quantified objectives, financial  
8 resources, and scheduled programs for the preservation,  
9 improvement, and development of housing. The housing element  
10 shall identify adequate sites for housing, including rental housing,  
11 factory-built housing, mobilehomes, and emergency shelters, and  
12 shall make adequate provision for the existing and projected needs  
13 of all economic segments of the community. The element shall  
14 contain all of the following:

15 (a) An assessment of housing needs and an inventory of  
16 resources and constraints relevant to the meeting of these needs.  
17 The assessment and inventory shall include all of the following:

18 (1) An analysis of population and employment trends and  
19 documentation of projections and a quantification of the locality's  
20 existing and projected housing needs for all income levels,  
21 including extremely low income households, as defined in  
22 subdivision (b) of Section 50105 and Section 50106 of the Health  
23 and Safety Code. These existing and projected needs shall include  
24 the locality's share of the regional housing need in accordance  
25 with Section 65584. Local agencies shall calculate the subset of  
26 very low income households allotted under Section 65584 that  
27 qualify as extremely low income households. The local agency  
28 may either use available census data to calculate the percentage  
29 of very low income households that qualify as extremely low  
30 income households or presume that 50 percent of the very low  
31 income households qualify as extremely low income households.  
32 The number of extremely low income households and very low  
33 income households shall equal the jurisdiction's allocation of very  
34 low income households pursuant to Section 65584.

35 (2) An analysis and documentation of household characteristics,  
36 including level of payment compared to ability to pay, housing  
37 characteristics, including overcrowding, and housing stock  
38 condition.

39 (3) An inventory of land suitable and available for residential  
40 development, including vacant sites and sites having realistic and



1 demonstrated potential for redevelopment during the planning  
2 period to meet the locality’s housing need for a designated income  
3 level, and an analysis of the relationship of zoning and public  
4 facilities and services to these sites.

5 (4) (A) The identification of a zone or zones within zones that  
6 allow residential use, including mixed-use areas, where emergency  
7 shelters are allowed as a permitted use without a conditional use  
8 or other discretionary permit. A local government may designate  
9 zones for emergency shelters in an industrial zone if the local  
10 government demonstrates that the zone is connected to amenities  
11 and services that serve people experiencing homelessness. Shelters  
12 shall include other interim interventions, including, but not limited  
13 to, navigation centers, bridge housing, and respite or recuperative  
14 care. The identified zone or zones shall include sufficient capacity  
15 to accommodate the need for emergency shelter identified in  
16 paragraph (7), except that each local government shall identify a  
17 zone or zones that can accommodate at least one year-round  
18 emergency shelter. If the local government cannot identify a zone  
19 or zones with sufficient capacity, the local government shall include  
20 a program to amend its zoning ordinance to meet the requirements  
21 of this paragraph within one year of the adoption of the housing  
22 element. The local government may identify additional zones  
23 where emergency shelters are permitted with a conditional use  
24 permit. The local government shall also demonstrate that existing  
25 or proposed permit processing, development, and management  
26 standards are objective and encourage and facilitate the  
27 development of, or conversion to, emergency shelters. Emergency  
28 shelters shall only be subject to those development and  
29 management standards that apply to residential or commercial  
30 development within the same zone except that minimum parking  
31 requirements shall not be imposed. A local government may apply  
32 the following written, objective standards to emergency shelters:

- 33 (i) The maximum number of beds or persons permitted to be  
34 served nightly by the facility.
- 35 (ii) The size and location of exterior and interior onsite waiting  
36 and client intake areas.
- 37 (iii) The provision of onsite management.
- 38 (iv) The proximity to other emergency shelters, provided that  
39 emergency shelters are not required to be more than 300 feet apart.
- 40 (v) The length of stay.

1 (vi) Lighting.

2 (vii) Security during hours that the emergency shelter is in  
3 operation.

4 (B) The permit processing, development, and management  
5 standards applied under this paragraph shall not be deemed to be  
6 discretionary acts within the meaning of the California  
7 Environmental Quality Act (Division 13 (commencing with Section  
8 21000) of the Public Resources Code).

9 (C) A local government that can demonstrate to the satisfaction  
10 of the department the existence of one or more emergency shelters  
11 either within its jurisdiction or pursuant to a multijurisdictional  
12 agreement that can accommodate that jurisdiction's need for  
13 emergency shelter identified in paragraph (7) may comply with  
14 the zoning requirements of subparagraph (A) by identifying a zone  
15 or zones where new emergency shelters are allowed with a  
16 conditional use permit.

17 (D) A local government with an existing ordinance or ordinances  
18 that comply with this paragraph shall not be required to take  
19 additional action to identify zones for emergency shelters. The  
20 housing element must only describe how existing ordinances,  
21 policies, and standards are consistent with the requirements of this  
22 paragraph.

23 (E) A zone or zones where emergency shelters are allowed, as  
24 described in subparagraph (A), shall include sites that meet at least  
25 one of the following standards:

26 (i) Vacant sites zoned for residential use.

27 (ii) Vacant sites zoned for nonresidential use that allows  
28 residential development. Shelters may be permitted in a vacant  
29 industrial zone if the local government can demonstrate how the  
30 zone is connected to amenities and services that serve people  
31 experiencing homelessness.

32 (iii) A nonvacant site, provided that a description is provided  
33 of the use of each property at the time it is identified with an  
34 analysis of how the local jurisdiction will ensure the site is adequate  
35 for use as a shelter, while meeting all of the state and local health,  
36 safety, habitability, and building requirements necessary for any  
37 other residential development.

38 (5) An analysis of potential and actual governmental constraints  
39 upon the maintenance, improvement, or development of housing  
40 for all income levels, including the types of housing identified in

1 paragraph (1) of subdivision (c), and for persons with disabilities  
2 as identified in the analysis pursuant to paragraph (7), including  
3 land use controls, building codes and their enforcement, site  
4 improvements, fees and other exactions required of developers,  
5 local processing and permit procedures, and any locally adopted  
6 ordinances that directly impact the cost and supply of residential  
7 development. The analysis shall also demonstrate local efforts to  
8 remove governmental constraints that hinder the locality from  
9 meeting its share of the regional housing need in accordance with  
10 Section 65584 and from meeting the need for housing for persons  
11 with disabilities, supportive housing, transitional housing, and  
12 emergency shelters identified pursuant to paragraph (7).

13 (6) An analysis of potential and actual nongovernmental  
14 constraints upon the maintenance, improvement, or development  
15 of housing for all income levels, including the availability of  
16 financing, the price of land, the cost of construction, the requests  
17 to develop housing at densities below those anticipated in the  
18 analysis required by subdivision (c) of Section 65583.2, and the  
19 length of time between receiving approval for a housing  
20 development and submittal of an application for building permits  
21 for that housing development that hinder the construction of a  
22 locality's share of the regional housing need in accordance with  
23 Section 65584. The analysis shall also demonstrate local efforts  
24 to remove nongovernmental constraints that create a gap between  
25 the locality's planning for the development of housing for all  
26 income levels and the construction of that housing.

27 (7) An analysis of any special housing needs, such as those of  
28 the elderly; persons with disabilities, including a developmental  
29 disability, as defined in Section 4512 of the Welfare and  
30 Institutions Code; large families; farmworkers; families with female  
31 heads of households; and families and persons in need of  
32 emergency shelter. The need for emergency shelter shall be  
33 assessed based on annual and seasonal need. The need for  
34 emergency shelter may be reduced by the number of supportive  
35 housing units that are identified in an adopted 10-year plan to end  
36 chronic homelessness and that are either vacant or for which  
37 funding has been identified to allow construction during the  
38 planning period. An analysis of special housing needs by a city or  
39 county may include an analysis of the need for frequent user  
40 coordinated care housing services.

1 (8) An analysis of opportunities for energy conservation with  
2 respect to residential development. Cities and counties are  
3 encouraged to include weatherization and energy efficiency  
4 improvements as part of publicly subsidized housing rehabilitation  
5 projects. This may include energy efficiency measures that  
6 encompass the building envelope, its heating and cooling systems,  
7 and its electrical system.

8 (9) An analysis of existing assisted housing developments that  
9 are eligible to change from low-income housing uses during the  
10 next 10 years due to termination of subsidy contracts, mortgage  
11 prepayment, or expiration of restrictions on use. “Assisted housing  
12 developments,” for the purpose of this section, shall mean  
13 multifamily rental housing that receives governmental assistance  
14 under federal programs listed in subdivision (a) of Section  
15 65863.10, state and local multifamily revenue bond programs,  
16 local redevelopment programs, the federal Community  
17 Development Block Grant Program, or local in-lieu fees. “Assisted  
18 housing developments” shall also include multifamily rental units  
19 that were developed pursuant to a local inclusionary housing  
20 program or used to qualify for a density bonus pursuant to Section  
21 65916.

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

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

37 (C) The analysis shall identify public and private nonprofit  
38 corporations known to the local government that have legal and  
39 managerial capacity to acquire and manage these housing  
40 developments.

1 (D) The analysis shall identify and consider the use of all federal,  
2 state, and local financing and subsidy programs that can be used  
3 to preserve, for lower income households, the assisted housing  
4 developments, identified in this paragraph, including, but not  
5 limited to, federal Community Development Block Grant Program  
6 funds, tax increment funds received by a redevelopment agency  
7 of the community, and administrative fees received by a housing  
8 authority operating within the community. In considering the use  
9 of these financing and subsidy programs, the analysis shall identify  
10 the amounts of funds under each available program that have not  
11 been legally obligated for other purposes and that could be  
12 available for use in preserving assisted housing developments.

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

16 (2) It is recognized that the total housing needs identified  
17 pursuant to subdivision (a) may exceed available resources and  
18 the community's ability to satisfy this need within the content of  
19 the general plan requirements outlined in Article 5 (commencing  
20 with Section 65300). Under these circumstances, the quantified  
21 objectives need not be identical to the total housing needs. The  
22 quantified objectives shall establish the maximum number of  
23 housing units by income category, including extremely low income,  
24 that can be constructed, rehabilitated, and conserved over a  
25 five-year time period.

26 (c) A program that sets forth a schedule of actions during the  
27 planning period, each with a timeline for implementation, that may  
28 recognize that certain programs are ongoing, such that there will  
29 be beneficial impacts of the programs within the planning period,  
30 that the local government is undertaking or intends to undertake  
31 to implement the policies and achieve the goals and objectives of  
32 the housing element through the administration of land use and  
33 development controls, the provision of regulatory concessions and  
34 incentives, the utilization of appropriate federal and state financing  
35 and subsidy programs when available, and the utilization of moneys  
36 in a low- and moderate-income housing fund of an agency if the  
37 locality has established a redevelopment project area pursuant to  
38 the Community Redevelopment Law (Division 24 (commencing  
39 with Section 33000) of the Health and Safety Code). In order to  
40 make adequate provision for the housing needs of all economic

1 segments of the community, the program shall do all of the  
2 following:

3 (1) Identify actions that will be taken to make sites available  
4 during the planning period with appropriate zoning and  
5 development standards and with services and facilities to  
6 accommodate that portion of the city's or county's share of the  
7 regional housing need for each income level that could not be  
8 accommodated on sites identified in the inventory completed  
9 pursuant to paragraph (3) of subdivision (a) without rezoning, and  
10 to comply with the requirements of Section 65584.09. Sites shall  
11 be identified as needed to facilitate and encourage the development  
12 of a variety of types of housing for all income levels, including  
13 multifamily rental housing, factory-built housing, mobilehomes,  
14 housing for agricultural employees, supportive housing,  
15 single-room occupancy units, emergency shelters, and transitional  
16 housing.

17 (A) Where the inventory of sites, pursuant to paragraph (3) of  
18 subdivision (a), does not identify adequate sites to accommodate  
19 the need for groups of all household income levels pursuant to  
20 Section 65584, rezoning of those sites, including adoption of  
21 minimum density and development standards, for jurisdictions  
22 with an eight-year housing element planning period pursuant to  
23 Section 65588, shall be completed no later than three years after  
24 either the date the housing element is adopted pursuant to  
25 subdivision (f) of Section 65585 or the date that is 90 days after  
26 receipt of comments from the department pursuant to subdivision  
27 (b) of Section 65585, whichever is earlier, unless the deadline is  
28 extended pursuant to subdivision (f). Notwithstanding the  
29 foregoing, for a local government that fails to adopt a housing  
30 element within 120 days of the statutory deadline in Section 65588  
31 for adoption of the housing element, rezoning of those sites,  
32 including adoption of minimum density and development standards,  
33 shall be completed no later than three years and 120 days from the  
34 statutory deadline in Section 65588 for adoption of the housing  
35 element.

36 (B) Where the inventory of sites, pursuant to paragraph (3) of  
37 subdivision (a), does not identify adequate sites to accommodate  
38 the need for groups of all household income levels pursuant to  
39 Section 65584, the program shall identify sites that can be  
40 developed for housing within the planning period pursuant to

1 subdivision (h) of Section 65583.2. The identification of sites shall  
2 include all components specified in Section 65583.2.

3 (C) Where the inventory of sites pursuant to paragraph (3) of  
4 subdivision (a) does not identify adequate sites to accommodate  
5 the need for farmworker housing, the program shall provide for  
6 sufficient sites to meet the need with zoning that permits  
7 farmworker housing use by right, including density and  
8 development standards that could accommodate and facilitate the  
9 feasibility of the development of farmworker housing for low- and  
10 very low income households.

11 (2) Assist in the development of adequate housing to meet the  
12 needs of extremely low, very low, low-, and moderate-income  
13 households.

14 (3) Address and, where appropriate and legally possible, remove  
15 governmental and nongovernmental constraints to the maintenance,  
16 improvement, and development of housing, including housing for  
17 all income levels and housing for persons with disabilities. The  
18 program shall remove constraints to, and provide reasonable  
19 accommodations for housing designed for, intended for occupancy  
20 by, or with supportive services for, persons with disabilities.  
21 Transitional housing and supportive housing shall be considered  
22 a residential use of property and shall be subject only to those  
23 restrictions that apply to other residential dwellings of the same  
24 type in the same zone. Supportive housing, as defined in Section  
25 65650, shall be a use by right in all zones where multifamily and  
26 mixed uses are permitted, as provided in Article 11 (commencing  
27 with Section 65650).

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

32 (5) Promote and affirmatively further fair housing opportunities  
33 and promote housing throughout the community or communities  
34 for all persons regardless of race, religion, sex, marital status,  
35 ancestry, national origin, color, familial status, or disability, and  
36 other characteristics protected by the California Fair Employment  
37 and Housing Act (Part 2.8 (commencing with Section 12900) of  
38 Division 3 of Title 2), Section 65008, and any other state and  
39 federal fair housing and planning law.

1 (6) Preserve for lower income households the assisted housing  
2 developments identified pursuant to paragraph (9) of subdivision  
3 (a). The program for preservation of the assisted housing  
4 developments shall utilize, to the extent necessary, all available  
5 federal, state, and local financing and subsidy programs identified  
6 in paragraph (9) of subdivision (a), except where a community has  
7 other urgent needs for which alternative funding sources are not  
8 available. The program may include strategies that involve local  
9 regulation and technical assistance.

10 (7) Include an identification of the agencies and officials  
11 responsible for the implementation of the various actions and the  
12 means by which consistency will be achieved with other general  
13 plan elements and community goals.

14 (8) Include a diligent effort by the local government to achieve  
15 public participation of all economic segments of the community  
16 in the development of the housing element, and the program shall  
17 describe this effort.

18 (9) (A) Affirmatively further fair housing in accordance with  
19 Chapter 15 (commencing with Section 8899.50) of Division 1 of  
20 Title 2. The program shall include an assessment of fair housing  
21 in the jurisdiction that shall include all of the following  
22 components:

23 (i) A summary of fair housing issues in the jurisdiction and an  
24 assessment of the jurisdiction's fair housing enforcement and fair  
25 housing outreach capacity.

26 (ii) An analysis of available federal, state, and local data and  
27 knowledge to identify integration and segregation patterns and  
28 trends, racially or ethnically concentrated areas of poverty,  
29 disparities in access to opportunity, and disproportionate housing  
30 needs within the jurisdiction, including displacement risk.

31 (iii) An assessment of the contributing factors for the fair  
32 housing issues identified under clause (ii).

33 (iv) An identification of the jurisdiction's fair housing priorities  
34 and goals, giving highest priority to those factors identified in  
35 clause (iii) that limit or deny fair housing choice or access to  
36 opportunity, or negatively impact fair housing or civil rights  
37 compliance, and identifying the metrics and milestones for  
38 determining what fair housing results will be achieved.

39 (v) Strategies and actions to implement those priorities and  
40 goals, which may include, but are not limited to, enhancing



1 mobility strategies and encouraging development of new affordable  
2 housing in areas of opportunity, as well as place-based strategies  
3 to encourage community revitalization, including preservation of  
4 existing affordable housing, and protecting existing residents from  
5 displacement.

6 (B) A jurisdiction that completes or revises an assessment of  
7 fair housing pursuant to Subpart A (commencing with Section  
8 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal  
9 Regulations, as published in Volume 80 of the Federal Register,  
10 Number 136, page 42272, dated July 16, 2015, or an analysis of  
11 impediments to fair housing choice in accordance with the  
12 requirements of Section 91.225 of Title 24 of the Code of Federal  
13 Regulations in effect prior to August 17, 2015, may incorporate  
14 relevant portions of that assessment or revised assessment of fair  
15 housing or analysis or revised analysis of impediments to fair  
16 housing into its housing element.

17 (C) The requirements of this paragraph shall apply to housing  
18 elements due to be revised pursuant to Section 65588 on or after  
19 January 1, 2021.

20 (d) (1) A local government may satisfy all or part of its  
21 requirement to identify a zone or zones suitable for the  
22 development of emergency shelters pursuant to paragraph (4) of  
23 subdivision (a) by adopting and implementing a multijurisdictional  
24 agreement, with a maximum of two other adjacent communities,  
25 that requires the participating jurisdictions to develop at least one  
26 year-round emergency shelter within two years of the beginning  
27 of the planning period.

28 (2) The agreement shall allocate a portion of the new shelter  
29 capacity to each jurisdiction as credit toward its emergency shelter  
30 need, and each jurisdiction shall describe how the capacity was  
31 allocated as part of its housing element.

32 (3) Each member jurisdiction of a multijurisdictional agreement  
33 shall describe in its housing element all of the following:

34 (A) How the joint facility will meet the jurisdiction's emergency  
35 shelter need.

36 (B) The jurisdiction's contribution to the facility for both the  
37 development and ongoing operation and management of the  
38 facility.

39 (C) The amount and source of the funding that the jurisdiction  
40 contributes to the facility.

1 (4) The aggregate capacity claimed by the participating  
2 jurisdictions in their housing elements shall not exceed the actual  
3 capacity of the shelter.

4 (e) Except as otherwise provided in this article, amendments to  
5 this article that alter the required content of a housing element  
6 shall apply to both of the following:

7 (1) A housing element or housing element amendment prepared  
8 pursuant to subdivision (e) of Section 65588 or Section 65584.02,  
9 when a city, county, or city and county submits a draft to the  
10 department for review pursuant to Section 65585 more than 90  
11 days after the effective date of the amendment to this section.

12 (2) Any housing element or housing element amendment  
13 prepared pursuant to subdivision (e) of Section 65588 or Section  
14 65584.02, when the city, county, or city and county fails to submit  
15 the first draft to the department before the due date specified in  
16 Section 65588 or 65584.02.

17 (f) The deadline for completing required rezoning pursuant to  
18 subparagraph (A) of paragraph (1) of subdivision (c) shall be  
19 extended by one year if the local government has completed the  
20 rezoning at densities sufficient to accommodate at least 75 percent  
21 of the units for low- and very low income households and if the  
22 legislative body at the conclusion of a public hearing determines,  
23 based upon substantial evidence, that any of the following  
24 circumstances exist:

25 (1) The local government has been unable to complete the  
26 rezoning because of the action or inaction beyond the control of  
27 the local government of any other state, federal, or local agency.

28 (2) The local government is unable to complete the rezoning  
29 because of infrastructure deficiencies due to fiscal or regulatory  
30 constraints.

31 (3) The local government must undertake a major revision to  
32 its general plan in order to accommodate the housing-related  
33 policies of a sustainable communities strategy or an alternative  
34 planning strategy adopted pursuant to Section 65080.

35 The resolution and the findings shall be transmitted to the  
36 department together with a detailed budget and schedule for  
37 preparation and adoption of the required rezonings, including plans  
38 for citizen participation and expected interim action. The schedule  
39 shall provide for adoption of the required rezoning within one year  
40 of the adoption of the resolution.

1 (g) (1) If a local government fails to complete the rezoning by  
2 the deadline provided in subparagraph (A) of paragraph (1) of  
3 subdivision (c), as it may be extended pursuant to subdivision (f),  
4 except as provided in paragraph (2), a local government may not  
5 disapprove a housing development project, nor require a  
6 conditional use permit, planned unit development permit, or other  
7 locally imposed discretionary permit, or impose a condition that  
8 would render the project infeasible, if the housing development  
9 project (A) is proposed to be located on a site required to be  
10 rezoned pursuant to the program action required by that  
11 subparagraph and (B) complies with applicable, objective general  
12 plan and zoning standards and criteria, including design review  
13 standards, described in the program action required by that  
14 subparagraph. Any subdivision of sites shall be subject to the  
15 Subdivision Map Act (Division 2 (commencing with Section  
16 66410)). Design review shall not constitute a “project” for purposes  
17 of Division 13 (commencing with Section 21000) of the Public  
18 Resources Code.

19 (2) A local government may disapprove a housing development  
20 described in paragraph (1) if it makes written findings supported  
21 by substantial evidence on the record that both of the following  
22 conditions exist:

23 (A) The housing development project would have a specific,  
24 adverse impact upon the public health or safety unless the project  
25 is disapproved or approved upon the condition that the project be  
26 developed at a lower density. As used in this paragraph, a “specific,  
27 adverse impact” means a significant, quantifiable, direct, and  
28 unavoidable impact, based on objective, identified written public  
29 health or safety standards, policies, or conditions as they existed  
30 on the date the application was deemed complete.

31 (B) There is no feasible method to satisfactorily mitigate or  
32 avoid the adverse impact identified pursuant to paragraph (1), other  
33 than the disapproval of the housing development project or the  
34 approval of the project upon the condition that it be developed at  
35 a lower density.

36 (3) The applicant or any interested person may bring an action  
37 to enforce this subdivision. If a court finds that the local agency  
38 disapproved a project or conditioned its approval in violation of  
39 this subdivision, the court shall issue an order or judgment  
40 compelling compliance within 60 days. The court shall retain

1 jurisdiction to ensure that its order or judgment is carried out. If  
2 the court determines that its order or judgment has not been carried  
3 out within 60 days, the court may issue further orders to ensure  
4 that the purposes and policies of this subdivision are fulfilled. In  
5 any such action, the city, county, or city and county shall bear the  
6 burden of proof.

7 (4) For purposes of this subdivision, “housing development  
8 project” means a project to construct residential units for which  
9 the project developer provides sufficient legal commitments to the  
10 appropriate local agency to ensure the continued availability and  
11 use of at least 49 percent of the housing units for very low, low-,  
12 and moderate-income households with an affordable housing cost  
13 or affordable rent, as defined in Section 50052.5 or 50053 of the  
14 Health and Safety Code, respectively, for the period required by  
15 the applicable financing.

16 (h) An action to enforce the program actions of the housing  
17 element shall be brought pursuant to Section 1085 of the Code of  
18 Civil Procedure.

19 SEC. 3. Article 12 (commencing with Section 65660) is added  
20 to Chapter 3 of Division 1 of Title 7 of the Government Code, to  
21 read:

22  
23 Article 12. Interim Shelter Interventions  
24

25 65660. For purposes of this article:

26 (a) “Interim shelter intervention” means housing or shelter in  
27 which a resident may live temporarily while waiting to move into  
28 permanent housing. “Interim shelter intervention” shall be flexible  
29 to address the resident’s household needs and may include, but is  
30 not limited to, recuperative or respite care, motel vouchers,  
31 navigation centers, transitional housing used as an interim  
32 intervention, and emergency shelters. “Interim shelter intervention”  
33 shall not require a resident to pay more than 30 percent of the  
34 resident’s monthly household income for housing costs, shall be  
35 low barrier and culturally competent, and shall be focused on  
36 providing support for moving people out of crisis and into  
37 permanent housing as quickly as possible.

38 (b) “Use by right” has the meaning defined in subdivision (i)  
39 of Section 65583.2.

1 65662. (a) An interim shelter intervention development is a  
2 use by right in ~~zones where residential use is a permitted use,~~  
3 ~~including~~ areas zoned for mixed use, if it meets the requirements  
4 of this article. A local jurisdiction shall permit an interim shelter  
5 intervention development provided that the development meets  
6 the following requirements:

7 (1) It meets all applicable state and local health and safety  
8 requirements and state and local building codes.

9 (2) It allows for the presence of partners, pets, and the storage  
10 of possessions.

11 (3) It provides privacy.

12 (4) It has accommodations for people with disabilities.

13 (5) It offers services to connect people to permanent housing  
14 through a services plan that identifies services staffing.

15 (6) It is linked to a coordinated entry system, so that staff in the  
16 interim facility or staff who colocate in the facility, may conduct  
17 assessments and provide services to connect people to permanent  
18 housing. “Coordinated entry system” means a centralized or  
19 coordinated assessment system developed pursuant to Section  
20 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the  
21 Code of Federal Regulations, as those sections read on January 1,  
22 2020, and any related requirements, designed to coordinate program  
23 participant intake, assessment, and referrals.

24 (7) It is low-barrier and does not deny entry based on use of  
25 drugs or alcohol, a history of justice involvement or poor credit,  
26 or refusal to participate in services or a program.

27 (8) It complies otherwise with the core components of Housing  
28 First identified in Section 8255 of the Welfare & Institutions Code.

29 (9) *It has on-site staff, including a manager, at all times while*  
30 *the shelter is open.*

31 (b) A local jurisdiction shall not impose parking requirements  
32 on an interim housing intervention development.

33 65664. Within 30 days of receipt of an application for an  
34 interim housing intervention development, the local jurisdiction  
35 shall notify a developer whether the developer’s application is  
36 complete. Within 60 days of receipt of a completed application  
37 for an interim housing intervention development, the local  
38 jurisdiction shall complete its review of the application.

39 65666. The Legislature finds and declares that interim housing  
40 intervention developments are essential tools for alleviating the

1 homelessness crisis in this state and are a matter of statewide  
2 concern and not a municipal affair as that term is used in Section  
3 5 of Article XI of the California Constitution. Therefore, this article  
4 shall apply to all cities, including charter cities.

5 *65668. This article shall remain in effect only until January 1,*  
6 *2027, and as of that date is repealed.*

7 SEC. 4. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 a local agency or school district has the authority to levy service  
10 charges, fees, or assessments sufficient to pay for the program or  
11 level of service mandated by this act, within the meaning of Section  
12 17556 of the Government Code.

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## Senator Scott Wiener, 11<sup>th</sup> Senate District

### Senate Bill 48 – Right to Shelter

#### SUMMARY

SB 48 seeks to expand shelter access in California, as a means of ensuring homeless people have a safe place to be and as a way of helping homeless people transition off the streets and into permanent housing.

As we look at the issues impacting our state, the lack of access to shelter, services, and permanent housing for our unhoused residents is a place where we must do more. It should not depend on what city or county you live in. All of our residents deserve access to clean and safe shelter that will give them the opportunity to attain permanent housing or services they need.

#### BACKGROUND/EXISTING LAW

California has a growing homelessness crisis. Homelessness is a diverse problem, but one glaring aspect of the problem is the number of unsheltered homeless in our state. California accounts for about half of all unsheltered homeless in the nation, despite having about 15% of our nation's population.

We must do more to shelter our unhoused population - to ensure people have a safe and humane place to be, with a goal of transitioning people off the streets and into permanent housing.

While some California counties do a very good job sheltering homeless residents, in various counties, there are either no shelter beds at all, only a tiny number, only seasonally available shelter, or no shelter access specific to youth. Additionally, some counties leave over 75 percent of their homeless residents unsheltered. California's homeless population and the percentage of that population which is unsheltered remains the highest in the nation.

#### PROBLEM

The U.S. Department of Housing and Urban Development estimates that in 2017 California accounted for nearly half of all unsheltered people in the country (49% or 91,642 people). This means,

unequivocally, that California is failing to provide the services and resources necessary to care for thousands of people, night after night, year after year. Given the size of our homeless population, it is critical that the state play a role in ensuring all of our residents have access to shelter.

#### SOLUTION

SB 48, currently an intent bill, seeks to expand shelter access in California and to do so in a geographically equitable way.

SB 48 does *not* seek to establish a New York City-style ever-growing right to shelter, since an overly aggressive right to shelter can perpetuate homelessness and divert resources from permanent housing.

SB 48's goal is to expand shelter access and to ensure expanded shelter access dovetails with and complements California's paramount goal: to transition homeless people into permanent housing.

#### FOR MORE INFORMATION

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