



# MTC Administrative Guidance: Transit-Oriented Communities Policy

Guidance for Public Agency Staff Implementing Metropolitan  
Transportation Commission Resolution 4530

September 2024

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## I. Background and Purpose

This document provides guidance to local jurisdictions on how to demonstrate compliance with MTC's Transit-Oriented Communities (TOC) Policy ([MTC Resolution 4530](#)), adopted in September 2022 and revised in October 2023. The TOC Policy seeks to support the region's transit investments by ensuring communities around transit stations and along transit corridors are places that not only support transit ridership, but are places where Bay Area residents of all abilities, income levels, and racial and ethnic backgrounds can live, work, and access services, such as education, childcare, and healthcare. The TOC Policy is rooted in Plan Bay Area 2050 (PBA 2050), the region's Long Range Transportation Plan/Sustainable Communities Strategy, and addresses all four elements of the Plan—transportation, housing, the economy, and the environment. Compliance with the TOC Policy is voluntary for jurisdictions that want to advance the goals of PBA 2050 or to be eligible and/or competitive for some MTC discretionary funding.

Four goals guide the TOC Policy and advance PBA 2050 implementation:

- Increase the overall housing supply in part by increasing the density for new residential projects. Prioritize affordable housing in transit-rich areas.
- In areas near regional transit hubs, increase density for new commercial office development.
- Prioritize bus transit, active transportation, and shared mobility within and to/from transit-rich areas, particularly to [Equity Priority Communities](#) located more than ½ mile from transit stops or stations.
- Support and build partnerships to create equitable transit-oriented communities within the San Francisco Bay Area.

Future One Bay Area Grant (OBAG) funding cycles (i.e., OBAG 4 and subsequent funding cycles) will consider funding revisions that prioritize investments in transit station areas that are subject to and compliant with the TOC Policy. With MTC Commission approval, MTC may consider compliance with the TOC Policy to evaluate applications for additional discretionary funding sources.

## II. TOC Policy Requirements

The TOC policy requirements consist of the following four elements:

1. Minimum residential and commercial office densities for new development.
2. Affordable housing production, preservation and protection, and stabilizing businesses to prevent displacement.
3. Parking management.
4. Transit station access and circulation.

The specific requirements for each topic area are described in more detail below. Jurisdictions will be evaluated for compliance with all requirements in each of the four topic areas for each TOC area<sup>1</sup> within the jurisdiction that is subject to the TOC Policy. For all topic areas, a jurisdiction may use an existing adopted policy or plan to meet the requirements or, as needed, may adopt new policies/standards by the deadline for compliance with the TOC Policy (see section V. *Documentation Submittal and Review*, below, for more details). Where applicable, a jurisdiction may rely on jurisdiction-wide policies to demonstrate compliance for a TOC area.

### III. Policy Applicability

#### Types of Transit

The TOC Policy applies to areas within ½ mile of the following types of existing and planned fixed-guideway transit<sup>2</sup> stops and stations:

- Regional rail (e.g., Bay Area Rapid Transit, Caltrain)
- Commuter rail (e.g., Capitol Corridor, Altamont Corridor Express, Sonoma-Marin Area Rail Transit, Valley Link)
- Light-rail transit (LRT)
- Bus rapid transit (BRT)<sup>3</sup>
- Ferries

The ½-mile radius around a transit station/stop applies even if the jurisdiction has adopted a Priority Development Area (PDA) whose boundaries are different.

A [map](#) and [list of the jurisdictions and stations](#) subject to the TOC Policy for the deadline associated with the OBAG 4 Cycle is available on MTC's website.

#### ***Existing Transit***

The TOC Policy applies to jurisdictions with existing fixed-guideway transit service stops and stations, as defined above. For jurisdictions with an existing stop/station, OBAG (i.e., OBAG 4 and subsequent funding cycles) is currently the only funding source for which MTC will consider TOC compliance in its investment decisions. With Commission approval, MTC may consider compliance with the TOC Policy to evaluate applications

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<sup>1</sup> A TOC area is the geography surrounding a fixed-guideway transit stop or station that is subject to the TOC Policy requirements. See "TOC Area Geography" in Section III. Policy Applicability for more information on how this specific geography is determined.

<sup>2</sup> "Fixed guideway means a public transportation facility that uses and occupies a separate right-of-way or rail line for the exclusive use of public transportation and other high occupancy vehicles, or uses a fixed catenary system and a right of way usable by other forms of transportation. This includes, but is not limited to, rapid rail, light rail, commuter rail, automated guideway transit, people movers, ferry boat service, and fixed-guideway facilities for buses (such as bus rapid transit) and other high occupancy vehicles." (49 CFR § 611.105)

<sup>3</sup> The TOC Policy uses the definition of "bus rapid transit" (BRT) from [California Public Resources Code section 21060.2](#).

for additional discretionary funding sources for enhancements or improvements to existing stops/stations.

### ***Planned Fixed-Guideway Stops/Stations Subject to the TOC Policy***

Fixed-guideway stations that are planned but not currently in service may need to demonstrate compliance with TOC Policy requirements by the deadline associated with the OBAG 4 cycle. This applies to planned stations meeting **any** of the following criteria:

- Project begins construction by January 1, 2025.

#### **AND/OR**

- Project allocated regional discretionary funding that requires committing to compliance by the OBAG 4 cycle, as per the requirements of MTC Resolution 4530.

#### **AND/OR**

- Project has a [Major Project Advancement Policy](#) (MAP) Level of 1 or 2.

Additionally, planned stations meeting **all** of the following criteria are subject to achieving TOC Policy compliance by the deadline associated with the OBAG 4 cycle:

- Sufficiently defined station location as determined by MTC staff (e.g., project has completed environmental review).

#### **AND**

- Project is in Bin 1 of the Plan Bay Area 2050+ Transportation Project List, encompassing projects expected to be operational by 2035.

If a planned stop/station has not been confirmed as subject to the TOC Policy using the above criteria by January 1, 2025, it will not have to be in compliance by the OBAG 4 deadline.

### **Opt-In for Planned Fixed-Guideway Stops/Stations Not Subject to the TOC Policy**

A planned station that does not meet the criteria above can choose to opt in to achieving compliance for the planned TOC area for the OBAG 4 cycle. To do so, the planned station must have a sufficiently defined station location as determined by MTC staff (e.g., the project has completed environmental review). Density and parking standards for planned TOC areas that opt in would be based on the anticipated level of transit service.

### ***Transit Extensions***

“Transit extensions” refer to the creation of a new fixed-guideway transit system (rail, ferry, or bus rapid transit), or extension of an existing fixed-guideway transit system to a new station, stations, or terminals. Transit extensions include new infill stations on a fixed-guideway transit system, and major expansions of existing stations to accommodate a new fixed-guideway transit system or route.

The TOC Policy establishes different compliance expectations for transit extension projects seeking awards or allocations of regional discretionary capital funding<sup>4</sup> based on the project's delivery stage, as follows:

1. *Project Development/Environmental Review*: Project sponsors, and local jurisdictions as applicable, must provide a letter or resolution acknowledging that future allocation requests to MTC will be subject to the TOC Policy pursuant to later phases.
2. *Project Design and Early Right-of-Way Acquisition*: Jurisdictions must commit in writing to take steps toward achieving compliance by 2026 for the station area(s) seeking funding.
3. *Project Construction*: Jurisdictions do not need to submit a letter of commitment, but they should work with MTC staff to achieve compliance by 2026.

The transit extension project sponsor/implementing agency must include an acknowledgement or commitment letter or resolution, as applicable, in its request to MTC for regional discretionary funding. Templates for the jurisdiction letters and resolutions are available on the [MTC TOC Policy website](#). See [Appendix 1 of MTC Resolution 4530](#) for more details about the requirements for transit extensions.

Beginning in 2026, these requirements will also apply to transit extension projects seeking MTC endorsement for federal or state discretionary capital funding.<sup>5</sup>

### ***Interregional Projects***

Interregional projects that trigger MTC's Interregional Project Funding and Coordination Policy (Resolution No. 4399) shall be subject to the TOC Policy as set forth in this paragraph. For any portion of the project within MTC's jurisdiction, the project sponsor must satisfy the requirements as noted above for Existing Transit and Transit Extensions, as applicable. For portions of the project within the jurisdiction of another Metropolitan Planning Agency (MPO)/Regional Transportation Planning Agency (RTPA), the Interagency Agreement referenced in Resolution 4399 must include a provision acknowledging the applicability of the TOC Policy, confirming compliance with the TOC Policy for the Bay Area portion of the project, and a commitment from the other MPO/RTPA to strive towards achievement of TOC Policy requirements for the portions of the project outside of the Bay Area. The other MPO/RTPA's commitment for non-Bay

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<sup>4</sup> For the purposes of the TOC Policy, "regional discretionary funding" for transit projects includes the following fund sources: regional bridge tolls and associated programs (e.g., RM2 & RM3), Surface Transportation Block Grant Program (STBG), Congestion Mitigation Air Quality Improvement Program (CMAQ), Regional Transportation Improvement Program (RTIP), and Regional Exchange Program (MTC Exchange). This list is non-exhaustive and could be amended in the future if MTC exercises discretionary control over additional funding sources.

<sup>5</sup> In the context of TOC Policy implementation, "endorsement" refers to when the MTC Commission acts to endorse projects seeking funding from other sources or when a project is added to the list of projects and programs included in MTC's Major Project Advancement Policy (MAP) or a change is made to a project's MAP Level.

Area portions of the project should include, as practicable, an agreement to regularly report on the status of progress to meeting TOC Policy requirements, to explain any challenges with achieving TOC Policy requirements, and any steps that will be taken to overcome those challenges.

## Transit Tiers

Geographic areas subject to the TOC Policy are categorized by tier according to the level of transit service at fixed-guideway station(s) within ½ mile:

- Tier 1: Rail stations serving regional centers (i.e., Downtown San Francisco, Downtown Oakland, and Downtown San José)
- Tier 2: Stop/station served by two or more BART lines or BART and Caltrain
- Tier 3: Stop/station served by one BART line, Caltrain, light rail transit, or bus rapid transit
- Tier 4: Commuter rail (SMART, ACE, Capitol Corridor, Valley Link) stations, Caltrain stations south of Tamien, or ferry terminals

Some TOC Policy requirements are defined by transit tier, with some requirements consistent across all tiers.

## Opt-In for Areas Not Served by Fixed-Guideway Transit Service

Jurisdictions with transit stops and stations that are not served by fixed-guideway service (e.g., areas that are only served by regular fixed-route bus transit) may choose to “opt in” and voluntarily meet TOC Policy requirements for these areas.<sup>6</sup> Station areas/stops where a jurisdiction has voluntarily complied with the TOC Policy may be eligible for any future funding sources where the MTC Commission chooses to adopt TOC Policy compliance as a prerequisite for funding or a factor in prioritizing funding.

## TOC Area Geography

The ½-mile area is measured from a single point at the center of the stop or station. Where a station/stop includes infrastructure such as platforms, bus transfer facilities, and parking areas, a single centroid is identified rather than computing distance from multiple station entrances or property boundaries. Open water, rivers, canals, and other water bodies are excluded, which may result in the TOC area being an irregular shape rather than a perfect circle.

For more information on how the density and parking requirements apply to TOC areas, see “Section 1: Density for New Residential and Commercial Office Development” and “Section 3: Parking Management” below.

A [map](#) and [list of the jurisdictions and stations](#) subject to the TOC Policy for the deadline associated with the OBAG 4 Cycle is available on MTC’s website.

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<sup>6</sup> For locations with no fixed-guideway transit service, the Tier 4 density and parking management requirements will apply in addition to all other TOC Policy requirements.

## Overlapping TOC Areas

In some cases, the ½-mile area around one stop/station may intersect with the ½-mile area around another stop/station, resulting in overlapping TOC areas. As a jurisdiction must demonstrate compliance for each TOC area separately, a parcel within an overlapping area will be considered in calculating the average zoning density as well as evaluating the parking standards for each of the overlapping TOC areas. If the overlapping TOC areas represent different transit tiers, parcels in the overlapping areas must meet the standards for the higher transit tier (i.e., Tier 1 is higher than Tier 2).

For jurisdictions with overlapping TOC areas, MTC will work with local staff to identify situations where TOC areas can be consolidated (e.g., along BRT or LRT corridors or in downtown areas) for aggregate analysis of TOC compliance.

## Multi-Jurisdiction TOC Areas

A TOC area may encompass multiple jurisdictions. A jurisdiction is exempt from complying with any TOC Policy requirements if it contains 20 percent or less of the TOC area, as determined by MTC staff. A jurisdiction that comprises more than 20 percent of a TOC area must comply with all TOC Policy requirements for its portion of the TOC area.

For the TOC Policy density standards, a jurisdiction is not responsible for zoning densities/intensities outside its boundaries, but it must meet the TOC Policy standards for the portion of the TOC area within its jurisdiction.<sup>7</sup> However, joint applications are encouraged for a TOC area that crosses jurisdictional boundaries; in such instances, compliance with the average density standards should be based on the combined area of the TOC area in both jurisdictions (or in all jurisdictions, if more than two are involved).

## IV. Documentation Submittal and Review

### Submission Deadline

To ensure eligibility for OBAG 4 funding and any other discretionary funding that may be linked to TOC Policy compliance, jurisdictions should anticipate demonstrating compliance prior to adoption of OBAG 4, expected in 2026. MTC will provide more information about submission deadlines as part of developing the OBAG 4 program.

### Documentation Submittal

MTC will accept submissions from jurisdictions to demonstrate compliance with the TOC Policy for each TOC area subject to the policy within the jurisdiction. Jurisdictions must use the [TOC Policy Submission Portal](#) developed by MTC. Jurisdictions may submit documentation on a rolling basis until the submission deadline. Questions about documentation submittal should be directed to [TOCPolicy@bayareametro.gov](mailto:TOCPolicy@bayareametro.gov).

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<sup>7</sup> Average zoning density calculation requirements are covered in Section V of this Guidance document.



## Local Jurisdiction Resolution

The jurisdiction's final submission must be accompanied by a resolution adopted by the city council or board of supervisors confirming compliance with the TOC Policy. For jurisdictions with multiple TOC areas, the jurisdiction may submit a single resolution that includes reference to all TOC areas for which the jurisdiction is confirming compliance.

## MTC Review Process

To complete its review of a jurisdiction's submission, MTC may request additional clarifying documentation and information from the jurisdiction. Additionally, to assist with its review of the submission, MTC may consult with and gather relevant information from any individual, entity, or public agency. Jurisdictions will receive confirmation of its compliance status after MTC has completed its review of submitted documentation.

## V. Guidance for TOC Policy Submission

This section provides the guidance necessary to demonstrate compliance with MTC's TOC Policy requirements. It is divided into four sections:

1. Zoning density and intensity requirements for residential and commercial office development.
2. Affordable housing production, preservation, and protection policies and commercial stabilization policies
3. Parking management policies
4. Station access and circulation requirements

### Section 1: Density for New Residential and Commercial Office Development

#### ***Summary of TOC Policy Requirements***

The TOC Policy seeks to ensure that local planning policies and zoning regulations enable new development within TOC areas to be built at sufficiently high densities to support transit ridership and increase the proportion of trips taken by transit. The mechanism for furthering this goal is the requirement that jurisdictions adopt minimum density and intensity requirements in TOC areas. Additionally, if a jurisdiction chooses to adopt maximum density and intensity requirements, these must be high enough to support robust transit-oriented development.<sup>8</sup>

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<sup>8</sup> While the TOC Policy does not specify requirements for building heights, local jurisdictions should not limit building heights such that new residential development at the densities specified by the TOC Policy becomes infeasible.

The Policy does not require a jurisdiction to plan or zone specific parcels for a particular land use or density. Rather, a jurisdiction is required to meet zoning density and intensity standards where zoning allows new residential, office, or mixed-use development. The density requirements represent an average taken across the TOC area, and the required average densities are based on the area's Transit Tier (see Tables 1 and 5).

The minimum density/intensity in a given zoning district where housing and/or commercial office uses are permitted may be below the TOC Policy thresholds (Tables 1 and 5), provided the average across the TOC area meets the requirement.<sup>9</sup> Cities that have adopted Form Based Codes without density standards are required to adopt minimum densities, minimum Floor Area Ratios (FARs), or minimum heights for future residential, commercial office, and mixed-use projects.

A jurisdiction without minimum residential or commercial office zoning standards may use the minimums identified in an adopted General Plan, Specific Plan, or Area Plan to the extent the Plan requires that new development must occur at or above a minimum threshold. In the absence of such a requirement or zoning standard, a zone without a minimum density will be assigned a "zero" for the purposes of calculating the average for the TOC area. A minimum density value of zero for any zone in a TOC area will make it more difficult to achieve the required areawide averages. This is further explained in the methodology below.

A jurisdiction is not required to adopt maximum allowable density/intensity standards. However, if a jurisdiction has adopted these standards, then the average of the maximum density/intensity allowed for residential or commercial office uses must meet or exceed the TOC Policy's thresholds (Tables 3 and 7).

### **Areas Eligible for Exclusion from Density/Intensity Requirements**

For the residential calculations, only zoning districts that allow residential as a permitted use (i.e., with no use permit requirement) are included. However, zones intended to conserve land for open space or agriculture, even where residential is listed as a permitted use, may be excluded.

For the commercial office calculations, only zoning districts that allow commercial office as a permitted use are included. Subject to approval by MTC staff, zoning districts in which offices are permitted uses but are ancillary to industrial activities (such as manufacturing, warehousing, production, distribution, repair, etc.) may be excluded.

The Policy allows parcels with existing dwelling units to be excluded from the residential and commercial office calculations to minimize the risk of displacement. However, a

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<sup>9</sup> "Permitted" means the use is listed as a permitted use in the zoning regulations, with no use permit requirement.

parcel may **not** be excluded if it was counted as a Housing Opportunity Site in the jurisdiction's Housing Element and assumed to produce one or more units of housing.

For the TOC Policy, "existing dwelling units" are residential units that received a building permit prior to January 1, 2024. However, if a project has not received a certificate of occupancy by the beginning of the OBAG 5 cycle (anticipated in 2030), the parcel cannot be excluded from future TOC Policy compliance cycles.

**Note:** Calculation of the average density *includes* parcels zoned to allow residential and/or commercial office development where it may not be physically possible to construct new residential, commercial office, or mixed-use buildings within the specified density ranges due to small parcel sizes, environmental factors, conflicts with Airport Land Use Compatibility Plans, etc.

### ***Submitting Required Documentation***

Demonstrating conformance to the TOC Policy includes four calculations of *average density/intensity* within the TOC area:

- Minimum zoning density required for zones allowing residential uses.
- If a jurisdiction has maximum residential density standards, the maximum zoning density for zones allowing residential uses.
- Minimum commercial office intensity (FAR) required for zones allowing office uses.
- If a jurisdiction has maximum commercial intensity standards, the maximum commercial office intensity (FAR) for zones allowing office uses.

**MTC's submission portal is programmed to complete these calculations based on a jurisdiction's zoning data.** A jurisdiction may review and verify the data in the submission portal or contact MTC staff for assistance.

The guidance below explains how the calculations are completed and how to determine density and FAR equivalencies if a zoning district does not use these metrics. The calculations do not require a determination of "buildout" in the TOC area. Rather, they only require calculation of the average minimum and maximum density/intensity allowed by zoning on eligible parcels. Moreover, determination of the average zoning density and intensity is intended only as a theoretical calculation to evaluate compliance with the TOC Policy. The average density/intensity calculations do not in any way preclude or discourage mixed-use development or non-office commercial uses, nor do they disallow or discourage the addition of residential or office uses to projects of other uses.

A jurisdiction has two options for the density/intensity calculations:

- **Option A** is simpler and involves determining the area of all zoned parcels within the TOC area where residential uses are allowed and commercial office uses are allowed.

- **Option B** is more fine-grained and allows exclusion of certain parcels in each of these zones due to existing uses.

A jurisdiction may use either option. Both options require a “weighted average” calculation that accounts for the proportional land area in each zone.

A five-step process is outlined below. Step 1 is identifying the baseline set of zones or parcels to be used in the average density/intensity calculations for a TOC area. Steps 2 to 5 (which are the same for Option A and Option B) correspond to the calculations of minimum residential density, maximum allowable residential density, minimum commercial office intensity, and maximum allowable commercial office intensity for those zones or parcels.

### **Step 1: Determine the Baseline Areas to be Included in the Calculations**

#### *Option A:*

- i. Identify all zoning districts in the TOC area where residential uses are a permitted use (i.e., no use permit is required). This includes single-family zones, multi-family zones, mixed-use zones where housing is a permitted use, and non-residential districts that specifically identify housing as a permitted use. Zones intended to conserve land for open space or agriculture may be excluded from the average residential density calculation, even where residential is listed as a permitted use.
- ii. Identify all zoning districts in the TOC area where commercial offices are a permitted use. This includes office zones, commercial and mixed-use zones where office is a permitted use, and any residential zones that allow 100 percent office uses (zones that only allow office as an ancillary use are excluded). Subject to approval by MTC staff, zoning districts in which offices are permitted uses but are ancillary to industrial activities (such as manufacturing, warehousing, production, distribution, repair, etc.) may be excluded.
- iii. Calculate the net acreage in each zoning district in the TOC area. “Net” acreage means streets or un-zoned features within the zoning boundary are not counted.
- iv. Report the net acreage in each eligible residential zone and each eligible commercial office zone, the sums of these acreages, and the percentage of total eligible zones that each individual zone represents. Zoning districts included in the residential calculation may also be included in the office calculation, where applicable.
- v. Proceed to Steps 2 through 5.

*Option B:*

- i. Conduct steps (i) and (ii) as described above for Option A.
- ii. For each zoning district, prepare a list of parcels to be excluded (subtracted) from the eligible acreage in that zoning district. Parcels may be excluded if they are currently occupied by single- or multi-family dwelling units. However, if the parcel was counted as a Housing Opportunity Site in the jurisdiction’s Housing Element and assumed to produce one or more units of housing, it may not be excluded. For any excluded parcel, the jurisdiction must document the assessor parcel number, address, acreage, existing zoning, and existing land use.
- iii. Report the remaining net acreage in each eligible residential zone and each eligible commercial office zone, the sums of these acreages, and the percentage of the total eligible zones that each individual zone represents. Zoning districts included in the residential calculation may also be included in the office calculation, where applicable.
- iv. Proceed to Steps 2 through 5.

**Step 2: Calculate the Average Minimum Residential Density Required by Zoning in the TOC Area**

A jurisdiction must demonstrate that the average minimum zoning density in the TOC area meets the adopted TOC Policy standard for its transit tier shown in **Table 1**. A jurisdiction without minimum density standards may refer to the ranges in its General Plan or an adopted Specific or Area Plan that applies to the TOC area, to the extent the relevant Plan requires that development must occur at or above the minimum. Cities without minimum density standards (either in zoning or the General Plan, Specific Plan, or Area Plan as described above) must assign a “zero” to the applicable zones when calculating the TOC area average.

**Table 1: Average Minimum Zoning Densities Required for Residential Development**

<b>Level of Transit Service</b>	<b>Average Minimum Zoning Density</b>
Tier 1: Rail stations serving regional centers (i.e., Downtown San Francisco, Downtown Oakland, and Downtown San Jose)	100 units/net acre or higher
Tier 2: Stop/station served by two or more BART lines or BART and Caltrain	75 units/net acre or higher
Tier 3: Stop/station served by one BART line, Caltrain, light rail transit, or bus rapid transit	50 units/net acre or higher
Tier 4: Commuter rail (SMART, ACE, Capitol Corridor, Valley Link) stations, Caltrain stations south of Tamien, or ferry terminals	25 units/net acre or higher

Notes:

- 1. Tier 3 TOC areas in jurisdictions with 30,000 residents or fewer may use Tier 4 standards. For the OBAG 4 cycle, this applies to Tier 3 TOC areas in Belmont, Brisbane, Lafayette, Orinda, and San Carlos. January 1, 2024 population estimates from the [California Department of Finance](#).

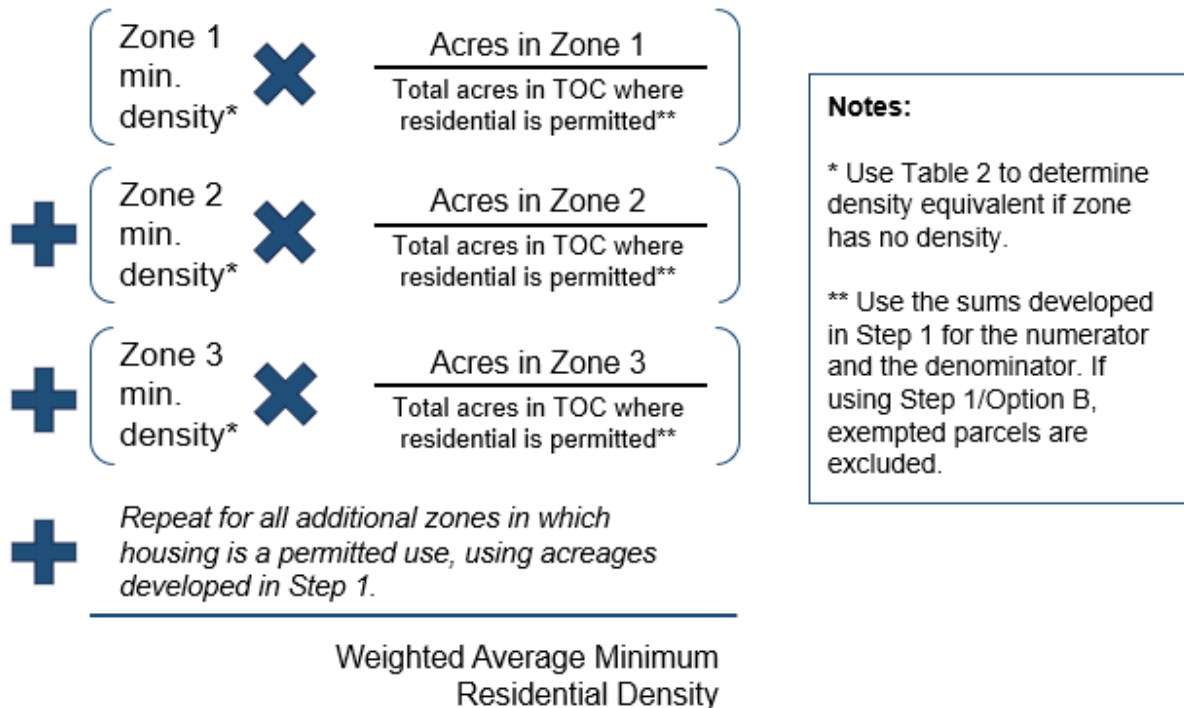
**Table 2** is an equivalency table for zoning districts where housing is permitted but minimum density is expressed using floor area ratio (FAR) or height. The table allows jurisdictions using zones not measured in dwelling units per acre to convert to density equivalents so averages may be more accurately estimated. The equivalencies in Table 2 are “default” standards based on sample projects. Jurisdictions are encouraged to develop their own equivalency tables based on actual projects within their TOC area or nearby, subject to approval by MTC. MTC staff will automatically approve jurisdiction-developed equivalency tables or density calculation methodologies that were accepted by the California Department of Housing and Community Development (HCD) in a certified Housing Element from the 6<sup>th</sup> Cycle or later. However, the equivalency table may only be used if the FAR or height standards are legally required minimums, as described above for zoning districts that use a dwelling units per acre standard.

***Table 2: Equivalency Table for Minimum Density Calculation (only for use in zones with no density standard)***

<i><b>If there is no minimum density, but the minimum FAR required is...</b></i>	<i><b>...then use this equivalent for minimum density</b></i>	<i><b>If there is no minimum density or FAR, but the minimum height is...</b></i>	<i><b>...then use this for equivalent minimum density</b></i>
None	Zero	None	Zero
Less than 0.5	8 DUA	Less than 25'	12 DUA
Between 0.5 and 0.74	16 DUA	25' to 34.9'	35 DUA
Between 0.75 and 0.99	25 DUA	35' to 44.9'	55 DUA
Between 1.0 and 1.49	50 DUA	45' to 54.9'	75 DUA
Between 1.5 and 1.99	75 DUA	55' to 64.9'	100 DUA
Between 2.0 and 2.99	100 DUA	65' to 74.9'	125 DUA
Between 3.0 and 3.99	125 DUA	75' to 84.9'	150 DUA
Between 4.0 and 4.99	150 DUA	Add 25 DUA for each 10' from 85' upward	
Add 40 DUA for each 1.0 FAR from 5.0 upward			

Once a density or density equivalent has been assigned to each zone, the weighted average is determined. **Figure 1** illustrates the formula for this calculation.

Figure 1: Calculation of Average Required Minimum Residential Zoning Density



As shown in Figure 1, to calculate the average minimum residential zoning density for the TOC area, the total number of acres in each zone to be included (shown as Zone 1, Zone 2, etc.) is divided by the total number of acres in the TOC area where residential uses are permitted. The sums developed in Step 1A(i) are used for the numerator and the denominator. If using Option B for Step 1, exempted parcels are excluded.

This result is then multiplied by the minimum density for that zone. If the zone has no density standard but does require a minimum FAR or minimum height, use Table 2 to determine the equivalent density. This process is repeated for each zoning district in the TOC area where residential uses are permitted, and the results for each zone are summed to result in the weighted average minimum residential density.

**Step 3: Calculate the Average Maximum Residential Density Allowed by Zoning in the TOC Area**

A jurisdiction must demonstrate that, if it has adopted a maximum residential density standard, the average maximum allowable residential zoning density in the TOC area meets or exceeds the adopted TOC Policy threshold for its transit tier shown in **Table 3**.

**Table 3: Average Maximum Zoning Density Threshold for Residential Development**

<b>Level of Transit Service</b>	<b>Threshold for Average Maximum Zoning Density</b>
Tier 1: Rail stations serving regional centers (i.e., Downtown San Francisco, Downtown Oakland, and Downtown San Jose)	150 units/net acre or higher
Tier 2: Stop/station served by two or more BART lines or BART and Caltrain	100 units/net acre or higher
Tier 3: Stop/station served by one BART line, Caltrain, light rail transit, or bus rapid transit	75 units/net acre or higher
Tier 4: Commuter rail (SMART, ACE, Capitol Corridor, Valley Link) stations, Caltrain stations south of Tamien, or ferry terminals	35 units/net acre or higher

Notes:

1. Tier 3 TOC areas in jurisdictions 30,000 or fewer residents may use Tier 4 standards. For the OBAG 4 cycle, this applies to the Tier 3 TOC areas in Belmont, Brisbane, Lafayette, Orinda, and San Carlos. January 1, 2024 population estimates from the [California Department of Finance](#).
2. The allowable densities are consistent with PBA 2050 modeling for Strategy H3 (see [Forecasting and Modeling Report](#), pp. 44-45).

**Table 4** is an equivalency table for zoning districts where housing is permitted but maximum allowable density is expressed using floor area ratio (FAR) or height. The table allows jurisdictions using zones not measured in dwelling units per acre to convert to density equivalents so averages may be more accurately estimated. The equivalencies in Table 4 are “default” standards based on sample projects. Jurisdictions are encouraged to develop their own equivalency tables based on actual projects within the TOC area or nearby, subject to approval by MTC. MTC staff will automatically approve jurisdiction-developed equivalency tables or density calculation methodologies that were accepted by HCD in a certified Housing Element from the 6<sup>th</sup> Cycle or later.

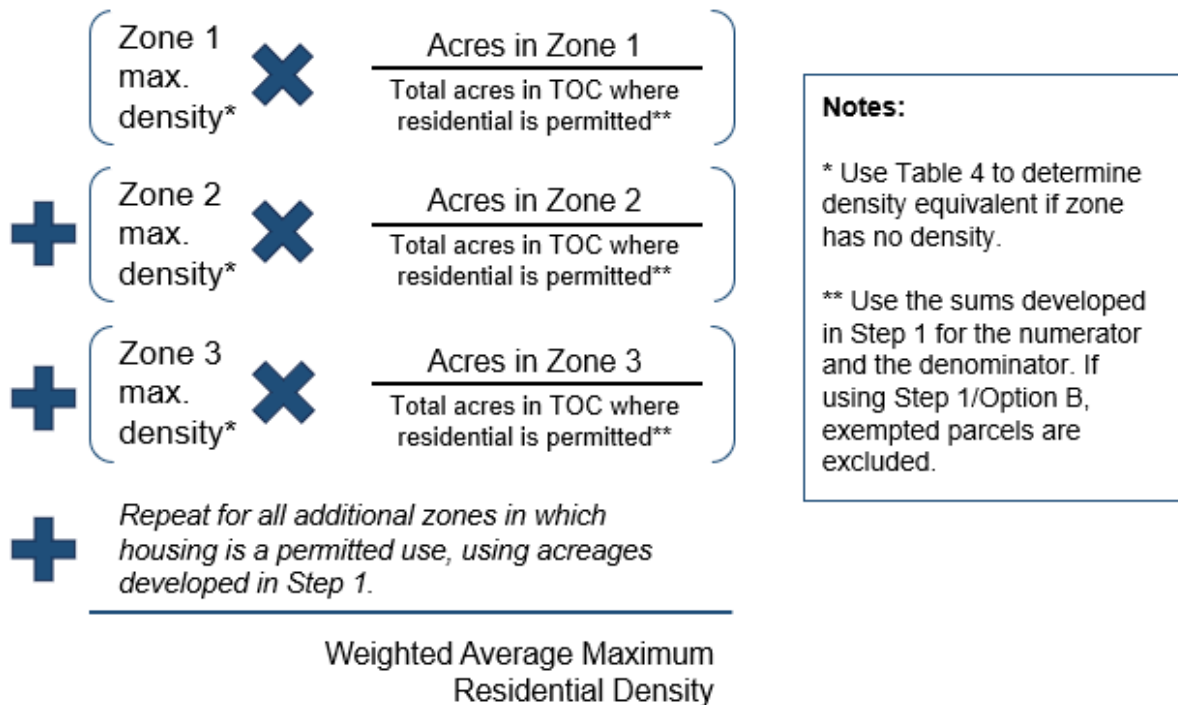
**Table 4: Equivalency Table for Maximum Density Calculation (only for use in zones with no density standard)**

<b><i>If there is no maximum density, but the maximum FAR allowed is...</i></b>	<b><i>...then use this equivalent for maximum density</i></b>	<b><i>If there is no maximum density or FAR, but the maximum allowable height is...</i></b>	<b><i>...then use this for equivalent maximum density</i></b>
Less than 0.50	8 DUA	Less than 25'	12 DUA
Between 0.5 and 0.74	16 DUA	25' to 34.9'	35 DUA
Between 0.75 and 0.99	25 DUA	35' to 44.9'	55 DUA
Between 1.0 and 1.49	50 DUA	45' to 54.9'	75 DUA
Between 1.5 and 1.99	75 DUA	55' to 64.9'	100 DUA
Between 2.0 and 2.99	100 DUA	65' to 74.9'	125 DUA
Between 3.0 and 3.99	125 DUA	75' to 84.9'	150 DUA
Between 4.0 and 4.99	150 DUA	Add 25 DUA for each 10' from 85' upward	
Add 40 DUA for each 1.0 FAR from 5.0 upward			



Once a density or density equivalent has been assigned to each zone, the weighted average is determined. **Figure 2** illustrates the formula for this calculation.

**Figure 2: Calculation of Average Maximum Allowable Residential Zoning Density**



As shown in Figure 2, to calculate the average maximum allowable residential zoning density for the TOC area, the total number of acres in each zone to be included (shown as Zone 1, Zone 2, etc.) is divided by the total number of acres in the TOC area where residential uses are permitted. The sums developed in Step 1A(ii) are used for the numerator and denominator. If using Option B for Step 1, exempted parcels are excluded.

This result is then multiplied by the allowable maximum density for that zone. If the zone has no density standard but does include maximum FAR or maximum heights, use Table 4 to determine the equivalent density. This process is repeated for each zoning district in the TOC area where residential uses are permitted, and the results for each zone are summed to result in the weighted average required allowable maximum residential density.

**Step 4: Calculate the Average Minimum Commercial Office Space Intensity Required by Zoning in the TOC Area**

A jurisdiction must demonstrate that the average minimum required zoning intensity for commercial office space in the TOC area meets the adopted TOC Policy standard for its transit tier shown in Table 5. Again, it is recognized that a jurisdiction may not have adopted minimum FAR standards (or minimum heights) for commercial office space in its TOC area. A jurisdiction without such standards may refer to the ranges in its

General Plan or an adopted Specific or Area Plan that applies to the TOC area, to the extent the relevant Plan requires that development must occur at or above the minimum. Cities without minimum standards for FAR (either in zoning or the General Plan, Specific Plan, or Area Plan) must assign a “zero” to the applicable zones when calculating the TOC area average.

**Table 5: Average Minimum Zoning Intensities Required for Commercial Office Development**

<b>Level of Transit Service</b>	<b>Average Minimum Zoning Intensity Required for Commercial Office Space (FAR)</b>
Tier 1: Rail stations serving regional centers (i.e., Downtown San Francisco, Downtown Oakland, and Downtown San Jose)	4 or higher
Tier 2: Stop/station served by two or more BART lines or BART and Caltrain	3 or higher
Tier 3: Stop/station served by one BART line, Caltrain, light rail transit, or bus rapid transit	2 or higher
Tier 4: Commuter rail (SMART, ACE, Capitol Corridor, Valley Link) stations, Caltrain stations south of Tamien, or ferry terminals	1 or higher

Notes:

1. For mixed-use projects that include a commercial office component, this figure shall not be less than the equivalent of the applicable allowed or permitted FAR standard.

**Table 6** is an equivalency table for zoning districts where minimum required intensity is expressed using height rather than FAR. Table 6 shows equivalent FARs for height limits ranging from zero to 75 feet. The equivalencies in Table 6 are “default” values based on sample projects. Jurisdictions are encouraged to develop their own equivalency tables based on actual projects within the TOC area or nearby, subject to approval by MTC.

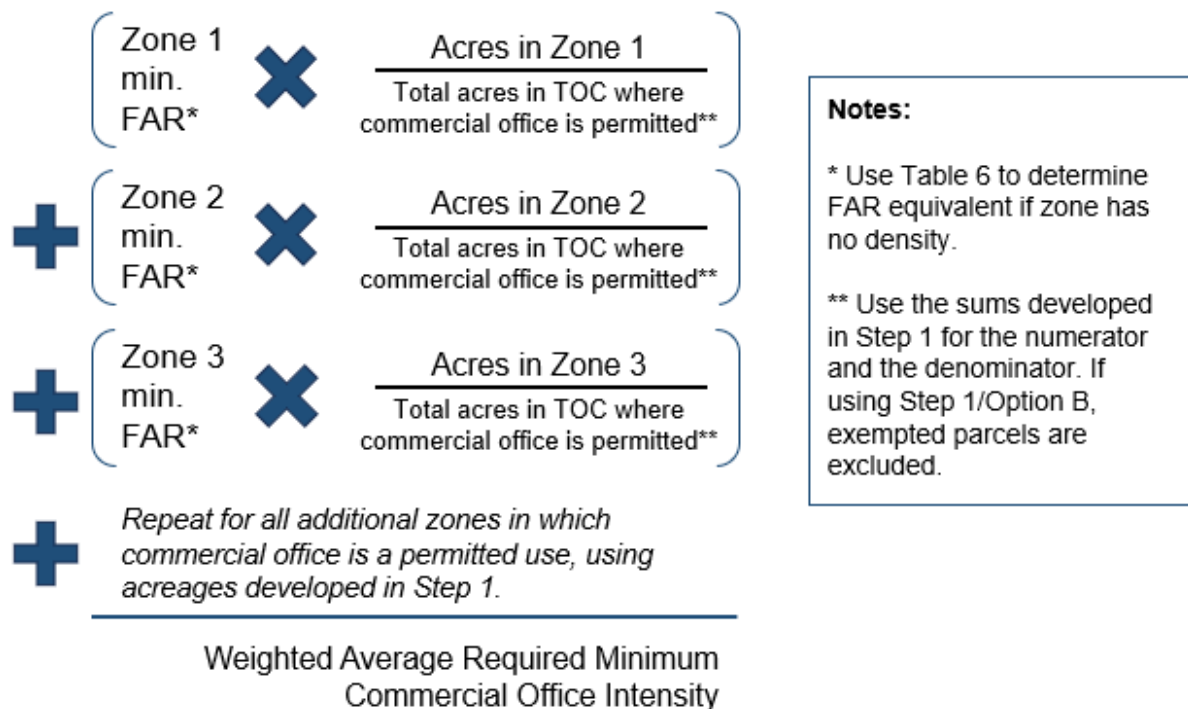
**Table 6: Equivalency Table for Minimum Zoning Intensity for Commercial Office (only for use in zones with no Floor Area Ratio [FAR] standard)**

<b>If there is no FAR standard, but the minimum height required is...</b>	<b>...then use this as the equivalent FAR</b>
None	0
Less than 25'	0.3
25' to 34.9'	1.0
35' to 44.9'	1.5
45' to 54.9'	2.0
55' to 64.9'	3.0
65' to 79.9'	4.0
80' to 99.9'	5.0
Add 1.0 FAR for each 15' from 100' upward	

Jurisdictions may have zoning districts in which mixed-use or residential projects are subject to higher minimum intensity standards than projects that are 100 percent office. For example, a zone may require a minimum FAR of 0.5 for a 100 percent office project but require at least 1.0 FAR for a residential or mixed-use project. In such instances, the higher minimum may be used in the calculations. This recognizes the underlying intent of the TOC Policy, which is to incentivize zoning that supports higher building intensity in TOC areas.

Once an FAR or FAR equivalent has been assigned to each zone, the weighted average is determined. **Figure 3** illustrates the formula used for this calculation.

**Figure 3: Calculation of Average Minimum Required Commercial Office Zoning Intensity**



As shown in Figure 3, to calculate the average minimum commercial office zoning intensity for the TOC area, the total number of acres in each zone to be included (shown as Zone 1, Zone 2, etc.) is divided by the total number of acres in the TOC area where office uses are permitted. The sums developed in Step 1A(i) are used for the numerator and denominator. If using Option B for Step 1, exempted parcels are excluded.

This result is then multiplied by the minimum intensity for that zone. If the zone has no FAR standard but does have minimum heights, use Table 6 to determine the FAR equivalent. This process is repeated for each zoning district in the TOC area where office uses are permitted, and the results for each zone are summed to result in the weighted average required minimum commercial office intensity.

**Step 5: Calculate the Average Maximum Commercial Office Space Intensity Allowed by Zoning in the TOC Area**

A jurisdiction must demonstrate that, if it has adopted a maximum commercial office intensity standard, the average maximum allowable zoning intensity for commercial office space in the TOC area meets or exceeds the adopted TOC Policy threshold for its transit tier shown in **Table 7**.

**Table 7: Average Maximum Zoning Intensity Threshold for Commercial Office Development**

<b>Level of Transit Service</b>	<b>Threshold for Average Maximum Zoning Intensity for Commercial Office Space (FAR)</b>
Tier 1: Rail stations serving regional centers (i.e., Downtown San Francisco, Downtown Oakland, and Downtown San Jose)	8 or higher
Tier 2: Stop/station served by two or more BART lines or BART and Caltrain	6 or higher
Tier 3: Stop/station served by one BART line, Caltrain, light rail transit, or bus rapid transit	4 or higher
Tier 4: Commuter rail (SMART, ACE, Capitol Corridor, Valley Link) stations, Caltrain stations south of Tamien, or ferry terminals	3 or higher

Notes:

1. For mixed-use projects that include a commercial office component, this figure shall not be less than the equivalent of the applicable allowed or permitted FAR standard.
2. The allowable densities are consistent with PBA 20505 modeling for Strategy EC4 (see [Forecasting and Modeling Report](#), pp. 57-58).

**Table 8** is an equivalency table for zoning districts where maximum allowable intensity is expressed using height rather than FAR. The equivalencies in Table 8 are “default” values based on sample projects. Jurisdictions are encouraged to develop their own equivalency tables based on actual projects within the TOC area or nearby, subject to approval by MTC.

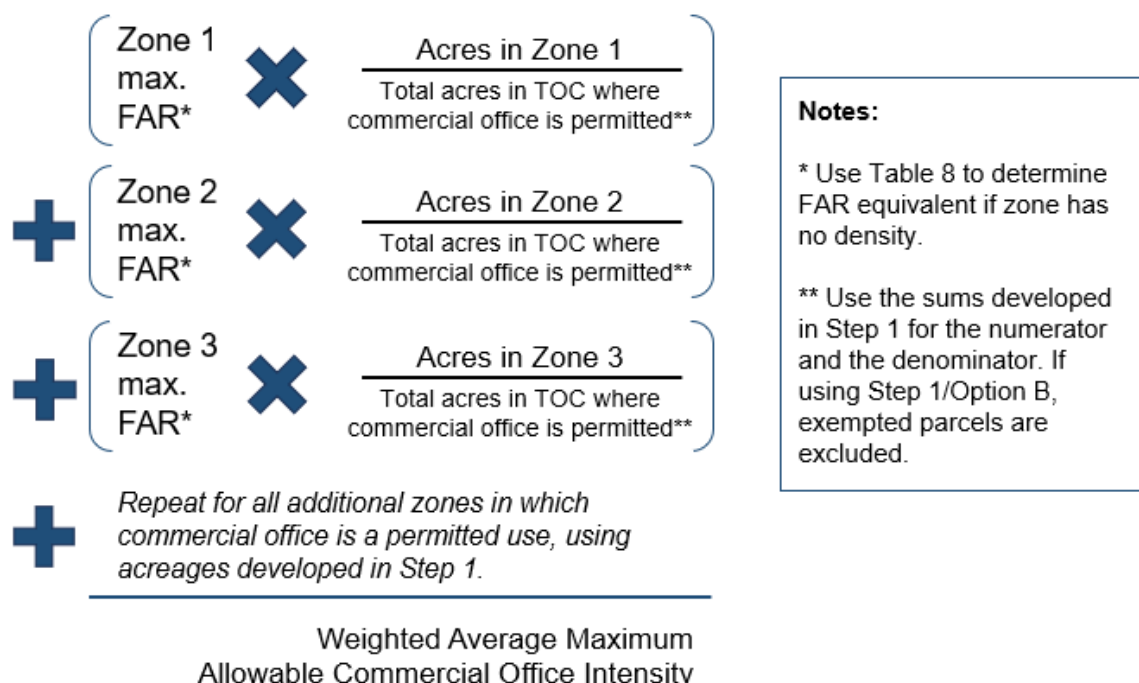
**Table 8: Equivalency Table for Maximum Zoning Intensity for Office (only for use in zones with no Floor Area Ratio [FAR] standard)**

<i>If there is no FAR standard, but the maximum height allowed is...</i>	<i>...then use this as the equivalent FAR</i>
Less than 25'	0.3
25' to 34.9'	1.0
35' to 44.9'	1.5
45' to 54.9'	2.0
55' to 64.9'	3.0
65' to 79.9'	4.0
80' to 99.9'	5.0
Add 1.0 FAR for each 15' from 100' upward	

Jurisdictions may have zoning districts in which mixed-use or residential projects are allowed a higher maximum intensity than projects that are 100 percent office. For example, a zone may allow a maximum FAR of 2.0 for a 100 percent office project but allow a 4.0 FAR for a residential or mixed-use project. In such instances, the higher maximum may be used when preparing the calculations. This recognizes the underlying intent of the TOC Policy, which is to incentivize zoning that supports higher building intensity in TOC areas.

Once an FAR or FAR equivalent has been assigned to each zone, the weighted average is determined. **Figure 4** illustrates the formula for this calculation.

**Figure 4: Calculation of Average Maximum Allowable Commercial Office Zoning Intensity**



As shown in Figure 4, to calculate the average maximum allowable commercial office zoning intensity for the TOC area, the total number of acres in each zone to be included (shown as Zone 1, Zone 2, etc.) is divided by the total number of acres in the TOC area where office uses are permitted. The sums developed in Step 1A(ii) are used for the numerator and denominator. If using Option B for Step 1, exempted parcels are excluded.

This result is then multiplied by the maximum intensity for that zone. If the zone has no FAR standard but does have maximum heights, use Table 8 to determine the FAR equivalent. This process is repeated for each zoning district in the TOC area where office uses are permitted, and the results for each zone are summed to result in the weighted average required allowable maximum commercial office intensity.<sup>10</sup>

### **General Guidance and Special Circumstances for Average Density and Intensity Calculations**

#### *Parcels Bisected by the ½-Mile TOC Area Boundary*

If a parcel is bisected by the TOC area's ½-mile boundary, only the portion of the parcel within the ½-mile TOC area buffer is counted toward the weighted average density. At MTC staff's discretion, the entirety of a bisected parcel can contribute to the TOC area's weighted average density if local jurisdiction staff demonstrate the importance of the parcel for achieving TOC Policy goals.

#### *Mixed-Use Districts: Parcels to Include*

Parcels in mixed-use zoning districts that allow both residential and commercial office as permitted uses should be counted in calculations of average residential density and then again in calculations of average commercial office intensity for each TOC area. No assumptions about the mix of uses are necessary on mixed-use parcels—simply report the minimum and maximum density or FAR permitted by zoning in each case. In cases where zoning establishes lower minimum and maximum FARs for projects that are entirely office than it does for mixed-use or residential projects, the higher minimum and allowable maximum FARs may be used in the calculation of the average commercial office intensity.

#### *SB 6 (2022, Caballero)/AB 2011 (2022, Wicks)*

[SB 6](#) and [AB 2011](#) allow residential uses by right in some commercial zoning districts. For the purposes of the minimum and maximum average density calculations, residential uses should only be counted in a commercial zone if they are expressly listed as a permitted use in the zoning regulations. Jurisdictions are encouraged to amend their zoning codes to list residential as permitted in those zones affected by SB 6 and AB 2011.

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<sup>10</sup> Maximum FAR (intensity) thresholds are based on the potential maximum for a given site; this may vary from site to site in areas where Precise Plans or Specific Plans are in effect.

### *Planned Unit Development or Planned Development (PD) Districts*

For parcels in zoning districts where densities are determined through a subsequent project-level planning process (e.g., Planned Unit Developments), or were previously determined through such a process, the jurisdiction may use the densities and intensities in its General Plan. The jurisdiction also has the option of using any minimum and maximum densities/intensities that were established when the PD was created. To use a minimum density, the relevant Plan must require that development occur at or above the minimum.

### *Developer Agreements*

If a jurisdiction has a developer agreement in place in the TOC area prior to January 1, 2024, and local staff are concerned about the impact on TOC Policy compliance, the jurisdiction should contact MTC staff for assistance. However, jurisdictions will not be able to seek flexibility or exemptions for TOC compliance for developer agreements established after January 1, 2024.

### *Overlay Zones*

For parcels to which a base zone and overlay zone apply, a jurisdiction may include any supplemental density and intensity permitted by the overlay zone when calculating the average maximum allowable density/intensity, provided the overlay permits the residential or office use as a permitted use in a non-discretionary way (comparable to the base zone). If an overlay establishes higher minimum densities than the base zone, the same allowance applies, and the overlay minimum may be used in calculating the average minimum density/intensity.

### *Density Bonuses*

For parcels subject to state density bonus law, the TOC Policy density requirements apply to the base zoning (i.e., state density bonuses cannot be considered for meeting the TOC Policy's thresholds for minimum density or allowable maximum density).

## **Section 2: Affordable Housing Production, Preservation, and Protection Policies and Commercial Stabilization Policies**

### ***Summary of TOC Policy Requirements***

A jurisdiction will fulfill the Affordable Housing and Commercial Stabilization requirements by selecting from the menu of options in **Table 9** the policies that best meet local needs. To comply, a jurisdiction must adopt at least:

- **Two policies for each of the “3Ps”**—affordable housing production, preservation, and protection.

- **One policy related to commercial stabilization**, unless the jurisdiction can document there are no potential impacts to small businesses and/or community non-profits.

A jurisdiction may meet the requirements with existing adopted policies or as needed, adopt new policies by the TOC Policy compliance deadline. **Appendix A** describes each of the policy options in more detail and outlines the specific minimum standards a jurisdiction’s policy must meet to comply with TOC Policy requirements. Compliance with TOC housing policy requirements should be completed in conformance with relevant federal and state laws, including a jurisdiction’s duty to affirmatively further fair housing.

For each of the “3Ps” policies selected to comply with TOC Policy requirements, the jurisdiction must also include a brief explanation for how the policy addresses the jurisdiction’s Regional Housing Needs Allocation (RHNA) and/or other housing needs as identified in the jurisdiction’s Housing Element.

**Table 9: Affordable Housing and Commercial Stabilization Policy Options**

	<b>Affordable Housing Production Policy</b>	<b>Affordable Housing Preservation Policy</b>	<b>Affordable Housing Protection and Anti-Displacement Policy</b>	<b>Commercial Stabilization Policy</b>
	<b>Select at least 2 policies</b>	<b>Select at least 2 policies</b>	<b>Select at least 2 policies</b>	<b>Select at least 1 policy</b>
1.	Inclusionary Zoning	Funding to Preserve Unsubsidized Affordable Housing	“Just Cause” Eviction	Small Business and Non-Profit Overlay Zone
2.	Affordable Housing Funding	Tenant/Community Opportunity to Purchase	No Net Loss and Right to Return to Demolished Homes	Small Business and Non-Profit Preference Policy
3.	Affordable Housing Overlay Zones	Single-Room Occupancy (SRO) Preservation	Legal Assistance for Tenants	Small Business and Non-Profit Financial Assistance Program
4.	Public Land for Affordable Housing	Condominium Conversion Restrictions	Foreclosure Assistance	Small Business Advocate Office
5.	Ministerial Approval	Public/Community Land Trusts <sup>1</sup>	Rental Assistance Program	
6.	Public/Community Land Trusts <sup>1</sup>	Funding to Support Preservation Capacity	Rent Stabilization	
7.	Development Certainty and Streamlined Entitlement Process	Mobile Home Preservation	Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities <sup>2</sup>	



	<b>Affordable Housing Production Policy</b>	<b>Affordable Housing Preservation Policy</b>	<b>Affordable Housing Protection and Anti-Displacement Policy</b>	<b>Commercial Stabilization Policy</b>
8.		Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities <sup>2</sup>	Tenant Relocation Assistance	
9.			Mobile Home Rent Stabilization	
10.			Fair Housing Enforcement	
11.			Tenant Anti-Harassment Protections	

Notes:

1. This policy may fulfill either the housing production or preservation requirement, but not both.
2. This policy may fulfill either the housing preservation or protection requirement, but not both.

### **Geography for Policy Applicability**

At minimum, policies must apply in all TOC areas. Jurisdictions may choose to apply policies beyond the TOC area(s), which could include the entirety of the jurisdiction (i.e., adopting a jurisdiction-wide policy). Some policies detailed in Appendix A have additional, policy-specific geographic applicability considerations.

### **Limits on Housing Policies Eligibility to Meet TOC Policy Requirements**

As noted in Table 9 and Appendix A, there are two cross-cutting policies that appear in multiple places in the menu of options:

- *Public/Community Land Trusts* can be used to meet the requirement for Production or Preservation policies, but not both.
- *Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities* can be used to meet the requirement for Preservation or Protection policies, but not both.

Additionally, three of the Production policy options have overlapping minimum requirements. For these policies, a jurisdiction will only receive credit toward the TOC Policy requirements for one of the overlapping policies and the jurisdiction may elect which policy. As noted in Appendix A, the policies for which this restriction applies are:

- Production Policy 3: Affordable Housing Overlay Zones
- Production Policy 5: Ministerial Approval
- Production Policy 7: Development Certainty and Streamlined Entitlement Process

## References to State Laws

In some cases, the descriptions of housing policy options included in the TOC Policy refer to existing state laws. The laws listed may not represent all laws that are relevant to the policy topic. MTC may adjust the requirements for complying with the TOC Policy over time in response to any changes to state law.

## Policy Options Requiring Funding Commitments

Several of the affordable housing policy options require a specified financial commitment from a local jurisdiction. The minimum financial commitments reflect the fact that an effective housing program will have minimum staffing and related costs, below which meaningful impact is unlikely. The policy options that require a funding commitment are:

- Production Policy 2: Affordable Housing Funding
- Production Policy 6: Public/Community Land Trusts
- Preservation Policy 1: Funding to Preserve Unsubsidized Affordable Housing
- Preservation Policy 5: Public/Community Land Trusts
- Preservation Policy 6: Funding to Support Preservation Capacity
- Preservation Policy 8: Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities (if choosing the option to create a loan/grant program for low-income homeowners)
- Protection Policy 3: Legal Assistance for Tenants
- Protection Policy 4: Foreclosure Assistance
- Protection Policy 5: Rental Assistance Program
- Protection Policy 7: Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities (if choosing the option to create a loan/grant program for landlords)
- Protection Policy 10: Fair Housing Enforcement

## *Guidelines for Demonstrating Projected Funding Meets Requirements*

For any of the policies listed above to comply with the TOC Policy, a jurisdiction must demonstrate it has a program with secured funding above a minimum threshold.<sup>11</sup> The minimum funding thresholds represent a total amount for a four-year period aligning with the relevant four-year OBAG cycle. For jurisdictions seeking TOC Policy

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<sup>11</sup> Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years' funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

compliance for OBAG 4, the four-year funding period is anticipated to correspond to the years 2026 through 2030. The amount contributed can vary by year as long as the total for the relevant four-year OBAG cycle meets the specified target for the jurisdiction.

MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future funding based on the best information available at the time of submitting compliance documentation to MTC.

#### *Guidelines for Counting Existing Funds or Past Expenditures Toward Requirements*

Jurisdictions that have an existing funding balance for a program corresponding to one of the above policy options may count existing funds toward the required total so long as funds are available for expenditure during the relevant four-year OBAG cycle. Jurisdictions that have expended funds for a program corresponding to one of the above policy options prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met:

- The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to an affordable housing project that will be constructed during the OBAG 4 cycle sometime between 2026 and 2030).

#### **AND/OR**

- The funds are expended after January 1, 2025.

#### *Jurisdiction Tiers for Funding Amounts*

In recognition of the variation in Bay Area jurisdictions' housing needs and funding capacity, there are seven different tiers to determine the minimum amount of funding a jurisdiction must provide over a four-year period for each policy option requiring a funding commitment (if that policy is selected by the jurisdiction to meet TOC Policy requirements). The tiers are based on the jurisdiction's combined 2023-2031 RHNA for very low- and low-income units. The tiers, and the associated minimum funding commitment, are shown in **Table 10** below. See **Appendix B** for a list of the jurisdictions in each Funding Tier.

For the policies in the Protection category, the required funding amount by tier can be split among any two of the four policies, but the jurisdiction will only receive credit for one policy. For example, a Tier A jurisdiction could choose to spend \$30,000 on fair housing enforcement and \$70,000 on a rental assistance program, for a total of \$100,000. Alternatively, the jurisdiction could spend \$100,000 on a single policy, such as rental assistance. In either scenario, the jurisdiction would receive credit toward one policy for meeting the \$100,000 funding threshold for Protection policies.

**Table 10: Minimum 4-Year Funding per Policy by Tier**

	<b>Production</b>	<b>Preservation</b>	<b>Protection</b>
Tier	2. Affordable Housing Funding, 6. Public/Community Land Trusts	1. Funding to Preserve Unsubsidized Affordable Housing, 5. Public/Community Land Trusts	3. Legal Assistance for Tenants, 4. Foreclosure Assistance, 5. Rental Assistance Program, 10. Fair Housing Enforcement
A	\$1,000,000	\$500,000	\$100,000
B	\$1,400,000	\$600,000	\$200,000
C	\$2,000,000	\$700,000	
D	\$3,000,000	\$900,000	\$300,000
E	\$4,000,000	\$1,200,000	
F	\$8,000,000	\$2,400,000	\$400,000
G	\$40,000,000	\$8,000,000	\$1,000,000

Though Preservation Policy 6 (Funding to Support Preservation Capacity) requires a funding commitment, the minimum funding requirement is not a set dollar amount that varies across the tiers listed above. Instead, jurisdictions seeking credit for this policy need to demonstrate their funding programs have secured funding able to support project management staffing for a minimum of four years at approximately 0.5 full-time equivalent (FTE).

Additionally, Preservation Policy 8/Protection Policy 7 (Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities) have multiple options to achieve compliance, one of which is a loan/grant program for home repairs and addressing habitability issues in rental housing. Though these policy options require the jurisdiction to fund these programs, a minimum funding amount is not specified. However, the option for Preservation Policy 8 requires a minimum loan/grant of \$10,000 per low-income homeowner assisted by the program.

*Allowable Sources for Policies Requiring Funding*

Funding for some of the policy options must be locally generated, while other policy options do not have restrictions on the sources used to fund a program. The following policies representing investments in the physical production and preservation of affordable housing require funding to be locally generated:

- Production Policy 2: Affordable Housing Funding
- Production Policy 6: Public/Community Land Trusts
- Preservation Policy 1: Funding to Preserve Unsubsidized Affordable Housing
- Preservation Policy 5: Public/Community Land Trusts

The following restrictions and guidelines apply when considering whether a funding source counts as “locally generated”:

- Potential local funding sources include commercial linkage fees, housing impact fees (but see note below if the impact fees are part of an inclusionary zoning ordinance), taxes (such as an employee head tax or real estate transfer tax), local bond measures, successor agency funds, business/gross receipts tax on rental property, and general fund allocations.
- Jurisdictions may include county or regional bond funds expended with the jurisdiction’s participation on affordable housing projects within its boundaries.
- Jurisdictions may include grants from philanthropic organizations or private contributions made by businesses or individuals.
- In-kind contributions to developments in the form of fee waivers for building permit fees, impact fees, and other fees can be counted toward the required amount of local affordable housing funding. Staff hours are not eligible for consideration.
- If a jurisdiction is using inclusionary zoning (Production Policy 1) for the TOC Policy’s production requirement, funding generated by collecting in-lieu fees from inclusionary zoning cannot be counted toward the funding minimums. If the jurisdiction has inclusionary zoning but does not use it to satisfy the TOC Policy’s affordable housing production requirement, the funding generated by collecting in-lieu fees may be counted.
- Federal and state funding (such as HOME/CDBG or PLHA) that is passed through a jurisdiction is not counted as local funding.

The following policy options representing programmatic investments do not have restrictions on how a program is funded:

- Preservation Policy 6: Funding to Support Preservation Capacity
- Preservation Policy 8: Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities (if choosing the option to create a loan/grant program for low-income homeowners)
- Protection Policy 3: Legal Assistance for Tenants
- Protection Policy 4: Foreclosure Assistance
- Protection Policy 5: Rental Assistance Program
- Protection Policy 7: Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities (if choosing the option to create a loan/grant program for landlords)
- Protection Policy 10: Fair Housing Enforcement

## Option for Local Jurisdiction Collaboratives to Meet TOC Policy Requirements

MTC will allow implementation of affordable housing and commercial stabilization policies through collaboratives that involve more than one jurisdiction partnering to manage policy implementation. Implementation through a collaborative is intended to reduce administrative costs for local jurisdictions and increase efficiency of program delivery. This option may be particularly beneficial for smaller jurisdictions (those in Tiers A to D above) or medium-sized jurisdictions (those in Tiers E and F above).

Implementing a policy through a collaborative generally does not change the minimum requirements for each participating jurisdiction. However, a jurisdiction can receive a 10 percent reduction in the funding requirement for its individual financial contribution to collaborative implementation. For example, a city that transfers funds to its county to administer a tenant rental assistance program can contribute 10 percent less than the funding threshold in Table 10, as long as the county operates the program in accordance with the standards in Appendix A.

### *Target Policies for Collaboratives*

MTC specifically anticipates that the policies below will benefit from collaborative implementation. However, jurisdictions may use a collaborative to implement any of the affordable housing and commercial stabilization policies, subject to MTC approval.

**Production:** 2. Affordable Housing Funding and 6. Public/Community Land Trusts.

**Preservation:** 1. Funding to Preserve Unsubsidized Affordable Housing, 5. Public/Community Land Trusts, 6. Funding to Support Preservation Capacity, and 8. Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities

**Protection:** 3. Legal Assistance for Tenants, 4. Foreclosure Assistance, 5. Rental Assistance Program, 7. Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities, and 10. Fair Housing Enforcement

**Commercial Stabilization:** 3. Small Business and Nonprofit Financial Assistance Program

Any jurisdiction intending to implement a TOC housing policy through a collaborative must provide MTC with documentation on the roles and responsibilities for the collaborative and jurisdiction, as well as a schedule of expected funding to the collaborative. MTC may request additional information on collaboratives.

## Relationship to HCD’s Prohousing Program

The California Department of Housing and Community Development has a [Prohousing Designation Program](#) that provides incentives to jurisdictions that have policies to support increased housing production. While there are similarities between the requirements for a Prohousing Designation and the TOC Policy, there is not sufficient consistency between the policy options and other requirements for a jurisdiction that has received the Prohousing Designation from HCD to automatically meet TOC Policy requirements for affordable housing production policies.

**Table 11** provides information on which Prohousing Designation policies correspond to the affordable housing production policy options for the TOC Policy. If jurisdictions are currently applying for or planning to apply for HCD’s Prohousing Designation, they should consider committing to policies in their Prohousing Designation application that would also achieve TOC Policy compliance. Importantly, policies adopted for the Prohousing Designation would also need to meet the minimum requirements detailed in Appendix A of the TOC Policy Administrative Guidance.

**Table 11: Overlap Between HCD Prohousing and TOC Policy Affordable Housing Production Policy Options**

<b><i>Affordable Housing Production Policy Options for TOC Policy</i></b>	<b><i>Policy Options for HCD Prohousing Designation</i></b>
Production Policy 2: Affordable Housing Funding	Category 4A: Establishment of local housing trust funds
	Category 4E: Directed residual redevelopment funds to affordable housing.
	Category 4F: Development and regular (at least biennial) use of a housing subsidy pool, local or regional trust fund, or other similar funding source.
	Category 4G: Prioritization of local general funds for affordable housing.
Production Policy 3: Affordable Housing Overlay Zones	Category 1D: Density bonus programs which exceed statutory requirements by 10 percent or more.
Production Policy 4: Public Land for Affordable Housing	Category 4C: A comprehensive program that complies with the Surplus Land Act (Gov. Code, § 54220 et seq.) and that makes publicly owned land available for affordable housing, or for multifamily housing projects with the highest feasible percentage of units affordable to lower income households. A qualifying program may utilize mechanisms such as land donations, land sales with significant write-downs, or below-market land leases.
Production Policy 5: Ministerial Approval	Category 2A: Establishment of ministerial approval processes for a variety of housing types, including single-family and multifamily housing.

<b>Affordable Housing Production Policy Options for TOC Policy</b>	<b>Policy Options for HCD Prohousing Designation</b>
Production Policy 7: Development Certainty and Streamlined Entitlement Process	Category 2D: Establishment of permit processes that take less than four months.
	Category 2E: Absence or elimination of public hearings for projects consistent with zoning and the general plan.
	Category 2F: Establishment of consolidated or streamlined permit processes that minimize the levels of review and approval required for projects, and that are consistent with zoning regulations and the general plan.
	Category 2L: Limitation on the total number of hearings for any project to three or fewer.

### **Submitting Required Documentation**

For each policy a jurisdiction selects to meet the minimum number required for TOC Policy compliance, the jurisdiction must provide a document or website link that provides the adopted policy or relevant municipal code section. The jurisdiction must also confirm that it meets the minimum requirements established for each policy, which are described in more detail in **Appendix A**. Local jurisdictions must submit all documents electronically.

## **Section 3: Parking Management**

### **Summary of TOC Policy Requirements**

The purpose of the TOC Policy parking management requirements is to further support reducing automobile trips and prioritizing the limited land area near transit for other shared transportation modes and active transportation. Parking management is a key complement to residential and commercial density increases that support higher transit ridership on the region’s existing and planned fixed-guideway transit investments.

For compliance with the TOC Policy, MTC will focus on a jurisdiction’s compliance with the parking standards (**Table 12**). To support limits on off-street parking for new development, one or more additional policies or programs that address parking management must also be in place. These may be one of the policies or programs listed below under *Complementary Policies for Parking Management*, or another policy or program aligned with the intent of the parking management requirement. For policies or programs that are not one of those listed below, a jurisdiction must explain how the policy or program addresses parking demand management in the TOC area.



## Parking Standards for New Residential or Commercial Development

Off-street vehicle parking standards for new residential or general and neighborhood-serving commercial development (e.g., office, retail, and service businesses) must meet the applicable standards for its Transit Tier listed in **Table 12**, including:

- No minimum automobile parking requirement in most Transit Tiers for new residential or commercial development.<sup>12</sup>
- For parcels on which residential development<sup>13</sup> is allowed:
  - The applicable maximum automobile parking per dwelling unit ratio
  - At least one secure bicycle parking space per dwelling unit.
- For parcels on which commercial development is allowed:
  - The applicable maximum automobile parking per 1,000 square foot ratio.
  - At least one secure bicycle parking space per 5,000 occupied square feet for **commercial office**.
- For parcels on which both residential and commercial development are allowed:
  - The sum of the applicable maximum automobile parking per dwelling unit and the applicable maximum automobile parking per 1,000 square feet.
  - At least the sum of one secure bicycle parking space per dwelling unit plus one secure bicycle parking space per 5,000 occupied square feet for **commercial office**.
- Allow unbundled parking.<sup>14,15</sup>
- Allow shared parking between different land uses.<sup>16</sup>

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<sup>12</sup> The TOC Policy does not have a requirement related to minimum parking for Tier 4 TOC areas. However, jurisdictions must comply with applicable state law prohibiting parking minimums, such as [AB 2097](#).

<sup>13</sup> Residential developments permitted in commercial zones through AB 2011 should follow the applicable TOC standards for residential development, not commercial development.

<sup>14</sup> Unbundling parking means separating the cost of leasing a parking space from the sale or rental price of residential and commercial uses.

<sup>15</sup> For jurisdictions in Alameda County or Santa Clara County, [AB 1317 \(2023\)](#) requires unbundled parking in new residential developments with 16 or more units that are issued a certificate of occupancy after January 1, 2025. See [California Civil Code Section 1947.1](#) for more information.

<sup>16</sup> [AB 894 \(2023\)](#) requires jurisdictions to allow entities with underutilized parking to share their underutilized parking spaces with the public, local agencies, or other entities, if those entities submit a shared parking agreement. See [California Government Code Section 65863.1](#) for more information.

**Table 12: TOC Policy Parking Management Requirements**

<b>Level of Transit Service</b>	<b>New Residential Development</b>	<b>New Commercial Development</b>
Tier 1: Rail stations serving regional centers (i.e., Downtown San Francisco, Downtown Oakland, and Downtown San José)	Parking minimum requirements not allowed. Parking maximum of 0.375 spaces per unit or lower.	Parking minimum requirements not allowed. Parking maximum of 0.25 spaces per 1,000 square feet or lower.
Tier 2: Stop/station served by two or more BART lines or BART and Caltrain	Parking minimum requirements not allowed. Parking maximum of 0.5 spaces per unit or lower.	Parking minimum requirements not allowed. Parking maximum of 1.6 spaces per 1,000 square feet or lower.
Tier 3: Stop/station served by one BART line, Caltrain, light rail transit, or bus rapid transit	Parking minimum requirements not allowed. Parking maximum of 1.0 spaces per unit or lower.	Parking minimum requirements not allowed. Parking maximum of 2.5 spaces per 1,000 square feet or lower.
Tier 4: Commuter rail (SMART, ACE, Capitol Corridor, Valley Link) stations, Caltrain stations south of Tamien, or ferry terminals	Parking maximum of 1.5 spaces per unit or lower.	Parking maximum of 4.0 spaces per 1,000 square feet or lower.
All Tiers	Minimum of 1 secure bicycle parking <sup>17</sup> space per dwelling unit. <sup>18</sup>	Minimum of 1 secure bicycle parking space per 5,000 square feet for commercial office.

The TOC Policy’s off-street parking standards do not supersede other applicable requirements for parking for people with disabilities that are required by the California Building Code, or other state or federal laws, or off-street parking for deliveries. While not specified in the TOC Policy, in addition to accommodating conventional bicycles in the bicycle parking requirement, bicycle parking spaces should consider specifications that will also accommodate cargo and electric bicycles (e-bikes).

*Note Regarding AB 2097 and Minimum Parking Standards*

The TOC Policy and AB 2097 have similar provisions with respect to parking minimums. Broadly speaking, AB 2097 prohibits a public agency from imposing or enforcing parking minimums on any residential, commercial, or other development project located within a ½-mile of a major transit stop. For the purposes of TOC Policy compliance,

<sup>17</sup> Secure bicycle parking should follow the Association of Pedestrian and Bicycle Professionals’ [Essentials of Bike Parking Guidelines](#) as well as HCD’s forthcoming update to the California Green Building Standards Code, per AB 2863 (2022).

<sup>18</sup> For a single building with more than 100 units, the jurisdiction can apply a ratio of one secure bicycle parking space for every four units to the number of units above 100. For example, a 140-unit building would need 110 bicycle parking spaces (100 + 0.25\*40).

MTC staff will defer to local jurisdictions' interpretation of applicable state law (i.e., Government Code Section 65863.2) to determine which parcels are subject to the TOC Policy's parking management requirements. In other words, the parcels in a TOC area that a jurisdiction has determined are subject to Government Code Section 65863.2 must also meet the parking management requirements described in Table 12 above.

AB 2097 has an exemption process where a jurisdiction can impose minimum parking standards. For TOC Policy compliance, MTC encourages, but does not require, jurisdictions to forgo this exemption process.

### **Complementary Policies for Parking Management**

In addition to complying with the off-street parking standards, a jurisdiction must adopt at least one of the policies or programs from [MTC/ABAG's Parking Policy Playbook](#) listed below to address transportation demand management (TDM) and curb management in TOC areas that complement the Policy's required parking standards:

- **TDM Policy for New Development:** require provision and enforcement of transportation demand management (TDM).
- **Curb Strategy/Management:** Priority curb access based on variable need.
- **Parking Benefit District (PBD):** Invest parking revenues into a PBD to fund streetscape, safety, and TDM programs.
- **Demand-Responsive Pricing:** Price parking according to level of convenience and demand.
- **Priced Parking:** Adding priced parking where it used to be free.

TDM and curb-management policies or programs may apply to either the TOC area or jurisdiction-wide.

### ***Submitting Required Documentation***

#### **Parking Standards for New Residential or Commercial Development**

A jurisdiction must document its off-street parking requirements for new residential and commercial uses and its requirements for secure bicycle parking for new multifamily residential and office development in locations subject to the TOC Policy, including the citation for the municipal code or ordinance codifying such requirements.

#### ***Vehicle Minimum Parking Standards***

A jurisdiction has three options for meeting the TOC Policy's requirement related to minimum parking standards:

1. **Confirmation of Compliance with AB 2097:** Local jurisdiction staff can attest that their jurisdiction complies with AB 2097. A jurisdiction that complies with AB 2097 is deemed in compliance with the TOC Policy's requirement related to minimum parking standards.

2. **Resolution of Compliance with AB 2097:** A jurisdiction is encouraged, but not required, to pass a resolution confirming compliance with AB 2097 and stating it will not seek exemptions from AB 2097 for Tier 1, Tier 2, and Tier 3 TOC areas.<sup>19</sup>
3. **Ordinance to Remove Parking Minimums:** A jurisdiction may adopt an ordinance that removes parking minimum requirements for Tier 1, Tier 2, and Tier 3 TOC areas. This prohibition could also be incorporated into an overlay zone or changes to the jurisdiction's use table or chapter that is adopted to address the TOC Policy's parking maximums (see below).

### *Vehicle Maximum Parking Standards*

A jurisdiction must show that its adopted parking maximums cover at least the ½-mile TOC area (if the policy does not apply jurisdiction-wide) and meet the TOC Policy's standards for the TOC area's transit tier. If the jurisdiction's parking maximums are not expressed as parking spaces per unit (e.g., instead there are parking maximums per bedroom), a jurisdiction may propose an alternative method of demonstrating compliance subject to MTC staff approval. This alternative method may include, but is not limited to, proposing an equivalency calculation that translates the local maximum into spaces per unit.

There are two approaches for meeting the TOC Policy's maximum parking standards:

1. **Adopt an overlay zone or updates to a parking use table or chapter:** A jurisdiction must have an adopted policy that includes parking maximums for residential and commercial uses that meet TOC standards and that clearly defines the geography to which the standards apply. Defining the geography and maximum parking standards can be done by creating an overlay zone or by amending the jurisdiction's parking use table or chapter for development within TOC areas. As the TOC Policy parking maximums vary based on a TOC area's transit tier, a jurisdiction with multiple TOC areas may need to specify several combinations of geography/parking maximums. Optionally, a jurisdiction may choose to include language that removes parking minimum requirements for Tier 1, Tier 2, and Tier 3 TOC areas (as described in Option 3, above).

A local jurisdiction must provide municipal code citations for the adopted overlay zone or parking use table/chapter that clearly demonstrate that the vehicle parking maximums for residential and commercial uses meet TOC thresholds for the TOC area's transit tier and that those standards apply to, at minimum, the entire ½-mile TOC area.

2. **Adopt a parking district, station area cap or other methods that limit parking:** Standards may apply to individual projects or may be met through the creation of a parking district that provides shared vehicle parking for multiple land

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<sup>19</sup> Per TOC policy, a jurisdiction may require parking minimums in Tier 4 TOC areas.

uses within an area. For example, a specific or area plan may determine an overall total amount of new, off-street parking that may be constructed in the area. Some development projects may provide more off-street parking, while others may provide less off-street parking, or parking may be shared between multiple new uses. In such cases, the total amount of new off-street parking to be built should be equivalent to or less than the TOC Policy's parking standards.

For parking districts or other types of area-wide approaches to parking management, a jurisdiction must provide any relevant plans or policies as well as calculations showing the approach will result in creation of the same or less new off-street parking than the TOC Policy's parking maximum requirements. The calculations could use assumptions about future buildout (e.g., from a recently completed plan and/or EIR) and the parking permitted in the district to allow for a comparison to the TOC Policy parking maximum requirements.

### *Minimum Bicycle Parking Standards*

A local jurisdiction must provide municipal code citations for an adopted overlay zone or parking use table/chapter that clearly demonstrate that the minimum bicycle parking standards for residential and commercial uses meet TOC thresholds for, at minimum, the entire ½-mile TOC area.

### **Unbundled and Shared Parking**

For unbundled and shared parking, a local jurisdiction must document and provide citations for the adopted plans, policies, and/or municipal code or ordinance allowing unbundled and shared parking. Further detail on unbundled and shared parking is provided in the [MTC/ABAG Parking Policy Playbook](#).

### **Complementary Policies for Parking Management**

A local jurisdiction must also document and provide citations for the adopted plans, policies, and/or municipal code or ordinance for one or more of the policies or programs from the [MTC/ABAG Parking Policy Playbook](#) listed above that apply either to the geographic area where the TOC Policy applies or jurisdiction-wide.

#### **Available Resources for Parking Management**

The [MTC/ABAG Parking Policy Playbook](#) provides detailed guidance and practical tools, such as sample policy language, about how to implement policy changes related to parking, transportation demand management (TDM), and curb management.

## Section 4: Station Access and Circulation

### **Summary of TOC Policy Requirements**

In coordination with transit agencies and other mobility service providers, community members, and other stakeholders, a jurisdiction must complete the following in all TOC areas:

- **Adopt a jurisdiction-wide Complete Streets Policy.**
- **Prioritize implementation of “All Ages and Abilities” active transportation projects on the regional [Active Transportation Network](#), as stated in the [MTC Complete Streets Policy](#)<sup>20</sup> and/or any relevant [Community Based Transportation Plans](#) within the TOC area in its capital improvement program (CIP) or other adopted plan or program that lists the jurisdiction’s funding and implementation priorities.**
- **Complete an access gap analysis and accompanying capital and/or service improvement program for station access** from destinations within a 10-minute travel time (accounting for differences in travel speed and time for people who use wheelchairs or other mobility aids), and 15-minute bicycle or bus/shuttle trip either as a separate study or analysis or as part of a specific or area plan, active transportation plan, transit agency station access plan, or other transportation plan or study that, at a minimum, includes the following:
  - The geographic area that can currently be accessed via a 10- or 15-minute trip by these modes,<sup>21</sup> with particular focus on access to Equity Priority Communities and other significant origins and/or destinations.
  - Infrastructure and/or service improvements that would expand the geographic area that can be accessed via a 10- or 15-minute trip by these modes.
  - Incorporation of recommended improvements into a capital improvement or service plan for the local jurisdiction and/or transit agency (if applicable).
- **As all TOC areas are also [MTC Mobility Hub locations](#), identify opportunities for Mobility Hub planning and implementation as described in the [Mobility Hub Implementation Playbook](#).** For transit lines where stops or stations are more closely spaced (e.g., less than ½-mile apart) such as light rail or bus rapid transit facilities, planning and implementation for Mobility Hubs may be done on a corridor-wide basis rather than for each individual stop or station. Additionally, recognizing that not all light rail or bus rapid transit stops/stations will receive enhancement treatments, locations that are transfer points for at least two different transit systems or major activity centers should be the focus.

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<sup>20</sup> See [MTC Resolution No. 4493](#).

<sup>21</sup> This generally equates to a 0.5-mile walk shed and 1.5-mile bike shed.

## ***Submitting Required Documentation***

### **Complete Streets:**

A jurisdiction with an adopted Complete Streets (CS) Policy is considered compliant for the complete streets policy requirement. MTC has documented jurisdiction CS Policies through its One Bay Area Grant (OBAG) Program, most recently compiled in 2015. If a jurisdiction has updated its CS Policy since 2015, it should submit or include a link to the updated CS Policy.

A jurisdiction submitting a transportation project for regional funding that is located in the public right of way must be compliant with MTC's updated Complete Streets Policy, Resolution 4493. This requires the submission of a [Complete Streets Checklist](#).

### **Project Prioritization/Implementation:**

To demonstrate that it has prioritized implementation of active transportation projects and/or projects from MTC's [Community-Based Transportation Planning Program within the TOC area](#), a jurisdiction must submit at least one of the following:

- Capital Improvement Program with relevant projects identified.
- Projects funded or submitted for funding (e.g., OBAG, ATP, etc.) within the past five years.
- Other funding or implementation plans that include relevant projects.

### **Access Gap Analysis:**

To demonstrate that it has completed analysis or planning with a focus on improving 10- to 15-minute access to/from the TOC area (and connecting to Equity Priority Communities, if applicable), emphasizing capital or service improvements, a jurisdiction must submit at least one of the following:

- Adopted PDA, Specific, Precise or Area plan(s) that include a station access or circulation element (submit access/circulation element only, or include link to adopted plan with specific page numbers that reference access/circulation element).
- Transit agency station access plans.

However, if these plans have not been completed for the TOC area, a jurisdiction may submit:

- Adopted active transportation, bicycle or pedestrian plan(s) that include recommended access improvements to/from the TOC area.
- Applicable sections of General Plan Circulation Element that highlight specific elements that guide or inform station access improvements.



Jurisdiction-wide or county-wide documents such as active transportation, bicycle, pedestrian plans or General Plan Circulation Elements may only be submitted as evidence of compliance if they include details for specific improvements within the TOC area and should be noted upon submittal. MTC staff will work with local jurisdictions to streamline the process for verifying compliance in locations with overlapping TOC areas.

### **Mobility Hubs:**

To comply with the Mobility Hub planning and implementation requirement, jurisdictions must submit any current plans or projects that enhance the TOC area as a community anchor enabling travelers of all backgrounds and abilities to access transit and other forms of shared transportation. Enhancements may include (but are not limited to) safety improvements, bike parking, electric charging infrastructure (bikes, scooters, carshare), public realm improvements (e.g., lighting, green infrastructure), information improvements (e.g., wayfinding, real-time information) or any other active transportation access improvements within the TOC area.

If the documents submitted to comply with the access requirements listed above contain plans for or implement these enhancements, they must be specifically noted to comply with this Mobility Hubs requirement; **OR**

List any current or prior funding application for MTC's Mobility Hub Program for the TOC area. Include the date of application submission.

MTC staff will work with local jurisdictions to streamline the process for verifying compliance in locations with overlapping TOC areas.

#### **Available Resources for Station Access and Circulation**

##### Complete Streets and Active Transportation

- [MTC's Complete Streets webpage](#)
- [MTC's Regional Active Transportation Plan webpage](#)
- [MTC's Community-Based Transportation Plans webpage](#)

##### Access Gap Analyses

- [San Mateo Transit-Oriented Development Pedestrian Access Plan](#)
- [Irvington Station Area Plan, Access & Mobility Chapter](#)
- [Berkeley El Cerrito Corridor Access Plan](#)

##### Mobility Hubs

- [MTC's Mobility Hubs webpage](#)
- [MTC's Mobility Hubs Technical Assistance webpage](#)



# Appendix A: TOC Policy Housing and Commercial Stabilization Policy Requirements

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Affordable housing policies are typically designed for specific income groups. MTC recognizes that different income and rent limits are imposed by different state and federal programs, and it is not the intent of the TOC Policy to create new requirements. This document generally refers to policies intended to target “lower-income” and/or “moderate-income” households. For reference, state law ([Health and Safety Code, section 50079.5](#)) defines “lower-income” as households earning less than 80% of Area Median Income (AMI), and state law (Health and Safety Code, section 50093) defines “moderate-income” as households earning between 80% and 120% of AMI. Where the TOC Policy or this document discuss policies serving lower-income households, jurisdictions are free to design policies that serve any income group earning less than 80% of AMI, including very low-income (30% to 50% of AMI) and extremely low-income (0% to 30% of AMI) households. Similarly, policies serving lower- and moderate-income households can serve any income group below 120% of AMI.

## I. Affordable Housing Production Policy Options

To comply with the TOC Policy, a jurisdiction must adopt **at least two** of the affordable housing production policies listed below:

- Production Policy 1: Inclusionary Zoning
- Production Policy 2: Affordable Housing Funding
- Production Policy 3: Affordable Housing Overlay Zones
- Production Policy 4: Public Land for Affordable Housing
- Production Policy 5: Ministerial Approval
- Production Policy 6: Public/Community Land Trusts (*This policy may fulfill either the housing production or preservation requirement, but not both.*)
- Production Policy 7: Development Certainty and Streamlined Entitlement Process.

A jurisdiction may meet the requirements with existing adopted policies, or as needed, adopt new policies by the TOC Policy compliance deadline. At minimum, policies must apply in TOC areas. Jurisdictions may choose to apply policies beyond the TOC area(s), which could include the entirety of the jurisdiction (i.e., adopting a jurisdiction-wide policy). See Section 2 of the guidance document for more information about these requirements.

## **Production Policy 1: Inclusionary Zoning**

*Description from TOC Policy Resolution: Requires that 15% of units in new residential development projects above a certain number of units be deed-restricted affordable to low-income<sup>1</sup> households. A lower percentage may be adopted if it can be demonstrated by a satisfactory financial feasibility analysis that a 15% requirement is not feasible.*

### **Purpose**

Inclusionary zoning requires new residential construction projects to contribute to a jurisdiction's affordable housing stock. Inclusionary zoning can enable jurisdictions to leverage private dollars for affordable housing, bringing affordable units online faster and in greater numbers than relying exclusively on public funding streams. Inclusionary zoning also helps ensure new affordable housing units are developed in the same neighborhoods as new market-rate development, furthering the goal of economic integration.

Typically, a city or county will adopt an inclusionary zoning policy to both add more affordable homes to its inventory and ensure lower-income households can live in high-opportunity neighborhoods where they would otherwise be priced out. Inclusionary zoning can be a method to address historic patterns of exclusion and segregation by ensuring housing is available for lower-wage workers, guarding against concentrations of poverty and affluence, and making it possible for lower-income households to live in higher-resource neighborhoods. An effective inclusionary zoning policy will establish affordability requirements and standards for affordable units, as well as provide incentives and compliance alternatives for developers.

### **Relevant State Law**

#### **AB 1505 (2017)**

[AB 1505 \(2017\)](#) outlines state requirements for a jurisdiction's inclusionary zoning ordinance. The law requires jurisdictions to allow alternative means to comply with requirements, such as in-lieu fees, building affordable units off-site, or dedicating land for the construction of affordable housing. Under certain circumstances, the law also allows HCD to review a local ordinance that requires more than 15% affordable units.<sup>2</sup>

### **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction's inclusionary zoning policy must meet the following minimum requirements:

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<sup>1</sup> In some contexts, state and federal agencies use the term "low-income" to refer to the more specific category of households earning between 50% of AMI and 80% of AMI. However, the use of the term "low-income households" in MTC Resolution No. 4530 is assumed to be synonymous with the broader category of "lower-income," or all households below 80% of AMI.

<sup>2</sup> For more information about Assembly Bill (AB) 1505 (2017) and the state legal framework governing inclusionary zoning policies, see [this memorandum prepared by the Public Interest Law Project](#).

- The policy must apply to newly constructed residential or mixed-use residential projects. The policy must apply to ownership and rental units.
- The policy may exempt properties with fewer than 11 units, student housing, 100% affordable housing, senior housing, or other special housing types.
- The policy must require at least 15% of units be deed-restricted affordable housing units.
- For rental units, the policy's affordability requirements must require the income mix of affordable units to average out to 80% of AMI or less, with no affordable rental units available to households above 120% of AMI. For ownership units, the policy's affordability requirements must require the income mix of affordable units to average out to 120% of AMI or less, with no affordable ownership units available to households above 150% of AMI. Jurisdictions should require deeper levels of affordability where feasible or through offering additional incentives.
- The policy may require less than 15% affordable units if:
  - The jurisdiction provides an analysis showing that an alternative requirement is economically equivalent to the 15% standard (for example, a policy that required fewer units at a deeper affordability level, such as 10% of units affordable to households earning less than 50% of AMI).

**OR**

  - A financial feasibility analysis (completed within 24 months of the date that inclusionary zoning policy was adopted) found that a 15% requirement was not feasible.
- The policy may require more than 15% affordable units.<sup>3</sup>
- Affordable units must have recorded documents that set binding maximum rent or price restrictions to ensure affordability. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing or at least 45 years for ownership housing.
- Per state law, inclusionary zoning must allow for alternative means of compliance (e.g., paying in-lieu fees to support affordable housing development, building affordable units off-site, or dedicating land for the construction of affordable housing). For compliance with the TOC Policy, a jurisdiction with an in-lieu fee that typically results in a payment of less than \$100,000 per affordable unit, must provide a justification for why the fee will result in at least as many restricted affordable housing units as would be required of a project providing onsite units.

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<sup>3</sup> State Law (AB 1550) allows HCD to request a feasibility study for requirements greater than 15%, but does not require that such a feasibility study be completed prior to adoption of the ordinance.

## **Submitting Additional Required Documentation**

In addition to the standard submission requirements, a jurisdiction must submit:

- If the inclusionary zoning policy requires less than 15% affordable units, an analysis showing economic equivalency of the alternative standard (e.g., fewer units at deeper levels of affordability) or a financial feasibility analysis showing a 15% requirement is not feasible for the jurisdiction's local market conditions. MTC has developed a [spreadsheet illustrating the analysis of economic equivalency](#). Jurisdictions may fill in the template spreadsheet or create/commission a comparable analysis to show that the jurisdiction's requirements are comparable to the cost of providing 15% of rental units affordable to 80% of AMI and/or 15% or ownership units to 120% of AMI.
- If the policy allows payment of an in-lieu fee, documentation (e.g., municipal ordinance citation or program guidelines) demonstrating that the fee will typically exceed \$100,000 per required onsite affordable unit. MTC has developed a [spreadsheet to help determine whether an in-lieu fee is equivalent to at least \\$100,000 per required onsite affordable unit](#). If the in-lieu fee paid per affordable unit is typically less than \$100,000, the jurisdiction must provide an analysis showing the in-lieu fee will be sufficient to produce at least as many restricted affordable housing units as the number that would have been required for onsite compliance.
- A management plan that outlines procedures for annual monitoring to ensure residents are income-eligible and rents are consistent with program guidelines.

## **Production Policy 2: Affordable Housing Funding**

*Description from TOC Policy Resolution: Dedicated local funding for production of deed-restricted affordable housing.*

### **Purpose**

Dedicated, ongoing funding provided by local jurisdictions for the creation of deed-restricted affordable housing is a central piece of a comprehensive and inclusive affordable housing strategy. In addition to helping to make projects financially feasible, local financial support is a critical factor in securing outside subsidy. Without local funding, it can be difficult for projects to compete for the necessary state and federal funding. These funds are often collected into a housing trust fund or other dedicated account to be dispersed as subsidies and/or low-cost loans to developers. Effective affordable housing funding programs will pool and disperse funds, which are made available to developers through a single application process.

### **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction's affordable housing funding program must meet the following minimum requirements:

- The jurisdiction must have a program with secured funding<sup>4</sup> that provides ongoing allocations to the program at or above the level identified in Appendix B. The amount contributed can vary by year as long as the total for the relevant four-year OBAG cycle meets the specified target for the jurisdiction.
- Funding must be locally generated.
  - Potential local funding sources include commercial linkage fees and housing impact fees, taxes (such as an employee head tax or real estate transfer tax), local bond measures, successor agency funds, business/gross receipts tax on rental property, and general fund allocations.
  - Jurisdictions may include county or regional bond funds expended with the jurisdiction's participation on affordable housing projects within its boundaries.
  - Jurisdictions may include grants from philanthropic organizations or private contributions made by businesses or individuals.
  - In-kind contributions to developments in the form of fee waivers for building permit fees, impact fees, and other fees can also be counted toward the required amount of local affordable housing funding. Staff hours are not eligible for consideration.
  - If a jurisdiction is also using inclusionary zoning (Production Policy 1) for the TOC Policy's production requirement, funding generated by collecting in-lieu fees from inclusionary zoning cannot be counted toward the funding minimums required for this affordable housing funding policy (Production Policy 2). If the jurisdiction has inclusionary zoning but does not use it to satisfy the TOC Policy's affordable housing production requirement, the funding generated by collecting in-lieu fees may be counted towards satisfying Production Policy 2.
  - **NOTE:** Federal and state funding (such as HOME/CDBG or PLHA) that is passed through a jurisdiction is **not** counted as local funding.
- Jurisdictions that have an existing balance in a housing funding program when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).
- Jurisdictions that have committed affordable housing funds prior to submitting final documentation for TOC Policy compliance may count expended funds

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<sup>4</sup> Secured Funding: Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years' funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

toward the required total so long as at least one of the following conditions is met:

- The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to an affordable housing project that will be constructed during the OBAG 4 cycle sometime between 2026 and 2030).

**AND/OR**

- The funds are expended after January 1, 2025.
- The program must establish a standard set of financing terms, including affordability requirements. The program's affordability requirements must define affordable units as rental housing available to lower-income households earning 80% of AMI or less, and ownership housing to lower- and moderate-income households earning 120% of AMI or less. Jurisdictions should incentivize deeper levels of affordability where feasible or through offering additional incentives.
- Affordable units must have recorded documents that set binding maximum rent or price restrictions to ensure affordability. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing and at least 45 years for ownership housing.

***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- A copy of the program's financing terms if they are not included in an ordinance or other documents establishing the program. Financing terms must indicate the income limits/affordability levels and required affordability period, and the terms must identify a legal mechanism for enforcement of affordable housing requirements (e.g., deed restriction, regulatory agreement, etc.).
- Documents demonstrating the jurisdiction has secured funding that meets the minimum requirements for being considered "secured."
- A schedule of expected funding allocated to the program over the four-year period. MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future funding based on the best information available at the time of submitting compliance documentation to MTC. At the end of the four-year planning period (expected to align with the OBAG cycle), MTC will expect documentation of actual funding received by the program and invested in projects, which may differ from initial projections.

## **Production Policy 3: Affordable Housing Overlay Zones**

*Description from TOC Policy Resolution: Area-specific incentives, such as density bonuses and streamlined environmental review, for development projects that include at least 15% of units as deed-restricted affordable housing; exceeds any jurisdiction-wide inclusionary requirements or benefits from state density bonus.*

### **Purpose**

Changes to local land use law and other regulatory reforms can both enable and incentivize the construction of affordable housing. Zoning incentives can increase the cost-effectiveness of building affordable homes. An Affordable Housing Overlay Zone (AHOZ) is a general term reflecting a variety of potential approaches that provide a package of incentives to developers who include units in their projects that are affordable to lower-income households. They are called “overlay” zones because they layer on top of established base zoning regulations, offering additional benefits to projects that increase the supply of affordable homes. AHOZ incentives may include increased density, relaxed height limits, reduced parking requirements, fast-tracked permitting, and exemptions from mixed-use requirements.

AHOZs are a mechanism through which cities can incentivize affordable housing development to specific zones. In addition, jurisdictions can expedite the approval and permit processes for affordable housing projects. Unlike inclusionary zoning policies that *require* either the building of affordable housing or the payment of an in-lieu fee, AHOZs are *optional* and incentive-based, offering developers key concessions in exchange for producing affordable housing. An effective AHOZ policy will provide meaningful incentives to projects that provide affordable housing and establish minimum affordability requirements at levels that reflect the jurisdiction’s need.

### **Relevant State Laws**

#### **State Density Bonus Law**

State law ([California Government Code Chapter 4.3 Density Bonuses and Other Incentives](#)) dictates that a developer who meets certain requirements is entitled to a density bonus, including up to a 50% increase in density depending on the amount of affordable housing provided, and an 80% increase for completely affordable projects. This law includes incentives such as reduced parking requirements and concessions for reduced setbacks and minimum square footage requirements.<sup>5</sup>

#### **SB 35 (2017) and SB 423 (2023)**

[SB 35 \(2017\)](#) dictates that a developer can request a streamlined, ministerial approval process for multifamily developments which include specified levels of affordable

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<sup>5</sup> For more information, including the full density bonus chart that outlines the percentage density bonus given for each level of affordability, see [this guide on state Density Bonus Law prepared by Meyers Nave Legal Services](#).

housing in jurisdictions that have not met their prorated Regional Housing Needs Allocation (RHNA). Projects that comply with the jurisdiction's objective design standards and existing zoning are exempt from California Environmental Quality Act (CEQA) review and public hearings. Depending on the number of units, the timeline for determining eligibility is either 60 or 90 days and the final decision must be issued between 90 and 180 days from application submittal.<sup>6</sup>

[SB 423 \(2023\)](#) extends SB 35's streamlined, ministerial approval process for qualifying multifamily developments until January 1, 2036. SB 423 also expands some provisions of SB 35, such as applying SB 35 to previously exempted coastal zone areas that are already zoned for housing.

### **Requirements for TOC Policy Compliance**

**Note:** *Production Policy 3 (Affordable Housing Overlay Zones), Production Policy 5 (Ministerial Approval), and Production Policy 7 (Development Certainty and Streamlined Entitlement Process) are related and contain overlapping requirements. As a result, jurisdictions may only count one of these policies for the purpose of TOC compliance for production policies.*

To comply with the TOC Policy, a jurisdiction's AHOZ policy must meet the following minimum requirements:

- The AHOZ policy must offer incentives for projects with at least 15% affordable housing. The policy's required share of affordable units must exceed any jurisdiction-wide inclusionary zoning requirements and what is otherwise incentivized by state law for any given income category. The policy could incentivize any higher proportion of affordable housing up to and including 100% (e.g., only provide incentives to 100% affordable projects).
- To incentivize greater shares of affordability than otherwise incentivized by State Law, the AHOZ policy must provide qualifying projects with greater development potential in the form of:
  - Density bonus: the policy must offset greater affordability with residential density greater than what is available under the state Density Bonus Law.
  - Additional "concessions" or "incentives": the policy must provide qualifying projects with at least one additional "concession" or "incentive" than what is already available under the state Density Bonus Law. Incentives or concessions could include ministerial approval, some other form of streamlining, or modifications to other planning code requirements. Incentives and concessions must result in an actual and identifiable cost reduction for the project.

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<sup>6</sup> For more information, see [this fact sheet on Senate Bill 35 prepared by the City of San Leandro](#).



- The policy’s affordability requirements must define affordable units as rental housing available to lower-income households earning 80% of AMI or less, and ownership housing to lower- and moderate-income households earning 120% of AMI or less. Jurisdictions should require deeper levels of affordability where feasible or through offering additional incentives.
- Affordable units must have recorded documents that set binding maximum rent and price restrictions to ensure affordability. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing and at least 45 years for ownership housing.

## **Production Policy 4: Public Land for Affordable Housing**

*Description from TOC Policy Resolution: Policies to prioritize the reuse of publicly owned land for affordable and mixed-income housing that go beyond existing state law, typically accompanied by prioritization of available funding for projects on these sites.*

### **Purpose**

High land costs can make it difficult to create new affordable housing for low- or moderate-income households, particularly in high-value, amenity-rich locations. Local jurisdictions can help overcome this obstacle by identifying public property (including surplus government agency property and tax delinquent/seized property) that can be repurposed for residential use and making it available to developers who commit to creating and maintaining ongoing affordability.<sup>7</sup> Utilizing public land can increase feasibility for developing affordable housing. Jurisdictions may donate land; sell land at a deep discount; or transfer land using a below-market, long-term ground lease to affordable housing developers or community land trusts. Jurisdictions can also incentivize the use of public land for affordable housing through zoning, fee waivers, and/or permit streamlining. This policy tool can be used effectively in all communities and is particularly important in communities where vacant land appropriate for residential use is scarce. Effective actions to prioritize the reuse of publicly owned land for affordable housing will include creating an inventory of publicly owned sites, noticing practices aimed towards maximizing affordable housing development, and collaboration with other public agencies.

### **Relevant State Law**

#### **Surplus Lands Act**

The [Surplus Lands Act \(Government Code Sections 54220 – 54234\)](#) requires local agencies to make findings that property is either surplus or exempt surplus land before disposing of it. If the property is not exempt, the local agency must provide written

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<sup>7</sup> For more information, see the brief [“Use of publicly owned property for affordable housing”](#) prepared by Local Housing Solutions.

notice to housing developers to give them the first chance to purchase and develop surplus agency-owned land for affordable housing. If one of these interested parties purchases the land, then at least 25% of units developed must be affordable. However, if 90 days pass without reaching an agreement with one of these interested parties, then the affordability requirement for whatever development occurs on the land is 15% if 10 or more residential units are developed. The Surplus Land Act also includes penalties for local agencies that violate the Act when disposing of surplus lands.

### ***Requirements for TOC Policy Compliance***

To comply with the TOC Policy, a jurisdiction must meet the following minimum requirements for prioritizing the reuse of publicly owned land for affordable housing:

- The jurisdiction must have a program or policy in the Housing Element that describes the redevelopment of publicly owned land for affordable housing and aligns with the other requirements described below.
  - In the absence of a Housing Element policy/program, the jurisdiction must adopt a public lands policy that includes a set of principles and standards for planning, leasing, and disposing of publicly owned land, as well as a program of implementation actions.
- The jurisdiction must provide evidence of a recent, ongoing, or planned housing development project on a public land site that meets the requirements of this policy. Though jurisdictions should prioritize affordable housing development on public land within the TOC area, a public lands project does not need to be within the TOC area to receive credit toward TOC Policy compliance.
  - If the jurisdiction does not have an ongoing or planned public lands project, staff must demonstrate that at least one publicly owned parcel in the jurisdiction has been deemed suitable for affordable housing development.
- If the recent, ongoing, or planned housing development project on a public land site is not on land owned by the jurisdiction, the jurisdiction must provide evidence of financial support for the project. Financial support could be a grant/loan to the project or an in-kind contribution in the form of waivers for building permit fees, impact fees, and other fees. At their discretion, MTC staff may allow a jurisdiction to count a non-monetary benefit provided to a project in lieu of financial support.
- For both rental and ownership projects, eligible developments on publicly owned land must exceed the Surplus Lands Act requirement to have at least 25% of units affordable to lower-income households earning 80% of AMI or less. Additional affordable units beyond the 25% for lower-income households can target both lower- and moderate-income households earning up to 120% of AMI. Jurisdictions should require higher percentages of affordable units and/or deeper levels of affordability where feasible or through offering additional incentives.
- Affordable units must have recorded documents that set binding maximum rent or price restrictions to ensure affordability. These requirements must restrict rents

and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing and at least 45 years for ownership housing.

- Building on its Housing Element sites inventory and supplementary data provided by MTC/ABAG (if needed), the jurisdiction must create a comprehensive inventory of publicly owned sites to identify opportunities to produce affordable or mixed-income housing. The site inventory must include both land that qualifies as “surplus” under the Surplus Lands Act and other currently underutilized sites owned by the jurisdiction and other public agencies (e.g., state, county, and local agencies, as well as other public entities such as school districts).
- The jurisdiction must demonstrate it has dedicated staff or consultant time for monitoring and advancing the public lands program, including periodic review and evaluation of the inventory of publicly owned sites suitable for affordable housing development, outreach to affordable housing developers, and updates to City Council/Board of Supervisors.

### ***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- A site inventory that meets the requirements described above.
  - At least one of the following:
    - Documentation of a Housing Element policy/program for public land redevelopment that meets the standards described above.
- OR**
- An adopted public lands policy that meets the requirements described above.
  - Evidence (such as an RFQ/RFP) of a recent, ongoing, or planned housing development project on public lands that meets the standards outlined above.
    - In the absence of an ongoing or planned public lands project, evidence that the jurisdiction has at least one publicly owned land site suitable for affordable housing development.
  - Documentation of dedicated staff or consultant for monitoring and advancing the public lands program or project, including anticipated full-time equivalent (FTE).

### **Production Policy 5: Ministerial Approval**

*Description from TOC Policy Resolution: Grant ministerial approval of residential developments that include, at a minimum, 15% affordable units if projects have 11 or more units, or that exceed inclusionary or density bonus affordability requirements and do not exceed 0.5 parking spaces per unit.*

## **Purpose**

“Ministerial approval” means a process for development approval involving little or no subjective judgment by a public official or commission. A public agency or commission merely ensures the proposed development meets all the objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time the application is submitted to the local government. Developments under ministerial approval are exempt from the California Environmental Quality Act (CEQA), which eliminates the costs and time for environmental review.<sup>8</sup> An effective ministerial approval policy will significantly reduce the turnaround time of housing projects by expediting the approval process, reduce development risk by providing more certainty in the approval process, and thereby lead to faster construction of housing with decreased carrying costs.

## **Relevant State Laws**

### **[SB 35 \(2017\) and SB 423 \(2023\)](#)**

Jurisdictions that have not met their pro-rated Regional Housing Needs Allocation (RHNA) targets must offer a streamlined (ministerial) approval process for multi-family developments per [SB 35](#). The ministerial approval process applies to infill developments that comply with existing residential and mixed-use zoning and objective design standards. Affordability requirements vary depending on the jurisdiction’s progress in meeting its RHNA targets or the submittal status of its Annual Progress Report. Developments of 10 units or fewer are not subject to the affordability requirements. Furthermore, jurisdictions cannot impose parking standards on developments within 0.5 miles of transit and other circumstances. While SB 35 only applies to jurisdictions that have not met their RHNA targets and for infill projects, language from SB 35 may be helpful for jurisdictions to include in their adopted ministerial approval policy.

[SB 423 \(2023\)](#) extends SB 35’s streamlined, ministerial approval process for qualifying multifamily developments until January 1, 2036. SB 423 also expands some provisions of SB 35, such as applying SB 35 to previously exempted coastal zone areas that are already zoned for housing.

### **State Density Bonus Law**

[Government Code Chapter 4.3 Density Bonuses and Other Incentives](#) states that eligible developments are entitled to a density bonus, including up to a 50% increase in density depending on the amount of affordable housing provided, and an 80% increase for completely affordable projects. This law includes incentives such as reduced parking requirements and concessions for reduced setbacks and minimum square footage requirements.<sup>9</sup>

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<sup>8</sup> For more information, see Caltrans’ overview of [Chapter 34 - Exemptions to CEQA](#).

<sup>9</sup> For more information, see [this guide on the state Density Bonus Law prepared by Meyers Nave Legal Services, which](#) includes the full density bonus chart that outlines the percentage density bonus given for each level of affordability.

## **Requirements for TOC Policy Compliance**

**Note:** *Production Policy 3 (Affordable Housing Overlay Zones), Production Policy 5 (Ministerial Approval), and Production Policy 7 (Development Certainty and Streamlined Entitlement Process) are related and contain overlapping requirements. As a result, jurisdictions may only count one of these policies for the purpose of TOC compliance for production policies.*

To comply with the TOC Policy, a jurisdiction's ministerial approval policy must meet the following minimum requirements:

- For projects with 11 or more units, the policy must do **ONE** of the following:
  - Grant ministerial approval to any project where at least 15% of units are deed-restricted affordable housing units.
- OR**
- Grant ministerial approval for projects whose share of affordable units exceeds any existing local inclusionary zoning requirements and provides more affordable housing units or deeper affordability than would be required under state density bonus rules (given the bonus density obtained by the project).
- The policy's affordability requirements must define affordable units as rental housing available to lower-income households earning 80% of AMI or less, and ownership housing to lower- and moderate-income households earning 120% of AMI or less. Jurisdictions should require deeper levels of affordability where feasible or through offering additional incentives.
- Affordable units must have recorded documents that set binding maximum rent or price restrictions to ensure affordability. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing and at least 45 years for ownership housing.
- At minimum, jurisdictions must provide ministerial approval to projects with 11 or more units meeting the affordability standards described above. This does not preclude jurisdictions from applying ministerial approval to a broader range of projects, such as all multifamily housing regardless of affordability.
- Projects eligible for ministerial review cannot include more parking than is allowed by the parking space requirements outlined in Table 12 of MTC's TOC Policy Administrative Guidance.

## **Production Policy 6: Public/Community Land Trusts**

*Description from TOC Policy Resolution: Investments or policies to expand the amount of land held by public- and non-profit entities such as co-operatives, community land trusts, and land banks with permanent affordability protections. This policy may be used to fulfill either the housing production or preservation requirement, but not both.*

## **Purpose**

Community Land Trusts (CLTs) are typically nonprofit organizations that acquire and steward land on behalf of community members. They contribute to the affordable housing stock by maintaining land ownership to ensure the housing built on land they own remains affordable to future renters or buyers. Community control of land through CLTs has high potential to prevent displacement in a variety of housing markets and around transit.<sup>10, 11</sup>

Land banks are public authorities or non-profit organizations occasionally created through local ordinances to acquire, hold, manage, and sometimes redevelop property to return these properties to productive use to meet community goals, such as increasing affordable housing.<sup>12, 13</sup>

Housing cooperatives are democratically controlled corporations established to provide housing for members. Limited Equity Housing Cooperatives offer long-term affordable homeownership opportunities for low- and moderate-income households. The development of these types of cooperatives is often funded with a combination of private and public funds.<sup>14</sup>

The acquisition and rehabilitation of housing by CLTs, land banks, and cooperatives can help preserve a range of housing types, stabilize housing costs, and expand housing choice for low- and moderate-income households.<sup>15</sup> Support for CLTs, land banks, and cooperatives not only serves as an anti-displacement measure, but also represents a place-based community development strategy for disinvested neighborhoods and communities with concentrated poverty, as jurisdictions can provide funding for these entities to acquire and rehabilitate vacant and distressed properties or maintain existing affordable housing options. This policy intends to set aside funding for CLTs, land banks, and cooperatives to remove land from the speculative market and ensure long-term affordability.

## **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction's affordable housing production funding program focused on public/community land trusts must meet the following minimum requirements:

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<sup>10</sup> See Table 1. Literature Review Summary Table in [White Paper on Anti-Displacement Strategy Effectiveness](#) (Chapple and Loukaitou-Sideris, 2021).

<sup>11</sup> Chapple et al. 2022. [Examining the Unintended Effects of Climate Change Mitigation](#). Institute of Governmental Studies, UC Berkeley.

<sup>12</sup> Local Housing Solutions. [Land Banks](#).

<sup>13</sup> Center for Community Progress. [Land Bank FAQ's](#).

<sup>14</sup> California Center for Cooperative Development. [Housing Co-ops](#).

<sup>15</sup> Yelen, J. 2020. [Preserving Affordability, Preventing Displacement](#). Enterprise Community Partners.

- The jurisdiction must have a program with secured funding<sup>16</sup> that provides ongoing allocations to the program at or above the level identified in Appendix B. The amount contributed can vary by year as long as the total for the relevant four-year OBAG cycle meets the specified target for the jurisdiction.
- Funding must be locally generated.
  - Potential local funding sources include commercial linkage fees, housing impact fees (but see note below if the impact fees are part of an inclusionary zoning ordinance), taxes (such as an employee head tax or real estate transfer tax), local bond measures, successor agency funds, business/gross receipts tax on rental property, and general fund allocations.
  - Jurisdictions may include county or regional bond funds expended with the jurisdiction's participation on affordable housing projects within its boundaries.
  - Jurisdictions may include grants from philanthropic organizations or private contributions made by businesses or individuals.
  - In-kind contributions to developments in the form of fee waivers for building permit fees, impact fees, and other fees can also be counted toward the required amount of local affordable housing funding. Staff hours are not eligible for consideration.
  - If a jurisdiction is also using inclusionary zoning (Production Policy 1) for the TOC Policy's production requirement, funding generated by collecting in-lieu fees from inclusionary zoning cannot be counted toward the funding minimums required for this affordable housing funding policy (Production Policy 6). If the jurisdiction has inclusionary zoning but does not use it to satisfy the TOC Policy's affordable housing production requirement, the funding generated by collecting in-lieu fees may be counted towards satisfying Production Policy 6.
  - **NOTE:** Federal and state funding (such as HOME/CDBG or PLHA) that is passed through a jurisdiction is **not** counted as local funding.
- Jurisdictions that have an existing balance in a housing funding program when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).

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<sup>16</sup> Secured Funding: Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years' funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

- Jurisdictions that have committed affordable housing funds prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met:
  - The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to a CLT to use for affordable housing production during the OBAG 4 cycle sometime between 2026 and 2030).

**AND/OR**

- The funds are expended after January 1, 2025.
- The funding program must establish a standard set of financing terms, including affordability requirements. The program’s affordability requirements must define affordable units as rental housing available to lower income households earning 80% of AMI or less, and ownership housing to lower- and moderate-income households earning 120% of AMI or less. Jurisdictions should require deeper levels of affordability where feasible or through offering additional incentives.
- Affordable units must have recorded documents that set binding maximum rent or price restrictions to ensure affordability. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing and at least 45 years for ownership housing.
- The program’s funds must be reserved for CLTs and/or cooperatives to use for affordable housing production, or the jurisdiction or other public entities can use the funding to acquire and hold property that will be used for production of affordable housing.
- **NOTE:** A jurisdiction whose policy meets the minimum requirements above cannot also count this policy for credit for Production Policy 2 (Affordable Housing Funding). However, if a jurisdiction has a funding program that meets requirements for Production Policy 2, and if this program additionally has set asides for public/community land trusts that meet the funding listed in Appendix B, then the program can also receive credit for Production Policy 6 (Public/Community Land Trusts). For example, a Tier A jurisdiction that has a production program with \$2,000,000 in secured funding during the relevant four-year OBAG cycle would receive credit for both Production Policy 1 and Production Policy 6 if the program has a set aside for CLTs of \$1,000,000, as these amounts meet the \$1,000,000 four-year minimum for both policies.

***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- A copy of the program’s financing terms if they are not included in an ordinance or other documents establishing the program. Financing terms must indicate the



income limits/affordability levels and required affordability period, and the terms must identify a legal mechanism for enforcement of affordable housing requirements (e.g., deed restriction, regulatory agreement, etc.)

- Documents demonstrating the jurisdiction has secured funding that meets the minimum requirements for being considered “secured.”
- A schedule of expected funding allocated to the program over the four-year period. MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future funding based on the best information available at the time of submitting compliance documentation to MTC. At the end of the 4-year planning period (expected to align with the OBAG cycle), MTC will expect documentation of actual funding received by the program and invested in projects, which may differ from initial projections.

## **Production Policy 7: Development Certainty and Streamlined Entitlement Process**

*Description from TOC Policy Resolution: Include the vested rights and five hearing limit provisions currently outlined in SB330 (2019, Skinner) without a sunset date.*

### ***Purpose***

In some cities, towns, and counties, the process associated with obtaining approval for new construction is so time-consuming or costly that it dampens the amount of new development and adds significantly to its costs. Permit streamlining and other improvements in the regulatory environment can make cities more attractive to developers of both market-rate and affordable housing, helping to increase the housing supply over the long term and moderate price increases.<sup>17</sup>

### ***Relevant State Law***

#### **Housing Crisis Act of 2019**

The [Housing Crisis Act of 2019](#) was established by [SB 330 \(2019\)](#) and amended by [SB 8 \(2021\)](#). State law establishes vested rights through a preliminary application—a project is only subject to the ordinances, policies, and standards adopted and in effect when this application is submitted. State law requires timely processing of housing permits that follow existing local zoning rules (must issue written determination of consistency with objective standards within 30 days for 150 or fewer units or 60 days for more than 150 units). SB 330 requires that no more than five total hearings be allowed for residential development projects and the final decision on a residential project must be made within 90 days after certification of an EIR for a development project, or 60 days for a development project where at least 49% of the units in the development are

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<sup>17</sup> For more information, see the brief [“Streamlined permitting processes”](#) prepared by Local Housing Solutions.

affordable to very low or low-income households. The Housing Crisis Act of 2019 has a sunset date of January 1, 2030.

### **Requirements for TOC Policy Compliance**

**Note:** *Production Policy 3 (Affordable Housing Overlay Zones), Production Policy 5 (Ministerial Approval), and Production Policy 7 (Development Certainty and Streamlined Entitlement Process) are related and contain overlapping requirements. As a result, jurisdictions may only count one of these policies for TOC compliance for production policies. However, if a jurisdiction implements all provisions from SB 330/SB 8 without a sunset date, then the jurisdiction meets the standards required by and can claim credit for both Production Policy 7 (Development Certainty and Streamlined Entitlement Process) and Protection Policy 2 (No Net Loss and Right to Return to Demolished Homes).*

To comply with the TOC Policy, a jurisdiction's development certainty and streamlined entitlement policy must meet the following minimum requirements:

- Adopt a local ordinance with no sunset date that provides the vested rights and five hearing limit provisions from SB 330.
- Adopt Protection Policy 2: No Net Loss and Right to Return to Demolished Homes, unless preempted by state or federal law.
  - If a jurisdiction does not adopt Protection Policy 2, staff must provide a detailed analysis of how the jurisdiction otherwise prevents displacement and protects tenants in areas where development certainty and streamlined approvals are available.

## **II. Affordable Housing Preservation Policy Options**

To comply with the TOC Policy, a jurisdiction must adopt **at least two** of the affordable housing preservation policies listed below:

- Preservation Policy 1: Funding to Preserve Unsubsidized Affordable Housing
- Preservation Policy 2: Tenant/Community Opportunity to Purchase
- Preservation Policy 3: Single-Room Occupancy (SRO) Preservation
- Preservation Policy 4: Condominium Conversion Restrictions
- Preservation Policy 5: Public/Community Land Trusts *(This policy may fulfill either the housing production or preservation requirement, but not both.)*
- Preservation Policy 6: Funding to Support Preservation Capacity
- Preservation Policy 7: Mobile Home Preservation
- Preservation Policy 8: Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities *(This policy may fulfill either the housing preservation or protection requirement, but not both.)*

A jurisdiction may meet the requirements with existing adopted policies or as needed, adopt new policies by the TOC Policy compliance deadline. At minimum, policies must apply in TOC areas. Jurisdictions may choose to apply policies beyond the TOC area(s), which could include the entirety of the jurisdiction (i.e., adopting a jurisdiction-wide policy). See Section 2 of the guidance document for more information about these requirements.

## **Preservation Policy 1: Funding to Preserve Unsubsidized Affordable Housing**

*Description from TOC Policy Resolution: Public investments to preserve unsubsidized housing affordable to lower- or moderate-income residents (sometimes referred to as "naturally occurring affordable housing") as permanently affordable.*

### **Purpose**

Most lower-income households in the Bay Area rent in the private market without any form of housing assistance. The private market properties offering rents that lower-income people can afford without subsidy are known as unsubsidized or “naturally occurring” affordable housing. Without subsidy, lower-income tenants are particularly vulnerable to rent increases as well as poorly maintained housing, and in the Bay Area’s competitive housing market these properties may be targeted by investors seeking to update units and raise rents. Lower-income homeowners are also vulnerable to market pressures that can result in displacement and loss of affordable homes. Preservation programs for unsubsidized affordable housing typically engage community organizations to help identify and monitor at-risk properties while also providing funding to support rehabilitation needs as well as acquisition and conversion to long-term affordable housing. Effective public investments to preserve unsubsidized housing will have funds available to secure unsubsidized affordable housing (rental or ownership), eligibility criteria for receiving funds, regulatory restrictions to maintain affordability of preserved units, and an anti-displacement strategy for existing tenants.

### **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction’s funding program to preserve unsubsidized affordable housing must meet the following minimum requirements:

- The jurisdiction has at least one funding program dedicated to the preservation of existing affordable housing, where preservation of unsubsidized affordable housing is explicitly identified as an eligible use.
- The jurisdiction must have a program with secured funding<sup>18</sup> that provides ongoing allocations to the program at or above the level identified in Appendix B. The

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<sup>18</sup> Secured Funding: Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years’ funding may require

amount contributed can vary by year as long as the total for the relevant four-year OBAG cycle meets the specified target for the jurisdiction.

- Funding must be locally generated.
  - Potential local funding sources include commercial linkage fees, housing impact fees (but see note below if the impact fees are part of an inclusionary zoning ordinance), taxes (such as an employee head tax or real estate transfer tax), local bond measures, successor agency funds, business/gross receipts tax on rental property, and general fund allocations.
  - Jurisdictions may also include county or regional bond funds expended with the jurisdiction's participation on preservation projects within its boundaries.
  - Jurisdictions may include grants from philanthropic organizations or private contributions made by businesses or individuals.
  - When relevant, in-kind contributions to developments in the form of fee waivers for building permit fees, impact fees, and other fees can also be counted toward the required amount of local affordable housing funding. Staff hours are not eligible for consideration.
  - If a jurisdiction is also using inclusionary zoning (Production Policy 1) for the TOC Policy's production requirement, funding generated by collecting in-lieu fees from inclusionary zoning cannot be counted toward the funding minimums for this policy (Preservation Policy 1). If the jurisdiction has inclusionary zoning but does not use it to satisfy the TOC Policy's affordable housing production requirement, the funding generated by collecting in-lieu fees may be counted toward satisfying Preservation Policy 1.
  - **NOTE:** Federal and state funding (such as HOME/CDBG or PLHA) that is passed through a jurisdiction is **not** counted as local funding.
- Jurisdictions that have an existing balance in a housing preservation funding program when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).
- Jurisdictions that have committed affordable housing preservation funds prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met:
  - The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to an unsubsidized

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future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

affordable housing preservation project that will be completed during the OBAG 4 cycle sometime between 2026 and 2030).

**AND/OR**

- The funds are expended after January 1, 2025.
- The jurisdiction must establish criteria for borrower eligibility that require funding recipients to have experience with affordable housing preservation.
- The program must establish a standard set of financing terms, including affordability requirements.
  - For rental properties, the average rent for all units at each preserved property at the time of acquisition must be affordable to households earning no more than 80% of AMI. After acquisition, new residents must be income qualified and earn less than 120% of AMI, and the building must maintain an average income of no more than 80% of AMI. Existing residents of acquired buildings shall not be displaced, even if the household's income exceeds the AMI thresholds noted above.
  - All ownership units preserved as affordable housing (e.g., a single-family home acquired by a community land trust) must be sold to lower- and moderate-income households earning 120% of AMI or less.
  - Units acquired through the program must have recorded documents that set binding maximum rent or price restrictions to ensure affordability. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing and at least 45 years for ownership housing.

***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- A copy of the program's eligibility and financing terms if they are not included in an ordinance or other documents establishing the program. These terms must indicate the criteria for borrower eligibility to ensure funding recipients have experience with affordable housing preservation, income limits/affordability levels and required affordability period, and the terms must identify a legal mechanism for enforcement of affordable housing requirements (e.g., deed restriction, regulatory agreement, etc.).
- Documents demonstrating the jurisdiction has secured funding that meets the minimum requirements for being considered "secured."
- A schedule of expected funding to be received by the fund over the 4-year period. MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future funding based on the best information available at the time of submitting compliance documentation to MTC. At the end of the four-year planning period

(expected to align with the OBAG cycle), MTC will expect documentation of actual funding received by the program and invested in projects, which may differ from initial projections.

## **Preservation Policy 2: Tenant/Community Opportunity to Purchase**

*Description from TOC Policy Resolution: Policies or programs that provide tenants or mission-driven nonprofits the right of first refusal to purchase a property at the market price when it is offered for sale, retaining existing residents and ensuring long-term affordability of the units by requiring resale restrictions to maintain affordability.*

### **Purpose**

A Tenant (or Community) Opportunity to Purchase Act (TOPA/COPA) policy can give tenants and nonprofits sufficient time to compete to purchase a property. TOPA/COPA policies aim to prevent displacement of lower-income communities, long-term renters, and other marginalized residents by preserving currently affordable housing and creating pathways for long-term affordability. A TOPA/COPA policy can also facilitate homeownership for tenants by creating limited equity housing cooperatives or other ownership models, enabling increased wealth building opportunities for communities who may have historically been denied access to homeownership. For these reasons, jurisdictions throughout the Bay Area have identified TOPA/COPA as key preservation tools to combat displacement.<sup>19</sup> Effective TOPA/COPA policies will identify what housing types are subject to the policy, what organizations are qualified to purchase a property, noticing procedures for the sale of property, a consistent local funding source, a reasonable timeline to respond to the intent to sell, and an anti-displacement strategy for existing residents.

### **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction's TOPA and/or COPA policy must meet the following minimum requirements:<sup>20</sup>

- The jurisdiction can meet TOC Policy requirements with either a TOPA or COPA ordinance, or both.
- The TOPA/COPA ordinance defines eligible and exempt properties.
- The ordinance establishes the legal right of first refusal that gives tenants and/or nonprofits the first right to purchase a covered property.
- The ordinance establishes timelines for notice of sale, offer period, time to close, and time to counter-offer under TOPA/COPA.<sup>21</sup>

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<sup>19</sup> Bay Area Housing Element Advocacy Working Group. [“Leveraging the Housing Element to Advance Tenant & Community Opportunity to Purchase Policies.”](#)

<sup>20</sup> The requirements are derived from key components of: (1) [OPA Policy described by Partnership for the Bay's Future. 2022. Opportunity to Purchase Act Campaign Playbook](#) (p.22) and (2) Public Advocates, [“Key Considerations for Designing Tenant and Community Opportunity to Purchase Policies.”](#)

<sup>21</sup> [San Jose Community Opportunity to Purchase \(COPA\) Proposed Program Summary – January 2023 Update.](#)

### **Preservation Policy 3: Single-Room Occupancy (SRO) Preservation**

*Description from TOC Policy Resolution: Limits the conversion of occupied SRO rental units to condominiums or other uses that could result in displacement of existing residents.*

#### **Purpose**

Single Room Occupancy (SRO) units are a unique form of affordable rental housing that does not exist in all communities. SROs are generally comprised of small, furnished single rooms within multi-tenant buildings with shared kitchens and/or bathrooms. SROs do not typically require a security deposit, credit references, proof of income, or a long-term lease agreement. For these reasons, SROs have provided low-cost housing for vulnerable populations with unstable finances, very low incomes, or limited access to credit. In some cases, SROs are used as transitional housing for people who are in between more permanent housing arrangements.

In the absence of preservation policies, housing market pressures leave SRO units vulnerable to demolition or conversion to tourist hotels, condominiums, or market-rate apartments, resulting in displacement and potential homelessness for low-income SRO residents. The purpose of SRO unit conversion regulations is to ensure the retention of existing SRO units and to assist SRO tenants that will be displaced by demolition, conversion, or rehabilitation of these units. An effective SRO preservation policy will limit the number of units that can be converted, ensure housing stability for SRO tenants, and monitor at-risk properties.

#### **Requirements for TOC Policy Compliance**

To receive compliance credit for this policy, a jurisdiction must have an existing supply of SRO buildings owned by private entities other than mission-driven nonprofit organizations. Due to the heightened vulnerability of both SRO housing stock and the residents who occupy it, a jurisdiction with an adopted SRO preservation policy that applies to all at-risk SROs may receive credit for this policy even if none of the SRO buildings are located within TOC areas.

To comply with the TOC Policy, a jurisdiction's SRO preservation policy must meet the following minimum requirements:

- The policy must limit the number of SRO units approved to be converted in a given calendar year to no more than the number of equivalent rental units completed the previous calendar year. "Equivalent rental units" shall be defined as low-cost SRO units or any income-restricted housing affordable to households with incomes at 30% of AMI or less.

- At the time of application for conversion of units, require applicants to produce a Tenant Relocation Assistance Plan<sup>22</sup> spelling out tenant protections, benefits and required relocation payments for any temporarily or permanently displaced residents.
- Exemptions to the conversion restrictions can be made for conversion of SRO buildings to 100% affordable units for tenants at 50% of AMI or less. However, affordable housing developers need to provide existing tenants with a first right of refusal for new units. Rents for these tenants must be based on their incomes, though rents for their units could reset at 50% of AMI upon turnover. Developers also need to produce the Tenant Relocation Assistance Plan referenced above for any temporarily or permanently displaced tenants.
- If none of the at-risk SROs in a jurisdiction are located within a TOC area, then the jurisdiction must apply this policy jurisdiction-wide.

### ***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit documentation of the presence of SRO units owned by private entities other than mission-driven nonprofit organizations that would be protected by the policy.

## **Preservation Policy 4: Condominium Conversion Restrictions**

*Description from TOC Policy Resolution: Require that units converted to condominiums be replaced 1:1 with comparable rental units, unless purchased by current long-term tenants or converted to permanently affordable housing with protections for existing tenants.*

### ***Purpose***

The conversion of rental housing to condominiums presents a risk to maintaining a supply of rental housing, which typically serves a wider range of households than ownership units in condominiums. Establishing criteria for the conversion of rental housing to condominiums can help preserve much-needed rental housing stock, reduce the risk of displacement of existing tenants in rental units, and ensure continued housing stability for tenants who are displaced in the event of conversions. Effective condominium conversion policies will include restrictions on conversion, right to purchase protections and relocation assistance, and the promotion of affordable housing through comparable replacement units.

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<sup>22</sup> Relocation Assistance Plan: A plan outlining the benefits and protections afforded to tenants to minimize displacement and support relocation, including at a minimum: no penalty for the tenant to terminate a lease, payment of tenant reasonable moving expenses, relocation assistance payments in an amount that is at least three times the monthly fair market rent of the unit that the resident is being relocated out of, and tenants that experience temporary displacement must be guaranteed protection against unreasonable rent increases upon returning to their unit.



## **Relevant State Law**

### **Subdivision Map Act**

The [Subdivision Map Act \(Gov Code 66410-66424.6\)](#) requires developers to provide notices of condominium conversion to tenants at every stage of the process.

### **Requirements for TOC Compliance**

To comply with the TOC Policy, a jurisdiction's condominium conversion policy must meet the following minimum requirements:

- Require 1-for-1 replacement of existing units with comparable rental units, when permitted by law. A program may allow or require replacement units be provided through payment of a fee in an amount approximately sufficient to provide the local share of subsidy for one income-restricted rental unit serving lower-income households (earning 80% of AMI or less) and, in no case less than \$100,000 per rental unit being converted. Jurisdictions may allow the following exemptions:
  - Conversions where at least 90% of condominium units are purchased by current tenants.
  - Conversions to 100% housing units with long-term affordability restrictions for households earning 120% of AMI or less.
- Provide existing tenants the first right to purchase a unit at the same price offered to the general public consistent with the Subdivision Map Act.<sup>23</sup>
- At the time of application for conversion of units, require applicants to produce a Tenant Relocation Assistance Plan<sup>24</sup> spelling out tenant protections, benefits and required relocation payments for any temporarily or permanently displaced residents.

### **Preservation Policy 5: Public/Community Land Trusts**

*Description from TOC Policy Resolution: Investments or policies to expand the amount of land held by public- and non-profit entities such as co-operatives, community land trusts, and land banks with permanent affordability protections. This policy may be used to fulfill either the housing production or preservation requirement, but not both.*

#### **Purpose**

Community Land Trusts (CLTs) are typically nonprofit organizations that acquire and steward land on behalf of community members. They contribute to the affordable housing stock by maintaining land ownership to ensure the housing built on land they

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<sup>23</sup> This is a right under the Subdivision Map Act (Gov Code 66410-66424.6).

<sup>24</sup> Relocation Assistance Plan: A plan outlining the benefits and protections afforded to tenants to minimize displacement and support relocation, including at a minimum: no penalty for the tenant to terminate a lease, payment of tenant reasonable moving expenses, relocation assistance payments in an amount that is at least three times the monthly fair market rent of the unit that the resident is being relocated out of, and tenants that experience temporary displacement must be guaranteed protection against unreasonable rent increases upon returning to their unit.

own remains affordable to future renters or buyers. Community control of land through CLTs has high potential to prevent displacement in a variety of housing markets and around transit.<sup>25, 26</sup>

Land banks are public authorities or non-profit organizations occasionally created through local ordinances to acquire, hold, manage, and sometimes redevelop property to return these properties to productive use to meet community goals, such as increasing affordable housing.<sup>27, 28</sup>

Housing cooperatives are democratically controlled corporations established to provide housing for members. Limited Equity Housing Cooperatives offer long-term affordable homeownership opportunities for low- and moderate-income households. The development of these types of cooperatives is often funded with a combination of private and public funds.<sup>29</sup>

The acquisition and rehabilitation of housing by CLTs, land banks, and cooperatives can help preserve a range of housing types, stabilize housing costs, and expand housing choice for lower-income households.<sup>30</sup> Support for CLTs, land banks, and cooperatives not only serves as an anti-displacement measure but also represents a place-based community development strategy for disinvested neighborhoods and communities with concentrated poverty, as jurisdictions can provide funding for these entities to acquire and rehabilitate vacant and distressed properties or maintain existing affordable housing options. This policy intends to set aside funding for CLTs, land banks, and cooperatives to remove land from the speculative market and ensure long-term affordability.

### ***Relevant State Law***

#### **SB 1079 (2020): Residential Property: Foreclosure**

SB 1097 (2020) grants “eligible bidders” including CLTs certain rights and priorities to make bids on a foreclosed property after the initial trustee sale and potentially to purchase it as the last and highest bidder.

### ***Requirements for TOC Policy Compliance***

To comply with the TOC Policy, a jurisdiction’s affordable housing preservation funding program focused on public/community land trusts must meet the following minimum requirements:

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<sup>25</sup> See Table 1. Literature Review Summary Table in [White Paper on Anti-Displacement Strategy Effectiveness](#) (Chapple and Loukaitou-Sideris, 2021).

<sup>26</sup> Chapple et al. 2022. [Examining the Unintended Effects of Climate Change Mitigation](#). Institute of Governmental Studies, UC Berkeley.

<sup>27</sup> Local Housing Solutions. [Land Banks](#).

<sup>28</sup> Center for Community Progress. [Land Bank FAQ's](#).

<sup>29</sup> California Center for Cooperative Development. [Housing Co-ops](#).

<sup>30</sup> Yelen, J. 2020. [Preserving Affordability, Preventing Displacement](#). Enterprise Community Partners.

- The jurisdiction must have a program with secured funding<sup>31</sup> that provides ongoing allocations to the program at or above the level identified in Appendix B. The amount contributed can vary by year as long as the total for the relevant four-year OBAG cycle meets the specified target for the jurisdiction.
- Funding must be locally generated.
  - Potential local funding sources include commercial linkage fees, housing impact fees (but see note below if the impact fees are part of an inclusionary zoning ordinance), taxes (such as an employee head tax or real estate transfer tax), local bond measures, successor agency funds, business/gross receipts tax on rental property, and general fund allocations.
  - Jurisdictions may include county or regional bond funds expended with the jurisdiction's participation on preservation projects within its boundaries.
  - Jurisdictions may include grants from philanthropic organizations or private contributions made by businesses or individuals.
  - When relevant, in-kind contributions to developments in the form of fee waivers for building permit fees, impact fees, and other fees can also be counted toward the required amount of local affordable housing funding. Staff hours are not eligible for consideration.
  - If a jurisdiction is also using inclusionary zoning (Production Policy 1) for the TOC Policy's production requirement, funding generated by collecting in-lieu fees from inclusionary zoning cannot be counted toward the funding minimums for this policy (Preservation Policy 5). If the jurisdiction has inclusionary zoning but does not use it to satisfy the TOC Policy's affordable housing production requirement, the funding generated by collecting in-lieu fees may be counted toward satisfying Preservation Policy 5.
  - **NOTE:** Federal and state funding (such as HOME/CDBG or PLHA) that is passed through a jurisdiction is **not** counted as local funding.
- Jurisdictions that have an existing balance in a housing preservation funding program for CLTs when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).
- Jurisdictions that have committed affordable housing preservation funds for CLTs prior to submitting final documentation for TOC Policy compliance may count

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<sup>31</sup> Secured Funding: Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years' funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

expended funds toward the required total so long as at least one of the following conditions is met:

- The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to a CLT to use for acquiring and preserving an unsubsidized affordable housing property during the OBAG 4 cycle sometime between 2026 and 2030).

**AND/OR**

- The funds are expended after January 1, 2025.
- The program's funds must be reserved for CLTs and/or cooperatives to use for affordable housing preservation.
- The jurisdiction must establish criteria for borrower eligibility that require funding recipients to have experience with affordable housing preservation.
- The funding program must establish a standard set of financing terms, including affordability requirements.
  - For rental properties, the average rent for all units at each preserved property at the time of acquisition must be affordable to households earning no more than 80% of AMI. After acquisition, new residents must be income qualified and earn less than 120% of AMI, and the building must maintain an average income of no more than 80% of AMI. Existing residents of acquired buildings shall not be displaced, even if the household's income exceeds the AMI thresholds noted above.
  - All ownership units preserved as affordable housing (e.g., a single-family home acquired by a community land trust) must be sold to lower- and moderate-income households earning 120% of AMI or less.
  - Units acquired through the program must have recorded documents that set binding maximum rent or price restrictions to ensure affordability. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing and at least 45 years for ownership housing.
- **NOTE:** A jurisdiction whose policy meets the minimum requirements above cannot also count this policy for credit for Preservation Policy 1 (Funding to Preserve Unsubsidized Affordable Housing). However, if a jurisdiction has a funding program that meets requirements for Preservation Policy 1, and if this program additionally has set asides for public/community land trusts that meet the funding amounts listed in Appendix B, then the program can also receive credit for Preservation Policy 5 (Public/Community Land Trusts). For example, a Tier A jurisdiction that has a preservation program with \$800,000 in secured funding during the relevant four-year OBAG cycle would receive credit for both Preservation Policy 1 and Preservation Policy 5 if the program has a set aside for

CLTs of \$400,000, as these amounts meet the \$400,000 four-year minimum for both policies.

### ***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- A copy of the program’s eligibility and financing terms if they are not included in an ordinance or other documents establishing the program. These terms must indicate the eligibility, income limits/affordability levels and required affordability period, and the terms must identify a legal mechanism for enforcement of affordable housing requirements (e.g., deed restriction, regulatory agreement, etc.)
- Documents demonstrating the jurisdiction has secured funding that meets the minimum requirements for being considered “secured.”
- A schedule of expected funding allocated to the program over the four-year period. MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future funding based on the best information available at the time of submitting compliance documentation to MTC. At the end of the 4-year planning period (expected to align with the OBAG cycle), MTC will expect documentation of actual funding received by the program and invested in projects, which may differ from initial projections.

### **Preservation Policy 6: Funding to Support Preservation Capacity**

*Description from TOC Policy Resolution: Dedicated local funding for capacity building or other material support for community land trusts (CLTs) or other community-based organizations (CBOs) engaged in affordable housing preservation.*

#### ***Purpose***

Capacity refers to an organization’s ability to deliver a service or product. For organizations such as CBOs and CLTs which are engaged in affordable housing preservation, capacity may refer to having adequate staffing, organizational knowledge, and material or financial resources to effectively preserve affordable housing. By providing capacity funding to smaller organizations such as CBOs and CLTs, these entities are better equipped to secure properties and financing necessary to preserve affordable housing in a competitive housing market. Key features of an effective funding source to support preservation capacity include pairing capital funds for preservation with grants for capacity building, established guidelines for eligible funding recipients, and supporting developer experience through joint-venture partnerships. Effective policies to support preservation capacity will commit to multi-year funding dedicated for CBOs and CLTs.

#### ***Requirements for TOC Policy Compliance***

To comply with the TOC Policy, a jurisdiction’s funding to support preservation capacity must meet the following minimum requirements:

- The jurisdiction must have a dedicated funding program with secured funding<sup>32</sup> that supports capacity building for CLTs and CBOs for housing preservation work. Funding must maintain project management staffing for a minimum of four years at approximately 0.5 full-time equivalent (FTE).
- The jurisdiction must define eligibility for financial awards to CLTs and CBOs.
- Funding for the program can come from any source that allows supporting staff capacity as an eligible use of funds. Potential funding sources could include, but are not limited to, local housing trust funds, county funds, state and federal funds passed through the jurisdiction, grants from philanthropic organizations, and private contributions from businesses or individuals.
- Jurisdictions that have an existing balance in a funding program to support preservation capacity when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).
- Jurisdictions that have committed funds to support preservation capacity prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met:
  - The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to CBO or CLT to support project management staffing during the OBAG 4 cycle sometime between 2026 and 2030).

**AND/OR**

  - The funds are expended after January 1, 2025.
- If a jurisdiction establishes a preservation funding program that meets requirements for Preservation Policy 1 (Funding to Preserve Unsubsidized Affordable Housing) and/or Preservation Policy 5 (Public/Community Land Trusts), the jurisdiction can use this program to also receive credit for Preservation Policy 6 (Funding to Support Preservation Capacity) if the program additionally has a set aside for capacity building that meets the requirements listed above.

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<sup>32</sup> Secured Funding: Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years' funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

### **Submitting Additional Required Documentation**

In addition to the standard submission requirements, a jurisdiction must submit:

- An explanation for how the jurisdiction determined the amount of funding necessary to maintain project management staffing for the four-year period.
- A copy of the program's eligibility criteria if they are not included in an ordinance or other documents establishing the program.
- Documents demonstrating the jurisdiction has secured funding that meets the minimum requirements for being considered "secured."
- A schedule of expected funding allocated to the program over the four-year period. MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future funding based on the best information available at the time of submitting compliance documentation to MTC. At the end of the four-year planning period (expected to align with the OBAG cycle), MTC will expect documentation of actual funding received by the program and invested in projects, which may differ from initial projections.

### **Preservation Policy 7: Mobile Home Preservation**

*Description from TOC Policy Resolution: Policy or program to preserve mobile homes from conversion to other uses that may result in displacement of existing residents.*

#### **Purpose**

Mobile home parks provide a distinct type of naturally occurring affordable housing, due to the size of mobile homes, the type of construction, and a unique dynamic where residents typically own their mobile homes but rent the lots under them from mobile home park owners. While state law extends certain protections to mobile home units, mobile home parks are increasingly being acquired by speculative investors for potential future redevelopment. Such market pressures pose displacement risks to mobile home residents, many of whom live on fixed incomes and have limited alternative affordable housing options. Accordingly, a strategy to prevent displacement and promote community stability for mobile home residents is to regulate and limit the conversion of mobile home parks, and support residents and community organizations in purchasing the park to preserve affordability. An effective Mobile Home Preservation policy or program will either limit conversions through zoning rules or provide significant relocation assistance for park residents in the event of a closure.

#### **Relevant State Law**

##### **Mobile Home Residency Law**

The California [Mobile Home Residency Law](#) (California Civil Code Section 798 – 799.11) sets rules and regulations for mobile homes, specifically regulating the relationship between landlords and residents. The law states that in the case of a



change of use of the park, the management must follow specific noticing requirements and appear before a local governmental board, commission, or body to request permits for a change of use.

### **Requirements for TOC Compliance**

To receive compliance credit for this policy, a jurisdiction must demonstrate there is at least one mobile home park (as defined by California's [Mobile Home Park Act](#)) within the jurisdiction. Due to the heightened vulnerability of mobile home parks and the residents who occupy them, a jurisdiction with an adopted mobile home preservation policy that applies to all mobile home parks may receive credit for this policy even if none of the parks are located within TOC areas. If none of the mobile home parks are located within a TOC area, then the jurisdiction must apply its policy jurisdiction-wide.

To comply with the TOC Policy, a jurisdiction must adopt a mobile home preservation policy that meets the minimum standards for **ONE** of the following options:

1. **Establish a Mobile Home Zoning District or Overlay Zone** over existing mobile home parks which limits or prohibits the redevelopment of existing parks.
  - A jurisdiction may allow 100% affordable housing projects to be considered in this zone, conditionally permitted and after public hearings. If a jurisdiction chooses to do this:
    - The policy's affordability requirements must define affordable units as rental housing available to lower-income households earning 80% of Area Median Income (AMI) or less, and ownership housing to lower- and moderate-income households earning 120% of AMI or less. Jurisdictions should require deeper levels of affordability where feasible or through offering additional incentives.
    - Affordable units must have recorded documents that set binding maximum rent or price restrictions to ensure affordability. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing or at least 45 years for ownership housing.
    - The ordinance must provide existing mobile home residents with the right to return to a unit in the new development.
    - At the time of application for conversion of units, applicants must be required to produce a Tenant Relocation Assistance Plan<sup>33</sup> spelling out

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<sup>33</sup> Relocation Assistance Plan: A plan outlining the benefits and protections afforded to tenants to minimize displacement and support relocation, including at a minimum: no penalty for the tenant to terminate a lease, payment of tenant reasonable moving expenses, relocation assistance payments in an amount that is at least three times the monthly fair market rent of the unit that the resident is being

tenant protections, benefits and required relocation payments for any temporarily or permanently displaced residents.

**2. Adopt a Mobile Home Closure Ordinance** that requires relocation assistance and conditional approval after public hearings.

- The ordinance must require owners to produce at the time of application a Tenant Relocation Assistance Plan spelling out tenant protections, benefits, and required relocation payments for any temporarily or permanently displaced residents.

***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit documentation of the presence of at least one mobile home park within the jurisdiction.

**Preservation Policy 8: Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities**

*Description from TOC Policy Resolution: Policies, programs, or procedures designed to minimize the risk of displacement caused by substandard conditions including through local code enforcement activities. This may include proactive rental inspection programs and assistance to landlords for property improvements in exchange for anti-displacement commitments. This policy may be used to fulfill either the housing preservation or protection requirement, but not both.*

***Purpose***

Substandard conditions and physical deterioration represent a key threat to the region's rental housing stock and unsubsidized affordable housing units. These conditions create health and safety risks for tenants and can lead to condemnation, abandonment, and/or demolition of housing units. The remediation of substandard conditions in unsubsidized affordable housing is not only necessary to preserve this housing but also represents an important anti-displacement strategy. Code enforcement programs need to ensure habitability issues and needs for substantial property repairs do not lead to the permanent displacement of tenants, which also requires maintaining housing stability for tenants during any temporary displacement necessary for repairs. Code enforcement and other programs to address substandard conditions need to be centered in an anti-displacement framework, otherwise these activities can lead to the immediate displacement of vulnerable tenants if properties are deemed uninhabitable. An effective program which prevents the loss of housing stock due to code issues provides public support to landlords and low-income homeowners to maintain their properties.

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relocated out of, and tenants that experience temporary displacement must be guaranteed protection against unreasonable rent increases upon returning to their unit.

## ***Relevant State Law***

### **California Health and Safety Code (HSC)**

HSC [Section 17920.3](#) provides a definition of a substandard building, which includes inadequate sanitation such as a lack of plumbing, ventilation, or heating; structural hazards such as deteriorated floors, walls, or ceilings; faulty weather protection such as defective waterproofing and windows; and so on. [Section 17970 – 17972](#) requires that when a jurisdiction receives a complaint from a tenant, they must inspect the building, document any findings, prescribe a remedy to the property owner, and schedule a reinspection to verify the correction. [Section 17980 – 17992](#) states that once a building is determined to be substandard, the enforcement agency of the jurisdiction cannot require the vacating of residents unless it concurrently requires expeditious demolition or repair to comply with state law. If the tenant cannot safely reside in their unit due to repair, state law requires a property owner to provide affected tenants with compensation for moving expenses; the value of property lost, stolen or damaged in the process of moving; and costs associated with connection charges imposed by utility companies for starting service. The relocation benefit also includes two months of the established fair market rent for the area as determined by the U.S. Department of Housing and Urban Development, and the property owner must return the full security deposit to the tenant.

### ***Requirements for TOC Compliance***

To comply with the TOC Policy, a jurisdiction must adopt a policy to prevent displacement from substandard conditions that meets the minimum standards for at least **ONE** of the following options:

1. **Establish an amnesty program** to waive fines and fees for property owners with occupied units constructed without the proper permits in exchange for bringing the unit into compliance with health and safety codes.
  - Prior to making repairs, the property owner must complete a tenant habitability plan describing how they will maintain habitability for the tenant and any adjacent units while repairs are being performed. If the tenant needs to be relocated for repairs, the plan discusses how the landlord will assist with temporary relocation, which must include offering a nearby available unit at same rent (if landlord owns other properties), paying for moving expenses, and providing relocation assistance to pay for the cost of temporary housing.
  - As a condition of receiving amnesty for fines and fees, the property owner must agree to continue renting to the existing tenant after repairs are complete with reasonable limits on rent increases for that tenant.
2. **Create a low-or no-interest loan or grant program** to support lower-income homeowners (including seniors and people with disabilities) with making repairs or modifications to their residences.

- The program must limit funding to owner-occupied homes that are the homeowner’s primary residence, which includes mobile homes where the mobile home owner rents the lot beneath the home.
- Funding for the program can come from any source that allows home rehabilitation as an eligible use of funds. Potential funding sources could include, but are not limited to, local housing trust funds, county funds, state and federal funds passed through the jurisdiction, grants from philanthropic organizations, and private contributions from businesses or individuals.
- Funding recipients must be below 80% of AMI.
- The program must define other eligibility requirements for receiving a loan or grant, eligible uses for funds, and minimum/maximum loan or grant amounts.
- The minimum loan/grant amount must be at least \$10,000.

***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- A template of the tenant habitability plan or a document outlining details that must be included in such a plan if a jurisdiction is selecting the amnesty program for unpermitted units.
- The home rehabilitation program’s eligibility requirements and financing terms if a jurisdiction is selecting this option.

**III. Affordable Housing Protection Policy Options**

To comply with the TOC Policy, a jurisdiction must adopt **at least two** of the tenant protection/anti-displacement policies listed below:

- Protection Policy 1: “Just Cause” Eviction
- Protection Policy 2: No Net Loss and Right to Return to Demolished Homes
- Protection Policy 3: Legal Assistance for Tenants
- Protection Policy 4: Foreclosure Assistance
- Protection Policy 5: Rental Assistance Program
- Protection Policy 6: Rent Stabilization
- Protection Policy 7: Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities *(This policy may fulfill either the housing preservation or protection requirement, but not both.)*
- Protection Policy 8: Tenant Relocation Assistance
- Protection Policy 9: Mobile Home Rent Stabilization
- Protection Policy 10: Fair Housing Enforcement
- Protection Policy 11: Tenant Anti-Harassment Protections.

A jurisdiction may meet the requirements with existing adopted policies or as needed, adopt new policies by the TOC Policy compliance deadline. At minimum, policies must apply in TOC areas. Jurisdictions may choose to apply policies beyond the TOC area(s), which could include the entirety of the jurisdiction (i.e., adopting a jurisdiction-wide policy). See Section 2 of the guidance document for more information about these requirements.

## **Protection Policy 1: “Just Cause” Eviction**

*Description from TOC Policy Resolution: Defines the circumstances for evictions, such as nonpayment of rent, violation of lease terms, or permanent removal of a dwelling from the rental market, with provisions that are more protective of tenants than those established by [AB 1482 \(2019, Chiu\)](#).*

### **Purpose**

Just cause ordinances prohibit landlords from ending a tenancy or evicting a tenant without a specific reason. Just cause protections are generally intended to shield tenants from arbitrary evictions that may occur due to economic incentives in a competitive rental market, retaliation against specific tenants, or other instances in which tenants are not at fault. Accordingly, research identifies just cause eviction as a policy with high potential to prevent residential displacement.<sup>34</sup> Though state law currently provides just cause protections for some tenants, these protections expire in 2030 and do not cover a wide range of tenancies and housing situations. Moreover, in the absence of local just cause policies and local government infrastructure to implement these protections, tenants may be unaware of their rights under state law and how to utilize them. As a result, multiple jurisdictions throughout the Bay Area and across California have adopted local just cause eviction ordinances that go beyond state law to better ensure stability for tenants. An effective just cause eviction ordinance will clearly define a limited set of recognized causes for eviction, provide protections for a wide range of tenants and most housing situations, and create processes for local implementation.

### **Relevant State Law**

#### **[AB 1482 \(Tenant Protection Act of 2019\) and SB 567 \(2023\)](#)**

While some tenants now have just cause eviction protections due to [AB 1482](#) (the Tenant Protection Act of 2019), this law currently has a sunset of January 1, 2030. [SB 567 \(2023\)](#) modified the protections provided by AB 1482 by creating new requirements for landlords seeking to carry out two types of “no-fault” evictions: evictions for substantial remodels of units and owner move-in evictions. SB 567 also makes landlords who violate the Tenant Protection Act liable in civil court for damages and provides mechanisms for the Attorney General, city attorney, or county counsel to enforce the law.

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<sup>34</sup> Chapple, K. et. al. (2022). [Housing Market Interventions and Residential Mobility in the San Francisco Bay Area](#). Federal Reserve Bank of San Francisco.

## **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction's just cause ordinance must meet the following minimum requirements:

- The ordinance must not have a sunset date.
- The ordinance must require landlords to file notices of termination of tenancy with a designated local government agency, such as a rent program/board or other city department.
- The ordinance must make the failure to file these notices with a designated agency an affirmative defense for a tenant in an eviction case.

Additionally, the ordinance must also expand on other aspects of statewide just cause protections in at least **ONE** of the following ways:

1. **Limit the legally recognized causes for eviction:** The "at-fault" and "no-fault" just causes for eviction allowed by state law can be found in [California Civil Code Section 1946.2\(b\)](#). If choosing this option, a jurisdiction's just cause policy must include fewer just causes for eviction or define them with greater restrictions to increase protections for tenants.
2. **Expand the types of housing and tenancies covered by just cause protections:** The protections provided by state law only apply after all tenants have lived in the unit for 12 months, or where at least one tenant has occupied the unit for 24 months. Additionally, [California Civil Code Section 1946.2\(e\)](#) exempts several unit types from these protections. If choosing this option, a jurisdiction's just cause policy must provide protections to a wider range of tenants and housing types, with the possibility of applying these protections to all renters in the jurisdiction and/or with no minimum period of tenancy to qualify.

## **Protection Policy 2: No Net Loss and Right to Return to Demolished Homes**

*Description from TOC Policy Resolution: Include the no net loss provisions currently outlined in SB 330 (2019, Skinner) without a sunset date. Require one-to-one replacement of units that applies the same or a deeper level of affordability, the same number of bedrooms and bathrooms, and comparable square footage to the units demolished. Provide displaced tenants with right of first refusal to rent new comparable units at the same rent as demolished units.*

### **Purpose**

The [Housing Crisis Act of 2019](#) was established by [SB 330 \(2019\)](#) and amended by [SB 8 \(2021\)](#). The no net loss provisions in the Housing Crisis Act prevent development projects that require demolition of existing residential structures from reducing the overall housing stock and supply of affordable housing. These provisions create safeguards to ensure that new development increases the housing supply and

maintains or improves existing levels of affordability. The Housing Crisis Act's right to return protections and relocation benefits aim to prevent permanent displacement of existing lower-income tenants by development projects that require demolition. These protections can enable lower-income tenants to maintain housing in their communities at affordable rents, which deters new development from contributing to displacement, housing instability, and homelessness for vulnerable renters.

## **Relevant State Law**

### **Housing Crisis Act of 2019**

The [Housing Crisis Act of 2019](#) prohibits a jurisdiction from approving a housing development that requires demolition unless the project creates at least as many units as will be demolished. The project must also replace all demolished occupied or vacant "protected units," which include units deed-restricted for lower-income households within the past five years, units subject to rent control within the past five years, units occupied by lower-income households within the past five years, or units withdrawn from the rental market via Ellis Act within the past 10 years.<sup>35</sup> The law also includes protections for existing tenants of units that will be demolished. All existing tenants must be allowed to remain until six months prior to the start of construction. Lower-income occupants are entitled to relocation benefits and a right of first refusal to rent or purchase a comparable unit in the new development at an affordable price. The amount of relocation assistance is defined by California Government Code Sections 7260 – 7277. The Housing Crisis Act of 2019 has a sunset date of January 1, 2030.

### **Requirements for TOC Policy Compliance**

**Note:** *If a jurisdiction implements all provisions from SB 330/SB 8 without a sunset date, then the jurisdiction meets the standards required by and can claim credit for both Protection Policy 2 (No Net Loss and Right to Return to Demolished Homes) and Production Policy 7 (Development Certainty and Streamlined Entitlement Process).*

To comply with the TOC Policy, a jurisdiction's policy for no net loss and right to return must meet the following minimum requirements:

- Include all the no net loss provisions in the Housing Crisis Act with no sunset date, to the extent permitted by state or federal law. These provisions require replacing all demolished units with units of equivalent size<sup>36</sup> and replacing demolished protected units with units affordable to low-income households.<sup>37</sup>
- Include all right of return provisions in the Housing Crisis Act with no sunset date, to the extent permitted by state or federal law. These provisions require providing

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<sup>35</sup> For more information on "protected units" defined by state law, see [California Government Code Section 66300\(d\)\(2\)\(F\)\(vi\)](#).

<sup>36</sup> State law defines equivalent size as containing at least the same number of bedrooms as the units being replaced.

<sup>37</sup> For more information on the affordability requirements for replacing protected units, see subparagraphs (B) and (C) of paragraph (3) of subdivision (c) of [California Government Code Section 65915](#).



displaced lower-income tenants with relocation assistance and right of first refusal to a comparable unit at an affordable rent.<sup>38</sup>

### **Protection Policy 3: Legal Assistance for Tenants**

*Description from TOC Policy Resolution: Investments or programs that expand access to legal assistance for tenants threatened with displacement. This could range from a “right to counsel”<sup>39</sup> to dedicated public funding for tenant legal assistance.*

#### **Purpose**

Many tenant protections granted by state law can only be enforced by tenants using the court system to assert their rights, as is the case for the just cause and rent stabilization protections provided by AB 1482 as well as state anti-harassment laws. However, research and advocates have documented tenants’ lack of legal representation in eviction cases and disputes with landlords, while landlords are more commonly represented by attorneys. Legal representation for tenants can ensure greater fairness and due process and increase the likelihood of tenants keeping their housing. Providing legal assistance to tenants helps ensure that tenants have access to legal counsel and are better equipped to defend their rights in court. In recent years, there have been increasing efforts by cities to expand access to legal assistance for tenants facing eviction, which can promote housing stability and prevent homelessness. An effective tenant legal assistance program will include eligibility criteria, a definition of the legal services provided, dedicated funding, and outreach.

#### **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction’s tenant legal assistance program must meet the following minimum requirements:

- The jurisdiction must have a program with secured funding<sup>40</sup> that provides ongoing allocations to the program at or above the level identified in Appendix B. The amount contributed can vary by year as long as the total for the relevant four-year OBAG cycle meets the specified target for the jurisdiction.
  - The required funding amount by tier can be split among any two of the four Protection policies requiring funding, but the jurisdiction will only receive credit toward one policy. For example, a Tier A jurisdiction could choose to

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<sup>38</sup> For more information on relocation assistance and right of refusal provided to lower-income households, see [California Government Code Section 66300\(d\)\(2\)\(D\)](#).

<sup>39</sup> “Right to counsel” extends the right to an attorney, required in criminal procedures, to tenants in eviction trials, which are civil procedures.

<sup>40</sup> Secured Funding: Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years’ funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.



spend \$30,000 on fair housing enforcement and \$70,000 on a tenant legal assistance program, for a total of \$100,000. Alternatively, the jurisdiction could spend \$100,000 on tenant legal assistance. In either scenario, the jurisdiction would receive credit toward one policy for meeting the \$100,000 funding threshold for Protection policies.

- Funding for the program can come from any source that allows tenant legal assistance as an eligible use of funds. Potential funding sources could include, but are not limited to, local housing trust funds, county funds, state and federal funds passed through the jurisdiction, grants from philanthropic organizations, and private contributions from businesses or individuals.
- Jurisdictions that have an existing balance in a tenant legal assistance funding program when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).
- Jurisdictions that have committed legal assistance funds prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met:
  - The funds are used to support a program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to an organization to use for legal assistance services during the OBAG 4 cycle sometime between 2026 and 2030).

**AND/OR**

- The funds are expended after January 1, 2025.
- The program's funding terms must define the situations in which a tenant receives legal assistance and set the eligible criteria for who receives assistance. At minimum, eligibility must include eviction and pre-eviction legal services for lower-income tenants.
- A jurisdiction must contract with one or more legal services organizations to provide legal assistance and representation for cases involving eviction and other eligible tenant issues.
- The jurisdiction must make information available for the public on its website regarding the legal service providers who are funded to assist residents.

***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- A copy of the program's eligibility criteria if they are not included in the ordinance or other documents establishing the program.
- Documents demonstrating the jurisdiction has contracted or will contract with one or more legal services organizations.

- A link to a website where the jurisdiction has made information available about legal services for residents.
- Documents demonstrating the jurisdiction has secured funding that meets the minimum requirements for being considered “secured.”
- A schedule of expected funding allocated to the program over the four-year period. MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future funding based on the best information available at the time of submitting compliance documentation to MTC. At the end of the four-year planning period (expected to align with the OBAG cycle), MTC will expect documentation of actual funding received by the program and invested in projects, which may differ from initial projections.

## **Protection Policy 4: Foreclosure Assistance**

*Description from TOC Policy Resolution: Provide a dedicated funding source to support owner-occupied homeowners (up to 120% of Area Median Income (AMI)) at-risk of foreclosure, including direct financial assistance (e.g., mortgage assistance, property tax delinquency, HOA dues, etc.), foreclosure prevention counseling, legal assistance, and/or outreach.*

### **Purpose**

Foreclosures occur when homeowners are unable to make mortgage or other debt payments on a property and therefore must forfeit the rights to their home. Homeowners at risk of foreclosure, especially lower-income households, are also vulnerable to community displacement, homelessness, and may struggle to secure housing in the future due to foreclosure related credit issues. Accordingly, local policies providing foreclosure assistance actively seek to keep homeowners in their residence, which prevents displacement and promotes community and household stability. Foreclosure assistance activities may be administered directly by a jurisdiction, but often are administered in partnership with nonprofit organizations. An effective foreclosure assistance program will provide stable annual operating support to qualified partners to support homeowners facing foreclosure.

### **Relevant State Laws/Programs**

#### **California Homeowner Bill of Rights**

The [California Homeowner Bill of Rights](#) provides some protections to homeowners facing foreclosure, which focus largely on requirements for how loan servicers must act during the foreclosure process.

#### **California Mortgage Relief Program**

The [California Mortgage Relief Program](#) provides financial assistance for homeowners who have fallen behind on housing payments or property taxes during the COVID-19

pandemic because of COVID-related hardships. Funds will be deployed from the program until they are all allocated, with an end date projected by 2025.

### ***Requirements for TOC Policy Compliance***

To comply with the TOC Policy, a jurisdiction's foreclosure assistance program must meet the following minimum requirements:

- The jurisdiction must have a program with secured funding<sup>41</sup> that provides ongoing allocations to the program at or above the level identified in Appendix B. The amount contributed can vary by year as long as the total for the relevant four-year OBAG cycle meets the specified target for the jurisdiction.
  - The required funding amount by tier can be split among any two of the four Protection policies requiring funding, but the jurisdiction will only receive credit toward one policy. For example, a Tier A jurisdiction could choose to spend \$30,000 on foreclosure assistance and \$70,000 on a rental assistance program, for a total of \$100,000. Alternatively, the jurisdiction could spend \$100,000 on foreclosure assistance. In either scenario, the jurisdiction would receive credit toward one policy for meeting the \$100,000 funding threshold for Protection policies.
- Funding for the program can come from any source that allows foreclosure assistance as an eligible use of funds. Potential funding sources could include, but are not limited to, local housing trust funds, county funds, state and federal funds passed through the jurisdiction, grants from philanthropic organizations, and private contributions from businesses or individuals.
- Jurisdictions that have an existing balance in a foreclosure assistance funding program when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).
- Jurisdictions that have committed foreclosure assistance funds prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met:
  - The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to an organization to use for foreclosure assistance services during the OBAG 4 cycle sometime between 2026 and 2030).

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<sup>41</sup> Secured Funding: Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years' funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

## **AND/OR**

- The funds are expended after January 1, 2025.
- A jurisdiction must contract with one or more organizations to provide foreclosure assistance to homeowners earning up to 120% of AMI.
- Foreclosure assistance activities may include tax delinquency forgiveness, emergency direct financial assistance (loans, grants, or other investment), loan modification services, legal services, foreclosure counseling, and proactive, targeted outreach to eligible households.
- The jurisdiction must make information available for the public on its website regarding the foreclosure assistance providers who are funded to assist residents.

### ***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- A copy of the program's eligibility criteria if they are not included in the ordinance or other documents establishing the program.
- Documents demonstrating the jurisdiction has contracted or will contract with one or more foreclosure assistance organizations.
- A link to a website where the jurisdiction has made information available about foreclosure assistance for residents.
- Documents demonstrating the jurisdiction has secured funding that meets the minimum requirements for being considered "secured."
- A schedule of expected funding allocated to the program over the four-year period. MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future funding based on the best information available at the time of submitting compliance documentation to MTC. At the end of the four-year planning period (expected to align with the OBAG cycle), MTC will expect documentation of actual funding received by the program and invested in projects, which may differ from initial projections.

## **Protection Policy 5: Rental Assistance Program**

*Description from TOC Policy Resolution: Provide a dedicated funding source and program for rental assistance to low-income<sup>42</sup> households.*

### ***Purpose***

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<sup>42</sup> In some contexts, state and federal agencies use the term "low-income" to refer to the more specific category of households earning between 50% of AMI and 80% of AMI. However, the use of the term "low-income households" in MTC Resolution No. 4530 is assumed to be synonymous with the broader category of "lower-income," or all households below 80% of AMI.

Health emergencies, job loss, or other unexpected expenses disproportionately impact lower-income households, and force renters to choose between paying rent and covering other necessary life expenses. Most eviction filings result from unpaid rent totaling less than the cost of one month, according to research from Princeton University's Eviction Lab.<sup>43</sup> For these reasons, rental assistance programs providing low-income tenants with emergency funds for rent are effective at preventing eviction and stopping displacement.<sup>44</sup> In addition to one-time assistance to prevent eviction, some rental assistance programs provide short-term assistance (e.g., six months to one year) to help residents experiencing homelessness become rehoused and achieve stability. Effective rental assistance programs provide one-time or short-term financial support to lower-income tenants at greatest risk of experiencing eviction and homelessness.

### ***Requirements for TOC Policy Compliance***

To comply with the TOC Policy, a jurisdiction's tenant rental assistance program must meet the following minimum requirements:

- The jurisdiction must have a program with secured funding<sup>45</sup> that provides ongoing allocations to the program at or above the level identified in Appendix B. The amount contributed can vary by year as long as the total for the relevant four-year OBAG cycle meets the specified target for the jurisdiction.
  - The required funding amount by tier can be split among any two of the four Protection policies requiring funding, but the jurisdiction will only receive credit toward one policy. For example, a Tier A jurisdiction could choose to spend \$30,000 on fair housing enforcement and \$70,000 on a rental assistance program, for a total of \$100,000. Alternatively, the jurisdiction could spend \$100,000 on rental assistance. In either scenario, the jurisdiction would receive credit toward one policy for meeting the \$100,000 funding threshold for Protection policies.
- Funding for the program can come from any source that allows rental assistance as an eligible use of funds. Potential funding sources could include, but are not limited to, local housing trust funds, county funds, state and federal funds passed through the jurisdiction, grants from philanthropic organizations, and private contributions from businesses or individuals.

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<sup>43</sup> Badger, Emily. (2019). [Many Renters Who Face Eviction Owe Less than \\$600](#). The New York Times.

<sup>44</sup> Chapple, K. et. al. (2022). [Housing Market Interventions and Residential Mobility in the San Francisco Bay Area](#). Federal Reserve Bank of San Francisco.

<sup>45</sup> Secured Funding: Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years' funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

- Jurisdictions that have an existing balance in a rental assistance funding program when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).
- Jurisdictions that have committed rental assistance funds prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met:
  - The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to an organization to use for rental assistance during the OBAG 4 cycle sometime between 2026 and 2030).

**AND/OR**

- The funds are expended after January 1, 2025.
- The program must define the situations in which a tenant receives rental assistance and set the eligibility criteria for who receives assistance. Assistance must serve lower-income tenants (with incomes at 80% AMI or less), and jurisdictions may decide to target specific income groups or populations deemed most at risk of displacement and/or homelessness. The jurisdiction may choose to include additional eligibility requirements, such as the type(s) of documentation required for a tenant to establish eligibility (e.g., signed self-attestation form, etc.).
- Rental assistance can be distributed directly by the jurisdiction, or the jurisdiction can contract with nonprofits and/or community-based organizations to administer the funds.
- The jurisdiction must make information available for the public on its website regarding the rental assistance providers who are funded to assist residents.

***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- A copy of the program’s eligibility criteria if they are not included in the ordinance or other documents establishing the program.
- Documents demonstrating the jurisdiction has contracted or will contract with one or more rental assistance providers.
- A link to a website where the jurisdiction has made information available about rental assistance available for residents.
- Documents demonstrating the jurisdiction has secured funding that meets the minimum requirements for being considered “secured.”
- A schedule of expected funding allocated to the program over the four-year period. MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future

funding based on the best information available at the time of submitting compliance documentation to MTC. At the end of the four-year planning period (expected to align with the OBAG cycle), MTC will expect documentation of actual funding received by the program and invested in projects, which may differ from initial projections.

## **Protection Policy 6: Rent Stabilization**

*Description from TOC Policy Resolution: Restricts annual rent increases based upon a measure of inflation or other metric, with provisions exceeding those established by [AB 1482 \(2019, Chiu\)](#).*

### **Purpose**

Rent stabilization ordinances limit annual rent increases to protect tenants from displacement. Importantly, research finds that rent stabilization policies are effective in preventing displacement and promoting neighborhood stability, particularly when paired with condominium conversion restrictions and just cause eviction regulations.<sup>46</sup> By decreasing renter housing cost burden over time, rent stabilization leaves tenants with more money to spend on essential needs and in the local economy. The increased stability and affordability created by rent stabilization also has positive consequences for mental and physical health as well as children’s educational outcomes.<sup>47</sup> Though state law currently caps rent increases for some tenants, these protections expire in 2030 and allow rent increases beyond what many tenants can afford.<sup>48</sup> Moreover, in the absence of local rent stabilization ordinances and local government infrastructure to enforce them, tenants may be unaware of their rights and how to utilize them. As a result, multiple jurisdictions throughout the Bay Area and across California have adopted local rent stabilization ordinances that go beyond state law to better ensure stability for tenants. An effective rent stabilization ordinance will define a maximum annual rent increase and create mechanisms for local enforcement.

### **Relevant State Laws**

#### **AB 1482 (Tenant Protection Act of 2019) and SB 567 (2023)**

[AB 1482](#) (the Tenant Protection Act of 2019) limits annual rent increases to no more than 5% plus the local Consumer Price Index (a measure of the inflation rate) or 10%, whichever is lower. This law currently has a sunset of January 1, 2030. [SB 567 \(2023\)](#) makes landlords who violate the Tenant Protection Act liable in civil court for damages

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<sup>46</sup> Chapple, K. et. al. (2022). [Housing Market Interventions and Residential Mobility in the San Francisco Bay Area](#). Federal Reserve Bank of San Francisco.

<sup>47</sup> PolicyLink. [“Rent Stabilization.”](#)

<sup>48</sup> Research shows that the 8% rent cap in place in San Jose from 1979 to 2016 had little impact on displacement, leading the city to lower its rent cap to 5% in 2016. Accordingly, the 10% cap allowed in state law may be similarly ineffective at preventing displacement. For more information see the findings in [“Exploring The Effectiveness Of Tenant Protections In Silicon Valley”](#) by the Urban Displacement Project at UC Berkeley.

and provides mechanisms for the Attorney General, city attorney, or county counsel to enforce the law.

### **Costa-Hawkins Rental Housing Act**

Local rent stabilization ordinances must adhere to the framework established in state law by the [Costa-Hawkins Rental Housing Act](#). This law establishes certain parameters for the policy features of local ordinances, such as prohibiting rent stabilization on single-family homes or buildings constructed after 1995, and allowing landlords to reset rents to market rate after a tenant leaves their unit (known as “vacancy decontrol”). Local ordinances retain significant room for policy flexibility to respond to local circumstances but must meet Costa-Hawkins’s standards.

### ***Requirements for TOC Policy Compliance***

To comply with the TOC Policy, a jurisdiction’s rent stabilization ordinance must meet the following minimum requirements:

- The ordinance must not have a sunset date.
- The ordinance must apply to multifamily rental housing with three or more units, while adhering to the parameters of the Costa-Hawkins Rental Housing Act. If the jurisdiction chooses, the ordinance may apply to additional housing types, such as duplexes.
  - The ordinance may allow for exemptions for special housing types (e.g., deed-restricted affordable housing, student housing, assisted living facilities).
- A rent stabilization ordinance must limit maximum annual rent increases to be less than those allowed under state law (see Relevant State Laws section above for more information).<sup>49</sup>
- A jurisdiction must define a local enforcement mechanism (such as a rent board or administrative hearing) whereby tenants can dispute rent increases that exceed legally allowed maximums.<sup>50</sup>

### ***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit documents or regulations describing the processes for enforcing maximum allowable rent increases and deciding disputes regarding rent increases, if these processes are not described in the jurisdiction’s rent stabilization ordinance.

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<sup>49</sup> The maximum annual rent increases allowed under state law are defined in [California Civil Code Section 1947.12](#),

<sup>50</sup> While state law provides some mechanisms for enforcement by the Attorney General and/or city attorney if a landlord raises rent in excess of the legally allowed increase, local administrative bodies like rent boards can provide more easily accessible processes for tenants to dispute rent increases that exceed legally allowed maximums.



## **Protection Policy 7: Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities**

*Description from TOC Policy Resolution: Policies, programs, or procedures designed to minimize the risk of displacement caused by substandard conditions including through local code enforcement activities. This may include proactive rental inspection programs and assistance to landlords for property improvements in exchange for anti-displacement commitments. This policy may be used to fulfill either the housing preservation or protection requirement, but not both.*

### **Purpose**

Substandard conditions and physical deterioration represent a key threat to the region's rental housing stock and unsubsidized affordable housing units. These conditions create health and safety risks for tenants and can lead to condemnation, abandonment, and/or demolition of housing units. The remediation of substandard conditions in unsubsidized affordable housing is not only necessary to preserve this housing but also represents an important anti-displacement strategy. Code enforcement programs need to ensure habitability issues and needs for substantial property repairs do not lead to the permanent displacement of tenants, which also requires maintaining housing stability for tenants during any temporary displacement necessary for repairs. Code enforcement and other programs to address substandard conditions need to be centered in an anti-displacement framework, otherwise these activities can lead to the immediate displacement of vulnerable tenants if properties are deemed uninhabitable. An effective program which prevents displacement due to code enforcement protects tenants from displacement when renovations are mandated by code enforcement actions by requiring plans for maintaining habitability and providing public support to landlords on the condition that they provide additional tenant protections.

### **Relevant State Law**

#### **California Health and Safety Code (HSC)**

HSC [Section 17920.3](#) provides a definition of a substandard building, which includes inadequate sanitation such as a lack of plumbing, ventilation, or heating; structural hazards such as deteriorated floors, walls, or ceilings; faulty weather protection such as defective waterproofing and windows; and so on. [Section 17970 – 17972](#) requires that when a jurisdiction receives a complaint from a tenant, they must inspect the building, document any findings, prescribe a remedy to the property owner, and schedule a reinspection to verify the correction. [Section 17980 – 17992](#) states that once a building is determined to be substandard, the enforcement agency of the jurisdiction cannot require the vacating of residents unless it concurrently requires expeditious demolition or repair to comply with state law. If the tenant cannot safely reside in their unit due to repair, state law requires a property owner to provide affected tenants with compensation for moving expenses; the value of property lost, stolen or damaged in the process of moving; and costs associated with connection charges imposed by utility

companies for starting service. The relocation benefit also includes two months of the established fair market rent for the area as determined by the U.S. Department of Housing and Urban Development, and the property owner must return the full security deposit to the tenant.

### ***Requirements for TOC Compliance***

To comply with the TOC Policy, a jurisdiction must adopt a policy to prevent displacement from substandard conditions that meets the minimum standards for at least **ONE** of the following options:

1. **Offer grants or interest-free loans** to landlords to repair substandard or other dangerous/inadequate conditions in exchange for anti-displacement protections for tenants.
  - Funding for the program can come from any source that allows repairs of residential units as an eligible use of funds. Potential funding sources could include, but are not limited to, local housing trust funds, county funds, state and federal funds passed through the jurisdiction, grants from philanthropic organizations, and private contributions from businesses or individuals.
  - Prior to making repairs, the property owner must complete a tenant habitability plan describing how they will maintain habitability for the tenant and any adjacent units while repairs are being performed. If the tenant needs to be relocated for repairs, the plan discusses how the landlord will assist with temporary relocation, which must include offering a nearby available unit at same rent (if landlord owns other properties), paying for moving expenses, and providing relocation assistance to pay for the cost of temporary housing.
  - As a condition of receiving the grant or loan, the property owner must agree to continue renting to the existing tenant after repairs are complete with reasonable limits on rent increases for that tenant.
  - Jurisdictions may set income qualifications for landlords to receive this funding.
2. **Implement a rental escrow program** where tenants experiencing persistent habitability issues receive rent reductions and rental payments are deposited into an escrow account until code violations are addressed.
  - Prior to making repairs, the property owner must complete a tenant habitability plan describing how they will maintain habitability for the tenant and any adjacent units while repairs are being performed. If the tenant needs to be relocated for repairs, the plan discusses how the landlord will assist with temporary relocation, which must include offering a nearby available unit at same rent (if landlord owns other properties), paying for moving expenses, and providing relocation assistance to pay for the cost of temporary housing.
  - The tenant has the right to reoccupy the unit after repairs are complete.

- While rental funds are in escrow, the landlord can request access to them only for repairs, tenant relocation assistance, and other qualifying expenses.
  - The rental escrow program must clearly define the circumstances in which a tenant can safely withhold or reduce rent without fear of eviction.
3. **Require landlords to complete a tenant habitability plan** as part of the permitting process for repairs to address code issues.
- The plan must describe how the landlord will maintain habitability for the tenant and any adjacent units while repairs are being performed.
  - If the tenant needs to be relocated for repairs, the plan discusses how the landlord will assist with temporary relocation, which must include offering a nearby available unit at same rent (if landlord owns other properties), paying for moving expenses, and providing relocation assistance to pay for the cost of temporary housing.
  - The tenant has the right to reoccupy the unit after repairs are complete.

### ***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- The rehabilitation grant/loan program’s eligibility requirements and financing terms if a jurisdiction is selecting this option.
- A template of the tenant habitability plan or a document outlining details that must be included in such a plan if a jurisdiction is selecting this option.

## **Protection Policy 8: Tenant Relocation Assistance**

*Description from TOC Policy Resolution: Policy or program that provides relocation assistance (financial and/or other services) to tenants displaced through no fault of their own, with assistance exceeding that required under state law.*

### ***Purpose***

Relocation assistance can prevent undue burden and hardship for renters in the Bay Area’s high-cost housing market. The majority of Bay Area tenants are lower-income, making less than 80% of Area Median Income (AMI), while nearly one-quarter of the region’s renters are extremely low-income and make less than 30% of AMI.<sup>51</sup> Consequently, most tenants are likely to require financial assistance to regain stability if they are displaced from their current housing due to demolition, code enforcement violations, no-fault or no-cause evictions, or other circumstances outside of their control. An effective relocation assistance policy includes clear definitions of tenant eligibility and required minimum compensation from landlord.

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<sup>51</sup> U.S. Department of Housing and Urban Development (HUD), [Comprehensive Housing Affordability Strategy \(CHAS\) ACS tabulation, 2013-2017 release](#).

## **Relevant State Laws**

Multiple state laws govern situations that require property owners to provide tenants with relocation assistance, including the following:

- [Tenant Protection Act of 2019 \(AB 1482\)](#)
- [California Government Code Sections 7260-7277](#)
- [Housing Crisis Act of 2019](#), established by [SB 330 \(2019\)](#) and amended by [SB 8 \(2021\)](#)
- [California Health and Safety Code Sections 17975-17975.10](#)

## **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction's relocation assistance policy must meet the following minimum requirements:

- Landlords must make relocation payments for all no-cause or no-fault evictions.<sup>52</sup>
- Jurisdictions can choose to limit assistance to lower-income tenants (those at 80% of AMI or less) or lower- and moderate-income tenants (those at 120% of AMI or less).
- The amount of relocation assistance must be equal to at least three months' fair market rent, unless another law (e.g., local, state, federal) requires a higher minimum amount.

## **Protection Policy 9: Mobile Home Rent Stabilization**

*Description from TOC Policy Resolution: Restricts annual rent increases on mobile home residents based upon a measure of inflation or another metric.*

### **Purpose**

A mobile home rent stabilization policy can help protect the affordability and stability of mobile home communities. Mobile home parks are often a unique hybrid of rental housing and ownership housing: residents typically own their homes and rent the lots where the homes are located, which generally enables mobile homes to be purchased at much lower prices than other forms of homeownership. In some cases, a mobile home resident rents the actual mobile home, either from the mobile home owner or the mobile home park. Despite their name, mobile homes are rarely able to be moved off their lots, and so an unaffordable increase in lot rent could force the sale of the mobile home and displacement of the residents. In some communities, mobile home parks comprise a significant portion of unsubsidized affordable housing, and these neighborhoods are

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<sup>52</sup> No-fault evictions can occur for tenants covered by just cause eviction protections under state law (i.e., AB 1482) or local ordinances, and these no-fault circumstances are defined by the terms of these laws. For tenants who are not covered by just cause eviction protections under state law or local ordinances, no-cause evictions occur when a landlord chooses not to renew an annual lease or provides a notice to terminate the tenancy that is not required to state a reason.

increasingly being acquired by speculative investors.<sup>53</sup> Given these conditions, mobile home rent stabilization can promote longer-term community stability for mobile home residents and prevent displacement of lower-income residents who lack other housing options. An effective mobile home rent stabilization ordinance will include a limit on annual rent increases and processes for ensuring compliance with the policy.

### ***Relevant State Law***

#### **SB 940 (2022)**

While the [Mobile Home Residency Law](#) previously exempted “new construction” from local mobile home rent stabilization laws, [SB 940 \(2022\)](#) limits this exemption to 15 years. Additionally, SB 940 creates a distinction between mobile home parks and mobile home spaces. For individual mobile home spaces within an existing mobile home park, “new construction” is newly constructed spaces “initially rented” after January 1, 1990. For mobile home parks, “new construction” is defined as all spaces in a newly constructed mobile home park for which the permit to operate is first issued on or after January 1, 2023.

### ***Requirements for TOC Policy Compliance***

To receive compliance credit for this policy, a jurisdiction must demonstrate there is at least one mobile home park (as defined by California’s [Mobile Home Park Act](#)) within the jurisdiction. Due to the heightened vulnerability of mobile home parks and the residents who occupy them, a jurisdiction with an adopted mobile home rent stabilization policy that applies to all mobile home parks may receive credit for this policy even if none of the parks are located within TOC areas. If none of the at-risk mobile home parks in a jurisdiction are located within a TOC area, then the jurisdiction must apply this policy jurisdiction-wide.

To comply with the TOC Policy, a jurisdiction’s mobile home rent stabilization ordinance must meet the following minimum requirements:

- A mobile home rent stabilization ordinance must define maximum annual rent increases for both mobile home spaces (i.e., lot rent) and mobile homes as **ONE** of the following:
  - A flat rate increase of up to 5%. A jurisdiction may choose to set the maximum allowable rent increase below 5%.
  - A rate increase linked to the local CPI, which is a measure of inflation. A jurisdiction must set the maximum allowable rent increase no higher than 100% of CPI, or the jurisdiction could choose to set the maximum allowable rent increase at a smaller percentage of CPI.

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<sup>53</sup> Arnold, C., Benincasa, R., and Childs, M. 2021. [How the government helps investors buy mobile home parks, raise rent and evict people](#). National Public Radio.

- Some combination of the two standards described above (e.g., a maximum annual rent increase limited to 60% of CPI or 5%, whichever is lower).
- Some form of vacancy control within constitutional limits.
- A jurisdiction must define a local enforcement mechanism (such as a rent board or administrative hearing) whereby mobile home residents can dispute rent increases that exceed legally allowed maximums.

### ***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- Documentation of the presence of at least one mobile home park within the jurisdiction.
- Documents or regulations describing the processes for enforcing maximum allowable rent increases and deciding disputes regarding rent increases if these processes are not described in the jurisdiction’s rent stabilization ordinance.

## **Protection Policy 10: Fair Housing Enforcement**

*Description from TOC Policy Resolution: Policy, program, or investments that support fair housing testing, compliance monitoring, and enforcement.*

### ***Purpose***

Fair housing laws aim to ensure that people have equal access to housing regardless of their race, national origin, family status, religion, sex, disability, or other characteristics that are known as “protected classes.”<sup>54</sup> Across the region, people of color, people with disabilities, and other protected classes are disproportionately represented in a number of indicators of housing need that put them at greater risk of displacement.<sup>55</sup> Consistent enforcement of existing fair housing law is a critical strategy to overcome patterns of segregation and foster inclusive communities. Local jurisdictions can further fair housing by supporting fair housing organizations who conduct fair housing testing, investigate complaints, and assist with filing complaints with the state and/or federal agencies who can take administrative action. In response to fair housing complaints, fair housing organizations can also provide mediation between housing providers and complainants, or file lawsuits against those found to be in violation of the law.

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<sup>54</sup> The Fair Housing Act is a federal law passed in 1968 and amended several times thereafter that protects individuals from experiencing housing discrimination based on the following characteristics: race, color, national origin, religion, sex, familial status, and disability. California’s Fair Employment and Housing Act expands on the protected classes defined by federal law by also prohibiting housing discrimination based on the following characteristics: sexual orientation, gender identity and gender expression, genetic information, marital status, source of income, citizenship, primary language, and immigration status.

<sup>55</sup> For more information on disparities in housing needs, see [ABAG’s Housing Needs Data Packets](#).

## **Relevant State Laws**

### **Fair Employment and Housing Act**

California's [Fair Employment and Housing Act](#) prohibits those engaged in the housing business from discriminating against protected classes. The California Department of Fair Employment and Housing is responsible for enforcing state fair housing laws, which includes investigating and settling fair housing complaints.

### **AB 686**

Affirmatively Furthering Fair Housing, established by [AB 686 \(2018\)](#), requires that local jurisdictions take meaningful actions that address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

### **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction's fair housing enforcement policy/program must meet the following minimum requirements:

- The jurisdiction must have a program with secured funding<sup>56</sup> that provides ongoing allocations to the program at or above the level identified in Appendix B. The amount contributed can vary by year as long as the total for the relevant four-year OBAG cycle meets the specified target for the jurisdiction.
  - The required funding amount by tier can be split among any two of the four Protection policies requiring funding, but the jurisdiction will only receive credit toward one policy. For example, a Tier A jurisdiction could choose to spend \$30,000 on fair housing enforcement and \$70,000 on a tenant legal assistance program, for a total of \$100,000. Alternatively, the jurisdiction could spend \$100,000 on fair housing enforcement. In either scenario, the jurisdiction would receive credit toward one policy for meeting the \$100,000 funding threshold for Protection policies.
- Funding for the program can come from any source that allows fair housing enforcement as an eligible use of funds. Potential funding sources could include, but are not limited to, local housing trust funds, county funds, state and federal funds passed through the jurisdiction, grants from philanthropic organizations, and private contributions from businesses or individuals.

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<sup>56</sup> Secured Funding: Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years' funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.



- Jurisdictions that have an existing balance in a fair housing enforcement funding program when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).
- Jurisdictions that have committed fair housing enforcement funds prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met:
  - The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to an organization to use for legal assistance services during the OBAG 4 cycle sometime between 2026 and 2030).

**AND/OR**

- The funds are expended after January 1, 2025.
- A jurisdiction must contract with one or more fair housing service providers to serve its constituents and provide fair housing enforcement. Alternatively, the jurisdiction can establish its own fair housing testing and enforcement program with staff who conduct fair housing testing on a regular basis,<sup>57</sup> investigate complaints of discrimination, provide information to tenants and landlords, and refer cases to the State Department of Fair Employment and Housing.<sup>58</sup>
- The jurisdiction must make information available for the public on its website regarding the fair housing services available to assist residents.

***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- Documents demonstrating the jurisdiction has contracted or will contract with one or more fair housing enforcement organizations, if applicable.
- A link to a website where the jurisdiction has made information available about fair housing services for residents.
- Documents demonstrating the jurisdiction has secured funding that meets the minimum requirements for being considered “secured.”
- A schedule of expected funding allocated to the program over the four-year period. MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future funding based on the best information available at the time of submitting

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<sup>57</sup> In 2017, the City of Seattle conducted their own [in-house civil rights testing program](#) where housing tests were conducted by email, phone and in-person.

<sup>58</sup> The City of Santa Barbara has a [Fair Housing Enforcement Officer](#) on staff who completes these actions.



compliance documentation to MTC. At the end of the four-year planning period (expected to align with the OBAG cycle), MTC will expect documentation of actual funding received by the program and invested in projects, which may differ from initial projections.

## **Protection Policy 11: Tenant Anti-Harassment Protections**

*Description from TOC Policy Resolution: Policy or program that grants tenants legal protection from unreasonable, abusive, or coercive landlord behavior.*

### **Purpose**

Despite existing state law prohibiting landlords from using threats or intimidation for the purpose of influencing tenants to vacate a unit, landlord harassment continues to be an issue of concern and driver of informal evictions in many communities across the Bay Area. State law lacks specific language defining harassing behavior, which can make violations difficult to prove in court. As a result, multiple jurisdictions throughout the Bay Area and across California have adopted anti-harassment ordinances that go beyond state law to better ensure stability for vulnerable tenants.<sup>59</sup>

Informal evictions through tenant harassment are a persistent problem for low-income, undocumented, and/or limited English-speaking residents because these populations are especially vulnerable to landlord actions.<sup>60</sup> Anti-harassment ordinances can reduce such displacement pressures by clarifying what constitutes harassment and enabling affected tenants as well as jurisdictions to stop harassment. Anti-harassment policies can also support habitability improvements by reducing the risk of retaliation against tenants who report habitability issues to landlords, thereby improving the quality of housing. An effective tenant anti-harassment ordinance defines prohibited harassing behaviors and mechanisms for enforcement.

### **Relevant State Laws**

#### **California Civil Code Section 1940.2**

State law prohibits a landlord from using “force, willful threats, or menacing conduct” to influence a tenant to vacate a dwelling. The law also prohibits a landlord from threatening to disclose information regarding the immigration or citizenship status of a tenant. Tenants are entitled to up to \$2,000 per violation if they prevail in a civil action.

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<sup>59</sup> [Mercury News article](#) from June 15, 2022, reporting on tenant harassment in Concord and the ordinance passed in response by the City Council. [East Bay Times article](#) from July 13, 2021, reporting on tenant harassment in Richmond and the ordinance passed in response by the City Council.

<sup>60</sup> Desmond, M. (2012) Eviction and the Reproduction of Urban Poverty. *AJS*: 118(1) 88-133; Desmond, M. C. Gershenson, and B. Kiviat (2016) Forced Relocation and Residential Instability among Urban Renters. *Social Service Review* 89 (2). Greenberg, D. C. Gershenson and M. Desmond (2016) Discrimination in Evictions: Empirical Evidence and Legal Challenges. *Harvard Civil Rights-Civil Liberties Law Review* 51: 115-158.

## California Civil Code Section 1942.5

[State law](#) prohibits a landlord from retaliating against a tenant for exercising their legal rights. Landlords who violate this prohibition are liable for actual damages, attorney's fees, and punitive damages of up to \$2,000 per retaliatory act.

### ***Requirements for TOC Policy Compliance***

To comply with the TOC Policy, a jurisdiction's tenant anti-harassment policy must meet the following minimum requirements:

- The tenant anti-harassment policy must define harassing behaviors, which at minimum shall include behaviors prohibited by state law as well as the following:
  - Any behavior to prevent tenant organizing. Landlords may not impinge tenants' ability to engage in organizing activities regarding issues of common interest or concern to other tenants, including unreasonable restrictions on distributing literature to and/or meeting with other residents at properties owned by the same landlord.
  - Refusal to accept or acknowledge receipt of a tenant's lawful rent payment.
  - Requesting information or documentation relating to immigration or citizenship status, unless otherwise required by federal law.
  - Failing to perform repairs or maintenance or threatening to fail to perform repairs or maintenance required by contract or by state, county, or local housing, health, or safety laws.
- The policy must state that the city or county attorney as well as the impacted tenant may bring a civil action or request an injunction in response to harassment.
- The policy must establish penalties for landlords found to be in violation, including fines, attorneys' fees, and punitive damages. The policy shall also define a violation of the ordinance as an affirmative defense for a tenant in an eviction proceeding.
- The policy must establish noticing requirements for landlords to provide each tenant with an information sheet outlining anti-harassment protections and any other tenant protections in the jurisdiction (e.g., rent stabilization, just cause, relocation assistance). The sheet must include links to the city website and at least one local tenant legal services organization.

## **IV. Commercial Stabilization Policy Options**

To comply with the TOC Policy, a jurisdiction must adopt **at least one** of the commercial stabilization policies listed below:

- Commercial Stabilization Policy 1: Small Business and Non-Profit Overlay Zone
- Commercial Stabilization Policy 2: Small Business and Non-Profit Preference Policy

- Commercial Stabilization Policy 3: Small Business and Non-Profit Financial Assistance Program
- Commercial Stabilization Policy 4: Small Business Advocate Office

A jurisdiction may meet the requirements with existing adopted policies or as needed, adopt new policies by the TOC Policy compliance deadline. At minimum, policies must apply in TOC areas. Jurisdictions may choose to apply policies beyond the TOC area(s), which could include the entirety of the jurisdiction (i.e., adopting a jurisdiction-wide policy). See Section 2 of the guidance document for more information about these requirements.

## **Commercial Stabilization Policy 1: Small Business and Non-Profit Overlay**

*Description from TOC Policy Resolution: Establish boundaries designated for an overlay, triggering a set of protections and benefits should development impact small businesses (including public markets) or community-serving non-profits.*

### **Purpose**

To prevent displacement caused by transit-oriented development, jurisdictions can protect existing small businesses and community-serving non-profits by affording protections and benefits beyond what is available jurisdiction-wide. A jurisdiction may select this policy to preserve the rich community of small businesses and non-profits located in areas that are subject to new development. An “overlay zone” is a district that superimposes additional regulations over existing zoning districts.<sup>61</sup> A successful overlay zone offers benefits such as an operating subsidy, eviction protections, and relocation requirements.

### **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction’s small business and non-profit overlay policy must meet the following minimum requirements:

- Jurisdictions must define “small business” and “community-serving non-profit” to establish the minimum requirements to qualify for protections.
- Offer at least one protection or benefit specific to the community and expected to prevent displacement.

### **Submitting Additional Required Documentation**

In addition to the standard submission requirements, a jurisdiction must submit a copy of the policy’s eligibility criteria and description of protections and/or benefits provided, if they are not included in the ordinance or other documents establishing the program.

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<sup>61</sup> Planetizen Planopedia. [“What is an Overlay District?”](#)

## **Commercial Stabilization Policy 2: Small Business and Non-Profit Preference Policy**

*Description from TOC Policy Resolution: Give priority and a right of first offer to local small businesses and/or community-serving non-profits when selecting a tenant for new market-rate commercial space.*

### **Purpose**

Transit-oriented development has the potential to displace existing small businesses and non-profits as new development may increase commercial rent costs. This policy would require that owners or managers of applicable commercial spaces provide a preference to small businesses and/or community-serving non-profits when selecting tenants by offering them the right of first offer. A jurisdiction would select this policy to protect their existing community of non-profits and small businesses from displacement.

### **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction's small business and non-profit preference policy must meet the following minimum requirements:

- Jurisdictions must define "small business" and "community-serving non-profit" to establish the minimum requirements to qualify for preference.
- Establish a preference policy that prioritizes small businesses and non-profits when selecting new tenants by offering them the right of first offer. Jurisdictions may apply such a policy on publicly-owned properties, as part of the entitlement process for a new development, as a condition of a small business support program, or in other applicable circumstances.

### **Submitting Additional Required Documentation**

In addition to the standard submission requirements, a jurisdiction must submit a copy of the policy's eligibility criteria and preference details, if they are not included in the ordinance or other documents establishing the program.

## **Commercial Stabilization Policy 3: Small Business and Non-Profit Financial Assistance Program**

*Description from TOC Policy Resolution: Dedicated funding program for any impacted small business and community-serving non-profits.*

### **Purpose**

As jurisdictions promote transit-oriented development in their communities, they must also take steps to prevent displacement and gentrification in these areas. By providing direct financial assistance, jurisdictions can support small businesses and non-profits through any community-wide transition that comes with new transit-oriented development. Jurisdictions may choose this policy to protect their small businesses and community-serving non-profits that enrich the fabric of their community.

### **Requirements for TOC Policy Compliance**

To comply with the TOC Policy, a jurisdiction's small business and non-profit financial assistance program must meet the following minimum requirements:

- Jurisdictions must define "small business" and "community-serving non-profit" to establish the minimum requirement to qualify for financial assistance.
- The jurisdiction must have a program with secured funding<sup>62</sup> that provides financial assistance to stabilize small businesses and non-profits located in the TOC areas. The jurisdiction could choose to offer this assistance to businesses and non-profits in additional areas as well.
- Provide technical assistance and up-to-date information online regarding funding opportunities and deadlines.

### **Submitting Additional Required Documentation**

In addition to the standard submission requirements, a jurisdiction must submit:

- A copy of the eligibility criteria and program details if they are not included in the ordinance or other documents establishing the program.
- Documents demonstrating the jurisdiction has secured funding that meets the minimum requirements for being considered "secured."
- A schedule of expected funding allocated to the program over the four-year period. MTC understands that projections of future funding may be imprecise, and the expectation is that a jurisdiction will provide a reasonable projection of future funding based on the best information available at the time of submitting compliance documentation to MTC. At the end of the four-year planning period (expected to align with the OBAG cycle), MTC will expect documentation of actual funding received by the program and invested in projects, which may differ from initial projections.

## **Commercial Stabilization Policy 4: Small Business Advocate Office**

*Description from TOC Policy Resolution: Provide a single point of contact for small business owners and/or a small business alliance.*

### **Purpose**

A jurisdiction's small business economy is bolstered by technical assistance, educational workshops, advertising and exposure, and the development of a network of neighboring businesses. These types of support could be offered by a jurisdiction or an

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<sup>62</sup> Secured Funding: Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use of these funds for the program can be reasonably expected to be approved in subsequent years. The subsequent years' funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

outside contractor and are best utilized when there is a single point of contact. A jurisdiction may choose this policy to commit to the resilience of their small business community.

### ***Requirements for TOC Policy Compliance***

To comply with the TOC Policy, a jurisdiction's small business advocate office policy must meet the following minimum requirements:

- Provide a single point of contact for small business owners to connect with a technical support resource. The single point of contact could be a jurisdictional staff member or an outside contractor. Outside contractors could be a staff member of the nearest Small Business Center (SBC) or Small Business Development Center (SBDC)<sup>63</sup> In the case of an outside contractor, the jurisdiction must have dedicated staff oversight.

### ***Submitting Additional Required Documentation***

In addition to the standard submission requirements, a jurisdiction must submit:

- A copy of the eligibility criteria and program details if they are not included in the ordinance or other documents establishing the program.
- If an outside contractor is used as the point of contact, a description of the jurisdiction's approach for oversight of the contractor.

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<sup>63</sup> SBCs are part of the [California Network of Small Business and Technical Assistance Centers](#), funded by CalOSBA, while SBDCs are part of a [nationwide network](#) funded by the [U.S. Small Business Administration](#).

## Appendix B: Jurisdictions by Funding Tier

**Table 1** lists the jurisdictions in each funding tier and the jurisdiction’s required minimum four-year funding commitment for each policy selected that requires a funding commitment. *Note: all Bay Area jurisdictions are listed, although not all jurisdictions have TOC areas.*

For the policies in the Protection category, the required funding amount by tier can be split among any two of the four policies, but the jurisdiction will only receive credit toward one policy. For example, a Tier A jurisdiction could choose to spend \$30,000 on fair housing enforcement and \$70,000 on a rental assistance program, for a total of \$100,000. Alternatively, the jurisdiction could spend \$100,000 on a single policy, such as rental assistance. In either scenario, the jurisdiction would receive credit toward one policy for meeting the \$100,000 funding threshold for Protection policies.

**Table 1: Jurisdictions by Funding Tier**

<b>Jurisdiction</b>	<b>Very Low- and Low-Income RHNA</b>	<b>Tier</b>	<b>Production 2 and Production 6</b>	<b>Preservation 1 and Preservation 5</b>	<b>Protection 3, Protection 4, Protection 5, and Protection 10</b>
Yountville	30	A	\$1,000,000	\$500,000	\$100,000
Calistoga	50	A	\$1,000,000	\$500,000	\$100,000
Ross	54	A	\$1,000,000	\$500,000	\$100,000
Unincorporated Napa	61	A	\$1,000,000	\$500,000	\$100,000
Colma	69	A	\$1,000,000	\$500,000	\$100,000
Belvedere	77	A	\$1,000,000	\$500,000	\$100,000
Monte Sereno	83	A	\$1,000,000	\$500,000	\$100,000
Sebastopol	86	A	\$1,000,000	\$500,000	\$100,000
Cotati	94	A	\$1,000,000	\$500,000	\$100,000
Portola Valley	115	A	\$1,000,000	\$500,000	\$100,000
Unincorporated Solano	130	A	\$1,000,000	\$500,000	\$100,000
Cloverdale	141	A	\$1,000,000	\$500,000	\$100,000
Woodside	142	A	\$1,000,000	\$500,000	\$100,000
Atherton	148	A	\$1,000,000	\$500,000	\$100,000
St. Helena	163	A	\$1,000,000	\$500,000	\$100,000
Dixon	175	A	\$1,000,000	\$500,000	\$100,000
Pinole	190	A	\$1,000,000	\$500,000	\$100,000
Los Altos Hills	197	A	\$1,000,000	\$500,000	\$100,000
Fairfax	235	A	\$1,000,000	\$500,000	\$100,000
Hillsborough	244	A	\$1,000,000	\$500,000	\$100,000

<b>Jurisdiction</b>	<b>Very Low- and Low-Income RHNA</b>	<b>Tier</b>	<b>Production 2 and Production 6</b>	<b>Preservation 1 and Preservation 5</b>	<b>Protection 3, Protection 4, Protection 5, and Protection 10</b>
Suisun City	255	A	\$1,000,000	\$500,000	\$100,000
Piedmont	257	A	\$1,000,000	\$500,000	\$100,000
East Palo Alto	260	A	\$1,000,000	\$500,000	\$100,000
Clayton	267	A	\$1,000,000	\$500,000	\$100,000
San Pablo	273	A	\$1,000,000	\$500,000	\$100,000
American Canyon	278	A	\$1,000,000	\$500,000	\$100,000
Half Moon Bay	285	A	\$1,000,000	\$500,000	\$100,000
Healdsburg	299	A	\$1,000,000	\$500,000	\$100,000
Tiburon	303	A	\$1,000,000	\$500,000	\$100,000
Sausalito	315	A	\$1,000,000	\$500,000	\$100,000
Corte Madera	336	A	\$1,000,000	\$500,000	\$100,000
Benicia	339	A	\$1,000,000	\$500,000	\$100,000
San Anselmo	398	A	\$1,000,000	\$500,000	\$100,000
Mill Valley	413	B	\$1,400,000	\$600,000	\$200,000
Morgan Hill	413	B	\$1,400,000	\$600,000	\$200,000
Oakley	440	B	\$1,400,000	\$600,000	\$200,000
Larkspur	459	B	\$1,400,000	\$600,000	\$200,000
Albany	486	B	\$1,400,000	\$600,000	\$200,000
Brisbane	500	B	\$1,400,000	\$600,000	\$200,000
Moraga	501	B	\$1,400,000	\$600,000	\$200,000
El Cerrito	526	B	\$1,400,000	\$600,000	\$200,000
Hercules	542	B	\$1,400,000	\$600,000	\$200,000
Martinez	551	B	\$1,400,000	\$600,000	\$200,000
Orinda	587	B	\$1,400,000	\$600,000	\$200,000
Windsor	607	B	\$1,400,000	\$600,000	\$200,000
Rohnert Park	629	B	\$1,400,000	\$600,000	\$200,000
Brentwood	634	B	\$1,400,000	\$600,000	\$200,000
Emeryville	710	C	\$2,000,000	\$700,000	\$200,000
Saratoga	715	C	\$2,000,000	\$700,000	\$200,000
Newark	732	C	\$2,000,000	\$700,000	\$200,000
Belmont	769	C	\$3,000,000	\$700,000	\$200,000
Petaluma	787	C	\$2,000,000	\$700,000	\$200,000
Los Altos	789	C	\$2,000,000	\$700,000	\$200,000
Pittsburg	812	C	\$2,000,000	\$700,000	\$200,000
Foster City	819	C	\$2,000,000	\$700,000	\$200,000
Los Gatos	847	C	\$2,000,000	\$700,000	\$200,000
Pacifica	848	C	\$2,000,000	\$700,000	\$200,000
Pleasant Hill	892	C	\$2,000,000	\$700,000	\$200,000



<b>Jurisdiction</b>	<b>Very Low- and Low-Income RHNA</b>	<b>Tier</b>	<b>Production 2 and Production 6</b>	<b>Preservation 1 and Preservation 5</b>	<b>Protection 3, Protection 4, Protection 5, and Protection 10</b>
Novato	898	C	\$2,000,000	\$700,000	\$200,000
Millbrae	906	C	\$2,000,000	\$700,000	\$200,000
Lafayette	943	C	\$2,000,000	\$700,000	\$200,000
Danville	1,028	C	\$2,000,000	\$700,000	\$200,000
Gilroy	1,054	C	\$2,000,000	\$700,000	\$200,000
Vallejo	1,059	C	\$2,000,000	\$700,000	\$200,000
Vacaville	1,081	C	\$2,000,000	\$700,000	\$200,000
San Bruno	1,109	D	\$3,000,000	\$900,000	\$300,000
San Carlos	1,164	D	\$3,000,000	\$900,000	\$300,000
Menlo Park	1,166	D	\$3,000,000	\$900,000	\$300,000
Campbell	1,186	D	\$3,000,000	\$900,000	\$300,000
Napa	1,214	D	\$3,000,000	\$900,000	\$300,000
Antioch	1,248	D	\$3,000,000	\$900,000	\$300,000
Fairfield	1,256	D	\$3,000,000	\$900,000	\$300,000
Unincorporated San Mateo	1279	D	\$3,000,000	\$900,000	\$300,000
Unincorporated Santa Clara	1305	D	\$3,000,000	\$900,000	\$300,000
Richmond	1,325	D	\$3,000,000	\$900,000	\$300,000
San Rafael	1,349	D	\$3,000,000	\$900,000	\$300,000
San Leandro	1,357	D	\$3,000,000	\$900,000	\$300,000
Union City	1,358	D	\$3,000,000	\$900,000	\$300,000
Burlingame	1,360	D	\$3,000,000	\$900,000	\$300,000
South San Francisco	1,373	D	\$3,000,000	\$900,000	\$300,000
Unincorporated Sonoma	1,608	E	\$4,000,000	\$1,200,000	\$300,000
Hayward	1,692	E	\$4,000,000	\$1,200,000	\$300,000
Dublin	1,710	E	\$4,000,000	\$1,200,000	\$300,000
Unincorporated Marin	1734	E	\$4,000,000	\$1,200,000	\$300,000
Redwood City	1,758	E	\$4,000,000	\$1,200,000	\$300,000
Cupertino	1,880	E	\$4,000,000	\$1,200,000	\$300,000
Santa Rosa	1,919	E	\$4,000,000	\$1,200,000	\$300,000
Unincorporated Alameda	1,972	E	\$4,000,000	\$1,200,000	\$300,000
Concord	2,036	E	\$4,000,000	\$1,200,000	\$300,000
Livermore	2,075	E	\$4,000,000	\$1,200,000	\$300,000
Daly City	2,105	E	\$4,000,000	\$1,200,000	\$300,000
Alameda	2,239	E	\$4,000,000	\$1,200,000	\$300,000

<b>Jurisdiction</b>	<b>Very Low- and Low- Income RHNA</b>	<b>Tier</b>	<b>Production 2 and Production 6</b>	<b>Preservation 1 and Preservation 5</b>	<b>Protection 3, Protection 4, Protection 5, and Protection 10</b>
San Ramon	1,359	E	\$4,000,000	\$1,200,000	\$300,000
Palo Alto	2,452	E	\$4,000,000	\$1,200,000	\$300,000
Walnut Creek	2,611	E	\$4,000,000	\$1,200,000	\$300,000
Milpitas	2,655	E	\$4,000,000	\$1,200,000	\$300,000
Pleasanton	2,758	E	\$4,000,000	\$1,200,000	\$300,000
San Mateo	2,800	E	\$4,000,000	\$1,200,000	\$300,000
Unincorporated Contra Costa	3,266	F	\$8,000,000	\$2,400,000	\$400,000
Berkeley	3,854	F	\$8,000,000	\$2,400,000	\$400,000
Mountain View	4,370	F	\$8,000,000	\$2,400,000	\$400,000
Santa Clara	4,525	F	\$8,000,000	\$2,400,000	\$400,000
Sunnyvale	4,677	F	\$8,000,000	\$2,400,000	\$400,000
Fremont	5,736	F	\$8,000,000	\$2,400,000	\$400,000
Oakland	10,261	G	\$40,000,000	\$8,000,000	\$1,000,000
San Jose	23,775	G	\$40,000,000	\$8,000,000	\$1,000,000
San Francisco	32,881	G	\$40,000,000	\$8,000,000	\$1,000,000