**SB 1087 Model Resolution**

Provision Of Water and Sewer Services to Proposed Affordable Housing Units for Lower Income Households (Government Code § 65589.7)

**February 2024**

# Overview

Senate Bill 1087 (SB 1087, 2005) requires local governments to provide a copy of the adopted housing element to water and sewer providers. In addition, it requires that water and sewer providers have written procedures to grant priority for service allocations to proposed developments that include housing units affordable to lower-income households. This model resolution provides a template local jurisdictions can customize to address the requirements of Government Code § 65589.7 and prioritize water and sewer services proposed for affordable housing units for lower income households.

## **Purpose**

The purpose of this material is to provide guidance, which agencies and other entities may use at their discretion. This guidance does not alter lead agency discretion in decision-making, independent judgment and analysis, and preparing environmental documents for project or governmental action subject to CEQA requirements. This material is for general information only and should not be construed as legal advice or legal opinion.

Resolution No. XXXX-XXX

**A RESOLUTION OF THE [CITY COUNCIL/BOARD OF SUPERVISORS] OF THE [CITY/COUNTY OF \_\_\_\_\_\_\_\_\_\_] APPROVING POLICIES AND PROCEDURES REGARDING THE PROVISION OF WATER AND SEWER SERVICES TO PROPOSED AFFORDABLE HOUSING UNITS FOR LOWER INCOME HOUSEHOLDS**

WHEREAS, the California State Legislature (“Legislature”) has declared the lack of affordable housing is a matter of vital statewide importance; and

WHEREAS, the Legislature enacted Chapter 727, Statutes of 2005 (Senate Bill 1087), which amended Government Code Section 65589.7 and requires water and sewer providers to grant priority for water and sewer service to proposed developments that include housing units affordable to lower-income households; and

WHEREAS, Government Code Section 65589.7 requires that the public agency that provides water and/or sewer services adopt written policies and procedures, not later than July 1, 2006, and at least once every five (5) years thereafter, to establish such priority for affordable housing projects; and

WHEREAS, the [City/County of \_\_\_\_\_\_\_\_\_] is the water and sewer provider for the [City/County of \_\_\_\_\_\_\_\_\_\_] and is, therefore, subject to the requirements of Government Code Section 65589.7; and

WHEREAS, the [City/County of \_\_\_\_\_\_\_\_\_] last adopted polices and procedures governing the priority of water and sewer services for affordable housing projects on [INSERT DATE]; and

WHEREAS, the [City/County of \_\_\_\_\_\_\_\_\_] is continually evaluating system requirements and capacity, monitoring planned and proposed project development, and working to ensure there is adequate capacity for future development throughout the [City’s/County’s] service area; and

WHEREAS, the [City/County of \_\_\_\_\_\_\_\_\_] staff has prepared the required policies and procedures in conformance with Government Code Section 65589.7; and

NOW, THEREFORE, BE IT RESOLVED by the [City Council/Board of Supervisors] of the [City/County of \_\_\_\_\_\_\_\_\_] as follows:

1. Priority Water and Sewer Service to Affordable Housing Units. The [City/County of \_\_\_] shall grant a priority for the provision of water or sewer services to proposed housing development projects that include residential units affordable to lower income households, implementing Program [XX] of the Housing Element of the General Plan adopted by the [City Council/Board of Supervisors] of the [City/County].
   1. For the purposes of this Resolution, “proposed housing developments that include housing units affordable to lower income households” are defined as dwelling units that shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code.
   2. For the purposes of this Resolution, “water or sewer services” means supplying service through a pipe or other constructed conveyance for a residential purpose and does not include the sale of water for human consumption by a water supplier to another water supplier for resale.  “Water service” provided by the [City/County] applies only to water supplied for public water systems subject to Health and Safety Code Section 116275.
2. Basis for Denial, Condition or Reduction. The [City/County of \_\_\_] shall not deny or condition the approval of an application for water and/or sewer services to, or reduce the amount of services applied for by, a proposed housing development project that includes housing units affordable to lower income households unless the [City/County] makes specific written findings that the denial, condition, or reduction is necessary due to the existence of one (1) or more of the following conditions:
   1. The [City/County of \_\_\_\_\_\_\_\_\_] does not have “sufficient water supply,” as defined in paragraph (2) of subdivision (a) of Government Code Section 66473.7 or is operating under a water shortage emergency, as defined in Water Code Section 350, or does not have sufficient water treatment or distribution capacity, to serve the needs of the proposed development, as demonstrated by a written engineering analysis and report; or
   2. The [City/County of \_\_\_\_\_\_\_\_\_] does not have sufficient water treatment or collection capacity to serve the needs of the proposed development as demonstrated by a written engineering analysis and report on the condition of the treatment or collection works; or
   3. The [City/County of \_\_\_\_\_\_\_\_\_] is subject to a compliance order issued by the State Department of Health Services that prohibits new water connections; or
   4. The [City/County of \_\_\_\_\_\_\_\_\_] is under an order issued by the Regional Water Quality Control Board that prohibits new sewer connections; or
   5. The applicant proposing the development project has failed to agree to reasonable terms for water and/or sewer service from the [City/County of \_\_\_\_\_\_\_\_\_], which are generally applicable to other development projects seeking water and/or sewer service from the [City/County of \_\_\_\_\_\_\_\_\_] including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of any fee or charge authorized by Government Code Section 60013.
3. Effective Date. This Resolution shall become effective on [INSERT DATE].
4. Review of Service Policies and Procedures. At least once every (5) years after passage of this Resolution, the policies and procedures contained in this Resolution shall be presented to the [City Council/Board of Supervisors] for review and evaluation of the written policies and procedures governing prioritization of water and sewer services to proposed housing development projects that include residential units affordable to lower income households.

The foregoing Resolution was regularly introduced and adopted at a Regular Meeting of the [City Council/Board of Supervisors] of the [City/County of \_\_\_\_\_\_\_\_\_], duly held on the \_\_\_\_\_ day of \_\_\_\_\_\_\_ 202\_, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CITY/COUNTY CLERK MAYOR/CHAIR