



## The Planning Commissioner Handbook

### Chapter 5

# Housing Laws and Policies

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# Introduction to Housing in California

Home is the foundation of life. It is the place where we go to feel secure, warm, recharge and relax. Homes and the communities in which they are located provide us with a sense of belonging, safety and access to opportunities.



The lack of affordable homes has far-reaching policy impacts for California, local governments and the communities they serve. Additionally, the limits placed on housing choices through discriminatory land use policies impact access to jobs, transit, services, high-performing schools and other opportunities. Lack of access to opportunity is disproportionately experienced by people within protected classes such as race, sexual orientation and disability.

Housing production in California has not kept pace with population and job growth in either quantity or location. With demand for housing greatly outpacing supply, prices have skyrocketed. The housing shortage has particularly affected low- and middle-income families. Many of our most essential community members—teachers, firefighters, police officers, service workers, retail clerks, etc.— simply cannot afford to rent units in the communities where they work, much less purchase a median-priced home. Increasingly, people must live far from work in order to find housing, which has implications both for quality of life and for the environment.

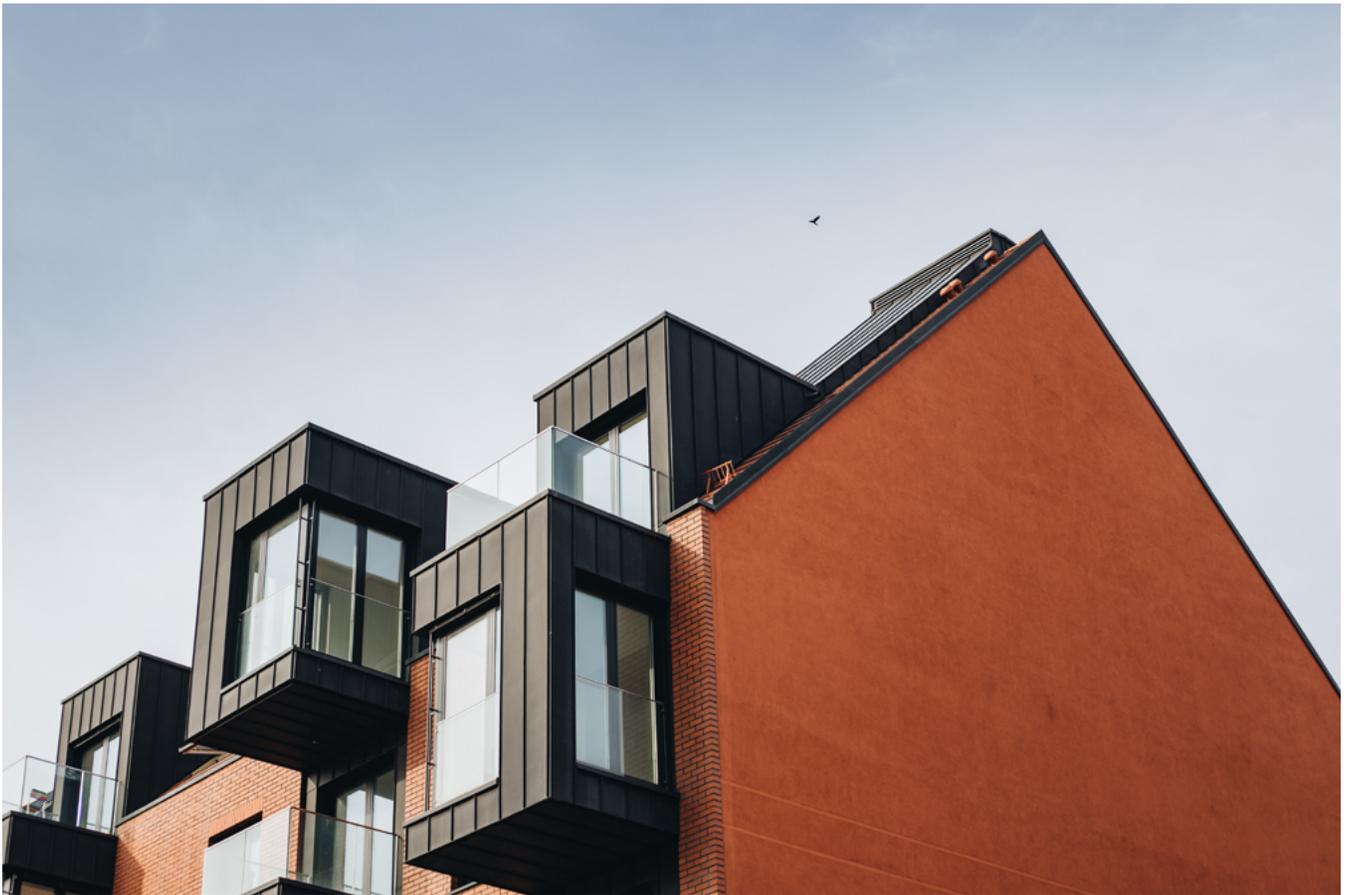
The consequences for a lack of housing options, high housing costs and land use policies exacerbate residential segregation and can severely impact quality of life.

- Households paying a higher percentage of their household income means they have less money for food, health care, education and other necessities that can impact quality of life.
- Households over-commuting to their jobs because they must live in communities with lower housing costs detrimentally impacts the environment by increasing pollution and greenhouse gas emissions and negatively impacting public health.
- California has the second highest percentage of overcrowded households. Families and individuals live in overcrowded households to address high housing costs; however, this creates negative impacts on individuals physical and mental health. Research has shown that overcrowded homes lead to greater exposure to infectious and respiratory diseases.
- Lower-income residents and people in protected classes have limited access to certain communities and often live in communities with concentrated poverty, dilapidated housing stock, unsafe environmental conditions, underfunded schools and lack of overall access to social and economic opportunities due to exclusionary zoning policies.

As such, local governments play an important role in providing ample housing options, affordable homes and affirmatively further fair housing. Through up front planning, ministerial processes and active community engagement, local governments can help solve the housing and affordability crisis in California.

As a planning commissioner, you are on the front lines of solving the state’s housing problems. Your role is to assure that individual projects further community housing production needs and goals. Moreover, you will likely be involved in the development of local policies that go beyond the minimum requirements imposed by state law. A thorough knowledge of both housing law and policy options—summarized in this section—will serve you well as you tackle housing issues at the local level.

Housing policy, program guidelines and regulations were instrumental in creating current inequities and will be equally important in both preventing further segregation and concentration of poverty, as well as increasing access to opportunity. In order to ameliorate past actions that led to inequity, decision-makers must create land use and funding policies to increase affordable housing in high resource neighborhoods that have often been exclusionary (explicitly or in effect of cost and zoning policies) and bring additional resources to traditionally under-resourced neighborhoods. — California State Guidance on Affirmatively Furthering Fair Housing (April, 2021).



# Process of Developing Homes

The ultimate goal is for families, individuals, seniors and people who are currently experiencing homelessness to receive the keys to a place they can call home. The process of providing affordable and quality homes includes several steps at the local government level with multiple private and public players. Specifically, housing happens in two ways:

1. Through planning and land use policies ranging from general plans to zoning ordinances and design standards and,
2. Financing through varying local, state, federal and private funding sources.

Within the local planning and land use framework, there are four steps a local government goes through when approving and developing housing. Step one is the long-range planning where community goals and the vision is decided on. Step two is the development of zoning which works to implement step one. In step three, the permitting phase, developments are approved that fit the parameters set by zoning. Lastly, step four is the building phase.

**Step 1: Planning** – Local planning is the process by which jurisdictions and their community develop plans and policies that set the framework for how growth should occur. This is done through the development of the general plan including the housing element. This process often involves extensive and diligent public engagement. In this phase, the public has an opportunity to decide on a shared vision and community goals for the foreseeable future. Oftentimes in the planning process, local decision makers and the community are working to balance multiple objectives including economic development, climate change, establishing healthy communities, promoting social and economic equity and promoting affordability so that all members in the community can obtain quality of life.

## Key things to consider during the planning phase:

Community engagement and outreach efforts are incredibly important during this phase. As such, local governments should make every effort to involve community members. This can also help prevent community opposition when housing developments are being approved.

**Step 2: Zoning** – Zoning of land helps implement the many policies and goals that were discussed and decided upon during the planning phases. Zoning specifies what kind of development should go where and details the standards that developments need to adhere by including density, heights and parking.

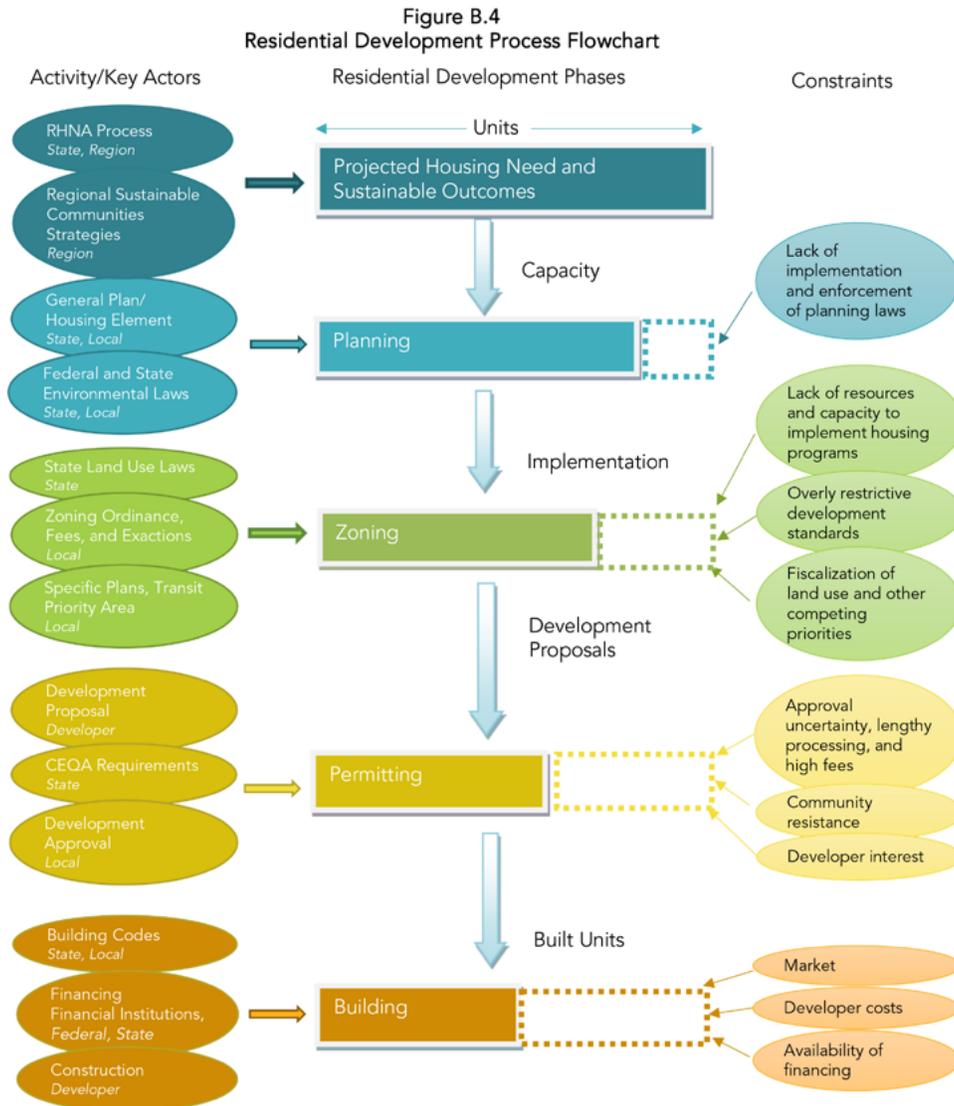
**Step 3: Permitting** – In this phase, developers can now use the framework established through phase 1 and 2 to propose projects that comply with the community goals and zoning requirements. This phase is often referred to as the entitlement process.

## Key things to consider during the permitting phase:

- Discretionary entitlement processes with unclear requirements can become very lengthy creating possible delays in the project and further adding costs that can sometimes make projects infeasible.
- Restrictive development standards can severely impact the cost of housing.
- Consider establishing by-right, ministerial processes to reduce the time it takes to approve a project.
- Certain laws place limitations on a jurisdiction's process when approving certain housing

development projects such as Housing Crisis Act of 2019 (SB 330, Statutes of 2019). For more information see the section on SB 330 below.

**Step 4: Building** – By this phase, a development has secured all the needed local government approvals, also known as entitlements. The developer adheres to the building code requirements set by the California Building Standards Commission and amendments that a local government has made based on unique circumstances. After this, a developer can start building housing as long as they have secured all the necessary financing.



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# Planning and Zoning

## Regional Housing Needs Allocation (RHNA)

The Regional Housing Needs Allocation, also known as RHNA, is assigned to a jurisdiction and represents the number of units a jurisdiction must zone and plan for. A jurisdiction's RHNA is divided into four income categories: Very Low, Low, Moderate and Above Moderate income categories. The RHNA process starts with an estimate of the state's housing needs across all income levels by the state Department of Finance and Department of Housing and Community Development (HCD). This number is then proportionately divided among the state's regions using specific factors including overcrowding, vacancy rates and cost burdened households. The regional number is further divided and assigned to each city, town and county by regional councils of governments (referred to as COGs). In areas of the state where a COG is not present, HCD will act as the COG. Each COG develops a methodology based on the statutory objectives referenced on the next page. Each jurisdiction then updates the housing element to plan for their fair share of housing by using their RHNA numbers and develops an action plan (program section of the housing element) to set the table for development and accommodate their RHNA.

### RHNA Statutory Objectives:

- Increase housing supply and mix of housing types, with the goal of improving housing affordability and equity in all cities and counties within the region.
- Promote infill development and socioeconomic equity; protect environmental and agricultural resources; encourage efficient development patterns; and achieve greenhouse gas reduction targets.
- Improve intra-regional jobs-to-housing relationship, including the balance between low-wage jobs and affordable housing units for low-wage workers in each jurisdiction.
- Balance disproportionate household income distributions (more high-income allocation to lower-income areas, and vice-versa).
- Affirmatively further fair housing.

## The Housing Element

### What is the Housing Element?

Since 1969, California requires that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community. As such, local governments meet this requirement by adopting housing elements sometimes referred to as housing plans as part of their general plan (also required by the state). The housing element is a key planning document for local governments.

California's housing element law acknowledges that, in order for the private market to adequately address the housing needs

and demand of Californians, local governments must adopt plans and regulatory systems that provide opportunities for (and do not unduly constrain), housing development. As a result, housing policy in California rests largely on the effective implementation of local general plans and, in particular, local housing elements.

The housing element of the general plan is subject to a number of statutory requirements.<sup>1</sup> Housing elements are updated every five or eight years depending on the jurisdictions planning cycle.

## Your Leadership Role

This section summarizes the primary laws and policies that apply to local housing programs. In many respects, the law only serves as a minimum standard. Additional policies — such as increasing densities or implementing inclusionary housing programs — can help proactively address local housing needs. Your willingness to engage on this issue will be a signal to developers of your community’s desire to get more units built.

## Housing Element Components

State law lays out very specific requirements that local governments needs to meet to have a compliant housing element.<sup>2</sup> The housing element is made up of several major components with three recurring themes that should be evaluated and analyzed throughout the element – community engagement, affirmatively furthering fair housing and harmony with other general plan elements.

1. Evaluation of past housing element accomplishment – what worked and what didn’t?
  - a. This section is often referred to as the review and revise piece of the housing element. It provides local governments with an opportunity to see what strategies and programs could be improved, continued as is, or removed based on the past housing element results and community feedback.
2. Housing Needs Assessment – who lives in your community?
  - a. The needs assessment will analyze households in your community based on income levels and whether they are cost burdened or and living in overcrowded or substandard conditions. It will also analyze populations that may require special housing needs such as people with disabilities including developmental disabilities, seniors, people experiencing homelessness, farmworker population, extremely low-income and large families. Lastly, it will include identification and an analysis of assisted housing units in your community and if they are at risk of losing their public subsidy. This section will help you understand the varying housing needs of your community.
3. Constraints – what is the regulatory framework for housing?
  - a. Certain land use controls, fees, building codes and permit and processing procedures can sometimes act as a constraint for housing to be built especially homes that are affordable for lower and moderate income families and for a local government to achieve the densities identified on their sites. The analysis must look at governmental and nongovernmental or market-driven regulations including the availability of financing, land costs and construction costs.
4. Land inventory and analysis<sup>3</sup>
  - a. The land inventory identifies sites that are zoned or could be rezoned and will be suitable for housing development—

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1 See Cal. Gov’t Code §§ 65580 and following.

2 See Cal. Gov’t Code §§ 65580 and following.

3 [Housing Element Sites Inventory Guidebook \(ca.gov\)](#)

including having current or planned access to roads, water, sewer and other infrastructure—within the housing element planning period. Through this process, a local agency will demonstrate that it can accommodate its share of the regional housing need by income level, especially its share of housing affordable to lower income households.

#### 5. Policies and Programs

- a. In this section, a local government will set forth a schedule of actions to implement various objectives and goals in the housing element and address the housing needs of all economic segments. The element must identify adequate sites to accommodate the agency's share of the regional housing need and must identify programs to assist in the development of low- and moderate- income housing; remove or mitigate governmental constraints; conserve and improve the existing affordable housing stock; promote and affirmatively further fair housing opportunities; and preserve existing affordable housing units, and incentivize and promote the creation of ADUs.

## Public Participation and Affirmatively Furthering Fair Housing

Housing and the availability of homes impact all of us. This is an opportunity for local governments to gather feedback from all segments of their community and make sure they are represented during the housing element update process. To adequately engage all segments of the community, a local government must make diligent and meaningful efforts in the public participation process. A local government should use a variety of communication and outreach methods to engage all segments of the community. Outreach should occur before and during the housing element update and should happen on an ongoing basis through implementation of the housing element programs. Feedback received from the community and stakeholders representing community groups should be summarized and incorporated into the element.

The housing element must be developed and reviewed through the lens of affirmatively furthering fair housing. Several historic actions and policies both by the private and public sector have led to housing discrimination, racial and ethnic segregation of neighborhoods, disinvestment in vulnerable communities and restricted access to opportunities. The first step to undoing past discriminatory actions is to identify and analyze local policies and how that has contributed to fair housing issues. All aspects of the housing element should review, analyze and determine if policies are exacerbating or improving integration and segregation issues, racially and ethnically concentrated areas of poverty, areas of opportunities and disproportionate housing needs including displacement risks. The housing element must also include programs and policies to significantly overcome identified patterns of segregation and to affirmatively further fair housing in a meaningful way.

## Compliance

HCD plays a critical role in reviewing every housing element in the state and determining whether it complies with state law. Local governments must make the initial draft housing element available to the public for 30 days and take an additional 10 days to consider and incorporate comments before HCD can review the draft. Once local governments have submitted the initial draft of the housing element, HCD will take 90 days to review the element for compliance with state law. Within 90 days HCD will either provide findings from their review or determine that the draft document substantially complies with housing element law.<sup>4</sup>

If HCD finds that the draft does not substantially comply with state housing element law, a jurisdiction can revise the draft to incorporate HCD's comments and resubmit for another review of the draft housing element. While a jurisdiction is not legally required to resubmit their draft housing element, if they received findings from HCD, it is recommended that they do. This will provide the jurisdiction another opportunity to address HCD's comments in meeting state law, potentially providing more certainty that the draft housing element will be found in compliance.

Once HCD has provided written findings on the draft housing element, a jurisdiction can either provide another revised draft to HCD for review (as noted above) or consider HCD's comments and adopt the housing element (with or without additional revisions from the initial draft). Once adopted, a jurisdiction must submit the adopted housing element to HCD for a 60-day review period. In this time, HCD will determine if the adopted housing element is in compliance or provide written

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<sup>4</sup> See Cal. Gov't Code § 65585.

findings from their review. A compliant housing element is extremely important for several reasons noted below. At this time a jurisdiction can readopt their housing element to address HCD's findings. Please note, if a jurisdiction does not have a compliant housing element within 120 days of their statutory due date, they will need to complete any rezoning actions within the first year of the planning period.

### **Consequences of a Lack of Compliance with State Housing Element Law**

Housing availability is a critical issue with statewide implications, and most housing decisions occur at the local level. Housing elements are essential to developing a blueprint for growth and are a vital tool to address California's prolonged housing crisis. As such, state law has established clear disincentives for local jurisdictions that fail to comply with State Housing Element Law.

First, noncompliance will result in ineligibility or delay in receiving state funds that require a compliant housing element as a prerequisite, including, but not limited to, the following:

- Permanent Local Housing Allocation;
- Local Housing Trust Fund Program;
- Infill Infrastructure Grant Program;
- SB 1 Caltrans Sustainable Communities Grants; and
- Affordable Housing and Sustainable Communities Program.

Second, jurisdictions that do not meet their housing element requirements may face additional financial and legal ramifications. HCD may notify the California Office of the Attorney General, which may bring suit for violations of State Housing Element Law. Further, statute provides for court-imposed penalties for persistent noncompliance, including financial penalties. Government Code section 65585, subdivision (l)(1), establishes a minimum fine of \$10,000 per month and up to \$100,000 per month. If a jurisdiction continues to remain noncompliant, a court can multiply the penalties up to a factor of six. Other potential ramifications could include the loss of local land use authority to a court-appointed agent. In addition to these legal remedies available in the courts, under the Housing Accountability Act<sup>5</sup>, jurisdictions without a substantially compliant housing element cannot use inconsistency with zoning and general plan standards as reasons for denial of a housing project for very low-, low-, or moderate-income households.

More information about housing element compliance incentives and consequences: [https://abag.ca.gov/sites/default/files/documents/2021-04/HE\\_Compliance\\_One-Pager.pdf](https://abag.ca.gov/sites/default/files/documents/2021-04/HE_Compliance_One-Pager.pdf)

For more guidance, please visit [HCD Building Blocks \(ca.gov\)](https://www.hcd.ca.gov/building-blocks)

For technical assistance including sample ordinances: [Housing Planning Hub Site \(arcgis.com\)](https://www.arcgis.com)

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5 Gov. Code § 65589.5, subd. (d)

# Key Topics and Strategies

## Land Use and Zoning Policies That Expand Housing Options and Promote Affordability

There are several strategies that jurisdictions can use to accommodate and build more housing. Jurisdictions can use a mix of the strategies below and customize them based on the jurisdiction’s unique attributes such as size of the locality, location and whether it’s rural, suburban or urban.

| Strategy                                                  | Example                                                                                                                                                                                                                             | Outcome                                                                                                                                                                                                                                                                                                        |
|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Increasing densities                                      | Establish overlay zones, rezone specific areas or upzone<br><br>For example: increasing zoning from 20-30 du/ac to 30-40 du/ac                                                                                                      | <ul style="list-style-type: none"> <li>• More housing and increased affordability</li> </ul>                                                                                                                                                                                                                   |
| Allowing for more permitted residential uses              | Expanding permitted uses in appropriate zones such as retail, commercial or establishing mixed-use zones                                                                                                                            | <ul style="list-style-type: none"> <li>• More variety of housing options such as apartments and condos that can accommodate multiple age groups</li> <li>• Revitalizing parts of a community</li> <li>• Complementing planning outcomes including revitalization and transit orientated development</li> </ul> |
| Reduced development standards and modified building codes | Encouraging small lot development or compact housing designs by reducing minimum lot sizes, increasing lot coverage, parking reductions, modifying height limits, reduced setbacks, etc.                                            | <ul style="list-style-type: none"> <li>• More variety of housing choices such as townhomes and smaller sized homes leading to affordability</li> </ul>                                                                                                                                                         |
| Recycling underutilized land                              | Rezoning and reusing land/parcels that are underutilized to more intensive uses<br><br>For example: abandoned warehouse or underutilized parking lot redeveloped into a mixed-use development with senior housing and grocery store | <ul style="list-style-type: none"> <li>• Revitalization by transforming abandoned land uses into active spaces</li> <li>• More housing options</li> </ul>                                                                                                                                                      |
| Adaptive reuse                                            | Converting older or underutilized structures into new uses such as converting office spaces with expired leases into housing such as live/work units                                                                                | <ul style="list-style-type: none"> <li>• Less expensive because the infrastructure and building structure have already been built which leads to increased affordability</li> <li>• Revitalization of existing communities and abandoned spaces</li> </ul>                                                     |

## Example: Implementing Mixed-Use Zoning

Mixed-use development complements many other planning techniques, including compact design, historic preservation, infill, higher densities, redevelopment, downtown revitalization and transit-oriented development. It can reduce reliance on cars by locating jobs, shopping and residences in one place. Many communities have developed successful mixed-use “town centers” that fare very well on the real estate market and generate needed revenues for the local agency.

Things to consider in encouraging mixed-use development include:

- **Identify Areas.** Under-used commercial districts and areas near transit stations are excellent locations for mixed-use development.
- **Amend Zoning and Building Codes.** Consider amending building codes and zoning ordinances that discourage mixed-use developments. For example, revising the zoning code to allow shared parking between residential and commercial uses and providing other flexible development standards can promote the feasibility of mixed uses.
- **Offer incentives.** Consider offering incentives to encourage mixed-use development. This might include offering a density bonus, relaxing parking requirements or expediting the processing of permit applications.
- **Minimize Conflicts.** Design projects to minimize conflicts over problems like noise, traffic and parking. A good architect can incorporate design components to address these issues, but project plans should still be studied closely during the design review process.
- **Avoid Displacement of Low-Income Residents.** Mixed-use developments can significantly increase property values in surrounding areas. Including new affordable units in the design will help offset any displacement of low-income residents.

## Example: Infill and Recycling

Many communities have scattered empty or under-used parcels. These are usually prime sites for infill development. Infill allows the local agency to take advantage of existing infrastructure (although sometimes it may need to be upgraded) to support new development. Infill sites are often particularly suited for affordable housing projects because of their proximity to existing jobs and services. Again, the architectural design will often be critical to gaining acceptance from neighboring property owners. In other cases, the neighborhood will welcome the project as part of a revitalization plan.

## **Example: Affordable Housing Overlay Zones (AHOZ)**

Affordable housing or zoning overlays are a zoning tool that allows jurisdictions to modify existing zoning to allow for, or require, certain types of residential development, or development at certain densities, on a parcel without modifying the standards of the underlying zoning district.

Usually, they have specific requirements and conditions (e.g., a percentage of the development must be deed-restricted as affordable to lower income households for a specific number of years) that must be met in order for a developer to take advantage of the overlay.

These are often combined with incentives to encourage developers to utilize the overlay.

Jurisdictions use overlays to help promote a specific type of development, and to increase densities without having to go through a rezoning procedure on the actual parcel and can be more useful when issues such as density and affordable housing become contentious. Key things to keep in mind when developing and implementing affordable housing overlay zones to make them more effective include making sure there are no additional discretionary actions needed beyond what is required of the base zoning and the development standards do not constrain a project from achieving the maximum density that the zone allows.

## Allowing for a Variety of Housing Types

Providing various housing types can promote affordability, accommodate various types of families and individuals and create a more diversified community both in income and familial makeup. Additionally, California State Law<sup>6</sup> requires that the housing element provide zoning for variety of different housing types.

| Housing Type                      | Description                                                                                                                                                                                                                                                                                                                                                                                                                           | Population                                                                                                                                                                                                                                                                                 |
|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ADUs (second units, granny flats) | An ADU is a secondary unit with a complete independent living facility. California has passed several laws making it easier and more affordable to build ADUs. For example, jurisdictions must permit ADUs in any zones that allow for residential uses.                                                                                                                                                                              | <ul style="list-style-type: none"> <li>• Persons with disabilities</li> <li>• Seniors and seniors aging in place</li> <li>• Large joint families</li> <li>• People experiencing homelessness</li> <li>• Any individual</li> <li>• People with lower incomes</li> <li>• Students</li> </ul> |
| Multifamily                       | Multifamily housing can range from duplexes to fourplexes or multiple units in an apartment building that provide an affordable option to varying circumstances and income levels.                                                                                                                                                                                                                                                    | <ul style="list-style-type: none"> <li>• Persons with disabilities</li> <li>• Seniors</li> <li>• Families</li> <li>• Female headed households</li> <li>• People experiencing homelessness</li> <li>• People with low and moderate incomes</li> </ul>                                       |
| Transitional housing              | Housing that helps move people experiencing homelessness into permanent housing. Individuals live in this type of housing for a set period of time and are provided with services to help them transition to living independently. State law requires jurisdictions to treat transitional housing as a residential use and subject to only those restrictions that apply to other residential uses of the same type in the same zone. | People experiencing homelessness                                                                                                                                                                                                                                                           |

6 Government Code Section 65583 and .2

| Housing Type                                                    | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Population                                                                                                                                                                                                                                                    |
|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Supportive housing                                              | Provides permanent housing to people who were experiencing homelessness and includes wrap around services to support the individual including mental and medical health benefits, career services, skills training, substance disorder counseling, etc. State law requires that supportive housing is treated as a residential use and only subject to the same restrictions that apply to other residential uses of the same type in the same zone. In addition, supportive housing meeting specific criteria, must be permitted by-right in zones where multifamily and mixed uses are permitted. | <ul style="list-style-type: none"> <li>• People experiencing homelessness</li> <li>• Persons with disabilities, individuals</li> <li>• Families with overlapping issues including substance abuse disorders, chronic illnesses, disabilities, etc.</li> </ul> |
| Farmworker housing                                              | Housing options for farmworkers include migrant centers, multifamily units, SROs and employee housing located on agriculturally zoned land. Specifically, jurisdictions must allow employee housing for 6 or fewer as a single family use and housing consisting of 36 beds or 12 units as an agricultural use wherever agricultural uses are allowed.                                                                                                                                                                                                                                              | Seasonal and permanent farmworkers                                                                                                                                                                                                                            |
| Single Room Occupancy (SROs)                                    | Small independent units that might be provided through converted hotels/motels or apartment buildings.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <ul style="list-style-type: none"> <li>• People experiencing homelessness and low-income individuals</li> </ul>                                                                                                                                               |
| Manufactured housing <sup>7</sup> and mobile homes <sup>8</sup> | Manufactured, factory-built homes and mobile homes provide affordable and unique housing options. They can be built at lower costs in comparison to a typical single-family home.                                                                                                                                                                                                                                                                                                                                                                                                                   | All incomes categories                                                                                                                                                                                                                                        |
| Emergency shelters                                              | Temporary shelters with beds and some supportive services including case managers. All jurisdictions must have at least one zone permitting emergency shelters by right.                                                                                                                                                                                                                                                                                                                                                                                                                            | People experiencing homelessness                                                                                                                                                                                                                              |
| Low Barrier Navigation Centers (LBNC)                           | LBNC incorporates best practices that reduce barriers to entering shelters such as allowing pets, providing storage for personal items and privacy. LBNC must be a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses.                                                                                                                                                                                                                                                                                                                                  | People experiencing homelessness                                                                                                                                                                                                                              |

7 “Manufactured home,” means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974.

8 “Mobilehome,” means a structure that was constructed prior to June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected onsite, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation system when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Mobilehome” does not include factory-built housing, a manufactured home, a multifamily manufactured home, or a recreational vehicle

| Housing Type            | Description                                                                                                                                                                                                    | Population                                                                                                      |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| Hotel/motel conversions | Abandoned, underutilized or interested owners can convert hotels/motels into housing through the creation of units and SROs. This can be an extremely cost-effective and efficient way to meet housing demand. | <ul style="list-style-type: none"> <li>• People experiencing homelessness and low-income individuals</li> </ul> |

\*Please see below for applicable zoning and permitting laws for each housing type.

Additional housing types:

- Single family homes including small lot homes
- Townhomes
- Duplexes, triplexes, fourplexes
- Efficiency units
- Tiny homes
- Microhomes



# Other Affordability Strategies: Inclusionary Housing and Density Bonuses

## Inclusionary Housing

Inclusionary housing, also known as inclusionary zoning, require new housing developments to include a certain percentage of affordable units. More than 100 local agencies throughout the state use this strategy. The typical inclusionary ordinance requires that between 10 and 15 percent of all new units be affordable to moderate-, low- or very low-income families. Most ordinances will also offer developers incentives like streamlined permitting, funding from a housing trust fund, or density bonuses to offset the cost of providing affordable housing. In most cases the affordability requirements last for at least 30 years, although some are much longer. Local agencies must monitor the units while the affordability requirement is in effect to ensure that they are rented or resold at affordable rates.

### Things to consider when developing an inclusionary housing policy:

- The percentage of the inclusionary requirement
- Income eligibility criteria for defining affordability
- Pricing criteria for affordable units
- Restrictions on resale and re-rental of affordable units
- Provisions for alternatives to constructing the affordable units, such as in-lieu fees
- Incentives like permit streamlining
- How the program and units created will be monitored and funded
- Design standards that make the affordable units blend in with the surrounding community but still allow the developer to trim some costs
- Inclusionary requirements work best in areas with high costs and high development pressure (e.g. coastal communities). In rural areas where the cost of housing and development pressure tends to be lower, inclusionary requirements can serve as a disincentive to housing development.

## Density Bonuses

Density bonus law is a long-standing feature of state law that has undergone numerous changes over the years while maintaining a consistent framework for providing incentives to affordable housing development through zoning and land use mechanisms. The law provides benefits to developers when they agree to include affordable housing in projects of five units or more. Jurisdictions must have adopted a local density bonus ordinance that meets state requirements. Even without such an ordinance, local agencies must provide developers the benefits entitled under the law.

Under density bonus law, developers are entitled to any or all of the following, at their discretion, if they include affordable units in a housing development project:

- Additional density
- Concessions and incentives

- Waivers or reductions of development standards
- Reductions in parking requirements

In addition, developers must agree to replace certain units that are demolished in conjunction with the project, or that have been demolished on the project site within the last five years. This requirement does not apply to affordable housing projects. Replacement units count towards meeting the affordable housing set-aside requirement to qualify for benefits under the law. Units that must be replaced include:

- Deed-restricted housing affordable to low- and very low-income households
- Rent-controlled housing
- Housing that is or was occupied by low- or very low-income households

## Financing

According to a survey conducted by the Public Policy Institute of California nine out of ten Californians consider housing affordability a problem and one in three Californians are considering leaving the state because of it.<sup>9</sup> As of March 2021, California median home price is \$758,990 while the median income in California is just \$75,000. Additionally, in 2017, almost 55% of renters were either cost burdened or severely cost burdened while 2 in 3 Californians who were cost burdened are also people of color.<sup>10</sup>

Housing, especially affordable housing, is provided in two steps for California. The first step is through land-use planning tools and policies implemented at the local level. The second step is through federal, state and local funding to finance the development.

Many federal, state and local housing programs help finance the development of multi- and single-family homes for affordable to low- and moderate-income Californians. Other programs provide financial assistance directly to renters and homeowners, such as rental assistance from federal Housing Choice Vouchers or state first-time homebuyer down-payment assistance. Additionally, housing programs often target specific “vulnerable” or “special needs” populations. These can include veterans, seniors, persons experiencing homelessness, persons with disabilities or farmworkers.

Due to the high costs of development, funding constraints and competitive program criteria that encourage developers to leverage other funds, rarely does any single housing program provide sufficient resources to fund a complete development. Therefore, developers must apply for, and receive, funding from multiple programs and address each program’s overlapping policy goals along the way. One multi-family development can easily need five to ten funding sources to finance construction and will usually have a combination of financing from state and federal tax credits, state housing programs, local land donation or other local grants, federal housing programs and private loans from financial institutions. Any decline or loss of housing funding sources further exacerbates this issue.

Applying for, and securing, many layers of funding can substantially increase the time it takes to start production. It also increases the difficulty associated with meeting each program’s various requirements. Delays in securing entitlements, building permits and construction along with additional operational costs could account for substantial cost increases and risk of losing affordable funding sources.

In addition to several state funding sources, there some other tools that have been established to assist jurisdictions.

- Affordable Housing Beneficiary Districts<sup>11</sup> - This program allows a jurisdiction to redirect its distribution of property

9 [PPIC Statewide Survey: Californians and Their Government - Public Policy Institute of California](#)

10 [Californians in All Parts of the State Pay More Than They Can Afford for Housing - California Budget & Policy Center \(calbudgetcenter.org\)](#)

11 AB 2031 (Chapter 2031, Statutes of 2016)

tax revenue payable to the city or county from the Redevelopment Property Tax Trust fund to the affordable housing beneficiary district for as long as the successor agency is in existence. The jurisdiction is then authorized to issue bonds against the property tax revenue to provide financial assistance for the development of affordable housing in the form of loans, grants and other incentives.

- Enhanced Infrastructure Financing Districts<sup>12</sup> (EIFDs) – EIFDs are property tax-increment financing districts that enable local agencies to finance community-wide significant improvements and activities, including infrastructure, affordable housing, transit priority and sustainable communities strategies projects, property acquisition, flood control and climate resiliency projects, community facilities, recreation and open spaces, brownfield restoration and military base reuse. Local and community college school districts and county offices of education cannot contribute property tax-increment. Local agencies can form non-contiguous districts, and can use tax-increment revenues to fund the maintenance of improvements financed by the EIFD.
  - Neighborhood Infill Finance and Transit Improvement District (NIFTI) - NIFTIs are a specialized EIFD targeted specifically to affordable housing production and transit improvements in qualified infill areas. Local agencies may contribute incremental sales tax revenue generated within the district. NIFTIs require affordable housing set-asides.
- Community Revitalization and Investment Authorities<sup>13</sup> (CRIA) – CRIAs are a property-tax increment financing tool for local governments to fund various types of economic revitalization programs including low- and moderate-income housing acquire and transfer real property, and provide direct assistance to businesses within the district. All taxing entities, except K-14 schools, within the district must elect to have their tax increment share diverted to the CRIA. At least 25 percent of allocated tax increment revenues must be for affordable housing purposes.

For a comprehensive list of funding sources related to housing: [Housing Funding Tables 4-5-2021 Copy.pdf | Powered by Box](#)

For a centralized website to access all state grant opportunities: [Home - California Grants Portal](#)

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12 SB 628 (2014)

13 AB 2 (2015)

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# Streamlining

Long, complicated, overly subjective or politically charged development procedures discourage the production of new housing. Planning officials can work with developers, the environmental community and neighborhood interests to facilitate project approval without overlooking environmental issues and neighborhood concerns. Promoting one-stop permit processing centers, encouraging pre-application meetings and expediting processing for affordable projects can reduce regulatory barriers to housing development.

Well-meaning local regulatory and policies can sometimes act as an impediment to building housing, especially affordable homes for vulnerable populations. Furthermore, project-by-project review can provide an opportunity for community opposition causing further delays and uncertainty for a project approval. As local governments have been facing competing priorities when approving housing such as community opposition and an incentive to approve sales tax generating development, establishing by right uses and a process has been seen as an effective strategy to secure desperately needed housing while providing builders certainty. Additionally, as part of establishing the by right uses and process, local governments have an opportunity to engage the public in where and how housing should be built which can prevent the project-by-project reviews down the line.

By right is sometimes referred to as “as-of-right.” Additionally, by-right is defined in several other laws related to housing including streamlining under SB 35, supportive housing, emergency shelters, etc. In a by right process or approval, a jurisdiction has limited discretion. When a permitted use is considered by right, the local government may not require a conditional use permit, planned unit development permit or any other discretionary permits or approvals that would constitute a “project” for the purposes of the California Environmental Quality Act (CEQA).

## Accessory Dwelling Units (ADU)

State law encourages the development of accessory dwelling units (ADUs) – formally known as second units, in-law units, granny flats or accessory apartments—in residential neighborhoods.<sup>14</sup> While local agencies are not required to adopt ADU ordinances, all jurisdictions in California must allow for ADUs in areas zoned to allow for residential uses (including commercial, industrial, agricultural and other zones which may allow for residential uses). Local agencies that have adopted ADU ordinances are authorized to regulate ADUs when certain standards are met. Local ordinances cannot ban ADUs entirely within their jurisdiction except where addition of such units could endanger the public’s health and safety (these findings must be made at the time of adopting an ordinance and are subject to HCD review). However, they may impose reasonable limitations, such as designated locations, height limits, density controls, parking standards and architectural review as long as the limitations are consistent with standards set forth in state ADU law.

Once an ADU application meets the standards set in the local ordinance and complaint with state law, the permit must be granted ministerially within 60 days. As ADUs meet the development standards set forth in state ADU law or a local jurisdiction’s ADU ordinance there are no public hearings or environmental reviews allowed. ADU applications are also exempt from local growth control ordinances and are consistent with underlying general plan and zoning for the specific sites. Those local agencies that have not adopted an ADU ordinance must approve projects according to a prescribed set of standards set forth in state law.

Local agencies are encouraged to use ADUs as a strategy to meet their jurisdiction’s Regional Housing Needs Allocation (RHNA). However, jurisdictions must provide reasonable assumptions, based on prior production, for the number of ADUs that can be built in the planning period. Jurisdictions must also have a program in the housing element to incentivize the

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14 [Cal. Gov’t Code § 65852.2.](#)

production of ADUs that can be made available at affordable rents, and a monitoring program to make changes to the approach to meeting the RHNA if ADU production is not meeting the assumptions made. This could include adding suitable sites to the sites inventory.

## Group Homes

Group homes typically serve people with disabilities, adolescents and children and people in recovery. They are an important resource that provides people with disabilities, among other populations, the support they need to live in a community. One of the top challenges persons with disabilities face, is having access to housing choices throughout the community and in all neighborhoods that have residential uses. The Supreme Court<sup>15</sup> held that states are required to eliminate unnecessary segregation of persons with disabilities and to ensure that persons with disabilities receive services in the most-integrated settings appropriate.

State law<sup>16</sup> specifically requires local governments treat licensed group homes and residential care facilities with six or fewer residents no different than other by right single-family housing uses.<sup>17</sup> Local agencies must allow these residential care facilities in any area zoned for residential use and may not require licensed residential care facilities for six or less to obtain any discretionary permits or approvals that differ from similar residential uses. Additionally, regulating group homes based on disability status and non-related individuals is a violation of fair housing laws, therefore local governments cannot impose stricter zoning, building and safety standards than other residential uses. To further reduce constraints on providing housing for people with disabilities, jurisdictions definition of family should not make distinctions between related and unrelated persons. Lastly a local government should not impose stricter requirements or discretionary permits when zoning for groups homes of seven or more. Ultimately, residential care facilities for seven or more should be allowed ministerially and only subject to those requirements that apply to the residential uses of the same type in the same zone.

## Transitional and Supportive Housing

Transitional housing is a type of supportive housing used to facilitate the movement of people experiencing homelessness into permanent housing. A person experiencing homelessness may live in a transitional apartment for a predetermined period of time, however not less than six months while receiving supportive services that enable independent living. Supportive housing is a type of housing that combines affordable units with wrap around supportive services to address the needs of people that have been chronically experiencing homelessness. Supportive housing provides special needs population with long-term, safe and stable housing while also providing easily accessible services such as health care, treatment and employment services. Supportive housing is a critical strategy needed to end chronic homelessness and help people achieve long-term housing. Additionally, research shows that supportive housing is a cost-effective solution as it can lower public costs associated with the use of emergency services such as shelters and hospitals.<sup>18</sup>

Jurisdictions must permit transitional and supportive housing as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. [footnote (Government Code Section 65583(a)(5))] In other words, transitional housing and supportive housing are permitted in all zones allowing residential uses and are not subject to any restrictions (e.g. occupancy limit) not imposed on similar dwellings (e.g. single-family homes, apartments) in the same zone in which the transitional housing and supportive housing is located. For example, transitional housing located in an apartment building in a multifamily zone is permitted in the same manner as an apartment building in the same zone and supportive housing located in a single-family home in a single-family zone is permitted in the same manner as a single-family home in the same zone.

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15 Olmstead v. L.C., 527 U.S. 581 (1999)

16 Health and Safety Code Sections 1267.8, 1566.3, 1568.08

17 Six or fewer does not include operator, operator's family or persons employed as staff

18 [Permanent Supportive Housing - National Alliance to End Homelessness](#)

In addition, AB 2162<sup>19</sup> streamlines and expedites the approval of supportive housing. Specifically, AB 2162 requires that affordable housing projects that include at least 25 percent or 12 units, whichever is more, of supportive housing be a use by right in zones where multi-family and mixed uses are permitted, including non-residential zones permitting multi-family uses. Supportive housing as a use by right<sup>20</sup> means that the local governments review of the owner-occupied or residential use may not require a conditional use permit (CUP), planned unit development (PUD) or other discretionary local government review or approval that would constitute a “project.”<sup>21</sup> Additionally, the legislation requires a local government to approve, within statutory timelines, a supportive housing development that complies with specified criteria. Lastly, transitional and supportive housing must be considered a residential use, and subject to only those restrictions that apply to other residential dwellings of the same type in the same zone.

## Emergency Shelters and Low Barrier Navigation Centers

Senate Bill 2 (SB2), passed in 2008<sup>22</sup> requires that local governments identify a zone where emergency shelters are allowed as a by right use (with no discretion).

Assembly Bill 101 (AB 101), passed in 2019, requires local governments to permit low barrier navigation centers (LBNC) as a use by right in areas zoned for mixed use and nonresidential zones that permit multifamily uses if the center meets specific criteria.<sup>23</sup> A LBNC is defined as a housing first, low barrier, temporary, service-enriched shelter focused on helping people and families experiencing homelessness quickly obtain permanent housing. This strategy is focused on making it easier for people to access shelter and permanent housing while providing any needed resources.

## Affordable Housing Developments

Senate Bill 35 (SB 35)<sup>24</sup>, was passed in 2017 as part of a 15-bill housing package targeted at addressing the state’s housing shortage through regulatory reform and funding. Local agencies that have not permitted enough housing to meet their RHNA allocation during the housing element planning period are required to provide a streamlined ministerial approval process for certain developments that meet specified criteria. As such, developers have the option to apply for a ministerial approval rather than a discretionary approval. In order to qualify for this option, the proposed development must have a certain percentage of affordable units and must meet objective development standards already in effect at the time of the application. However, projects that are 10 or less units do not need to include an affordable unit set-aside to be considered an SB 35 project. The proposed project site must not have any environmental constraints as identified in state housing law and the project must pay prevailing wage. The intent with this streamlining legislation, as with many mentioned above, is to expediate and facilitate the construction of housing. SB 35 can be an effective tool to streamline many residential housing projects. However, local agencies are encouraged to establish streamlined processes and remove regulatory barriers for all housing development applications.

## Housing Element Sites

There may be other streamlining provisions and requirements for specific developments depending on how your jurisdiction gained housing element compliance for the 6th cycle and what type of sites the housing element identified to meet the localities RHNA goals.

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19 Chapter 753, statutes of 2018, CA

20 Government code Section 65583.2 (i)

21 “Project” defined for the purposes of Division 13 (commencing with Section 21000) of the Public Resources Code

22 Government Code Section 65583. (a)(4)(5)

23 Government Code Section 65660, 65664, and 65666

24 Government Code Section 65913.4

- Example: Reusing RHNA sites from previous planning periods – if your jurisdiction is reusing vacant sites/parcels to meet the RHNA goals of the 6th cycle planning period that was previously identified in the last two planning periods (4th and 5th) for lower income households, those sites must approve housing by right if the development includes 20% or more of its units as affordable to lower-income households.<sup>25</sup> The same streamlining provision would apply if your jurisdiction was reusing non-vacant sites identified in the last planning period.
- Example: Rezoning to meet RHNA – if your jurisdiction had to include a rezoning program as part of its 6th cycle element to rezone to meet its RHNA goals, sites must be rezoned sites to allow for residential to be permitted by right for developments in which at least 20% of the units are affordable to lower income households.<sup>26</sup>

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25 Government Code Section 65583.2 (c)

26 Government Code Section 65583(c)

## CEQA Streamlining Provisions <sup>27</sup>

Certain types of development such as affordable housing, infill projects and transit-orientated development (TOD) can be exempt from the provisions of CEQA, when the project meets certain criteria. The Governor's Office of Planning and Research (OPR) has prepared technical advisories on the CEQA exemptions available for [housing projects](#) generally and [affordable, transitional and supportive housing](#) specifically.

In some cases, it is possible to streamline CEQA by tiering off of existing environmental analysis. Pursuant to CEQA Guidelines Section 15183, projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified may not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. For additional information on potential tiering options, see CEQA Guidelines Appendix J.

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<sup>27</sup> California Public Resources Code 21000

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# Implementation (Approval, Building and Permitting)

## Community Opposition – Overcoming Local Resistance

Now that you have done the planning (general plan, housing element, specific plans, etc.), set up the zoning and applied the various streamlining options, it's time for implementation. This is the phase where you start reviewing and approving housing development proposals that meet the goals, policies and land use regulations development through the planning phases. The hope and intention is that because local governments engaged the public early during the planning phase and actively worked with the community to set goals on how the community should grow and develop, there would be limited pushback. However, despite local governments working diligently to engage their community and incorporate public feedback through the planning phases, housing proposals may still be met with opposition and pushback.

Community opposition will almost always delay or stop a development that is providing housing to many of your own community members. Affordable housing provides your community members including teachers, firefighters, police officers, public servants, seniors, etc., with much needed housing that helps them thrive. Delays in affordable housing projects can especially be dangerous. Affordable housing developments are subsidized through multiple state, federal and private funding sources and to retain those funding sources, these developers need to adhere to strict timelines. Delays to market-rate projects can create additional costs to the project that may end up being passed on to the resident and making it unaffordable to live in.



Community opposition can take several forms including referendums, ballot measures, opposition at public hearings, project-level CEQA lawsuits, etc. To prevent community opposition, in addition to doing proactive engagement during the planning phases, local governments can implement streamlining measures, by right processes, objective reviews and provide CEQA exemptions that promote a non-discretionary process.

When resident sentiment is a big obstacle to a project, local agencies (or developers) can take a number of actions to engage the public up front. For example:

- **Don't Immediately Dismiss Opponents as NIMBYs.** It is easy fall into the trap of assuming that all opposition derives from a self-interested “not in my back yard” (NIMBY) attitude. This can be avoided by analyzing opponents’ arguments. Individuals and neighborhood groups often raise legitimate concerns about projects that should be taken into account. Nevertheless, there are some groups who just want to stop any kind of affordable housing project, regardless of the benefit to the community.
- **Consult with the Community in Advance.** Seek the community’s views on the design of the project, both in the neighborhood in which the project will be built and in adjacent neighborhoods.
- **Be Prepared to Educate.** People often have negative stereotypes of who will live in affordable housing and what it will look like. A quality education program can show what the design will look like and the typical occupations— such as teachers, public safety officers, retail clerks and service workers—of the people who will occupy the units. The local agency should look for opportunities to educate residents well in advance of a proposed housing project. The revision and adoption of the housing element presents an excellent opportunity to engage and educate residents about the need for, and benefits of, affordable housing. The agency could also organize or participate in housing tours and affordable housing events that showcase quality housing projects and include testimonials from the residents of the housing and from residents who previously opposed such projects.
- **Develop Partnership and Networks.** Initiate and support partnerships among stakeholders. Connect project applicants with neighborhood groups and community-based organizations during the planning process and encourage them to work through their concerns. Engage the business community in efforts to promote an adequate housing supply.

## Limited Authority to Deny Housing Projects

### Housing Accountability Act

State law can limit a local agency from denying a housing development project. Specifically, the Housing Accountability Act (HAA)<sup>28</sup> establishes parameters around a jurisdiction’s ability to deny or reduce the density of a housing development project, emergency shelter or farmworker housing when they are consistent with objective development standards and contribute to meeting housing needs.

The Housing Accountability Act (HAA) was originally enacted in 1982 to address local opposition to housing, especially affordable housing and the multiple levels of discretionary review that would result in preventing or delaying a development. This is sometimes referred to as the anti-NIMBY law because it is designed to limit local agency discretion to reject a project that may generate significant neighborhood opposition.

Over the years, the HAA has been strengthened to address the state’s housing crisis, including:

- The agency must provide documentation based on a preponderance of the evidence to legally defend its denial of housing development projects.
- Requires courts to impose a fine of \$10,000 or more per unit on local governments that fail to legally defend their

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28 Government Code Section 65589.5

rejection of an affordable housing development.

- A reasonable person must determine conformance with local land use requirements.

State law prohibits a local agency from denying an affordable housing project—or conditioning it in a way that makes the project infeasible—unless one of the following findings can be made (and supported by preponderance of the evidence):<sup>29</sup>

- The agency has a valid housing element and has met or exceeded development of its share of the RHNA in all income categories proposed in the housing development project.
- The project would have a specific adverse impact on the public health or safety that could not be mitigated without rendering the project unaffordable.
- The action is required under federal or state law and there is no feasible method to comply with that law without rendering the project unaffordable.
- The approval would increase the concentration of low income households in an area that already has a disproportionate number of lower-income households.
- The project is proposed on land zoned for agriculture or resource preservation and is surrounded on two sides by land being used for such purposes.
- The application was inconsistent with both the zoning ordinance and general plan when it was deemed complete and the jurisdiction has a valid housing element.

For housing that does not meet the definition affordable housing project, state law also prohibits a local agency from denying or imposing a condition that the project be developed at a lower density if a project is consistent with objective development standards —unless one of the following findings can be made (and supported by substantial evidence):

- The housing development project would have a specific, adverse impact upon the public health or safety.
- There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

For purposes of the HAA a “specific, adverse impact” means a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies or conditions as they existed on the date the application was deemed complete. Pursuant to Government Code section 65589.5 (a)(3) it is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety arise infrequently.

Please note, the jurisdiction must provide written notification to the developer if a project is not consistent with objective development standards within 30 days of an application being deemed complete for projects containing 150 or fewer units, or 60 day of an application being deemed complete for projects over 150 units. Failure to provide written documentation within the timeframes results in the project being deemed consistent with applicable standards.

## Other Affordable Housing Laws

The Legislature has adopted a number of other laws that limit local agency authority to deny or condition projects that include affordable units:

- **Least-Cost Zoning Law.** The least-cost zoning law requires local agencies to zone sufficient vacant land to meet the housing needs of all segments of the population, including low- and moderate-income households (some exceptions apply to urban or built-out communities).<sup>30</sup> The law also requires that the zoning standards adopted by local agencies

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29 Government Code Section 65589.5

30 Cal. Gov’t Code § 65913.1.

allow for the production of housing at the lowest possible cost. There are penalties for noncompliance, including a court order to approve applications related to the zoning deficiency. In one case, a court found that a city had to approve all development applications for a certain type of development—homeless shelters— until it complied with the least-cost zoning law.<sup>31</sup>

- **Local Agency Bears Burden of Proof.** A local government is tasked with making findings or determinations based on “substantial evidence.” Under the substantial evidence standard, local government is merely required to find reasonable, adequate evidence in support of their findings, even if the same or even more evidence supports a finding to the contrary. Findings or determinations based on a “preponderance of the evidence” standard require that local governments weigh the evidence and conclude that the evidence on one side outweighs, preponderates over, is more than the evidence on the other side, not necessarily in the number or quantity, but in its convincing force upon those to whom it is addressed<sup>9</sup>. Evidence that is substantial, but not a preponderance of the evidence, does not meet this standard
- **Limited Authority to Adopt Moratorium.** A local agency may generally adopt a temporary moratorium on certain types of development. That authority is limited when applied to development projects that devote one third or more of the square footage to multi-family housing. An agency may adopt a 45-day moratorium on such projects on a four-fifths vote of the governing body, but any attempt to extend the moratorium requires the agency to make findings supported by substantial evidence that: (1) approval of such projects would have a specific, adverse effect on the health and safety of the community; (2) the moratorium is necessary to avoid that impact; and (3) there is no other feasible alternative to mitigate the impact.<sup>32</sup>

## SB 330, Housing Crisis Act of 2019

The Housing Crisis Act of 2019<sup>33</sup> strengthens protections for housing development projects under the Housing Accountability Act (HAA), Planning and Zoning Law and the Permit Streamlining Act. The provisions set forth under SB 330 sunset in 2030.

A housing developer has the option of submitting a “preliminary application” for any housing development project. Submittal of a preliminary application allows a developer to provide a specific subset of information on the proposed housing development before providing the complete information required by the local government. Upon submittal of an application and a payment of the permit processing fee, a housing development project is subject only to the ordinances, policies, standard or any other measure (standards) adopted and in effect when a preliminary application was submitted. The project applicant then has 180 day to submit a full application.

For affected cities and counties, the Housing Crisis Act provides the following:

- Generally (with specified exceptions) cannot change the general plan land use designation, specific plan land use designation, or zoning of a parcel, or parcels, of property to a less intensive use or reducing the intensity of land use, unless it offsets that decrease through a concurrent increase on another parcel.
- Cannot impose or enforce design standards adopted after 2020 that are not objective.
- Cannot enforce any moratoriums or similar restrictions without gaining permission from HCD.
- No growth caps or controls that limit or cap the number of land use approvals or permits for housing approvals or construction except under certain provisions.
- No population caps except under certain provisions.
- Replacement requirements for housing being demolished.

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31 Hoffmaster v. City of San Diego, 55 Cal. App. 4th 1098 (1997)

32 Cal. Gov’t Code § 65858(c)

33 Chapter 654, Statutes of 2019 (SB 330)

## No Net Loss

The No Net Loss Law ensures that jurisdictions do not take any actions that reduce the potential capacity for new developments on their housing element sites. Further it requires that local governments have sufficient adequate sites available at all times during RHNA planning period.<sup>34</sup> As such, if jurisdictions are considering modifying development standards, revising densities, limiting development on RHNA sites, or downzoning, they should be mindful about triggering the No Net Loss Law. Additionally, if the jurisdiction finds that there is a shortfall of sites to accommodate its remaining RHNA, the jurisdiction must take specific actions to correct the shortfall by either amending its housing element to include additional sites or rezone new sites. Failure to comply with the provisions of No Net Loss Law is also a violation of housing element law and HCD can revoke housing element compliance and/or refer the violation to the Attorney General.

Key points to remember:

- Any change in development standards resulting in less density, denial of a project or downzoning could trigger No Net Loss. If a jurisdiction downzones a lower- or moderate-income housing element site or approves a development on a lower income site at a lower density or higher income level than what was assumed for the site in the inventory, it must make written findings supported by substantial evidence.
- If a jurisdiction cannot make specific written findings and still reduces the density or capacity of the site, it must identify or rezone an additional site with an equal or greater residential density.
- If an approval of a development project results in fewer units by income category than identified in the jurisdiction's housing element for that parcel and the jurisdiction does not find that remaining sites in the housing element area adequate to accommodate the jurisdictions RHNA it must identify and make adequate sites available, including any rezoning within 180 days.

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<sup>34</sup> Government Code Section 65583, subd (a)(3)

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## Other Topics

California’s housing crisis is a half century in the making. Decades of underproduction underscored by exclusionary policies have left housing supply far behind need and costs soaring. As a result, millions of Californians, who are disproportionately lower income and people of color, must make hard decisions about paying for housing at the expense of food, health care, childcare and transportation—one in three households in the state don’t earn enough money to meet their basic needs.

### Statewide Housing Plan

The Statewide Housing Plan is a living, comprehensive roadmap that tracks California’s progress toward the state’s current goal of 2.5 million homes needed over roughly eight years to create a more affordable, equitable California for all. It will take a concerted, collaborative effort statewide to effect change. The Statewide Housing Plan guides the state, local governments, and housing partners to continue to address multiple challenges quicker and to track efficacy.

Access the plan here: <https://statewide-housing-plan-cahcd.hub.arcgis.com/>

### Affirmatively Furthering Fair Housing (AFFH)

#### Definition

Affirmatively Furthering Fair Housing (AFFH) means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, 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. The duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development.

In short, AFFH means that local jurisdictions need to take concrete, meaningful steps to dismantle the legacy of segregation and unequal housing opportunity in California.

Housing is a key determinant in whether or not people have the resources to live healthy lives and achieve their full potential. Land use policies and planning often translate into the ability of families to access neighborhoods of opportunity, with high-performing schools, greater availability of jobs that afford entry to the middle class and convenient access to transit and services. The limits on housing choice and access experienced by people within protected classes, such as race, sexual orientation or disability, have far-reaching impacts on access to job opportunity, quality education and mental and physical health.

Residential segregation and exclusion, whether by race, ethnicity, disability or income, is a result of numerous housing

policies, practices and procedures—both public and private—that have had enduring and pervasive negative impacts. Overt and covert housing discrimination through land use policy, shifting housing markets and patterns of investment and disinvestment, have restricted meaningful fair housing choice and equitable access to opportunity, particularly for communities of color. Historic patterns of segregation persist in California despite the long-standing federal mandate, established by the Fair Housing Act of 1968 (FHA), that federal agencies and federal grantees affirmatively further the purposes of the FHA.

Although federal mandates prohibit overt forms of discrimination in housing, forces driving residential segregation have persisted, sometimes taking on new forms to achieve the same discriminatory ends. Racially explicit practices were subtly replaced by race-neutral methods to exclude people of color from predominantly white neighborhoods. Over time, single-family zoning emerged and replaced race-based zoning as a tool for segregating communities by restricting more affordable housing options, such as apartments or condominiums. Exclusionary zoning policies have made it difficult for lower-income residents to access certain communities and in turn has had a discriminatory effect on protected characteristics such as race, disability and familial status. Furthermore, federal, state and local subsidized programs failed to construct affordable housing in high-resource neighborhoods, which are disproportionately white, thereby reinforcing the spatial segregation of low-income communities of color.

To address these conditions, Assembly Bill 686 (AB 686), signed in 2018, establishes an independent state mandate that expands the duty of all California's public agencies to affirmatively further fair housing. With the passage of AB 686, state and local public agencies are required to affirmatively further fair housing through deliberate action to explicitly address, combat and relieve disparities resulting from past and current patterns of segregation to foster more inclusive communities. Now, all public agencies must both (1) administer programs and activities relating to housing and community development in a manner that affirmatively furthers fair housing, and (2) take no action inconsistent with this obligation. These new statutory obligations charge all public agencies with broadly examining their existing and future policies, plans, programs, rules, practices and related activities and make proactive changes to promote more inclusive communities.

Importantly, AB 686 also creates new housing element requirements applying to all housing elements due to be revised on or after January 1, 2021. These requirements include an assessment of fair housing practices, an analysis of the relationship between available sites and areas of high or low resources, and concrete actions in the form of programs to affirmatively further fair housing. The purpose of this assessment and analysis is to replace segregated living patterns with truly integrated and balanced living patterns and to transform racially and ethnically concentrated areas of poverty (R/ECAP) into areas of opportunity. Some of the ways local jurisdictions can fulfill their obligation to affirmatively further fair housing is through strategies and actions that:

- Enhance mobility strategies and promote inclusion for protected classes,
- Encourage development of new affordable housing in high-resource areas,
- Implement place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and
- Protect existing residents from displacement.

These actions, taken together, must significantly address 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, fostering and maintaining compliance with civil rights; and must affirmatively further fair housing.



# AB 686

Expands and protects duty to affirmatively further fair housing (AFFH) in CA

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All public agencies required to administer programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with this obligation.

2

## New Housing Element Requirements

*\*Applies to housing elements due to be revised on or after January 1, 2021*



### Outreach

A diligent effort must be made to equitably include all community stakeholders in the housing element public participation process.



### Assessment of Fair Housing

All housing elements must include an assessment of fair housing within the housing needs section. This assessment should include an analysis of fair housing issues in the jurisdiction including existing segregation and inclusion trends and current fair housing practices.



### Sites Analysis

Local jurisdictions must evaluate and address how particular sites available for development of housing will meet the needs of households at all income levels and will AFFH by replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity.



### Priorities, Goals, and Actions

Based on findings from the needs assessment and the site inventory analysis with respect to AFFH, local jurisdictions will assess contributing factors to fair housing barriers and adopt policies with programs that remediate identified fair housing issues and/or further promote fair housing.

# Homelessness

California has multiple crises including a housing shortage, affordability crisis and as a result, a homelessness crisis. California has an estimated 161,548 persons experiencing homelessness.<sup>35</sup> Additionally, 26% of the total homelessness population is located in California, the highest percentage in comparison to all states.<sup>36</sup> As of 2021, California has made a commitment to invest \$12 billion to address homelessness.<sup>37</sup> While the topic of homelessness can be very complex, the high cost of housing in California is a significant factor in the state's homelessness crisis. The high cost of living in California come from a combination of land and construction prices and increasingly complex and difficult land use and entitlement processes. Furthermore 80.6% of low-income households are either cost burdened or severely cost burdened.<sup>38</sup> People experiencing homelessness range in populations and demographics. Of the roughly 161,548, Californians experiencing homelessness, 8,030 were families, 11,401 were veterans, 12,172 were unaccompanied young adults and 51,785 were individuals.<sup>39</sup>

Building a more affordable supply of housing units can drastically help reduce the number of families and persons experiencing homelessness in California.

## Prohousing

In July 2021, HCD launched the Prohousing Designation Program (PDP), which recognizes local jurisdictions that go above and beyond in ensuring Californians can have safe, affordable homes in vibrant, inclusive and sustainable communities. In response to the state's housing crisis, the Legislature enacted the 2019-2020 Budget Act (AB 101), which authorized HCD to award cities and counties with additional incentives in the form of funding opportunities.

Local jurisdictions that adopt local policies to facilitate the planning, approval and construction of housing beyond state law can apply to receive the designation. Once a jurisdiction receives the designation from HCD, it receives bonus points or preference when applying for funds from the following programs: the Infill Infrastructure Grant (IIG), the Affordable Housing and Sustainable Communities (AHSC) program and the Transformative Climate Communities (TCC) program. All three programs include local governments and agencies as applicants or co-applicants with affordable housing developer partners. As program implementation continues, HCD will expand the list of housing and non-housing funding sources to provide further incentives to Prohousing jurisdictions.

Examples of Prohousing policies include promoting greater density by including multi-family housing such as triplexes to fourplexes, up-zoning in locations near jobs and transit in order to reduce vehicle emissions and creating more homes in places of high opportunity for low-income families. Compliance with state housing laws is a threshold requirement for achieving and maintaining a Prohousing Designation.

PDP represents a two-year long collaborative process in which HCD engaged stakeholders from across the state in program design and implementation, including a robust public input process to establish emergency regulations. Ultimately, PDP is an exciting opportunity for local jurisdictions to reap the benefits of being "Prohousing," - access to funding streams that are competitively awarded and often oversubscribed.

Apply now! HCD is accepting and reviewing applications on a rolling basis. For more information, including access to the application and emergency regulations outlining the Program, please visit: <https://www.hcd.ca.gov/community-development/prohousing/index.shtml>. In addition, HCD will be receiving applications, soliciting feedback, and providing ongoing technical assistance to applicants via email: [ProhousingPolicies@hcd.ca.gov](mailto:ProhousingPolicies@hcd.ca.gov).

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35 United States Interagency Council on Homelessness

36 United States Interagency Council on Homelessness

37 [CA Comeback Homelessness Plan](#)

38 [Californians in All Parts of the State Pay More Than They Can Afford for Housing - California Budget & Policy Center \(calbudgetcenter.org\)](#)

39 [Homeless in California Statistics 2018. Homeless Estimation by State | US Interagency Council on Homelessness \(usich.gov\)](#)

# Design Standards

Design standards assure better looking projects that fit with the neighborhood. Design standards function like development standards (e.g. setbacks, maximum heights, etc.) but exist purely to regulate for aesthetic reasons. Design standards can specify a wide variety of design requirements such as roof material and pitch, façade materials, architectural projections, etc. In the past, aesthetics was commonly regulated by subjective design guidelines that had to be interpreted by a regulatory body. While design guidelines offered a high degree of flexibility, they were cumbersome to administer and often required numerous meetings and project redesigns before a final design was agreed upon by the local agency. Those factors drove up the costs of development by extension, the cost of housing.

## Compact Housing: The New American Dream?

- Lower housing and transportation costs
- Living near town and neighborhood centers
- Living close to where the action is: restaurants, cafes, different housing types
- Developments sometimes include pools, daycare, and protected play areas
- Neighborhoods are more friendly to pedestrians and bicyclists
- Greater sense of community

Design standards, in contrast, provide objective requirements and options for developers. In doing so, a developer is able to design a project that meets the communities pre-determined architectural desires and create a design compatible with the existing neighborhood. Design standards provide flexibility by providing options to the developer, who can choose which option fits best in a given situation. For example, a design may incorporate balconies in lieu of a certain ratio of windows on a given building façade. By including options by right in the development code, designs can be adjusted for the wide variety of development sites in the community.

Recent legislation requires objective design standards in some instances. To address the housing shortage, SB 35 and SB 330 require projects to be reviewed against objective design standards. All communities interested in regulating aesthetics should consider initiating a community planning process to establish objective design standards. For example, a community that takes pride its mission style architecture could require red tile roofs of a certain pitch in some areas. Existing design guidelines can often be converted into design standards relatively easily. The new design standards can carry forward important elements from the design guidelines. The adoption of design standards also presents an opportunity to exempt projects from review by a Design Review Commission – and powerful Prohousing gesture likely to inspire confidence in developers.

# Planning Integration Concepts

## Alignment with State Planning Priorities: Balancing Housing Growth with Climate Goals

California's Planning Priorities are outlined in government code section 65041.1 and are intended to promote equity, strengthen the economy, protect the environment and promote public health in all communities across the state. More specifically, they ensure that planning policies and programs promote infill development near jobs, transit and infrastructure, protect natural and working lands and promote compact and efficient development outside infill in order to minimize ongoing costs to taxpayers. The strategic development of housing, in alignment with State Planning Priorities will ensure for balanced growth and a climate resilient development pattern.

Aligning climate and housing objectives can be achieved by promoting compact and infill development wherever possible. The California Air Resources Board has determined that reducing vehicle miles traveled (VMT) is one of a many strategies that achieves greenhouse gas reduction targets. Doing so reduces sprawl and thus reduces greenhouse gas emissions, while protecting natural and working lands and balancing jobs and housing land uses. Compact development reduces increased costs to taxpayers by avoiding the development of costly new roads and infrastructure that need to be maintained over time. While the development/maintenance to support infill or new development is outside the realm of singular housing development, there are many innovative tools codified in state law that facilitate infrastructure finance to support housing. See chapter 3 on development agreements, and chapter 11 on tax increment finance tools for more information.

## Consistency and Integration of Housing Element with Other General Plan Elements

The housing element may be the only element that has regulatory oversight by the state, but it needs to be horizontally consistent with other planning elements and vertically consistent with the general plan and with any programs, plans or overlay zones that implement the general plan. Doing so requires that each housing decision before the planning commission is in alignment with the general plan and corresponding implementation programs.

Another key point to be aware of are the statutory laws that integrate the housing element with other planning elements and regional plans. Below are a set of statutory laws to be aware of in order to understand how other planning elements or regional plans are connected to the housing element update and regional housing needs assessment and to ensure local plans are updated in compliance with state law. Some general plan elements are triggered upon the adoption of the housing element. For example, many communities must address the topic of wildfire following the next housing element update, pursuant to SB 1241 (2012). Additionally, all communities must update their safety element to address climate adaptation, resilience and evacuation routes. Because climate adaptation, resilience, wildfire and evacuation routes are closely related, jurisdictions are encouraged to holistic approach to addressing these requirements in a integrated manner.

- Effective 2014, after a housing element update, the safety element should be updated to include wildfire requirements per SB 1241.
- Effective 2017, general plans must be updated to integrate climate adaptation, depending on whether or not they have a Local Hazard Mitigation Plan, or effective 2019, must integrate climate adaptation into the general plan after a housing element update, per SB 379.
- Effective 2018, when two or more elements are updated concurrently, jurisdictions must create an environmental justice element or incorporate environmental justice principles into all other planning elements per SB 1000.
- Effective 2020, after a housing element update the safety element should be updated to incorporate at least two emergency evacuation routes per SB 99.
- Effective 2022, upon revision of a local hazard mitigation plan (LHMP) or if no LHMP, the safety element must be updated to identify evacuation routes and their capacity, safety and viability under a range of emergency scenarios.
- SB 375 mandates that the Regional Housing Needs Assessment process is aligned with the sustainable communities strategy and reduces greenhouse gas emissions by 40% by 2030 and by 80% by 2050.

## Anti-Displacement

Preserving housing opportunities in areas close to transit, jobs, high-performing schools and services helps prevent displacement of existing residents and increases access to opportunity for low-income households that might not otherwise be able to afford to live in these locations. Displacement is involuntary residential migration resulting from increased rents, pressure from property owners, demolition of housing, conversion of units from rental to ownership uses or from deed-restricted to market-rate, or evictions. Displacement does not include voluntary migration to other areas and housing choices.

Transit and job-rich communities in California tend to overlap with high-cost coastal and job-dense areas, making them even

less affordable. However, when households have to move further away from job and transit rich areas to find more affordable housing options, the consequence comes in the form of higher transportation costs, long commute times, more vehicle miles traveled (VMT) leading to emitting greater greenhouse gas emissions (GHG) in the environment.

The UC Berkeley Urban Displacement Project documented that displacement “is occurring in 48 percent of Bay Area neighborhoods, divided almost evenly between low-income and moderate/high-income neighborhoods.” The project’s findings further noted that, “more than half of low-income households, all over the nine-county region, live in neighborhoods at risk of or already experiencing displacement and gentrification pressures.” The study documents how losses of naturally occurring affordable housing units exceed the concurrent growth of low-income households between years 2000-2013. The Urban Displacement Project’s work has been extended to the Los Angeles area where it is uncovering similar trends.<sup>40</sup>

As a further example, a recent research brief on displacement from UC Berkeley included a case study focused on a San Francisco neighborhood near Civic Center BART station and found that “both market-rate and subsidized housing development can reduce displacement pressures, but subsidized housing is twice as effective as market-rate development at the regional level.”

In addition to new construction, preserving deed-restricted and naturally occurring affordable housing can support affordable housing supply goals for California as well as curb displacement pressures.

## Preserving Affordable Housing

Many local agencies face the added challenge of preserving their existing stock of affordable housing. In some cases, affordable housing units transition to market-rate units, convert to other uses or disappear from the housing stock because of serious substandard conditions. Sometimes the loss of affordable units is market-driven. In other cases, it results from termination of the rent subsidy or prepayment of the mortgage assistance (most programs only impose affordability requirements for 20 to 55 years). In these circumstances—where local plans have to make up for lost units—local agencies feel even more pressure to increase production of affordable housing. To avoid this situation, many communities have started programs to keep units affordable. Typical methods include:

- Using affordable housing trust funds and other funds to purchase affordable units and turn them over to a land trust or authority to operate.
- Imposing conversion controls on mobilehome parks or single residency occupancy hotels (SROs) that provide important sources of affordable housing.
- Changing the zoning for mobilehome parks from a conditional use to a permitted use.
- Rehabilitating older or dilapidated housing.
- Monitoring assisted housing units at risk for conversion to non-affordable uses; identifying funding resources to continue the affordable uses; partnering with non-profit housing sponsors and assisting in their purchase of the housing; and in the event the units convert, assisting with tenant relocation and assistance.

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40 [urban\\_displacement\\_project - executive\\_summary.pdf \(urbandisplacement.org\)](#)

# Housing Law Matrix

| Statute                                      | Topic                                                                 | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Target Population (If Applicable) |
|----------------------------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| GC § 65580                                   | <b>Housing Element</b>                                                | Local governments plan for current and future housing needs, including their share of the regional housing need, through the housing element update process. Unlike other parts of the general plan, a housing element must be revised every five to eight years.                                                                                                                                                                                                                                                        |                                   |
| GC § 65584                                   | <b>Regional Housing Needs Allocation</b>                              | The RHNA, established by legislation in 1980, is a process whereby HCD, in consultation with the Department of Finance, projects housing demand by income group to accommodate population growth for all regions of the state. These regions, through their Council of Governments (COG), then determine each city and county's fair share of the housing need. Each jurisdiction's updated housing element must demonstrate enough residential capacity, through adequate zoning, to accommodate this projected growth. |                                   |
| GC § 56000, et seq                           | <b>The Cortese-Knox-Hertzberg Local Government Reorganization Act</b> | Local Agency Formation Commissions (LAFCO) approve annexation requests by local governments. Factors that the LAFCO considers in reviewing annexation proposals include, but are not limited to (Section 56841), population growth, topography, community services, conformity with state policies and priorities, agricultural preserve in open space, consistency with local plans, etc.                                                                                                                               |                                   |
| Cal. Public Resource Code § 75125 GC § 65080 | <b>Sustainable Community Strategy of SB 375</b>                       | In an effort to reduce California's carbon emissions, legislation such as SB 375 required regions to develop a sustainable community strategy plan (SCS) to integrate housing in their transportation plans in a way that encourages infill development and reduces vehicle miles travelled, achieving their greenhouse gas reduction goals. This planning is adopted at the regional level, and while many jurisdictions implement the objectives of the plan, they are not required to do so.                          |                                   |
| GC § 51200                                   | <b>Williamson Act</b>                                                 | Enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural, or related, open space use. In return, landowners receive property tax assessments.                                                                                                                                                                                                                                                                                   |                                   |

| Statute                                                       | Topic                                                                    | Description                                                                                                                                                                                                                                                                                                                                                                                                                       | Target Population<br>(If Applicable)                 |
|---------------------------------------------------------------|--------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| Public Resources Code § 21000 et seq.; 14 CCR § 15000 et seq. | <b>California Environmental Quality Act (CEQA)</b>                       | Requires that decision makers consider the environmental consequences of an action before action is taken. CEQA applies to all discretionary decisions of government, including land-use approvals and public works decision. Where a federal permit is required (as for construction in a wetland or a navigable waterway), compliance with the National Environmental Policy Act (NEPA), 42 USC 4321 et seq., is also required. |                                                      |
| GC § 65913.1                                                  | <b>Least Cost Zoning</b>                                                 | Least Cost Zoning Law requires local governments to zone sufficient land for residential use with appropriate standards in relation to zoning for nonresidential uses, to meet the housing needs of all income groups. Appropriate standards are defined to mean densities and development standards must contribute to the economic feasibility of producing housing at the lowest possible cost.                                |                                                      |
| GC § 65589.5                                                  | <b>Housing Accountability Act (HAA)</b>                                  | The Housing Accountability Act (HAA), establishes limitations to a local government's ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need.                                                                                                   |                                                      |
| Section § 8899.50, GC § 65583 (c)(10) (A)                     | <b>Affirmatively Furthering Fair Housing (AFFH)</b><br><br>AB 686 (2018) | <ul style="list-style-type: none"> <li>• All public agencies must administer programs and activities relating to housing and community development in a manner that affirmatively furthers fair housing as a matter of state law and take no action inconsistent with this obligation.</li> <li>• Housing element must now include additional data, analysis, conclusions and programs on fair housing issues.</li> </ul>         | All people with a special focus on protected classes |

| Statute                                   | Topic                                                                                                | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Target Population (If Applicable)                          |
|-------------------------------------------|------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| AB 1397 (2017)<br>GC § 65583.2            | <b>Site Identification for RHNA</b><br>AB 1397 (2017)                                                | AB 1397 was part of the passage of the 2017 housing package and included several provisions for how jurisdictions are identifying sites for their lower-income RHNA. This includes: <ul style="list-style-type: none"> <li>• Requiring a stronger and more detailed analysis when using non-vacant sites, sites smaller than ½ acre, and greater than 1- acres for LI RHNA.</li> <li>• Reusing sites from prior housing elements are only eligible if they meet the density appropriate for low-income households and allow for by-right development for proposals that include at least 20% of units affordable to lower-income households.</li> </ul> | All people with a special focus on lower-income households |
| GC § 65913.4                              | <b>Streamlining</b><br>SB 35 (2017)                                                                  | Jurisdictions who have not met their RHNA requirements are subject to providing a streamlined ministerial approval process for developments that meet certain criteria. Eligible developments must include a specified level of affordability, be on an infill site, comply with existing residential and mixed-use general plan or zoning provisions, and comply with other requirements such as locational and demolition restrictions.                                                                                                                                                                                                               | All people with a special focus on lower-income households |
| GC § 65941.1, 6659.5(o)                   | <b>Vesting rights and development application</b><br><b>SB 330 – Housing Crisis Act of 2019</b>      | SB 330 allows a housing developer to submit a “preliminary application” to a local agency for a housing development and allows the housing developer to “freeze” the applicable fees and development standards that apply to their project while they assemble the rest of the material necessary for a full application submittal.                                                                                                                                                                                                                                                                                                                     |                                                            |
| AB 101 (2019)<br>GC § 65660, 65664, 65666 | <b>Streamlining – Low Barrier Navigation Centers</b><br>AB 101 (2019)                                | Low barrier navigation centers must be a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | People experiencing homelessness                           |
| GC § 65583                                | <b>Streamlining – Supportive Housing</b><br>AB 2162 (2018)                                           | Supportive housing must be a use by right in zones where multi-family and mixed uses are permitted including nonresidential zones permitting multi-family uses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | People experiencing homelessness                           |
| GC § 65583 (a)(4)(5)                      | <b>Zoning and Permitting – Emergency Shelters, Transitional and Supportive Housing</b><br>SB2 (2007) | Jurisdictions must identify zone(s) where emergency shelters are allowed by right. In addition, transitional housing and supportive housing are considered a residential use of property and subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.                                                                                                                                                                                                                                                                                                                                            | People experiencing homelessness                           |

| Statute                                          | Topic                                                                | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Target Population (If Applicable)                                                                      |
|--------------------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| Health and Safety Code § 1267.8, 1566.3, 1568.08 | <b>Streamlining – Group Homes</b>                                    | Licensed group homes and residential care facilities with six or fewer residents should be treated no differently than other by right single-family housing uses. Local agencies must allow these licensed residential care facilities in any area zoned for residential use.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | People with disabilities                                                                               |
| GC § 65852.2 (j)(1) and (a)(8)                   | <b>Streamlining - ADUs</b>                                           | Accessory Dwelling Units are residential units with complete independent living facilities for one or more persons and must be approved by right. Local agencies must allow for ADUs in all zones which allow for residential uses and are consistent with existing general plan and zoning designations for the lot.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | All persons with a special focus on people with disabilities, seniors, students, large families, etc., |
| California Public Resources Code § 21000         | <b>Streamlining - CEQA</b>                                           | Certain types of development such as some affordable housing, infill projects, or transit-oriented development are exempt from the provisions of CEQA. Streamlining in the form of exemptions or being able to use existing environmental documentation (tiering) when evaluating a project, are available for transportation priority projects (TPPs) that are consistent with the Regional SCS.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | All people with a special focus on lower-income households                                             |
| GC § 65585                                       | <b>Housing Element Enforcement</b><br><br>AB 72 (2017) AB 215 (2021) | <ul style="list-style-type: none"> <li>• Authorizes HCD to find a locality’s housing element out of substantial compliance if it finds the locality has acted, or failed to act, in compliance with its housing element and HCD had previously found it in substantial compliance.</li> <li>• HCD can refer violations of housing element law to the state Attorney General.</li> <li>• HCD can refer violations of the of the following laws to the state Attorney General: <ul style="list-style-type: none"> <li>• Housing Accountability Act</li> <li>• No Net Loss Law</li> <li>• Density Bonus Law</li> <li>• Anti-Discrimination in Land Use Law</li> <li>• Portions of the Permit Streamlining Act</li> <li>• Housing Crisis Act of 2019</li> <li>• Affirmatively Furthering Fair Housing</li> <li>• Streamlined Ministerial Approval Processes</li> </ul> </li> </ul> |                                                                                                        |

| Statute                          | Topic                                       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Target Population (If Applicable) |
|----------------------------------|---------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
|                                  |                                             | <ul style="list-style-type: none"> <li>• By Right Supportive Housing Provisions</li> <li>• By Right Low Barrier Navigation Centers</li> <li>• Attorney General (AG) may seek certain remedies if a court finds that a local government is not substantially compliant with housing element law. Upon such a finding, the court may issue an order directing the locality to bring its housing element into compliance. If the locality fails to comply within a specified period, the court must impose fines starting at \$10,000 per month, up to \$600,000 per month, as specified.</li> <li>• An agent of the court may be appointed to bring the housing element into substantial compliance.</li> </ul> |                                   |
| GC § 65852.3                     | <b>Manufactured Housing and Mobilehomes</b> | Manufactured housing and mobilehomes that are on a permanent foundation must be permitted in the same manner and in the same zones as traditional stick-built structures.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                   |
| Health and Safety Code § 17021.6 | <b>Farmworker/ Employee Housing</b>         | Employee housing consisting of up to 36 beds or 12 units is deemed as an agricultural use and no other permits or zoning clearance is required of this use that is not required of any agricultural use in the same zone.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Farmworkers and employees         |
| Health and Safety Code § 17021.5 | <b>Employee Housing</b>                     | Employee housing providing accommodations for 6 or fewer employees shall be deemed as a single-family structure and considered a residential use. No additional zoning clearance should be required of employee housing that is not required of single-family use of the same type in the same zone.                                                                                                                                                                                                                                                                                                                                                                                                          | Farmworkers and employees         |
| GC § 66300                       | <b>Housing Crisis Act of 2019</b>           | Limits the ability of local governments to, among other things: change the general plan land use designation, specific plan land use designation, or zoning to a less intensive use or reduce the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below that was in effect on January 1, 2018; impose a moratorium or similar restriction or limitation on housing development; or cap the number of housing units that can be approved or constructed.                                                                                                                                                                    |                                   |

| Statute                          | Topic                                                       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Target Population (If Applicable) |
|----------------------------------|-------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
|                                  |                                                             | The HCA also imposes requirements on housing developments that require demolition of housing units, including: replacing protected units, including at least as many units as the greatest number of units that existed on the site within the last five years, and providing relocation benefits and right of first refusal to occupants of protected units that are lower income households.                                                                                                                                                                |                                   |
| GC §§ 65852.21; 66411.7; 66452.6 | <b>SB 9 (2021)</b>                                          | Requires ministerial approval of two primary units on a lot in a single-family zone (i.e. a duplex), a lot split or both. It also extends the life of an approved tentative map up to 24 months or 48 months if certain conditions are met.                                                                                                                                                                                                                                                                                                                   |                                   |
| GC § 65915-65918                 | <b>Density Bonus Law</b>                                    | Local jurisdictions must provide density bonuses and development incentives to developers who propose to construct affordable housing on a sliding scale, where the amount of density bonus and number of incentives vary according to the percentage of units that are affordable to lower- and moderate-income households. If certain conditions are met, incentives, concessions and waivers must be granted to provide relief from development standards (e.g., height, parking requirements, etc.) that might otherwise make the development infeasible. | Lower income households           |
| GC § 65850 et seq.               | <b>Inclusionary Housing Ordinance</b><br><br>AB 1505 (2017) | <ul style="list-style-type: none"> <li>• Local governments may adopt ordinances that require a certain percentage of rental units affordable to lower or moderate-income households</li> <li>• Inclusionary ordinances must provide alternative means of compliance such as, but not limited to, in-lieu fees, land dedication, off-site construction or acquisition and rehabilitation of existing units.</li> <li>• HCD can review economic feasibility studies related to rental housing ordinances.</li> </ul>                                            |                                   |
| GC § Section 7060                | <b>Building – Ellis Act</b>                                 | The “Ellis Act” is a state law which says that landlords have the unconditional right to evict tenants if the landlord removes all of the units in the building from the rental market. The evicted tenants have certain rights including first right of return for a period of 10 years, re-rental must be the same as previous rents for 5-years, and relocation payments must be provided to the tenant.                                                                                                                                                   | Renters                           |

| Statute                  | Topic                                                               | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Target Population (If Applicable) |
|--------------------------|---------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| GC § 65863.10-65863.13   | <b>Preservation Noticing Law</b>                                    | Owners of government-assisted projects must provide tenants, local public agencies and community partners interested in these properties notice when subsidies or rental restrictions expire or are terminated, or when owners opt out, unless specifically exempted. Additionally, owners must send a Notice of Opportunity to Submit an Offer to Purchase to all regionally-interested qualified entities at least 12 months prior to expiration, unless an exemption applies. The owner has an obligation to entertain such offers.                             |                                   |
| GC § Section 54220-54234 | <b>Surplus Lands Act</b>                                            | Local agencies must send notices about available, surplus local public land to HCD, any local public entity within the jurisdiction where the surplus local land is located, and developers who have notified HCD of their interest in developing affordable housing on surplus local public land. Prior to agreeing to terms to dispose of surplus property, local agencies must send a description of notices of availability sent and negotiations conducted, in addition to a copy of any restrictions to be recorded against the property, to HCD for review. |                                   |
| GC § Section 65913.11    | <b>Limitations on Development Standards</b><br><b>SB 478 (2021)</b> | Sets limitations on floor area ratio (FAR) and lot coverage standards that can be imposed on housing projects of 3-10 units within multifamily or mixed-use zones in jurisdictions within an urbanized area or cluster.                                                                                                                                                                                                                                                                                                                                            |                                   |

