

FACT SHEET: HOUSING ELEMENT LAW

11/1/24

Housing Element Compliance

Background

The California State Legislature has made the lack of housing, especially the lack of affordable housing in California, a policy priority in recent legislative cycles. To address this critical issue, several key housing laws aim to increase the enforcement of local governments' housing elements. In particular, Housing Element Law ([Government Code Sections 65580-65589.11](#)) gives the California State Department of Housing and Community Development (HCD) the authority to assess local government actions for compliance with adopted housing elements and Housing Element Law overall. Additionally, the [Housing Accountability Act](#) ([Government Code section 65589.5](#)) limits local governments' ability to deny or reduce the density of housing development projects that comply with existing zoning and general plan standards. A local government's failure to adopt a compliant housing element; take an action inconsistent with an adopted housing element; or failure to implement programs, including a rezoning program, within the housing element could render a City out of compliance with state law and subject to the potential penalties discussed below. With this in mind, if the City does not adopt its rezoning program, which includes the proposed [Citywide Housing Incentive Program Ordinance and Housing Element Sites and Minimum Density Ordinance](#), by February 12, 2025, the City of Los Angeles may be subject to the penalties described in this fact sheet if HCD deems the City out of compliance with state law. Please find more information below on the consequences the City of Los Angeles may face if it violates state housing laws.

What State Housing Element Law requirements must be reflected in the Housing Element Rezoning Program?

Rezoning Sites Requirements

During the Regional Housing Needs Assessment (RHNA) projection period, covering eight years from October 2021 to October 2029, the City of Los Angeles received a RHNA target, including a buffer, of 486,379 residential units. The [2021-2029 Housing](#)

[Element](#), projected the City’s anticipated development would be insufficient to meet the RHNA target. As a result of the shortfall in production, the City is obligated to adopt a rezoning program by February 12, 2025 to create capacity for 255,433 housing units, consistent with the rezoning program outlined in the Housing Element, Low Income Site requirements, and Affirmatively Furthering Fair Housing Requirements.

What are the Consequences of Non-Compliance?

No Net Loss Requirements

Pursuant to [California Government Code Section 65863](#) or No Net Loss Law, a local jurisdiction must have an adequate inventory of sites to accommodate the Regional Housing Needs Allocation (RHNA) for the duration of the applicable planning period (2021-2029 in the case of Los Angeles’ Housing Element). Furthermore, a jurisdiction may not reduce a site’s residential density unless it can make written findings that the remaining sites in the Housing Element sites inventory can accommodate the jurisdiction’s remaining RHNA target. In essence, this means that if the Housing Element and associated Rezoning Program is deemed non-compliant it may limit local authority to issue demolition permits, limit the approval of non-residential projects, and trigger the need to rezone sites if projects propose less than what their site’s density may allow. More information on this can be found in a [memo](#) issued by the California State Department of Housing and Community Development on October 22, 2019.

Loss of Local Zoning Control

[AB 1893](#) (effective January 1, 2025), approved by the Governor of California in September 2024, introduced several amendments to the Housing Accountability Act, [Section 65589.5 of the Government Code](#) which governs a jurisdiction’s zoning authority if a local housing element is deemed non-compliant. If a housing element is deemed non-compliant, the Housing Accountability Act (now including changes adopted through the approval of AB 1893) enables what’s called “builder’s remedy” which limits a jurisdiction’s ability to deny approval of density bonuses (that may be beyond the scale of a site’s surrounding neighborhood) for new affordable and mixed-income housing development projects, regardless of underlying zoning. To qualify for “builder’s remedy”, a project must conduct an environmental review and projects greater than 10 units must provide affordable units at the following set aside rates¹: at least 7% ELI, 10% VLI, 13% LI, or 100% MI. Furthermore, under AB 1893, a “builder’s remedy” project may establish a significantly greater base density for a site using the methodology in California Government Code Section 65589.5(h)(11)(c)¹ prior to the awarding of a Density Bonus.

¹ Please note that the following Government Code Section reference reflects amendments to GCS 65589.5 introduced by [AB 1893](#), which will be added to the statute when it takes effect on January 1, 2025.

Significant funding put at risk

Los Angeles, including its public agencies and non-profit housing developers, may be at risk of losing hundreds of millions of dollars in funding for housing, transportation, and infrastructure if its housing element is out of compliance. Many California State grant and loan fund opportunities require a compliant Housing Element and associated Rezoning Program to qualify. In particular, the city would be at risk of losing \$150 million over five years in Permanent Local Housing Allocation (PLHA) funding, as well as other funding sources like the Affordable Housing Sustainable Communities (AHSC) Program (has provided \$513.9 million to date). A non-compliant Housing Element could also jeopardize access to Regional Early Action Planning grant, Infill Infrastructure grant, and SB 1 Planning grant programs. The City could also lose its Prohousing designation, risking its ability to qualify for future state grant funding programs. More information on how non-compliant Housing Elements can impact access to valuable resources can be found [here](#).

Loss of Permitting Authority and Court Imposed Fines

Under [California Government Code Section 65755\(a\)\(1\)](#), a court may remove the City's ability to issue building permits and zoning changes to ensure the City's housing element is compliant with State Housing Element Law. Additionally, per [California Government Code Section 65585\(l\)](#), the courts may impose fines of up to \$600,000 monthly and other court actions that may affect controls requiring compliance.

Mandatory By-Right Approvals

Failure to adopt a rezoning program that accommodates the City's RHNA target by the February 2025 deadline may require the City to issue by-right approvals for projects proposed on a site included in the Inventory of Candidate Sites for Rezoning (Appendix 4.7 of the 2021-2029 Housing Element) if at least 49% of units provided are affordable to lower or moderate-income residents ([California Government Code Section 65583\(g\)](#)).

Who can I contact if I have questions about the requirements described in this fact sheet?

Questions can be submitted to housingelement@lacity.org. Additional information is available on the LA City Planning [Housing Element Rezoning Program webpage](#). To receive updates about the Housing Element Rezoning Program and upcoming public comment opportunities, sign up for the email list by completing [this form](#).

Any media inquiries should be directed to Jamie Francisco at planning.media@lacity.org or (213) 562-8294.