



# Update on 6<sup>th</sup> Housing Element Progress

ABAG Executive Board  
November 17, 2022

# STATEWIDE: 47% CERTIFIED

## 6<sup>th</sup> Cycle Housing Element Statistics

(as of 11/1/22)

| COG                    | TOTAL SUBMITTED | HCD CERTIFIED |
|------------------------|-----------------|---------------|
| SLOCOG<br>Due 12/31/20 | 8               | 100%          |
| SANDAG<br>Due 4/15/21  | 19              | 53%           |
| SACOG<br>Due 5/15/21   | 28              | 79%           |
| SCAG<br>Due 10/15/21   | 197             | 40%           |

**AFFH GUIDANCE ISSUED 4/27/21**

# ABAG 6<sup>th</sup> Cycle Housing Element & Rezoning Deadlines

- **1/31/23:** Statutory deadline to <sup>Attachment E</sup> adopt compliant Housing Element
- **5/31/23:** HCD must find compliance, or any rezoning must be completed in 1 year, instead of 3
- **1/31/24:** Rezoning deadline if you missed the certification deadline
- **2026:** Rezoning deadline if certification deadline was met

*Note: HCD has 90 days to review 1<sup>st</sup> draft, and 60 days to review subsequent drafts. All drafts must be posted for public comment before submission.*

# Status of ABAG Housing Elements

*(as of 11/3/22)*

- 76 drafts submitted to HCD
- 24 comment letters received
- 2 jurisdictions found to be in substantial compliance with State law
  - City of Alameda
  - City of Emeryville

# Highlights of HCD Comment Letters on ABAG Housing Elements

- Top comments are consistent with other COGs: AFFH, outreach & sites inventory
- "Local knowledge" is needed to supplement generally available data
- SB9 units are unlikely to count
- Public lands must include significant evidence of redevelopment in 8 years
- Non-vacant sites & inventories need more detail (*HESS can help*)
- "Goals, priorities, metrics and milestones" must connect to AFFH and public comments
- Special needs must be addressed, including farm labor housing

Full copies of Housing Elements and HCD Letters can be found at this link: <https://mtcdrive.box.com/s/rn34iqzf81et28glz65763f51p1louq3>

# Regional Housing Technical Assistance Update

- Planning Collaboratives can help with HCD Comment Letters
- HESS can automatically fill most of HCD's mandatory electronic sites inventory form
- Full Technical Assistance Index updated monthly <https://abag.ca.gov/tools-resources/digital-library/indexavailabletechnicalassistancedocx>
- New products include:
  - AFFH Policies & Programs Toolkit
  - Housing Communications Tools
  - Best Practices for Public Lands, Aging Malls & Office Parks
  - 2022 New laws webinar (11/15 @ 2 pm)
  - AB 2011/SB 6 Summary
  - Builders Remedy Memo
- \$10.88M in local REAP Suballocations

Attachment E

# “Builders Remedy”

- Since 1990, the Housing Accountability Act (“HAA”) has contained the so-called “Builders Remedy”
- It was not used until this year when jurisdictions in other regions did not adopt housing elements on time that were substantially compliant with state law
- In the Bay Area, the Builder's Remedy applies if a jurisdiction does not adopt a substantially compliant housing element by **January 31, 2023**. This deadline was established years ago and has not changed.
  - **There is no "grace period" for the Builder's Remedy.**
- Recent media reports highlight the potential for housing projects to disregard local zoning if applications are filed during a period of non-compliance.

# “Builders Remedy” Continued

- Projects must be for 20% low- or 100% moderate- or middle-income households, or emergency shelters
- Jurisdictions can still deny project if one of the following:
  1. RHNA has been met in that category
  2. Project violates an objective health or safety standard and has adverse effects that cannot be mitigated without making the project unaffordable
  3. Project violates federal or state law and there is no feasible method to comply without making the project unaffordable
  4. It is on land zoned for agriculture or resource preservation, surrounded on two sides by land used for those purposes, or there are not adequate water or sewage facilities

Thank You.

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