

LEGAL ALERTS | OCT 16, 2019

SB 330 Limits Local Laws Over Housing Developments

Part 4: New California Housing Laws



As part of Gov. Gavin Newsom's pledge to create 3.5 million new housing units by 2025, he signed [Senate Bill 330](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB330) (https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB330) on Oct. 9. The new law makes numerous changes to the Permit Streamlining Act and the Housing Accountability Act, many of which are in effect only until Jan. 1, 2025, and establishes the Housing Crisis Act.

Under the new rules, cities and counties will be limited in the ordinances and policies that can be applied to housing developments. "Housing development" is now defined to include residential projects, mixed-use projects with 2/3 of the square footage dedicated to residential units and transitional or supportive housing projects.

New Preliminary Application Process

The legislation creates a preliminary application process. A housing development will be deemed to have completed the preliminary application process by providing specified information regarding:

- site characteristics,
- the planned project,
- certain environmental concerns,
- facts related to any potential density bonus,
- certain coastal zone-specific concerns,

the number of units to be demolished and
the location of recorded public easements.

With limited exceptions, housing developments will only be subject to those ordinances and policies in effect when the completed preliminary application is submitted. The public agency must make any historic site determination at the time the developer has complied with the preliminary application checklist. That determination can only be changed if archaeological, paleontological or tribal cultural resources are found during development.

To facilitate the preliminary application process, all public agencies must compile a checklist that specifies what is required to complete a development application. The application checklist must now be made available in writing and on the public agency's website.

The developer has 180 days from the submittal of the preliminary application to submit a development application. Under SB 330, the local agency now has additional disclosure obligations when rejecting an application as incomplete and cannot request anything that is not identified on the application checklist.

Streamlining Provisions

The Housing Accountability Act was amended to prohibit more than 5 hearings when reviewing a project that complied with the general plan and zoning code objective standards when the application was deemed complete. "Hearing" is broadly defined to include any workshop or meeting of a board, commission, council, department or subcommittee.

Additionally, a housing development cannot be required to rezone the property if it is consistent with the objective general plan standards for the property. The public agency may require the housing development to comply with the objective zoning code standards applicable to the property, but only to the extent they facilitate the development at the density allowed by the general plan.

SB 330 also shortens the timeframes for housing development approval under the Permit Streamlining Act. Local agencies now have 90 days, instead of 120 days, following certification of the environmental impact report, to approve the project. For low-income projects seeking tax credits or other public funding, that time frame is 60 days.

Housing Crisis Act of 2019

The HCA freezes many development standards in affected cities and counties starting Jan. 1. Generally, an affected city or county will be a U.S. Census Bureau-designated urbanized area. Under the HCA, the Department of Housing and Community Development will determine the affected cities and counties by June 30. HCD may revise this list after Jan. 1, 2021 to address changes in urbanized areas based upon the new census data.

Among other changes, the HCA provides that, where housing is an allowable use, an affected public agency, including its voters by referendum or initiative, may not change a land use designation (general plan or zoning) to remove housing as a permitted use or reduce the intensity of residential uses permitted under the general plan and zoning codes that were in place as of Jan. 1, 2018. The exception is if the city concurrently changes the standards applicable to other parcels to ensure there is no net loss in residential capacity.

Affected public agencies are also prohibited from imposing a moratorium or similar restriction on a housing development, including mixed-use developments, except to specifically protect against imminent threats to public health and safety. Additionally, affected public agencies cannot enforce a moratorium or other similar restriction on a housing development until the ordinance has been approved by HCD. As of Jan. 1, affected cities or counties are prohibited from imposing or enforcing subjective design standards on housing developments where housing is an allowable use. Objective standards are limited to design standards that involve no personal or subjective judgment by a public official. They must be verifiable by reference to an external and uniform benchmark available to both the applicant and the public official prior to application submittal.

An affected city or county is also prohibited from establishing or implementing any growth-control measure adopted by the voters after 2005 that:

- limits the number of land use approvals for housing annually,
- acts as a cap on the number of housing units that can be constructed or
- limits the population of the city or county.

The HCA also prohibits development approvals that require residential unit demolition. Unless the project will replace all existing or previously demolished affordable restricted units, it will include at least as many units as existed on the site within the previous 5 years. Existing residents are allowed to remain until 6 months before construction begins, and displaced residents are provided relocation benefits and a right of first refusal for a comparable unit in the new project at an affordable rent.

With California's housing shortage reaching crisis levels, the state Legislature and Gov. Gavin Newsom approved a slew of new bills this session aimed at helping the situation. Using a mix of carrots and sticks, these laws will change how cities and counties address housing shortages in their own communities. Watch for more Legal Alerts analyzing the new laws and how they impact your agency.

Also in BB&K's Housing Series:

[Omnibus Housing Bill Adds Teeth to Housing Element Law Enforcement \(https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/Omnibus-Housing-Bill-Adds-Teeth-to-Housing-Element\)](https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/Omnibus-Housing-Bill-Adds-Teeth-to-Housing-Element).
[Surplus Land Act Requirements Expand for Local Agencies \(https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/Surplus-Land-Act-Requirements-Expand-for-Local-Age\)](https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/Surplus-Land-Act-Requirements-Expand-for-Local-Age).
[Tenant Protection Act Sets Statewide Rent Caps and Eviction Rules \(https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/Tenant-Protection-Act-Sets-Statewide-Rent-Caps-and\)](https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/Tenant-Protection-Act-Sets-Statewide-Rent-Caps-and).
[California Paves Way for More ADUs \(https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/California-Paves-Way-for-More-ADUs\)](https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/California-Paves-Way-for-More-ADUs).
[Housing Density Bonus and Reporting Changes for Local Agencies \(https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/Housing-Density-Bonus-and-Reporting-Changes-for-Lo\)](https://www.bbklaw.com/News-Events/Insights/2019/Legal-Alerts/10/Housing-Density-Bonus-and-Reporting-Changes-for-Lo).

If you have any questions about SB 330 and how it may impact your agency, please contact the author of this Legal Alert listed to the right in the firm's [Municipal Law \(https://www.bbklaw.com/Services/Industries/Municipal\)](https://www.bbklaw.com/Services/Industries/Municipal) practice group, or your [BB&K attorney \(https://www.bbklaw.com/Our-Team\)](https://www.bbklaw.com/Our-Team).

Please feel free to share this Legal Alert or subscribe by [clicking here \(https://www.bbklaw.com/subscribe\)](https://www.bbklaw.com/subscribe). Follow us on Facebook [@BestBestKrieger \(https://www.facebook.com/BestBestKrieger/\)](https://www.facebook.com/BestBestKrieger) and on Twitter [@BBKlaw \(https://twitter.com/BBKlaw\)](https://twitter.com/BBKlaw).

[CONTINUE READING](#)

People



[Elizabeth W. Hull \(/our-team/elizabeth-w-hull\)](/our-team/elizabeth-w-hull)

PARTNER

[\(949\) 263-2608 \(tel:\(949\) 263-2608\)](tel:(949)263-2608)

</our-team/elizabeth-w-hull>

Related Services

[Economic Development, Real Estate & Affordable Housing \(/services/practices/municipal-law/economic-development,-real-estate-affordable-hou\)](/services/practices/municipal-law/economic-development,-real-estate-affordable-hou)

[Municipal Law \(/services/practices/municipal-law\)](/services/practices/municipal-law)