



City of Pleasant Hill: Changes to Housing and Land Use Law

2020 Legislative Update

Presented by

Isaac Rosen



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Overview

1. **Changes to Housing Accountability Act**
2. **Changes to SB 35 (Streamlined Processing);**
3. **COVID-Related Extensions;**
4. **Other Incentives & Penalties;**
5. **The Surplus Land Act penalty provisions; and**
6. **State Mandates for General Plan Updates**
7. **RHNA Options**



Housing Accountability Act ~ prior changes

- **Housing Accountability Act (Gov't C. § 65589.5):**
 - Limits local discretion to deny, condition or delay certain housing projects;
 - In 2019, SB 330 amended HAA to allow applicants to vest their right to proceed under a municipality's then-existing land use regulations upon submission of a "preliminary application."



Housing Accountability Act ~ SB 1030

A Couple of Tweaks

- Allows developer to skip submission of a preliminary application to have “complete application” deemed complete with full application;
- Excludes a local-bonus increase in units from triggering resubmittal of preliminary application.



Streamlined Processing (SB 35)

- **Government Code § 65913.4 (Eff. 1/1/2018)**
 - Applies in cities/towns that are not meeting their Regional Housing Need Allocation (RHNA) goal for construction of above-moderate income housing and/or housing for households below 80% area median income (AMI) via issued building permits/submitted report.
 - Amends Government Code Section 65913.4 to require local entities to streamline the approval of certain housing projects by providing a ministerial approval process.



Amending SB 35 ~ Tribal Consultations (AB 168)

- Developers must submit a notice of intent to local agencies via a preliminary application before proceeding under SB 35;
- Local agencies, within 30 days of receiving preliminary application, must invite California Native American Tribes to consult with them regarding a proposed development's potential effects on any tribal cultural resources;
- No agreement with Tribes on resource impact of development → No submission of SB 35 application.



Amending SB 35 ~ Clarifying Limits on Local Discretion (AB 831)

- Local agency discretion limited re: review and approval of public improvements necessary to complete an SB 35 project;
- SB 35 projects may be modified following SB 35 approval and local agency's discretion in reviewing such modification requests is limited;
- Two-thirds of qualifying mixed-use project must be dedicated to residential uses. *Clarified.*



COVID-Related Extensions ~ Residential Development Entitlements (AB 1561)

“Housing entitlements” issued and in effect prior to **March 4, 2020** and set to expire prior to **December 31, 2021** → extension of 18 months

- “Housing entitlements” broadly defined but explicitly excludes
 - development agreements,
 - SB 330 preliminary applications, and
 - SB 35-approved development applications
- Applicable to “housing development projects,” which includes mixed-use developments in which at least 2/3 of square footage of the development is designated for residential use
- Local governments are not precluded from further granting extensions to existing entitlements



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COVID-Related Extensions ~ Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020 (AB 3088)

- March 1, 2020, and January 31, 2021 (“Covered Period”);
- Renters have until March 2022 to repay any deferred rent accruing during the Covered Period as a result of “COVID-19-related financial distress”;
- Statutory notices available on California Department of Real Estate website.



More Sticks and Carrots to Build Affordable Housing ~ Density Bonus Increase (AB 2345)

- Effective as of January 1, 2021;
- Increases maximum density bonus from thirty-five percent (35%) to fifty percent (50%).
 - To be eligible for maximum bonus, project must set aside at least
 - (i) fifteen percent (15%) [up from 11%] of total units for very low income households,
 - (ii) twenty-four percent (24%) [up from 20%] of total units for low income households, or
 - (iii) forty-four percent (44%) [up from 40%] of for-sale units for moderate income households.
- Local inclusionary zoning ordinance units → OK for state Density Bonus Law;
- State-mandated parking ratios;
- Local discretion to grant more waivers or reductions in development standards (major transit stop).



More Sticks and Carrots to Build Affordable Housing ~ Higher Density for Mod / Above-Mod Income (AB 725)

- Begins in January 2022
- Medium- to high-density housing for moderate and above moderate-income households;
- Increase housing density for higher income earners;
- 25 percent of sites for moderate income and 25 percent of sites for above moderate income → at least four units of housing, instead of single-family housing;



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New Surplus Land Act provisions (AB 1486) eff. from Jan. 1, 2021

Certain reporting and penalty provisions now in effect:

- Govt C. 54230.5 – 30% & 50% penalties
- Govt C. 54230(a)(2) – new APR Table H



Surplus Land Act ~ Penalties (Effective Jan. 1, 2021)

If the local agency disposes of the land in violation of the Surplus Land Act, penalty of **30%** of the final sale price of the land for a first violation and **50%** for any subsequent violation.

- However, if the local agency is not notified of a violation by the Department within **30 days**, the local agency receives “safe harbor” and is not subject to the penalty provisions.



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Surplus Land Act ~ Annual Progress Report, Table H (due April 1, 2021)

- Surplus & Excess Land Inventory – due 12/31 each year
 - Someone may ask for it
 - Easy conversion to Table H
- “Surplus” vs. “Exempt Surplus”



Updates to General Plan Housing & Safety Elements, Environmental Justice

Housing Element (“HE”):

- AB 1561 (2020):
 - Analyze constraints on housing for persons with protected characteristics.
 - Housing Element (HE): emergency shelters as permitted use.
- AB 1255; AB 2345 (2019, 2020): [*previous slide*]
- Penalty: Instead of 8-yr cycle, at least two 4-yr
 - RISK: Can’t disapprove affordable housing development that is inconsistent w/ ZC or GP
 - HCD referral to AG



Updates to General Plan Housing & Safety Elements, Environmental Justice

Safety Element (“SE”):

- SB 1241 (2012): Address the risks in very high fire hazard severity zones
- SB 379 (2015): Beginning 1/22 the SE must address climate adaptation and resiliency strategies, identifying vulnerabilities to climate change.
- SB 1035 (2018): The SE should be reviewed and revised concurrent with each revision to the Housing Element.



Updates to General Plan Housing & Safety Elements, Environmental Justice

Environmental Justice (SB 244, 2011):

- “Disadvantaged Unincorporated Communities” (“DUCs”) as identified in **Land Use Element**
 - Definition: “a fringe, island or legal community in which the median household income is 80 percent or less than the statewide median household income.” [Govt. C. 65302.10(a)(2)]
- For any DUCs within agency’s sphere of influence, must include a map and written analysis of the service needs and deficiencies for the identified DUC.



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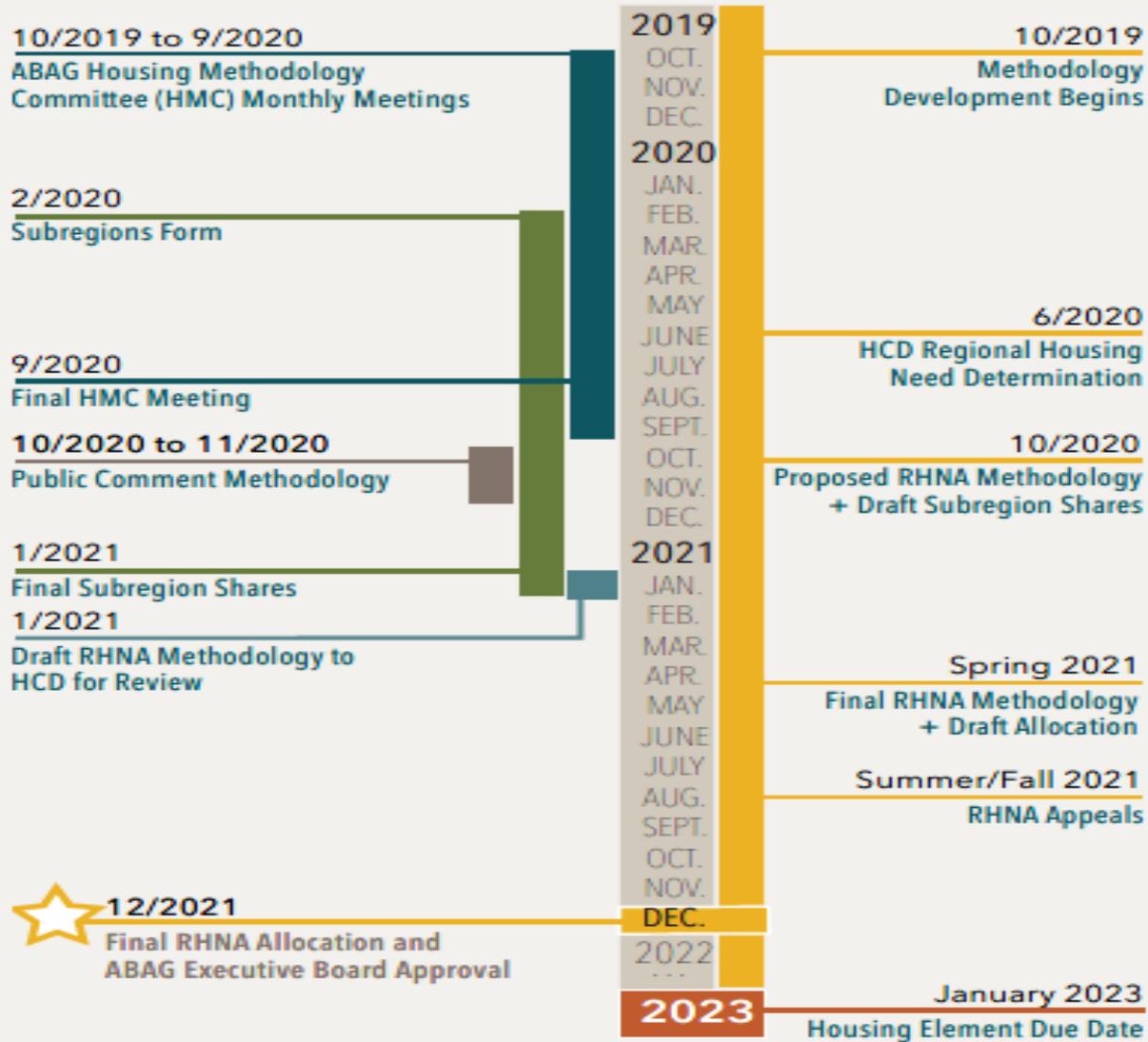
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Regional Housing Needs Allocation & Appeal

- RHNA = projection of current and future housing needs
 - across all income levels
 - during a specified eight-year planning period
 - determined by Council of Governments with HCD input.
- ABAG currently developing 6th RHNA cycle
 - Planning period: 2023 - 2031.
- Methodology and Distribution.



2023 - 2031 RHNA Development Timeline



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Regional Housing Needs Allocation & Appeal

- **Appeal** [Gov. Code 65585.04]:
 - Within 45 days of a receiving draft RHNA, appeal to ABAG.
 - Limited to specific circumstances
 - Statement for why revision furthers RHNA objectives under State Planning and Zoning Law
 - Increasing affordable housing;
 - Promoting socioeconomic equity;
 - Better connectivity between jobs and housing; etc.



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Regional Housing Needs Allocation & Appeal

- Permissible grounds for appeal:
 1. ABAG “failed to adequately consider the information submitted” by local agency to create allocation methodology;
 2. ABAG “failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to [State law], and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.”
 3. “A significant and unforeseen change in circumstances has occurred”



RHNA, the Housing Element & Penalties

- RHNA carryover to next cycle
- SB 35 streamlining
- AG or interested party may file writ of mandate.
- Court may grant injunction, order fines (\$10k - \$100k), appoint receiver, and order payment of costs and attorneys' fees.



Fin!
Isaac.rosen@bbklaw.com
(213) 787-2564



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