

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

651 Bannon Street, Suite 400
Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



March 24, 2026

Chris Hoem, City Manager
City of Atwater
1350 Broadway Avenue
Atwater, CA 95301

Dear Chris Hoem:

**RE: City of Atwater Failure to Adopt a Compliant 6th Cycle Housing Element –
Notice of Violation**

The City of Atwater's (City) 6th cycle housing element was due on January 31, 2024.¹ The City's most recent housing element draft is not in substantial compliance with Housing Element Law.² The California Department of Housing and Community Development (HCD) sent a Letter of Inquiry on September 9, 2025, requesting an update on the status of the City's 6th cycle housing element. In response, the City submitted two timelines, the most recent of which was dated December 5, 2025, and proposed a subsequent draft due January 22, 2026. As of this writing, HCD has not received a subsequent draft. Therefore, the City is in violation of Housing Element Law.³

Under Government Code section 65585, subdivision (i)(1)(A), HCD has the authority to review any action or failure to act that it determines to be inconsistent with either an adopted housing element or Government Code section 65583 and to issue written findings of such noncompliance. Additionally, HCD must notify a local government when that local government takes actions that violate Government Code section 65583 and may refer such violations to the California Office of the Attorney General.⁴

6th Cycle Housing Element Submission and Review History

The 6th cycle planning period for the City of Atwater is January 31, 2024, through January 31, 2032. The City failed to adopt a compliant housing element by its 6th cycle due date of January 31, 2024. HCD records are as follows:

¹ Gov. Code, § 65588, subd. (e)(3).

² Gov. Code, § 65583 et seq.

³ Gov. Code, § 65585.

⁴ Gov. Code, § 65585, subds. (i)(1)(A) and (j).

- On July 2, 2024, the City submitted an initial draft housing element to HCD for review.
- On September 30, 2024, HCD issued a findings letter to the City noting multiple revisions necessary for the housing element to be compliant with Housing Element Law.
- On March 14, 2025, the City submitted a subsequent draft element to HCD for review.
- On May 8, 2025, HCD issued a second findings letter to the City noting revisions were still necessary for the housing element to be compliant with Housing Element Law.
- On September 9, 2025, HCD issued a Letter of Inquiry to the City requesting the City provide a specific timeline for (1) submitting an updated draft housing element and (2) obtaining compliance with Housing Element Law, no later than October 9, 2025.
- On September 10, 2025, the City responded by providing a timeline of events that incorporated two draft submissions to HCD, one on October 31, 2025, and the other on February 10, 2026. The timeline also targeted late March 2026 as the date for adopting its housing element and submitting the adopted draft to HCD for certification.
- On October 25, 2025, the City emailed to request an adjustment of the timeline due to staff turnover.
- On November 5, 2025, HCD emailed the City to request an updated timeline to include the items leading to compliance, based on the City's current staffing and consultant work plans.
- On November 25, 2025, the City responded in a phone call to notify HCD that the timeline would be further delayed due to ongoing staff issues.
- On November 26, 2025, HCD requested by email an updated specific timeline by December 5, 2025.
- On December 5, 2025, the City responded by providing an updated timeline that proposed, among other things, the submittal of a draft to HCD on January 22, 2026.
- As of the date of this letter, the City has failed to submit a subsequent draft element to HCD for review.

Technical Assistance Offered

HCD has made resources and technical assistance available to assist local jurisdictions in creating comprehensive housing elements. This includes \$123 million in planning grants for regions, cities, and counties to prepare, adopt, and implement plans that streamline housing approvals and accelerate housing production. Under that program, the City was eligible for, and was awarded, \$160,000 through SB 2, and the City applied for and was awarded \$150,000 through the Local Early Action Planning Grant (LEAP) for local planning activities.

Consequences of Noncompliance

Consequences apply if the City does not have a housing element in substantial compliance with Housing Element Law. First, noncompliance results in ineligibility or delay in receiving state funds that require a compliant housing element as a condition precedent, including, but not limited to, the following:

- Permanent Local Housing Allocation Program
- Local Housing Trust Fund Program
- Infill Infrastructure Grant Program
- Senate Bill 1 Caltrans Sustainable Communities Grants
- Affordable Housing and Sustainable Communities Program

Second, under the Housing Accountability Act, jurisdictions that do not have a substantially compliant housing element are subject to the Builder's Remedy.⁵

In addition, HCD may notify the California Office of the Attorney General.⁶ Furthermore, state law provides for court-imposed penalties for persistent noncompliance, including enhanced financial penalties. Government Code section 65585, subdivision (l)(1), establishes a minimum fine of \$10,000 per month, up to \$100,000 per month for jurisdictions that fail to comply with a court order to bring its housing element into compliance. If a jurisdiction remains noncompliant, a court may multiply those penalties by a factor of three and then six, depending on the duration of the continued noncompliance.⁷ If a jurisdiction fails to comply after six months from the imposition of fees, the court may also appoint a receiver.⁸

Finally, in any action brought by the Attorney General or HCD to enforce the adoption of housing element revisions, jurisdictions are subject to additional fines of between \$10,000 and \$50,000 per month for each violation, accrued from the date of the violation until the date the violation is cured, including investigation costs, expert fees, attorneys' fees, costs, and any other relief the court deems appropriate.⁹

⁵ Gov. Code, § 65589.5, subds. (d)(6), (f)(6), and (h)(11).

⁶ Gov. Code, § 65585, subd (j).

⁷ Gov. Code, § 65585, subds. (l)(2) and (3).

⁸ Gov. Code, § 65585, subd. (l)(3)(B).

⁹ Gov. Code, § 65009.1, subd. (a).

Findings and Conclusion

HCD finds that the City has failed to adopt a substantially compliant housing element and is therefore in violation of state law. Under Government Code section 65585, subdivision (j)(1)(A), the City has until April 23, 2026, to provide a written response to this notice before HCD takes any of the actions authorized by section 65585, including, but not limited to, referral to the California Office of the Attorney General.

In addition, pursuant to Government Code Section 65585, subdivision (k), HCD hereby offers the City two meetings within the next 30 days to discuss the City's violations and its failure to adopt a substantially compliant housing element.

State housing laws are effective only with the cooperation of local governments. HCD understands that local governments may encounter staffing and resource constraints in their efforts to gain compliance. However, housing elements, and the timely implementation thereof, are essential to developing a blueprint for growth and are a vital tool to address California's prolonged housing crisis. To meet the 6th cycle update requirements for a substantially compliant housing element, the City must consider HCD's written findings from previous drafts, make a draft housing element available for public comment, adopt the housing element, and submit it to HCD for review and certification before it can be considered compliant.¹⁰

If you have any questions or would like to discuss the contents of this letter, please contact Mary Milner at mary.milner@hcd.ca.gov.

Sincerely,



Melinda Coy
Housing Accountability Unit Chief

¹⁰ Gov. Code, § 65585, subds. (b)-(h).