

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

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June 27, 2025

Dani Burkhardt, Acting City Manager
City of Blue Lake
P.O. Box 458
Blue Lake, CA 95525

Dear Dani Burkhardt:

RE: Blue Lake Failure to Adopt a Compliant 6th Cycle Housing Element – Notice of Violation

The California Department of Housing and Community Development (HCD) has reviewed the City of Blue Lake's (City) May 28, 2025, response to the Letter of Inquiry sent on April 30, 2025, which requested an update on the status of the City's 6th cycle housing element, due August 31, 2019.¹ While the City's most recent draft does meet statutory requirements, it does not substantially comply with requirements under Housing Element Law because the City has failed to adopt its housing element and complete its required rezones.² In addition, the City's proposed dates of December 31, 2025, to submit an adopted housing element to HCD, and February 26, 2026, to submit rezone documentation to HCD, is not satisfactory. This timeline, even if adhered to, would delay HCD's review and determination of compliance until the first quarter of 2026 at the earliest, well over six years past its statutory due date. The City has also failed to propose a shorter timeline for compliance.³ Therefore, the City is in violation of Housing Element Law.⁴

As a reminder, HCD issued a letter to the City on September 20, 2023,⁵ finding the City's draft housing element had met the statutory requirements of Housing Element Law. However, the housing element cannot be found in substantial compliance and will remain out of compliance until the City has completed its necessary rezones. Specifically, the City is required to complete Program HI-14 (Rezoning and By Right Procedures) to meet unaccommodated need from the 5th cycle Regional Housing Needs Allocation (RHNA). The City must then submit an adopted housing element and completed rezones to HCD for review and certification.

¹ Gov. Code, § 65588, subd. (e)(3).

² Gov. Code, § 65588, subd. (e)(4)(C).

³ Article 10.6 (commencing with section 65580) of Chapter 3 of the Government Code.

⁴ Gov. Code, § 65585.

⁵ Findings Letter is available at <https://hcdpowerbi.blob.core.windows.net/housing-elements/hum-blue-lake-draft-out-092023.pdf>.

Under Government Code section 65585, subd. (i)(1)(A), HCD must review any action or failure to act that it determines to be inconsistent with either an adopted housing element or Government Code section 65583. HCD must then issue written findings to the local government.⁶ 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.⁷

6th Cycle Housing Element Submission and Review History

HCD records are as follows:

- On April 27, 2022, HCD issued a Letter of Inquiry to the City regarding its failure to submit a draft housing element by its statutory due date of August 31, 2019.
- On May 31, 2022, the City submitted an initial draft housing element to HCD for review.
- On August 29, 2022, HCD issued a findings letter to the City noting multiple revisions necessary for the housing element to be substantially compliant with Housing Element Law.
- On August 28, 2023, the City submitted a subsequent draft element to HCD for review.
- On September 20, 2023, HCD issued a second findings letter to the City noting that the City's revised housing element had met the statutory requirements of Housing Element Law but cannot be found in substantial compliance until the City has completed necessary rezoning and the element is adopted, submitted to, and approved by HCD, in accordance with Government Code section 65585. The City failed to submit an adopted housing element or rezone documentation following receipt of HCD's second findings letter.
- On January 28, 2025, the City submitted a draft rezone to HCD for review. HCD met with the City on February 6, 2025, to provide feedback on the rezone. Notably, HCD discussed with the City that the rezone would be compliant once two comments regarding density were addressed. The City committed to incorporating those revisions prior to adoption. However, the City failed to adopt and submit the revised rezone or housing element to HCD following this meeting.
- On April 30, 2025, HCD issued a Letter of Inquiry to the City regarding its failure to adopt and submit a housing element draft with necessary rezones completed.
- On May 28, 2025, the City provided a response to HCD's Letter of Inquiry that proposed December 31, 2025, as the date for the City to submit an adopted element to HCD, and February 26, 2026, as the date to submit rezone documentation to HCD.
- On May 29, 2025, HCD responded via email determining the proposed timeline was too far out and requested a revised timeline for submission. The Acting City Manager responded that HCD's request had been forwarded to the City Council.

⁶ Gov. Code, § 65585, subd. (i).

⁷ Gov. Code, § 65585, subds. (i)(1)(A), (j).

- As of the date of this letter, the City has failed to provide a revised, satisfactory timeline for achieving compliance with Housing Element Law.

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 received, an award of \$65,000 through the Local Early Action Planning Grant (LEAP) for local planning activities beginning on January 12, 2021. The City's primary expense for this grant funding has been the 6th cycle housing element update.

Consequences of Noncompliance

Various consequences apply because the City does not have a housing element in compliance with Housing Element Law. First, noncompliance results in ineligibility or delay in receiving state funds that require a compliant housing element as a prerequisite, 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, jurisdictions that do not meet their housing element requirements may face additional financial and legal ramifications. HCD may notify the California Office of the Attorney General, which may bring suit for violations of Housing Element Law.⁸

Further, state law provides for court-imposed penalties for persistent noncompliance, including financial penalties. For example, Government Code section 65585, subdivision (I)(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 can multiply those penalties by a factor of six.⁹ Moreover, 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 failure to adopt court-ordered housing element revisions, assessed from the date of initial violation until the date the violation is cured, including all investigation and prosecution costs in a successful lawsuit.¹⁰ Other potential ramifications could include the loss of local land use authority to a court-appointed agent.¹¹

⁸ Gov. Code, § 65585, subd. (j).

⁹ Gov. Code, § 65585, subd. (I)(3)(A).

¹⁰ Gov. Code, § 65009.1, subds. (a)(1), (2)(A).

¹¹ Gov. Code, § 65585, subd. (I)(3)(B).

In addition to these legal remedies available in the courts, under the Housing Accountability Act, jurisdictions that do not have a substantially compliant housing element are subject to the Builder's Remedy, meaning their ability to disapprove very low-, low-, or moderate-income housing and emergency shelters for inconsistency with zoning and land use designation is limited.¹²

There may also be consequences for the City regarding the LEAP grant funding it has received. If the City fails to adopt a compliant housing element prior to the expiration of the grant contract on December 31, 2025, HCD may compel the City to return the grant funding it had received.¹³

Findings and Conclusion

HCD finds that the City has failed to adopt a housing element that meets the requirements of Housing Element Law and is therefore in violation of those statutes. Under Government Code section 65585, subdivision (i), HCD must give the City a reasonable time, no longer than 30 days, to respond to these findings. Therefore, the City has until July 28, 2025, to provide a written response to this notice before HCD may take 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 would like to schedule two meetings in person or via telephone within the next 30 days to discuss the City's failure to adopt a compliant housing element.

Ultimately, 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. Accordingly, state law has established clear disincentives for local jurisdictions that fail to comply with Housing Element Law. To meet the 6th cycle update requirements for a substantially compliant housing element, the City must adopt the housing element and required rezonings and submit them to HCD for review and certification before the housing element can be considered compliant.¹⁴

¹² Gov. Code, § 65589.5, subd. (d)(6).

¹³ Standard Agreement Number 20-LEAP-15327, Exhibit D, subds. 4G, H, and I.

If you have any questions or would like to discuss the contents of this letter, please contact Isaac O'Connell at Isaac.OConnell@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal flourish extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability