

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

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September 12, 2025

Benjamin Moody, City Manager
City of Live Oak
9955 Live Oak Blvd.
Live Oak, CA 95953

Dear Benjamin Moody:

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

The City of Live Oak's (City) 6th cycle housing element was due May 15, 2021.¹ The City's most recent housing element draft does not comply with statutory requirements. In addition, the City failed to achieve compliance by its target date of November 1, 2023, as stated in its September 19, 2023, response to the Letter of Inquiry sent by the California Department of Housing and Community Development (HCD) on August 21, 2023. Moreover, the City failed to propose a revised timeline of milestones leading to compliance after multiple requests by HCD and is over four years past its statutory due date. Therefore, the City is in violation of Housing Element Law.²

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.³

6th Cycle Housing Element Submission and Review History

The 6th cycle planning period for the City is May 15, 2021, through May 15, 2029. The City failed to adopt a compliant housing element by its 6th cycle due date of May 15, 2021. HCD records are as follows:

¹ Gov. Code, § 65588, subd. (e)(3).

² Gov. Code, § 65585.

³ Gov. Code, § 65585, subds. (i)(1)(A) and (j).

- On August 16, 2021, the City submitted an initial draft housing element to HCD for review.
- On September 8, 2021, 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 September 13, 2021, the City submitted an element adopted on September 8, 2021, to HCD for review.
- On December 9, 2021, HCD issued a second findings letter to the City noting revisions were still necessary for the housing element to be substantially compliant with Housing Element Law.
- On August 21, 2023, HCD issued a Letter of Inquiry to the City regarding noncompliance with Housing Element Law. The letter requested that, by September 21, 2023, the City provide a specific timeline for (1) submitting an updated draft housing element and (2) obtaining compliance with Housing Element Law.
- On September 19, 2023, the City responded by providing a timeline of events that targeted September 28, 2023, as the date for submittal of its housing element to HCD, and November 1, 2023, as the date the City anticipated achieving compliance. The City did not achieve substantial housing element compliance by this date.
- On October 23, 2023, the City submitted a subsequent draft housing element to HCD for review.
- On December 13, 2023, the City rescinded its October 23, 2023, submission.
- On September 25, 2024, the City submitted a subsequent draft housing element to HCD for review.
- On November 22, 2024, HCD issued a third findings letter to the City noting revisions were still necessary for the housing element to be substantially compliant with Housing Element Law.
- On April 14, 2025, HCD emailed Interim City Manager Kary Hauck to request a status update on the City's housing element. The City responded and indicated a consultant was hired to update the City's housing element and resubmittal would occur within 30-45 days. The City failed to submit a revised housing element draft within the timeframe provided.
- On June 17, 2025, HCD requested a date the City's housing element would be submitted to HCD.
- On June 19, 2025, the City indicated a new consultant was hired but a specific timeline had not been developed.
- On July 2, 2025, HCD requested the City provide a timeline for housing element submission.
- As of the date of this letter, HCD has not received any correspondence including the requested timeline, and the City has failed to submit a revised housing element since receiving HCD's third findings letter.

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 but only claimed \$11,220.43. The City submitted an application through SB 2 for local planning activities but did not submit any reimbursements and therefore the funds were disencumbered in 2024.

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 to receive 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.⁴

In addition, HCD may notify the California Office of the Attorney General.⁵ 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.⁶

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.⁷ If a jurisdiction

⁴ Gov. Code, § 65589.5, subds. (d)(6), (f)(6), and (h)(11).

⁵ Gov. Code, § 65585, subds. (i)(1)(A) and (j).

⁶ Gov. Code, § 65585, subds. (l)(2) and (3).

⁷ Gov. Code, § 65009.1, subd. (a).

fails to comply after six months from the imposition of fees, the court may also appoint a receiver.⁸

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. Pursuant to Government Code section 65585, subdivision (i)(1)(A), the City has until October 13, 2025 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 in person or via telephone 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.⁹

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

Sincerely,

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

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

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

⁹ Gov. Code, § 65585, subds. (b)-(h).