

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

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September 9, 2025

Jay Varney, County Administrative Officer
County of Madera
200 W. 4th Street
Madera, CA 93637

Dear Jay Varney:

**RE: County of Madera Failure to Adopt a Compliant 6th Cycle Housing Element –
Letter of Inquiry**

The purpose of this letter is to inquire about the status of the County of Madera's (County) 6th cycle planning period housing element pursuant to Government Code section 65588, subdivision (e). The 6th cycle planning period for the County is January 31, 2024, through January 31, 2032.¹ The County failed to adopt a compliant housing element by its 6th cycle due date of January 31, 2024. Therefore, the County is out of compliance with Housing Element Law.²

The California Department of Housing and Community Development (HCD) issued a letter to the County on June 27, 2025 finding the County's draft housing element had met the statutory requirements of Housing Element Law.³ However, the housing element cannot be found in substantial compliance until the County has completed its necessary rezones; specifically, the County's commitment to complete Program 1.3 (Prior Sites) and Program 1.4 (Adequate Sites) to allow by-right processing of sites identified in previous housing elements pursuant to Government Code section 65583.2, subdivision (c) and to rezone adequate sites to satisfy its Regional Housing Needs Allocation (RHNA) shortfall.

HCD is requesting the County provide a revised and specific timeline for (1) completing necessary rezones, (2) adopting the housing element and rezones, (3) submitting rezone documentation and a copy of the adopted housing element to HCD for review, and (4) obtaining compliance with Housing Element Law, no later than October 9, 2025.

¹ Gov. Code, § 65588, subd. (e)(3).

² Article 10.6 (commencing with section 65580) of Chapter 3 of the Government Code.

³ Findings Letter is available at <https://www.hcd.ca.gov/planning-and-community-development/housing-element-download-tool>.

6th Cycle Housing Element Submission and Review History

HCD records are as follows:

- On May 21, 2024, the County submitted an initial draft housing element to HCD for review.
- On August 19, 2024, HCD issued a findings letter to the County noting multiple revisions necessary for the housing element to be substantially compliant with Housing Element Law.
- On January 17, 2025, the County submitted a subsequent draft to HCD for review.
- On March 18, 2025, HCD issued a second findings letter to the County noting revisions were still necessary for the housing element to be substantially compliant with Housing Element Law.
- On April 28, 2025, the County submitted a subsequent draft to HCD for review.
- On June 27, 2025, HCD issued a third findings letter to the County noting the draft housing element meets the statutory requirements described in HCD's review. However, the housing element cannot be found in substantial compliance until the County completes its required rezones, and both the housing element and rezones are adopted, submitted to, and approved by HCD.
- As of the date of this letter, the County has not submitted rezone documentation or an adopted copy of its housing element to HCD since receiving HCD's third findings letter.

AB 1398, Statutes of 2021

Please note, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a jurisdiction fails to adopt a compliant housing element within one year from the statutory deadline, its housing element cannot be found in compliance until any rezones necessary to accommodate the jurisdiction's Regional Housing Needs Allocation (RHNA) are completed. Once the County completes the rezone, a copy of the resolution or ordinance should be transmitted to HCD. HCD will review the documentation and issue correspondence identifying the updated status of the County's housing element compliance.

Consequences of Noncompliance

Consequences apply if the County 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 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, 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, jurisdictions that do not have a compliant housing element may face additional legal ramifications, including referral of the County to the Attorney General's Office for its violations of state law.⁵ Further, 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 fails to comply after six months from the imposition of fees, the court may also appoint a receiver.⁸

Conclusion

HCD recognizes that, ultimately, state housing laws are effective only with the cooperation of local governments and understands staffing and resource constraints that may hinder efforts to gain compliance. HCD also acknowledges the County's measurable effort towards achieving compliance in cooperation with HCD. 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 County must complete its rezones, adopt the housing element and rezones, and submit a copy of the adopted housing element and rezone documentation to HCD for review and certification before it can be considered compliant.⁹

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).

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

⁹ Gov. Code, § 65585, subds. (b)-(h).

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Fidel Herrera', with a stylized, flowing script.

Fidel Herrera
Section Chief, Housing Element Implementation
Housing Accountability Unit