

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

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March 24, 2026

Tiffany Ho, Deputy Director
Planning Division
County of Merced
2222 M Street
Merced, CA 95340

Dear Tiffany Ho:

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

The County of Merced's (County) 6th cycle housing element was due on January 31, 2024.¹ The County's most recent housing element draft is not in substantial compliance with Housing Element Law.² The County remains in violation of Housing Element Law and has not secured certification from the California Department of Housing and Community Development (HCD). While HCD recognizes that the County submitted a projected timeline for compliance, the timeframe for adoption and achieving compliance is unacceptable, as it extends significantly beyond the statutory deadline by which the County was required to have a compliant housing element in place. Therefore, the County 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 County is January 31, 2024, through January 31, 2032. The County 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 Article 10.6 (commencing with section 65580) of Chapter 3 of the Government Code.

³ Gov. Code, § 65585.

⁴ Gov. Code, § 65585, subd (j).

- On July 24, 2024, HCD issued a Letter of Inquiry notifying the County's failure to submit a draft housing element to HCD for review.
- On August 28, 2024, the County responded with a timeline indicating draft housing element submission for October 15, 2024.
- On October 11, 2024, the County submitted an initial draft housing element to HCD for review.
- On January 9, 2025, HCD issued a findings letter to the County noting multiple revisions necessary for the housing element to be compliant with Housing Element Law.
- On August 26, 2025, the County submitted a subsequent draft housing element to HCD for review.
- On October 24, 2025, HCD issued a second findings letter to the County noting multiple revisions were still necessary for the housing element to be compliant with Housing Element Law.
- On January 23, 2026, the County submitted a subsequent draft housing element to HCD for review.
- On March 24, 2026, HCD issued a third findings letter to the County noting multiple revisions remain necessary for the housing element to be compliant 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 County was eligible for, and received, an award of \$310,000 through SB 2 and \$300,000 through the Local Early Action Planning Grant (LEAP) for local planning activities.

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 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

Findings and Conclusion

HCD finds that the County 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 County 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 County two meetings within the next 30 days to discuss the County'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 County 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

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

⁶ Gov. Code, § 65585, subd. (j).

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

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

⁹ Gov. Code, § 65009.1, subd. (a).

¹⁰ Gov. Code, § 65585, subs. (b)-(h).

Tiffany Ho, Deputy Director
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If you have any questions or would like to discuss the contents of this letter, please contact Dexter Egleston at Dexter.Egleston@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Melinda Coy", with a long, sweeping horizontal stroke extending to the right.

Melinda Coy
Housing Accountability Unit Chief