



HOUSING CRISIS ACT

Government Code §§ 65913.10, 65940, 66300, 66300.5, 66300.6

INTRODUCTION

The Housing Crisis Act (HCA) limits the ability of cities and counties to (among other provisions):

- ▶ Change the general plan land use designation, specific plan land use designation, or zoning to a less intensive use or reduce the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below that which was in effect on January 1, 2018;
- ▶ Impose a moratorium or similar restriction or limitation on housing development; or
- ▶ Cap the number of housing units that can be approved or constructed.

The Housing Law Fact Sheets provide an overview of existing laws which the California Department of Housing and Community Development (HCD) has statutory authority to enforce. The fact sheet does not constitute legal advice but is intended to be a resource for local agencies and decision-makers within California, including members of City Councils, Boards of Supervisors, and Planning Commissions.

More detail is available on HCD's website about [Designated Jurisdictions Prohibited from Certain Zoning-Related Actions](#).

KEY PROVISIONS

HCD is required to develop and maintain a list of cities ("affected cities") and census designated places (CDPs) within the unincorporated county ("affected counties") that are prohibited from taking certain zoning-related actions.

Prohibited Actions by Affected Jurisdictions

Affected jurisdictions are prohibited from taking a range of actions that would limit or decrease residential development capacity or construction in the jurisdiction. Where housing is an allowable use, an affected county or city cannot enact a development policy, standard, or condition that would have the following effects:

General Plan Land Use, Specific Plan, or Zoning

Changing the general plan land use designation, specific plan land use designation, or zoning to a less intensive use below what was allowed by the land use designations or zoning in effect on January 1, 2018.

- ▶ *Exception:* Jurisdictions may change a land use designation or zoning to a less-intensive use if that change is accompanied by a concurrent increase in residential density elsewhere in the community.

Moratorium or Similar Restrictions

Imposing a moratorium or similar restriction on housing development except to address an imminent threat to health and safety. Any moratorium must be approved by HCD before it can be enforced.

- ▶ *Exception:* The law includes an exception to moratoriums or other limitations on residential development capacity if the policy is intended to preserve or facilitate the production of housing for lower-income households or housing types that traditionally serve lower-income households. For example, several cities around the state have removed mobile home parks from zones that otherwise allow high-density residential development to decrease pressure to redevelop those properties. This type of action to preserve and stabilize housing serving vulnerable populations continues to be allowed under the HCA.

Objective Design Standards

Imposing design review standards established on or after January 1, 2020 that are not objective.

Limitation on Permits, Housing Units, or Population

Limiting the number of housing development permits that can be issued or the number of housing units that can be constructed, or establishing or implementing any provision that limits the population of the county or city.

Demolition and Replacement of Protected Units

Additionally, the HCA requires housing development projects to create at least as many units as will be demolished during construction of the project in an affected jurisdiction. All development projects, including housing development projects and non-housing development projects, must replace any existing protected units on site and provide relocation benefits to existing occupants of protected units. Replacement units required for non-housing projects must be developed prior to or concurrently with the development project and may be located on a site other than the project site but must be located within the same jurisdiction.

HCA No Net Loss

The HCA requires no net loss of housing units in the development of new housing in an affected jurisdiction and the replacement of any existing housing units that qualify as protected units. If a housing project is demolishing existing residential units, the jurisdiction can only approve the project if it will include at least as many units as are being demolished. In addition, development projects that are demolishing what are known as “protected units” must comply with additional replacement requirements to be approved. This applies to development projects beyond just housing projects that are demolishing existing protected units on the site.

Protected Units

Protected units include the following:

- ▶ Units that are, or have been within the last five years, deed-restricted housing affordable to lower income or very low-income households.
- ▶ Units that are or have been rented within the last five years by lower-income or very low-income households.
- ▶ Units that are, or have been within the last five years, rent-controlled.
- ▶ Units that have been withdrawn from the rental market within the past 10 years pursuant to the Ellis Act.

Replacement of Protected Units

A developer must commit to replacing all protected units in the new project.

Replacement requirements largely mirror those under the state density bonus law (SDBL) and replacement units may be used towards meeting SDBL requirements or a local inclusionary housing requirement.

- ▶ **Replacement units must be affordable at the same or lower income level** as the household that is or was last in occupancy and be deed-restricted for 55 years for rental units or subject to an equity-sharing agreement for for-sale units.
- ▶ **If the income level of the household that is or was last in occupancy is unknown**, it is rebuttably presumed that lower-income and/or very low-income households (depending on if the units are vacant or demolished) occupied these units in the same proportion as lower income and/or very low-income households to all renter households within the jurisdiction based on the Comprehensive Housing Affordability Strategy database (CHAS).
- ▶ **In the case of a rent-controlled unit occupied by a household above lower-income limits**, the jurisdiction may choose to require replacement with a deed-restricted unit affordable to low-income households or a rent-controlled unit.
- ▶ **Replacement units must be of an equivalent size to the units they are replacing.** If more than one protected unit is being replaced, the “equivalent size” requirement can be met by providing replacement units that contain at least the same total number of bedrooms across all replacement units.
 - *Example:* If a developer has an obligation to replace three 3-bedroom protected units and three 1-bedroom protected units, this could be met with six 2-bedroom replacement units.

Tenant Protections

In addition to complying with replacement obligations, developers must do the following for protected units that are currently occupied:

- ▶ **Allow occupants to remain in their units** until six months before the start of construction activities.
- ▶ **Provide relocation assistance** for existing occupants of any protected units that are lower-income households.

- ▶ **Provide a right of first refusal for a comparable unit** affordable to the household at an affordable rent or housing cost in the new development, or in any required replacement units associated with a new development that is not a housing development, for existing occupants of any protected units that are lower income.

Local Ordinances

The HCA’s demolition restrictions and replacement requirements do not supersede any objective provision of a locally adopted ordinance that are more protective. A local ordinance applies—rather than the provisions of the HCA—if that ordinance is objective and places restrictions on the demolition of residential units or the subdivision of residential rental units that are:

- ▶ More protective of lower-income households,
- ▶ Requires the provision of a greater number of units affordable to lower-income households, *or*
- ▶ Requires greater relocation assistance to displaced households.

RECENT HCD TECHNICAL ASSISTANCE LETTERS

City of San Jose , October 16, 2024	Replacement units in for-sale projects must be provided as for-sale units, and because of City adoption of a compliant ordinance, applicants in the City can fulfill replacement unit requirements by providing for-sale Accessory Dwelling Units (ADUs) as allowed under State ADU Law and State Density Bonus Law.
City of Riverside , June 14, 2024	Changing residential to commercial zone is considered a net loss issue under the HCA and requires increase in residential capacity elsewhere within the jurisdiction.
City of Los Angeles , August 28, 2024	While the HCA requires the developer to provide right of first refusal to existing occupants of any protected units that are lower-income households, it does not state that comparable units must be deed-restricted in the same manner as protected units for replacement purposes under the HCA.
City of Carlsbad , December 14, 2023	Affordable dwelling units used to qualify a housing development for State Density Bonus Law may be counted towards the replacement units required when affordable housing is demolished.

LEGISLATION HIGHLIGHTS

Replacement and Relocation Provisions

Expands provisions regarding demolition of housing units to prohibit affected cities or counties from approving any development project, not just housing development projects,

[AB 1218](#), Lowenthal (2023); amended Gov. Code, §§ 65912.114, 65912.124, 65940, and 66300; reorganized provisions under Gov. Code, §§ 66300.5 and 66300.6

that requires demolition of occupied or vacant protected units (including sites where protected units were demolished in the previous 5 years) unless certain conditions are met. Protected units, including those demolished on or after January 1, 2020, must be replaced prior to or concurrently with the development project.

Added to HCD enforcement authority

[AB 215](#), Chiu (2021); amended Gov. Code, § 65585

Adds a number of laws to the list of laws that fall under HCD's AB 72 enforcement authority, including the Housing Crisis Act of 2019.

Restricting Rezones, Limits to Housing Development, and Demolition of Existing Housing.

[SB 330](#), Skinner (2019); amended Gov. Code, § 65589.5 and added Gov. Code, § 66300

Makes a number of changes to the law that limit local review of housing projects, restrict the ability of jurisdictions to rezone residential sites or place limits on housing development, and limit the demolition of existing housing. Some of the bill's provisions apply statewide, while others apply only in affected cities and counties such as urbanized areas or urban clusters.