

# 2019 Legislative Update SB 330: Housing Crisis Act of 2019

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American Planning Association  
**California Chapter**



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## Today's Speakers

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# The Housing Crisis Act

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- SB 330 was signed on October 9, 2019 and becomes effective January 1, 2020
- Declares a statewide housing emergency in effect until January 1, 2025
  - All provisions currently sunset January 1, 2025
- The bill includes 16 sections intended to:
  - Suspend certain restrictions on housing development
  - Expedite permitting of housing where housing shortages and displacement are the most acute
- Portions apply throughout California; other sections are limited to “affected” cities and counties

# General Provisions

SB 330  
High-Level Summary

Section	Summary
1	Title
2	Legislative findings and declaration of housing emergency
7	Restores current GC Sec. 65940 on January 1, 2025
10	Restores current GC Sec. 65943 on January 1, 2025
12	Restores current GC Sec. 65950 on January 1, 2025
14	Statewide concern findings stating intent to apply SB 330 to charter cities
15	Findings regarding no reimbursement
16	Severability clause

# Specific Provisions

## Applicable Statewide

SB 330  
High-Level Summary

Section	Summary
3	Housing Accountability Act (GC Sec. 65589.5) amendments regarding review and processing
4	New GC Sec. 65905.5 limiting hearings on residential projects
5	New GC Sec. 65913.10 requiring determination re: historic site status at the time of application completeness
8	New GC Sec. 65941.1 creating preliminary application process
9	Permit Streamlining Act (GC Sec. 65943) amendments regarding completeness determination
11	Permit Streamlining Act (GC Sec. 65950) amendments regarding time for making a determination on a project

# Specific Provisions

## Applicable in Affected Cities and Counties

SB 330  
High-Level Summary

Section	Summary
6	GC Sec. 65940 amendments to include information about displacement in completeness determination
13	New GC Sec. 66300 Housing Crisis Act re: <ul style="list-style-type: none"><li>• Definition of affected cities and counties</li><li>• Limitations on actions to reduce residential development capacity or implement growth control</li><li>• Replacement and relocation requirements</li></ul>

# Overview of Statewide Changes

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# Step 1: Preliminary Application

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- Under GC Sec. 65941.1, an applicant for a residential development project may submit a “preliminary application”
- Once submitted, the project is entitled to the vested rights under the new GC Sec. 65589.5(o)
- Jurisdictions may only require the information identified in the statute; HCD developing standardized checklist for submittal
- Resubmittal required if:
  - A change of 20% or more of the residential unit count or project square footage is proposed
  - An application with information required by Permit Streamlining Act is not submitted within 180 days
  - The applicant fails to submit required information within 90 days after incompleteness notice



# Preliminary Application Contents

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- (1) The specific location, including parcel numbers, a legal description, and site address, if applicable.
- (2) The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.
- (3) A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.
- (4) The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.
- (5) The proposed number of parking spaces.
- (6) Any proposed point sources of air or water pollutants.
- (7) Any species of special concern known to occur on the property.
- (8) Whether a portion of the property is located within any of the following:
  - (A) A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178.
  - (B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
  - (C) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.
  - (D) A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.
  - (E) A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
  - (F) A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.
- (9) Any historic or cultural resources known to exist on the property.
- (10) The number of proposed below market rate units and their affordability levels.
- (11) The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.
- (12) Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.
- (13) The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.
- (14) For a housing development project proposed to be located within the coastal zone, whether any portion of the property contains any of the following:
  - (A) Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.
  - (B) Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.
  - (C) A tsunami run-up zone.
  - (D) Use of the site for public access to or along the coast.
- (15) The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.
- (16) A site map showing a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code and an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.
- (17) The location of any recorded public easement, such as easements for storm drains, water lines, and other public rights of way.

## Step 2: Complete Application

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- Within 30 days of application submittal, must make written completeness determination
  - If application incomplete, agency must provide “exhaustive list” of items that were not complete
  - List is limited to those items actually required on the submittal requirement checklist
  - In any subsequent review, agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete
- List of information required from applicants (under GC Sec. 65940) must be made available in writing to applicants and on the agency’s website
- Historic Determination required at time of completeness
  - Determination remains valid unless any archaeological, paleontological, or tribal cultural resources are encountered
  - Does not override CEQA and the Coastal Act

# Step 3: Application Review

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- Agency must issue written determination of consistency with objective standards within 30 days (150 or fewer units) or 60 days (more than 150 units)
- Limited to fees and standards in place at time of preliminary application submittal
  - No later-enacted standards may be applied
  - Includes freeze on fees from any county, city, city and county, school district, special district, authority, agency, any other municipal public corporation or district, or other political subdivision of the state
- Exceptions:
  - Automatic fee adjustments
  - Necessary to avoid specific, adverse public health or safety impact
  - CEQA
  - Construction hasn't commenced within 2.5 years after final approval
  - Changes of 20% or more
  - Post C of O requirements, such as inspections, rent control, vacation rental bans, etc.

# Step 4: Hearing Process

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- No more than 5 total hearings allowed for residential development projects
  - Applies to continuances
  - Includes architectural review, historic review, planning commission, city council, etc.
  - Project must comply with objective general plan and zoning standards (i.e., limit does not apply to GPAs or zoning amendments) BUT no rezoning required if zoning inconsistent with the General Plan
- Must make final decision on a residential project within 90 days after certification of an EIR (or 60 days after adoption of MND)

# Step 5: Judicial Review

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- If the local agency requires – or attempts to require – compliance with standards not in place when preliminary application was submitted, an applicant, an eligible resident, or a housing organization may file suit
- Court shall order compliance within 60 days
- Plaintiffs eligible for attorneys' fees and costs
- Fines ranging from \$10,000 - \$50,000/unit can be imposed following continued non-compliance with court orders

# Housing Crisis Act

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- New GC Sec. 66300 applies in “affected” cities and counties
  - Cities are designated as urbanized area or urban cluster, as designated by the United States Census Bureau
  - Counties are census designated places wholly located within the boundaries of an urbanized area
  - “Affected” city and county includes voters’ initiatives and referenda
- Bans certain housing limitations
- Requires replacement housing and relocation benefits

# Prohibited Housing Limitations

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- No residential downzoning or adoption of standards that reduce capacity
  - “No Net Loss” exception allows upzoning to compensate for lost capacity with HCD approval
- No moratorium, except to protect against an imminent threat to the health and safety of persons with HCD approval
- No newly adopted design standards, unless they are objective
- No growth control measures
  - Exception for jurisdictions in predominantly agricultural counties with voter-approved measures in place before 2005

# Other Exceptions

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- Prohibition of commercial uses (including short-term occupancy bans) of land designated for residential is allowed
- New standards that increase density, reduce cost, or “facilitate” housing are permitted
- The Housing Crisis Act does not apply to a housing development project located within a “very high fire hazard severity zone” as designated by the Director of Forestry and Fire Protection
- CEQA still applies, and mitigation measures are not limited
- The Coastal Act and LCP standards apply



# Replacement Housing

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- Affected cities and counties may not approve housing development projects that would demolish dwelling units unless the proposed project:
  - Creates at least as many units as would be demolished; and
  - Replaces all occupied or vacant “protected units”
- “Protected Units” include units:
  - Subject to recorded affordability restrictions for lower income households (or below) within the past 5 years
  - Occupied by lower income households (or below) within the past 5 years
  - Subject to local rent or price control
  - Withdrawn from the market via the Ellis Act within the past 10 years
- Replacement of protected units counts towards density bonus, as applicable

# Tenant Protections

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- Existing tenants must be allowed to remain until six months prior to the start of construction
- Protected unit occupants entitled to:
  - Relocation benefits consistent with the California Relocation Law (GC Sec. 7260)
  - Right of first refusal to rent or purchase comparable unit at an affordable price
- Local restrictions on demolition that are more protective are permitted

## NOTE

- Only applies to applications deemed or determined to be complete after January 1, 2020
- Project Application Checklists shall include information necessary to determine compliance

# Key Takeaways

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- Application Checklists
  - Prepare Preliminary Application checklist or use HCD's form
  - Ensure application checklists for all projects are up-to-date and available in print and on the web
- Application Review
  - Make sure Permit Streamlining Act completeness letters are comprehensive
  - Continue conducting consistency review under the HAA
- Adjust hearing requirements and schedules as needed
- Respect the development standard “freeze”
- In affected cities and counties:
  - Avoid prohibited housing limitations
  - Consider demolition restrictions and replacement obligations



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