

2022 New Housing Legislation Action Item and Issue Spotting Chart

DISCLAIMER: This document is intended solely as a technical overview. It is not intended to serve as legal advice regarding any jurisdiction's specific policies or any proposed housing development project. Local staff should consult with their city attorney or county counsel prior to taking any of the actions identified below.

TOPIC AREA	IMMEDIATE ACTION ITEMS	IMPACTS YOUR JOB	GOOD TO KNOW
RESIDENTIAL DEVELOPMENT IN COMMERCIAL ZONES	Begin considering parcels you may want to exempt under SB 6 and how lost density will be reallocated to other parcels or accommodated by allowing greater density on other parcels.	Effective date for both SB 6 and AB 2011 is July 1, 2023; intended to give jurisdictions additional time to adopt implementing ordinances and prepare for applications.	None.
ACCESSORY DWELLING UNITS	<ol style="list-style-type: none"> Update local ADU ordinance to comply with changes made by AB 2221 and SB 897, including, but not limited to: <ul style="list-style-type: none"> New limitations of permitted heights (SB 897); Owner-occupancy requirements (if desired in 2025) (AB 2221); Front yard setback requirements (AB 2221); and Building code requirements (if in ordinance (SB 897). Coordinate ADU permit processing with utilities and special districts (if approval from those agencies is required before issuing permits) to ensure processing is completed with 60 days (AB 2221). 	<ol style="list-style-type: none"> Agencies cannot require an applicant to provide written notice or post a placard for the demolition of a garage unless it is in an architecturally and historically significant district (SB 897). ADU does not constitute Group R occupancy change with exceptions and cannot trigger requirement for fire sprinklers (SB 897). Cannot require correction of building standards for unpermitted ADU built before 1/1/18 or correction of violation in primary dwelling unless needed to protect health & safety (SB 897). 	None.

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<p>ZONING, APPROVALS, & ENTITLEMENTS</p>	<ol style="list-style-type: none"> 1. Where applicable, update code to eliminate public hearing requirement for a permit to add up to two bedrooms to an existing dwelling unit (AB 916). 2. Where applicable, update code to eliminate minimum car parking requirements for residential, commercial, or other development projects located within one-half mile of a major transit stop, subject to statutory exceptions (AB 2097). 3. Consider whether to complete study in advance of any application demonstrating that not meeting local parking standards would have substantially negative impact (AB 2097). 	<ol style="list-style-type: none"> 1. For SB 35 purposes, missing application materials cannot be the sole basis for determining a development is inconsistent with objective planning standards if a reasonable person could determine compliance from materials submitted. (AB 2668). 2. If a project conflicts with SB 35 objective standards, agency must provide the project proponent with written explanation of which standards and why (AB 2668). 3. Determine compliance with SB 35's below market rate housing requirements by calculating the percentage BEFORE calculating any density bonus (AB 2668). 	<p>May now authorize development on hazardous waste sites that local agency determines is suitable for residential use (AB 2668).</p>
<p>DENSITY BONUS</p>	<ol style="list-style-type: none"> 1. If using form-based code, ensure density bonus application form requires base density study (AB 2334). 2. If using lot area per unit as a density standard, consider changing to units per acre, since lot area per unit is now defined as a waivable development standard (AB 2334). 3. Review density bonus ordinance to see if changes are needed (AB 682, AB 1551, AB 2334). 	<ol style="list-style-type: none"> 1. Prepare for applications under the new rules, including "shared housing buildings" (AB 682). 2. Revised definition of "maximum allowable residential density" for jurisdictions with form-based codes (AB 2334). 	<p>100-percent affordable projects located in a "very low vehicle travel area" within a designated county (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma) are not subject to maximum controls on density (AB 2334).</p>

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HOUSING ELEMENT; NO NET LOSS	If a jurisdiction submits its first draft Housing Element to HCD after the due date (January 31, 2023) or submits a draft to HCD more than 90 days after January 1, 2023, new rules related to adequate sites for emergency shelters (AB 2339) apply to your housing element.	Local governments must account for required "carryover" sites when calculating "no net loss" -- determining whether adequate housing element sites remain if projects are approved with fewer units or at a different income category than shown in the housing element (AB 2339).	None
HOUSING ELEMENT; ANNUAL PROGRESS REPORTS	None.	<ol style="list-style-type: none"> Jurisdictions must now include the following information in their housing element annual progress reports: <ul style="list-style-type: none"> Whether each housing development application is subject to a ministerial or discretionary approval process (AB 1743); Jurisdiction's progress on meeting needs of extremely low-income households (AB 2094); Certain information about AB 2011 projects; and The total number of new housing units, the total number of demolished housing units, and data from all density bonus projects (AB 2653). HCD may request corrections of APRs within 90 days after receipt; jurisdiction has 30 days to correct (AB 2653). 	HCD and the Attorney General now have enforcement authority for failure to comply with APR requirements (AB 2653).

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OPEN SPACE ELEMENT	Cities and counties must review and update their local open space element by January 1, 2026. The update must include plans and an action program to address certain issues, such as climate resilience and cobenefits of open space (AB 1425).	None.	None.
POSTENTITLEMENT PERMITS	<ol style="list-style-type: none"> 1. Update policy to align with new processing timelines for postentitlement phase permits and to adopt definitions of "minor" and "standard" permits for off-site improvements, excavation, and grading (AB 2234). 2. Must update website to provide detailed list of required information for postentitlement permits, checklists and examples relating to postentitlement phase permit application (AB 2234). 3. By January 1, 2024, or January 1, 2028, depending on jurisdiction size, create online system for postentitlement phase permit applications (AB 22434). 	<ol style="list-style-type: none"> 1. If determine that application for postentitlement phase permit is incomplete, must provide applicant with list of incomplete items and description of how to make application complete within 15 business days of submission of application (AB 2234). 2. If determine that an application for postentitlement phase permit is noncompliant, must provide the applicant a full set of written comments with a comprehensive request for revisions within 30 business days (projects with 25 units or fewer) or 60 business days (projects with more than 25 units) (AB 2234). 3. Applicant may appeal decision on postentitlement phase permit application (AB 2234). 	None.
ARCHITECTURAL DRAWINGS	None.	Ensure architectural drawings that contain copyrighted material are only made available to the public in a manner that does not permit copying, i.e. in compliance with the requirements of SB 1214 .	None.

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FAIR HOUSING	None.	<ol style="list-style-type: none"> 1. Agencies may adopt a local tenant preference subject to certain civil rights laws (SB 649). 2. If a local tenant preference policy is adopted, agency must (1) within 90 days after the effective date, create a page on its website containing the ordinance and supporting materials and (2) provide HCD with a current link to the website in its annual housing element progress report (SB 649). 	HCD is required to post on its website a list of the jurisdictions that have a local tenant preference based on the information provided in the APRs (SB 649).
EDUCATIONAL FACILITY HOUSING	None.	<ol style="list-style-type: none"> 1. A housing development project with the majority of units for lower and moderate-income households is an allowable use on any property owned by a local education agency subject to qualifying criteria, including that units are rented to in the following order of priority local educational agency employees, to employees of adjacent local education agencies, to public employees who work within the jurisdiction of the local education agency and to members of the public (AB 2295). 2. Faculty and student housing projects meeting certain criteria are exempt from CEQA (SB 886). 	Community College Districts may facilitate the acquisition, construction, rehabilitation and preservation of affordable rental housing for their employees and other local public employees (AB 1719).

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RENT CONTROL	None.	None.	<ol style="list-style-type: none"> 1. Local governments may apply rent control to mobilhome parks and mobilehome park spaces after a 15-year exemption period (SB 940). 2. (Alameda, Contra Costa, and Marin Counties ONLY) Rent increase for floating home marinas are limited one increase, of the less of 3% plus change in CPI, or 5%, in any given 12-month period (AB 252).
MOBILEHOMES	None.	None.	<p>HCD must post on its website an explanation of the process by which a city or county may assume responsibility for enforcing the Mobilehome Parks Act and/or the Special Occupancy Parks Act and send annual electronic notice to every city and county that explains this process (SB 1307).</p>
HOMELESSNESS	None.	None.	<p>Cities, counties, and continuums of care receiving state funding must include families, people fleeing or attempting to flee domestic violence, and unaccompanied women in the vulnerable populations for whom specific system supports are developed to maintain homeless service and housing delivery (SB 914).</p>