

Development Certainty and Streamlined Entitlement Process

Improvements to the permitting process can make cities more attractive to developers of both market-rate and affordable housing, helping to increase the housing supply and reduce housing costs over the long term.

Legal Context

What Does State Law Require?

The [Housing Crisis Act of 2019](#) was established by [SB 330 \(2019\)](#) and amended by [SB 8 \(2021\)](#). This law establishes vested rights through a preliminary application. A project is only subject to the ordinances, policies and standards adopted and in effect when this application is submitted. State law also requires timely permit processing and a limited number of hearings, with additional incentives for affordable housing. The Housing Crisis Act of 2019 has a sunset date of January 1, 2030.

How Can Jurisdictions Implement Programs That Go Beyond State Law?

Jurisdictions can extend the legal sunset date or adopt ordinances without a sunset date. Jurisdictions can also explore opportunities to further streamline the entitlement process and improve certainty for builders, with additional incentives for affordability.

Program Design, Implementation and Evaluation Considerations

The callout box below labeled “TOC Policy Requirements” describes the policy features necessary for a jurisdiction to receive credit toward TOC Policy compliance. All other policy features discussed in this document represent details found in existing policies on the subject and a jurisdiction may want to consider them when adopting or implementing a policy, but nothing is required for TOC Policy compliance unless noted as a requirement in the “TOC Policy Requirements” callout box or the [TOC Policy Administrative Guidance](#).

At-A-Glance

RELEVANT STATE LAWS

- [Housing Crisis Act of 2019](#)
- [SB 8 \(2021\)](#)

POTENTIAL FUNDING SOURCE

- General Funds
- Permit Review Fees

COST

Low

ADMINISTRATIVE BURDEN

 Medium

Staff capacity needed for program design, leading public and legislative processes, training for new procedures.

WHICH P?

Production

POTENTIAL PARTNERS

- Housing Developers
- Affordable Housing Developers
- Tenant Protection Organizations

OPTION FOR TOC POLICY COMPLIANCE?

Yes!



Elements of the Program

- Streamlined entitlement process for eligible projects.
- Ongoing efforts to improve process certainty and reduce barriers.
- Incentives encouraging affordability beyond existing local and state programs.
- Protection of existing tenants and efforts to prevent displacement.

Program Design Considerations

Jurisdictions may want to consider the following:

IDENTIFY BARRIERS: Reviewing all steps of the permitting process to identify factors that slow new construction and redevelopment. In addition to SB 330 requirements, jurisdictions can consider new process improvements that clear pathways to meeting local housing goals.

GATHER INPUT: Engaging with local residential developers on an ongoing basis can help staff identify opportunities to reduce development barriers and effective incentives for community-serving housing.

AFFORDABILITY INCENTIVES: Reducing process delays and uncertainty for projects that deliver deeper affordability, such as expedited review for market-rate projects that exceed affordability required by existing policy, or additional zoning concessions for nonprofit developers of affordable housing.

CONSOLIDATE REQUIREMENTS: Partnering across agencies and departments to consolidate duplicative entitlement requirements and reduce application steps, such as structuring one public hearing to satisfy the requirements of multiple departments.

PRE-APPLICATION MEETINGS: Requiring early meetings between developers and staff prior to application submission can reduce processing delays and improve relationships.

VESTED RIGHTS: Creating certainty in the development process by vesting a project's

development rights, locking applicable development codes and requirements for a project based on the application date. Under SB 330, zoning requirements are locked in at the time a project submits a complete preliminary application. Accordingly, a project is subject to the ordinances, policies and standards adopted and in effect when a preliminary application is submitted.

CLEAR TIMELINES: Limiting public hearings to ensure a reasonable and predictable entitlement process. Under SB 330, jurisdictions are limited to five public hearings for projects that comply with objective zoning standards and general plans.

ANTI-DISPLACEMENT & TENANT PROTECTIONS: Pairing development streamlining policies with early adoption of strong tenant protections can reduce the risk of displacement as neighborhoods grow. Jurisdictions can adopt protection policies like right to return, relocation assistance and support, or 1:1 replacement of affordable units. See MTC-ABAG's Protection Policy Guides for further guidance.

CLEAR APPLICATION PROCESSING

REQUIREMENTS: Outlining an easy-to-understand process and procedure for review and approval. Include specific review timelines and deadlines, defined review procedures, objective standards for review and a straightforward application with clearly stated submittal requirements.

Program Implementation, Administration and Enforcement

Policies for improving development certainty and streamlining the entitlement process can be implemented via an ordinance and through internal process improvements. Program elements can be tailored to the local context based on feedback from members of the development community, such as real estate industry groups and affordable housing developers.



TOC Policy Requirements: To comply with TOC policy, jurisdictions must adopt all of the following:

- **Adopt a local ordinance with no sunset date** that provides the vested rights and five hearing limit provisions from SB 330.
- **Adopt [TOC Protection Policy 2: No Net Loss and Right to Return to Demolished Homes](#)**, unless preempted by state or federal law. Alternatively, provide a detailed analysis of how the jurisdiction otherwise prevents displacement and protects tenants in areas where development certainty and streamlined approvals are available. See [Policy Implementation Guides](#) for further guidance.

Program Evaluation

Program evaluation can include tracking timelines for the entitlement process across different types of residential projects and comparing changes over time. Local housing developers should understand where to access information on the program and how to leverage the benefits.

This document is intended to provide general information and does not constitute legal advice. Additional facts, facts specific to a particular situation, or future developments may affect the subjects discussed in this document. Seek the advice of your jurisdiction’s legal counsel before acting or relying upon this information. For specific questions regarding TOC compliance, please reach out to TOCpolicy@bayareametro.gov.

Complementary Policies

AFFORDABLE HOUSING OVERLAY ZONE: Allow increased density and relaxed zoning regulations for affordable developments, making it easier and more attractive to build affordable units.

MINISTERIAL APPROVAL: Expedite the approval process and improve certainty for projects that meet local housing goals and deliver affordability.

NO NET LOSS AND RIGHT TO RETURN: Prevent displacement by requiring replacement of demolished units with units of equivalent size and affordability, and ensure existing tenants have the right to return to their home or similar units following redevelopment or rehabilitation.

Other Resources

EXAMPLES*

Palo Alto - [Streamlined Design Review for Objective Design Standards & ODS Checklist](#)

OTHER RESOURCES

[Local Housing Solutions - Streamlined Permitting Processes Brief](#)

[HCD - Memo on Housing Accountability Act Technical Assistance](#)

[MTC/ABAG - SB 330 Housing Crisis Act Replacement Housing Tenant Letter Template, Request for Tenant Information Form and Tenant Statement Template](#)

[Metropolitan Transportation Commission - Production Policy 7: Development Certainty and Streamlined Entitlement Process](#)

**Note that examples have not been vetted for full TOC Compliance.*