

**CHANGES TO ANNUAL REPORT REQUIREMENTS AND HOUSING ELEMENT UPDATE**

Bill	Required or Voluntary	Subject	Highlights	Process and Penalties	Short-Term Tasks (<12 months)	Medium-Long Term Tasks (>12 months)
AB 879, SB 35	R	Annual reporting obligations	<ul style="list-style-type: none"> <li>▪ From 2019 onwards, annual housing reports to HCD have to include additional documentation (see next column).</li> <li>▪ HCD to evaluate reasonableness of local government mitigation fees with direction to identify fees reduction opportunities to promote housing development. Report due in 2019.</li> </ul>	<p>City must immediately start gathering information on:</p> <ul style="list-style-type: none"> <li>▪ Number of housing applications received in prior year.</li> <li>▪ Number of units included in all development applications in the prior year.</li> <li>▪ Number of units approved and disapproved in the prior year.</li> <li>▪ Listing of sites that were rezoned to accommodate any portion of the RHNA allocation by income level that could not be accommodated in the existing inventory.</li> <li>▪ Listing of sites that were identified or rezoned if housing was approved at a lesser density of different income level than anticipated for that site in the inventory (No Net Loss provisions).</li> </ul> <p>City must also provide:</p> <ul style="list-style-type: none"> <li>▪ A production report of net new units that were issued a "completed entitlement<sup>1</sup>," a building permit, or certificate of occupancy, the income category of each new unit and a unique site identifier for each entitlement.</li> <li>▪ A report on the impact of SB 35 streamlining provisions.</li> </ul> <ul style="list-style-type: none"> <li>▪ Penalty: Failure to submit annual report in substantial compliance with these requirements may result in a court order to complete the report.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Create a Housing layer in the City's database to collect required information.</li> <li>▪ Develop an SB35 checklist to determine project eligibility for streamlining.</li> <li>▪ Track information beginning January 1, 2018.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Review and update impact fees and nexus reports if needed.</li> </ul>
<ul style="list-style-type: none"> <li>➤ <b>Significant increase in the amount of data to be collected, analyzed and reported to HCD.</b></li> <li>➤ <b>Possibility that local mitigation fees could be lowered - HCD to evaluate reasonableness of local government mitigation fees.</b></li> </ul>						
AB 72	R	Housing Element enforcement	<ul style="list-style-type: none"> <li>▪ Provides explicit authority for HCD to revoke its compliance finding <u>any time</u> during a Housing Element cycle for reasons such as a failure to complete required rezonings.</li> <li>▪ City will be granted reasonable time, not exceed 30 days, to respond.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Penalty: HCD may report the violation or any violations to the Housing Accountability Act, No Net Loss provisions, density bonus or fair housing law to the Attorney General.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Review housing element to determine whether there are implementation items that might be subject to this provision, including "No Net Loss" provisions.</li> <li>▪ If there are potential violations, develop a strategy to ensure compliance and work with HCD as necessary.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Make corrections if necessary.</li> </ul>
<ul style="list-style-type: none"> <li>➤ <b>Increase in HCD's authority over housing elements.</b></li> <li>➤ <b>Authorizes HCD to find a jurisdiction out of compliance with state housing law at any time (instead of the current 8-year time period), and refer any violations of state housing law to the Attorney General if it determines the action is inconsistent with the locality's adopted housing element.</b></li> </ul>						

<sup>1</sup> SB 35 defines "completed entitlement" as all required land use approvals or entitlements necessary for issuance of building permit.

**CHANGES TO ANNUAL REPORT REQUIREMENTS AND HOUSING ELEMENT UPDATE**

Bill	Required or Voluntary	Subject	Highlights	Process and Penalties	Short-Term Tasks (<12 months)	Medium-Long Term Tasks (>12 months)
AB 1397, AB 879	R	Housing Element sites inventory	<p>Requires cities to provide additional analysis when updating the Housing Element.</p> <ul style="list-style-type: none"> <li>▪ <u>Site Inventory</u>: Must include analysis of “realistic and demonstrated” potential for sites to accommodate housing; more justification of the number of units identified for each site, including a review of density on similar sites and affordability levels.</li> <li>▪ <u>Site area</u>: sites &lt;1/2 acre or &gt;10 acres will be considered inappropriate for affordable housing unless city can provide evidence, e.g., application pending or approved project.</li> <li>▪ <u>Vacant sites</u> in inventory that continue to remain undeveloped after two cycles, must be removed from inventory unless it is zoned to the minimum lower income household density and the zoning allows residential by right if at least 20% of units are affordable to lower income households.</li> <li>▪ <u>Non vacant sites</u>: City must demonstrate that it has a track record of converting non-vacant sites to higher density residential; it must provide market demand for the site and analyze any existing leases that could prevent redevelopment. If city relies on non-vacant sites to accommodate 50% or &gt; of its required lower-income units, it must find that there is substantial evidence that current uses will be discontinued in the planning period.</li> <li>▪ City must address impacts of its mitigation fees and zoning regulations on the production of housing.</li> <li>▪ <u>Non-governmental constraints</u>: City must provide analysis of housing requests to develop below the permitted density and the length of time between project approval and issuance of building permits and describe efforts to address these constraints.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Site area: 3 of the 24 sites in Lafayette’s housing inventory are &lt;1/2 acre or &gt; 10 acres.</li> <li>▪ Vacant sites: For example, the 2.38 acres at St. Mary’s Road and Moraga Road.</li> <li>▪ Non vacant sites: More than 50% of sites in Lafayette’s inventory are not vacant.</li> </ul>	<ul style="list-style-type: none"> <li>▪ None. Next update will begin in 2021.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Review current inventory to determine whether existing sites can comply with these requirements. Flag those that do not.</li> <li>▪ Develop a plan to address non-complying sites, including looking for other potential sites.</li> </ul>

➤ **Substantial increase in required documentation and justification of inventory sites.**  
 ➤ **Many built-out cities, including Lafayette, will be restricted by the vacant and non-vacant sites requirements.**  
 ➤ **Mitigation fees under scrutiny.**