



November 21, 2023

Mr. David Zisser
Assistant Deputy Director
Local Government Relations & Accountability
Housing Policy Development Division
California Department of Housing and Community Development
2020 W. El Camino Avenue, Suite 552
Sacramento, CA 95833
via email to David.Zisser@hcd.ca.gov

Re: HCD's San Francisco Housing Policy and Practice Review

Dear Assistant Deputy Director Zisser,

Thank you for your October 25 transmittal of the California Department of Housing and Community Development's ("HCD") San Francisco Housing Policy and Practice Review ("PPR"). We are not surprised that HCD's conclusions mirror the goals the City already set forth in its Housing Element. The Housing Element, having been signed into law by Mayor Breed following unanimous approval by our Board of Supervisors ("Board"), committed the City to aggressively increase housing capacity, enhance project feasibility, and streamline housing approvals over the next eight years.

The City and State face an unprecedented housing crisis, and market conditions have slowed the production of housing. Still, San Francisco must continue to do more to produce housing. While the City and HCD's goals are fundamentally aligned, San Francisco's housing accomplishments to-date are worth reiterating. With respect to both authorizing and building new housing, the City has consistently outperformed other Bay Area counties. San Francisco contains just 11% of the Bay Area population and is the area's smallest geographic county by far, yet from 2014-2021 San Francisco built 23% of the region's total new homes (17,500 units) and 32% of new lower-income homes (3,200 units). Similarly, San Francisco issued permits for 17% of the region's total permitted new homes (31,900 units) and 24% of lower income homes (6,500 units). Likewise, San Francisco has increased local funding for affordable housing substantially since late 2015, including two voter-approved local general obligation bonds (2015 and 2019) totaling over \$900 million, in addition to other local funding, which along with SB 35 has helped accelerate local affordable housing production. These bonds are among the highest, if not the highest, amounts allocated to affordable housing by any city or county in the State. Nonetheless, we can and must do more if we are to accommodate almost one-fifth of the regional housing needs.

The PPR lists five categories of "Required Actions." Each action is described as being a policy or practice, and includes a proposed deadline. The purpose of this letter is to respond to the actions in the PPR that HCD lists as due within 30 days of transmittal (November 27), along with certain other key actions. Because of the significant overlap with the City's Housing Element, some of the responses describe our progress in implementing the Housing Element more broadly, and how those actions relate to HCD's PPR. Additionally, we have been in communication with Supervisor Melgar, who

we understand will be responding individually to HCD's October 26, 2023 Letter of Technical Assistance to address issues relating to the Family Housing Opportunity Special Use District.

We are pleased to report that we are substantially meeting the expedited timetables contained in the PPR, especially in light of the eight-year span of the Housing Element's validity. We are confident that the changes made, and that continue to be made, to San Francisco's review and approval process substantially comply with the City's approved Housing Element, and will facilitate construction of housing, particularly when the current, challenging economic climate improves.

We provide an update below on several key actions that the City has already completed, or actions that the PPR identifies as having an imminent implementation deadline.

- 1.1 **Revise entitlement processes to require that housing developments that conform to existing planning and zoning standards move efficiently through a local non-discretionary, ministerial entitlement process.** This includes areas outside of Priority Equity Geographies and in Priority Equity Geographies and Cultural Districts where community-led strategies have defined and codified community benefits at the neighborhood or citywide level. A non-discretionary ministerial entitlement process must not, by definition, subject code-compliant housing developments to any discretionary decision making, including Publicly Initiated Requests for Discretionary Review.

PPR Timing: Complete by January 31, 2024, for projects on reused 4th and 5th cycle lower-income housing elements that are 20 percent affordable, as required by Housing Element law. Immediately initiate development of community led strategy to determine appropriate community benefits within Priority Equity Geographies and Cultural Districts that do not yet have codified community benefits.

Re-used sites. The City has started the development of a non-discretionary approval process for Code-compliant projects providing 20% on-site affordability on the sites in question, which will comply with the Housing Element law. We have already successfully implemented ministerial approvals for projects using State law (SB 35, SB 9, AB 2011), and is poised to implement SB 423 in 2024. In addition, the City will cease post-entitlement appeals of building permits in compliance with AB 1114. Please refer to the City Attorney's memo in Exhibit C.

Community benefits. The City has already begun to work with the American Indian community, the Black community, communities in most neighborhoods within Priority Equity Geographies, and Cultural Districts. This effort assesses community needs in order to inform a formal community benefits program and also addresses affordable housing preservation and protection. The Planning Department has allocated seven full time equivalent positions (FTEs) and \$750,000 to develop these strategies, which are in turn guided by communication with the Community Equity Advisory Council (the "Equity Council"), a group of 11 community leaders representing various equity communities. The Equity Council meets monthly to discuss community priorities and to review work-product which staff developed following community workshops and focus groups. To date, the Municipal Code incorporates community benefits for a range of neighborhoods, primarily in Priority Equity Geographies (e.g. South of Market, the Mission, the Tenderloin, Divisadero Street) through development impact fees, affordable housing programs, and land use controls. The City previously endorsed the use of community benefits in January 2023 through Housing Element Implementation Actions 4.2.05, 7.2.2, and 8.4.6.

- 1.2 Eliminate Planning Commission hearings for all code-compliant housing development in all locations outside of Priority Equity Geographies. This program is past due in the housing element, with an implementation date of July 31, 2023.

PPR Timing: 30 days

Introduced by Mayor Breed on April 18, 2023, the "Constraints Reduction Ordinance" will remove hearing requirements for Code-compliant housing projects outside of Priority Equity Geographies. The Planning Commission endorsed this ordinance and it is now pending approval before the Board's Land Use Committee. The ordinance has undergone several rounds of amendments and will be heard again on November 27, 2023, at which time the Mayor intends to introduce amendments to more closely align the ordinance with the various goals of the Housing Element and those of the PPR. In addition, the Constraints Reduction Ordinance will eliminate hearings for underlying entitlements associated with state density bonus projects. Furthermore, the City is preparing to implement SB423, which will require the ministerial approval of most multifamily housing projects in San Francisco. Please refer to the tables in Exhibit A and Exhibit B for specific information on how the ordinance will address HCD's requested actions. The City previously endorsed this goal in January 2023 through Housing Element Implementation Action 8.4.5.

- 1.4 Eliminate the use of "neighborhood character" and "neighborhood compatibility" terminology in case report findings and in relevant design guidelines, and remove "light" and "air" terminology in case report findings to support discretionary requests.

PPR Timing: 30 days for case report findings.

The main purpose of our case reports and their findings are to assess and document a project's compliance with the Planning Code. Beginning with case reports published on November 16, 2023, Planning Department staff has generally eliminated use of the phrases in question. As the City stated in Housing Element Implementation Actions 8.3.9 through 8.3.11, some of the policies referenced in case reports were adopted by the voters and are embedded in other General Plan elements. The Department's approach is consistent with the City's other General Plan policies and local law, including those adopted by voter initiative, while still advancing this Housing Element policy. Additionally, the Mayor's Constraints Reduction Ordinance - by eliminating hearings - would effectively eliminate any consideration of these policies for nearly all code complying multifamily housing projects.

- 1.5 Consistent with the recent action to eliminate the Preliminary Project Assessment, ensure that no mandatory pre-application processes are required in order for a housing development project applicant to submit a preliminary application under the Permit Streamlining Act.

PPR Timing: 30 days.

The City amended its "Preliminary Housing Development Application" on November 20, along with related Department processes, in order to eliminate any need for a pre-application meeting prior to submittal of a preliminary application. Mayor Breed previously called for this in February 2023 through Section II.9 of her Housing for All Executive Directive.

- 1.7 Require requests for waivers and concessions under State Density Bonus Law to be processed by the Planning Department, not the Planning Commission, when no other entitlements are required.

PPR Timing: 30 days.

The Constraints Reduction Ordinance amends the Planning Code to allow the Planning Department to review and approve applications for Density Bonus projects without a hearing. The ordinance also eliminates hearings for underlying entitlements, except where a project needs a Conditional Use Authorization to approve a non-residential use or where a project demolishes an existing housing unit. The City previously endorsed this goal in January 2023 through Housing Element Implementation Action 8.5.2.

- 1.8 Revise the application of the Affordable Housing Fees and Inclusionary Affordable Housing Program requirements, so as not to impose fees on affordable units for projects under State Density Bonus Law. Affordable units cannot be counted toward the total unit count for a State Density Bonus Law project in determining whether the higher Affordable Housing Fees and Inclusionary Affordable Housing Program requirements apply.

PPR Timing: As soon as possible, but no later than 1 year.

Planning Director Bulletin Number 6 was amended in February 2023 to establish a project's inclusionary affordable housing rate using the number of base units rather than the total number of units. Additionally, City policy provides that State Density Bonus projects receive a credit toward the affordable housing fee for on-site affordable units pursuant to Planning Code Section 415.5(g)(1)(D). The City previously endorsed this goal in January 2023 through Housing Element Implementation Actions 1.3.3 and 1.3.9.

- 1.10 Approve other reforms in the proposed "Constraints Reduction" Ordinance and the Mayor's Housing for All Executive Directive that will implement the various housing element programs identified in HCD's June 16, 2023 Letter of Support and Technical Assistance.

PPR Timing: 30 days.

The Board's Land Use and Transportation Committee will hear the Constraints Reduction Ordinance again on November 27, 2023. As discussed, the Mayor intends to introduce amendments that will address many of the issues in the PPR. We anticipate that the Constraints Reduction Ordinance will advance to the full Board shortly after the Land Use Committee hearing. Please refer to Exhibit A for more specific information on how these reforms will address HCD's requested actions. The City previously endorsed this goal in January 2023 through Housing Element Implementation Actions 8.4.5 and 8.5.2, and then again in February through Mayor Breed's Housing for All Executive Directive.

- 3.1 Revise local practices so that projects that require ministerial approval pursuant to SB 35, State ADU Law, Housing Element Law, AB 1114, and other state housing laws cannot face any post-entitlement administrative appeals if the project complies with applicable permit standards.
- 3.2 Revise local rules so that all development that benefits from a local ministerial approval process, once established, does not face any post-entitlement administrative appeals.

3.3 Revise rules around administrative appeals for all post-entitlement permits, and narrow which permits are subject to additional administrative review.

PPR Timing: End subjective post-entitlement appeals immediately, end all post-entitlement appeals no later than January 1, 2024, and comply with state law (AB 1114) by January 1, 2024.

The City will implement AB 1114, which becomes effective on January 1, 2024, and eliminates post-entitlement appeals for all building permits. Please refer to the City Attorney's memo in Exhibit C. In addition, under SB 423, a project's subsequent permits must be approved and processed without unreasonable delay. The Department and Board of Appeals are working to issue guidance and update permitting practices to ensure that post-entitlement permits subject to AB 1114 proceed without being subject to appeal before the Board of Appeals.

5.1 Revise rules around administrative appeals for all post-entitlement permits, and narrow which permits are subject to additional administrative review. On developments that are ministerially approved, ensure that planning practice does not allow for city personnel to pressure project proponents into negotiations between neighborhood groups, and that all involvement by city personnel in meetings outside of public hearings comply with state law.

PPR Timing: Notify city personnel of requirement immediately.

The Department's Current Planning division, which generally is responsible for the review of housing development projects, has been briefed on the PPR's findings and requirements. Staff have been reminded that ministerial projects are just that. We will continually train and update our staff on the appropriate processing of ministerial projects.

The Department continues to value our ongoing partnership with HCD. We will further report on our progress as we implement our Housing Element, thus addressing the remaining items in the PRR and striving toward the collective goal of addressing the housing needs of the City and State.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rich Hillis', with a horizontal line extending to the right.

Rich Hillis
Director of Planning

Exhibits

Exhibit A: Actions Requested in HCD's June 16, 2023 letter regarding the Constraints Reduction Ordinance

Exhibit B: Actions Requested in HCD's October 26, 2023 letter regarding the Constraints Reduction Ordinance

Exhibit C: Memorandum on Assembly Bill 1114, Office of the City Attorney

CC (all electronic)

Mayor London Breed
Members of the Board of Supervisors
Members of the Planning Commission
Lisa Gluckstein, Office of the Mayor
Judson True, Office of the Mayor
Director Gustavo Velasquez, HCD
Megan Kirkeby, HCD
Dori Ganetsos, HCD
Shannan West, HCD
Melinda Coy, HCD
Fidel Herrera, HCD
Lisa Frank, HCD

Exhibit A

The below table outlines the actions requested in the technical assistance letter sent by HCD to the City on June 16, 2023 and how the City has addressed each requested action, including the relevant Code Section in the Constraints Reduction Ordinance.

#	Requested Action	Constraints Reduction Notes	Relevant Code §
1	Reduce discretionary processes and neighborhood notification requirements for certain code-compliant housing projects (Action 8.4.17), including requests for Reasonable Accommodation (Action 6.3.10), such as: - Allowing all Reasonable Accommodation Requests to be processed without a hearing in front of the Zoning Administrator (Planning Code Section 305.1) - Removing neighborhood notification requirements and requests for discretionary review for projects that will demolish, construct, or alter dwelling units outside of the Priority Equity Geographies Special Use District (Planning Code Section 311)	The ordinance eliminates process and removes neighborhood notification criteria: - Allows reasonable modification [accommodation] requests to be approved administratively - Removes 311 neighborhood notification for projects outside of the PEG SUD that add a unit, or are only doing a horizontal addition.	§ 305.1 (reasonable modifications) § 311 (neighborhood notification)
2	Remove Conditional Use Authorization (CU) requirements for the following conditions in housing projects (Actions 8.4.8, 8.4.9, and 8.4.10): - Buildings taller than 40 feet (Planning Code Section 209.1) and 50 feet (Planning Code Sections 132.2 and 209.2) - Buildings that previously required CU after a certain height or a setback after a certain height (Planning Code Sections 253-253.3) - Residential projects on large lots in all RH zoning districts at densities based on the square footage of the lot (Planning Code Section 209.1) - Demolition of residential units meeting certain criteria outside of the Priority Equity Geographies Special Use District (Planning Code Section 317)	- Removes the CU for additional height in RC, RM, NC-S, Lake Shore Plaza SUD, Van Ness SUD, Mission Street NCT, and Broadway NCD. - The Mayor intends to introduce an amendment to remove the CU to exceed 40' in RH district and revert the proposed ordinance closer to the original draft; however, even if this amendment is not accepted, the CU requirement only applies to a minor	§§ 121.1; 132.2, § 209.1, §§ 253-253.3, § 317 Article 7 tables (CUs deleted)

		fraction of the lots zoned RH, most of which are already developed in excess of the 40' height limit. • Removes the CU requirement for large lot developments in NC Districts outside of the PEG SUD by amending Section 121.1, and various NC zoning control tables in Article 7. • Removes the CU for lot mergers in RTO Districts outside of the PEG SUD, and large lot developments that exceed base density in all RH Districts. • Removes Section 317 CU requirements for the demolition of single-family projects outside of the PEG SUD that meet the criteria in Housing Element Action 8.4.9.	
3	Permit group housing broadly throughout the City and streamlining approvals for group housing projects (Actions 7.2.6), including: • Modifying the definition of a "dwelling unit" to allow employee housing for up to six employees in alignment with Health and Safety Code section 17021.5 (Planning Code Section 102) • Principally permitting group housing in all zoning districts (at one unit per 415 square feet of lot area in all districts other than the RH-1 zoning district, where group housing is allowed subject to the fourplex bonus program controls) (Planning Code Section 209.1)	• Revises the definition of a "dwelling unit" in Section 102 of the Planning Code to comply with Health and Safety Code 17021.5. • Allows group housing in all RH districts at one unit per 415 sq. ft.	§ 102 (definitions) § 207(c)(8)(iii), Table 209.1 (group housing density)
4	Remove Planning Commission hearings for program-compliant State Density Bonus projects (Action 8.5.2), including:	Allows the city to administratively approve code-compliant State Density Bonus projects	§ 206.6

	- Exempting Individually Requested State Density Bonus projects from other underlying entitlements related to the proposed housing, such as a CU or a Large Project Authorization (Planning Code Section 206.6) - Allowing the Planning Director to approve requests for a concession, incentive, waiver, or modification made for an Individually Requested State Density Bonus project (Planning Code Section 206.6)	except where a CU is required for establishing a non-residential use or for the demolition of existing housing.	
5	Modify the requirements for the HOME-SF program and entitlement process (Action 7.2.9), including: - Eliminating environmental criteria such as historic resource, shadow, and wind for qualifying HOME-SF projects (Planning Code Section 206.3) - Allowing for demolition of up to one unit for HOME-SF projects (Planning Code Section 206.3)	Eliminates environmental criteria as eligibility for the program and allows for the demolition of up to one residential unit to qualify for the program.	§ 206.3
6	Standardize and simplify Planning Code requirements for housing developments (Actions 8.3.3 and 8.4.11), including: - Standardizing the minimum lot size to 1,200 square feet and lot width to 20 feet (Planning Code Section 121) - Allowing lot mergers in RTO zoning districts (Planning Code Section 121.7) - Ease exposure and open space requirements for inner courts (Planning Code Section 135)	- Standardizes minimum lot width to 20 ft and minimum lot area to 1,200 sq. ft. for all districts. - Principally permits lot mergers in RTO districts, except where a CU is required in Priority Equity Geographies - Reduces minimum dimensional requirements for open space so that smaller, code-complying balconies can count toward required open space and removes “inverted ziggurat” inner court requirement.	§ 121 (minimum lot width and area) § 121.7 (RTO lot merger) § 135 (open space)
7	Increase financial feasibility for affordable housing projects (Actions 1.3.9 and 8.6.1), including: - Expanding the Impact Fee exemption to a housing project with units affordable up to 120 percent of the Area Median Income (Planning Code Section 406) - Allowing 100 percent affordable housing projects utilizing State Density Bonus Law to be eligible for Impact Fee waivers (Planning Code Section 406)	- Changes the waiver to allow deed restricted units of up to 120% AMI to qualify for the waiver - Deletes a provision that exempts state density bonus projects from the waiver	§ 406(b)(1)(A) (120% AMI) § 406(b)(5) (density bonus eligibility)

Exhibit B

The below table outlines the actions requested in the technical assistance letter sent by HCD to the City on October 26, 2023 and how the City has addressed each requested action, including the relevant Code Section in the Constraints Reduction Ordinance.

#	Requested Action	Notes	Relevant Code §
1	Action 7.2.6 includes a requirement that the City “[p]ermit group housing broadly throughout the city, particularly in zones allowing single-family uses, increase group housing density permitted in these districts, and remove Conditional Use Authorizations or other entitlement barriers to group housing. Changes should focus on special needs groups, including those with disabilities, by ensuring that intermediate care facilities or congregate living health facilities, with six or fewer residents are treated no differently than other by-right single-family housing uses as required in Health and Safety Code sections 1267.8, 1566.3, and 1568.08.”	[Addressed in Table 1, item 3]	n/a
2	Action 8.3.3 includes a requirement that the City “[e]valuate open space and exposure standards to reduce the number of projects seeking exceptions on typical lot conditions, for instance by removing the inner court five-foot setback at each level requirement under Planning Code Section 140....”	[Addressed in Table 1, item 6]	n/a
3	Action 8.4.10 requires that the City “[r]emove Conditional Use Authorizations where required to achieve greater height for a housing project or replace height and bulk districts that require Conditional Use Authorizations to exceed the base height with one that allows the current maximum height....”	[Addressed in Table 1, item 2]	n/a
4	Action 8.4.11 requires that the City “[r]educe the minimum lot size to 1,200 square feet and minimum lot width to 20 feet for proposed projects that net at least one housing unit.”	[Addressed in Table 1, item 6]	n/a
	Action 8.4.17 includes a requirement that the City “[r]emove neighborhood notification requirements for projects outside of Priority Equity Geographies that are code complying, net at least one housing unit, and only expand	[Addressed in Table 1, item 1]	n/a

	the rear or side of an existing building and for all non-discretionary ministerial projects.”		
5	Prior amendments to Planning Code Section 121.1, specifically 121.1(b)(1) and (2), appear to introduce subjective design review standards into the Planning Code. Subjective requirements such as “compatible with the existing scale of the district” and “contribute to the positive visual quality of the district” are contrary to the housing element Actions in 8.3 (Objective Design Standards & Findings) and could be contrary to the requirement for objective standards and criteria in the Housing Accountability Act (see Gov. Code, § 65589.5, subds. (f)(1) and (j)(1)). “Objective” standards are those “involving no personal or subjective judgment by a public official and [are] uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” (Gov. Code, § 65589.5, subd. (h)(8).)	This section has been amended to require the use of objective standards where a CU is required for large lot development in Priority Equity Geographies.	§ 121(b)

Exhibit C
Memorandum on Assembly Bill 1114, Office of the City Attorney

[memo appears on following pages]



DAVID CHIU
City Attorney

AUSTIN M. YANG
Deputy City Attorney

Direct Dial: (415) 554-6761
Email: austin.yang@sfcityattorney.org

MEMORANDUM

TO: Mayor London Breed; Board of Supervisors; Board of Appeals; Planning Commission; Historic Preservation Commission; Building Inspection Commission; Public Works Commission; Public Utilities Commission; Public Health Commission

FROM: Austin Yang *AY*
Deputy City Attorney

DATE: November 8, 2023

RE: Assembly Bill 1114 (Haney) – Recent Amendments to Government Code Section 65913.3; Permit Streamlining Requirements for Housing Development Projects

On October 25, 2023, the California Department of Housing and Community Development (“HCD”) issued its Policies and Practices Review for San Francisco. In the report, HCD finds that the City’s “local rules around discretionary permitting and post-entitlement appeals prevent full implementation of the goals and aims of state housing laws.” This past year, the City has faced increasing scrutiny over its permitting review and appeals of housing projects. As one means of addressing this issue, the State recently enacted Assembly Bill 1114 (Haney) (“AB 1114”). As of January 1, 2024, that bill makes Government Code Section 65913.3, which generally imposes tight time frames for cities to review and process permits, apply to the City. As initially enacted in 2022, California Government Code Section 65913.3 only applied to nondiscretionary permits. Because all permits in San Francisco are discretionary – and subject to appeal under California Supreme Court precedent and the City’s Charter – the City was generally not subject to Government Code Section 65913.3.

But AB 1114 makes all postentitlement phase permits, including building permits, for designated housing development projects (i.e., projects with all residential units, transitional or supportive housing, or where at least two-thirds of the square footage is for residential use), whether discretionary or nondiscretionary, subject to the streamlining requirements and not subject to appeal. AB 1114 will impact how the City reviews and processes building permits, as well as appeals to the Board of Appeals. In addition, other state laws, such as the recently enacted Senate Bill 423 (Wiener) (“SB 423”), require streamlined approval of certain permits for eligible housing projects, including subsequent permits required for those projects. (We are also issuing an accompanying memorandum on SB 423 today).

Because the City was not subject to, and therefore did not implement Section 65913.3 when the Legislature initially enacted it in AB 2234, we briefly describe the obligations of Section 65913.3, including the recent changes made in AB 1114; the consequences of City non-compliance; exceptions to the timing requirements where the City makes certain findings of significant, quantifiable, direct, and unavoidable impacts, based on objective, identified, and

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written public health or safety standards, policies, or conditions; and the potential for tolling of certain required time limits for City review.

In sum, the City must implement these four main changes for qualified housing development projects beginning January 1, 2024: (1) update its website resources; (2) determine whether applications are complete within 15 business days after receiving them; (3) complete permit review within 30-60 business days after determining an application is complete, depending on the size of the project; and (4) allow a permit applicant to appeal any City finding that the application is not complete or does not comply with the applicable permit standards, and not hold any appeal for postentitlement phase permits for any project that does comply, all as further described below. A postentitlement phase permit includes “nondiscretionary permits and reviews ... after the entitlement process ... to begin construction of a development project” and “all building permits and other permits issued under the California Building Standards Code..., or any applicable local building code for the construction, demolition, or alteration of buildings, whether discretionary or nondiscretionary.”

Website resources:

- Post one or more lists specifying in detail the information that will be required from any applicant for a postentitlement phase permit. Although the City may revise the list(s), any revised list shall not apply to any permit pending review. (Gov’t Code § 65913.3(a).)
- Post complete approved applications and complete postentitlement phase permits for the following types of housing projects: accessory dwelling unit, duplex, multifamily, mixed use, and townhome. (*Id.*) The City may post examples of additional types of housing projects.
- Provide an option for postentitlement phase permits to be applied for, completed, and retrieved by the applicant online. The website must list the current processing status of the permit and note whether it is being reviewed by the City or if action is required from the applicant. If the permits cannot be applied for via the website, the City must accept applications by electronic mail, until the website option is available.

Completeness:

- The City has 15 business days from receipt of the application to determine whether a postentitlement phase permit application is complete. (Gov’t Code § 65913.3(b)(1).) The incompleteness determination is limited to the items included in the initial list of application requirements. Resubmittal in response to a notice of incomplete application triggers a new 15 business days review by the City. (*Id.*) Failure of the City to respond to the originally submitted or resubmitted material within 15 business days results in the application being deemed complete. (*Id.*)

Project review:

- **For housing projects with 25 units or fewer**, the City must complete review and either return in writing a full set of comments with a comprehensive request for revisions, or return the approved permit application within 30 business days after the local agency determines that an application is complete. (Gov’t Code § 65913.3(c)(1).)

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- **For housing projects with 26 units or more**, the City must complete review and either return in writing a full set of comments with a comprehensive request for revisions, or return the approved permit application within 60 business days after the local agency determines that an application is complete. (Gov't Code § 65913.3(c)(2).)
- If the City determines that the application is non-compliant within the applicable time frame, the City must provide the applicant with a list of items that are non-compliant and a description of how the applicant can remedy those items of non-compliance. (Gov't Code § 65913.3(d)(1).)
- If the City denies the permit based on a determination that the application is non-compliant, the applicant may attempt to remedy the application, and the resubmittal is subject to the same timelines. (Gov't Code § 65913.3(d)(1).)
- The City is not limited in the amount of feedback that it provides or revisions that it may request of an applicant. (Gov't Code § 65913.3(g).)
- The City and applicant may mutually agree to an extension of any time limit in Section 65913.3. But the City cannot require such an agreement as a condition of accepting or processing the application, unless the City obtains the agreement to allow concurrent processing of related approvals or for environmental review. (Gov't Code § 65913.3(i).)

Appeals:

- If the City determines that the permit is incomplete or does not comply with the permit standards, then the City must provide an appeal to the governing body of the agency, or if there is no governing body, the director of the agency. Here, for building permits, the City can provide for that appeal to the Building Inspection Commission, or through a Board of Supervisors ordinance, to the Planning Commission, or both. (Gov't Code § 65913.3(e)(1).)
- Any final determination on an applicant's appeal must be issued within 60 business days of filing the appeal for housing projects with 25 units or fewer, and 90 business days for housing projects with 26 or more units. (Gov't Code § 65913.3(e)(2).)
- Once the City determines that the permit is compliant, the City must not hold any appeals or additional hearings. (Gov't Code § 65913.3(c)(3).)

Consequences of City Non-Compliance:

- Any failure by the City to adhere to the time frames in Section 65913.3 constitutes a violation of the Housing Accountability Act. (Gov't Code § 65913.3(f).) Potential consequences include: administrative enforcement by the State Department of Housing and Community Development, and/or lawsuits seeking injunctive relief, including attorneys' fees. Failure to comply with the court order could result in fines starting at \$10,000 per housing unit, and potentially up to \$50,000 per housing unit. (Gov't Code § 65589.5(k).)

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Exceptions:

- **Potential specific, adverse impact on public health or safety.** The time limits do not apply if, within the time limits specified above, the City makes written findings based on substantial evidence in the record that the proposed permit might have a specific, adverse impact on public health or safety and that additional time is necessary to process the application. (Gov't Code § 65913.3(c)(4).) "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- **Tolling.** Also, the City's time to review the permits are tolled if the permit requires review by an outside governmental entity.