



# What happens if we don't rezone?



The City is responsible for creating zoning conditions in which enough units can be developed to meet the City's needs. The State of California conducts a Regional Housing Need Allocation (RHNA) process, which determines the number and affordability level of new homes that each region of the State must plan for every eight years. For the 2023-2031 cycle, the Bay Area must plan for 441,176 new units, with San Francisco needing 82,069. The process considers current and projected needs, including factors like population and job growth, overcrowding, and homelessness. San Francisco is required to develop and adopt zoning regulations that will allow for the development of this ~82,000-unit allocation, plus a 15% buffer, bringing the total to 94,300 units. Of this figure, ~58,100 are expected to be developed under existing zoning conditions, meaning that the City is required to adopt zoning changes to allow for the development of the remaining 32,600 homes. To learn more about the RHNA process, read our "RHNA Primer."

## Consequences

If San Francisco does not rezone to provide sufficient capacity for these ~36,200 additional units, the City could lose certification of the 2022 Housing Element and would face a number of significant penalties from the State of California.

## Loss of Funding

Failure to adequately rezone would lead to the loss of tens to hundreds of millions in State funds that support transportation, including transit, roadway improvements, creation, development, or rehabilitation of Parks or Open Space, water, sewer or other utility service improvements (including internet and electric vehicle infrastructure, building affordable housing, and more in San Francisco.

## Loss of Local Control

Failure to meet the State's requirements could also lead to what is known as "loss of local control" and "builder's remedy projects." That means that the City could lose the ability to apply any kind of local zoning rules and could be forced to approve any proposed projects that meet basic life-safety standards, no matter the height. This could result in projects taller and denser than anything currently being considered by the rezoning and in places not even considered for rezoning at this time. Additionally, failure to adequately rezone could lead to the City being barred from issuing permits altogether for projects not adding new housing, meaning that even households that need to remodel their kitchen or add a bedroom would be unable to do so.



There are already dozens of examples of **builder's remedy projects** that California cities are reckoning with because they either failed to certify their Housing Elements in time or they lost certification of their Housing Elements due to failure to rezone adequately. These jurisdictions are required to approve the projects and do not have recourse to shape or alter them. In several cases, cities have been fined or forced to compensate developers for attempts to deny or shape these projects, which negatively impacts municipal budgets and can lead to reductions in public services. In just the past few months, there have been a number of dramatic legal rulings and settlements. Below are just a few examples.



**PALO ALTO**

Palo Alto received several development proposals under the Builder's Remedy law, the largest of which is 380 units along Camino Real, after the State rejected the city's Housing Element.



**MENLO PARK**

Menlo Park is required to process an application submitted under Builder's Remedy that includes high-rises of over 400 feet on the former site of Sunset Magazine.



**MOUNTAIN VIEW**

Mountain View is processing a builder's remedy application for a site near the City's downtown Caltrain station.



**SARATOGA**

As of March 20, 2024, Saratoga has received over 20 Builder's Remedy applications which may cumulatively result in the development of 672 new housing units.



**SONOMA COUNTY**

The State's largest Builder's Remedy project proposed to date is a 1,464-unit development near the Charles M. Schulz Sonoma Airport.



**DAVIS**

The City of Davis settled a dispute with a developer pursuing a Builder's Remedy project on agriculturally-zoned land where housing is not allowed, having been forced by a court to process and approve the project without the public vote that would ordinarily be required.



**PORTOLA VALLEY**

California's Department of Housing and Community Development decertified Portola Valley's Housing Element when they failed to complete their rezoning by the State-mandated deadline. They will now be ineligible to receive State transportation and housing funds and will be subject to Builder's Remedy projects.



**BEVERLY HILLS**

A judge suspended Beverly Hills' power to approve any permits other than those adding new housing because they concluded the city has not produced reasonable zoning proposals to accommodate their RHNA. This has halted all home improvement projects in Beverly Hills.

## Conclusion

Based not just on sound policy, but also on State mandate and clear indicators from the courts, San Francisco must complete our rezoning to increase our capacity for new housing. Expanding Housing Choice is our opportunity to provide homes for the San Franciscans of today and tomorrow in a thoughtful and strategic way. Not rezoning to create capacity for more homes will exacerbate existing housing affordability issues in San Francisco, as the City would continue to undersupply sufficient housing for current and future generations, maintaining pressure for higher housing costs.

### CITATIONS

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