

California's "Builder's Remedy"

A Simple Guide for Monterey County Residents

What is the Builder's Remedy?

Builder's Remedy is part of the California **Housing Accountability Act (HAA) (Government Code §65589.5)**. In enacting and amending the HAA, the State Legislature has declared that California is experiencing a housing crisis. The stated intent of the law is to address the housing crisis by significantly increasing the approval and construction of new housing by curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects. As such, Builder's Remedy allows certain housing developments to be approved **even if they do not follow local zoning or General Plan rules**.

When Does the Builder's Remedy Apply?

The Builder's Remedy can apply when a **city or county does not have a Housing Element that is in "substantial compliance" with state law**.

The Housing Element is the section of a jurisdiction's General Plan that explains **how it will meet state housing requirements (RHNA) over an 8-year cycle**. In the Monterey Bay Area Region, a Housing Element Update was due December 15, 2023.

If the state determines the Housing Element is **not compliant**, developers may submit Builder's Remedy projects until the jurisdiction becomes compliant. Applications filed during the period that a jurisdiction is subject to the Builder's Remedy continue to be considered under the Builder Remedy provisions even after the jurisdiction adopts a compliant Housing Element.

How Does Builder's Remedy Work?

The HAA states: "A local agency shall not disapprove a housing development [...] or condition approval in a manner that renders the housing development infeasible [...], unless it makes written findings, based on the preponderance of the evidence in the record, as to one of the following:

1. The city or county has met or exceeded its Regional Housing Needs Allocation (RHNA) for the proposed income categories in the development.
2. The housing development or emergency shelter would have a specific adverse impact on public health and safety, and there is no way to mitigate or avoid the impact without making the development unaffordable. The impact must be based on objective, written public health or safety standards in place when the application was deemed complete.
3. The denial or condition is required to meet state or federal law, and there is no feasible method to comply without making the development unaffordable.
4. The project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agriculture or resource preservation or there are not adequate water or sewage facilities to serve the project.