

[PDF] Letter Re: City Council 9/11 Meeting Agenda Item 9a

From Rafa Sonnenfeld <rafa@yimbylaw.org>

Date Wed 9/10/2025 6:15 PM

To City Council <citycouncil@ci.capitola.ca.us>

Cc Santa Cruz YIMBY <hello@santacruzylimby.org>

 1 attachment (94 KB)

9-10-2025 Capitola - Re_ Agenda Item 9A - Housing Element Program Obligations.docx.pdf;

Please see the attached letter in support of Option 2 from YIMBY Law.

Thank you,

Rafa Sonnenfeld

he/him

Senior Manager



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9/10/2025

Capitola City Council
Capitola City Hall
420 Capitola Avenue
Capitola, CA 95010

Re: Agenda Item 9A – Enforcement of Housing Element Commitments under State Law

Honorable Mayor and Members of the Capitola City Council:

YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. YIMBY Law sues municipalities when they fail to comply with state housing laws, including the Housing Element Law. As you know, the County has an obligation to abide by all relevant state housing laws when evaluating the above captioned proposal, including the HAA. Should the County fail to follow the law, YIMBY Law will not hesitate to file suit to ensure that the law is enforced.

YIMBY Law writes to remind the City of Capitola of its obligations under California Housing Element Law, Government Code §§ 65580 et seq. In particular:

1. Programs in the Housing Element Are Mandatory

Government Code § 65583 requires each jurisdiction’s housing element to include “a program which sets forth a schedule of actions” that the city “is undertaking or intends to undertake” to implement the goals, policies, and objectives of the housing element. Once adopted and certified by HCD, these programs are not optional. They are enforceable commitments, and jurisdictions are required to follow through.

Government Code § 65583(c) uses mandatory language: programs “shall” identify actions, timelines, and responsible agencies. The Legislature’s intent is clear—cities must not simply adopt programs as aspirational statements but must carry them out in good faith.

2. Program 1.7 Deadline and Obligation to Proceed with Option 2

Capitola’s certified housing element includes Program 1.7, which carries a **deadline of**

December 31, 2025. To meet that deadline, **the City has no choice but to proceed with Option 2 or the proposed hybrid of Options 1 and 2.** Any attempt to delay or substitute other actions would fail to comply with the adopted housing element and with state law.

Whether or not HCD has signaled that it will revoke compliance status is irrelevant. Under Government Code § 65585, housing element compliance is ultimately determined by the courts. If Capitola fails to proceed as required under Housing Element law, YIMBY Law reserves its right to independently seek a court ruling declaring the City out of compliance and subject to the Builder's Remedy under Government Code § 65589.5(d).

3. Amending Housing Element Obligations Requires a Formal Amendment

If Capitola wishes to alter or remove commitments in its housing element, it may only do so by following the statutory amendment process set forth in Government Code § 65585. This requires a public process including a public review period, HCD's review and comment, and a duly noticed public hearing and adoption of the amendment by the City Council.

Without going through this process, Capitola cannot simply ignore or abandon the programs it committed to in its adopted housing element.

4. Consequences of Noncompliance

Failure to comply with Housing Element law exposes Capitola to significant legal risk. This includes potential litigation under Government Code § 65587, enforcement actions by the California Attorney General, loss of state funding eligibility, and the risk of being subject to Builder's Remedy projects.

Conclusion

YIMBY Law respectfully urges the Capitola City Council to fulfill its obligations by carrying out all housing element programs as adopted, and specifically to proceed with Option 2 or the new hybrid of Options 1 and 2 in order to meet the binding December 31 Program 1.7 deadline. If the City believes any program should be modified or removed, it must do so lawfully by amending the housing element under Government Code § 65585.

We urge you to take these responsibilities seriously to ensure compliance with state law and to help meet the urgent housing needs of Capitola and the region.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

YIMBY Law, 2261 Market Street STE 10416, San Francisco, CA 94114

Sincerely,

A handwritten signature in black ink that reads "Sonja Trauss". The script is fluid and cursive, with the first name "Sonja" and last name "Trauss" clearly legible.

Sonja Trauss
Executive Director
YIMBY Law