



STATE HOUSING MANDATES (Regional Housing Needs Assessment)

Since 1969, California has required that all local cities and counties adequately plan for their share of the state’s growing housing needs. While cities do not build housing, they do regulate the type and location where housing can be constructed.

As such, state law recognizes that in order for the private market to adequately address housing needs and demand, local governments must adopt plans, regulations, and programs that provide opportunities for housing development. As a result, housing policy rests largely upon the effective implementation of local General Plans and, in particular, the local Housing Element.

The General Plan serves as the "blueprint" for how a city will grow and develop and includes seven state required elements: land use, transportation, conservation, noise, open space, safety, and housing. The law mandating that housing be included as an element of each jurisdiction’s General Plan is known as “Housing Element Law.”

This Information Bulletin outlines how the state determines housing requirements for jurisdictions; the process localities must follow to secure a certified Housing Element; and, the implications for failing to meet required state housing goals.

I. REGIONAL HOUSING NEEDS ASSESSMENT

The California Department of Housing & Community Development (HCD) is responsible for developing state housing production goals. These goals represent the total number of housing units to be built within an eight-year housing cycle for varying income categories (See Section II). This process is referred to as the Regional Housing Needs Assessment (RHNA).

Once the RHNA is determined, HCD assigns the RHNA figures to the 21 different council of governments (COGs), who in turn assign the housing goals to their respective member cities and counties.

Murrieta’s COG is the Southern California Association of Governments (SCAG), who represents six of the ten counties in Southern California, including Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties.

How the RHNA is developed by HCD, and distributed to the individual cities and counties by the COGs, is in accordance with four state directed RHNA objectives:

Documents Referenced in this Information Bulletin

- Density Bonus Law, [IB-212](#)
- Housing Accountability & Affordability Act (SB35), [IB-213](#)
- Accessory Dwelling Units, [IB-108](#)
- Sustainable Communities & Climate Protection Act of 2008, [SB 375](#)
- [SCAG Regional Growth Forecast RTP and Sustainable Communities Strategy SCS](#)

- Plan for housing at all income levels and in all jurisdictions
- Balance jobs and housing
- Focus development in urban areas
- Protect rural areas, open space, & habitat lands.

These objectives are achieved using a number of regional and local factors and influences, including:

- Share of existing & projected population growth
- Distribution of existing households (by income)
- Existing and projected jobs
- Persons per household
- Opportunities and constraints for housing
- Availability of land suitable for development
- Preserved or protected lands
- Availability of high-quality transit corridors
- Historic vacancy rates and loss of units
- Housing cost burdens
- Social equity adjustments

II. HOUSING BASED ON INCOME CATEGORIES

Under Housing Element Law, RHNA is assigned to four income groups or categories. Families with...

- Very-low household income
- Low household income
- Moderate household income
- Above-moderate household income

The household income for each of these categories is based on a percentage of the Area Median Income (AMI), as reflected in the chart below.

Income Category	Percent of AMI
Very-Low	<50%
Low	51 to 80%
Moderate	81 to 120%
Above-Moderate	>120%

These percentages are applied to the AMI for a particular area or region, not a specific city. The City of Murrieta falls under the AMI for Riverside County, which is currently \$65,000 per year (the median income for a four-person household). As a comparison, Murrieta's median income is currently \$100,955. The varying income categories pursuant to the Riverside County AMI are reflected in the table below:

Income Category	Percent of AMI	Household Income
Very-Low	<50%	\$32,900
Low	51 to 80%	\$52,640
Moderate	81 to 120%	\$78,960
Above-Moderate	>120%	>\$78,960

III. DENSITY & AFFORDABILITY

The foundation of Housing Element Law is based on the premise that *density is a proxy for affordability*. The idea being, the more housing units on a site (density) translates to lower construction costs per unit, which translates to lower rental/sale prices of those units (affordability). As such, HCD assigns minimum density figures to each income category as reflected below.

Income Category	AMI (\$)	Minimum Density ¹
Very-Low	\$32,900	30 du/ac
Low	\$52,640	30 du/ac
Moderate	\$78,960	15 du/ac
Above-Moderate	>\$78,960	<15 du/ac

¹du/ac = Dwelling unit per 1 acre of land

Most cities and counties can attest that higher density development rarely, if ever translates to housing that is affordable to the targeted income categories. However, the state recognizes that few jurisdictions are willing or able to impose measures (i.e., rent control, locally-funded subsidized housing) that will generate affordable housing costs/rents consistent with those income levels.

As such, the state assumes that the established minimum densities will have a better chance of generating housing sales/rents affordable to the respective income categories than other density levels.

Whether or not you agree with this premise, until state law changes, this is the formula that cities and counties must use when planning for housing under state Housing Element Law.

An important take-away is that jurisdictions must provide the *opportunity* for housing development, without impeding the construction of housing in any income category. Cities and counties are not responsible for the construction of the units or are they required to ensure that the units be affordable at the aforementioned AMI for the varying income categories.

IV. THE LOCAL HOUSING ELEMENT

Once a jurisdiction receives its RHNA allocations, it must update its General Plan and Housing Element to demonstrate how the jurisdiction, particularly through policies and zoning, can or will accommodate the RHNA. Generally, a Housing Element must include the following parts:

- Review of previous element
- Housing needs assessment
- Inventory and analysis of adequate sites
- Analysis of potential constraints
- Housing policies and programs
- Quantified objectives

One of the most labor intensive and controversial components of the process is the *inventory and analysis of adequate sites*.

Each jurisdiction must evaluate the Land Use Element of their General Plan to determine whether there is enough land available, with sufficient zoning capacity (minimum density as described in Section III), to accommodate their assigned RHNA allocation for each income category. If unable to accommodate the housing goals, the jurisdiction must rezone sufficient land to meet the RHNA obligation.

In addition to adequately zoning sites, the law requires that each jurisdiction look for ways to streamline permit processes and remove processing barriers in order to facilitate the creation of affordable housing.

A ministerial process with reduced fees and development incentives (i.e., increased density above plan allowance, waiver of design standards like parking or setbacks, expedited permit review) for affordable housing projects is highly encouraged by HCD.

Ultimately, an effective Housing Element provides the necessary conditions for developing and preserving an adequate supply of housing, including housing affordable to seniors, families, and workers.

The update process provides the opportunity to develop housing and land use strategies to reflect local changing needs, resources, and conditions and provides a vehicle to adopt approaches addressing state driven regulations related to sustainability and environmental concerns. Jurisdictions may also use the Housing Element as an opportunity to complement their economic development goals with its housing goals.

V. HCD HOUSING ELEMENT CERTIFICATION

Once updated, Housing Elements must be reviewed and approved by HCD and then adopted by the local jurisdiction (City Council) prior to state mandated deadlines (described in Section VIII). Failure to timely complete this process will result in a number of penalties, as highlighted in the sections below.

VI. PENALTIES FOR NONCOMPLIANCE

Failing to meet the state requirements can result in significant penalties. Given the current housing crisis in California, each year the state legislature introduces new laws that increase and expand the penalties for noncompliance.

For the current housing cycle (2013-2021), Murrieta was assigned the following housing production goals.

Income Category	RHNA Assigned	RHNA Entitled/built ¹
Very-Low	395 units	0 units
Low	262 units	0 units
Moderate	289 units	0 units
Above-Moderate	627 units	1,141 units

¹ As of April 2019

As you can see, the City has significantly exceeded unit production goals for the above-moderate household income category. However, the City has failed to meet its housing obligations for the other income categories. As such, Murrieta is subject to SB35 penalties. Those penalties, along with others, are summarized below.

- Housing Accountability & Affordability Act

If HCD finds that a jurisdiction's RHNA goals are not being satisfied, SB35 requires cities and counties to streamline review and approval of eligible affordable housing projects by providing a *ministerial* approval process, exempting such projects from environmental review under CEQA and public hearing process. Refer to IB-213 for more information.

- Sustainable Community/Climate Protection Act

Among other provisions, SB375 penalizes jurisdictions that do not submit a Housing Element update within 120 days of adoption deadline, by imposing a four-year update cycle

rather than the typical eight-year update cycle; thereby requiring more frequent updates.

- Building Homes and Jobs Act

Under SB2, jurisdictions that do not have an approved HCD certified Housing Element are not eligible for grant funding. For Murrieta, this could result in a loss of up to \$300,000 in annual grant funding opportunities.

- Housing Development and Financing Act

Under AB101, jurisdictions failing to timely adopt a local Housing Element may be fined \$10,000 per assigned RHNA unit until HCD determines compliance.

- Potential lawsuits

Many cities without an approved Housing Element have been sued by developers and/or affordable housing advocates, resulting in decisions unfavorable to the jurisdiction. For example,

- ✓ Courts have suspended a jurisdiction's local land use authority via a court ordered moratoria; the city was unable to issue building permits until a Housing Element was certified and approved.
(City of Pasadena)
- ✓ Courts have assumed land use control over all housing development permits. Under this scenario, the courts could approve a housing development project that may not fit the character of the community.
(City of Fremont)
- ✓ Courts have imposed aggressive timelines for a jurisdiction to approve a Housing Element (with threats of court assumed land use control for noncompliance), thereby limiting community input in the housing plan development.
(City of Encinitas)
- ✓ The State Attorney General has also filed suite against cities that do not have an approved or compliant Housing Element. However, the implications of an AG lawsuit are unknown at this time.
(City of Huntington Beach)
- ✓ In virtually all cases, the litigation resulted in the jurisdiction paying significant financial penalties and substantive attorney fees.

VII. RELATED STATE HOUSING PROGRAMS/LAWS

Beyond the mandates required under the Housing Element Law, the state has adopted other regulations and programs that encourage housing production.

- State Density Bonus Law

Density Bonus is a State law (Gov. Code §65915) that allows a developer to increase density on a property above the maximum set under a city's local land use plan as well as receive reductions in required development standards such as setbacks, height limits, and parking requirements. In exchange for the increased density, a certain number of the new homes must be reserved for very low, low, or moderate income households or for seniors. Refer to IB-212 for additional information.

- Accessory Dwelling Units

The State has found that allowing Accessory Dwelling Units (ADUs) in residential zones where primary residence is already allowed provides additional housing throughout California. In recent years the State has continued to revise and update the programs around ADUs, limiting local city control of them, to more widely allow for ADUs as a means to address housing production. Refer to IB-108 for additional information on the latest ADU requirements.

VIII. 2021-2029 HOUSING CYCLE

The RHNA process for the next (sixth) Housing Element cycle is currently in process and will cover the period (October 2021 – October 2029). The RHNA process can be generally categorized into the steps bulleted below.

It is important to note that the RHNA process is also being conducted in conjunction with the development of the 2045 Regional Transportation Plan and its Sustainable Communities Strategy in accordance with Senate Bill (SB) 375, the Sustainable Communities and Climate Protection Act (See Section IX for more on this process).

- RHNA Methodology & Allocation
February – December 2019

This step includes the development of the methodology in which RHNA will be distributed by SCAG. Public review of the draft methodology is expected in fall 2019, with HCD approval anticipated in January 2020. Currently, City staff participates in the SCAG RHNA Subcommittee monthly meetings and coordinate and collaborate with the Western Riverside Council of Governments (WRCOG) and regional jurisdictions.

- RHNA Distributed & Allocated
February 2020 – October 2020

Distribution of the Draft RHNA to local jurisdiction is anticipated in February 2020 and

each city and county has six months to review and appeal the RHNA allocation, if determined necessary. By October 2020, unless appealed, each jurisdiction's RHNA is allocated for use in updating their local Housing Element.

- Certified Local Housing Element
October 2021

Each city and county has one year to process a Housing Element update using their assigned RHNA allocation (this time period includes HCD certification and City Council adoption).

IX. RTP and SCS

The Regional Transportation Plan (RTP) is a federally required long-range transportation plan prepared by SCAG that is updated every four years, and includes projections of population, household, and employment growth and travel demand, along with a specific list of proposed projects to be funded. In Murrieta, the following local projects were/are included in the RTP:

- HOV Lane Additions to I-15
- Mixed Flow Freeway Imps I-15/I-215 including add lane on SB I-215 connector to I-15
- I-15/Cal Oaks/Kalmia ramp reconfigure and widen lanes
- I-15/Murrieta Hot Springs Rd new NB on ramp
- I-15/Los Alamos bridge replacement
- I-215/Los Alamos landscaping and irrigation
- I-215/Clinton Keith construct partial cloverleaf
- I-215/Scott reconstruct/widen lanes and ramps
- I-215/Keller replace underpass
- Developing a Corridor Master Plan for I-215 from Murrieta to San Bernardino
- Extend/construct Clinton Keith to Winchester
- Construct 2 lane Guava St bridge over creek
- Metrolink Perris Valley Line Extension (Rail)

Pursuant to SB 375, SCAG must also develop a Sustainable Communities Strategy (SCS) to integrate land use and transportation strategies that will achieve California Air Resources Board (CARB) greenhouse gas emissions reduction targets.

In regard to housing, the SCS must demonstrate on a regional level, those areas sufficient to house all the population of the region, including the eight-year projection of the RHNA. Both the RTP/SCS and RHNA have used local input as the basis for future demographic projections, including household growth.

