

# CARLSBAD'S HOUSING PLAN



Since 1969, California has required that all cities and counties adequately plan for their share of the state's growing housing needs. While cities do not build housing – that is the function of private developers – they do adopt plans, regulations and programs that provide opportunities for how and where housing development occurs. One of the most important housing policy documents used by jurisdictions is the General Plan; more specifically, the Housing Element of the General Plan.

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.

## DETERMINING FUTURE HOUSING NEEDS

Providing housing to meet the needs of all income levels is critical to the social and economic health of a city, and a huge component of the Housing Element is how a jurisdiction plans to address its regional housing needs assessment (RHNA).

This assessment process is the part of state housing law that is used to determine how many new homes, and the affordability of those homes, each local government must plan for in its Housing Element. This process is repeated every eight years, and, for this housing cycle, the San Diego region is planning for the period from 2021 to 2029. Responsibility for carrying out this process is shared among state, regional, and local governments, as reflected below.

### Role of the State

The state Housing and Community Development Department (HCD) is responsible for identifying the total number of homes each region in California must accommodate to meet the housing needs of people across the full spectrum of income levels, from housing for very low-income households all the way to market rate housing. The state determines how much housing is needed for each region based on several factors, including demographic trends, housing conditions and population forecasts.

### Role of the Region

Once the statewide housing need is determined, HCD assigns the housing units to the 21 Council of Governments (COGs) throughout the state. Once received, each COG develops a methodology for how the units will be distributed to its member agencies (local governments).

As the COG for the San Diego region, the San Diego Association of Governments (SANDAG) is responsible for developing the methodology for distributing the housing units required by the state's assessment among the 18 San Diego cities and, for the unincorporated areas, the County of San Diego.

### Role of Local Governments

Cities and counties are responsible for participating in the development of the housing allocation methodology and updating their housing elements

and local zoning to show how they will accommodate their respective housing needs allocation.

### RHNA Allocation Breakdown

To provide adequate housing for the full spectrum of income levels, the allocated number of housing units each jurisdiction must provide for is distributed by varying income categories. The HCD and COGs use the income categories established by the U.S. Department of Housing & Urban Development (HUD), which groups income ranges for different household types into five income categories: extremely low, very low, low, moderate, and above-moderate household incomes.

HUD bases the household income for each of these categories on a percentage of a particular region’s area median income, or AMI. Carlsbad falls within the San Diego County region, which as of March 2023 has an AMI of \$116,800/year for a four-person household. To help illustrate, the following table shows the varying income categories for a family of four.

Income Category	% of AMI	Household Income <sup>1</sup>
Extremely Low	15 - 30%	<\$41,350
Very Low	31 - 50%	\$68,900
Low	51 - 80%	\$110,250
Moderate	81 - 120%	\$140,150
Above Moderate	>120%	>\$140,150

<sup>1</sup> Figures represent upper end of AMI range.

HCD and SANDAG then use these income categories when allocating the need for housing. The SANDAG Board of Directors approved the RHNA allocation methodology for the 2021-2029 housing cycle on November 22, 2019, assigning housing requirements to its member agencies, based on these income categories. The table below reflects Carlsbad’s housing allocation.

Income Category	RHNA
Very low-income	1,311
Low-income	784
Moderate-income	749
Above moderate-income	1,029
<b>TOTAL</b>	<b>3,873</b>

As the table shows, over 50% of the allocation serves the housing needs of lower income families. In total, the city needs to allow for the development of nearly 3,900 new housing units to accommodate the growth from 2021-2029 for all income groups as estimated through the housing needs assessment process.

A central component of the Housing Element is ensuring that there’s an adequate number of properties available to accommodate the city’s share

of RHNA. One of the most labor-intensive components of this process is the inventory and analysis of adequate housing sites. Jurisdictions must determine whether there is enough land available with adequate zoning to accommodate its housing allocations for varying income levels.

If the jurisdiction is unable to accommodate the specified housing quantities at varying income levels, they must rezone enough land to allow for enough residential development to meet its housing allotment or face significant penalties, which are discussed later in this bulletin.



### PLANNING VS. BUILDING AFFORDABLE

As noted above, local governments are required under state law to ensure that there’s enough land available with adequate zoning to accommodate the number of units they are allocated through the regional housing needs assessment for the entire housing cycle. So, what type of zoning makes a house affordable to an income group?

In a word, density.

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 – the density – translates to lower construction costs per unit, which translates to lower rental and sale prices of those units – the affordability. As such, HCD assigns the following minimum density figures to each income category:

Income Category	% of AMI	Min. Density <sup>1,2</sup>
Very Low	>50%	30 du/ac
Low	51 - 80%	30 du/ac
Moderate	81 - 120%	15 du/ac
Above Moderate	>120%	<15 du/ac

<sup>1</sup> du/ac = dwelling unit per one acre of land; <sup>2</sup> In Carlsbad, H has accepted 26.5 dwelling units per acre as the minimum density for the very low- and low-income categories and 11.5 dwelling units per acre as the minimum density for the moderate-income category.

This strategy of linking density with affordability often works in areas where utility and land costs are low and market rate housing is naturally affordable to lower income families. However, most local governments, especially those in coastal cities, can attest that higher density development alone rarely — if ever — translates to housing that is affordable at the targeted lower income categories.

Given this reality, the state requires that cities develop and implement programs that will help facilitate affordable housing costs, but there is a catch...the programs cannot be too onerous or restrictive where they make the housing development financially infeasible to construct. HCD generally limits jurisdictions from adopting programs that require more than 20% of the total units in a project be restricted affordable.

This becomes problematic for jurisdictions — While the state requires local governments to ensure that land is adequately zoned to accommodate a total number of units, they must also ensure once the new units are constructed, they align with assumed income categories. If the newly constructed housing units are not affordable at the targeted income category, the city is required under state law to find other sites to rezone to make up the shortfall. Consider the following example to help illustrate the point.



A city identifies a 10-acre vacant site for high density development and assigns a 30 dwelling-unit-per-acre zoning designation. In its Housing Element, 300 units are credited towards the city's low-income RHNA allocation.

Later, a developer submits an application to develop a 290-unit apartment complex on the site. Because the city has a 15% inclusionary housing requirement, 44 of the 290 units must be restricted and reserved as affordable for low-income families (Refer to Info-Bulletin [IB-157](#) to learn more about the Inclusionary Housing Program).

The apartment project is eventually constructed, and the 246 unrestricted units rent at a price that is only affordable to households making above-moderate income levels.

In this example, the city assumed in its Housing Element that 300 units would be built on this site and that all of them would be affordable to low-income families. However, only 290 units were constructed and of those, only 44 were restricted for low-income. As such, the city is now obligated to rezone another site, or sites, at the appropriate density to make up the 256 low-income unit shortfall. This is referred to under state housing law as “no net loss.”

This is why HCD strongly recommends that jurisdictions include buffers of at least 30% more units than they were allocated through the RHNA process to account for these situations. This buffer reduces the need for cities to constantly look for sites to rezone, and it reduces the city's risk of falling out of compliance with the state.

## REQUIRED HOUSING ELEMENT

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

- Review of previous Housing Element
- Assessment of housing needs
- Inventory and analysis of adequate sites
- Analysis of potential constraints
- Housing policies and programs
- Quantified objectives

While ensuring that there is enough land available with adequate zoning to accommodate a jurisdiction's assigned RHNA is often considered the most labor intensive and controversial components of the Housing Element update process, it is not the only state requirement.

In addition to adequately zoning sites, the state law requires that each jurisdiction look for ways to streamline permit processes and remove processing barriers to facilitate the creation of affordable housing. A ministerial process with reduced fees and development incentives (e.g., increased density above plan allowance, waiver of design standards and expedited permit review) for affordable housing projects is highly encouraged by HCD.

More recently, the state has passed legislation with the goal of Affirmatively Furthering Fair Housing (AFFH), which involves the development of local programs and strategies to combat housing discrimination, eliminate racial bias, undo historic patterns of segregation, and lift barriers that restrict access in order to foster inclusive communities and achieve racial equity, fair housing choice, and opportunities for all Californians.

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. An updated plan 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 their housing goals.

## THE CARLSBAD HOUSING ELEMENT

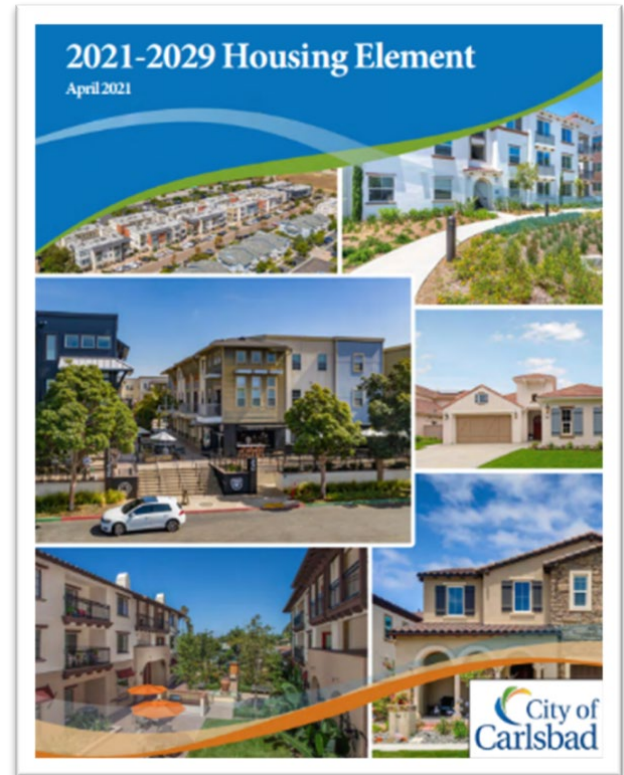
After a significant and substantial community engagement and outreach effort, the City Council on April 6, 2021 approved Reso No. [2021-073](#), which introduced the city's new eight-year housing plan.

### [The 2021-2029 Carlsbad Housing Element](#)

On July 13, 2021, HCD issued a [letter](#) certifying the city's housing plan as being in compliance with the mandatory requirements of state housing law. To learn more about the city's plan and the approaches, programs and strategies being taken to address local housing needs, please visit the city's [housing website](#).

Following more community engagement and input, the City Council on January 30, 2024 approved a series of rezones to accommodate the city's RHNA allocation (with appropriate buffer) that balanced the needs of the community and potential environmental impacts with the need to remain in compliance with state housing laws and mandates (Reso. Nos. [2024-014](#) & [2024-015](#) ).

As part of that public hearing, the City Council also passed a resolution (Reso No. [2024-016](#)) requiring a minimum affordability requirement of 20% apply to all non-city owned sites that were rezoned, and a 40% requirement apply to city owned sites that were identified in the Housing Element as housing opportunity sites.



## RISK OF NONCOMPLIANCE

Assembly Bill 72, which passed in 2017, authorized HCD to review "any action or failure to act" by a city that it determines "inconsistent" with the city's adopted housing element or Government Code Section 65583 (part of the state's Housing Element Law), including any failure to implement any programs included in the jurisdiction's housing element.

If HCD determines that the city's action or failure to act does not "substantially comply" with the state Housing Element Law, or the city's adopted housing element as certified by the state, or the department finds that a city has taken or failed to act in violation of the state Housing Accountability Act, then it may revoke its certification until it determines that the city has come into compliance. Additionally, HCD may also notify the California Office of the Attorney General that the city is in violation of state law, and that office may take legal action against the city.

Should HCD decertify a city's housing element, the city is then subject to Government Code section 65589.5(d)(5), known as the "builder's remedy." This

is a provision of California's Housing Accountability Act that prevents jurisdictions without a substantially compliant housing element from denying approval for certain housing projects, even if such projects do not comply with the jurisdiction's zoning ordinance or general plan.

In other words, developers would be allowed to place housing anywhere in the city, at any density without any discretionary review/approval by the city.



## STATE LAWS THAT FURTHER HOUSING

Beyond the mandates required under Housing Element Law, the state has adopted other mandated regulations and programs that promote housing production. Below are a few of the more significant state laws that apply to housing.

To learn more about other state housing laws and requirements, please visit the Community Development Department's website: [Departmental Information Bulletin](#).

### Housing Crisis Act (2019)

SB 330 introduced an expedited review process, with certain developer protections, for eligible residential development projects. The act also prohibits cities from imposing growth caps or moratoriums on housing projects or plans. This act directly impacted how the city can implement its Growth Management Plan ([GMP](#)), and resulted in the City Council on April 6, 2021, suspending implementation of GMP requirements on housing development (Reso No. [2021-074](#)). Refer to the city's informational bulletin to learn more about this state housing law ([IB-132](#)).

### Multifamily Housing Production Act (2018)

If HCD finds that a jurisdiction's RHNA goals are not being timely satisfied, SB 35 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 the city's informational bulletin on this act and the city's current standings with HCD ([IB-135](#)).

### Residential Density and Affordability Act (2017)

Under SB 166, a city cannot reduce residential density on a property without concurrently rezoning another property to make up the lost units. Furthermore, if a city approves a project that results in a density lower than the housing plan identified, it must rezone another property to make up the difference. This is referred to as the "no net loss" housing provision under state law.

### State Density Bonus Law

Density Bonus is a state law dating back to the 1970s that allows a developer to increase density beyond that allowed under a city's local land use plan by as much as 100%. An applicant can also 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 the city's informational bulletin on density bonus allowances ([IB-112](#)).

### Accessory Dwelling Units

The state has found that allowing Accessory Dwelling Units (ADUs) in residential zones where primary residences are 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 to address housing production. Refer to the city's informational bulletin on ADUs ([IB-111](#)).

## YOUR OPTIONS FOR SERVICE

To schedule an appointment to submit an application or to learn more about density bonus, please contact the Planning Division at 442-339-2610 or via email at [Planning@carlsbadca.gov](mailto:Planning@carlsbadca.gov).