



Housing Element Law Summary Sheet

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Housing Element law requires local governments to adequately plan to meet their existing and projected housing needs including their share of the regional housing need. Housing Element law is the state's primary market-based strategy to increase housing supply, affordability and choice.

State Housing Element law (found, in part, at Government Code Section 65584 (d)) states that the RHNA shall be consistent with the following four objectives:

- 1. Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region, which shall result in all jurisdictions receiving an allocation of low-income and very low-income household units.*
- 2. Promoting infill development and socio-economic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.*
- 3. Promoting an improved intraregional relationship between jobs and housing.*
- 4. Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category.*

All cities are required by state law to prepare and adopt a General Plan. A General Plan is a key tool for influencing the city's quality of life and addresses a wide variety of subject areas including the development, preservation, health, and safety of a community. The City of Encinitas began the update of its General Plan in early 2010 primarily to strengthen existing policies and to address recent court cases and state law or guideline changes. The update effort is currently focusing on the Housing Element portion of the General Plan.

The Housing Element is one of the seven mandated elements of a General Plan. The content and process by which a Housing Element is prepared is prescribed in Government Code Section 65583. Housing Element law, enacted in 1969, requires local governments to adequately plan for existing and projected housing needs of all economic segments of the community. [This summary sheet accounts in more detail and describes the process associated with Housing Element updates, and/or developing and preserving an adequate supply of housing, including housing affordable to seniors, families and workers.](#)

Housing Element Law Overview:

The Housing Element is not an isolated policy plan - it is directed by the policy framework of the General Plan and attempts to balance needs and values of a community while accomplishing the goals of Housing Element legislation. By law, a Housing Element must be updated on a regular basis to facilitate the improvement and development of housing. The element must also be reviewed and certified by the State Department of Housing and Community Development (HCD). Other elements of a General Plan do not have state mandated deadlines for updates. However, planning is a continuous process; a General Plan should be reviewed regularly and revised as new information becomes available and as community needs and values change.

Housing Elements are developed to identify and analyze a city's housing needs, establish reasonable goals, objectives and policies based on those needs, and set forth a comprehensive list of actions to achieve the identified goals and objectives. The process to update a Housing Element begins with the State Department of Finance allocating a region's share of the statewide housing need to SANDAG based on population projections and regional population forecasts used in preparing regional transportation plans. In general, a housing element must at least include the following components:

- 1. Existing Needs and Projected Needs Analysis.** Existing needs are the number of households overpaying for housing, living in overcrowded conditions, or special housing needs (such as the elderly or homeless), etc. Projected needs analysis looks at the city's share of regional housing needs established in the Regional Housing Needs Assessment Plan (RHNA Plan) prepared by SANDAG;

2. *A Sites Inventory and Analysis.* A sites inventory is a detailed land analysis of available sites including specific properties, parcel size and existing conditions, availability of infrastructure, and an evaluation of suitability and potential development capacity that can be used in addressing the RHNA Allocation and/or population growth;

3. *Analysis of Constraints.* This includes an evaluation of land use controls, fees and exactions, permits and processing procedures and its impact on housing development;

4. *Housing Programs.* This addresses various programs to accommodate the localities share of RHNA, remove or mitigate governmental constraints, conserve or improve housing stock, promote fair and equal housing, etc. This also includes a description of what has been learned based on the analysis of progress and effectiveness of the previous element; and

5. *Quantified Objectives.* Objectives estimate the number of units by income level to be constructed, rehabilitated, and conserved over a planning period.

Element Review and Adoption:

- Prepare a draft Housing Element for review by the public and HCD, allowing 60 days for HCD's review.
- Prepare environmental review.
- Comments from the public and HCD should be considered and responded to, with modifications to the Draft Housing Element as necessary.
- Conduct public hearings and adopt the Housing Element. The statutory deadline to adopt the Housing Element was August 28, 2013.
- The final adopted Housing Element must be prepared and immediately submitted to HCD, which then must issue a written determination within 90 days indicating whether the Housing Element substantially complies with state law.

Seeking Housing Element Compliance:

Housing Element law requires local governments to make plans to adequately address their share of existing and projected population growth, taking into consideration affordability of available and future housing. The intent of state law is to set forth principles to guide and facilitate the improvement and development of housing to improve regional mobility and job housing balance that reduce greenhouse gas emissions. When a local government fails to adopt an updated Housing Element by the deadline, or adopts an element that does not comply with the law, the city or county is regarded as noncompliant and is subject to penalties. These penalties include:

1. Legal action – state law provides for a petitioner requesting a hearing or trial. If a petitioner prevails (i.e. the Housing Element does not substantially comply with state law), then the ordered judgment can suspend building permits until the city approves a Housing Element in compliance with state law.
2. Financing impacts – noncompliant communities are also ineligible for certain affordable housing programs administered by HCD. Also, a jurisdiction may not qualify for many grants available through SANDAG.
3. Carryover provision – state law mandates that previously identified housing needs (RHNA) not accommodated by a jurisdiction in one planning period be carried over to the next planning cycle.

As the city's Housing Element is required to be regularly revised pursuant to a statutory schedule, the update process will provide housing and land-use strategies that closely reflect changing local needs, resources, and conditions. For example, the Housing Element update can provide a mechanism to adopt new efficient land-use strategies such as infill, mixed-use, or revitalization; or address climate change and the reduction of green house gas emissions. Therefore, the Housing Element Update process will most likely result in changes to the Land Use and Circulation Elements, as well as new implementing ordinances. Altogether, this planning process will ultimately address how (and if) the city can accommodate growth and mobility demands while enhancing the city's community character and quality of life.