

## Housing Element and Regional Housing Need Allocation

### Frequently Asked Questions

#### 1. ***What is a Housing Element and why is it required?***

State law requires each city and county to adopt a general plan containing at least seven mandatory elements including housing.<sup>1</sup> Unlike the other general plan elements, the housing element is required to be periodically updated and is subject to detailed statutory requirements and mandatory review by a State agency, the California Department of Housing and Community Development (HCD).<sup>2</sup> The Roseville City Council and HCD certified the City's most recent update to the Housing Element in 2009.

Housing Elements have been mandatory portions of local general plans since 1969.<sup>3</sup> This reflects recognition that housing is a matter of statewide importance, and cooperation between government and the private sector is critical to attainment of the State's housing goals.<sup>4</sup> The availability of an adequate supply of housing affordable to workers, families, and seniors is important to the State's long-term economic competitiveness and the quality of life for California residents.<sup>5</sup>

The goals of a Housing Element and Regional Housing Needs Plan are to:

- Increase the housing supply and the mix of housing types in an equitable manner
- Promote infill development and socio-economic equity
- Promote an improved intra-regional relationship between jobs and housing

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. The law recognizes that in order for the private sector to adequately address housing needs and demand, local governments must adopt land-use plans and a regulatory environment which provide opportunities for, and do not unduly constrain, housing development.

#### 2. ***What is the Regional Housing Needs Plan and Regional Housing Needs Allocation (RHNA)?***

According to the State Department of Finance, California's population has grown by 4.4 million people since April 2000, representing an average annual gain of approximately 450,000 residents.<sup>6</sup> Similar growth is predicted by the State in the foreseeable future, translating to an annual need for approximately 220,000 new housing units (houses, apartments, condos, etc.).<sup>7</sup> State Housing Element law requires each city and county to plan for their "fair share" of the state's housing growth needs in their General Plan Housing Element. Per state law, the Sacramento Area Council of Governments (SACOG) is the regional agency responsible for defining the fair share allocation among the various cities and counties within its six-county jurisdiction (Sacramento, Yolo, Sutter, El Dorado, Placer, and Yuba).

The Regional Housing Needs Plan (RHNP) allocates to SACOG cities and counties their "fair share" of the region's projected housing needs. The SACOG Board of Directors must adopt an update of the plan every five

<sup>1</sup> See Government Code §65300 et seq.

<sup>2</sup> To synchronize transportation planning with the RHNA process, [Senate Bill 375](#) provides for the conversion of the housing element planning periods of many regions from five years to eight years, beginning with next (sixth) revision of the housing element.

<sup>3</sup> State of California, Department of Housing and Community Development. *State Housing Element Law: Overview*. Tech. Division of Housing Policy Development, 23 Oct. 2009. Web. 05 Feb. 2010. <http://www.hcd.ca.gov/hpd/hrc/plan/he/heoverview.pdf>.

<sup>4</sup> Legislative intent expressed in Government Code §65580(a)&(b)

<sup>5</sup> State of California, Department of Housing and Community Development. *Building Blocks for Effective Housing Elements*. Tech. Division of Housing Policy Development. Web. 9 Feb. 2010. [http://www.hcd.ca.gov/hpd/housing\\_element/](http://www.hcd.ca.gov/hpd/housing_element/).

<sup>6</sup> State of California, Department of Finance. *California County Population Estimates and Components of Change by Year - July 1, 2000-2009*. California Department of Finance., December 2009. Web. 05 Feb. 2010. <http://www.dof.ca.gov/research/demographic/reports/estimates/e-2/2000-09/>.

<sup>7</sup> State of California, Department of Housing and Community Development. *Raising the Roof: California Housing Development Projections and Constraints, 1997-2020*. Division of Housing Policy Development. Web. 9 Feb. 2010. <http://www.hcd.ca.gov/hpd/hrc/rtr/chp2r.htm>.

years. The SACOG Board approved the 2006-2013 RHNP on February 21, 2008.<sup>8</sup> Each city and county in the RHNP receives a Regional Housing Needs Allocation (RHNA) of a total number of housing units that it must plan for within a 7.5 year time period. Within the total number of units, allocations are also assigned for the number of units within five economic categories: extremely low, very low, low, moderate, and above moderate incomes.

Based on economic and demographic forecasts, the State has determined that SACOG must accommodate 118,652 housing units between 2006 and 2013 to meet housing demand.

**3. How much high density housing does Roseville need to plan for? What is the City's obligation to accommodate its Regional Housing Need (RHNA)?**

The City of Roseville's RHNA for the 2006-2013 planning cycle is 8,933 units, distributed among the following income categories:

Extremely Low Income (30% of average median income)	1,179 units*
Very Low Income (50% AMI)	1,501 units*
Low Income (80% AMI)	1,817 units*
Moderate Income (100% AMI)	1,662 units
Above Moderate Income (120% AMI)	<u>2,774 units</u>
<b>Total Regional Housing Need Allocation</b>	<b>8,933 units</b>

*\*Required as High Density units* *4,497 units*

The five economic categories must be addressed in a jurisdiction's Housing Element. Among other things required to gain HCD certification of the Housing Element, jurisdictions must identify properties that can accommodate enough housing units to allow for sufficient housing to be built by income category (known as an "adequate sites" analysis).<sup>9</sup> For the Extremely Low, Very Low, and Low Income categories in particular, jurisdictions must provide zoning that is considered higher density. In suburban communities, a property is considered "high density" by the State when the permitted density is a minimum of 20 units per acre. In larger metropolitan areas, the minimum threshold increases to 30 units per acre.<sup>10</sup>

The RHNA represents the minimum number of housing units Roseville is required to plan for in its Housing Element by providing "adequate sites." Put another way, the City is required to demonstrate capacity for the requisite units through an adequate amount of land zoned for particular housing types. The RHNA represents a planning target, not a building quota. So long as the City provides sufficient sites and does not impose constraints to development (i.e., by requiring conditional use permits or other legislative approvals), the City is not penalized for falling short of its RHNA goals. However, if the City does not identify sufficient sites, the shortfall is carried forward to future planning cycles.<sup>11</sup>

**4. Why can't the City just rezone properties to high density residential and why is the "Voluntary Rezoning Program" necessary?**

Over the past 20 years, the City has required all new growth areas to be comprehensively planned through specific plans, which looks at land use and all the services and infrastructure necessary to support that land use.<sup>12</sup> The specific plans are implemented through Development Agreements, or contracts, that establish obligations on both the developer and the City to guarantee that facilities and services will be provided consistent with City standards and the vision of the specific plan. Development Agreements alleviate developer risk by guaranteeing land use entitlements (i.e., land use and zoning of property). The City may not unilaterally rezone properties that have been entitled land use by a Development Agreement. In return, Development Agreements allow the City to leverage development to get more benefits from development than would be available through typical subdivision map or use permit approvals. Approximately 65% of the City's land area is within a specific

<sup>8</sup> *Regional Housing Needs Plan*. Sacramento Area Council of Governments, 28 Feb. 2008. Web. 5 Feb. 2010. [http://www.sacog.org/rhnp/rhnp.pdf?bcsi\\_scan\\_A38C1E70ED790E27=0&bcsi\\_scan\\_filename=rhnp.pdf](http://www.sacog.org/rhnp/rhnp.pdf?bcsi_scan_A38C1E70ED790E27=0&bcsi_scan_filename=rhnp.pdf).

<sup>9</sup> See Government Code §65583.2

<sup>10</sup> See Government Code §65583.2(h)

<sup>11</sup> *State Housing Element Law: Overview*. Tech. California Department of Housing and Community Development, Division of Housing Policy Development, 23 Oct. 2009. Web. 05 Feb. 2010. <http://www.hcd.ca.gov/hpd/hrc/plan/he/heoverview.pdf>.

<sup>12</sup> City of Roseville. Planning & Redevelopment Department. *2020 General Plan, Land Use Element*. [Growth Management Policy #6, p. II-46](#). Roseville: City of Roseville, 2004. Print.

plan or planning area with accompanying Development Agreement(s). This means that the City's ability to rezone property without a property owner's consent for residential purposes is limited, which constrains the City's ability to meet its RHNA obligation.

The City's Voluntary Rezone policy was developed as a mechanism to facilitate and expedite requests by property owners willing to re-designate their property to high density residential (HDR). As rezone or other land use change requests are received, the City will encourage the increase in density of lower density residential parcels. The City will also encourage voluntary rezoning of non-residential parcels to HDR.

**5. Why are the majority of Voluntary Rezone sites identified in the Fiddymment Ranch neighborhood of the West Roseville Specific Plan (WRSP)?**

The WRSP represents the city's primary new growth area and is largely undeveloped to date. The master developers of Fiddymment Ranch have filed an application to change the land use plan and to increase the permitted number of low and medium density residential units.<sup>13</sup> Per the Housing Element's Voluntary Rezone policy, the City is requesting that additional HDR units be included in the proposal to help satisfy the RHNA obligation.

Even if all voluntary rezones in the WRSP (totaling 720 units) were approved, combined with other available sites identified in the 2008 Housing Element, the City will still fall short of meeting its RHNA obligation by 236 units. This will require the City to provide adequate sites for additional HDR units within the 2006-2013 planning cycle.

**6. Where else are high density units being allocated and is the WRSP receiving a disproportionate share?**

As new growth areas are processed, they must provide a proportional share of high density housing. For example, the Sierra Vista Specific Plan currently under review by the City proposes 1,905 high density units, or approximately 29% of the 6,650 units proposed within the specific plan. A significant allocation of high density units (96% of new units) was also provided in the Downtown Roseville Specific Plan approved in 2009. As rezone requests are received throughout the community, the City will seek to incorporate high density housing.

The following table illustrates the percentage of HDR units in each of the specific plan areas throughout the City. As indicated in the table, the number of HDR units in the WRSP\* is proportionate to other specific plans and is one half of one percent higher than the citywide average.

Specific Plan Area	Total Residential Units	HDR units	% of HDR units
Downtown	1,020	981	96.2%
Riverside Gateway	346	170	49.1%
Southeast	3,163	1,384	43.7%
North Central	4,487	1,889	42.1%
Highland Reserve North	1,669	651	39.0%
Northeast	1,289	465	36.1%
Sierra Vista (not yet approved)	6,650	1,905	28.6%
West*	10,549	2,938	27.9%
Stoneridge	2,861	746	26.1%
North	5,686	1,052	18.5%
Northwest	9,068	1,370	15.1%
Del Webb	3,210	100	3.1%
<b>Total</b>	<b>49,998</b>	<b>13,651</b>	<b>27.3%</b>

\*Assumes approval of Voluntary Rezones

<sup>13</sup> Planning Department File #2009PL-130

**7. What happens if Roseville does not meet its Housing Element commitment?**

If the City fails to rezone the sites identified in the “Voluntary Rezone” component of the Housing Element, the State Department of Housing and Community Development could take action to de-certify the Housing Element.<sup>14</sup> There are several potential consequences resulting from de-certification, including the risk of litigation and loss of state and federal housing assistance funding. Courts are mandated by statute to impose sanctions if a Housing Element is ruled invalid.<sup>15</sup> In addition to building permit moratoria, courts could impose moratoria on local land use authority (thus taking away local control of land use decisions). Lastly, local jurisdictions are usually responsible for paying litigants’ attorney fees.

A moratorium would disrupt the provision and delivery of facilities and amenities expected by Roseville residents. Impact fees are collected upon building permit issuance to pay for parks, road improvements, and other facilities. With a moratorium, no permits may be issued; thus, no fees are collected and construction of these amenities would be delayed for an indeterminate period of time. While a building moratorium is a worst-case scenario, it is not outside the realm of possibility, as similar situations have occurred throughout the region and state.

**8. Other cities have been sued due to non-compliance of their Housing Element. What has been the basis of some of these suits and the penalties assessed?**

Housing Element lawsuits are typically brought forward by affordable housing advocates, property owners, and/or the development community. In addition, the California Attorney General’s Office has the authority to file civil action, and recently joined an ongoing lawsuit against the City of Pleasanton.<sup>16</sup> Examples of litigation include:

- ❖ **Folsom:** The City of Folsom previously signed an agreement with housing advocacy groups to produce 650 affordable units within a period of four years. The City didn’t adhere to the agreement and was sued by Legal Services of Northern California (LSNC). The Court ordered a moratorium on development of 600 acres until the Housing Element was certified by HCD. A stipulated judgment required the City to rezone 128 acres for affordable housing, create incentives for developers, and create an affordable Housing Trust Fund. The City was ordered to pay attorney fees.
- ❖ **Sacramento County:** Sacramento County was sued by LSNC, claiming the County failed to implement its Housing Element. The Court ordered the County to adopt new development standards for multi-family projects and enact amendments to the zoning ordinance to ensure that multi-family projects are reviewed through a simplified process. A moratorium was also imposed, prohibiting all building except multi-family residences. Sacramento County later adopted an Inclusionary Zoning Ordinance requiring provision of affordable housing. The County was ordered to pay attorney fees.
- ❖ **Mission Viejo:** The City of Mission Viejo failed to comply with a commitment in its adopted Housing Element to rezone adequate sites. HCD subsequently rescinded its certification of the Housing Element, and a lawsuit was brought by California Affordable Housing Law Project and Legal Aid. The Court issued a writ against the City and ordered moratoria on the three sites the City had identified but had not rezoned.
- ❖ **Pleasanton:** The City of Pleasanton committed to rezoning 30-40 acres to high density residential in its Housing Element. The City failed to rezone the properties, and similar to the Mission Viejo case, HCD rescinded its certification of the Housing Element. Urban Habitat subsequently filed a lawsuit based on Housing Element non-compliance, as well as a voter-approved growth management ordinance. The California Attorney General joined the lawsuit in August 2009. The case remains pending.

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<sup>14</sup> Additionally, if a court finds that a local government with an eight year housing element failed to complete, within the required three years, the rezoning needed to accommodate the RHNA for very low and low income housing, the court must issue an order or judgment compelling the locality to complete the rezonings within 60 days or the earliest time consistent with public notice and hearing requirements. The court may also impose sanctions for failure to rezone. Government Code [§65587\(d\)\(1\)](#).

<sup>15</sup> See Government Code [§§65754, 65754.5 & 65755](#).

<sup>16</sup> Urban Habitat Program et al. v. City of Pleasanton, Alameda County Superior Court, State of California, Case No. [RG06293831](#)

A partial listing of other jurisdictions who have faced legal challenges on their Housing Elements include: Alameda, Benicia, Camarillo, Corte Madera, Dana Point, Encinitas, Fremont, Healdsburg, Mendocino County, Napa County, Oxnard, Pasadena, Pittsburgh, Rohnert Park, San Diego, Santa Cruz County, Santa Monica, Santa Rosa, Seal Beach, and Sonoma County.<sup>17</sup>

### **9. How else does Roseville produce affordable housing?**

In 1988, the City implemented a 10% Affordable Housing Goal (AHG) as a mechanism for the City, property owners, and business community to actively work together to develop new affordable housing for extremely low, very low, low, middle and moderate income households. The 10% affordable requirement applies to all new residential development planned for four or more units within the City. Since 1988, the AHG has been applied (and will continue to apply) to all residential units within Specific Plans, as well as undeveloped parcels throughout the City when a property owner requests a discretionary action to change residential density, or to change from non-residential use to residential use.

The AHG requires that at least four percent of the 10% be affordable to very low income households, four percent of the 10% be affordable to low income households, and two percent of the 10% be affordable to middle income households. The City's AHG specifies there be a mixture of rental and purchase housing, with approximately 80% of affordable units constructed as rental units for extremely low, very low and low income households and 20% of affordable units constructed as purchase units for middle income households.

Prior to building permits being issued in the case of multi-family rental units and final map approval in the case of single family purchase units, developers are required to enter into an Affordable Housing Agreement recorded on the property. The Agreements secure the affordable units for a minimum of 30 years or longer depending on the amount and type of subsidies made available. The Affordable Housing Agreements also set rents and purchase prices for affordable units, establish the criteria and basis for annual rent or purchase price increases, provides for annual monitoring, and in the case of purchase units, specifies resale requirements.

Since the establishment of the AHG in 1988, 28,936 new multi family and single family units have been approved/entitled. Of those 28,936 housing units, 2,798 were designated affordable to extremely low, very low, low and middle income households, with 2,460 affordable units completed.

### **10. How can I obtain more information regarding the State Housing Element law, the City's General Plan and Housing Element, RHNA, and affordable housing programs?**

- ❖ For information regarding the *General Plan, current development proposals, or land use and zoning matters*, please visit the City of Roseville's Planning and Redevelopment Department website at [www.roseville.ca.us/planning](http://www.roseville.ca.us/planning) or call (916) 774-5276.
- ❖ For information regarding *City of Roseville affordable housing programs*, please visit the City of Roseville Housing Division website at <http://www.roseville.ca.us/housing/default.asp> or call the Housing Division at (916) 774-5270.
- ❖ For information regarding *California population rates, forecasting, and demographic trends*, please visit the California Department of Finance website at [www.dof.ca.gov](http://www.dof.ca.gov).
- ❖ For information regarding *State Housing Element Law*, please visit the California Department of Housing and Community Development's website at <http://www.hcd.ca.gov/hpd/>.
- ❖ For information regarding the *Sacramento Area Council of Governments (SACOG), including regional transportation planning, RHNA coordination, and the Regional Blueprint*, please visit [www.sacog.org](http://www.sacog.org).

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<sup>17</sup> County of Santa Barbara. Office of County Counsel. By Stephen S. Stark. [Housing Element Law: Mandates and Risks of Defiance](#). County of Santa Barbara, 2 July 2007. Web. 5 Feb. 2010.