



City of Banning

Housing Element Information

What is the Housing Element?

The Housing Element is part of the city's General Plan and is one of the mandatory elements. That means the city is required to have a Housing Element that is consistent with the State's general law. The Housing Element is governed by the California Government Code and is required to be updated every 8 years by the statutory deadline. The Housing Element is responsible for identifying a city's existing and projected housing need; goals, policies, and quantified objectives on achieving housing for all economic segments of the population; available financial resources; scheduled programs for the preservation of housing and an identification of adequate housing sites for all economic segments of the community, persons with special needs and emergency shelters.

California Government Code Article 10.6, Sections 65580-65589.11

Why is the Housing Element periodically updated?

The planning period for the Housing Element is 8 years. The city's current Housing Element is for planning period 2013-2021. Pursuant to state law, the city is now updating its Housing Element for Planning Period 2021-2029. The Housing Element planning period aligns with the State's allocation of the Regional Housing Needs Assessment, commonly known as RHNA. The State Department of Housing and Community Development (HCD) assesses the RHNA every 8 years and distributes an allocation of the housing units to the various regions throughout the state. This allocation is eventually distributed across the counties and cities in California to be included in the Housing Element.

How does the city know how many residential units to plan for in the Housing Element?

The RHNA decides the number of residential units the city must plan for in the Housing Element. For the Housing Element Update covering planning period 2021-2029, the city must plan for 1,673 residential housing units.

Which housing income levels is the city required to plan for in the Housing Element Update?

The RHNA specifically identifies the number of residential units required for each economic income segment, which includes very-low, low, moderate, and above-moderate incomes. The table below shows the residential units allocated to the City of Banning for each income category.

Income Category based on Area Median Income (AMI)	Number of Units to Accommodate	Percent (%)
Extremely Low 30% or less*	155	9.3
Very Low Income between 31 and 50% AMI	162	9.7

Low Income between 51 and 80% AMI	193	11.6
Moderate Income between 81 and 120% AMI	280	16.7
Above-Moderate Income greater than 120% AMI	883	52.7
Total	1,673	100

Source: Final Regional Housing Needs Allocation, SCAG, (2021).

* The City has a RHNA allocation of 192 very low-income units (inclusive of extremely low-income units). Pursuant to State law (AB 2634), the City must project the number of extremely low-income housing needs based on Census income distribution or assume 50 percent of the very low-income units as extremely low. According to the CHAS data developed by HUD, 33.0% of City households earned less than 50 percent of the AMI. Among these households, 49.3 percent earned incomes below 30% (extremely low). Therefore, the City's RHNA allocation of 317 very low-income units may be split into 155 extremely low and 162 very low-income units. However, for purposes of identifying adequate sites for the RHNA allocation, State law does not mandate the separate accounting for the extremely low-income category.

How does the city demonstrate to HCD that it has enough sites planned for housing?

Included in the city's Housing Element is an inventory of the sites that shows where housing units can be accommodated. The sites must be vacant or underutilized and have potential for development during the eight-year planning period. Some of the sites identified may be already zoned for housing that can accommodate a certain percentage of the RHNA income categories. However, where the city's available sites zoned for residential and mixed-use purposes are not adequate to fully meet the city's RHNA, the city would need to rezone sites to plan for housing in accordance with the RHNA allocation. The city's rezoning can include a) increasing the residential density on property already zoned residential to allow for additional housing units, b) rezoning property from nonresidential to residential; or c) establishing an affordable housing overlay zone on currently underutilized properties.

According to HCD's Housing Element Site Inventory Guidebook, an affordable housing overlay zone is a zoning tool that allows a city to modify existing zoning to allow for or require certain types of residential development on a parcel without changing the underlying zoning district. This means a parcel currently being used for a non-residential land use, such as commercial or industrial and zoned as such, can continue to be used in accordance with the underlying zoning. However, should the property owner decide to redevelop the site with residential, the site would be allowed to have residential in accordance with the provisions established by the affordable housing overlay. The affordable housing overlay demonstrates where additional housing can be planned should the current use of the property be repurposed in the future.

Does the city build the housing units on the sites that have been identified in the Housing Element?

No. The city does not build housing. New housing is constructed by developers that own property or plan on acquiring property for new housing.

Is the property owner required to build housing on the sites identified within the 8-year planning cycle of the Housing Element?

No. Although the Housing Element identifies enough sites are available in the city to plan for housing and to facilitate the development of affordable multiple family housing by allowing higher density residential in certain areas, it does not mean the property owner is required to build the housing within the next 8 years or any time in the future. The Housing Element is a planning document that enables the city in meeting its housing goals.

How did the city determine the housing opportunity sites?

Aside from the sites already zoned residential or mixed use, the city used the best practices for selecting sites to accommodate the lower income RHNA mentioned in HCD's Housing Element Site Inventory Guidebook. These sites are for higher density residential, which are intended to accommodate housing units for lower and moderate-income households. Additionally, the city used the survey results from the city's housing survey issued earlier this year in May 2021. The survey results are available at <https://www.surveymonkey.com/stories/SM-XPWLJFGC/>

Per the HCD Site Inventory Guidebook, sites best suited to accommodate the RHNA for lower income households should include factors such as:

- Proximity to transit.
- Access to high performing schools and jobs.
- Access to amenities, such as parks and services.
- Access to health care facilities and grocery stores.
- Locational criteria that meet Low-income Housing Tax Credit Program funding.
- Proximity to available infrastructure and utilities.
- Sites that do not require environmental mitigation.

The city's housing survey also asked, "Which areas of the city do you think would be better suited for high density residential involving apartments and/or condominiums?" The survey results show 46% of the responses favor higher density in areas where public transportation is within walking distance and 43% of the responses favor higher density in areas near commercial centers.

When is the city required to rezone the sites identified for rezoning?

The city has 3 years and 120 days from the beginning of the Housing Element planning period to rezone sites to meet the city's shortfall of the RHNA. The planning period begins on October 15, 2021.

How does HCD know if the city has a state compliant Housing Element after it is adopted by the City Council?

The city is required to submit its draft Housing Element to HCD for review. Prior to adoption of the Housing Element, the city must seek HCD comments on the Draft Housing Element. The adopted Housing Element is also required to be submitted to HCD for review. If HCD determines the city's Housing Element was prepared in compliance with state law, HCD will issue a Finding of Substantial Compliance to the city. If HCD determines the city's Housing Element was not prepared in compliance with state law, the city will need to revise the Housing Element based on HCD's comments. The city would need to resubmit the revised Housing Element to HCD. The city would only need to repeat the latter process if the resubmitted Housing Element is not certified by HCD.

HCD has an Accountability and Enforcement Division that is specifically assigned to monitor the compliance of local jurisdictions' housing elements. This division also investigates complaints on local discretionary land use planning decisions that possibly would jeopardize a certified Housing Element. Additionally, cities are required to submit an annual housing progress report to HCD, which includes an inventory of properties that have been rezoned to meet the shortfall in the RHNA.

The Accountability and Enforcement Division was created due to the passage of Assembly Bill (AB) 72 and AB 101. These laws give additional enforcement tools to HCD and the California Attorney General to move forward with legal action against a local jurisdiction if the Housing Element is not compliant with state law. A

city is a subdivision of the state and local laws may not conflict with general law. In this case, general law includes the State Planning and Zoning Law and the specific requirements of the Housing Element law. With the adoption of AB 101 (2019), the Attorney General can seek a court order directing a local jurisdiction to bring its Housing Element into compliance. The court can enforce this by imposing fines, appoint a receiver to step in, take the process over from the local jurisdiction and bring the Housing Element into substantial compliance. Additionally, a jurisdiction would become ineligible for certain grants that require a jurisdiction to have a certified Housing Element.