

DRAFT Housing Element Principles

RHNA 6th Cycle Recommendations for Monterey County Jurisdictions

Executive Summary

The goal of this paper is to articulate planning principles that can guide Monterey County jurisdictions to develop 6th Cycle housing elements that are consistent with state law, including Regional Housing Needs Allocations (RHNA) and AB 686's mandate to affirmatively further fair housing (AFFH).

LandWatch will advocate that housing elements identify sufficient sites for affordable units, affirmatively further fair housing, and remove governmental constraints to housing production. The following principles will inform this advocacy.

- Provide adequate zoning density and appropriate development standards to support RHNA allocations and minimize sprawl and greenhouse gas emissions
- Remove or mitigate governmental constraints to housing production
- Limit annexations to sites needed in the current cycle
- Integrate affordable housing into high opportunity areas
- Invest in lower resource communities.
- Support incentives that create affordable (sub-market-rate) housing concurrent with market-rate housing
- For below-market-rate housing, support effective housing subsidies and discourage ineffective ones

Background

Monterey County's 6th Cycle RHNA requires planning for a total of 20,295 housing units, almost three times more than the 5th Cycle allocation. Most cities in Monterey County failed to permit enough units to meet their allocations for the 5th Cycle. Countywide, the largest shortfalls were in the "very low," "low," and "moderate" income categories¹.

¹ Based on the most recent data available from HCD's APR Dashboard (<https://www.hcd.ca.gov/apr-data-dashboard-and-downloads>). Monterey County jurisdictions' annual progress reports (APRs) are current as of April 2021. While more units may have been permitted in the past year, the number of homes actually built is still well short of the number that have been permitted.

5th Cycle Permits Issued

Income Level	Very Low	Low	Moderate	Above Moderate
Average RHNA Fulfillment	19%	35%	35%	94%

On January 12, 2022, the Association of Monterey Bay Area Governments – the agency responsible for deciding Regional Housing Needs Allocation (RHNA) methodology – cited the following major constraints to housing development in its constituent areas, which include Monterey County and its 12 cities:

1. Capacity for sewer and water service;
2. Availability of land suitable for urban development;
3. Lands preserved or protected from urban development; and
4. County policies preserving prime agricultural land.

Water supply on the Monterey Peninsula is currently severely limited because of restrictions on water withdrawals from the Carmel River. With Phase 2 expansion of Pure Water Monterey, water supplies should be sufficient within three years (by late 2024) to accommodate 6th Cycle housing element requirements on the Monterey Peninsula.

Communities outside the Peninsula, including Marina, cities in the Salinas Valley, and much of unincorporated Monterey County, are served by groundwater. These jurisdictions may face water supply constraints under the Sustainable Groundwater Management Act. However, the relatively modest water supplies for urban use should receive priority in the development of sustainable groundwater management plans.

Therefore, the main constraint to development throughout Monterey County is the availability of land suitable for urban development without sprawl into agricultural and other protected lands.

Monterey County jurisdictions can meet their RHNA requirements by prioritizing urban development within city limits. To preserve agricultural land and natural resources and avoid urban sprawl, annexations should be limited, and zoning for annexed land should reflect the mix of housing affordability needed for the jurisdiction’s RHNA. Unincorporated Monterey County can meet its RHNA obligations through development in its designated Community Areas.

Walkable urban development, at densities high enough to support affordable housing, ensures that more homes are available for lower income working people and families, closer to jobs, and with fewer greenhouse gas emissions through

reduced automobile usage. These are goals that every Monterey County jurisdiction aspires to.

Meeting the 6th Cycle RHNA will be challenging. It will be even more challenging to go beyond planning and actually create the adequate incentives for nonprofit and private developers to build affordable housing units. Statewide, private developers are responsible for approximately 85% of housing construction, so these housing principles give special attention to incentives and disincentives to housing construction.

6th Cycle Housing Elements

Under HCD guidelines, a legally compliant housing element is required to include both information and programmatic commitments for action. The required information includes:

1. Assessments of available sites and fair housing needs,
2. Governmental and non-governmental constraints on housing production, and
3. The results of the prior cycle's programs.

Based on this information, the housing element must then specify policies and programs to ensure adequate sites are available, to affirmatively further fair housing, and to overcome the governmental and non-governmental constraints.

As an organization concerned with equitable and environmentally sustainable land use, LandWatch focuses on three aspects of the housing element update process:

1. Adequate site inventories to accommodate affordable units,
2. Effective programs to affirmatively further fair housing, and
3. Effective programs to address governmental constraints on housing production.

Areas of Focus for Jurisdictions in the 6th Cycle

Site Inventories

A compliant housing element must identify an inventory of suitable housing development sites with infrastructure and services. These sites must provide realistic capacity to accommodate the jurisdiction's RHNA, which requires that they be zoned, or will be zoned, at sufficient density to accommodate the number of units at each RHNA affordability category. Zoned density – whether at an acre or other neighborhood area level – is a proxy for affordability levels because higher density of

dwelling units per acre (du/acre) directly affects the cost per square foot for development. Generally, higher density reduces cost per square foot and therefore the consumer price of the housing units built, whether rented or sold. In practice, an adequate sites inventory must at minimum comply with HCD's Housing Element Site Inventory Guidebook, which specifies the determination of realistic site capacity.²

Affirmatively Furthering Fair Housing

Effective programs to affirmatively further fair housing also require adherence to HCD guidelines. Under AB 686, developing a compliant housing element, or administering any aspect of its housing and community development affairs, requires:

...taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. (Gov. Code, § 8899.50(a)(1); see also Gov. Code, §§ 8899.50(b), 65583(c)(5).)

In practice, this means agencies must at minimum comply with HCD's Affirmatively Furthering Fair Housing guidelines.³ These guidelines are intended to avoid substantial differences in access to opportunities based on race, income, familial status, or disability. Relevant opportunities include education, employment, economic development, safe and decent housing, low rates of violent crime, transportation, and other opportunities, including recreation, food and healthy environment (air, water, safe neighborhood, safety from environmental hazards, social services, and cultural institutions).

Governmental Constraints

Additionally, each jurisdiction must include analysis of governmental constraints to housing production, and must adopt programs to mitigate or remove those constraints (see Government Code, section 65583, subdivisions (a)(5) and (c)(3)). Governmental constraints may include zoning, permitting processes, development standards, fees, etc. Jurisdictions must follow up their existing programs and adopt

² HCD, Housing Element Site Inventory Guidebook, June 10, 2020, available at https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf.

³ HCD, Affirmatively Furthering Fair Housing, April 2021 Update, available at https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf

new programs as necessary in the 6th Cycle to comply with HCD review standards and remove barriers to housing production.

Principles for 6th Cycle Housing Elements

LandWatch will advocate that 6th Cycle housing elements identify sufficient sites for affordable units, affirmatively further fair housing, and remove governmental constraints to housing production. The following principles will inform this advocacy.

1. Provide adequate zoning density and appropriate development standards to support RHNA allocations and minimize sprawl and greenhouse gas emissions.

Jurisdictions must zone sufficient sites and ensure realistic capacity to accommodate their share of “very low,” “low,” and “moderate” income housing. Priority areas for development should be existing high-quality transit corridors, especially in areas designated as highest or high-resource by the AFFH Data Viewer⁴. In Monterey County, these areas include the entirety of the cities of Monterey, Pacific Grove, Carmel-By-The-Sea, unincorporated Carmel Valley, and corridors along highways 68 and 156.

HCD requires zoning for a minimum of 20 du/acre to qualify a site as suitable for lower-income housing (low or very low). Going beyond these HCD safe-harbor minimum densities can further lower housing costs; minimize sprawl and vehicle miles travelled; take advantage of existing infrastructure for water, wastewater, utilities, and transportation; and preserve farmland and open space by reducing annexation and greenfield development.

Design standards should be modified to support and encourage denser urban communities.

Policies and programs to achieve these goals should include some or all of the following:

1. Increase and intensify mixed-use development by
 - allowing mixed use in more commercially zoned areas,
 - increasing the allowable residential densities in mixed-use developments, and
 - decreasing the required percentage and location of commercial use in mixed-use developments
2. Increase maximum densities in urban communities, especially within transit corridors and near public transit routes.

⁴ <https://www.arcgis.com/apps/webappviewer/index.html?id=4d43b384957d4366b09aeeae3c5a1f60>

3. Eliminate strict units per acre limits entirely in some areas, so as to regulate density only via development standards (e.g. height and setbacks, also known as form-based zoning). Suitable areas may include transportation corridors, commercial areas, specific plan areas, and areas zoned for multifamily housing.
4. Increase height limits and floor area ratios; decrease parking and setback requirements
5. Expand upon the state Density Bonus Law by allowing additional bonus density for greater levels or quantities of affordable housing.
6. Broaden city areas zoned for multifamily housing per SB 9 and through increased density on parcels currently zoned at minimum density
7. Eliminate or minimize parking requirements

2. Remove or mitigate governmental constraints to housing production.

Localities willing to make needed changes can make significant progress in overcoming governmental constraints, including through changes to zoning, permitting processes, design standards, and fees. Monterey County jurisdictions cited many restrictive practices as obstacles to development in their 5th Cycle housing elements and must again assess these constraints in the 6th Cycle. In addition to the zoning changes identified above, jurisdictions should:

1. Adopt objective design and development standards that facilitate ministerial approval
2. Adopt ministerial (non-discretionary) permitting based on objective design and development standards for:
 1. Multifamily housing projects
 2. Housing or mixed-use projects located in appropriate infill areas
3. Reduce or waive fees and exactions for higher density and affordable development (e.g., by scaling fees based upon square footage instead of number of units). Allow for fee payments to be deferred until certificate of occupancy
4. Incentivize lot consolidation to permit multi-family and rental unit development by reducing impact fees or offering tax abatements, e.g. reduced or postponed property tax collection that rewards affordability

3. Limit annexations to sites needed in the current cycle.

For some cities, annexations may be required to provide sufficient sites to meet RHNA requirements. Limiting annexation areas ensures compact, contiguous development and prevents leap-frogging and sprawl into agricultural land and open space. Monterey County LAFCO policy is to limit annexations to the area needed for 5-7 years of growth. Policies and programs should:

1. Limit annexations to the area actually needed to accommodate the current cycle RHNA, and only once infill development has been maximized
2. Ensure annexed areas are zoned for sufficient density to accommodate both affordable and market rate housing

4. Integrate affordable housing into high opportunity areas.

Affirmatively furthering fair housing is promoted by integrating affordable, higher density housing into high opportunity areas, especially in communities designated as high or highest resource by the AFFH Tax Credit Allocation Committee (TCAC) standards. Policies and programs should:

1. Permit multi-family and rental units in all residential areas (see Principle 1.4.)
2. Ensure that specific plan areas, whether inside city limits or in annexations, integrate higher density housing equally throughout residential areas
3. Ensure that highest resource communities (including the cities of Monterey, Pacific Grove, Carmel, and the unincorporated region of Carmel Valley) allow for higher density development in multiple areas across the community.

5. Invest in lower resource communities.

Affirmatively furthering fair housing is promoted by investing in the development of high-quality infrastructure and resources for educational and economic opportunity in areas considered of moderate or low resource or of “high segregation and poverty” by the AFFH TCAC standards. Such investment makes possible the transformation of these communities into higher resource areas with improved outcomes for children and families. Policies and programs should:

1. Utilize Community Development Block Grants to ensure adequate investment in infrastructure, environmental quality, building and health code enforcement to support communities that meet AFFH standards and RHNA housing requirements. Such investment should:
 - a. Increase access to public transportation in lower resource areas with higher frequency transit bus routes
 - b. Invest in infrastructure extension or repair for access to clean water, sewer, electricity, and internet services
 - c. Encourage landlords to accept housing vouchers
 - d. Enforce fair housing practices to prevent discriminatory behavior and acceptance of housing vouchers where applicable
2. Zone for commercial nodes to bring employment opportunities and needed commercial access within reasonable walking distance of lower resource areas

6. Support incentives that create affordable (sub-market-rate) housing concurrent with market-rate housing.

In view of the failure to meet affordable housing RHNA targets in the 5th Cycle, localities should promote concurrent production of both affordable housing and market rate housing throughout the 6th Cycle. Policies and programs should:

1. Modify entitlement and permitting processes to prioritize housing development projects that contribute to more than one category of RHNA affordability requirements
2. Require that specific plan phasing include concurrent development of both affordable and market rate units and high and low density sites at the project level

7. For below-market-rate housing, support effective housing subsidies and discourage ineffective ones

Any home that is priced below its market value requires subsidies to make up the difference between the below-market price and the market price. Subsidies that don't disincentivize housing production include:

1. Public and private (foundation) grants for nonprofit developers
2. State and federal tax credits
3. Local tax incentives and reductions or waivers of impact fees for private developers

Local funding to provide support for these subsidies can come from a variety of sources without disincentivizing housing production, including:

1. Housing impact fees for non-housing development with a nexus to housing demand in the development's jurisdiction
2. Transfer taxes on existing luxury single-family homes (e.g. houses in the top 30% by sale price).
3. Vacancy taxes

Government actions that disincentivize housing production include:

1. Administrative fees, impact fees, delays in permitting and entitlement, the uncertainty of discretionary reviews, and the direct and indirect costs imposed by administrative processes.
2. Inclusionary housing requirements, which rely on market rate units in a specific development subsidizing sub-market rate ones, have proven to be ineffective in generating significant affordable housing in many communities.