



CITY OF ORLAND STAFF REPORT

MEETING DATE:

TO: City of Orland Planning Commission

FROM: Jake Morley, City Planner

SUBJECT: Housing Element - Status Update

SUMMARY:

The purpose of this report is to provide the Planning Commission with an overview of the City's current Housing Element implementation status, outstanding Housing Element Programs, and the Housing Annual Progress Report (APR) requirements. This report is informational only and is intended to familiarize the Commission with future policy and zoning amendments that will be presented for implementation.

BACKGROUND:

The City's 2021-2029 (6th Cycle) Housing Element was adopted on March 1, 2022, and certified by the California Department of Housing and Community Development (HCD). Unlike most General Plan Elements, the Housing Element is governed by State law and contains mandatory implementation programs that jurisdictions commit to completing over the eight-year planning cycle.

Many of these Programs require amendments to the Municipal Code or adoption of new housing policies. Failure to implement these programs may result in HCD finding the Housing Element no longer in substantial compliance.

If Programs are not implemented, HCD may determine that the Housing Element is no longer in substantial compliance with State Housing Element law.

If the state determines noncompliance, the potential consequences could include:

1. Litigation from housing advocacy organizations, developers, or the California Attorney General may file suit alleging that the jurisdiction has failed to carry out its statutory obligations.
2. Qualifying projects may become eligible for Builders' Remedy, which would limit the city's ability to deny or condition a housing development based on zoning constraints, and the developer could propose increased building heights, alternative layouts that would otherwise be prohibited by local zoning ordinances, and increased density beyond permitted ranges.

3. Local jurisdictions would no longer be eligible for many state housing and infrastructure grant programs.
4. State law provides court-imposed penalties for persistent noncompliance, including financial penalties. For example, Government Code section 65585, subdivision (l)(1), establishes a minimum fine of \$10,000 per month, up to \$100,000 per month. If a jurisdiction remains noncompliant, a court can multiply those penalties by a factor of six.
5. Loss of local land use authority to a court-appointed agent.

In conjunction with the Housing Elements, local jurisdictions are also required to submit Housing Annual Progress Reports (APRs) to HCD by April 1 of each year. APRs are a statutorily required report that summarizes the jurisdiction's progress during the previous calendar year in implementing its Housing Element and meeting its Regional Housing Needs Allocation (RHNA). The annual APRs are then reviewed by HCD for compliance and conformance, and, if additional information or corrections are necessary, the document is sent back to the local jurisdiction for adjustments before HCD accepts the APR. APRs are the primary tool that HCD uses to measure progress toward RHNA.

RHNAs are a state-mandated program that assigns each city or county a share of the region's projected housing needs for an 8-year cycle, across income categories of Very Low Income, Low Income, Moderate Income, and Above Moderate Income. These numbers are not a construction mandate, but rather a target to ensure that local agencies have sufficient land and adopted policies and zoning that can accommodate their assigned housing needs.

CURRENT STATUS

Recently, HCD reached out to staff to inquire about the 2025 APR as it has not been submitted. In addition, HCD notified that the 2023 and 2024 APRs were also not submitted. Currently, staff is compiling information on entitlement projects and building permits issued during the 2025 calendar year and has been in ongoing communication with HCD regarding the submission of the 2025 APR.

In addition to builder permits issued and project that have been entitled, the APR includes a section that specifically ask which Programs from the Housing Element have been implemented in the 2025 calendar year. Based on initial staff research and the lack of previous APR submittals, it appears that Programs within the Housing Element need to be advanced through the public hearing process.

Upon review of the Housing Element, staff has compiled the short list below of Programs found in the Housing Element. These Programs require amendments to the Municipal Code or adoption of implementing ordinances. Because these actions require public hearings or are tied to a time frame, they will be presented to the Planning Commission and City Council over the coming months for consideration.

Housing Element Policy	Time Frame
Program HQY-1.1.1: No Net Loss /Unit Production Evaluation Program. Develop and implement a formal ongoing Unit Production Evaluation pursuant to Government Code section 65863 (No Net Loss law). The Unit Production Evaluation will track the number of extremely low-, very-low, low-, moderate- and above moderate-income units constructed to calculate the remaining unmet RHNA. It will also track the number of units built on the identified sites to determine the remaining site capacity by income category. On an annual basis, the Evaluation will conduct a review and update of available sites to meet the RHNA. If sites identified in the Housing Element to meet RHNA are developed with non-residential uses during the Housing	Within one year of HE adoption

Element planning period, the Unit Production Evaluation will include a plan to replace those sites, which may involve identification of new residentially zoned sites, rezoning of non-residential sites and/or annexation of new sites. The evaluation procedure will be updated annually and when sites identified in the Housing Element to meet RHNA are approved for development	
Program HQY-1.2.1: Medium and High-Density Residential Sites Amendment to Families per Structure Requirement. Amend the Residential Two-Family Zone (R-2) and Multiple Family Residential and Professional Zone (R-3) in the City zoning code to remove the public safety height requirement, the requirement that limits development to no more than “four families per structure” and replace the conditional use permit process with a site plan or similar process to promote approval certainty.	November/2022
Program: HQY-1.2.4: Low Barrier Navigation Centers. Amend the City’s Zoning Code to allow Low Barrier Navigation Center development as a use by right in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if it meets specified requirements, as defined and delineated in AB 101.	January/2025
Program: HQY-1.2.5: Transitional and Supportive Housing. Amend the City’s Zoning Code to allow transitional and supportive housing in non-residential zones (C-1, M-L and DTMU) and only subject to requirements that apply to other residential dwellings of the same type in the same zone.	January/2025
Program: HQY-1.2.6: By Right Permanent Supportive Housing. Amend the City’s Zoning Code to allow Permanent Supportive Housing as a use by right in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if it meets specified requirements, as defined and delineated in Government Code section 65651.	January/2025
Program: HQY-1.2.7: Group Homes for Seven or More Persons. Amend the City’s Zoning Code and permit procedures to allow group homes for seven or more persons in all zones allowing residential use and only subject to objective standards similar to other residential uses of the same type in the same zone.	January/2025
Program AH-1.2.3: Large Household Housing. The City will establish a program to offer incentives for the development of rental housing with three or more bedrooms. These incentives may include but are not limited to fee reductions, modifications to development standards, and/or financial incentives. In addition, the City will prepare and make available materials so that developers are aware of the City’s incentives.	September/2022
Program AH-1.2.5 Density Bonus. Update the City’s Density Bonus Ordinance to increase the allowable density bonus for affordable housing from 35% to 50%, per AB 2345. Projects with all units restricted to affordable rents will be eligible for a density bonus of up to 80%	Within one year of HE adoption
Program AH-1.2.6 Emergency Shelter Parking. Amend the Municipal Code regarding Emergency Shelters to require parking only for staff working at the shelter and not the guests of the shelter, per AB 139.	Within one year of HE adoption

RECOMMENDATION:

Staff recommends that the Planning Commission receive this informational report, provide any comments or direction to staff, and become familiar with the outstanding Housing Element implementation programs.

ATTACHMENTS

- A. 2021-2029 (6th Cycle) Housing Element