



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

TO: Mendocino County, Board of Supervisors
FROM: Ignacio Gonzalez, Interim Director, Planning and Building Services
SUBJECT: Data Collection: Regional Housing Needs Assessment (RHNA) Allocation: Statement of Constraints for Mendocino County
DATE: August 27, 2018

As part of the Housing Element of the General Plan, local governments are required to identify sites with appropriate zoning that will accommodate projected housing needs as part of their regional housing need allocation (RHNA) and report on their progress pursuant to Government Code Section 65400. To credit accessory units toward the RHNA, the Departments of Housing and Community Development (HCD) and Finance (DOF) utilize the U.S. Census Bureau's definition of a 'Housing Unit'.¹

The Mendocino Council of Governments' (MCOG) process for distributing its Regional Housing Needs Assessment (RHNA) has resulted in an allocation of 1,349 housing units to the unincorporated areas of Mendocino County. After collaborative and cooperative discussion between MCOG partners, this figure is intended to reflect the County's "fair share" proportion for the upcoming 2018 Regional Housing Needs Determination as conveyed by the California Department of Housing and Community Development (HCD). The overall breakdown for the County based on unit affordability and household income was "very low" (607), "low" (372), "moderate" (368) and "above moderate" (1465).

According to HCD, ADUs are not automatically considered affordable to low-income households. Just like other housing types, the affordability of ADUs can be demonstrated by a deed restriction, proposed rents or sales prices, or a survey of comparable units that show what income level the ADU would be affordable to, for example, Very-Low, Low, Moderate, or Above-Moderate income households. Affordability can be demonstrated through a survey of comparable units in the area that show the unit would be affordable to Moderate or Above-Moderate income households. In the absence of justification that the unit is affordable to a Very-Low, Low, or Moderate income household, the unit should be counted as Above-Moderate income. To claim units as affordable to Very-Low or Low income households without a deed restriction or financial assistance, affordability must be demonstrated by proposed rent or sales prices that would be affordable to Very-Low or Low income households, or demonstrated through a survey of comparable units in the area that show the unit would be affordable to Very-Low, or Low-income households.²

By November, staff plans to integrate a brief set of quantitative questions into the building permit application for accessory units. The questions would specifically inquire as to the proposed use, and if rented, the expected monthly price. These questions, along with a comprehensive survey of accessory units in Mendocino County, could help to more accurately convey use of accessory structures to HCD, and ensure a more accurate and representative assessment is provided for this upcoming RHNA.

¹ A housing unit is a house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with other persons in the structure and which have direct access from the outside of the building or through a common hall. For vacant units, the criteria of separateness and direct access are applied to the intended occupants whenever possible. If the information cannot be obtained, the criteria are applied to the previous occupants. Tents and boats are excluded if vacant, used for business, or used for extra sleeping space or vacations. Vacant seasonal/migratory mobile homes are included in the count of vacant seasonal/migratory housing units. Living quarters of the following types are excluded from the housing unit inventory: Dormitories, bunkhouses, and barracks; quarters in predominantly transient hotels, motels, and the like, except those occupied by persons who consider the hotel their usual place of residence; quarters in institutions, general hospitals, and military installations except those occupied by staff members or resident employees who have separate living arrangements (<https://www.census.gov/housing/hvs/definitions.pdf>)

² (Department of Housing and Community Development. Housing Element Annual Progress Report Frequently Asked Questions (FAQs). *Housing Element Annual Progress Report Frequently Asked Questions (FAQs)*. Sacramento, CA, USA: Department of Housing and Community Development. July, 13, 2018

**Department of Housing and Community Development
Housing Element Annual Progress Report Frequently Asked Questions (FAQs)**

Direct Further Questions to APR@HCD.CA.GOV

How do I submit Housing Element Annual Progress Reports?

There are three options for submitting Housing Element Annual Progress Reports (APRs), which are due each April reporting on the prior calendar year's activities:

1. Use the [Online Annual Progress Reporting system](#); this enters your information directly into HCD's database, limiting the risk of errors. If you would like to use the online system, email APR@hcd.ca.gov, and HCD will send you the login information for your jurisdiction.
2. If you prefer to submit via email, you can complete the excel [Annual Progress Report forms](#), and submit to HCD at APR@hcd.ca.gov.
3. Or, you can submit your hard copy report by U.S. mail to:

California Department of Housing and Community Development
Division of Housing Policy Development
P.O. Box 952053
Sacramento, CA 94252-2053
AND
Governor's Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

What are the benefits to submitting APRs?

1. Several funding programs require up-to-date submission of APRs, including SB 1 Sustainable Communities Planning Grants and SB 2 Building Homes and Jobs Act funds.
2. APRs for 2017 were due April 1, 2018, and pursuant to Government Code 65400(b), a court may issue an order or judgement compelling compliance with annual reporting requirements if an APR is not submitted within 60 days of the due date, and may grant appropriate sanctions.
3. The permits reported in your jurisdiction's APRs demonstrate permitting progress toward your Regional Housing Needs Allocation (RHNA); however, permits issued during years for which your jurisdiction has not submitted an APR cannot be counted toward the SB 35 determination.

What technical assistance resources are there available to help me submit APRs?

The APR technical assistance team respond to questions at APR@hcd.ca.gov. We also encourage you to review HCD's APR online technical assistance resources: [APR instructions](#) and [Housing Element Annual Progress Report webinar](#).

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When will Annual Progress Report Forms be updated to accommodate changes from the 2017 California Housing Package legislation?

There will be no changes to the Annual Progress Report forms for the 2017 reporting period, which were due April 2018. The new data requirements will impact the 2018 Annual Progress Reports (APRs) due April 2019, and beyond. The forms will be changed prior to the due date for the 2018 APRs.

What new information should a local government begin to collect for the 2018 APR in anticipation of those new requirements?

In addition to the current APR requirements, the following is a preliminary list of information a jurisdiction should collect for the 2018 APR.

- Residential development application information including the number of all development applications, the number of units in all applications, the number of units approved, and the number of units disapproved because of project denial or reduction in project density.
- Completed entitlements by assessor parcel number (APN), income, and tenure. "Completed entitlements" means a housing development that has received all the required land use approvals or entitlements necessary for the issuance of building permit.
- Building permits by APN, income, and tenure. NEW for 2018: Building permits by income and tenure have been required on the APR since 2010, but the location demonstrated through APN will now be required for each development permit.
- Certificate of Occupancy or Final Building Permit as appropriate to the jurisdiction, by APN, income, and tenure.
- Changes to residential zoning in order to complete a housing element program or because of a no-net-loss requirement. Similar to the Housing Element sites inventory, reporting on these items should include APN, acreage, previous general plan and zoning designation, new general plan and zoning designation, realistic unit capacity, and information on any existing uses.
- SB 35 Tracking
 - Number of applications submitted under the SB 35 streamlining provisions
 - Location and number of developments approved using SB 35 streamlining provisions
 - Total number of building permits issued using SB 35 streamlining provisions
 - Total number of units constructed using SB 35 streamlining provisions by tenure and income category
- A description of any commercial development bonuses approved under Govt. Code section 65915.7. This will require reporting approved commercial development bonuses including the terms between the commercial developer, the affordable developer, and the local government, as well as the number of housing units constructed as part of the agreement. Note: this requirement was added by Chapter 747, Statutes of 2016 (AB 1934).

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Should I report housing units approved, permitted, or built on the Annual Progress Report?

You should report permitted units; this should represent the final permitting needed before the units can begin construction. As a result of the 2017 California Housing Package legislation there will be additional reporting requirements starting with the 2018 Annual Progress Reports due April 2019, but permitted units will remain what is used to demonstrate a jurisdiction's progress toward the Regional Housing Needs Allocation.

What counts as a permitted housing unit?

"Permitted units" mean units for which building permits for new housing construction have been issued by the local government during the reporting calendar year. For this purpose, "new housing unit" means housing units as defined by the Department of Finance for inclusion in the Department of Finance's annual "E-5 City/County Population and Housing Estimates" report, which is the same as the census definition of a housing unit.

A house, an apartment, a mobile home, a group of rooms, or a single room occupied as separate living quarters, or if vacant, intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other individuals in the building and which have direct access from outside the building or through a common hall. For vacant units, the criteria of separateness and direct access are applied to the intended occupants whenever possible.

If a building is being torn down to build the new units, the APR should report net new units. For example, if 10 units are being torn down on a site to build a 100 unit building, the APR should report 90 new units. In this case of demolitions or housing losses unrelated to new construction these do not need to be reported on the APR. In the case of new construction where fewer units are being built than were there previously do not report negative permits. For example, if 10 units are being torn down on a site to build 5 units, this would not count as any new units on the APR and should not be reported as a negative number. Demolitions and other housing losses are reported to Department of Finance on their Annual Housing Unit Survey.

Can I count units created through adaptive reuse as new units?

Yes, if you are permitting units that are now considered housing units under the definition above, but were not previously considered housing units under that definition, they can be considered new units and counted on your APR.

Can I count shelter beds toward RHNA progress?

Shelter beds do not count as separate living quarters and cannot be counted on the Annual Progress Report.

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Do Single-Resident Occupancy (SRO) units count toward RHNA progress?

SRO units can be counted if the units are operated as separate living quarters, and occupied or will be occupied by persons who consider the unit their usual place of residence, rather than temporary motels.

Can I count dorms in a college town?

Dormitories, bunkhouses, and barracks cannot be counted as housing units, but student housing that is set up as separate living quarters per the census definition can be counted.

Can I count senior housing?

Beds or quarters in an institution or hospital do not count, but separate living quarters per the census definition. For example, senior housing with individual units that would allow for eating and living separately for the broader community could count.

What qualifies as a justification for Very-Low, Low Income housing without a deed-restriction or financial assistance?

To claim units as affordable to Very-Low or Low income households without a deed restriction or financial assistance, affordability must be demonstrated by proposed rent or sales prices that would be affordable to Very-Low or Low income households, or demonstrated through a survey of comparable units in the area that show the unit would be affordable to Very-Low, or Low-income households.

How should I distinguish between Moderate and Above-Moderate income units if sales price or rent information is not available?

Affordability can be demonstrated through a survey of comparable units in the area that show the unit would be affordable to Moderate or Above-Moderate income households. In the absence of justification that the unit is affordable to a Very-Low, Low, or Moderate income household, the unit should be counted as Above-Moderate income.

Can Accessory Dwelling Units automatically be counted as Low Income because of their small size?

Accessory Dwelling Units or Second Units are not automatically considered affordable to Low income households. Just like other housing types, the affordability of Accessory Dwelling Units (ADU) can be demonstrated by a deed restriction, proposed rents or sales prices, or a survey of comparable units that show what income level the ADU would be affordable to, for example, Very-Low, Low, Moderate, or Above-Moderate income households.

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Is an Accessory Dwelling Unit the same thing as a Second Unit for the purposes of the APR?

Yes, ADUs that are affordable to Very-Low and Low income households are reported as Second Units in Table A of the APR. ADUs that are affordable to Moderate or Above-Moderate income households are reported as Second Units in Table A3 of the APR.

Can we use density as a proxy for affordability in reporting? For example, can 50 units to the acre equate to very-low income affordability?

While density can be a proxy for affordability in zoning, it cannot be used as a justification to count permits on Annual Progress Reports toward RHNA progress; only deed-restrictions, financial assistance affordability covenants, or sales prices/rents can be used as a justification for determining affordability.

What qualifies as a preservation, rehabilitation, or acquisition project toward RHNA progress for Table A2 of the APR?

In order for units to be eligible the following must apply pursuant to Government Code 65883.1(c)(7):

- This site must be included in the housing element, specifically as part of the local government's strategy to meet its RHNA obligation. This can be accomplished by including the site in the sites inventory or listing it in the analysis to determine adequate sites.
- Either with the housing element or within the first two years of the planning period, a representative of the jurisdiction must have submitted a completed ["Adequate Sites Program Alternative Checklist"](#) related to this specific site, or provided an HCD-approved alternative submission that contains all the information contained within the checklist.

If either of these is not true, this site and its units CANNOT be counted toward your RHNA goals, and we request that you correct your Annual Progress Reports if you counted these units in error.

Note: Even when the units meet the eligibility criteria, a maximum of 25 percent of a jurisdiction's RHNA goal for each income category can be met through units counted through Table A2.

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Can I count units that were permitted during the projection period before the permitting period starts?

You can count these units. Any local government wanting to register units that were permitted during the 5th Cycle Projection Period before the start of the 5th Cycle Planning Period should contact APR@hcd.ca.gov to request this or follow these steps in the APR system for the first year of the Planning Period:

- 1) In Table A of the APR: Create a new project (you will do multiple times, once for each unit category)
- 2) Under “Project Identifier” enter the label as “Units permitted in the Projection Period”
- 3) Under “Unit Category” select single-family (SF), two to four unit structures (2-4), five or more unit structure, multifamily (5+), Second Unit (SU), mobile homes (MH) as appropriate
- 4) Include the total number of units by income category
- 5) Press “Submit”

Can I submit APRs after the due date?

At this time, HCD is continuing to accept APRs from all prior years.

If I submit a 2017 APR, but include information on prior year permitting in the Table B summary, will that count as a submission for those prior years?

No, you must submit an APR for each year. Table B represents a summary of permitting progress for the entire cycle, but only the current year’s data from the APR is entered into the database. If you have corrections to prior year data you will need to resubmit the APR for that year.