

# AB 725 General Plans Housing Element: Moderate-Income Housing

## Overview

AB 725 General plans: housing element: moderate-income housing: suburban and metropolitan jurisdictions (2019-2020), passed in 2021, adds new rules regarding the sites that can be used in Housing Elements. Per Gov. Code section 65583.2, subd. (c)(4), when selecting sites for the housing inventory, jurisdictions must now ensure:

* At least 25% of moderate-income housing units are:
* On sites that allow at least four housing units, and
* Have densities less than 100 units per acre.
* At least 25% of above-moderate-income housing units must be on sites that allow at least four housing units.[[1]](#footnote-1)

The bill only applies in metropolitan jurisdictions (Housing Element Default Densities of 30 DUA) and does not apply to unincorporated areas. This bill went into effect on January 1, 2022.

## How to Calculate

To check if the housing allocations meet this requirement, use the following steps:

### Step 1: Calculate Moderate-Income Units

1. Take the Regional Housing Needs Assessment (RHNA) for moderate-income units and multiply by 0.25 to calculate the minimum number of units required.
2. Look at the moderate-income sites in the inventory, and:
	1. Eliminate sites that do not accommodate at least four units,
	2. Eliminate sites where the zoning allows more than 100 units per acre,
	3. Calculate how many units can be accommodated on those sites.
3. Compare units calculated for A and B. If thenumberof units calculatedforB greater than A,then you have met the requirement for moderate-income units.

### Step 2: Calculate Above-Moderate-Income Units

1. Take the RHNA for above-moderate-income units and multiply by 0.25 to calculate the minimum number of units required.
2. Look at the moderate-income sites in the inventory, and:
	1. Eliminate sites that do not accommodate at least four units,
	2. Calculate how many units can be accommodated on those sites.
3. Compare units calculated for A and B. If thenumberof units calculatedforB is greater than A, then you have met the requirement for above-moderate-income units.

### Step 3: Confirm Compliance

If you have met the requirement for both Step 1 and Step 2, then you are in compliance with AB 725 requirements for moderate-income-and above-moderate-income units.

## Statutory Language

Government Code Section 65583.2(c)(4):

1. For a metropolitan jurisdiction:
2. At least 25 percent of the jurisdiction’s share of the regional housing need for moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing, but not more than 100 units per acre of housing.
3. At least 25 percent of the jurisdiction’s share of the regional housing need for above moderate-income housing shall be allocated to sites with zoning that allows at least 4 units of housing.

(B) The allocation of moderate-income and above moderate-income housing to sites pursuant to this paragraph shall not be a basis for the jurisdiction to do either of the following:

(i) Deny a project that does not comply with the allocation.

(ii) Impose a price minimum, price maximum, price control, or any other exaction or condition of approval in lieu thereof. This clause does not prohibit a jurisdiction from imposing any price minimum, price maximum, price control, exaction, or condition in lieu thereof, pursuant to any other law.

(iii) The provisions of this subparagraph do not constitute a change in, but are declaratory of, existing law with regard to the allocation of sites pursuant to this section.

(C) This paragraph does not apply to an unincorporated area.

(D) For purposes of this paragraph:

(i) “Housing development project” has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(ii) “Unit of housing” does not include an accessory dwelling unit or junior accessory dwelling unit that could be approved pursuant to Section 65852.2 or Section 65852.22 or through a local ordinance or other provision implementing either of those sections. This paragraph shall not limit the ability of a local government to count the actual production of accessory dwelling units or junior accessory dwelling units in an annual progress report submitted pursuant to Section 65400 or other progress report as determined by the department.

(E) Nothing in this subdivision shall preclude the subdivision of a parcel, provided that the subdivision is subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land.

## Example Calculation for Moderate Income Units

1. Moderate-income RHNA is **400 units**. Multiply **400 units** by 0.25, which equals **100 units** (minimum number of moderate-income units required).
2. The jurisdiction identifies 30 sites that are planned for moderate income, allow at least four units, and permit less than 100 DUA. The 30 sites will account for **150 units.**

If the number of units for B is greater than A, then you have met the requirement for moderate-income units.

1. Note that the statute specifically provides that a “unit of housing,” for the purpose of this requirement, does not include accessory dwelling units or junior accessory dwelling units. [↑](#footnote-ref-1)