

# Frequently Asked Questions

## City of La Habra Heights 2013-2021 Housing Element

### 1. What is a Housing Element?

State law<sup>1</sup> requires each city to adopt a comprehensive, long-term General Plan for its physical development, and the Housing Element has been a mandatory component of the General Plan since 1969. For cities in Southern California, Housing Element updates must be prepared every 8 years. The current Housing Element planning period extending from 2013 to 2021 is called the “5<sup>th</sup> Housing Element cycle” in reference to the five required updates that have occurred since the comprehensive revisions to State Housing Element law adopted by the Legislature in 1980.

The current La Habra Heights General Plan<sup>2</sup> was adopted in 2004 and includes six elements: Land Use; Environmental Resource Management; Circulation; Safety; Noise and Air Quality. The City has not yet adopted a Housing Element for the 5<sup>th</sup> planning cycle.

State law<sup>3</sup> establishes specific, detailed requirements for Housing Elements. The overarching requirement set forth in State Housing Element law provides:

*The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobile homes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community.<sup>4</sup>*

### 2. What is “certification” of the Housing Element, and why is it important?

The State Legislature has delegated to the California Department of Housing and Community Development (“HCD”) the authority to review Housing Elements and issue findings regarding the elements’ compliance with the law.<sup>5</sup> When HCD issues a letter finding that the Housing Element is in compliance it is referred to as “certification” of the Housing Element. Certification is important for several reasons:

- **Local control.** The General Plan and its various elements provide the foundation for the City’s land use plans and zoning regulations. If the City were challenged in court on a planning or zoning matter and the General Plan were found by the court to be invalid, the court could order changes to City land use plans or

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<sup>1</sup> California Government Code Sec. 65300 et seq.

<sup>2</sup> <https://www.lhcity.org/DocumentCenter/View/441/GENERAL-PLAN?bidId=>

<sup>3</sup> California Government Code Sec. 65580 et seq.

<sup>4</sup> California Government Code Sec. 65583

<sup>5</sup> California Government Code Sec. 65585

regulations and assume control over City land use decisions. HCD certification establishes a “rebuttable presumption of validity”<sup>6</sup> that the Housing Element is adequate under State law, which would support the City’s legal defense. In 2019, for the first time in State history, the California Attorney General filed a lawsuit against a city alleging that its Housing Element does not comply with State law.<sup>7</sup> Recent laws also allow for courts to impose fines if a jurisdiction fails to adopt a compliant Housing Element.<sup>8</sup>

- **RHNA carryover.** State law<sup>9</sup> provides that if a city does not demonstrate the availability of adequate sites to accommodate its Regional Housing Needs Assessment (RHNA) allocation, the shortfall is carried over and added to the RHNA for the next planning period.
- **More frequent Housing Element updates.** When a city does not adopt a Housing Element within the established timeframe, subsequent updates must be completed on a 4-year schedule rather than an 8-year schedule until two consecutive updates have been prepared on time.<sup>10</sup>
- **Eligibility for grant funds.** Some State grant funds are contingent upon Housing Element certification or give priority to those jurisdictions with a certified Housing Element.

### 3. What is the current status of the City’s Housing Element?

State law establishes a mandatory schedule for preparing Housing Element updates, and the 5<sup>th</sup> Housing Element cycle for jurisdictions within the Southern California Association of Governments<sup>11</sup> (“SCAG”) region is 2013-2021.<sup>12</sup> The due date for adoption of a Housing Element for the 5<sup>th</sup> cycle was October 15, 2013. La Habra Heights has not yet prepared a Housing Element update for the 5<sup>th</sup> cycle. On December 14, 2018 HCD issued a letter stating that the City’s failure to prepare and submit a Housing Element is a violation of State law. The City is currently preparing a draft Housing Element for review by the community, the Planning Commission, the City Council and HCD.

### 4. What is “affordable” housing?

By definition, housing is considered “affordable” when total housing cost, including utilities, is no more than 30% of a family’s gross income. State law describes four income categories, which are based on a percentage of county median income as shown in Table 1.

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<sup>6</sup> California Government Code Sec. 65589.3.

<sup>7</sup> *Governing* magazine, 3/19/2019 (<https://www.governing.com/topics/urban/gov-california-governor-newsom-housing.html>)

<sup>8</sup> AB 101 of 2019

<sup>9</sup> California Government Code Sec. 65584.09.

<sup>10</sup> California Government Code Sec. 65588(e)(4).

<sup>11</sup> SCAG is a federally-designated regional planning agency with responsibility for preparing regional transportation and housing plans for the area encompassing Los Angeles, Ventura, Orange, Riverside, San Bernardino and Imperial counties. SCAG is governed by a Regional Council comprised of city and county elected officials. For additional information see <http://www.scag.ca.gov>

<sup>12</sup> <http://www.hcd.ca.gov/community-development/housing-element/docs/housing-element-update-schedule.pdf>

**Table 1. Housing Element Income Categories**

Income Category	% of county median income
Very low	Up to 50%
Low	51-80%
Moderate	81-120%
Above moderate	Over 120%

Source: California Government Code Sec. 65584(f)

Affordable rents and home prices in Los Angeles County that correspond to these income categories are shown in Table 3, below.

## 5. What are the most important issues that must be addressed in the La Habra Heights Housing Element?

The major issues that must be addressed in the Housing Element are: 1) how City policies, plans and regulations address regional population growth needs for households of all income levels; and 2) how City land use regulations accommodate the special housing needs of persons with disabilities or other difficulties.

- **Accommodating Population Growth.** Under State law<sup>13</sup> all cities are required to plan for additional housing to accommodate population growth. State law recognizes that cities generally do not build housing, since that is typically the role of private and non-profit developers and builders. However, cities are required to adopt policies, development regulations and standards that encourage a variety of housing types suitable for persons of all income levels, including multi-family rental housing and accessory dwelling units ("ADUs"). The Regional Housing Needs Assessment ("RHNA") is the method by which each jurisdiction's share of new housing needs is determined (see #6 below).
- **Housing for Persons with Special Needs.** Under State law<sup>14</sup> cities must also ensure that their plans and regulations encourage the provision of housing for persons with "special needs" including:
  - ✓ Reasonable accommodation for persons with disabilities
  - ✓ Transitional housing
  - ✓ Supportive housing
  - ✓ Emergency shelters
  - ✓ Farmworker housing

## 6. What is the RHNA and how is it determined?

Each California city is required to plan for new housing to accommodate its share of regional needs. The Regional Housing Needs Assessment ("RHNA") is the process established in State law<sup>15</sup> by which housing needs are determined.

Prior to each planning cycle the total housing need for each region of California is determined by HCD based upon anticipated economic and demographic trends,

<sup>13</sup> California Government Code Sec. 65583

<sup>14</sup> California Government Code Sec. 65583(a)(5)

<sup>15</sup> California Government Code Sec. 65584 et seq.

existing housing problems such as overcrowding and overpayment, and additional housing needed to ensure reasonable vacancy rates and replace units lost due to demolition or natural disasters. The total housing need for the SCAG region is then distributed to cities and counties by SCAG based upon objectives established in State law.<sup>16</sup> SCAG is currently preparing the RHNA for the 6<sup>th</sup> planning cycle, which will cover the 2021-2029 period.<sup>17</sup>

In 2012 SCAG adopted the 5<sup>th</sup> RHNA for the 2013-2021 planning period. The following table shows the adopted RHNA allocations for La Habra Heights, Los Angeles County, and the entire SCAG region. In allocating shares of the regional housing need to counties and individual jurisdictions, SCAG was required by State law to maintain the regional total of 412,137 housing units.

**Table 2. 2013-2021 RHNA – La Habra Heights, Los Angeles County and SCAG Region**

	La Habra Heights	Los Angeles County	SCAG Region
Housing allocation 2013-2021	119	179,881	412,137

Source: SCAG, 2012

The RHNA also distributes total housing need to four income categories based on income characteristics for Los Angeles County as shown in Table 3.

**Table 3. Income Categories and Affordable Housing Costs – Los Angeles County**

Income Category	Maximum Income	Affordable Rent	Affordable Price (est.)
Very Low	\$48,450	\$1,211	\$170,000
Low	\$77,500	\$1,938	\$270,000
Moderate	\$83,150	\$2,079	\$300,000
Above moderate	Over \$83,150	Over \$2,079	Over \$300,000

Assumptions:

- Based on a family of 4 and 2018 State income limits
- 30% of gross income for rent or principal, interest, taxes & insurance
- 10% down payment, 4.5% interest, 1.25% taxes & insurance, \$300 HOA dues

Source: Cal. HCD; JHD Planning LLC

The RHNA distributes each jurisdiction's total housing need into these four income categories. For La Habra Heights the 5<sup>th</sup> cycle RHNA allocation by income category is shown in Table 4.

**Table 4. 2013-2021 RHNA by Income Category – La Habra Heights**

Very Low	Low	Moderate	Above Moderate	Total
32	19	21	47	119

Source: SCAG, 2012

<sup>16</sup> California Government Code Sec. 65584(d)

<sup>17</sup> <http://www.scag.ca.gov/programs/pages/housing.aspx>

## 7. Can the RHNA allocation for La Habra Heights be reduced?

The RHNA allocation for the 2013-2021 Housing Element cycle was adopted in final form by SCAG in 2012, and no amendments are possible. SCAG is currently in the process of preparing the 6<sup>th</sup> cycle RHNA for the 2021-2029 period and City staff is actively participating in that process.

## 8. How does the RHNA allocation affect City planning and zoning?

The Housing Element must demonstrate how the City can accommodate its share of new housing needs assigned in the RHNA. State housing policy is based on fair housing law and the premise that all cities, even those without a significant amount of commercial, office or industrial development, create the need for affordable housing for workers who serve residents of the community such as teachers, police and fire personnel, retail clerks, medical office support staff, home and landscape construction and maintenance workers, public utilities maintenance personnel, etc. If a city does not provide opportunities for lower-cost housing, the housing needs of these workers are shifted to other jurisdictions.

State law recognizes that the cost of land and construction vary depending on location, and that subsidies are necessary in order to provide housing that is affordable to families in the lower economic tiers. Cities are held responsible only for the things they have control over, such as land use plans, zoning and development standards, including allowable land uses, lot size and density, building height, parking requirements, yard setbacks and permit review procedures.

While State law recognizes the obstacles to development of affordable housing, the law does not allow an exception to Housing Element requirements for high-cost areas or cities with difficult building constraints such as topography and infrastructure.<sup>18</sup> As part of the Housing Element, cities are required to prepare a parcel-specific inventory of sites where additional housing can realistically be built, and demonstrate that sufficient sites are available with appropriate development standards to accommodate new housing commensurate with the RHNA allocation. The focus of this analysis is on sites that could accommodate housing affordable to households in the very-low and low income categories and housing for persons with special needs. In most small cities, sites identified as suitable for lower-income housing must allow multi-family rental housing at a density of at least 20 units per acre.<sup>19</sup> State law also requires that cities allow ADUs as a matter of right (without a conditional use permit) subject to limited requirements.<sup>20</sup>

## 9. Why are small cities like La Habra Heights required to have affordable housing? Low-cost housing is not feasible here due to high land cost and development constraints such as steep slopes and infrastructure problems. Because of these conditions La Habra Heights has been a rural, low-density community since before the City's incorporation in 1978.

State law is based on the premise that every city has an obligation to accommodate a variety of housing types for persons at all income levels. While lower-cost housing is often

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<sup>18</sup> California Government Code Sec. 65583(b)(2)

<sup>19</sup> California Government Code Sec. 65583.2 (c)(3)

<sup>20</sup> California Government Code Sec. 65852.2

provided through rental apartments, other housing types such as ADUs can also help to address this need in cities where local conditions such as topography and infrastructure make multi-family development difficult or infeasible.

Environmental and infrastructure constraints are considered by SCAG in the RHNA allocations. While these constraints affect a city's total housing allocation, the proportion of housing that is assigned to the lower income categories is based on the income characteristics of the city and the county – not zoning or physical constraints. Typically, about 40% of total RHNA allocation is in the lower-income categories.

**10. Does La Habra Heights have any sites that could accommodate the lower-income portion of the RHNA?**

The City's General Plan and zoning regulations do not currently allow multi-family housing or ADUs, which are the typical ways cities accommodate lower-income housing. Other cities with similar circumstances have addressed this issue by amending their General Plans and zoning regulations to allow multi-family housing in appropriate locations, as well as ADUs on single-family lots.

**11. Could La Habra Heights accommodate its lower-income RHNA with small residential care facilities?**

Living arrangements are categorized either as "housing units" or "group quarters." Only housing units satisfy RHNA requirements. Under State law, small residential care facilities for up to six persons must be regulated the same as ordinary housing. However, these facilities are generally considered "group quarters" and do not qualify as "housing units" for RHNA purposes.

**12. What other Housing Element requirements affect La Habra Heights?**

State law<sup>21</sup> requires cities to adopt zoning and development standards "to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing." City zoning regulations currently do not address all of these requirements; therefore, some amendments will be necessary in order to obtain Housing Element certification.

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<sup>21</sup> California Government Code Sec. 65583(c)(1)