



# Frequently Asked Questions

## City of La Habra Heights 2021-2029 Housing Element Update

### 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 Housing Element planning period extending from 2021 to 2029 is called the “6<sup>th</sup> Housing Element cycle” in reference to the six required updates that have occurred since a comprehensive revision to State Housing Element law was adopted by the Legislature in 1980.

The 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 is currently preparing a Housing Element for the 6<sup>th</sup> planning cycle.

State law<sup>3</sup> establishes far more extensive requirements for Housing Elements than for any other element of the General Plan. 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>*

While city housing policies and regulations may be tailored to local conditions to some extent, there are many State requirements that apply to every city.

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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



### 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 development 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 regulations and take control over some 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. Recent laws also allow HCD or the Attorney General to file lawsuits against cities and authorize courts to impose fines if a jurisdiction fails to adopt a compliant Housing Element.<sup>7</sup>
- **RHNA carryover.** State law<sup>8</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.
- **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 6<sup>th</sup> Housing Element cycle for jurisdictions within the Southern California Association of Governments<sup>9</sup> (“SCAG”) region spans the 2021-2020 period.<sup>10</sup> On November 23, 2021 HCD issued a letter of non-compliance to the City of La Habra Heights because the City has not yet submitted a draft Housing Element for the 6<sup>th</sup> planning cycle to HCD for review. The City is currently preparing a draft Housing Element for review by the community, the Planning Commission, the City Council and HCD.

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

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

<sup>7</sup> AB 101 of 2019

<sup>8</sup> California Government Code Sec. 65584.09.

<sup>9</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>10</sup> <http://www.hcd.ca.gov/community-development/housing-element/docs/housing-element-update-schedule.pdf>



#### 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 (Table 1).

**Table 1. Housing Element Income Categories**

Income Category	% of county median income
Extremely low	Up to 30%
Very low	31-50%
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 2.

**Table 2. Income Categories and Affordable Housing Costs – Los Angeles County**

Income Category	Maximum Income	Maximum Affordable Rent	Maximum Affordable Price (est.)
Extremely low	\$35,450	\$886	*
Very low	\$59,100	\$1,478	*
Low	\$94,600	\$2,365	*
Moderate	\$96,000	\$2,400	\$375,000
Above moderate	>\$96,000	>\$2,400	Over \$375,000

Assumptions:

- Based on a family of 4 and 2021 State income limits
  - 30% of gross income for rent or principal, interest, taxes & insurance plus utility allowance
  - 10% down payment, 3.75% interest, 1.25% taxes & insurance, \$300 HOA dues
  - \* For-sale affordable housing is typically provided at the moderate-income level
- Source: Cal. HCD; JHD Planning LLC

#### 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 housing 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 Regional Housing Needs.** Under State law<sup>11</sup> all cities are required to plan for additional housing to accommodate population growth plus existing housing needs such as overcrowding and overpayment. 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

<sup>11</sup> California Government Code Sec. 65583



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>12</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
  - ✓ Residential care facilities
  - ✓ Transitional housing
  - ✓ Supportive housing
  - ✓ Emergency shelters and navigation centers
  - ✓ Farmworker housing

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

State law requires each city to plan for new housing to accommodate its assigned share of regional needs. The Regional Housing Needs Assessment (“RHNA”) is the process established in State law<sup>13</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 economic and demographic trends, 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>14</sup>

In March 2021 SCAG adopted the 6<sup>th</sup> RHNA Plan for the 2021-2029 planning period. The following table shows the adopted RHNA allocations for La Habra Heights, Los Angeles County, and the entire SCAG region.

**Table 3. 2021-2029 RHNA – La Habra Heights, Los Angeles County and SCAG Region**

	La Habra Heights	Los Angeles County	SCAG Region
Housing allocation 2021-2029	172	812,060	1,341,827

Source: SCAG, 2021

The RHNA also distributes each city’s total housing need among income categories based on income characteristics for Los Angeles County as shown in Table 4.

<sup>12</sup> California Government Code Sec. 65583(a)(5)

<sup>13</sup> California Government Code Sec. 65584 et seq.

<sup>14</sup> California Government Code Sec. 65584(d)



**Table 4. 2021-2029 La Habra Heights RHNA by Income Category**

Very Low*	Low	Moderate	Above Moderate	Total
78	35	31	28	172

Source: SCAG, 2021

\*Includes the extremely-low-income category

**7. Can the RHNA allocation for La Habra Heights be reduced or transferred to another city?**

The final RHNA allocation for the 2021-2029 Housing Element cycle was adopted by SCAG in 2021 and no amendments or transfers are possible.

**8. How does the RHNA affect the City's planning and zoning?**

The Housing Element must demonstrate how the City will 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 housing at all income levels, 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 and incentives are often 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>15</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 lower and moderate 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>16</sup> State law also requires that cities allow ADUs as a matter of right (i.e., without a conditional use permit) subject to limited requirements.<sup>17</sup>

<sup>15</sup> California Government Code Sec. 65583(b)(2)

<sup>16</sup> California Government Code Sec. 65583.2 (c)(3)

<sup>17</sup> California Government Code Sec. 65852.2



**9. Why are small cities like La Habra Heights required to allow high-density housing? High density is not feasible here due to development constraints such as steep slopes, fire hazards 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 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 were considered by SCAG in the RHNA allocations, and 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. How can La Habra Heights accommodate the RHNA, especially for low- and moderate-income housing?**

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

State law<sup>18</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>18</sup> California Government Code Sec. 65583(c)(1)