



# Frequently Asked Questions 2021 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. General Plans include several “elements” that address various topics. The West Covina General Plan<sup>2</sup> - referred to as *PlanWC* - is organized under the following themes:

- Our Natural Community (Conservation, Open Space)
- Our Prosperous Community (Economic Development)
- Our Well-Planned Community (Land Use/Design, Housing, Parks/Recreation)
- Our Accessible Community (Circulation)
- Our Resilient Community (Land Use)
- Our Healthy & Safe Community (Public Health, Safety, Noise, and Land Use)
- Our Active Community (Land Use, Open Space, Parks/Recreation)
- Our Creative Community (Culture)

*PlanWC* was adopted in 2016 and has a time horizon of about 20 years. However, State law requires that the Housing Element be updated every 8 years. Housing Element planning periods are sometimes referred to as “cycles”. The City’s current Housing Element covers the planning period extending from 2013 to 2021, which is referred to as the “5<sup>th</sup> Housing Element cycle” in reference to the five required updates that have occurred since the comprehensive revision to State Housing Element law in 1980. Every city in the Southern California Association of Governments (“SCAG”) region<sup>3</sup> is required to prepare a Housing Element update for the 6<sup>th</sup> planning cycle, which spans the 2021-2029 period, regardless of when the other elements of the General Plan were adopted.

State law<sup>4</sup> establishes detailed requirements for Housing Elements, which are summarized in California Government Code Section 65583:

*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.*

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

<sup>2</sup> <https://www.westcovina.org/departments/community-development/planning-division/general-plan>

<sup>3</sup> The SCAG region includes Los Angeles, Orange, Riverside, San Bernardino, Ventura and Imperial counties.

<sup>4</sup> California Government Code Sec. 65580 *et seq.*

## 2. What are the most important issues that must be addressed in the Housing Element?

The major issues that must be addressed in the Housing Element are: 1) how City policies, plans and regulations help to meet the region’s 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.** Every community is dependent on a variety of low- and moderate-income workers in jobs such as child and elder care, medical support, business and personal services, retail trade, construction and maintenance. Governmental programs provide funding assistance for affordable housing, but city plans and regulations determine the type and location of new housing. Therefore, a sufficient supply of affordable housing is dependent on both city regulations and housing subsidies. Under State law<sup>5</sup> all cities are required to plan for additional housing to accommodate population growth and existing housing problems such as overcrowding and high housing cost. State law recognizes that most housing is built by private developers and builders, not cities. However, cities are required to adopt policies, plans, development regulations and standards to encourage a variety of housing types that are affordable 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 #4 below).
- **Housing for Persons with Special Needs.** Under State law<sup>6</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
  - ✓ Residential care facilities
  - ✓ Emergency shelters and “navigation centers”
  - ✓ Large (5+) families

## 3. What is “affordable” housing?

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

**Table 1. Household 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)

<sup>5</sup> California Government Code Sec. 65583

<sup>6</sup> California Government Code Sec. 65583(a)(5)

Affordable housing costs for all jurisdictions in Los Angeles County that correspond to these income categories are shown in the following table. Affordability figures are adjusted each year and are based on family size. Table 2 provides figures for a 4-person family in Los Angeles County in 2020/21.

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

Income Category	Maximum Income	Maximum Affordable Rent	Maximum Affordable Price (est.)
Extremely low	\$33,800	\$845	*
Very low	\$56,300	\$1,407	*
Low	\$90,100	\$2,252	*
Moderate	\$92,750	\$2,319	\$375,000
Above moderate	Over \$92,750	Over \$2,319	Over \$375,000

Assumptions:

- Based on a family of 4 and 2020 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 at the moderate-income level

Source: Cal. HCD; JHD Planning LLC

#### 4. What is the RHNA why is it important?

Each California city is required to plan for new housing to accommodate a share of regional needs. The Regional Housing Needs Assessment (“RHNA”) is the process established in State law<sup>7</sup> by which each city’s housing needs are assigned.

Prior to each Housing Element planning cycle the region’s total housing need 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 region is then distributed to cities and counties by SCAG based upon criteria established in State law.<sup>8</sup>

In 2019 HCD determined that the total new housing need for the entire SCAG region in the 6<sup>th</sup> Housing Element cycle is 1,341,827 units. SCAG then prepared a RHNA plan that fully allocates the total RHNA to jurisdictions in the SCAG region.<sup>9</sup> SCAG adopted the final RHNA plan in March 2021.

Table 3 shows the RHNA allocations for West Covina, Los Angeles County, and the entire SCAG region.

**Table 3. 6<sup>th</sup> Cycle RHNA – West Covina, Los Angeles County and SCAG Region**

	West Covina	Los Angeles County	SCAG Region
RHNA allocation 2021-2029 (housing units)	5,346	812,060	1,341,827

Source: SCAG, 3/4/2021

The RHNA distributes each jurisdiction’s total housing need by the income categories shown in Tables 1 and 2 above (the extremely-low and very-low categories are combined

<sup>7</sup> California Government Code Sec. 65584 et seq.

<sup>8</sup> California Government Code Sec. 65584(d)

<sup>9</sup> <http://www.scag.ca.gov/programs/pages/housing.aspx>

for RHNA purposes). For West Covina the 6<sup>th</sup> cycle RHNA allocation by income category is shown in Table 4.

**Table 4. 6<sup>th</sup> RHNA by Income Category – West Covina**

Very Low	Low	Moderate	Above Moderate	Total
1,653	850	865	1,978	5,346

Source: SCAG, 3/4/2021

## 5. Is the RHNA a construction quota or mandate?

The RHNA allocation identifies the amount of additional housing a jurisdiction would require in order to have enough housing at all price levels to fully meet the needs of its existing population plus its assigned share projected growth over the next 8 years while avoiding problems like overcrowding and overpayment. The RHNA is a planning requirement that determines housing need, *not a construction quota or mandate*. Jurisdictions are not required to build housing or issue permits to achieve their RHNA allocations, but some provisions of State law establish specific requirements when housing production falls short of RHNA allocations. One such requirement is streamlined review and approval of housing development applications that meet specific standards.<sup>10</sup> Other than requirements for streamlined permit processing, there are currently no legal or financial penalties imposed on cities that do not achieve their RHNA allocations.

## 6. What must cities do to comply with the RHNA?

Each Housing Element update must analyze the city's capacity for additional housing based on an evaluation of land use patterns, development regulations, development constraints (such as infrastructure availability and environmental conditions) and real estate market trends. The analysis must be prepared at a parcel-specific level of detail and identify properties (or "sites") where additional housing could be built consistent with current regulations. This evaluation is referred to as the "sites analysis" and State law requires the analysis to demonstrate that the city has adequate capacity to fully accommodate its RHNA allocation in each income category. If the sites analysis does not demonstrate that adequate capacity exists to fully accommodate the RHNA, the Housing Element must describe what steps will be taken to increase capacity commensurate with the RHNA – typically through amendments to land use and zoning regulations that could facilitate additional housing development. Such amendments typically include increasing the allowable residential density or allowing housing to be built in areas that are currently restricted to only non-residential land uses.

## 7. West Covina is fully developed. Why is the RHNA allocation so high?

SCAG's total RHNA allocation for the 6<sup>th</sup> cycle is 1,341,827 units compared to 412,137 units in the 5<sup>th</sup> cycle. There are two main reasons why the region-wide 6<sup>th</sup> RHNA allocation is so much higher than the 5<sup>th</sup> cycle.

<sup>10</sup> California Government Code Sec. 65913.4 (SB 35 of 2017)

First, the 5<sup>th</sup> RHNA allocation was established in 2012 while the severe economic effects of the “Great Recession” were still adversely affecting growth and the foreclosure crisis led to high vacancy rates. As a result, the 5<sup>th</sup> RHNA was uncharacteristically low. For comparison, SCAG’s 4<sup>th</sup> cycle (2006-2013) RHNA allocation was approximately 700,000 units.

Second, for the 6<sup>th</sup> cycle the State made a major modification to the process for determining RHNA allocations due to the “housing crisis.” In prior RHNA cycles, total housing need was based only on projected population growth. However, for the 6<sup>th</sup> RHNA cycle the State added *existing need* to the total RHNA calculation. Existing need includes households that are currently overcrowded (defined as more than one person per room) or are overpaying for housing (defined as more than 30% of gross income). The total 6<sup>th</sup> cycle RHNA allocation for the SCAG region is comprised of the sum of existing need and projected need, as follows:

Existing need:	577,422 units
Projected need:	<u>764,405 units</u>
Total need:	1,341,827 units

As seen from this breakdown, if existing need were not included (as in prior RHNA cycles) the total need for the SCAG region would be similar to the 4<sup>th</sup> cycle RHNA.

With regard to jurisdictional RHNA allocations, the methodology adopted by SCAG for the 6<sup>th</sup> cycle places greater emphasis on the proximity of jobs and transportation rather than vacant developable land. As a result, the urbanized areas of Los Angeles and Orange counties are assigned a higher proportion of the region’s housing need as compared to prior cycles even though they generally have much less vacant land than inland areas.

## 8. How can West Covina accommodate its RHNA allocation and remain in compliance with State housing law?

The RHNA is a planning target and cities are not required to achieve their RHNA allocations but must demonstrate that their land use plans and regulations allow housing development commensurate with the RHNA. Because there is very little vacant land in West Covina that is suitable for housing development, the most significant opportunities for new housing are in areas zoned for non-residential or mixed use. Under State law, areas that are zoned to allow residential development at a density of 30 units/acre are considered appropriate to facilitate production of affordable housing. As part of the Housing Element update, the City will evaluate the potential for new housing development and determine whether any changes to land use plans and zoning are necessary in order to accommodate the amount of new housing assigned to the City in the RHNA.

## 9. Housing development is very expensive in the urban areas of Southern California. How can cities achieve their assigned affordable housing needs?

Housing development is very expensive in Southern California, and housing that is affordable to low- and moderate-income families typically requires large subsidies. While State housing law is based on the premise that every city has an obligation to use its governmental powers to encourage housing development at all income levels, it is recognized that available financial resources are not sufficient to produce all of the

affordable housing needed. Therefore, if a city has adopted appropriate plans and regulations to encourage housing development commensurate with its RHNA allocation, it will not be penalized if actual production does not achieve assigned needs.

## 10. 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>11</sup> When HCD issues a letter finding that the Housing Element is in substantial compliance with State law it is referred to as “certification” of the Housing Element. In 2014 HCD determined that West Covina’s current Housing Element was in full compliance with State law. The City is now preparing a Housing Element update for the 2021-2029 period.

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, and the Housing Element is part of the General Plan. If the City were challenged in court on a planning or zoning matter and the Housing Element were found by the court to be invalid, the court could order changes to City land use plans or regulations and assume control over City land use decisions. HCD certification establishes a “rebuttable presumption of validity”<sup>12</sup> that the Housing Element is adequate under State law, which would support the City’s legal defense. Recent laws also allow for courts to impose fines if a jurisdiction fails to adopt a compliant Housing Element.<sup>13</sup>
- **Eligibility for grant funds.** Some State grant funds are contingent upon Housing Element certification.

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<sup>11</sup> California Government Code Sec. 65585

<sup>12</sup> California Government Code Sec. 65589.3.

<sup>13</sup> AB 101 of 2019