

2013-2021 Housing Element Questions & Answers

Q 1: What is a Housing Element?

The Housing Element is part of the City's General Plan, which sets forth guiding policies for future development. The requirement for each city to adopt a General Plan is contained in state law,¹ which also lays out specific requirements for each element. The Housing Element provides an overarching statement of City policies and programs to maintain and improve existing housing, and also accommodate the City's fair share of population growth needs. The requirements in state law² for Housing Elements include the following:

- Ensure adequate sites for new housing for persons of all income levels;
- Encourage and facilitate the development of affordable housing;
- Conserve and improve the existing affordable housing stock;
- Analyze and remove governmental constraints on new housing development;
- Promote equal housing opportunities; and
- Preserve assisted housing.

Q 2: What is "certification" of the Housing Element, and what are the consequences for failing to obtain state certification?

State law³ gives the California Department of Housing and Community Development (HCD) the authority to review local Housing Elements and issue findings regarding the elements' compliance with the law. When HCD issues a letter stating 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 planning programs and land use regulations. If the City were challenged in court regarding the validity of the General Plan or zoning regulations, and the General Plan were found to be invalid, a court could assume control over local land use decisions, including a moratorium on all building permits. HCD certification establishes a "rebuttable presumption of validity"⁴ that the Housing Element is adequate under state law, which would support the City's legal defense.
- **RHNA carryover.** State law⁵ 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.

¹ California Government Code Sec. 65300 et seq.

² California Government Code Sec. 65580 et seq.

³ California Government Code Sec. 65585.

⁴ California Government Code Sec. 65589.3.

⁵ California Government Code Sec. 65584.09.

- **Grant funds.** Some grant funds are contingent upon Housing Element certification, or give priority to those jurisdictions with a certified Housing Element.

Q 3: What are the key requirements for the Housing Element?

The two key requirements under state law are 1) demonstrating that the City can accommodate its assigned share of new housing need; and 2) ensuring that the City's zoning regulations comply with state laws regarding housing for persons with special needs.

Q 4: How is the City's share of regional housing needs determined?

Prior to each planning "cycle", the state determines how much new housing will be needed to accommodate projected population growth for different economic segments of the population. The total statewide housing need is then distributed to different regions according to their expected growth. Total housing need is based on the latest forecast of economic and demographic trends. The Southern California Association of Governments (SCAG⁶) is a federally-designated regional planning agency with responsibility for preparing the Regional Housing Needs Assessment (RHNA), which allocates a portion of the total new housing need to each jurisdiction. SCAG is governed by a Regional Council comprised of city and county elected officials.

Q 5: What is "affordable" housing?

By definition, housing is considered "affordable" when total housing cost, including utilities, is no more than 30 percent of a family's gross income. State law describes five income categories, which are based on a percentage of median county income, as shown in the following table.

Income Categories and Affordable Housing Costs - Los Angeles County

2013 County Median Income = \$64,800	Income Limits	Affordable Rent	Affordable Price (est.)
Extremely Low (<30%)	\$25,600	\$640	--
Very Low (31-50%)	\$42,700	\$1,068	\$140,000
Low (51-80%)	\$68,300	\$1,708	\$235,000
Moderate (81-120%)	\$77,750	\$1,944	\$280,000
Above moderate (120%+)	\$77,750+	\$1,944+	\$280,000+

Assumptions:
 -Based on a family of 4
 -30% of gross income for rent or PITI
 -10% down payment, 4.5% interest, 1.25% taxes & insurance, \$200 HOA dues
 Source: Cal. HCD; J.H. Douglas & Associates

⁶ More information about SCAG can be found at www.scag.ca.gov.

Q 6: What is the City's obligation regarding affordable housing?

State law requires cities to demonstrate that there are sufficient sites available that could accommodate the amount of new housing need identified in the RHNA. For the very-low- and low-income categories, zoning that allows a density of 20 units/acre or more is considered appropriate for affordable housing under state law.

Q 7: When land is designated to accommodate the RHNA, is the City required to build or subsidize affordable housing?

No. Cities are not required to subsidize housing or restrict properties for affordable housing. State law focuses on the availability of sites with appropriate zoning to accommodate affordable housing.

Q 8: But aren't subsidies necessary to build affordable housing?

Yes, significant subsidies are usually needed to make affordable housing economically feasible. It is important to note that state law does not require cities to build affordable housing – rather the law focuses on the things cities have control over, such as land use plans, zoning, and permit procedures. If the property owner is not interested in building affordable housing, the City may approve market-rate development as long as the project meets zoning standards.

Q 9: What is Palos Verdes Estates' RHNA allocation for the 2013-2021 Housing Element period?

The RHNA allocation for Palos Verdes Estates as shown below.

Income Category	2013-2021 Housing Element
Above Moderate	6
Moderate	3
Low	3
Very Low	4
Total	16

Q 10: What can happen if cities do not provide zoning to accommodate the RHNA?

Every city is required by law to accommodate its assigned share of new growth, including housing at affordable prices or rents. If a city does not adopt a Housing Element that demonstrates adequate sites to accommodate its RHNA, it could be subject to lawsuits and loss of its land use authority. The potential consequences that could result from a successful court challenge include court-ordered rezoning, court approval of high-density residential projects, or a moratorium on land use approvals or building permits until the Housing Element is brought into compliance with state law. Cities may also be ordered to pay substantial attorneys fees to a successful party challenging the Housing Element.

Q 11: What is “special needs housing” and what does state law require?

Special needs housing refers to the following types of housing.

Emergency Shelters are permanent facilities providing temporary shelter for homeless persons, not just persons who are displaced after a natural disaster. State law requires every city to designate at least one zoning district where year-round shelters may be established by a simple administrative process. Consent of the property owner and a source of funding is required in order for an emergency shelter to be established.

Transitional and Supportive Housing is rental housing intended for low-income persons or persons with disabilities. State law requires cities to regulate these uses in the same manner as ordinary residential uses. Consent of the property owner and a source of funding is required in order for transitional and supportive housing facilities to be established.

Residential Care Facilities are intended for the elderly or others with disabilities in need of 24-hour non-medical care. State law requires cities to allow state-licensed residential care facilities for 6 or fewer persons under the same standards as ordinary residential uses. Cities are also required to establish reasonable regulations governing larger residential care facilities for 7 or more persons.

Single Room Occupancy (SRO) housing units are very small studio-type rental units intended for one or two low-income persons. State law requires every city to adopt reasonable zoning regulations governing SRO housing in at least one zoning district.

...