

CITY OF BEVERLY HILLS COMMUNITY DEVELOPMENT DEPARTMENT

HOUSING ELEMENT UPDATE FREQUENTLY ASKED QUESTIONS

The City has begun the process of updating the Housing Element of the General Plan for the City of Beverly Hills. More information about the project and how to stay involved is provided on the project website: www.beverlyhills.org/housingelementupdate. Below, you will find answers to frequently asked questions about the project. If you have further questions, or would like to be added to an interested parties list, please feel free to email housingelement@beverlyhills.org.

1. What is a General Plan and what is a Housing Element?

State law¹ 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 Beverly Hills General Plan² includes the following elements:

- Land Use
- Historic Preservation
- Economic Sustainability
- Open Space
- Circulation
- Conservation
- Noise
- Safety
- Public Services
- Housing

While most portions of General Plans generally have a time horizon of 20-25 years, 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 2014 to 2021, which is referred to as the “5th Housing Element cycle” in reference to the five required updates that have occurred since the comprehensive revision to State law in 1980. All cities in the Southern California Association of Governments (“SCAG”) region are required to prepare a Housing Element update for the 6th planning cycle, which spans the 2021-2029 period. The SCAG region includes Los Angeles, Orange, Riverside, San Bernardino, Ventura and Imperial counties.

State law³ 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

¹ California Government Code Sec. 65300 *et seq.*

² <http://www.beverlyhills.org/departments/communitydevelopment/longrangeplanning/generalplan/>

³ California Government Code Sec. 65580 *et seq.*

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adequate provision for the existing and projected needs of all economic segments of the community.

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

Housing Elements are prepared and adopted by local governments and must also be reviewed by the State of California. 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.⁴ When HCD issues a letter finding that the Housing Element is in substantial compliance, it is referred to as “certification” of the Housing Element. HCD determined that Beverly Hills’ current (2014) Housing Element update was in full compliance with State law. As Beverly Hills moves forward with the current Housing Element update, the City will seek certification again from the State.

Housing Element certification is important for several reasons:

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| 1) 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 General Plan 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” ⁵ that the Housing Element is adequate under State law, which would support the City’s legal defense in the event of a challenge. Recent laws also allow for courts to impose fines if a jurisdiction fails to adopt a compliant Housing Element. ⁶ State law also allows the California Attorney General to file litigation against any city that is found by HCD to be out of compliance with Housing Element law. In 2019, such a lawsuit was filed against the City of Huntington Beach. In addition, third parties have filed Housing Element lawsuits against numerous other cities. Such lawsuits can result in court orders to amend zoning regulations and pay the challengers’ legal fees. |
| 2) Frequency of Housing Element updates. | If a city does not adopt a Housing Element within the required 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, among other consequences. ⁷ |
| 3) Eligibility for grant funds. | Some State grant funds are contingent upon Housing Element certification. If a city does not have a certified Housing Element, it may not receive certain grant funds. |

⁴ California Government Code Sec. 65585.

⁵ California Government Code Sec. 65589.3.

⁶ AB 101 of 2019

⁷ California Government Code Sec. 65588(e)(4).

3. 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. More information is provided below:

Accommodating Regional Housing Needs.

Under State law, 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 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 sufficient 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 and #5 below).

Accommodating Housing for Persons with Special Needs.

Under State law⁸, 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 and other facilities serving homeless persons
- Large (5+) families
- Housing for the elderly

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

You may have heard or seen the term “RHNA” (pronounced REE-NA) associated with the Housing Element cycle and update. 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 law⁹ by which housing needs are determined for each jurisdiction.

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

⁸ California Government Code Sec. 65583(a)(5) and (7).

⁹ California Government Code Sec. 65584 et seq.

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overcrowding and overpayment of rents/mortgages, and additional housing needed to ensure reasonable vacancy rates and to 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 and criteria established in State law.¹⁰

In 2019, HCD determined that the total new housing need for the entire SCAG region in the 6th Housing Element cycle is 1,341,834 units. SCAG is currently finalizing the RHNA plan for the 6th planning cycle, which must fully allocate the total RHNA to the jurisdictions in the SCAG region.¹¹ SCAG expects to adopt the final RHNA plan in February 2021.

Table 1 shows the preliminary draft RHNA allocations for Beverly Hills, Los Angeles County, and the entire SCAG region. For current purposes, we assume that this allocation will not change materially. Again, the RHNA is the number of units that must be planned for in a given jurisdiction.

Table 1. Draft 6th Cycle RHNA

	Beverly Hills	Los Angeles County	SCAG Region
Housing allocation 2021-2029	3,096 units	813,071 units	1,341,834 units

Source: SCAG, 3/5/2020

The RHNA distributes each jurisdiction's total housing need into four income categories, illustrating the number of units that should be planned for at each affordability level in the City. For Beverly Hills the draft 6th cycle RHNA allocation by income category is shown in Table 2.

Table 2. Draft 6th RHNA by Income Category – Beverly Hills

Very Low	Low	Moderate	Above Moderate	Total
1,005 units	678 units	600 units	813 units	3,096 units

Source: SCAG, 3/5/2020

This means that the City of Beverly Hills Housing Element must include policies, regulations and standards that encourage housing that is “affordable” to very low, low, moderate, and above moderate incomes. The next section explores what it means for housing to be “affordable”.

5. What is “affordable” housing?

Many parts of the Housing Element, including the RHNA, refer to “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 five income categories, which are based on county median income as shown in Table 3. The 2020 median income for a family of four in

¹⁰ California Government Code Sec. 65584(d)

¹¹ <http://www.scaq.ca.gov/programs/pages/housing.aspx>

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Los Angeles County is \$77,300. It should be noted that for RHNA purposes, the Very Low Income category also includes the Extremely Low category.

Table 3. 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%

Affordable housing costs for all jurisdictions in Los Angeles County that correspond to these income categories are shown in Table 4, below. The table illustrates the maximum income that a household of four can have to qualify for each income group, the maximum affordable rent that is considered to be “affordable” for each income category, and the estimated affordable sale price for a housing unit that would be considered to be “affordable” to each income category. Please note, these numbers vary year to year as county median income fluctuates and also vary based on household size (for example, the median income is lower for a family of one, and higher for a family of two).

Table 4. Income Categories and Affordable Housing Costs – Los Angeles County Family of Four

Income Category	Maximum Annual Income	Monthly Affordable Rent	Affordable Sale Price (estimate)
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-but not controlled	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

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As stated above, the income limits and monthly housing cost considered affordable for each income level is adjusted based on the household size. Table 5 provides the current income limits for households in Los Angeles ranging from one to six people.

Table 5. 2020 Income Limits for LA County Households

Income Category	2020 Annual Income Limits by Household Size (in Dollars)					
	1 Person	2 People	3 People	4 People	5 People	6 People
Extremely Low	0-23,700	0-27,050	0-30,450	0-33,800	0-36,550	0-39,250
Very Low	23,700-39,450	27,050-45,050	30,450-50,700	33,800-56,300	36,550-60,850	39,250-65,350
Low	39,450-63,100	45,050-72,100	50,700-81,100	56,300-90,100	60,850-97,350	65,350-104,550
Moderate	63,100-64,900	72,100-74,200	81,100-83,500	90,100-92,750	97,350-100,150	104,550-107,600
Above Moderate	64,900+	74,200+	83,500+	92,750+	100,150+	107,600+

6. Is the RHNA a suggestion or mandate?

The RHNA allocation identifies the amount of additional housing a jurisdiction would need in order to have enough housing at all price levels to fully meet the needs of its existing population plus its assigned share of projected growth over the next 8 years while avoiding problems like overcrowding and overpayment (see #8 below). The RHNA is a planning requirement that determines housing need, *not a construction quota or mandate*. It is, however, more than a suggestion. Jurisdictions are required to ensure that their planning and zoning framework allows for development to accommodate their RHNA allocations. Jurisdictions are not required to actually build housing or issue permits to achieve their RHNA allocations. However, if housing production falls short of RHNA allocations, jurisdictions will be required to approve qualifying housing development projects pursuant to a state-mandated streamlined review process.¹² Other than requirements for streamlined permit processing, there are currently no legal or financial penalties imposed on cities in which housing construction and residential permit issuance fail to meet the RHNA allocations.

¹² California Government Code Sec. 65913.4 (SB 35 of 2017)

7. What must cities do to comply with the RHNA?

The Housing Element 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 in the coming 8-year housing cycle. 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 the steps that 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, commonly referred to as “upzoning”, 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. Absent accommodation for the City’s RHNA allocation, the proposed Housing Element may not be certified by HCD.

8. Beverly Hills is fully developed. Why is the RHNA allocation so high?

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

First, the 5th cycle RHNA allocation was established in 2012 while the severe economic effects of the “Great Recession” were still adversely affecting growth. As a result, the 5th cycle RHNA was uncharacteristically low. For comparison, SCAG’s 4th cycle (2006-2013) RHNA allocation was approximately 700,000 units.

Second, for the 6th cycle, the State made a major modification to the process for determining RHNA allocations. In prior RHNA cycles, total housing need was based only on projected population growth. However, for the 6th 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 6th 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:	764,405 units
Total need:	<u>1,341,827 units</u>

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As seen from this breakdown, if existing need were not included (as it was not in prior RHNA cycles), the total need would be similar to the 4th cycle RHNA.

With regard to jurisdictional RHNA allocations, the methodology adopted by SCAG for the 6th cycle places greater emphasis on the proximity of jobs and public transit than on vacant developable land. As a result, the coastal areas of Los Angeles and Orange counties are assigned much higher housing need as compared to prior cycles even though they generally have much less vacant land than inland areas.

9. Does the RHNA process provide any opportunity for the City to ask for a reduction in its RHNA allocation?

Theoretically, yes. State law requires SCAG to conduct an appeal process and any jurisdiction or HCD may request a revision to any jurisdiction's preliminary RHNA allocation. However, the law establishes very limited grounds for appeal, and in past RHNA cycles very few jurisdictions have been successful in appealing their RHNA. For example, an "unrealistically high" RHNA allocation based on market trends and lack of vacant land is not considered to be legitimate grounds for appeal. It is also important to note that under State law, the appeal process is a "zero sum game" in which SCAG's total RHNA cannot be reduced; therefore, a RHNA reduction for any jurisdiction must be offset by increases in other jurisdictions. Over the past year SCAG has held extensive discussions regarding the appropriateness of the RHNA methodology, and the current draft allocations have been overwhelmingly approved by SCAG's membership.

10. If the preliminary RHNA allocations are adopted, will it be possible for Beverly Hills to remain in compliance with State housing law?

As noted in Questions 6 and 7 above, the RHNA is a planning target and cities are not required to achieve construction of new housing units in the amount of the RHNA allocations, but must demonstrate that their land use plans and regulations allow housing development commensurate with the RHNA. Since there is almost no vacant land in Beverly Hills, the most significant opportunities for new housing development are in areas designated for non-residential or mixed use, construction of more accessory dwelling units (see below), and/or more intense development in areas designated for residential use. 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.

11. Why are cities in high-cost areas expected to have affordable housing? Low-cost housing is not economically feasible here due to very high land prices.

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. All communities are dependent on a variety of low- and moderate-income workers in jobs such as landscaping, building maintenance and repair, child and elder care, medical support, personal services and retail trade. Various governmental programs provide funding assistance for affordable housing even in high-cost areas. While subsidized housing is often provided as rental apartments, cities can also encourage other housing types such as accessory dwelling units (sometimes called granny flats) on single family properties (“ADUs”) to help address this need. ADUs can also satisfy a portion of the RHNA allocation.

12. What is the process for updating the Housing Element?

The City began the Housing Element update in March of 2020 by engaging a consultant, JHD Planning, LLC, to assist on the project. The consultant is working with the Planning Staff and an ad hoc committee of the Planning Commission. The update consists of a review of the existing Housing Element to assess the City’s successes and determine how the community goals may have changed since the last element was adopted in 2014. A very important part of the process is engaging with the community to understand the community’s current goals, needs, and desires. Engaging with the community also helps City staff, the Planning Commission, and the City Council balance the community’s desires with the City’s obligations under state law. After extensive community input, the draft Housing Element will go to the Planning Commission for a public hearing(s) and recommendation, and then to the City Council for introduction and later approval. Once the Housing Element is approved by the City Council, it will be submitted to HCD for review and certification.

13. How will the public be involved in the Housing Element Update?

Public participation is key to a successful Housing Element. Community involvement helps staff and leadership understand the needs and desires of the community. Information and updates will be provided on the City’s Housing Element webpage. Staff will coordinate an initial survey followed by a series of public forums (these may be held online due to the ongoing pandemic) and discussions on housing in the community. The Housing Element will also be reviewed by the Planning Commission and then must be approved by City Council after public hearings, during which the public may provide input. The public is encouraged to participate throughout the process. If you would like to be added to the interested parties list and receive emails with updates about the Housing Element update please email: housingelement@beverlyhills.org.

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14. What is the basic timeline for completion of the Housing Element Update?

Below is an estimated timeline of this process.

Phase	Timeline
Kick-off - Initial Assessment and Workplan	March 2020 – September 2020
Outreach – Initial Public Outreach	September 2020 – March 2021
Draft Element, Continued Outreach	April 2021 – June 2021
Public Hearings	July 2021 – August 2021
City Approval	September 2021
Submittal for State Review and Certification	October 2021

STILL HAVE QUESTIONS?

MORE INFO: www.beverlyhills.org/housingelementupdate

SPEAK WITH A PLANNER: (310) 285-1141 E-MAIL: HousingElement@beverlyhills.org

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