



# City of Laguna Niguel

## 2021 Housing Element FAQ

### 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. Laguna Niguel's General Plan<sup>2</sup> is divided into the following "elements" or chapters that contain goals, policies and programs which are intended to guide land use and development decisions:

- Land Use
- Open Space & Parks
- Circulation
- Public Facilities
- Noise
- Seismic/Public Safety
- Housing
- Growth Management
- Community Service Standards

The purpose of the Housing Element is to evaluate the housing needs of Laguna Niguel's current and future residents and set forth policies and programs to address those needs.

While most portions of General Plans typically have a time horizon of 20-25 years, State law requires that Housing Elements be updated on 8-year "cycles." The City is currently preparing a Housing Element update for the 2021-2029 planning period, which is referred to as the "6<sup>th</sup> Housing Element cycle" in reference to the six required updates that have occurred since the comprehensive revision to State Housing Element law in 1980.

State law<sup>3</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.cityoflagunaniguel.org/132/General-Plan>

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



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## 2. What is Housing Element “certification” 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>4</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.

Housing Element certification is important for two main reasons:

- **Local control.** The General Plan and its various elements provide the foundation for the City’s land use plans and development 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”<sup>5</sup> that the Housing Element complies with State law, which would support the City’s legal defense. Recent laws also allow courts to impose fines on a jurisdiction if it fails to adopt a Housing Element in compliance with State law.<sup>6</sup>
- **Eligibility for grant funds.** Some State grant funds are contingent upon Housing Element certification. Grants can help to cover the cost of some projects that would otherwise rely on the City’s General Fund.

Laguna Niguel’s last Housing Element update was completed in 2013 and certified by HCD as fully compliant with State law.

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

The major issues that must be addressed in the Housing Element update are: 1) how City policies, plans and regulations help to meet the region’s housing needs for persons and families of all income levels; and 2) how City land use regulations accommodate the special housing needs of those with disabilities or other difficulties.

- **Accommodating Regional Housing Needs.** Under State law<sup>7</sup> all cities are required to plan for additional housing to accommodate population growth and address 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 developers and builders. However, cities are required to adopt policies, development regulations and standards to encourage a variety of housing types that are affordable for persons of all income levels. The Regional Housing Needs Assessment (“RHNA”) is the method by which each jurisdiction’s share of new housing needs is determined (see #5 below).

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<sup>4</sup> California Government Code Sec. 65585

<sup>5</sup> California Government Code Sec. 65589.3.

<sup>6</sup> AB 101 of 2019

<sup>7</sup> California Government Code Sec. 65583



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- **Housing for Persons with Special Needs.** Under State law<sup>8</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 and other facilities serving the homeless
  - ✓ Large (5+) families

## 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 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)

Affordable housing costs for all jurisdictions in Orange County are determined based on the income categories shown in Table 2. These incomes, rents and housing prices are based on a 4-person family and are adjusted for different family sizes.

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

Income Category	Maximum Income	Affordable Rent	Affordable Price (est.)
Extremely Low	\$38,450	\$961	(1)
Very Low	\$64,050	\$1,601	(1)
Low	\$102,450	\$2,562	(1)
Moderate	\$123,600	\$3,090	\$500,000
Above moderate	Over \$123,600	Over \$3,090	Over \$500,000

Assumptions:

- Based on a family of 4 and current State income limits
- 30% of gross income for rent or principal, interest, taxes & insurance
- 5% down payment, 3.75% interest, 1.25% taxes & insurance, \$350 HOA dues

Notes:

- (1) For-sale affordable housing is typically at the moderate income level

Source: Cal. HCD; JHD Planning LLC

<sup>8</sup> California Government Code Sec. 65583(a)(5)



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## 5. 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>9</sup> by which housing needs are determined.

Prior to each planning cycle the total new 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.

Laguna Niguel is located within the Southern California Association of Governments (“SCAG”) region, which includes Los Angeles, Orange, Riverside, San Bernardino, Imperial and Ventura counties. The total housing need for the SCAG region is distributed to cities and counties by SCAG based upon objectives and criteria established in State law.<sup>10</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, which fully allocated the total RHNA to jurisdictions in the SCAG region.<sup>11</sup>

Table 3 shows the 6<sup>th</sup> cycle RHNA allocations for Laguna Niguel, Orange County, and the entire SCAG region.

**Table 3. 6<sup>th</sup> Cycle RHNA – Laguna Niguel, Orange County and SCAG Region**

	Laguna Niguel	Orange County	SCAG Region
Housing need allocation 2021-2029	1,207	183,861	1,341,827

Source: SCAG, 3/4/2021

The RHNA also distributes each jurisdiction’s total housing need into four income categories (the extremely-low and very-low categories are combined for RHNA purposes). Laguna Niguel’s 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 – Laguna Niguel**

Extremely Low + Very Low	Low	Moderate	Above Moderate	Total
348	202	223	434	1,207

Source: SCAG, 3/4/2021

## 6. Is the RHNA a construction mandate?

The RHNA allocation identifies the projected amount of additional housing a jurisdiction would need in order to have enough housing at all price levels to fully accommodate its assigned share projected growth over the 8-year planning period while also eliminating

<sup>9</sup> California Government Code Sec. 65584 et seq.

<sup>10</sup> California Government Code Sec. 65584(d)

<sup>11</sup> <https://scag.ca.gov/housing>



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existing problems of overcrowding and overpayment. The RHNA is a *planning requirement* based upon 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>12</sup> Other than requirements for streamlined permit processing, there are currently no legal or financial penalties imposed on cities for failing to achieve their RHNA allocations.

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

The Housing Element must provide an evaluation of the city's capacity for additional housing based on land use patterns, development regulations, other 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 City 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.

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

State housing laws are based on the premise that every city has an obligation to accommodate a range of housing types for persons at all income levels. Every community is dependent on a variety of low- and moderate-income workers in jobs such as landscaping, building maintenance, child and elder care, medical technicians, personal services, clerical support and retail trade. While the existing housing stock serves the needs of many residents, market rents and prices are higher than some families can afford. In addition, low-wage jobs have increased at a much faster rate than affordable housing is being built.

While cities are not required to build new housing, they must ensure that their land use regulations encourage a full range of housing types. Rental apartments typically provide the majority of affordable housing, but other types of housing such as accessory dwelling units (ADUs) can also help to address this need. Various governmental programs provide funding assistance for affordable housing, but if a city's development regulations do not allow development of additional housing commensurate with projected need, the housing needs of the local workforce may be shifted to other cities.

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<sup>12</sup> California Government Code Sec. 65913.4 (SB 35 of 2017)



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## 9. Why is the RHNA allocation so high?

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

First, the 5<sup>th</sup> cycle RHNA allocation was established in 2012 while the severe economic effects of the "Great Recession" were discouraging growth. 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 housing units.

Second, for the 6<sup>th</sup> 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 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
<u>Projected need:</u>	<u>764,405 units</u>
Total need:	1,341,827 units

As seen from this breakdown, if existing need were excluded (as was the case in prior RHNA cycles) the total need 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 housing to jobs and public transit rather than availability of vacant developable land. As a result, the urbanized 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.

The RHNA allocations assume that in many urbanized cities of Orange and Los Angeles counties, a significant portion of new housing needs will be met through the redevelopment of older commercial properties.

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