



# 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. Colton’s current General Plan<sup>2</sup> includes the following elements:

- Land Use
- Housing
- Mobility
- Open Space and Conservation
- Safety
- Noise
- Cultural Resources
- Air Quality

While most General Plans have a time horizon of 20-25 years, Housing Element updates must be prepared every 8 years. Housing Element planning periods are sometimes referred to as “cycles”. Colton’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. All cities in the Southern California Association of Governments (“SCAG”) region are required to prepare a Housing Element update for the 6<sup>th</sup> cycle, which spans the 2021-2029 period. The SCAG region includes Los Angeles, Orange, Riverside, San Bernardino, Ventura and Imperial counties.

State law<sup>3</sup> establishes detailed requirements for Housing Elements. The overarching purpose of the Housing Element is set forth 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.ci.colton.ca.us/778/Planning-Documents>

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



## 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>4</sup> 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 has determined that Colton’s current Housing Element is in full compliance with State law.

Housing Element certification is important for two main reasons:

- **Local land use 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 is adequate under State law, which would support the City’s legal defense. Recent laws also allow courts to impose fines if a jurisdiction fails to adopt a compliant Housing Element.<sup>6</sup>
- **Eligibility for grant funds.** Some State grant funds are contingent upon Housing Element certification.

## 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.

- **Accommodating Regional Housing Needs.** Under State law<sup>7</sup> all cities are required to plan for additional housing to accommodate population growth as well as 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 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 #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



- **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
  - ✓ Residential care facilities
  - ✓ Transitional and supportive housing
  - ✓ Emergency shelters and low-barrier navigation centers

#### 4. What is “affordable” housing?

By definition, housing is generally 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. Housing 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 San Bernardino County that correspond to these income categories are shown in Table 2.

**Table 2. Affordable Housing Costs: San Bernardino County**

Income Category	Maximum Income	Affordable Rent	Affordable Price (est.)
Extremely low	\$26,500	\$663	*
Very low	\$39,500	\$988	*
Low	\$63,200	\$1,580	*
Moderate	\$93,000	\$2,325	\$375,000
Above moderate	Over \$93,000	Over \$2,325	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 at the moderate-income level

Source: Cal. HCD; JHD Planning LLC

#### 5. What is the “RHNA” why is it important?

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

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

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



## Colton 2021 Housing Element FAQ

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 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 the RHNA plan for the 6<sup>th</sup> planning cycle, which allocates the total RHNA to the jurisdictions in the SCAG region.<sup>11</sup> SCAG adopted the final RHNA plan in March 2021.

Table 3 shows the RHNA allocations for Colton, San Bernardino County, and the entire SCAG region.

**Table 3. 6<sup>th</sup> Cycle RHNA: Colton, San Bernardino County and SCAG Region**

	Colton	San Bernardino County	SCAG Region
Housing allocation 2021-2029	5,434	138,110	1,341,827

Source: SCAG, 3/4/2021

The RHNA also distributes total housing need to the income categories described in Question 4 above based on income characteristics for San Bernardino County as shown previously in Table 2. The 6<sup>th</sup> cycle RHNA allocation by income category for Colton is shown in Table 4 (the extremely-low and very-low categories are combined for RHNA purposes).

**Table 4. 6<sup>th</sup> RHNA by Income Category: Colton**

Very Low	Low	Moderate	Above Moderate	Total
1,318	668	906	2,542	5,434

Source: SCAG, 3/4/2021

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

The RHNA allocation identifies the amount of additional housing a city 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 projected growth over the next 8 years while avoiding problems like overcrowding and overpayment (see #8 below). The RHNA is a planning exercise that determines housing need, *not a construction quota or mandate*. Cities 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

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

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

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



penalties imposed on cities that do not achieve their RHNA allocations as long as a Housing Element has been adopted in compliance with State law.

## 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, potential 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 that the analysis 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 is the RHNA allocation so much higher than in the past?

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.

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. 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. 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 not included (as was the case in prior RHNA cycles) the total need would be similar to the 4<sup>th</sup> cycle RHNA.



## 9. What must Colton do to obtain a certified Housing Element?

As noted in Questions 6 and 7 above, 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. Based on a preliminary analysis of the City's current land use plans and zoning, it appears that there is insufficient capacity to fully accommodate the RHNA, particularly for affordable housing; therefore, amendments to current land use regulations will be required to increase potential capacity for new housing. As part of the Housing Element update, the City will be required to identify potential amendments to land use plans and zoning to ensure that sufficient land is available with appropriate development standards to accommodate additional housing commensurate with the RHNA allocation. An allowable residential density of 30 units/acre is typically required to make housing in the lower income ranges feasible.

## 10. Why are cities like Colton required to have more affordable housing? A significant portion of the existing housing stock is already moderately priced.

State housing law is based on the premise that every city has an obligation to plan for additional housing for persons at all income levels due to population growth. A variety of jobs such as landscaping, building maintenance and repair, education, child care, medical office support, elder care, personal services and retail often pay modest wages. In addition, a considerable number of current Colton residents experience overcrowded living conditions or are overpaying for housing due to limited incomes. Recent Census data for renter households in Colton reported that about 14% were overcrowded and 88% were paying more than 30% of their incomes for housing.<sup>13</sup>

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<sup>13</sup> SCAG, RHNA Data Appendix, 9/3/2020