

# Housing Element Digital Workshop

## *New Laws and Tools*

### QUESTIONS & ANSWERS

*Below is a compilation of questions submitted by participants during the Housing Element Digital Workshop sessions on August 20 and 27, 2020, along with answers from panelists and key staff.*

#### **General Plan Updates**

Q: Are there any "minimum standards" for open space in dense area, traffic related evaluations of VMT and parking?

A: *Usually open space requirements are set locally in general plans.*

#### **Housing Element Policies, Outreach, and Technical Assistance**

Q: Does HCD oppose inclusionary housing ordinances since inclusionary housing ordinances may increase the cost of housing?

A: *The statute is explicitly neutral (Gov Code section 65589.8). However, much like any other requirement on development, an inclusionary requirement should be evaluated as a potential governmental constraint.*

Q: Will there be a Housing Element Update deadline? Is there a grace period for the Housing Element Update deadline?

A: *Housing elements due dates are determined by statute and the legislator. HCD and SCAG does not have authority to change the deadline.*

Q: Is there a timeline for the release of the mentioned statewide toolkits?

A: *The model ordinance toolkit is in its final review process; it is expected to be released by mid-September. The public engagement technical assistance (TA) will be based on your subregions individualized TA plan.*

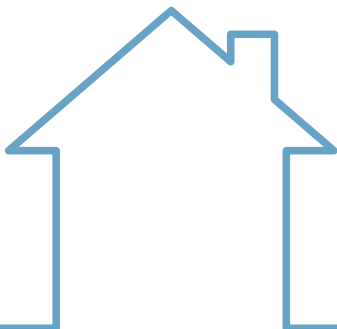
Q: What are the expectations on community outreach during the COVID-19 pandemic?

A: *HCD is developing guidance for virtual engagement and their expectations.*

#### **AFFH**

Q: How will HCD interpret AFFH rules if a built-out community has no choice but to "concentrate" its RHNA allotment, including affordable housing?

A: *HCD's guidance will include various scenarios and policy options including how to balance equity and environmental goals, infill sites strategies, county level analysis, etc.*



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#### ADU

Q: Is there a maximum of ADUs that a city can count toward RHNA? How much of the authorized ADUs is credited against our housing RHNA? Do you anticipate any changes to these policies?

A: *There is not a prescribed maximum of ADUs that can count towards RHNA, but there must be an analysis that supports the assumptions. The number of ADUs that you count towards RHNA are based on the analysis you provide in your housing element. We can't anticipate changes, as it is determined by the legislature. HCD has an ADU team that can support jurisdictions in their ADU ordinance updates. SCAG has worked in conjunction with HCD to develop an ADU Affordability Analysis.*

Q: What communities was the ADU analysis research conducted in?

A: *The study was conducted regionally. SCAG found listings in 58 jurisdictions, which are listed in the appendix.*

Q: Is there a minimum time period for affordability for an ADU to be considered/counted as affordable?

A: *No affordability terms are required but terms may be utilized.*

Q: Will the ADU Analysis be posted online?

A: *Yes, the ADU Affordability Analysis will be posted ASAP. We are finalizing formatting, but the figures from the presentation can be used in the meantime.*

*It will be available here, along with SCAG's other technical assistance tools for Housing Element Updates <http://www.scag.ca.gov/programs/Pages/Housing-Elements-2020.aspx>*

Q: In order to include ADUs to meet our RHNA allocation, how do we control the "affordability" of the unit?

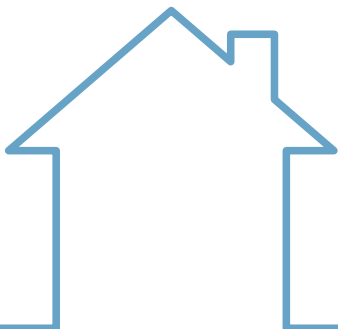
A: *To count ADUs towards RHNA, there must be an affordability analysis (such as an analysis of the market rents).*

Q: Can we include current data related to building permits as data for housing elements?

A: *Yes, you can use your building permits data for assumptions used in the housing elements.*

Q: When we think of ADUs, what about JADUs?

A: *HCD looks at them the same.*



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Q: City of LA has added a housing category known as “Moveable Tiny Homes” - would the analysis requirements for those assumptions need to be similar to ADUS?

A: *To the extent that there is permanency than HCD is okay with that being included in housing elements.*

Q: Doesn't all this analysis require a better handle on housing data? Is there a push by SCAG to get some sort of housing or rental registry?

A: *Certainly, the analysis would benefit from more robust data concerning permitted ADUs, rented ADUs, etc. but HCD does permit an analysis of assumed affordability levels to be determined by a market analysis. Rental registries would greatly support/accelerate future analyses and have been proposed at the local and state levels. At this time SCAG is not pursuing a regional rental registry but would encourage local jurisdictions to consider these as tools to further support housing goals.*

#### **Data**

Q: Considering COVID and major modifications of transit routes/frequency, will transit data update only once/year?

A: *Yes, for this version of site check, we are only updating data sets once per year. In the 1.0 version of site check, we hope to create an automatically updated transit data set that updates daily via GTFS data.*

#### **Sites Inventory**

Q: In regards OPR's sitecheck tool, is the parcel feature related to a specific tax year? How often is this layer updated?

A: *The layer for the parcel feature is updated on a yearly basis.*

Q: Does cities get flexibility from SB330 equivalency replacement requirements to permit specific unit types, like permanent supportive housing, senior affordable, homeless housing where single occupancy is the typology for a project?

A: *If it is a regular unit there is no equivalent replacement requirements. If it is a protective unit, such as affordable housing, there may be a requirement.*

Q: When you say "non-residential sites" do you mean mixed-use sites?

A: *Yes, usually mixed, commercial or light industrial where the zones allow residential uses.*



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Q: If a jurisdiction needs to rely substantially on mixed-use sites, can a program to help ensure expected capacity is realized include setting a minimum number or percentage of mixed-use development on a site be set aside for residential only?

A: *Yes, a program or policy setting a performance standard/minimum percent of residential can be used.*

Q: If a municipality has bonus density programs to incentivize low income units and the experience is that those incentives are being taken advantage of, why couldn't those bonus densities be calculated in assessing capacity?

A: *There are two analyses happening: (1) calculating capacity and (2) demonstrating zoning and density for lower RHNA. We don't use state density bonus on the latter, but it is possible on the former. however, you might want to be careful if this is not happening almost all the time given no net loss law.*

Q: If the majority (90% or more) of the City is in high fire severity zone – should it be part of the site inventory analysis?

A: *Historically, the statute does not direct where local governments should zone. However, this cycle there is more direction, but mainly related to affirmatively furthering fair housing. When thinking about fire hazard areas, jurisdictions should consider safety elements and suitability analysis.*

Q: With "by right" as a requirement - can you still have a Site Plan Review?

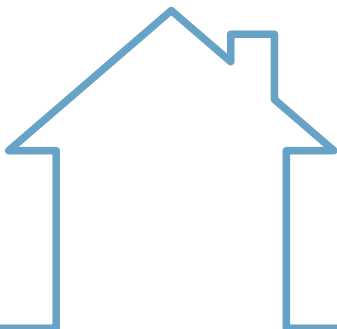
A: *By right is defined as permitting without discretionary action. It depends on your site plan, but you can't trigger that discretion.*

Q: Is substantial evidence still required for rezone sites?

A: *Yes, the substantial evidence would still kick into the extent the sites trigger the 50%.*

Q: Rezone of "vacant acres" means the sites that are in the rezoning program must be vacant? And the sites in the rezoning program must require a 20% affordable housing?

A: *Rezone sites can be vacant or non-vacant but yes acres meant the sites that are part of your program and rezoning sites trigger GC 65583.2(h) and (l). Subdivision (h) includes the 20% and 1397 can trigger the 20%.*



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#### Other

Q: How is HCD dealing with issues surrounding short term rentals and its impacts on less available housing? How will HCD address these issues in Housing Elements? Any effort made to review short term rental listings?

A: *There is a specific analysis around non-governmental constraints and there is some flexibility in how jurisdictions include these policies. If a jurisdiction includes policies for short term rentals those should be evaluated in the appropriate policies and programs.*

Q: When will RHNA be finalized?

A: *The draft RHNA will be distributed after the adoption of Connect SoCal, which is planned for September 3. Based on this schedule, the final RHNA will be adopted in February.*

Q: Is there any consideration as to how housing should be built now that we are in a pandemic?

A: *There are not at the time, but there will be more discussion on how the pandemic has affected housing.*

Q: When can jurisdictions that applied for LEAP expect to receive a response from HCD?

A: *Each jurisdiction has been assigned a representative from HCD; they should reach out to their assigned representative to receive status updates.*

Q: What is a good place to find our RHNA number for the 2020 or 2021 cycle?

A: *Estimates of draft RHNA allocations (formal release of which are pending the full adoption of SCAG's Connect SoCal Plan scheduled for next week) are available at*

*<http://scag.ca.gov/programs/Documents/RHNA/Staff-Recommended-RHNA-Estimated-Allocations-030520.pdf>. While these are not the official draft allocations, please note that the differences are extremely small.*

