Updating the **Housing Element**
Planning for California's Future

California Department of Housing and Community Development 2012
Housing Element Law

Housing element law is the State’s primary market-based strategy to increase housing supply and affordability.

Adequate Sites Identification and Analysis
Analyze and Mitigate Local Regulatory Barriers
Adopt Programs
Public Outreach and Engagement
Housing Element Framework

- Review & Revise
- Housing Needs
- Resources: Land
- Regulatory Framework

PROGRAMS

- Appropriateness
- Encourage & Facilitate
- Rezone & Zoning
- Address & Remove Gov. Constraints

Public Participation
Update Process

- Use existing element as base: Update to reflect new statutory requirements
- No need to start from scratch
- Keep what works – change what doesn't
Potential Governmental Constraints

Describe AND Analyze

- Land use controls
- Building codes and enforcement
- Site improvements
- Fees and exactions
- Permit and processing procedures
- Housing for persons with disabilities

Has Anything Changed?
Local government must make a *diligent* effort to achieve the public participation of all economic segments of the community.

**“Why?”**

- Assist in the development of housing element.
- Identify key community housing concerns and brainstorm solutions.
- Engagement throughout the update/review process leads to community acceptance at time of adoption.
- Key to implementation of the housing element.
Public Participation Strategies

Establish an ongoing housing or housing element task force

Use differing methods of engaging the public:

- use web based strategies
- go to community meetings and scheduled events
- conduct meetings at various times and in various neighborhoods
- schedule community picnics or events centered around housing conduct surveys and stakeholder interviews
- provide usable information—focus on facts
- use new technology

WHAT ARE SOME STRATEGIES WHICH HAVE WORKED IN THE SAN DIEGO REGION?
Review and Revision of Previous Element

**PROGRESS**
Review results of previous policies, programs, and objectives

**EFFECTIVENESS**
Analyze difference between projected goals and achievement

**APPROPRIATENESS**
Describe program changes based on analysis

**ADEQUATE SITES**
Assess the implementation of adequate sites per AB 1233
### Review and Revise Example

**Goal 1:** Preserve, rehabilitate, and enhance existing housing and neighborhoods.

<table>
<thead>
<tr>
<th>Policy/Program</th>
<th>Accomplishments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Action:</strong> Apply for Small City CDBG funding through the State Department of Housing and Community Development by 2003 to assist in the rehabilitation of 20 lower-income housing units.</td>
<td><strong>Progress:</strong> In 2003 the City applied and received a CDBG Grant for $500,000 for the rehabilitation of housing units for lower-income households. Since 2003 the City has rehabilitated 10 units. <strong>Effectiveness:</strong> Moderate success. A total of 10 households have been assisted through this program. However, due to limited marketing, the City was unable to meet its goal of assisting 20 households. <strong>Appropriateness:</strong> The City will continue this program and will reapply for funding in 2009. With additional marketing through local newspapers, and notices sent to households in Spanish and English, the City’s goal is to assist at least 20 lower-income households.</td>
</tr>
<tr>
<td><strong>Timing:</strong> December 2003</td>
<td><strong>Responsibility:</strong> Housing Department</td>
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State HCD  www.hcd.ca.gov
Statutory Changes
2005- Current
SB 1087 (Florez) 2005

- Requires local governments to IMMEDIATELY forward adopted housing element to water and sewer providers.

- Requires water and sewer providers to establish specific procedures to grant priority service to housing with units affordable to lower-income households.

- Prohibits water and sewer providers from denying or conditioning the approval of, or reducing the amount of service for an application for development that includes housing affordable to lower-income households unless specific written findings are made.
AB 1233 (Jones) 2005

Requires local governments to zone or rezone adequate sites, within the first year of the new planning period, to address any portion of the Regional Housing Needs Allocation (RHNA) for which the jurisdiction failed to identify or make available sites in the prior planning period.

Government Code Section 65584.09 applies to local governments that:

- failed to adopt an updated housing element for the prior planning period;
- adopted a housing element found out of compliance by the Department due to failure to substantially comply with the adequate sites requirement; or
- failed to implement a rezone program to make sites available within the planning period.
**AB 2511 (Jones) 2006:**

Amended several sections of general plan and housing laws. Includes provisions strengthening Anti-NIMBY protections and no-net loss requirements. Added potential penalties for non-reporting of annual general plan progress report.

**AB 2634 (Lieber) 2006:**

Requires quantification and analysis of existing and projected housing needs of extremely low-income households. Elements must also identify zoning to encourage and facilitate supportive housing and single-room occupancy units.
AB 2634: Extremely Low-Income

“What is Extremely Low-Income?”
30% of Area Median Income (AMI)

Housing Element Requirements
- Number of Existing extremely low-income HH
- Number of Projected extremely low-income HH
- Discussion of housing needs
AB 2634: Extremely Low-Income

To Determine Projected ELI Need

- Use Census
- Assume 50% of VLI need

State HCD  www.hcd.ca.gov
Recent Statutory Changes

SB2 (Cedillo) 2007:

Clarifies and strengthens housing element law to ensure zoning encourages and facilitates emergency shelters and limits the denial of emergency shelters and transitional and supportive housing under the Housing Accountability Act.
Emergency Shelters – Identify and Analyze Need

**Identify** - Estimate average number of persons lacking permanent shelter. Where possible, estimate number of single males and female, families, and youth.

**Analyze** – Describe characteristics such as percentage of homeless population who are veterans, runaway youth, mentally ill, with substance abuse, survivors of domestic violence and other categories considered significant by locality.

SB 2 clarified estimate of need must consider seasonal and year-round need
Emergency Shelters – Identify Existing Resources

- Number and capacity of emergency shelters and transitional and supportive housing.

- Comparing number and characteristics of homeless with resources provides a general estimate of unmet need.

SB 2 allows the need for shelter to be reduced by number of supportive housing units identified in adopted 10-year plan and for which funding has been identified to allow construction in planning period or are vacant.
Emergency Shelters – Identify Zoning

Must demonstrate sites/zoning available for the development of emergency shelters, transitional housing, supportive housing and SRO’s.

**SB 2 requires**

- Identification of zone or zones where emergency shelters are allowed as permitted use without CUP or other discretionary review
- All local governments must identify zoning to allow at least one year-round shelter regardless of need
- Zone must include sufficient capacity to accommodate the need identified in special needs analysis
Emergency Shelters – Analyze Zoning and Development Standards

Housing element must demonstrate how zoning and development standards encourage and facilitate development of shelters and transitional housing

**SB 2 requires:**

- Demonstrate existing or proposed processing, development and management standards are objective and encourage development of, or conversion to emergency shelters.
- Shelters may only be subject to standards that apply to residential or commercial development within zone.
- Local governments may apply written and objectives standards
Emergency Shelters

May apply written, objective standards including

• Maximum number of beds
• Off-street parking based on demonstrated need
• Size and location of onsite waiting and client intake areas
• Provision of onsite management
• Proximity to other emergency shelters
• Length of stay
• Lighting
• Security during hours shelter is open

Cloverfield Services Center – Emergency Shelter by OPCC in Santa Monica, CA
Photo courtesy of OPCC in Santa Monica
Emergency Shelters - Recognition of Best Practices

Existing Ordinances
Local governments with existing ordinances that comply with SB 2 not required to take additional action. Housing element need only describe existing standards.

Cooperative Efforts
- Allows meeting all or part of requirement to zone by adopting and implementing a multi-jurisdictional agreement
- Year round emergency shelter must be developed within two years
- Multi-jurisdictional agreement must allocate a portion of shelter capacity to each jurisdiction.
- Members of agreement must describe in housing element:
  - Extent facility meets need
  - Contribution to the facility for development and ongoing costs
  - Amount and source of contribution
Emergency Shelters – Adopt Programs as Needed

- Amend zoning, if needed
- Adopt permitting and development standards that encourage and facilitate emergency shelters and transitional housing, etc.
- Adopt programs, as appropriate to otherwise address homelessness.

SB 2 requires that if zoning amendment needed to address emergency shelters, the program must revise zoning within one year of adoption of element.
Transitional and Supportive Housing

Transitional housing and supportive housing must be considered residential use and only subject to restrictions that apply to other residential dwellings of the same type in the same zone.

Gish Apartments – Supportive Housing, San Jose, CA
Photo courtesy of First Community Housing and Bernard Andre
SB 375 recognizes the link between good housing planning and mobility, and the role of these regional and local planning efforts in meeting sustainable community objectives.

It leverages the housing element’s focus on actual implementation to promote effective achievement of sustainable community objectives.
SB 375 –
Changes to the Housing Element

- **Update Timing:** Local governments on 8-year planning cycles that do not adopt a housing element within 120 days of the applicable deadline are required to subsequently revise its housing element every four years, until it has adopted at least two consecutive revisions by the statutory due date.

- **Rezoning Timing:** Rezoning to meet a jurisdiction’s share of its regional housing need is subject to defined timelines and sanctions for non-compliance.

- **Program Implementation:** Clarifies that all housing element program actions must include specific implementation timelines to allow for implementation of programs such that there will be beneficial impacts of the programs within the planning period.
Review Steps and Timing

Government Code Sections 65585(b) and 65588(e)(4)(A)

• Draft must be submitted at least 90 days prior to the adoption of the housing element.
• HCD has 60 days to review the draft element and provide written findings
• Jurisdiction must consider those findings prior to adoption
• Adopted element must be submitted for HCD consideration (Due Date is April 30, 2013)
• HCD has 90 days to review adopted element
• If adopted element is not submitted prior to 120 after the due date (August 28, 2013), it must revise its element every 4-years.
Opportunities for Energy Conservation

Housing element updates promote addressing housing and climate change objectives!

- Promote higher density and compact development.
- Plan for sufficient housing supply in the right locations - close to jobs, services, and amenities - reducing congestion and long commutes.
- Adopt an Energy Conservation Ordinance to establish programs that encourage conservation of nonrenewable energy resources.
- Encourage higher density housing along transit corridors.
- Provide incentives to encourage green (energy-efficient and environmentally-sensitive) building techniques and materials: direct financing, flexibility in design and development standards, fee waivers or deferrals, and expedited permit processing.
Opportunities for Energy Conservation

- Promote energy audits and resident participation in utility rebate programs through private and public utility companies.
- Orient homes to maximize natural day lighting and promote use of photovoltaic systems.
- Promote use of light-colored “cool roofs.”
- Develop energy conserving standards for street widths and landscaping of streets and parking lots to reduce heat loss and/or provide shade.
- Promote the construction of tighter building envelopes with maximum height and sky exposure and minimum setbacks.
SB 575 (2009)

- **Projection Period** = the time period for which the regional housing need is calculated, and which shall begin on the date of December 31 or June 30 that most closely precedes the end of the previous projection period.

- **Planning period** = the time period between the due date for one housing element and the due date for the next housing element.
If a jurisdiction has not adopted a housing element for the fourth revision by January 1, 2009, it shall revise its housing element every four years, unless the local government does both of the following:

- Adopts a housing element for the fourth revision no later than March 31, 2010, which is in substantial compliance with this article
- Completes any rezoning contained in the housing element program for the fourth revision by June 30, 2010.
Requires the analysis of the disabled include an evaluation of the special housing needs of persons with developmental disabilities. The analysis should include a quantification of the number of persons with developmental disabilities, an analysis of the housing need, and a discussion of resources.

"Developmental disability" means a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. This includes mental retardation, cerebral palsy, epilepsy, and autism. - Section 4512 of the Welfare and Institutions Code
Alternative Adequate Sites Requirement Amendments

- **AB 720 (Caballero) 2009**: Expands the timeline for a local government to provide committed assistance for the rehabilitation, conversion or preservation of affordable housing units.

- **AB 1867 (Harkey) 2010**: Allows multifamily “ownership” housing converted by acquisition or the purchase of affordability covenants to qualify towards meeting the alternative adequate sites requirement. Also reduces the required number of units in a complex to qualify for this section from four to three units.

- **AB 1103 (Huffman) 2011**: Allows foreclosed properties converted by acquisition or the purchase of affordability covenants to qualify under the alternative adequate sites requirement.
Housing Element Framework

RESOURCES: LAND

PROGRAMS

Review & Revise

Housing Needs

Regulatory Framework

Appropriateness

Encourage & Facilitate

Rezone & Zoning

Address & Remove Gov. Constraints

Public Participation

Public Participation

Public Participation
The Regional Housing Need Allocation

The RHNA is . . .

- A projection of additional housing units needed to accommodate projected household growth of all income levels by the end of the housing element’s statutory planning period.

The RHNA is not . . .

- Prediction of additional housing units or building permit activity
- Quota of housing that must be produced
- A ceiling on the development of housing nor should it act as a basis for denying housing applications.
- Limited by existing residential land use capacity.
- Limited by local growth controls.
Purpose of Inventory

Identify specific sites suitable for residential development with capacity to meet the locality’s housing need by income group and housing type.

A thorough sites inventory will determine if additional governmental actions are needed to provide sites with appropriate zoning, development standards, and infrastructure capacity to accommodate the RHNA.
COG Allocates RHNA - Housing Element Land Inventory must accommodate RHNA, determining where and how

Current & proposed sites for residential development within planning period, may include:

- Infill sites
- Transit Oriented Development sites
- Undeveloped sites
- Redevelopment sites
- Mixed Use sites
- Sites to be annexed
- Vacant sites
- Second Units
- Other Site Alternatives
# Sites Inventory

- Listing of properties (APN or other unique identifier)
- Size, zoning, general plan designation
- For non-vacant sites: a description of uses of each property

## Vacant Land Summary

<table>
<thead>
<tr>
<th>APN</th>
<th>Zone*</th>
<th>GP Designation</th>
<th>Acres</th>
<th>Capacity</th>
<th>Existing Use</th>
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<tbody>
<tr>
<td>041042002</td>
<td>R-3</td>
<td>Multifamily Residential</td>
<td>2.0</td>
<td>40</td>
<td>Vacant</td>
</tr>
<tr>
<td>037040027</td>
<td>R-2</td>
<td>Multifamily Residential</td>
<td>0.75</td>
<td>7</td>
<td>Vacant</td>
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<tr>
<td>037100040</td>
<td>R-1</td>
<td>Single Family Residential</td>
<td>4.5</td>
<td>22</td>
<td>Vacant</td>
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<tr>
<td>024351002</td>
<td>MU</td>
<td>Mixed Use Commercial</td>
<td>4.5</td>
<td>36</td>
<td>Strip commercial with 40% vacant commercial space</td>
</tr>
<tr>
<td>037100039</td>
<td>MU</td>
<td>Mixed Use Commercial</td>
<td>1.5</td>
<td>12</td>
<td>Parking Lot</td>
</tr>
</tbody>
</table>

* Where R-3 = (20-30 du/ac), R-2 = (10-20 du/ac), R-1 = (5-10 du/ac) C-1 = (20 du/ac assuming 60% commercial)
Realistic Capacity
(GC 65583.2(c)(1&2))

Capacity for each listed property by:

1. Established minimum density or
2. Based on analysis (typically built densities or policies/programs promoting built densities)
3. For non-vacant sites or mixed use sites capacity estimate must consider extent non-residential uses are allowed.

Analysis must adjust for land use controls and sites improvements
Realistic Capacity and Mixed Use

Factors to Consider:

- How is residential allowed (100% residential versus mixed use)
- Performance standards or requirements for residential or mixed use
- Support assumptions with development trends
- Identify most realistic opportunities for residential use
- Policies and programs to encourage residential uses and maintain adequate sites
Suitability and Availability of Non-Vacant Lands (65583.2(g))

**Parcel Listing:** Describe sufficiently to demonstrate potential for redevelopment (Section 65583.2(a))

**Evaluate** the extent existing uses impede additional development, development trends, market conditions and regulatory framework (Section 65583.2(g))

**Factors communities could consider:**
- Age and condition
- Marginal versus operational uses
- Degree of under-utilization
- Property owner and/or developer interest
- General analysis by planning area
- Relate development trends to identified sites
- Regulatory or other incentives to encourage additional residential

Department of Housing and Community Development
Very Small Sites

- Describe impact of small sites on the feasibility of housing affordable to lower-income households.

- Describe the jurisdiction’s role or track record in facilitating small-lot development.

- Where necessary include program actions for lot consolidation and/or parcel assemblage.
Small Sites Cont.

Other Factors to Consider:

- Typical projects assisted by State and Federal financing are 50-150 units
- Reliance on small sites
- Feasibility of development
- Potential for consolidation
- Development trends
- Programs to encourage development and consolidation

Department of Housing and Community Development
Second Unit Potential

Capacity estimate must be based on:

- Number of second-units in prior planning period
- Whether units permitted by-right
- The need for second units
- Resources or Incentives
Densities to Accommodate Housing for Lower-Income Households (GC Section 65583.2(c)(3))

1. Analysis demonstrating the appropriateness of zoning for housing for lower-income households:
   - Market demand
   - Financial feasibility
   - Trends within zones

2. Default densities
Suitability and Availability

- General description of any environmental constraints to housing
- Description of existing or planned water, sewer and other dry utilities including the availability and access to distribution facilities
- Map of sites (for reference purposes only)
Adequate Sites Alternative

Counting Rehabilitated, Preserved, or Acquired Housing

- Must have a committed assistance program within first two years of planning period.
- May count up to 25 percent of housing need for the following:
  - Substantial rehabilitation
  - Preservation
  - Acquired housing – Multifamily Renter and Owner, Foreclosed
Inventory of Sites
(Listing and Maps of Sites)

Zoning
Density Default or Analysis
Housing for a variety of types

Suitability and Availability
Infrastructure and environmental constraints
Site analysis Vacant Non-Vacant

Realistic Capacity
Minimum Density and/or Analysis

Sites Program Alternative

Determination of Adequate Sites

Program
Zoning for a Variety of Housing Types

- Emergency shelters
- Transitional housing
- Supportive housing
- Single-room occupancy
- Second units
- Farmworkers (permanent and seasonal)
- Manufactured housing and mobilehomes
- Multifamily

SB 2

AB 2634
Housing Element Framework

- Review & Revise
- Housing Needs
- Availability of Sites
- Regulatory Framework

PROGRAMS

- Appropriateness
- Encourage & Facilitate
- Rezone & Zoning
- Address & Remove Gov. Constraints
Housing Programs

- Adequate sites
- Facilitate housing development for low- & moderate-income households
- Remove/mitigate constraints
- Conserve/improve existing stock
- Preserve units at-risk
- Promote equal housing opportunities
Housing Programs

Specific commitment and timeframe

Agency responsible

Realistic measurable commitment to implement

Beneficial Impact within the Planning Period

**Policy:** Provide for a vibrant mix of residential and commercial development downtown.

**Program:** Reduce per-unit impact fees for small downtown housing units, to reflect smaller household sizes and lesser impacts.

**Responsibility:** Planning Department and City Council

**Timing:** December 30, 2014
Adequate Sites

1. Adequate sites to accommodate share of the regional housing need: in total and by income

2. Zoning for a variety of housing types:
   multifamily, emergency shelter, transitional housing, farmworker, manufactured homes, mobilehomes, single-room occupancy and supportive housing
Adequate sites program must

(GC Sections 65583(c)(1) and 65583.2(h)):

1. Accommodate 100% of remaining need for lower-income households.

2. Provide processing by-right:
   - No CUP, PUD or other discretionary review triggering “project” under CEQA.
   - Design review allowed as long as “project” not triggered under CEQA.

3. Permit at least 16 units per site.

4. Have a minimum density of 16 or 20 units per acre.

5. Accommodate at least 50% of the remaining need on residential-only sites.

6. Three year timeframe for completion
Other Programs to Identify Adequate Sites

- Increase permitted densities
- Establish minimum densities
- Rezone non-residential sites for residential
- Increase capacity in built areas (i.e., multifamily above existing space and increasing densities in underutilized areas)
- Allow for stand-alone multifamily residential in mixed-use zones
Programs to Encourage and Facilitate a Variety of Housing Types

- Establish homeless prevention strategies: housing support centers, improve access to supportive housing and employment services
- Convert older public or commercial buildings to residential thru adaptive reuse or historic preservation
- Promote development of multifamily rental housing for families and workers by streamlining processing, prioritizing funding, etc.
- Zone to encourage development of SROs
- Partner with employers to fund and assist in housing for workers (teachers, farmworkers, etc.)
Programs to Encourage and Facilitate a Variety of Housing Types

- Expedite processing for more compact development
- Develop pre-approved plans for second units and infill housing
- Develop strategies to assist service enriched housing and supportive housing
Assist in Development of Housing for Lower Income Groups (including extremely-low)

- Apply for private, federal and State funding
- Establish a local housing trust fund
- Proactive outreach and support for local and regional housing sponsors and developers including help with scores for readiness and neighborhood revitalization (CTCAC)
- Expedited processing and application technical assistance
- Prioritize funding for supportive housing
The Post-Redevelopment Tool-shed

- Development Agreements (DAs)
- Infrastructure Financing Districts (IFDs)
- Mello-Roos Community Facility Districts (CFDs)
- Business Improvement Districts (BIDs)
- Transferable Development Rights (TDRs)
- Transfer Fees
- Reducing Development Costs
- Former RDA designated tax revenue available for use at the jurisdiction’s discretion
Remove or Mitigate Constraints

- **Reduce or modify zoning and development standards**
  - Reduced parking for TODs
  - Consider parking alternatives and caps
  - Building Codes/zoning allow/promote adaptive reuse
  - Increase Height Limits
  - Flexible setbacks and lot coverage requirements

- **Adopt reasonable accommodation ordinance**
Remove or Mitigate Constraints Cont.

- Increase Development Certainty
  - Remove conditional use process for multifamily
  - Relegate more permitting to administrative decisions
  - Develop written, objective design standards
  - Update master CEQA documents at plan level to facilitate negative declarations
  - Promote use of CEQA infill exemption
  - Seek Brownfield cleanup funds

- Reduce or Waive Fees
Remove or Mitigate Constraints Cont.

- Consider that time is money
  - Streamline Processing Requirements
  - Institute one-stop shop
  - Allow concurrent processing
  - Assign project manager to work project through local process
  - Provide pre-application consultation
  - Provide pre-approved prototypes
Conserve and Improve Existing Housing Stock

- Monitor and maintain coastal zone housing
- Establish tool lending programs
- Promote weatherization programs
- Stabilize zoning for mobile-home parks
- Link code enforcement to rehabilitation programs
- Seek federal and State rehabilitation funds
Promote Equal Housing Opportunities

- Establish a process for referring fair housing complaints
- Distribute fair housing materials throughout the city or county
- Conduct fair housing education fairs and events
- Review policies and local ordinances for fair housing impediments
Preserve Units At-Risk of Conversion to Market-Rate

- Establish early warning/monitoring system
- Respond to federal/State prepayment notices
- Allocate potential funding sources
- Provide tenant education and assistance
## Quantified Objectives

<table>
<thead>
<tr>
<th></th>
<th>Extremely Low-income</th>
<th>Very Low-income</th>
<th>Low-income</th>
<th>Moderate</th>
<th>Above Mod</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Construction</strong></td>
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<td><strong>Rehabilitation</strong></td>
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<tr>
<td><strong>Conservation includes Preservation</strong></td>
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State HCD   www.hcd.ca.gov
Other General Requirements

- Consistency with other General Plan elements
- Annual reports, due April 1 (GC 65400)
- Coastal zone requirements
- Housing element submission to water and sewer providers and establish procedures to grant priority service to lower-income developments (GC 65589.7)
HCD Review Process

- HCD technical assistance in developing draft
- 60-day review for draft element
- 90-day review for adopted element
- HCD analyst reviews element and contacts local government prior to finalizing review
- HCD required to consider third party comments
- HCD site visits to provide assistance
More Information

http://www.hcd.ca.gov/hpd/housing_element2/

www.hcd.ca.gov