


# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 2/27/14

**FROM:** Tim Tune, Special Assistant, via  John Swiecki, Community Development Director

**SUBJECT:** **Housing Element Update Study Session**

**INTRODUCTION:** The Housing Element is one of the mandatory elements of the City's General Plan. It addresses various housing issues as required by State law and is subject to review by the California Department of Housing and Community Development (HCD). The Housing Element must be periodically updated to plan for meeting the City's share of the regional housing need. Now that the latest Regional Housing Needs Allocation (RHNA) has been approved by the Association of Bay Area Governments, the 2007-2014 Housing Element must be updated for the 1/31/15-1/31/23 planning period by 1/31/15 [refer to California Government Code Sections 65588(b) & (e)(3)(A) for additional details].

**HOUSING ELEMENT COMPONENTS:** State law requires that the Housing Element include the following:

1. Housing Needs Assessment [CGC 65583(a)]
  - A. Analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households (based upon either available census data or the presumption that 50 percent of the very low income households qualify as extremely low income households) [CGC 65583(a)(1)]
  - B. Analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition [CGC 65583(a)(2)]
  - C. Analysis of any special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter annually and seasonally [CGC 65583(a)(7)]
  - D. Analysis of opportunities for energy conservation, including weatherization and energy efficiency measures that encompass the building envelope, its heating and cooling systems, and its electrical system [CGC 65583(a)(8)]
  - E. Detailed analysis of existing assisted housing developments (multifamily rental housing receiving governmental assistance or that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus) that are eligible to change from low-income housing uses during the next 10 years due to

termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use [CGC 65583(a)(9)]

2. Sites Inventory and Analysis

- A. Properties suitable for residential development within the planning period, including vacant sites (zoned for residential use or for nonresidential use that allows residential development) and sites having potential for redevelopment (either residentially zoned sites that are capable of being developed at a higher density, or sites zoned for nonresidential use that can be rezoned for residential use), listed by parcel number, including size, general plan designation, zoning and existing use, and a map that shows the location of the sites included in the inventory. [CGC 65583(a)(3) & 65583.2(a) & (b)]
- B. Analysis of the relationship of zoning and public facilities and services to these sites, including a general description of any environmental constraints to the development of housing; existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities; and sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. [CGC 65583(a)(3) & 65589.7]
- C. A determination whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period through a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing, quantifying the number of housing units that can be accommodated on each site as follows:
  - (1) If local regulations require the development of a site at a minimum density, then department shall accept the planning agency's calculation of the total housing unit capacity on that site shall be calculated according to the established minimum density [CGC 65583.2(c)(1)]
  - (2) If local regulations do not require a minimum density, then it must be demonstrated how the number of units determined for that site will be accommodated [CGC 65583.2(c)(1)]
  - (3) The number of units calculated shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in the constraints analysis (see below) [CGC 65583.2(c)(2)]
  - (4) For the number of units calculated to accommodate its share of the regional housing need for lower income households, densities of at least 20 units per acre shall be deemed appropriate [CGC 65583.2(c)(3)(B)(iii), (e) & (f)], unless an analysis (including, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households) is provided demonstrating how the adopted densities accommodate this need [CGC 65583.2(c)(3)(A)]
  - (5) For nonvacant sites, the methodology used to determine the additional development potential specified for each site within the planning period, including the extent to which existing uses may constitute an impediment

- to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites, shall be provided. [CGC 65583(c)(1) & 65583.2(g)]
- D. Identification of a zone or zones where emergency shelters are allowed per specified standards [CGC 65583(a)(4)]
  - E. For second units, sites may be identified based on the number of second units developed in the prior planning period, the need for these units in the community, the resources or incentives available for their development, and any other relevant factors as determined by HCD [CGC 65583.1(a)]
3. Analysis of Potential and Actual Constraints upon Maintenance, Improvement or Development of Housing for All Income Levels
    - A. Governmental constraints, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures [CGC 65583(a)(5)]
    - B. Governmental constraints that hinder the locality from meeting its RHNA and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters [CGC 65583(a)(5)]
    - C. Nongovernmental constraints, including the availability of financing, the price of land, and the cost of construction [CGC 65583(a)(6)]
  4. Inventory of Resources
    - A. Inventory of resources relevant to the meeting of housing needs. [CGC 65583(a)]
  5. Goals, Quantified Objectives, Policies, Scheduled Programs and Financial Resources for the Maintenance, Preservation, Improvement and Development of Housing [CGC 65583(b)(1) & 65583]
    - A. Goals and policies [CGC 65583(b)(1)]
    - B. Quantified objectives to establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period [CGC 65583(b)(1) & (2)]
    - C. Programs which set forth a schedule of actions during the planning period, each with a timeline for implementation so that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area. [CGC 65583(c)] In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:
      - (1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and

with services and facilities to accommodate that portion of the RHNA for each income level that could not be accommodated on sites identified in the sites inventory without rezoning [CGC 65583(c)(1)]

- (A) Where the inventory of sites does not identify adequate sites to accommodate the RHNA at all household income levels, sites that can be developed within the planning period shall be identified for rezoning, including adoption of minimum density and development standards, which shall be completed within specified deadlines [CGC 65583(c)(1)(A) & (B), 65583(f), 65588]
- (B) 100 percent of the unmet RHNA for very low and low-income households shall be accommodated on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 20 units per acre. "Use by right" shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval (excluding subdivision approval and non-discretionary design review requiring compliance with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's RHNA). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted. [CGC 65583.2(h) & (i), 65589.5(f)]
- (2) If a city in the prior planning period failed to identify or make available adequate sites to accommodate its previous RHNA, then the city shall, within the first year of the planning period of the new housing element, zone or rezone adequate sites to accommodate the unaccommodated portion of the regional housing need allocation from the prior planning period. [CGC 65584.09(a) & (b)]
- (3) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households [CGC 65583(c)(2)]
- (4) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities [CGC 65583(c)(3)]
- (5) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action [CGC 65583(c)(4)]
- (6) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability [CGC 65583(c)(5)]

- (7) Preserve for lower income households any existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use [CGC 65583(c)(6)]
- (8) Include an identification of the agencies and officials responsible for the implementation of the various actions [CGC 65583(c)(7)]
- (9) Include an identification of the means by which consistency will be achieved with other general plan elements and community goals [CGC 65583(c)(7)]
- (10) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort [CGC 65583(c)(8)]

**NEW REQUIREMENTS:** Since the 2007-2014 Housing Element was adopted 1/18/11, a few changes in State law have been enacted--

**Persons with Developmental Disabilities**—SB 812 (Ashburn), effective January 2011, amended California Government Code Section 65583(a)(7) to include persons with developmental disabilities among those whose special housing needs must be analyzed in the Housing Element. Developmental disability, as defined in Welfare and Institutions Code Section 4512, 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.” The term includes mental retardation, cerebral palsy, epilepsy and autism. According to HCD, the analysis should include an estimate of the number of persons with developmental disabilities, an assessment of the housing need, and a discussion of potential resources, including the development of affordable and accessible housing and access to various types of supported living services to allow persons with developmental disabilities to live as independently as possible.

**Alternative Adequate Sites**—AB 1867 (Harkey), amending California Government Code Section 65583.1(c), allows market-rate condominium complexes of 3 or more units that are converted to rental housing affordable to lower income households to qualify towards meeting the alternative adequate sites provision allowing up to 25% of the RHNA lower income requirement to be met by making available affordable units through rehabilitation, conversion and/or preservation.

AB 1103 (Huffman), also amending Section 65583.1(c), allows foreclosed properties converted to housing affordable to lower income households to qualify under the alternative adequate sites provisions, under specific conditions.

**BEGINNING THE UPDATE PROCESS:** In its guidelines entitled “Building Blocks for Effective Housing Elements” (see attached excerpt), HCD recommends that the Housing Element update process start with the existing Housing Element and build upon what has been effective in the past. In coming study sessions, the 2007-2014 Housing Element’s policies and programs will be reviewed for progress status, effectiveness and appropriateness. The Planning

Commission will receive currently available data regarding the City's population and employment trends, special housing needs, and housing stock characteristics, so the Housing Element's "Community Characteristics & Housing Needs" chapter can be updated. In addition, the latest RHNA numbers will be discussed in conjunction with an analysis of the status of the previous planning period's RHNA numbers.

**ATTACHMENTS:**

HCD's Building Blocks for Effective Housing Elements: Introduction & Overview—  
available on line at:

[http://www.hcd.ca.gov/hpd/housing\\_element2/GS\\_beforeYouBegin.php](http://www.hcd.ca.gov/hpd/housing_element2/GS_beforeYouBegin.php)

California Government Code Excerpts—not attached but available on line at:

[http://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=3.&article=10.6](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=3.&article=10.6)

## BUILDING BLOCKS FOR EFFECTIVE HOUSING ELEMENTS



Welcome to the Department's newest technical assistance resource to assist local governments in adopting housing elements that effectively address housing needs, the specific requirements of State law and in furtherance of local goals and objectives. The Department is committed to working in partnership with local governments and the public and private sectors in addressing California's continuing housing crisis.

### Getting Started

Last Updated 5/6/2010

An effective housing element provides the necessary conditions for developing and preserving an adequate supply of housing, including housing affordable to seniors, families and workers. As the housing element is required to be regularly revised pursuant to a statutory schedule, the update process provides a vehicle for establishing and updating housing and land-use strategies reflective of changing needs, resources, and conditions. For example, the housing element update can provide a mechanism to adopt new efficient land-use strategies such as infill, mixed-use, or downtown revitalization. It can also provide a vehicle for local governments to adopt housing and land-use strategies to address climate change and the reduction of green house gas emissions. Most of the housing and land-use strategies adopted by local governments to meet their existing and projected housing needs also serve to effectively address climate change concerns. For example, promoting higher density, infill housing for low-income workers and housing along transit corridors also can significantly contribute to reductions in green house gas emissions.

As local governments begin the process to update their housing elements, keep the following in mind:

- Start with the existing plan. The update should build on what has been effective in the past.
- Immediately engage all critical stakeholders in the community including residents, special needs populations, businesses, and real estate and housing providers.
- While the housing element must address specific State statutory requirements, it is ultimately a local plan and should reflect the vision and priorities of the community.

## OVERVIEW OF HOUSING ELEMENT LAW



State law requires each city and county to adopt a general plan containing at least seven elements including housing. Unlike the other mandatory general plan elements, the housing element, required to be updated approximately every five years, is subject to detailed statutory requirements and mandatory review by a State agency (Department of Housing and Community Development). Housing elements have been mandatory portions of general plans since 1969. This reflects the statutory recognition that the availability of housing is a matter of statewide importance and that cooperation between government and the private sector is critical to attainment of the State's housing goals. The regulation of the housing supply through planning and zoning powers affects the State's ability to achieve its housing goal of "decent housing and a suitable living environment for every California family" and is critical to the State's long-term economic competitiveness.

Housing element law requires local governments to adequately plan to meet their existing and projected housing needs, including their share of the regional housing need. Housing element law is the State's primary market-based strategy to increase housing supply, choice, and affordability. The law recognizes that in order for the private sector to adequately address housing needs and demand, local governments must adopt land-use plans and regulatory schemes that provide opportunities for, and do not unduly constrain, housing development.

The housing element process begins with the Department allocating a region's share of the statewide housing need to Councils of Governments (COG) based on Department of Finance population projections and regional population forecasts used in preparing regional transportation plans. The COG develops a Regional Housing Need Plan (RHNP) allocating the region's share of the statewide need to the cities and counties within the region. The RHNP is required to promote the following objectives to:

- 1. increase the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner;
- 2. promote infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns; and
- 3. promote an improved intraregional relationship between jobs and housing.



Housing element law recognizes the most critical decisions regarding housing development occur at the local level within the context of the periodically updated general plan. The RHNP component of the general plan requires local governments to balance the need for growth, including the need for additional housing, against other competing local interests. The RHNP process of housing element law promotes the State's interest in encouraging open markets and providing opportunities for the private sector to address the State's housing demand, while leaving the ultimate decision about how and where to plan for growth at the regional and local levels. While land-use planning is fundamentally a local issue, the availability of housing is a matter of statewide importance.

Housing element law requires local governments to be accountable for ensuring projected housing needs can be accommodated. The process maintains local control over where and what type of development should occur in local communities while providing the opportunity for the private sector to meet market demand.

## HOUSING ELEMENTS MATTER

An effective housing element provides the necessary conditions for preserving and producing an adequate supply of affordable housing. Among other things, the housing element provides an inventory of land adequately zoned or planned to be zoned for housing, certainty in permit processing procedures, and a commitment to assist in housing development through regulatory concessions and incentives. In addition, to this fundamental framework, the housing element update process provides a vehicle for establishing and updating housing and land-use strategies reflective of changing needs, resources and conditions. For example, the housing element update process can provide the mechanism to adopt new strategies to promote infill, mixed-use, or downtown revitalization.



The housing element also provides a powerful tool to address the special housing needs of Californians including the homeless, farmworkers and persons with disabilities. The housing element process ensures local governments promote a variety of housing types including multifamily rental units, manufactured housing, transitional and other types of supportive housing. For example, California's Mental Health Services Act

(Proposition 63) provides financial resources to build supportive housing and addresses homelessness for people with mental illness. Housing element requirements to identify and analyze the housing needs of the homeless and extremely low-income households and identify sites and programs to meet those needs can also facilitate local efforts to obtain and effectively use Proposition 63 resources.

The housing element update process also creates opportunities to increase interest in smart growth planning strategies and facilitates the ability of local governments to move from rhetoric to action. The housing element provides both practical and policy tools to promote efficient land-use patterns while meeting critical housing needs. The housing element process provides a vehicle for coordinating infrastructure, housing finance and long-term land-use planning. For example, the housing element is often a coordinating document, providing a schedule for local housing departments to apply for important housing and community development funds. The update process also provides a mechanism to review ordinance, identify outdated policies or modify codes that inhibit housing supply, affordability and choice. Many local governments have established new permit procedures to streamline the approval process for infill or higher density housing during the update of the housing element.

Not only does the housing element update process result in strategies to address local housing needs, it is also frequently the most effective tool to implement broader general plan and regional strategies including California Regional Blueprints or the San Diego Association of Government's (SANDAG) Regional Comprehensive Plan. For example, SANDAG's regional strategy establishes and incentivizes smart growth opportunity areas served by existing or planned high frequency transit. The housing element update process can encourage development on specific sites within these smart growth opportunities areas and complement SANDAG's regional land-use strategy. A compliant housing element also provides jurisdictions in San Diego County with competitive advantage for receipt of SANDAG's TransNet funding.

Finally, the housing element update process can also provide a vehicle for local governments to adopt housing and land-use strategies to address climate change and the reduction of green house gas emissions. Most of the housing and land-use strategies adopted by local governments to meet their existing and projected housing needs also serve to effectively address climate change concerns. For example, promoting higher density, infill housing for low-income workers and housing along transit corridors also can significantly contribute to reductions in green house gas emissions.

## **A HOUSING NEEDS ASSESSMENT**

Existing Needs - The number of households overpaying for housing, living in overcrowded conditions, or with special housing needs (e.g., the elderly, large families, homeless) the number of housing units that need rehabilitation, and assisted affordable units at-risk of converting to market-rate.

Projected Needs - The city or county's share of the regional housing need as established in the RHNP prepared by the COG. The allocation establishes the number of new units needed, by income category, to accommodate expected population growth over the planning period of the housing element. The RHNP provides a benchmark for evaluating the adequacy of local zoning and regulatory actions to ensure each local government is providing sufficient appropriately designated land and opportunities for housing development to address population growth and job generation.

## **A SITES INVENTORY AND ANALYSIS**

The element must include a detailed land inventory and analysis including a sites specific inventory listing properties, zoning and general plan designation, size and existing uses; a general analysis of environmental constraints and the availability of infrastructure, and evaluation of the suitability, availability and realistic development capacity of sites to accommodate the jurisdiction's share of the regional housing need by income level. If the analysis does not demonstrate adequate sites, appropriately zoned to meet the jurisdiction's share of the regional housing need, by income level, the element must include a program to provide the needed sites including providing zoning that allows owner-occupied and rental multifamily uses "by-right" with minimum densities and development standards that allow at least 16 units per sites.

## **AN ANALYSIS OF CONSTRAINTS ON HOUSING**

Governmental and Non-Governmental - Includes land-use controls, fees and exactions, on- and off-site improvement requirements, building codes and their enforcement, permit and processing procedures, and potential constraints on the development or improvement of housing for persons with disabilities.

## **QUANTIFIED OBJECTIVES**

Estimates the number of units, by income level, to be constructed, rehabilitated, and conserved over the planning period of the element.

## **HOUSING ELEMENT FRAMEWORK**

The following framework illustrates how the housing element requirements interrelate. Results from each of the four key components of the analysis: review and revise, housing needs, resources, and constraints are reflected in the policies, programs, and objectives found within the 5-year implementation plan. The entire process surrounded by public participation from draft stage to final adoption.

## Housing Element Framework



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### HOUSING ELEMENTS MATTER

An effective housing element provides the necessary conditions for preserving and producing an adequate supply of affordable housing. Among other things, the housing element provides an inventory of land adequately zoned or planned to be zoned for housing, certainty in permit processing procedures, and a commitment to assist in housing development through regulatory concessions and incentives. In addition, to this fundamental framework, the housing element update process provides a vehicle for establishing and updating housing and land-use strategies reflective of changing needs, resources and conditions. For example, the housing element update process can provide the mechanism to adopt new strategies to promote infill, mixed-use, or downtown revitalization.

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element process provides a vehicle for coordinating infrastructure, housing finance and long-term land-use planning. For example, the housing element is often a coordinating document, providing a schedule for local housing departments to apply for important housing and community development funds. The update process also provides a mechanism to review ordinance, identify outdated policies or modify codes that inhibit housing supply, affordability and choice. Many local governments have established new permit procedures to streamline the approval process for infill or higher density housing during the update of the housing element.

Not only does the housing element update process result in strategies to address local housing needs, it is also frequently the most effective tool to implement broader general plan and regional strategies including California Regional Blueprints or the San Diego Association of Government's (SANDAG) Regional Comprehensive Plan. For example, SANDAG's regional strategy establishes and incentivizes smart growth opportunity areas served by existing or planned high frequency transit. The housing element update process can encourage development on specific sites within these smart growth opportunities areas and complement SANDAG's regional land-use strategy. A compliant housing element also provides jurisdictions in San Diego County with competitive advantage for receipt of SANDAG's TransNet funding.

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## THE UPDATE PROCESS

When updating the housing element, it is important to note the following:

- Use the existing element as base, there is no need to start from scratch. Many of the components of the existing housing element will only require general updates not complete revisions. This also allows the community to effectively consider how the plan contributed to meeting housing demand and needs and what revisions might be necessary to continue or ensure greater success.
- Keep what works – change what doesn't.
- Utilize the Housing Element Worksheet. The HCD housing element worksheet can serve as a checklist for local agencies to ensure all of the requirements of housing element law are addressed. It can also serve to expedite HCD review. [Click here \(Housing Element Worksheet\)](#) for a copy of the worksheet.
- Utilize technical assistance provided by HCD staff- Contact HPD staff if you have questions through out the process. HCD staff can also provide on-site technical assistance, some demographic/census data, case studies and program

examples, library and research assistance, and implementation workshops. Contact information for current staff can be found by visiting <http://www.hcd.ca.gov/hpd/>.

- Start the public participation process early and maintain effective engagement throughout the revision, adoption and implementation process.

## THE REVIEW PROCESS

Government Code Section 65585 requires local governments to submit copies of their draft and adopted housing elements to the Department for review. The Department will review the draft and report its findings to the jurisdiction. During the review process, HCD review staff will contact the local government to discuss the element and review prior to submitting final findings. After adoption of the element, the jurisdiction is required to submit the adopted element to the Department for review. The following is the timeframes allowed for each review:

**60-day review for a draft element**  
**90-day review for adopted element**

Please note, in the preparation of its findings, the department may consult with any public agency, group, or person and must consider any third party comments regarding the draft or adopted element or amendment under review.

HCD staff also provides technical assistance in developing draft housing elements and, resources and advice in addressing review findings. Department staff will also visit communities and provide assistance in identifying resources to develop and implement the housing element.