

HOUSING ELEMENT UPDATE GUIDANCE

December 2012



An effective housing element provides the necessary conditions to support the development and the preservation 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. The housing element update can provide a mechanism to adopt land-use strategies such as infill, mixed-use, or downtown revitalization. It can also provide a vehicle for local governments to adopt effective housing and land-use strategies while addressing climate change and the reduction of greenhouse gas emissions.

As local governments begin the process to update their housing elements, the following are a few over-arching suggestions:

- Start with the existing plan. The update can build on what has been effective in the past.
- Immediately engage all critical stakeholders including tenants and homeowners, special needs populations, businesses, and real estate and housing providers and developers to ensure participation of all economic segments of the community.
- While the housing element must address specific State statutory requirements, including the local jurisdictions' fair share of the regional housing need, it is ultimately a local plan and should reflect the vision and priorities of the community.

The housing element update can also provide various opportunities for local governments, the state and stakeholders to collaborate on housing and land use plans. By promoting more transparency and partnerships in the process, for example, HCD can promote the efficient use of limited resources. By providing stakeholders with clarity in the update process such as making changes to the housing element available, local governments can better collaborate on key policy issues and save time in the update process.

This Update Guidance is intended to assist local governments and stakeholders with streamlined updates and HCD review for the fifth cycles of the housing element. HCD recognizes all levels of governments and stakeholders are facing resource challenges and HCD is seeking ways to create efficiencies and clarity for all parties in the housing element update process. While all local governments are still required to complete a housing element update, the Update Guidance is designed to reduce the number and scope of housing element submittals per jurisdiction and to focus resources on providing assistance to jurisdictions to ensure compliance and effectively addressing housing needs. For example, the Update Guidance provides clarity on the necessary contents for a complete housing element, necessary steps for updating a housing element and certainty on what will be reviewed by the Department where contents have changed. Further, to provide efficiencies when using the Update Guidance, the Department intends to review draft housing elements in less than 60 days (See Attachment 4) and grant priority for those jurisdictions utilizing the Streamlined Review process.

The Update Guidance is divided into two parts:

1. A Completeness Checklist; and
2. Streamlined Update template (for eligible jurisdictions as described below).

The Department will continue efforts to improve efficiencies and increase clarity such as improving technical assistance, particularly the Building Blocks, to provide more clarity in meeting statutory requirements. For example, technical assistance regarding the adequate sites requirement will be expanded to clarify statutory requirements and include tools and samples to assist meeting statutory requirements. Other efforts will include expanded regional coordination such as pre-approved data packets in coordination with Councils of Government for meeting some requirements under the housing needs assessment (See pages 25 and 26 of the Streamlined Update). Additional tools to assist in the housing element update process are available on the Department's website, including:

- Housing Element Law at:
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=65001-66000&file=65580-65589.8>
- Building Blocks for Effective Housing Elements at:
http://www.hcd.ca.gov/hpd/housing_element2/index.php
- Links to model housing elements at:
http://www.hcd.ca.gov/hpd/housing_element2/BP_home.php
- Various technical assistance memos regarding statutory amendments and other relevant topics at:
<http://www.hcd.ca.gov/hpd/>
- Housing Element Update schedules, review letters and status information at:
<http://www.hcd.ca.gov/hpd/hrc/plan/he/>

Housing Element Completeness Checklist Review

Jurisdictions requesting Streamlined Update review (see below for explanation) must complete the Housing Element Completeness Checklist, and all jurisdictions are strongly encouraged to use the Checklist. The Checklist is provided to ensure that the updated element includes all components required by State housing element law. The purpose of the Checklist is to reduce subsequent submittals of draft housing elements by providing a guide for local governments to ensure the updated elements include all statutory components. The Checklist is also intended to be a useful mechanism for informing the public about the various statutory requirements of housing element law. The Checklist is included as Attachment 2 to this document.

HCD will conduct an initial completeness review of the draft housing element based on the contents of the Checklist. HCD's initial review for completeness will be limited to whether the element addresses each component required by the Housing Element statute. This initial completeness review will not evaluate the adequacy of information but merely whether the component was addressed. If HCD review staff finds that a housing element submittal does not include information addressing one or more of the statutory components, HCD will seek to notify the jurisdiction within 2 weeks (See Attachment 4) for immediate revision without further review. HCD will accept revisions within 7 days of notifications and complete its review of the contents of the housing element. If revisions are not received, HCD will complete its review, focusing specifically on those areas where information was provided to address the statutory components as outlined in the Completeness Checklist. Statutory components which are missing will be noted in the Department's letter without further review and the element will be out of compliance with statute. These missing components will be subject to review for content when complete in subsequent review(s) of the housing element.

Streamlined Update

For many local governments, much of the information in housing elements found to be in compliance with the statute for the previous planning period is still current and/or particular conditions and circumstances have not significantly changed since the last update. To provide a streamlined approach, both in the preparation of the updated element as well as in HCD's review, jurisdictions that adopted a housing element in the fourth cycle that HCD found in substantial compliance with State law may opt to use the Streamlined Update template (Attachment 3) to show where changes were made in the previously adopted housing element.¹ The Streamlined Update is a voluntary option and there are no implications in the Department's review of compliance for not using the Streamlined Update. For jurisdictions not choosing to use the Streamlined Update process or not eligible for the Streamlined Update process, the template (Attachment 3) can still be used as a valuable tool for outlining the necessary steps to update a housing element.

¹ If the Completeness Checklist (Attachment 2) and the Streamlined Update template (Attachment 3) are submitted to HCD or, as part of an agenda packet to a governing body or Planning Commission, they are considered public records.

The eligibility requirements to use the Streamlined Update are:

- A housing element for the previous planning was adopted and found to be in compliance with State housing element law by the Department (Housing Element compliance status for all jurisdictions is available on the Department's website at <http://www.hcd.ca.gov/hpd/hrc/plan/he/status.pdf>).
- A complete updated housing element is submitted showing all changes. The changes can be shown through a variety of mechanisms as long as the changes can be identified such as by using strikeout, underline, redline, highlighting or other designation.
- Submittal of a Completeness Checklist (Attachment 2) and Streamlined Update template (Attachment 3).
- Answer Yes (or N/A as appropriate) to all questions in the Implementation Review (Attachment 1).
- Completion of the Streamlined Update template (Attachment 3), making revisions to the housing element, as necessary, to analyze changes in conditions, processes and program implementation actions. If it is determined no changes are necessary to a specific section, the Streamlined Update template must indicate such.

Use of the Streamlined Update does not relieve the jurisdiction of its obligation to address all statutory requirements of State housing element law, but rather provides a guide to updating the necessary portions of the housing element and facilitates State review of housing element submittals. For eligible jurisdictions, HCD review will rely upon the element in compliance in the prior planning period and will be limited to changes that have occurred since the prior planning period as indicated in the Streamlined Update template of Attachment 3. HCD will not review areas that have not changed since their content continues to be sufficient to meet statutory requirements. For example, a sites inventory and analysis includes a listing of sites and various analyses demonstrating suitability of those sites for development, among other requirements. The listing may only have minor changes and the various analyses such as how residential capacity is calculated can continue to be used in the updated housing element. HCD will not review the areas that have not changed and will focus its review on the minor updates, if any, to the inventory and analyses. However, any changes to the required analyses must be included for HCD review. HCD will also consider public comments as part of this review. See Attachment 4 for steps in the HCD review process and the process for submitting and considering public comments. Specifically, the Streamlined Update template option is applicable to the following areas only:

- Sites Inventory and Analysis
- Analysis of Governmental and Non-Governmental Constraints
- Housing Needs Assessment, including special needs groups (excluding the quantification and analysis of homeless individuals and families)
- Units At-Risk of Conversion to Market Rate
- General Plan Consistency
- Coastal Zone Housing

A jurisdiction may utilize the Streamlined Update process for any and all of these requirements as detailed in the Streamlined Update Template (Attachment 3). Part of the purpose of the Streamlined Update template is to provide guideposts for the necessary steps to update the housing element. For example, under Governmental Constraints there are several different types of constraints to be identified and analyzed including, but not limited to, fees, permit processing and land use controls. To update the Governmental Constraints section, a jurisdiction should evaluate if changes have occurred and whether the analyses require revision to analyze those changes. The guideposts in the Streamlined Update template show the necessary steps to evaluate changes. For instance, if a jurisdiction has not adopted changes to its permit processing procedures or land use controls, then the Streamlined Update should indicate that no changes have been made. If fees were increased since the adoption of the previous element, the Streamlined Update should indicate such by filling in the appropriate response in the applicable section and including the location of red lined or other highlighted revisions made to describe and analyze the fee schedule increases, if necessary. In some cases, the conclusion and analysis might not change. In this case, the Streamlined Update template would simply need to indicate Not Applicable (N/A).

Please note, however, the statute requires certain areas to be completely updated. These areas must be newly addressed every planning period. For example, a jurisdiction cannot simply update a public participation process from 8 years ago. It must be started again. For the following areas, the Streamlined Update is not available:

- Review and Revise
- Public Participation
- Programs and Quantified Objectives
- Any new statutory requirements since the prior update, including:
 - ✓ Government Code Section 65584.09 (Unaccommodated Need). See the Department's memo at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_1233_final_dt.pdf. *
 - ✓ Government Code Section 65583 (a)(1) and others (Extremely Low Income Households). *
 - ✓ Government Code Sections GC 65583(a)(4) and others (Emergency Shelters and Transitional and Supportive Housing). See the Department's memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf. *
 - ✓ Government Code Sections 65583(f), 65588(e) (SB 375 Rezoning and Update Schedule). See the Department's website at http://www.hcd.ca.gov/hpd/hrc/plan/he/he_review_adoptionsteps110812.pdf.
 - ✓ Government Code Section 65583.1 (Alternative Adequate Sites). See the Department's memo at http://www.hcd.ca.gov/hpd/hrc/plan/he/alt_adeq_sites082412.pdf
 - ✓ Government Code Section 65583(e) (Persons with Development Disabilities). See the Department's memo at <http://www.hcd.ca.gov/hpd/NoticeCoverLtrSB812.pdf>.

* These requirements may not be new for most jurisdictions. However, as these sections were enacted during the 4th cycle update for some jurisdictions, particularly those in San Diego County, they may not have been addressed in the 4th cycle updates.

Using the Streamlined Update Template

As noted above, the Streamlined Update template is intended to show the necessary steps for updating a housing element. To use the template, relevant page numbers need to be entered where changes have been made. Where no changes have been made or no changes in circumstances have been identified, the jurisdiction should indicate “N/A.” Additional documentation, description or other narration is not necessary. For example, below is a sample section of a Streamlined Update template (Refer to Attachment 3 for the complete Streamlined Update Template form):

| Potential Governmental and Non-governmental Constraints (Section 65583(a)(5 and 6)) (See Building Blocks at http://www.hcd.ca.gov/hpd/housing_element2/CON_home.php) | | |
|---|----------------------------|----------------------------|
| | Page(s) Where Changes Made | Indicate N/A If No Changes |
| <u>Land Use Controls</u> <ul style="list-style-type: none"> Update to show changes to land use controls including changes in residential zoning and/or development standards (e.g., heights and lot coverage, parking requirements, minimum unit sizes) | Page 12 | |
| <ul style="list-style-type: none"> Update to describe changes to growth controls or similar measures such as population caps or voter required general plan re-designations or voter required approval of changes in land use laws or regulations | N/A | N/A |

Identifying Changes in the Housing Element: For jurisdictions using the Streamlined Update template, the housing element must indicate where changes have been made. The changes can be identified in a variety of ways. For example, the element could highlight changes, electronically or manually. An asterisk or other indicator can be placed in the margin. Redlining/strikeout and underline is not required. Some elements might re-format tables or recalculate percentages due to updating data. In this case, redlining might not appear very useful. An alternative approach could be to simply highlight the table title or include a highlight in the margin or bold new text. The same approach would also be acceptable for jurisdictions re-formatting the entire document. Contact HCD for feedback on approaches to identifying changes.

Implementation Review

As noted above, jurisdictions must answer Yes (or N/A as appropriate) to all questions in the Implementation Review (Attachment 1) to be eligible for the Streamlined Update. The Implementation Review will be conducted by HCD to determine if jurisdictions are eligible for the Streamlined Update and will be completed within 2 weeks of receipt (See Attachment 4). Jurisdictions may contact HCD for feedback on meeting the Implementation Review requirements prior to submittal of the housing element.

The Implementation Review is not intended to result in additional analysis or evaluation than already required under housing element law nor is additional documentation required to complete the Implementation Review. Only Yes, No or N/A, program numbers and page numbers need to be entered into Attachment 1 and submitted to HCD. The Implementation Review should reference the relevant portions of the Review and Revise section which is already included in the housing element update (See Attachment 1, page 18). However, as required by statute, HCD will consider public comment on the Review and Revise section of the housing element.

To be eligible for the Streamlined Update, jurisdictions should complete the pertinent programs prior to submittal of the draft housing element. In some cases, jurisdictions may still be processing zoning amendments or other actions to meet the eligibility criteria under the Implementation Review. HCD will consider unique circumstances where amendments or actions are still in process but the jurisdictions would need to provide adequate documentation to ensure completion of the amendments prior to the housing element due date.

HCD will allow flexibility in meeting the rezoning and density bonus ordinance criteria under the Implementation Review. Specifically, for the density bonus ordinance, the jurisdiction must only have adopted an ordinance after January 1, 2005 (although agencies may want to update their ordinance to meet the latest 2008 amendments).

For rezoning, in some cases, a jurisdiction might not have completed rezoning precisely as envisioned in the program. In these cases, the jurisdictions will continue to meet the eligibility criteria in the Implementation Review as long as the statutory requirements for rezoning were met pursuant to Government Code Sections 65583(c)(1) and 65583.2(h) and (i) or if the shortfall of adequate sites was by some other means or action met such as sufficient units being built to accommodate the entire regional housing need for lower income households. In these cases, the jurisdiction must provide documentation in the Review and Revise section to demonstrate the objectives of the Implementation Review have been met.

Standard Review

If a housing element does not qualify for the Streamlined Update, HCD will review the housing element in its entirety rather than focusing its review on changes. However, HCD's goal is to provide more efficient housing element review of all housing elements and the Checklist and Streamlined Update are useful tools for all local governments, HCD and stakeholders to reduce time necessary to update, review and comment on a housing element. For example, use of the Checklist can reduce multiple reviews by ensuring all the statutory components are included and the Streamlined Update provides a useful guide to update the housing element and to highlight the changes made to the element from the 4th cycle.

Attachments

[Attachment 1 – Implementation Review](#)

[Attachment 2 – Housing Element Completeness Checklist](#)

[Attachment 3 – Housing Element Streamlined Update Template](#)

[Attachment 4 – Housing Element Review Process and Timeframes](#)

CHART 1

Review Steps for HCD Standard and Streamlined Update Draft Reviews

