

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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June 13, 2022

Rafferty Woodridge, Assistant City Manager
City of La Habra Heights
1245 N. Hacienda Road
La Habra Heights, CA 90631

Dear Rafferty Woodridge:

RE: Review of La Habra Heights' 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the La Habra Heights' (City) draft housing element received for review on March 15, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a telephone conversation on May 25, 2022 with you, Fabiola Huerta, City Manager and the City's consultant John Douglas. In addition, HCD considered comments from Californians for Homeownership, pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of this statutory deadline, then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance. Upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>

HCD is committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Fidel Herrera at fidel.herrera@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long horizontal stroke extending to the right.

Melinda Coy
Senior Housing Accountability Manager

Enclosure

APPENDIX CITY OF LA HABRA HEIGHTS

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, Building Blocks for Effective Housing Elements (Building Blocks), available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

The element included a review and revise section; however, it did not include a comparison of prior objectives versus actual results and which programs will be continued, revised, or deleted in the updated housing element.

In addition, as part of the evaluation of programs in the past cycle (Appendix C), the element must provide an explanation of the effectiveness of goals, policies and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers and persons experiencing homelessness).

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

The element has some basic information on racial segregation and poverty, persons with disabilities and access to opportunity. However, the element generally does not address this requirement. The element, among other things, must include outreach, an assessment of fair housing, identification and prioritization of contributing factors to fair housing issues and goals and actions sufficient to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity. When evaluating the sites inventory for consistency with Affirmatively Further Fair Housing (AFFH), the element must analyze concentrating all the lower-income housing need on one site in the inventory. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

2. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Infrastructure: The element notes that the site that will be rezoned to accommodate the regional housing needs allocation (RHNA) is vacant and not currently connected to a sewer system; however, a decision will not be made regarding the appropriate method for wastewater treatment and disposal until a project is proposed. To demonstrate that these sites can accommodate the RHNA, the element must demonstrate that they either have current sufficient sewer available and accessible to support housing development or that the sites are included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity to provide sewer service. In addition, while the element the element must also clarify whether there is sufficient total water capacity (existing and planned) to accommodate the RHNA (Gov. Code, § 65583.2, subd. (b)(5)(B)).

Water and Sewer Priority: For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. HCD recommends including a cover memo describing the City's housing element, including the City's housing needs and regional housing need.

Zoning for a Variety of Housing Types: The element must demonstrate zoning to encourage and facilitate a variety of housing types, as follows:

- *Emergency Shelters:* While the element includes Program H-4 to identify the Institutions and the Institutional Overlay zones as most suitable for emergency shelters, the element must include additional analysis to determine feasibility of zones. For example, identifying the number of parcels, typical parcels sizes, whether the sites are nonvacant, and the potential capacity for adaptive reuse.

In addition, identification of a zone in which emergency shelters are a permitted use was required as part of the 4th cycle housing element. Please be aware, since this date has long ago lapsed, the element cannot be found in compliance until zoning is appropriately amended.

- *Transitional and Supportive Housing:* While Program H-4 was included to address how transitional and supportive housing are permitted in the City, it is not clear that transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. Program H-4 should be revised to demonstrate consistency with Government Code section 65583(a)(5).

- *Mobilehome and Manufactured Housing:* The element must demonstrate the City's zoning code allows and permits manufactured housing in the same manner and in the same zone(s) as conventional or stick-built structures are permitted (Gov. Code, § 65852.3). Specifically, manufactured homes should only be subject to the same development standards that a conventional single-family residential dwelling on the same lot would be subject to, with the exception of architectural requirements, for roof overhang; roofing material; and siding material (Gov. Code, § 65852.3, subd. (a)). However, any architectural requirements for roofing and siding material shall not exceed those which would be required of conventional single-family dwellings constructed on the same lot (Gov. Code, § 65852.3, subd. (a)).
 - *Accessory Dwelling Units (ADU):* While the element indicates that in 2020 the City adopted an ADU ordinance consistent with current state law, HCD staff reviewed the City's ADU ordinance and found that it needs to be revised to be consistent with state law. Among other things the ordinance requires a deed recordation for ADUs. State ADU Law does not require a deed for ADUs. Only junior accessory dwelling units (JADUs) require a recorded deed (Gov. Code, § 65852.22, subd. (a)(3)). The element should include a program to review and revise the ADU ordinance and make changes as appropriate to be consistent with current state law. HCD will be sending a separate letter with comments to the City.
3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element Table II-3 states the smallest minimum lot area and density in the City is one unit per acre in residential zoning districts. This requirement should be analyzed as potential constraint on housing supply and affordability and add or modify a program to address this requirement, if necessary. In addition, the element must analyze the parking requirement of minimum of six spaces per unit, including two spaces in an enclosed garage for single-family residential dwellings for its impact as a potential constraint on housing. Should the analysis determine the parking standards or permit procedures are a constraint on residential development, it must include a program to address or remove any identified constraints.

Processing and Permit Procedures – While the element includes general information regarding the review process for residential development, it should describe and analyze the total permit and entitlement process for a typical single-family unit, subdivision, and multifamily project. For example, the analysis should consider processing and approval procedures and time for typical single- and multi-family developments, including type of permit, level of review, approval findings, any discretionary approval procedures, and an estimate of total typical time necessary to complete the entitlement process.

Fees: While the element includes Table III-6, Planning and Development Impact Fees on page III-11, there are several planning and permit fees that do not include an amount and say, “actual cost.” The element should include an amount for each category, describe all required fees for single family and multifamily housing development and analyze their impact as potential constraints on housing supply and affordability. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single-family and multifamily housing.

Housing for Persons with Disabilities: The element notes group homes for seven or more persons are permitted in all residential zones subject to a conditional use permit. The element should analyze the process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty. Secondly, the element acknowledges the municipal code currently does not provide standards for small residential care facilities and includes Program H-4; however, currently the program only says permit small residential care facilities. This program should be revised to specifically state that residential care facilities serving six or fewer persons will be permitted in all residential zones consistent with state law.

SB 35 Streamlined Ministerial Approval Process: The element must identify and analyze written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program to address these requirements, if necessary.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each parcel on the jurisdiction’s website pursuant to Government Code section 65940.1(a)(1).

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality’s share of the regional housing need in accordance with*

Government Code section 65584. (Gov. Code, § 65583, subd. (a)(6).)

Available Financing: While the element included estimates for land costs and construction costs in the community. The element must also include analysis of available housing financing, including private financing and government assistance programs generally available in the community.

Developed Densities and Permit Times: The element must be revised to include analysis of requests to develop housing at densities below those anticipated, and the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need.

5. *Analyze any special housing needs such as 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. (Gov. Code, § 65583, subd. (a)(7).)*

Special Housing Needs: While the element quantifies the City's special needs populations, it must also analyze their special housing needs. The element does not include analysis of available resources nor draw any conclusions on housing need that would lead towards programs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (e.g., availability senior housing units, number of large units, number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

6. *Analyze the opportunities for energy conservation with respect to residential development. (Gov. Code, § 65583(a)(8).)*

Energy Conservation: The element indicates the City enforces Title 24. However, the element must include analysis of energy conservation opportunities in residential development. The analysis should facilitate the adoption of housing element policies and programs. For example, programs could provide incentives to promote higher density housing along transit, encourage green building techniques and materials in new construction and remodels.

C. Housing Programs

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 city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety*

of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)

As noted in Finding B2, the element does not contain a complete sites inventory and analysis. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition:

Program H-3 (Accessory Dwelling Units): While the element includes Program H-3 to facilitate ADU construction, it must be revised to not limit ADU fee waivers or reductions in exchange for permanent affordability commitments. State ADU law does not require a deed for ADUs. Only JADUs require a recorded deed. (Gov. Code § 65852.22, subd. (a)(3)).

Program H-4 Housing for Persons with Disabilities and Other Special Needs: While the element includes Program H-4 to facilitate housing opportunities for persons with disabilities, including developmental disabilities, and other special needs it should be revised as follows:

- *Supportive Housing*: Program should be revised to state the City will comply with policies/procedures to accommodate AB 2162.
 - *Transitional and Supportive Housing*: Program should be revised to state that transitional and supportive housing will be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone.
 - *Residential Care Facilities*: Program should be revised to specifically state that residential care facilities serving six or fewer persons will be permitted in all residential zones consistent with state law.
2. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings B3 and B4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs to address and remove or mitigate any identified constraints.

Program H-2 Adequate Sites to Accommodate Regional Housing Needs: This program commits to process a zoning amendment to reduce off-street parking requirements; however, the program should specify how parking requirements will be reduced.

3. *The Housing Element shall include programs to conserve and improve the condition of the existing affordable housing stock. (Gov. Code, § 65583, subd. (c)(4).)*

Program H-1 Maintenance and Conservation of Existing Housing: City should commit to a timeframe for establishing the Handyworker Program.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results.

D. Public Participation

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. (Gov. Code, § 65583, subd. (c)(9).)

While the element includes a general summary of the public participation process (Appendix A), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. Specifically, the City should employ additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts.