

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

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October 23, 2023

Stephanie Hansen, Assistant Director  
Community Development and Infrastructure Department  
County of Santa Cruz  
701 Ocean Street, Suite 400  
Santa Cruz, CA 95060

Dear Stephanie Hansen:

**RE: County of Santa Cruz's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element**

Thank you for submitting the County of Santa Cruz's (County) draft housing element received for review on July 24, 2023, along with revisions received on October 9, 2023. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from Santa Cruz YIMBY and David Kellogg pursuant to Government Code section 65585, subdivision (c).

The draft element, along with revisions, addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Gov. Code, § 65580 et seq). The enclosed Appendix describes the needed revisions to comply with State Housing Element Law.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the County 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. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

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 the statutory deadline (December 15, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Please be aware, if

the County fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

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 Affordable Housing and Sustainable Communities program, 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 County 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 County 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 appreciates the dedication yourself and County staff provided during the review and update of the housing element. We are committed to assisting the County in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Anthony Errichetto, of our staff, at [Anthony.Errichetto@hcd.ca.gov](mailto:Anthony.Errichetto@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX COUNTY OF SANTA CRUZ

The following changes are necessary to bring the County'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 <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

### **A. 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).)*

Disproportionate Housing Needs (Substandard Housing): The element should include other local and regional data and knowledge to better inform the analysis (e.g., code enforcement data, recent windshield surveys, etc.).

Disproportionate Housing Needs (Homelessness): The analysis (p. HE-A-117) should analyze geographic concentrations of unhoused populations within the unincorporated County as well as potential contributing factors. Programs must be added as appropriate to sufficiently respond to contributing factors to fair housing issues for this special housing need population.

Contributing Factors to Fair Housing Issues: The element identifies many contributing factors to fair housing issues. In addition, the element should consider prioritizing these factors (e.g., low, medium, high), based on the analysis, to better formulate policies and programs and carry out meaningful actions to Affirmatively Furthering Fair Housing (AFFH).

Sites Inventory and AFFH: The analysis must explain whether sites are isolated by income group and discuss whether the distribution of sites improves or exacerbates conditions. If sites are isolated or exacerbate conditions, the element should identify further program actions that will be taken to promote inclusive and equitable quality of life throughout the community (e.g., new affordable housing opportunities in higher opportunity areas, housing mobility).

2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Housing Stock Condition: The analysis of the condition of the existing housing stock (p. HE-A-135) should also estimate the total number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/housing-stock-characteristics>.

3. *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).)*

Progress in Meeting the Regional Housing Need Allocation (RHNA): The element identifies 637 units as progress towards the RHNA including 312 units affordable to lower-income households but must also demonstrate the availability and affordability of the units, as follows:

- *Availability*: The element must demonstrate the availability or likelihood the units will be available in the planning period. To address this, the element could discuss project status, schedule for completion, outreach with developments, remaining steps for projects to receive final entitlements, and any other relevant information.
- *Affordability*: The element must demonstrate the affordability of pipeline projects based on actual or projected sales prices, rent levels, or other mechanisms establishing affordability in the planning period. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/projected-housing-needs-regional-housing-needs-allocation>.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory (p. 4-75), it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The County lists maximum density allowed in a zone multiplied by the size of the parcel. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls, site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

In addition, the element appears to assume residential development on sites with zoning that allows 100 percent nonresidential uses, but to support this assumption, the element must analyze the likelihood of residential development in zoning where 100 percent nonresidential uses are allowed. For example, the element should evaluate all

development in the pertinent zones, how often development has a residential component and adjust assumptions as appropriate to account for the likelihood of 100 percent nonresidential development.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. To address this requirement, the element describes the existing use of some nonvacant sites, but not all, for example some descriptions are as minimal as “commercial” or “residential”. The description of existing uses should be sufficiently detailed for each site to facilitate an analysis demonstrating the potential for additional development in the planning period.

In addition, the element generally mentions existing uses do not impede additional development but should include analysis to demonstrate the potential for redevelopment. The analysis shall consider factors including, but not limited to, the extent existing uses constitute an impediment, recent developments, development trends and market conditions. In addition, the element relies on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households, which triggers requirements to make findings based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period.

Publicly Owned Sites: The element identified County-owned sites to accommodate a portion of the RHNA. The element should include a program with numerical objectives that ensures compliance with the Surplus Land Act, provides incentives and actions, along with a schedule to facilitate development of County-owned sites. Actions should include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing, financial assistance, and alternative actions if sites do not progress as anticipated.

Accessory Dwelling Units (ADU): Following a cursory review of the County’s ordinance, HCD discovered several areas which are not consistent with State ADU Law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should add a program to update the County’s ADU ordinance to comply with state law. For more information, please consult HCD’s ADU Guidebook, published in December 2020, which provides detailed information on new state requirements surrounding ADU development.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the County must submit an electronic sites inventory with its adopted housing element. The County must utilize standards, forms, and definitions adopted by HCD. Please see HCD’s housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The County can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

4. *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 must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to floor area ratio (FAR) and lot coverage limits in the R-UM (Urban Medium) zone. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Local Processing and Permit Procedures: While the element clarifies the required approval body for various uses, it must also clarify the type of approval process required for manufactured housing (e.g., principally, conditionally, etc.). In addition, the element should analyze public noticing requirements and appeal process as potential constraints on development and for impacts on approval certainty and estimated approval timelines. Lastly, the element should analyze the total processing times of developments for potential constraints, as multifamily developments take an unusually long time for final approval (greater than twelve months) and add programs as appropriate to streamline local permit processing and procedures.

Constraints on Housing for Persons with Disabilities: The element should add a program to specifically revise the County definition of family within the Sustainability Update, with discrete timing by the end of 2023, as mentioned (p. HE-D-8). For your information, zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... 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).)*

Approval Times: The element must include analysis of the length of time between receiving approval for a housing development and submittal of an application for building permits. The element must address any hinderance on the development of housing and include programs as appropriate.

6. *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).)*

Farmworkers and Homelessness: The element must include programs to assist in the development of housing for lower- and moderate-income households, including special needs households. Programs should be added or modified to address the existing housing needs more significantly of the farmworkers and the homeless. For example, for farmworkers, in addition to the commitment to proactive outreach (Program H-6A), the element could also commit to explore funding, provide incentives, and/or identify specific development opportunities.

Available Resources: While the element provides an analysis of need for each special need population it must also describe the available resources for all of the following special need populations: large households, persons with disabilities, persons with developmental disabilities, seniors, and homeless.

7. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).).*

At-Risk Housing Units: A complete analysis of existing assisted housing projects at-risk of converting to unsubsidized uses must include the complete inventory of at-risk units in the County, including Lagoon Beach Cooperative, which according to HCD records has 31 deed-restrict units set to expire in 2031. In addition, Program H-2A (At-Risk Preservation Funding) should target the preservation of all units that are at-risk of conversion to market rate rents during the planning period and commit to complying with all noticing requirements pursuant to Government Code section 65863.10 (e.g., 3 years, 12 months, and 6 months). Further, the objective of preserving all at-risk units in the County (115 units total) should be reflected in quantified objectives (Table 4.2-1).

## **B. 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 A3, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the County 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, the element should be revised as follows:

Program H-1C (By-Right Overlay Rezone): The Program must also specifically commit to comply with Government Code Section 65583.2, subdivision (h), including but not limited to 16 units per site, minimum densities and residential only performance standards.

Program H-1D (Density Bonus): The Program should include discrete timing to revise the local ordinance when necessary (e.g., six months).

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 A4 and A5, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the County may need to revise or add programs and address and remove or mitigate any identified constraints.

3. *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... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the County may need to revise or add programs. Goals and actions must significantly seek to overcome contributing factors to fair housing issues and must include quantifiable metrics and milestones for evaluating progress on programs, actions, and fair housing results. 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. Actions must have specific commitment, milestones, geographic targeting and metrics or numeric objectives and, as appropriate, must address housing mobility enhancement, new housing choices and affordability in higher opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

In addition, the element should be revised as follows:

Program H-1H (SB9 Implementation): Timing should occur earlier in the planning period for more significant beneficial impact.

Program H-1J (SB10 Implementation): Unclear language (i.e., “may include”) should be amended to ensure more specific and measurable actions are meaningful.



Program H-2A (At-Risk Housing): Program must target the preservation of all units that are at-risk of conversion to market rate rents during the planning period and commit to complying with all noticing requirements pursuant to Government Code section 65863.10 (e.g., 3 years, 12 months, and 6 months).

Program H-2D (Rehabilitation Assistance): Should provide timing for how often funding will be pursued (e.g., annually) and include a metric with of goal of how many units will be rehabilitated.

Program H-2F (First Time Homebuyer Assistance): Should provide timing for how often funding will be pursued (e.g., annually) and include a metric with of goal of how many loans will be issued. Geographic targeting should be added to prioritize areas of higher opportunity.

Program H-2I (Legal Assistance): Timing should be provided for how often funding will be pursued (e.g., annually).

Program H-3A (Impact Fees): The metric should be quantified and measurable.

Program H-3B (Public-Private Housing Partnership): The metric should be quantified and measurable. In addition, timing should be provided for how often outreach and engagement with private and nonprofit sectors will be conducted.

Program H-4A (Homeless Action Plan): The Program should provide additional specific commitment, for example, a menu of actions for the plan should be provided with discrete timing and ongoing efforts after January 2024 should be clarified.

Program H-4B (Affordable Housing Funding): Timing should be provided for how often funding will be pursued (e.g., annually).

Program H-4C (Code Updates, Variety of Housing Types): Timing should occur earlier in the planning period for more significant beneficial impact (e.g., December 2024).

4. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

Program H-1K Accessory Dwelling Unit (ADUs): The element is required to include a program that incentivizes or promotes (ADU) development for very low-, low-, and moderate-income households. While the element included Program H-1K, this Program must go beyond the status quo and incentivize or promote ADU development. Examples of incentives include pursuing funding opportunities, modifying development standards, and reducing fees beyond state law, increasing awareness, pre-approved plans, and homeowner/applicant assistance tools. Other strategies could include developing information packets to market ADU construction, targeted advertising of ADU development opportunities or establishing an ADU specialist within the planning department.

### **C. Quantified Objectives**

*Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)*

The element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. While the element includes these objectives by income, the element must also include objectives to preserve the entirety of the County's at-risk affordable housing stock, including the 31 units at Lagoon Beach Apartments which are set to expire during the 6<sup>th</sup> Cycle. In addition, conservation objectives should not be limited to at-risk preservation and may include a variety of activities that conserve the existing housing stock or promote tenant stability such as code enforcement, housing choice vouchers, mobile home park preservation and condominium conversion ordinances, rent stabilization measures and fair housing enforcement and outreach.

### **D. Public Participation**

*Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)*

HCD received comments with many meaningful suggestions related to AFFH, program recommendations. HCD encourages the County to consider these comments (i.e., Santa Cruz YIMBY) and make appropriate adjustments to the element.