

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

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January 27, 2022

Brian K. Lee, Director
Community Development Department
City of Covina
125 East College Street
Covina, CA 91723-2199

Dear Brian K. Lee:

RE: City of Covina's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the Covina's (City) draft housing element received for review on November 30, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

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 the statutory deadline (October 15, 2021), 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.

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: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

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

Sincerely,



Paul McDougall

Senior Program Manager

Enclosure

APPENDIX CITY OF COVINA

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).)

As part of the review of programs in the past cycle (Appendix A), the element must provide an evaluation 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).)*

Assessment of Fair Housing: The element, on page III-23, has some basic information on racial segregation and concentrated areas of poverty, and limited analysis on access to opportunity. However, the element generally does not address this requirement. The element, among other things, must include an analysis on fair housing enforcement and outreach, racial/ethnic concentrated areas of poverty, access to opportunity, integration and segregation, disproportionate housing needs and displacement risk, 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.

Goals, Priorities, Metrics, and Milestones: Goals and actions must create meaningful impact to overcome contributing factors to fair housing issues. Currently, programs are not sufficient to facilitate meaningful change and address AFFH requirements. Based on the outcomes of a complete analysis, the element must be revised to add or modify goals and actions accordingly. 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 metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. For further guidance, please visit HCD's Affirmatively Furthering Fair Housing in California webpage at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

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 Conditions: While the element includes an estimate of units in need of repair, it should also evaluate the potential extent of those repair including units in need of substantial rehabilitation or replacement.

Housing Costs: While the element includes information on the median sales price, it must also include information on rent prices in the City based on current market conditions. Current market rents can be collected through a phone survey of properties within the jurisdictions, surveying rental magazines, or online searches for rent information, and/or through a survey of property management companies.

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).)*

The City has a regional housing need allocation (RHNA) of 1,910 housing units, of which 882 are for lower-income households. To address this need, the element relies on vacant and nonvacant sites, including sites in the Affordable Housing Overlay (AHO). To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include a complete analysis, as follows:

Realistic Capacity: While the element provides assumptions of residential capacity for sites included in the inventory, 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 estimate of the number of units for each site must be adjusted as necessary, based on the land use controls

and 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. The element also needs to analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow 100 percent nonresidential uses. This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development.

Nonvacant Sites: While the element describes the methodology for identifying and prioritizing underutilized sites was based on factors such as location near high-quality transit, vacant buildings or lower value uses such as surface parking or storage, and structures more than 50 years old, it must list a description of these values in the sites inventory. This is particularly important since the sites inventory only generically describes existing uses such as “commercial” or “industrial”. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In addition, the element must support the various factors utilized to demonstrate the potential for additional development or include additional factors or another method. Support should be based on market conditions, development trends and the City’s past experience with converting existing uses to higher density residential development and should related to existing uses on identified sites. Finally, the element must include analysis of the extent existing uses impede additional development and regulatory or other incentives or standards to encourage additional residential development on these sites. Analysis of existing uses should demonstrate the sites with existing uses will likely develop in the planning period and could include information on existing leases or contracts, age of structure, vacant properties, lack of improvements, past turnover in uses or other relevant factors.

Please be aware that if relying on nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, it must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Small Sites: The element (Table B-3) identifies several sites smaller than a half-acre. Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence demonstrating the suitability of smaller sites to accommodate housing for lower-income households. For sites expected to be aggregated, the element must describe circumstances leading to consolidation, such as common ownership, the City’s role or track record in facilitating small-lot

consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, specific examples of projects that were built for lower-income households on similarly sized sites, densities and affordability and relate those examples back to the sites inventory. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small sites.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, rezones sites to permit housing development by right pursuant to statutory requirements. The element must clarify if sites used to accommodate the housing need for lower income households were previously identified in prior planning periods and include programs as appropriate.

Map of Sites: The element must include a general map of identified sites.

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

Zoning for a Variety of Housing Types:

Emergency Shelters: Emergency Shelters parking requirements should be updated pursuant to AB 139 (Chapter 335, Statutes of 2019) which requires only sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone.

Accessory Dwelling Units (ADU): After a cursory review of the City's ordinance, HCD discovered several areas which do not comply with State ADU Law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new ADU state requirements.

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...(Gov. Code, §*

Processing and Permit Procedures: The element must describe and analyze the City's permit processing and approval procedures for single family and multifamily developments. The analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single- and multifamily developments, including type of permit, level of review, number of hearings, approval findings and any discretionary approvals.

Housing for Persons with Disabilities: While the element identifies how community care facilities serving six or fewer persons are permitted, it must describe and analyze how community care facilities serving seven or more persons are approved including any approval findings. The element should analyze the process for potential constraints on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes for seven or more persons objectively with approval certainty. In addition, the element briefly describes its reasonable accommodation procedures (p. V-7). However, the element should also describe the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities.

Finally, the City has a detailed definition of family which states "a traditional family or the functional equivalent of a traditional family, whose members are a non-transient interactive group of one or more persons, where if consisting of more than one person, such persons jointly occupy a single dwelling unit, jointly use common areas, share household activities and responsibilities (e.g., meals, chores, and expenses), and where, if the unit is rented, leased, or subleased, all adult members living on the premises jointly agree to occupy and be responsible for the entire premises of the dwelling unit under a single written rental agreement or lease and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager." This definition is replete with constraints on housing for persons with disabilities and the element must include a program to modify or replace the definition.

Building Codes and Their Enforcement: While the element states on page V-11 that the City has adopted the most recent building codes, it must also discuss the type (e.g., compliant based) and degree of enforcement.

5. *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).)

Land Cost: While the element included estimates for construction costs and available financing in the community, it did not include estimates for land costs. The element must include an estimate of the average cost or the range of costs per acre for single family and multifamily development.

Requests for Lesser Densities and Approval Times: The element must address requests to develop housing at densities below those anticipated in the sites inventory and the length of time between receiving approval for housing development and submittal of application for building permits. The analysis must address any hinderances on housing development and programs should be added 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).)*

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.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such 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, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

Programs must be evaluated to demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines (month, year),

dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes.

2. *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 B3, the element does not include a complete site 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.

Program 2.1 (Adequate Sites to Accommodate Housing Needs): Currently the element identifies a shortfall of adequate sites to accommodate the RHNA within the planning period. Program 2.1 appears to be intended to rezone sites to accommodate a shortfall of sites for the lower-income- RHNA. This Program must be revised to meet all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). For example, the Program must:

- Accommodate a minimum of 16 units per site.
- Require a minimum density of 20 units per acre; and
- At least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
 - allow 100 percent residential use, and
 - require residential use occupy 50 percent of the total floor area of a mixed-use project.
- Permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.

Lot Consolidation/Small Sites: As the element relies on consolidated small sites to accommodate the Regional Housing Needs Allocation (RHNA) for lower-income households, it should include a program(s) to facilitate lot consolidation and development of housing on small sites. For example, the program could commit to (1) granting density bonuses above state density bonus law. (Gov. Code, § 65915.); (2) deferring fees specifically for consolidation; (3) expediting permit processing; (4)

identifying and targeting specific financial resources; and (5) modifying development standards.

3. *The housing element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

The element must include a program(s) with specific actions and timelines to assist in the development of affordable housing for low-income households including persons with special needs such as seniors, homeless, farmworkers, female-headed households and persons with disabilities including developmental. The element includes Program 2.4; however, it only provides incentives for extremely low-income households. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to extremely low, very low, low, and moderate-income households; assisting, supporting, or pursuing funding applications; and outreach and coordination with affordable housing developers.

4. *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 finding B4 and B5, 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 and address and remove or mitigate any identified constraints.

5. *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. Actions must have specific commitment, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability

in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

6. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

Program 1.4 (Preservation of Assisted Housing): The program must be revised to include specific and proactive actions to preserve the at-risk units in addition to monitoring. In addition, the element should revise (c) tenant education, to include current State Preservation Notice Law (Gov. Code 65863.10, 65863.11, 65863.13) which requires owners to provide tenants and affected public entities (including the City) notices regarding expiring rental restrictions starting three years before expiration.

7. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

The element is required to include a program that incentivizes or promotes ADU development for very low-, low-, and moderate-income households. The element includes Program 2.3 (p. VI-6); however, it does not include incentives to promote ADU's. This can take the form of flexible zoning requirements, development standards, or processing and fee incentives that facilitate the creation of ADUs, such as reduced parking requirements, fee waivers and more. 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.

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)(8).)

While the element includes a general summary of the public participation process (Appendix C), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. First, the element could describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. Second, the element should include when the draft was made available to the public. Finally, the element should also summarize the public comments and describe how they were considered and incorporated into the element.