

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

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October 22, 2021

Karen Brindley, Community Development Director
Community Development Department
130 S. Main Street
Lake Elsinore, CA 92530

Dear Karen Brindley:

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

Thank you for submitting the City of Lake Elsinore's (City) draft housing element received for review on August 23, 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. Our review was facilitated by a telephone conversation on October 8, 2021, with Diana Gonzalez, Richard J. MacHott, Justin Kirk, and Laura Stetson of your staff.

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.

The City's statutory deadline to adopt a housing element is October 15, 2021. 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.

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

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 meets housing element requirements for these and other funding sources.

We are 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 Jamillah Williams, of our staff, at Jamillah.Williams@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" and the last name "West" clearly distinguishable.

Shannan West
Housing Accountability Unit Chief

Enclosure

APPENDIX CITY OF LAKE ELSINORE

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. 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 includes the Assessment of Fair Housing (AFH); however, additional information is necessary to address the requisite affirmatively furthering fair housing (AFFH) analysis requirement, including local contributing factors to the fair housing issues and develop strong programs and strategies to address the identified fair housing issues as follows:

Local Data and Knowledge: While the element includes state and regional data, the element must also include local data and knowledge to supplement the analyses. Local knowledge includes any information obtained through the community participation process. It can be a valuable means of supplementing county and state data and is important for providing context in a fair housing analysis. For more information on using local data, please refer to page 47 of the HUD AFFH rulebook <https://www.hud.gov/sites/dfiles/FHEO/documents/AFFH-Rule-Guidebook.pdf>.

Integration and Segregation: The element includes data on integration and segregation at the regional and local level for race, disability, and familial status (p. 3.34). However, it must also describe local and regional trends and patterns of segregation and integration by income, complemented by data, and concluding with a summary of issues.

Racial/Ethnic Concentrated Areas of Poverty (R/ECAP): While the element includes information and analysis relative to local R/ECAP, it should also include regional trends and patterns. The analysis must be complemented by quantitative evidence for the regional comparison and describe how the City's R/ECAP compares to the rest of the City. In addition, the City should also analyze the regional trends and patterns of racial concentrations as it relates to areas of affluence. The combination in the R/ECAP and areas of affluence analyses will help guide goals and actions to address fair housing issues. The analysis should evaluate the patterns and changes over time and consider

other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

Access to Opportunity: The element provides some information (p. 3.41) on access to opportunity but fails to provide local and regional analysis of trends and patterns for all components. A complete analysis should include local and regional disparities of the educational, environmental, transportation, and economic scores through local, federal, and/or state data; and provide a description of education, environment, and employment. It should also include analyses for disability and access to transit. Please refer to page 35 of the AFFH guidebook (link: <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>) for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to Lake Elsinore.

Disproportionate Housing Needs and Displacement Risk: The element includes data and analysis on cost-burdened households but must also analyze regional trends and patterns on overcrowded households, substandard housing conditions, and households at risk of displacement as well as local and regional patterns of homelessness and conclude with a summary of issues.

Site Inventory: The map of the approved projects inventory shows a concentration of very low- and extremely low-income (ELI) sites in low resource areas. The element must describe how the City will address this and include a program to mitigate the impact. Additionally, the analysis should evaluate the sites relative to other categories such as access to opportunity. The analysis should also address how the sites are identified to improve conditions (or if sites exacerbate conditions, how a program can mitigate the impact), whether the sites are isolated by income group and should be supported by local data and knowledge.

Contributing Factors: The element relies heavily on Riverside County data to explain contributing factors, but the element should include data specific to Lake Elsinore. The element must list and prioritize contributing factors to fair housing issues. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues, are fundamental to adequate goals and actions, and must be related to the overall analysis. Examples include community opposition to affordable housing, housing discrimination, land use and zoning laws, lack of regional cooperation, location and type or lack of affordable housing and lack of public or private investment in areas of opportunity or affordable housing choices. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies program(s) to encourage and promote affordable housing; however, most of these programs do not appear to address AFFH requirements. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results.

Programs also need to be based on identified contributing factors, be significant and meaningful. The element must add, and revise programs based on a complete analysis and listing and prioritization of contributing factors to fair housing issues. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtm>.

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).)*

The City has a regional housing needs allocation (RHNA) of 6,681 housing units, of which 2,977 are for lower-income households. To address this need, the element relies on vacant sites, including sites in Specific Plan Areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete a vacant sites analysis:

Progress in Meeting the RHNA: The element indicates 18,403 units are entitled, of which 4,488 units in the Specific Plan will be affordable to low-income households (p. 4.17, Table 4.8). The element is unclear, however, about whether these units are part of a submitted development project or part of a specific or master plan community where project approvals are still required. For projects that have yet to receive entitlements, the element must include information on remaining approvals necessary prior to entitlement, timing for those approvals, and whether units are expected to be built within the planning period. Sites without pending projects should be included in the sites inventory rather than credited as a project. In addition, to credit units from pending and proposed projects toward the regional housing need, the element must demonstrate the affordability of units based on actual or projected sales prices, rent levels, or other mechanisms establishing affordability in the planning period.

Zoning for Lower-Income Households: The site inventory is relying on zoning that allows up to 24 units per acre to accommodate the lower-income housing need. Pursuant to Government Code section 65583.2, subdivision (c)(3)(A) and (B), the element must identify sites with zoning and densities appropriate to encourage and facilitate the development of housing for lower-income households based on factors such as market demand, financial feasibility, and development experience within zones. For communities with densities that meet specific standards (at least 30 units per acre for Lake Elsinore), this analysis is not required (Gov. Code, § 65583.2, subd. (c)(3)(B)). While the element (p. 4.9) lists some affordable developments occurring at densities between 18 and 26 units per acre, the element must include a complete analysis to demonstrate how the zoning is appropriate to facilitate the development of units affordable for lower-income households.

Realistic Capacity: The City uses maximum density allowed in the mixed-use 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 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 (e.g., mixed-use). If sites are rezoned to mixed-use, consider competing uses, the extent nonresidential uses are allowed, and environmental constraints limiting the usage. Also, there should be analysis on typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction. This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development.

Accessory Dwelling Units (ADU): The element assumes an ADU build out of 12 ADUs per year based on the most recent (2020) production and changes in legislation. Given that the City has produced an average of four units per year between 2019 and 2020, it is not clear if this production level will be achievable in the planning period. As a result, the element should be updated to include a realistic estimate of the potential for ADUs and include policies and programs that incentivize the production of ADUs. Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). Finally, if necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Sites with Zoning for a Variety of Housing Types:

- Emergency Shelters: The element must clarify if emergency shelters are a permitted use by right and demonstrate the C-M and M-2 zones have sufficient capacity to accommodate the identified housing need for emergency shelters. (Gov. Code, § 65583, subd. (a)(4).) The element must also demonstrate consistency with statutory requirements and include a program, as appropriate. For additional information and a sample analysis, see the Building Blocks at http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb2_memo050708.pdf.
- Transitional and Supportive Housing: The element shows transitional and supportive housing are only allowed in the R-3, RMU and CMU zones, but these housing types cannot be limited to specific zones. Transitional and supportive housing must be permitted as a residential use in all zones allowing residential uses, even nonresidential zones allowing residential, and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).) The element must describe and analyze the City's transitional and supportive housing standards as a constraint and add or

revise programs that demonstrate consistency with Government Code section 65583, subdivision (a)(5).

Water 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. For additional information and sample cover memo, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

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). Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (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 (e.g., multifamily rental housing, mobilehomes, transitional housing). The analysis must also evaluate the cumulative impacts of land-use controls on the cost and supply of housing, including the ability to achieve maximum densities and cost and supply of housing. The element indicates that height limits in multifamily zones are restricted to thirty feet, which is the equivalent of two stories. The element should include an analysis of height limits for multifamily in these zones and for those sites identified in the inventory (p. 3.9) as potential constraints and include programs to address or remove any potential constraints as needed.

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

Design Review: The element must describe and analyze the design review guidelines and process, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. For example, the analysis could describe required findings and discuss whether objective standards and

guidelines improve development certainty and mitigate cost impacts. The element must demonstrate this process is not a constraint or it must include a program to address this permitting requirement, as appropriate.

On/Off-Site Improvements: The element must quantify subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability.

4. Local Ordinances: The element must clarify if the City has an inclusionary ordinance. If an inclusionary ordinance exists, the City must analyze that ordinance's direct impact on the cost and supply of residential development. The analysis should demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.
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 Needs Populations: While the element quantifies the City's special needs populations, it must also analyze their special housing needs. 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 of 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.

B. 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).)*

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, all programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

All programs should be reviewed and revised to include items (1) through (4) as stated above. While many programs contain objectives and timelines, many do not. The element should be revised to address any of these deficiencies, including those noted below:

Program 1 (Code Enforcement): This program commits to rehabilitation and preservation of existing units as opportunities arise but should also indicate a specific timeframe and implementation date. The program should be revised to describe its outreach process and how frequently the City will apply for funds.

Program 7 (Affordable Housing Development): This program commits to making a list of City-Owned properties suitable for affordable housing available to developers and non-profit agencies, pre-application technical assistance, and incentives. In paragraph three the City commits to providing, when available and appropriate, developer incentives. The program should be revised to clarify what is meant by providing incentives “when available and appropriate” and state how these incentives are decided upon and approved. The program should also be revised to quantify the City’s commitment and offer specific, meaningful actions within the planning period.

Program 14 (Special Needs Housing): This program commits to giving priority to special needs projects, encouraging non-profits to pursue funding for special needs housing, and assisting developers seeking state and federal funding. However, it is not clear what specific actions the City is taking in any of those areas. The program should be revised to clarify how the City intends on prioritizing these projects and offer specific objectives to do so. The element should also clarify what actions and how the City intends on encouraging non-profit organizations and assisting developers.

Program 15 (Resources to Address Homeless Need): This program commits to addressing needs of at-risk and homeless through assistance to non-profits, continuing to work with non-profit organizations to aid residents in need and offering technical assistance, and using the Lake Elsinore Homeless Task Force to further the City’s efforts. However, it is unclear of what specific actions the City intends on taking. The program should be revised to specify actions and objectives for each category and answer when the City intends on applying for the stated funds and what kind of assistance will or can be granted to the non-profits.

Program 19 (ADUs): This program commits to promoting the development of ADUs by implementing a permit streamlining process, providing technical resources, and providing written information. The program should be revised to clarify how the streamlining process will be implemented and clarify the types of technical resources the City plans on providing to interested property owners, and the types of “written information” the City will produce or has available.

Program 20 (Specific Plans): This program commits to promoting development within existing and future specific plan areas but does not state how the City will go about promoting development. The program should be revised to offer specific actions and how they intend on promoting different varieties of housing.

Program 23 (Residential Development Standards): This program commits to reviewing development standards, assessing potential for density increases, and exploring the potential of establishing prototype development plans. The City should consider going beyond exploring and commit to beneficial actions within a specified timeframe.

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 A2, 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 City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

3. *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 B3, the element requires a complete analysis of potential governmental 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.

Program to Mitigate Governmental Constraints: The element must be revised to include a program that mitigates governmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category (Gov. Code, § 65583.2, subd. (c)(3).).

Program 25 (Affirmatively Further Fair Housing): Among other components, Program 25 commits to review and revise the definition of family and residential care facilities for 7 or more persons. The City's current definition of family limits persons in single housing keeping units unrelated to 6 or fewer. The program should be revised to include commitments beyond "reviewing" the ordinance but must commit to specific actions and timeframes to amend definition of family to be consistent with fair housing laws and to address the constraint for the definition of family. In addition, amendments to the zoning code for residential group homes for seven or more persons should not just address state law but also ensure that approval procedures do not constraint development of housing for persons with disabilities.

4. *Promote AFFH 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).)*

Program to AFFH: While the element includes Program 25 which describes how the City's fair housing initiatives, it must also include stronger actions that promote AFFH opportunities. For example, the element could include a program committing to implement Government Code section 8899.50, subdivision (b), which requires the City to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to AFFH. Specifically, AFFH means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to AFFH extends to all public agency's activities and programs relating to housing and community development.

C. 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 (pp. 1.4 to 1.9), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.

The cover letter states the draft was made available to the public August 16, 2021 but was electronically submitted to HCD on August 23, 2021. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.