

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

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December 23, 2021

Bing H. Hyun, Assistant City Manager
City of Industry
15625 Mayor Dave Way
City of Industry, CA 91744

Dear Bing H. Hyun:

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

Thank you for submitting the City of Industry's (City) draft housing element received for review on October 28, 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.

The housing element acknowledges that the City will be developing processes and zoning to permit housing for the first time in city history. The City includes programs to adopt a density bonus ordinance, establish objective design and development standards, implementing zoning for various housing types, and establish a reasonable accommodation process. HCD encourages the City to utilize HCD's technical assistance resources and model ordinances to ensure effective implementation. Please see the Housing Hub Site: [Housing Planning Hub Site \(arcgis.com\)](http://HousingPlanningHubSite(arcgis.com)).

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

We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Sohab Mehmood, of our staff, at Sohab.mehmood@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF INDUSTRY

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).)*

Enforcement: The element must discuss compliance with existing fair housing laws and regulations. For more information and guidance on this analysis, please visit pages 28-30 of the HCD's AFFH guidance memo: https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf.

Integration and Segregation: While the element included a local and regional analysis of race and income, it must also analyze local trends and patterns related to persons with disabilities and familial status. Additionally, the element must evaluate patterns on a regional basis, comparing the City to the region.

Local Data and Knowledge: The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates, public comments, and service providers. For example, the element indicates that most Hispanic residents live on one side of the City while majority of Asian residents live on the other side of the City (p. 43). To analyze this trend, the element could discuss this data relative to neighboring cities demographics and unincorporated census tracts.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Strategies and Actions: Programs generally must address enhancing housing mobility strategies; encouraging development of new affordable housing in high resource areas; improving place-based strategies to encourage community conservation and revitalization; and protecting residents from displacement. The element included several actions to

address fair housing issues such as requiring business to follow appropriate standards when residential uses are nearby as to prevent displacement caused by environmental hazards. Additionally, the element included programs (1, 2, 3, 4, 7, and 8) that could be revised to affirmatively furthering fair housing (AFFH). All actions, such as those listed on page 42 and programs should include a definitive timeline, metrics, and milestones for targeting meaningful change and evaluating progress on programs, actions, and fair housing results.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

Employment Trends: The element must include an analysis of employment trends. The analysis could discuss employment by industry, identify large employers, typical types of jobs and earnings, and general wages of major employers or employment sections. For additional information, please visit: <https://hcd.ca.gov/community-development/building-blocks/housing-needs/population-employment-household-characteristics.shtml>.

Projected Extremely Low-income Households: While the element quantifies the existing housing needs of extremely low-income (ELI) households, it must still quantify projected ELI housing needs. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of very low-income households qualify as ELI households. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

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).)*

Housing Overlay Zone: The City identified one site in the open space recreation zone to accommodate its regional housing needs allocation (RHNA). However, the element indicates that the zoning does not currently permit residential uses or densities and as a result the City will implement a housing overlay zone. For your information, as part of rezoning, programs should demonstrate densities appropriate to accommodate housing for lower-income households (e.g., 20 units per acre) and commit to meet all rezone requirements pursuant to Government Code section 65583.2, subdivisions (c), (h) and (i).

Zoning for Lower-Income Households: For your information, as part of rezoning site(s) to accommodate the City's lower-income RHNA, the element must demonstrate densities appropriate to accommodate housing for lower income households. For communities with densities that meet specific standards (at least 20 units per acre for Industry), no analysis is required. (Gov. Code, § 65583.2, subd. (c)(3).) The element should revise rezoning programs to indicate the identified density for the RHNA site.

Environmental Constraints: The element must describe any known environmental constraints within the City that could impact housing development in the planning period. Specifically, the element should discuss whether there are any known environmental constraints on the site identified to accommodate the City's RHNA. For additional information and sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

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. The element must demonstrate compliance with these requirements or add or modify programs as appropriate. 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>.

Sites Inventory Electronic Form: Please note, 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. Please note, 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.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element must demonstrate compliance with emergency shelters parking requirements. Pursuant to AB 139 (Chapter 335, Statutes of 2019) emergency shelters are only required to provide 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.
- *Low Barrier Navigation Centers:* Low Barrier Navigation Centers shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65660. The element must demonstrate compliance with this requirement or include programs as appropriate.
- *Supportive Housing:* Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement or include programs as appropriate.

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, § 65583, subd. (a)(5).)*

Local Processing and Permit Procedures: The element acknowledges that the City does not have a separate review process to approve residential development and as a result the City will establish one. However, the City does utilize a conditional use permit and variances for some housing types. The element should describe the typical findings and approval procedures and analyze the process impacts on timing, cost, supply and approval certainty and include programs as necessary.

Local Ordinances: The element must analyze any locally adopted ordinances that directly impacts the cost and supply or residential development (e.g., inclusionary requirements, short term rentals, growth controls).

Zoning, Development Standards and Fees: The element must clarify compliance with new transparency requirements for posting all zoning, development standards and fees on the City's website and add a program to address these requirements, if necessary.

Constraints on Housing for Persons with Disabilities:

- *Reasonable Accommodation:* The element commits to establishing a reasonable accommodation procedure and that consideration of requests will be based on potential impacts on surrounding uses – essentially a conditional use permit finding. However, reasonable accommodation should be a unique exception process from a conditional use permit, especially given its importance in addressing barriers to housing for persons with disabilities. HCD recommends that when developing this process, the City does not implement constraints, namely the “potential impact on surrounding uses” approval finding.
- *Residential Care Facilities for Seven or More Persons:* The element indicates that group homes of seven or more are permitted with a conditional use permit in the INST Zone and will not be subject to the proposed housing overlay zone (p. 26). For your information, group homes of 7 or more should not be excluded from residential zones or treated differently than other similar uses (i.e., housing overlay zone).

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 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, the element should be revised as follows:

6th Cycle Planning Period Shortfall of Sites: While the City will implement a housing overlay zone, the element appears to acknowledge that the zoning is not currently in place to permit residential uses. If so, the City must address a shortfall of sites to accommodate the RHNA for lower-income households. For example, if a shortfall exists, the element must include a program to specifically commit to acreage, allowable densities, and anticipated units. In addition, to accommodate the housing needs of lower-income households, the program should specifically commit to rezoning pursuant to Government Code section 65583.2, subdivisions (h) and (i). Specifically, the program must commit to:

- 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 conditional use permit, planned unit development permit, or other discretionary review or approval;
- accommodate a minimum of 16 units per site;
- require a minimum density of 16/20 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.

Unaccommodated Need from the 5th Cycle Planning Period: The City had a shortfall of two units to accommodate its lower-income RHNA from the previous planning period. The element acknowledges that the City has not completed its rezoning efforts. While the element included Program 1 – Housing Sites Strategy and Program 3 – Housing Overlay Zone to complete zoning on one site that will accommodate the City's shortfall from the last planning period. However, pursuant to Government Code section 65584, for jurisdictions that did not accommodate their shortfall from the last planning period, they must complete rezoning efforts within one year of the planning period (i.e., 6th cycle planning period). Programs 1 and 3 should commit to rezoning within the first year of the planning period and ensure sites are rezoned pursuant to Government Code section 65583.2, subdivisions (h) and (i), as described above.

City-owned Sites: The indicated that the site identified to accommodate the RHNA is also a city-owned site. The City should include a program that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development of city-owned sites. Actions could include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance.

2. *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).)*

Program 10 – Homeless Services and Program 12 – Collaborative Partnerships: The element must include programs that will assist in the development housing for lower and moderate-income households and include specific actions for persons with special needs. While the element included program 10 and 12 to address the needs of persons experiencing homelessness and building partnerships to develop housing for lower-income households, these programs do not include firm commitments. For example, the program states that it will “consider” “explore” and “continue.” These programs should be revised to include specific actions with timelines such as “the City will outreach to developers annually throughout the planning period”.

Extremely Low-Income Households: The element must include a program(s) with specific actions and timelines to assist in the development of housing 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-income households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/assist-in-development-housing.shtml>.

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 A4, 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.

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 A1, the element does not include a complete Assessment of Fair Housing (AFH). Depending on a complete analysis, the element will need to add and revise programs as appropriate.

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. This requirement could be addressed by utilizing a matrix like the one illustrated below:

Income	New Construction	Rehabilitation	Conservation/ Preservation
Extremely Low-			
Very Low-			
Low-			
Moderate-			
Above Moderate-			
TOTAL			

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 included a statement that the housing element incorporated comments from various stakeholders into the draft housing element, it should also describe how comments were considered and incorporated into the element.