

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

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August 12, 2021

Doria Wilms, Deputy Assistant City Manager
City of Desert Hot Springs
11-999 Palm Dr.
Desert Hot Springs, CA 92240

Dear Doria Wilms:

RE: Review of the City of Desert Hot Springs 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Desert Hot Springs (City) draft housing element received for review on June 16, 2021, along with revisions received on July 29, 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 July 27, 2021 with Juan Carrillo, Principal Planner; Jennifer Mizrahi, City Attorney; Christney Barilla, consultant; Patricia Villagomez, Associate Planner; Daniel Porras, Assistant City Manager; and you. In addition, HCD considered comments from Inland Counties Legal Services, Inc. pursuant to Government Code section 65585, subdivision (c).

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

Government Code section 65588, subdivision (e)(4), requires a jurisdiction that failed to adopt its housing element within 120 calendar days from the statutory due date to revise its element every four years until adopting at least two consecutive revisions by the applicable due dates. As the City failed to adopt a housing element within 120 days from the statutory due date within the 5th cycle, the City is subject to the four-year revision requirement. Provided the City adopts its element on or before October 15, 2021, it will meet the first four-year update requirement.

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. This is

particularly important since past participation efforts resulted in many meaningful comments that do not appear to be incorporated in the element.

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#element> 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.

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.

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.

HCD appreciates the City's staff and its consultants hard work provided during the course of our review. 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 Divya Ram, of our staff, at Divya.Ram@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" being more prominent than the last name "West".

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF DESERT HOT SPRINGS

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

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

A. Review and Revision

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

The review requirement is one of the most important features of the element update. The review of past programs should analyze the City's accomplishments over the previous planning period. This information provides the basis for developing a more effective housing program. The element should be revised as follows:

The element must include a program-by-program review including a comparison of prior objectives versus actual results and which programs will be continued, revised, or deleted in the updated housing element. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/review-revise.shtml>

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

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing (AFFH) 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))*

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).)

Integration and Segregation: The element includes limited local and regional data on integration and segregation of race, disability, familial status, but no data on income levels. The element needs to include complete local and regional data on integration and segregation for the City and analyze it for both local and regional trends and patterns.

Racially/Ethnically Concentrated Areas of Poverty (R/ECAP): The element includes some data on R/ECAP but includes no data or analysis on racially concentrated areas of affluence (RCAA). The element should be revised to include local and regional data on RCAA and analyze this data for trends and patterns.

Disproportionate Housing Needs including Displacement Risks: The element includes some local and regional data on cost burdened households, overcrowding, and substandard housing issues but does not include local and regional analysis on homelessness and displacement risks. The element should include complete local and regional data for homelessness and displacement risks and analyze the data for local and regional trends.

Sites: The element includes a map of the site inventory and states that the proposed sites to meet lower-income regional housing needs allocation (RHNA) are geographically distributed which results in these sites AFFH (page C-2). However, the accompanying analysis shall also be reflective of housing development at all income-levels and evaluate the sites relative to socio-economic patterns. The site inventory analysis should 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.

2. *Include an analysis 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)(1).)*

The element identifies household characteristics and stock (pages A-5 to A-11). However, it must include analysis of housing costs for sale and rent, analysis of the condition of the existing housing stock and estimate the 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 <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.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).)*

The City has a RHNA of 3,873 housing units, of which 1,104 are for lower-income households. To address this need, the element relies on approved and 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 analyses:

Specific Plans: The housing element relies upon specific plan areas to accommodate 8,964 units of the City's RHNA (pages C-4 to C-7). While the housing element indicates the residential capacity of the specific plan areas and estimates the number of units by income group, it does not provide any analysis demonstrating their suitability for development in the planning period. Additionally, the element needs to clarify which, if any, specific plans are being used as projects as progress towards RHNA or as sites in the inventory. To utilize residential capacity in specific plans, the element must:

- Indicate if projects are approved or pending for the specific plan areas, describe the status of the project(s), including any necessary approvals or steps prior to development, and the affordability of the units in the projects based on anticipated rents, sales prices or other mechanisms (e.g., financing, affordability restrictions) ensuring their affordability.
- If sites are available for development and do not have pending or approved projects, the element must among other requirements, list sites by parcel, size, general plan designation, zoning and include a calculation of the realistic capacity of each site.
- Describe necessary approvals or steps for entitlements for new development (e.g., design review, site plan review, etc.).
- Describe any development agreements and conditions or requirements, such as phasing or timing requirements, that impact development in the planning period.

Realistic Capacity: The element states that the City is using the minimum density to accommodate for the lower-income RHNA on mixed-use sites (page C-10). The element also needs to analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use). This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#zoning>.

Sites Inventory: The element does not clearly describe which sites were utilized in the prior planning period. If the City utilizes vacant sites identified in two or more consecutive housing element planning periods or nonvacant sites identified in a prior housing element to accommodate the lower-income RHNA, the element must include a program to commit to zone for the following:

- sites must meet the density requirements for housing for lower-income households, and

- allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households (Gov. Code, § 65583.2, subd. (c).).

Infrastructure: While the element identifies sufficient capacity of existing or planned water, sewer, and other dry utilities, it does not include access to distribution facilities. The element should discuss access to distribution facilities to accommodate the City's regional housing need for the planning period. (Gov. Code, § 65583.2, subd. (b).) For additional information, 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 Sewer Priority: The element states there is priority water and sewer requirements and identifies those providers. 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>.

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

Emergency Shelters: The element describes a zone to permit emergency shelters and describes the capacity to accommodate the need for emergency shelters. The City must ensure that the zoning adheres to the new parking requirement standards per AB 139 (Chapter 335, Statutes of 2019). AB 139 requires that the zone for emergency shelter allows for sufficient parking for the staff of the emergency shelter. The element must include programs as appropriate based on the outcomes of this analysis.

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). 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).)*

Fees and Exaction: While the element includes a general description of planning fees required for a proposed housing development (page D-13), it must describe all required fees for single family and multifamily housing development, including building impact fees and other fees such as water and sewer connection fees, and analyze their impact as potential constraints on housing supply and affordability.

Local Processing and Permit Procedures: While the element generally describes City's processing and permit procedures (page D-14), it must describe typical processing times and permit procedures for multifamily and single-family housing types including any design review, approval procedures and decision-making criteria and analyze for their impact as potential constraints on housing supply and affordability.

Constraints on Housing for Persons with Disabilities: The element states the City utilizes a local reasonable accommodation (RA) ordinance (page D-15). The analysis must describe the process and include a list of the required approval findings for RA requests. Additionally, the element states that residential care facilities serving seven or more persons is subject to a conditional use permit (page D-16) while facilities serving six or few persons are allowed by right in all zones that allow residential uses. The element should evaluate approval requirements for impacts on objectivity and approval certainty. For example, excluding this type of housing from residential zones or imposing standards such as compatibility with surrounding uses would be considered a constraint. The element must include programs as appropriate to address identified constraints based on the outcomes of this analysis.

Zoning, Development Standards and Fees: The element must clarify its compliance with new transparency requirements for posting all zoning, development standards and fees for each parcel on the jurisdiction's website.

C. Housing Programs

1. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Gov. 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, mobilehome, 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 sites inventory or analysis; as a result, the adequacy of sites and zoning has not been established. Based on the results of a complete sites inventory and analysis, programs may need to be added, or revised, to address a shortfall of sites and zoning for a variety of housing types.

Sites Identified in Multiple Planning Periods: The element must include a program for vacant sites identified in two of more consecutive housing element planning periods or nonvacant sites identified in a prior housing element, that are currently identified to accommodate housing for lower-income households. The program must be implemented within the first three years of the planning period and commit to zone for the following:

- sites must meet the density requirements for housing for lower-income households, and
- allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households (Gov. Code, § 65583.2, subd. (c).).

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).)*

While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable to extremely low-income (ELI) households. The City should also review and incorporate public comments as appropriate. Programs must be revised or added to the element to assist in the development of housing for ELI households. Program actions could include prioritizing some funding for housing developments affordable to ELI households and offering financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, single-room occupancy (SRO) units, to address the identified housing needs for 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. *Address and, where appropriate and legally possible, remove governmental and non-governmental 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, 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.

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).)*

As noted in Finding B1, the element must include a complete analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs.

E. 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 (pages I-3 to I-9), it must also demonstrate that diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element describes that only one community or public commission workshop and a housing survey was held in preparation of the housing element which members of the public and organizations were invited to attend. The availability of a single workshop does not demonstrate a diligent effort in public participation. It is our understanding that the City has conducted subsequent workshops since the drafting of the housing element. The element could describe these workshops and efforts the City made to advertise and include all economic segments as part of this proposal. The element could describe the efforts to circulate the housing element draft among low- and moderate-income households and organizations that represent them prior to submittal to HCD, the availability of materials in multiple languages, or other efforts to involve such groups and persons in the element throughout the process. 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. In addition, the element could also summarize the public comments and describe how they were considered and incorporated into the element. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.