

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

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August 3, 2023

John Funderburg, Assistant Director of Planning  
Community and Economic Development Department  
City of Pittsburg  
65 Civic Avenue  
Pittsburg, CA 94565

Dear John Funderburg:

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

Thank you for submitting the City of Pittsburg's (City) draft housing element received for review on May 5, 2023. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from David Kellogg pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq.). 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 January 31, 2023. 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.

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. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). 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). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant, the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities program, and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the 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 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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

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 Sohab Mehmood, of our staff, at [Sohab.Mehmood@hcd.ca.gov](mailto:Sohab.Mehmood@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF PITTSBURG

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

### A. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction (Gov. Code, § 65583, subd. (c)(10)(A))*

*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).)*

Outreach: While the element included some information on public engagement and outreach efforts to address outreach requirements of AB 686 (Chapter 958, Statutes of 2018), the element must describe meaningful, frequent, and ongoing public participation with the community including key stakeholders. The element should describe any specific outreach efforts to organizations that represent special needs populations or members of protected classes. The element could also describe targeted efforts to engage specific communities that are experiencing several fair housing issues (central and eastern portions of the City).

Integration and Segregation: While the element includes data on race, income and familial status, the analysis must analyze trends, patterns, concentrations in specific areas of the City and coincidence with other fair housing components (e.g., access to opportunity, disproportionate housing needs, etc.). For income, the analysis must also identify and evaluate trends beyond those relating to lower-income households (e.g., higher-income households).

Access to Opportunity: While the element includes some data on transportation, the analysis is generally insufficient. The element should be revised to provide a complete analysis of local trends and patterns for disparities in access to

transportation opportunities. The analysis could consider additional factors such as access to regional transportation (Bay Area Rapid Transit). Lastly, the analysis of environmental opportunities indicated that some census tracts experience more positive environmental outcomes compared to other parts of the city. The element should analyze these differences including coincidences with other fair housing factors (e.g., access to opportunity, disproportionate housing needs, etc., ).

Disproportionate Housing Needs: While the element included some general information on housing conditions, persons experiencing homelessness and displacement risks, it should also evaluate those needs, impacts and patterns within the City, such as areas of higher need. For housing conditions, it should discuss any areas of potentially higher needs of rehabilitation and replacement. The element should utilize local data and knowledge such as service providers and code enforcement officials to assist this analysis. For persons experiencing homelessness, the element should examine patterns of need or areas with higher concentrations of persons experiencing homelessness, including access to transportation and services.

Displacement Risk: The element stated that most of City is not considered a sensitive community and has committed to study and evaluate displacement risks throughout the planning period. However, HCD's fair housing data viewer indicates that several census tracts on the eastern side of the City are considered high to extreme risk of displacement. The element should consider additional data sources and evaluate the impact and patterns throughout the City.

Local Data and Knowledge and Other Relevant Factors: The element included some high-level information on housing choice vouchers and racial covenants. However, the element did not discuss how this data relates, supports, or supplements the existing analysis, fair housing conclusions, neighborhoods with concentration of fair housing issues, or contributing factors. The element must consider other relevant factors that have contributed to certain fair housing conditions. This analysis must consider information that is unique to the City or region, such as governmental and nongovernmental actions, historical land use and zoning practices, development trends, disparities in investment to specific communities, or other relevant information. 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.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): While the element included a high-level discussion about the location of sites and general impacts, a full analysis must quantify identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing. Additionally, the element should also discuss any isolation of the Regional Housing Needs Allocation (RHNA) by income group, magnitude of the impact on existing concentrations of socio-economic characteristics and discuss how the sites improve or exacerbate fair housing conditions. The analysis should be supported by local data and

knowledge and other relevant factors and programs should be added or modified as appropriate to promote inclusive and equitable communities.

Contributing Factors to Fair Housing Issues: Upon a complete AFFH analysis, the element must assess and prioritize contributing factors to fair housing issues and add or modify programs as appropriate.

2. *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).)*

The element includes data and a general discussion of housing challenges faced by special needs households. However, the element must be revised to include an analysis of the existing needs and resources for each special need group including seniors, farmworkers, large households, and extremely low-income (ELI) households. For example, the element should discuss the existing resources to meet housing needs (availability of shelter beds, 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.

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 2,052 housing units, of which 812 units are for lower-income households. To address this need, the element relies on pipeline projects, accessory dwelling units (ADU) and vacant sites. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Parcel Listing: The element must identify the number of units that can be realistically accommodated on each site (Gov. Code, § 65583.2, subd. (c).). The element could identify the maximum number of units allowed under the current zoning and include a column identifying the realistic number of units for each site.

Suitability of Nonvacant Sites: Based on HCD's review, the element does not currently rely on nonvacant sites to meet the RHNA; however, if future versions of the housing element utilize nonvacant sites, the element must demonstrate the potential for additional development. The methodology for demonstrating additional development on nonvacant sites must discuss existing uses, development trends, and policies and programs to encourage additional residential development.

Progress in Meeting the RHNA: As you know, the City's RHNA may be reduced by the number of new units built since July 1, 2022; however, the element must demonstrate their availability in the planning period. The element has identified

3,786 units including 428 units for lower-income households that are either pending, approved or under construction. The element states that all projects are anticipated to be under construction during this planning period. However, the element must include an analysis to support this assumption. To demonstrate the availability of units within the planning period, the element could analyze infrastructure schedules, City's past completion rates on pipeline projects, outreach with project developers, describe any expiration dates on entitlements, anticipated timelines for final approvals, and any remaining steps for projects to receive final entitlements. Lastly, given the element's reliance on pipeline projects, the element must include programs with actions that commit to facilitating development and monitoring approvals of the projects (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, expediting approvals, etc.,).

AB 725: For jurisdictions that are considered Metropolitan, the element must identify at least 25 percent of the remaining moderate and above-moderate RHNA on sites that allow at least four units of housing (e.g., four plex or greater). (Gov. Code, § 65583.2, subd. (c)(4).).

Realistic Capacity: The element identifies sites in zones that allow nonresidential uses. The element must 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. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/analysis-sites-and-zoning>.

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, requires rezoning within one or three years. The element included Program 4 (Housing Inventory) committing to allow uses on these sites by-right for projects with at least 20 percent of the units affordable to lower-income households; therefore, meeting part of the statutory requirements for reusing sites. However, the element needs to clarify or denote which sites in the inventory are being reused from the prior planning periods. Additionally, the element should clarify if these sites meet the density requirements for housing for lower-income households ((Gov. Code, § 65583.2, subd. (c).). Based on a complete evaluation, the element may need to add or modify a program committing to rezoning in compliance with the statutory requirements.

Water and Sewer Priority: 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 should discuss compliance with these requirements and if necessary, add or modify programs to establish a written procedure by a date early in the planning period.

For additional information and sample cover memo, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/priority-water-and-sewer>.

Environmental Constraints: While the element generally describes environmental conditions within the City (pg. 91-93), it must evaluate any known environmental constraints that could impact or preclude housing development in the planning period and relate those constraints to the actual sites identified in the inventory. (Gov. Code, § 65583.2, subd. (b).). For example, the element should evaluate projects and sites that have been identified within Fire Hazard Severity zones that include lower- moderate-income units. The analysis could also consider appropriate mitigation measures, compliance with building codes, and other local efforts or policies including the City's Safety Element. Based on a completed analysis, the element may need to add or modify programs to address any identified constraints.

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](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

#### Sites with Zoning for a Variety of Housing Types:

- **Emergency Shelters:** The element must demonstrate that permit processes, development, and management standards are objective and in accordance with Government Code section 65583, subdivision (a)(4). For example, the element states emergency shelters are required to be a minimum of 300 ft. apart from each other; however, state law only allows a maximum of 300 ft separation requirement.

For your information, as of March 31, 2023, AB 2339 (2022) is now applicable to the City. AB 2339 (2022) specifies how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. While the element has addressed most requirements under this provision, it still should analyze the adequacy of sites identified in zones to accommodate emergency shelters without discretionary action. Specifically, the analysis should address the types of sites (e.g., vacant or nonvacant) in this zone. If sites are generally nonvacant, the analysis must address the extent existing uses impede additional development. For example, to demonstrate the potential for redevelopment, the analysis could evaluate a sample of representative sites, the existing uses and reuse opportunities. Additionally, while the element included a high-level statement that sites in the Service Commercial zone are near existing services, the element must analyze the suitability and habitability of this zone. For example, the element should discuss the presence of reuse opportunities. In addition, the analysis should address proximity to transportation and services and any conditions inappropriate for human habitability.



For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

The element should describe compliance with these requirements or include programs as appropriate.

- *Mobilehomes/Manufactured Housing:* The element identifies zoning constraints for mobilehomes and manufactured housing and references Program 15 (Zoning Ordinance Amendments – Housing Constraints) to remove these constraints. However, no corresponding actions could be found in the program section. The element should be revised to add or modify a program to address constraints on this housing type.

4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls: While the element included a description of land use controls (pg. 39-48), it must also analyze them independently and cumulatively with all other relevant land use controls for potential impacts on providing a variety of housing types and achieving maximum allowable densities. The analysis should specifically address requirements related to parking, heights, lot coverage, open space, and limits on allowable densities. For example, the element should clarify if the City imposes minimum unit size requirements.

Additionally, the element notes that multifamily housing is required to provide two spaces per unit, including one covered space and an additional 0.5 spaces for each unit with two or more bedrooms (Table 47). HCD finds that requiring smaller bedroom types (e.g., studio and one-bedroom units) to provide two parking spaces is considered a constraint. The element must analyze covered parking requirements for impacts on cost, supply, housing choices, affordability and achieving maximum densities. In addition, the element must include a program committing to reducing parking requirements for smaller bedroom types.

Local Processing and Permit Procedures: The element should address public comments on this draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.



Locally Adopted Ordinances – Inclusionary Ordinance: The element generally mentions the City’s inclusionary zoning ordinance including alternatives for compliance and available incentives; however, it must also analyze the City’s inclusionary housing requirements for impacts on the development of housing for all income levels. For example, the analysis must identify and evaluate the relationship with State Density Bonus Law, required in-lieu fees, and any other factors that may impact housing costs.

Constraints on Housing for Persons with Disabilities:

- *Definition of Family* – Zoning should implement a barrier-free definition of family. While the element noted the City’s definition of family, it must analyze it for potential constraints on housing for persons with disabilities and include programs as necessary.
- *Reasonable Accommodation* – The City requires that property owners are noticed within 300 feet of the property requesting a reasonable accommodation. While the analysis committed to addressing this requirement, there was no corresponding program with a firm commitment to remove this constraint. The element must be revised to add or modify programs addressing this constraint.

**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 A4, 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:

Program 4 (Housing Inventory and RHNA Accommodation): This program includes an action to update the Zoning Ordinance to allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-

income households. However, no timeframe for completion was provided and the element should be revised accordingly.

Additionally, since the City failed to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), rezones to accommodate the RHNA must be completed no later than one year from the statutory deadline.

Program 7 (Accessory Dwelling Units and Junior Accessory Dwelling Units): This program commits to various actions to facilitate the development of ADUs. However, given the City's reliance on ADUs, the element must include a commitment to adjusting projected assumptions if the number of units and affordability do not actualize during the planning period. Specifically, 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 the element must commit to amending the housing element, identifying additional sites, and rezoning within a timely manner (e.g., within six months).

2. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding A3, 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. In addition, the element should be revised as follows:

Program 15 (Zoning Ordinance Amendments – Housing Constraints): The element references Program 15 to increase densities of zoning districts, specifically in the RM, RMD, RH, and RHD zones (pg. 41). However, no corresponding action was found in Program 15, and the element should be revised accordingly.

3. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

Goals, Priorities, Metrics, and Milestones: 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. For example, many of the actions do not have appropriate geographic targeting to address the four required program areas

(e.g., increasing housing choices and affordability in higher opportunity or higher income areas, promoting housing mobility, place-based strategies for revitalization and conservation and addressing displacement risks). Programs should be revised based on a complete assessment of fair housing, address the required program areas, include appropriate geographic targeting and quantified metrics that target beneficial impacts for people, households, and neighborhoods (e.g., number of people or households assisted, number of housing units built, number of parks or infrastructure projects completed).

### **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).)*

While the element includes quantified objectives for new construction and rehabilitation by income level, it currently targets no objectives for conservation and should be revised accordingly. For example, quantified objectives could incorporate numerical targets from anticipated outcomes of Programs 12 (Conservation of Existing Affordable Housing).

### **D. Consistency with General Plan**

*The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)*

While the element described how consistency was achieved, it must discuss how it will be maintained throughout the planning period. For example, to maintain internal consistency, the element could include a program to conduct an internal consistency review of the general plan as part of the annual general plan implementation report required by Government Code section 65400. The annual report can also assist future updates of the housing element. For additional information and a sample program, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/analysis-consistency-general-plan.shtml>.