

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

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October 25, 2021

Lawrence Mainez, Director  
Community Development Department  
City of Highland  
27215 Base Line  
Highland, CA 92346

Dear Lawrence Mainez:

**RE: City of Highland's 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element**

Thank you for submitting the City of Highland's (City) draft housing element received for review on August 26, 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 conversation on October 14<sup>th</sup>, 2021 with you and the City's consultants, Erika Van Sickel and Elizabeth Dickson.

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.

The City's statutory deadline to adopt a housing element was 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.

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

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: [http://opr.ca.gov/docs/OPR\\_Appendix\\_C\\_final.pdf](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and [http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).

HCD appreciates the hard work and dedication the City's housing element team provided during the review. 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 Reid Miller, of our staff, at [Reid.Miller@hcd.ca.gov](mailto:Reid.Miller@hcd.ca.gov).

Sincerely,



Paul McDougall

Senior Program Manager

Enclosure

## **APPENDIX CITY OF HIGHLAND**

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).)*

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

### **B. Housing Needs, Resources, and Constraints**

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

**Outreach:** While the element briefly discusses coordination with the Inland Fair Housing and Mediation Board, it, largely, does not address this requirement. The element must include a description of fair housing enforcement and outreach capacity as it relates to the ability of the City and fair housing entities to disseminate information related to fair housing and provide outreach and education to assure community members are aware of fair housing laws and rights.

**Regional Patterns and Trends:** The element generally describes local patterns and trends but must also analyze Highland relative to the rest of the region regarding integration and segregation, racially and ethnically concentrated areas of poverty, disparities in access to opportunity and disproportionate housing needs, including displacement risks.

**Other Relevant Factors:** While the element includes local data and knowledge, it must also include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element must analyze the impact of the "Crime Free" ordinance mentioned in Program 2 on affirmatively furthering fair housing (AFFH) throughout the City.

Sites Inventory: The element discusses the proposed number of sites and units relative to income, but it must also address other components of the assessment of fair housing (e.g., R/ECAP, Access to Opportunity, Disproportionate Housing Need, including Displacement). The accompanying analysis shall also be reflective of housing development at all income-levels 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.

Goals, Priorities, Metrics, and Milestones: Goals and actions must create meaningful impact to overcome contributing factors to fair housing issues. Currently, programs are not sufficient to facilitate meaningful change and address AFFH requirements. Based on the outcomes of a complete analysis, the element must be revised to add or modify goals and actions. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

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).)*

*Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Extremely Low Income (ELI) Households: The element includes analysis regarding ELI households, but it must also identify projected 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 the regional housing need allocation (RHNA) for 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>.

Overpayment: While the element identifies the total number of households overpaying for housing, it must quantify and analyze the number of lower-income households overpaying for housing by tenure (i.e., renter and owner) and add or modify policies and programs as appropriate.

Housing Conditions: The element identifies the age of the housing stock. However, the element must also estimate the number of units in need of rehabilitation and replacement. The analysis could supplement this information with 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).)*

**Nonvacant Sites:** The element identifies a large portion of its RHNA at all income levels on nonvacant sites. The element must describe the methodology used to determine the additional development potential within the planning period. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the City's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

Please be aware that relying on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households triggers requirements to make findings based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period.

**Small Sites:** Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. The element identifies small sites and as a result should include appropriate analysis and programs or remove the sites. For example, an analysis could provide specific examples with the densities, affordability and, if applicable, circumstances leading to consolidation. In this case, the element should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's housing need for lower-income households. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small sites.

**"Pipeline" Projects:** The element identifies a number of units "in the pipeline" per planned development and specific plan communities. However, it is unclear if actual projects have been proposed for these areas, or if the capacity credited is based on the anticipated build out of these areas. If projects have yet to be proposed in these areas, the element should include them in the sites inventory rather than credit them toward the RHNA, and include information related to any phasing or other development requirements that could impact buildout in the planning period. If they are approved projects, the element should state whether the units are expected to be built in the planning period. Specifically, 200 hundred units have been credited toward the lower-income RHNA category as part of the pipeline residential development credit for the Greenspot Village Area specific plans. It is not clear

if this is an actual project or an available site in the planning period. If it is an actual project, then the project must be credited per the actual or proposed sales or rents.

Infrastructure: While the element describes water and sewer infrastructure, it must also demonstrate sufficient existing or planned dry utilities supply capacity, including the availability and access to distribution facilities to accommodate the City's regional housing need for the planning period. (Gov. Code, § 65583.2, subd. (b).)

Sites with Zoning for a Variety of Housing Types:

- *Transitional and Supportive Housing*: Transitional and supportive housing must be permitted as a residential use in all zones and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The element states that transitional and supportive are allowed consistent with Government Code section 65583, subdivision (c)(5) but then it appears to subject these uses to conditional use permits. The element should either address this inconsistency or include programs as appropriate.
  - *Single Room Occupancy (SRO)*: The element describes SROs but it must also explain whether and how the City permits SROs. Based on this analysis, the element should 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).)*

*An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)*

Design Review: The element must describe and analyze the design review 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.



In addition, the Housing Crisis Act of 2019 (SB 330, 2019) was signed by Governor Newsom on October 9, 2019 and became effective on January 1, 2020. The Housing Crisis Act (Gov. Code, § 66300), under specified conditions, suspends the use of subjective design standards. The element should evaluate consistency with these requirements and include actions as appropriate. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/processing-permitting-procedures.shtml>.

Constraints on Housing for Persons with Disabilities: The element details that residential care facilities serving seven or more persons are excluded from some residential zones and only allowed with a conditional use permit in other zones. The element should analyze these constraints and include programs as appropriate to allow these uses in all residential zones objectively with approval certainty. In addition, while the element briefly describes the City's Chapter 17.38 Reasonable Accommodation process, it should further describe and analyze its reasonable accommodation criteria, including approval findings and include programs as appropriate.

"Crime Free" Ordinance: In Program 2, the City states that it intends to implement a "Crime Free" ordinance. This program could be potentially problematic for a number of reasons, and the City should provide further analysis on whether this ordinance could constitute a constraint on providing housing for all income levels throughout the community. Such analysis should address:

- how the program is enforced or implemented;
- what entity is charged with implementation and enforcement (e.g., police, code enforcement);
- whether the program or ordinance applies to both renters and homeowners;
- whether the program or ordinance is enforced against federally subsidized properties, or against housing that serves specific populations (e.g., people re-entering from contact with the criminal legal system or housing serving people with mental health or developmental disabilities);
- whether the program or ordinance requires or encourages property owners to conduct a criminal background check; and
- what conduct is covered by the ordinance/policy, and what locations of alleged criminal activity the ordinance covers (e.g., on the premises or off premises)

Requests for Lower Density, Permit Times, and Efforts to Address Nongovernmental Constraints: The element must include analysis of requests to develop housing at densities below those anticipated, and the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need.

### **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 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 the 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.

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 Program 22 (Collaborative Partnerships), this program should be revised with annual outreach. In addition, the element must include a program(s) to assist in the development of housing affordable to ELI and special needs households. Program actions could include prioritizing some funding for housing developments affordable to ELI households or households with special needs 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 nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding B4, the element requires a complete analysis of potential governmental and non-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 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 to have clear timelines and quantifiable outcomes or metrics, and to enhance housing mobility strategies, encourage development of new affordable housing in high resource areas, improve place-based strategies to revitalize neighborhoods, and protect residents from displacement.

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

Programs must be expanded to include incentives to promote the creation and affordability of accessory dwelling units (ADU). Examples include exploring and pursuing funding, modifying development standards and reducing fees beyond state law, increasing awareness, pre-approved plans and homeowner/applicant assistance tools.

#### **D. Public Participation**

*Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)*

While the element includes a general summary of the public participation process, it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element should be revised to discuss outreach to lower-income and special needs groups during the public participation efforts, solicitation efforts for survey responses, and participation in community workshops, and if translation services were provided. In addition, the element should 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>.

In addition, HCD understands the City made the element available to the public after submittal to HCD. 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 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 revising 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.