

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

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October 19, 2021

Samantha Tewasart, Planning Manager
Planning Division
City of San Gabriel
425 S Mission Drive
San Gabriel, CA 91776

Dear Samantha Tewasart:

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

Thank you for submitting the City of San Gabriel's draft housing element received for review on August 20, 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 7, 2021 with you, Matt Chung, Staff Planner, and your consultants, David Bergman and Jennifer Murillo. In addition, HCD considered comments from Josh Albrectson 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.

San Gabriel'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).

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.

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 will meet housing element requirements for these and other funding sources.

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 Mashal Ayobi, of our staff, at Mashal.Ayobi@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SAN GABRIEL

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).)*

Outreach: The element must include information on how the City conducted meaningful outreach with key stakeholders and the public. The element could describe what methods the City utilized to reach a broad audience including promoting language access and accessibility for persons with disabilities and consulting with relevant organizations. The element could also discuss any targeted outreach efforts to specific neighborhoods that are disproportionately impacted by fair housing issues. Finally, the element should describe the results of this outreach specifically related to the affirmatively furthering fair housing (AFFH) analysis.

Enforcement: While the element quantified the number of fair housing complaints, it must describe the characteristics of those complaints (e.g., race, disability, income). For example, the element could discuss the nature of those complaints, any patterns or trends by community area or census tracts and additional local data and contributing factors. The element should also clarify if the City has any pending lawsuits, enforcement actions, judgements, settlements, or findings related to fair housing and civil rights. Lastly, the element must discuss how the City complies with fair housing laws and include supporting information and analysis to demonstrate compliance. Please visit pages 29-30 of HCD AFFH guidance memo: https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf.

Local Patterns and Trends: While the element included city-wide data on race, disability, income, familial status and access to opportunities, it must also analyze that data for patterns and trends such as differences in census tracts or neighborhoods as well as trends over time.

Regional Patterns and Trends: The element must include data on all fair housing components (e.g., fair housing enforcement and outreach, integration and segregation, racially or ethnically concentrated areas of poverty and affluence, and disproportionate

housing needs including displacement). The analysis must evaluate patterns at a regional basis and compare those to conditions at the local level.

Access to Opportunity: While the element included some data on access to various opportunities, the element must analyze these opportunities for patterns and trends within the City. Additionally, the element must analyze access to transportation opportunities.

Disproportionate Housing Needs, including Displacement Risk: The element must include both local and regional analysis for people experiencing homelessness. Additionally, the element included data and maps regarding disproportionate housing needs that reflected clear concentrations in certain census tracts and geographies. As a result, the element should analyze those concentrations for characteristics, trends, local data and knowledge and other relevant factors such as the effectiveness or past and present efforts. Lastly, the element listed several census tracts at risk of experiencing displacement, but it must also provide analysis or discussion regarding those census tracts.

Sites Inventory: While the element included data on some fair housing components relative to the location of sites, the analysis must 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 fair housing conditions related to each component of the analysis (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.

Local Knowledge and Data: The element should incorporate local data and knowledge of the jurisdiction into the AFFH section. To assist in meeting this requirement, the element should provide local data not captured in regional, state, or federal data analysis such as information on resident's lived experiences, and comments from community and stakeholder meetings.

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.

Contributing Factors to Fair Housing Issues: While the element includes two fair housing issues, these issues are very broad and general and do not connect to the analysis in the element. The element should include a list of fair housing issues that is a result of a complete fair housing analysis, unique and localized to the jurisdiction. In addition, the element must list and prioritize contributing factors to fair housing issues. The element includes two contributing factors (p. F-36); however, includes no analysis or discussion on how those factors contributed to the fair housing issue. For example, the element listed lack of private investments in specific neighborhoods contributed to disparities in access to opportunity; however, the element should discuss which neighborhoods experienced disinvestment; why did they experience disinvestment, for how long, and how did that contribute to issues in access to opportunity.

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. The element included a list of factors that contributed to each fair housing issue (p. F-37) along with programs that will seek to address the contributing factors. However, several of the programs listed do not appear to facilitate meaningful change, lack specific commitments, or have been recycled from the last element. Additionally, the element must include programs that promote housing mobility, increase housing choices in areas of opportunity, and place-based strategies that address community revitalization and displacement risk measures for census tracts with several overlapping fair housing issues. Furthermore, the element must include metrics and milestones for targeting meaningful change and evaluating progress on programs, actions, and fair housing results.

2. *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).)*

Housing Stock Conditions: The element identifies the age of the housing stock as being older compared to the Southern California Association of Governments (SCAG) region (p. A-3) and list additional factors used to identify substandard housing including units lacking certain facilities. However, the analysis must estimate the number of units in need of major 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>.

Overpayment: While the element identifies the total number of overpaying households, it must quantify the number of overpaying households by tenure (i.e., renter and owner), including lower-income households.

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).)*

Progress towards RHNA – Planned and Approved Projects: The element listed approved or entitled projects that are expected to be built during the planning period (p. B-4). Page B-4 states that the element is counting 1,264 units as progress towards RHNA; however, pg. B-11 shows that the City is counting 1,256 units. Additionally, the listing of approved and pending projects for the above moderate-income category equate to 1,196 units; however, the table states that 1,250 units are being counted as progress while page B-11 shows that only 1,188 units are being counted towards above moderate RHNA. The element must be updated to include an accurate and consistent quantification the number of RHNA units, by income category, that are being counted as progress towards meeting RHNA.

Parcel Listing: The element must include the existing uses for each nonvacant parcel listed in the inventory. The description of existing uses should be sufficiently detailed to facilitate an analysis of the potential for additional development. For additional information and sample sites inventory, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/inventory-of-land-suitable.shtml>.

Realistic Capacity on Sites Zoned Nonresidential: For sites zoned for nonresidential uses (e.g., commercial and mixed-use zones), the element must describe how the estimated number of residential units for each site was determined. The element relies on various commercial and mixed-use zones to accommodate its RHNA (SP-MU C/R, MU/T, MU/C) and includes information on typical densities permitted based on past projects (p. B-7). However, the estimate must also account for land use controls such as allowing 100 percent nonresidential uses. To demonstrate the likelihood for residential development in nonresidential zones, the element could describe any performance standards mandating a specified portion of residential, any factors increasing the potential for residential development such as incentives for residential use and residential development trends in the same nonresidential zoning districts. 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>.

Suitability of Nonvacant Sites: The element must describe the methodology used to determine the additional development potential on nonvacant sites 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 or County'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. (Gov. Code, § 65583.2, subd. (g).)

The element states that the City considered a variety of factors when identifying sites including a land to improvement ratio below 1.0, existing buildings that are 41 years or older, and certain existing uses were excluded. The element also removed or added parcels based on specific site circumstances such as irregularly shaped parcels, ownership conditions, infrastructure, etc. However, the element should describe why those factors were chosen and list the actual values for each site to better relate the overall analysis to the inventory. The analysis should also address additional factors such as the extent that the existing use may impede residential development, status of the uses operations, conditions that prevent redevelopment, degree of under-utilization, structural conditions and expressed interest in redevelopment. Finally, the analysis should support factors with recent development trends.

In addition, the element should clearly identify whether nonvacant sites are utilized to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Replacement Housing Requirements: If the sites inventory identifies sites with existing residential uses, it must identify whether they are affordable to lower-income households or describe whether the additional residential development on the site requires the demolition of the existing residential use. For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households. (Gov. Code, § 65583.2, subd. (g)(3).) Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

Candidate Sites for Rezoning: The element identifies a current shortfall in accommodating the 6th cycle lower-income RHNA of 362 units. The sites inventory listing also denotes certain moderate-income sites as being considered for rezoning to accommodate the lower-income RHNA. The element should clarify that these sites are not double counted to accommodate both the current moderate-income RHNA and the shortfall for the lower RHNA. Additionally, the element must identify and analyze sufficient candidate sites that will be considered for rezoning and include an analysis of suitability and availability to address all components pursuant to Government Code section 65583.2.

Accessory Dwelling Units (ADU): The element is counting 52 ADUs per year for a total of 421 ADUs to accommodate a portion of its RHNA. The element indicates the City approved 158 ADU applications between 2018-2020 (p. B-4). However, the analysis should use permitted units instead of approved units. The City's Annual Progress Reports (APR) indicate that the City has permitted an average of 15 ADUs per year between 2018-2020. The analysis and trends do not support a three-fold increase and the element should be updated to include a realistic estimate of the potential for ADUs and include strong policies and programs that commit to incentivizing ADUs. Additionally, while the element can use ADU applications to support projecting ADU production beyond what was actually permitted, it cannot solely rely on ADU applications to make projection assumptions. Depending on the analysis, the element must commit to monitor ADU production and affordability throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. If necessary, additional actions should be taken in a timely manner (e.g., within 6 months). The degree of additional actions should be in

stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Sites with Zoning for a Variety of Housing Types:

- ***Emergency Shelters:*** The element identifies the C-3 zone for emergency shelters. The element must clarify whether the C-3 zone or any zone in the City permits emergency shelters without any discretionary action. (Gov. Code, § 65583, subd. (a)(4).) In addition, the element must also analyze the suitability and capacity of the C-3 zone to meet the need for emergency shelters. For example, the element should identify the number of parcels, typical parcel sizes, available acreage, whether sites are underutilized, and any potential for reusing existing buildings to emergency shelters. The element should also discuss proximity to transit and services and any known hazardous conditions unfit for human habitation.

In addition, 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. Lastly, the element should discuss if the City complies with AB 139 (Statutes of 2019) related to parking requirements and quantification of the emergency shelter need. The element should describe compliance with these requirements or include programs as appropriate.

- ***ADUs:*** The element should clarify whether it allows ADUs in all zones that residential uses including nonresidential zones such as commercial and mixed-use zones. If not, the element should include a program to revise the ADU ordinance in compliance with state law.
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).)*

Land-Use Controls: The element states that multifamily developments require a minimum two-car covered garage for every unit (p. C-11). The element should analyze this parking requirement as a potential constraint on housing and include a program to address or remove the identified constraint. Additionally, the element should discuss how the City complies with the Housing Crisis Act of 2019 (SB 330, 2019) and clarify if

the City implements any growth control measures. For your information, the Housing Crisis Act (Gov. Code, § 66300) generally prohibits a locality from enacting a development policy, standard or condition that reduces intensity, imposes moratoriums, enforces subjective design standards or implements any provision that limits approvals or caps population. These provisions remain in effect until January 1, 2025. Specifically, Government Code section 66300, subdivision (b)(1)(D), with limited exception, does not allow affected jurisdictions to adopt new or enforce existing limits on the number of land use approvals or permits.

Design Review: The element indicates that the City utilizes design review for certain zones and housing types (p. C-13); however, the analysis should discuss the design review process including approval procedures, required findings, relationship to the Site Plan Review, number of hearing and processing times. The element must demonstrate that this process is not a constraint or include a program to address or remove identified constraints, as appropriate.

Code Enforcement: The element must describe whether building codes are enforced proactively or on a complaint-basis. For additional information and a sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/codes-and-enforcement-on-offsite-improvement-standards.shtml>.

Housing for Persons with Disabilities: The element must include an analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities. For example, the analysis must describe any zoning code definitions of family and any spacing or concentration requirements for housing for persons with disabilities. The element also states that residential care facilities serving seven or more are conditionally permitted in most zones allowing residential uses (p. C-14). Lastly, the element states that the City's reasonable accommodation findings require that the request "does not result in a concentration of uses not otherwise allowed in residential neighborhood, to the detriment of the residential character of that neighborhood". The element should analyze these processes as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to promote housing for persons with disabilities objectively with approval certainty.

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:

- *Program 1 (RHNA Housing Sites, Rezone)*: The Program must be revised to complete rezoning by October 15, 2024.
- *Program 3 Accessory Dwelling Units (ADU)*: The City is utilizing ADUs to accommodate a portion of its RHNA and as a result, should include actions beyond a handbook to incentivize the creation of ADUs. In addition, the Program should be revised to monitor the production and affordability of ADUs as noted in Finding A3.
- *Employee Housing*: The element states that the City does not have zoning for employee housing pursuant to Health and Safety Code section 17021.5 and 17021.6 and as a result must include a program committing to comply with the Employee Housing Act.

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).)*

Extremely Low-income (ELI) and Special Needs Households: The element must include a program(s) with specific actions and timelines to assist in the development of housing for ELI and special needs households, specifically, persons with disabilities, including developmental disabilities. The program(s) could commit the City to proactively reaching out to developers of affordable housing, adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to ELI and special needs households; assisting with funding or supporting or pursuing funding applications; and outreach and coordination with affordable housing developers.

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 must include a complete analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs to have discrete milestones 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.

C. Public Participation

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

While the element includes a general summary of the public participation process, it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. Specifically, the element should 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 did not make the full draft available to the public prior to submittal to HCD. If so, by not providing adequate time 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 at least two weeks 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.