

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

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December 13, 2021

Salvador Lopez, Planning Manager
Department of Community Development and Planning
City of Cudahy
5220 Santa Ana Street
Cudahy, CA 90201

Dear Salvador Lopez:

RE: City of Cudahy 6th Cycle (2021-2029) Draft Housing Element Update

Thank you for submitting the City of Cudahy's draft housing element received for review on October 15, 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 December 7, 2021 with you and Gabriel Elliot, Consultant Project Manager.

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.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of 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).

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

HCD appreciates the dedication the housing element team provided during the update. 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 Dulce Ochoa, of our staff, at dulce.ochoa@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF CUDAHY

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 element must provide an evaluation of the cumulative effectiveness of past 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) and revise programs as appropriate.

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).)*

The element provides various maps and analysis, particularly related to fair housing enforcement and segregation and integration. However, the element generally does not address this requirement. The element, among other things, must include outreach, an assessment of fair housing, analysis of the sites inventory, identification, and prioritization of contributing factors to fair housing issues and goals and actions sufficient to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity. For further guidance, please visit HCD's AFFH in California webpage at <https://www.hcd.ca.gov/community-development/affh/index.shtml>. In addition, HCD will provide additional guidance and samples to assist the City in meeting these requirements.

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).)*

Extremely Low-Income (ELI) Households: The element notes the City assumes 50 percent of its very low income regional housing needs allocation (RHNA) (116 units) as the projected housing need for ELI households or 80 units. However, the City's very low income RHNA is 80 units, and this figure could be updated and corrected as a projected need for 40 ELI households.

3. *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 Conditions: The element mentions a February 2013 housing condition survey and that conditions generally have not changed significantly and then utilizes the American Community Survey (ACS) data to determine substandard housing which significantly under-represents substandard housing conditions. Instead of ACS data, the element should include an estimate for the number of units in need of rehabilitation and replacement. The element could utilize numbers or proportions from the past housing conditions survey or other data from sources such as the code enforcement agency or information from knowledgeable organizations.

4. *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).)*

Parcel Listing: The parcel listing should describe the existing use for each parcel, particularly for nonvacant sites. The description should be sufficiently detailed to facilitate an analysis that the use will likely discontinue in the planning period.

Realistic Capacity: The element assumes 60 percent of maximum allowable densities will be achieved but does not provide support for these assumptions (p. 72). The element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements and typical densities of existing or approved residential developments at a similar affordability level.

In addition, the element appears to assume residential capacity on sites with zoning that allows 100 percent non-residential uses. If so, the element must account for the likelihood of nonresidential uses. The element should include analysis based on factors such as development trends, performance standards or other relevant factors. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. The analysis 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.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households 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.

Finally, the element identifies sites with existing residential uses. Absent a replacement housing policy, these sites are not adequate sites to accommodate lower-income households. The replacement housing policy has the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).

Small Sites: Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower-income housing. (Gov. Code, § 65583.2, subd. (c)(2)(A).) The element includes several sites less than half an acre in size and if necessary, to accommodate the RHNA for lower-income households, it must include analysis as described above.

Sites Identified in Prior Planning Period: Sites identified in prior planning periods (vacant sites identified in two planning periods or nonvacant sites identified in prior planning period) shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within three years. The element should clarify if sites were identified in prior planning periods and if so, which sites and include a program if utilizing previously identified sites in the current planning period.

Infrastructure: The element must clarify whether there is sufficient existing or planned water, sewer, and dry utility infrastructure capacity to accommodate the City's RHNA or include programs, if necessary.

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.

Zoning for a Variety of Housing Types:

- *Emergency Shelters*: The element states parking requirements of one per five beds for emergency shelters. Zoning may impose parking requirements on emergency shelters; however, those requirements should only be the number sufficient and necessary for all staff working in the emergency shelter. Parking standards requiring one space per five beds appear inconsistent with statutory requirements. As a result, the element should add or modify programs as appropriate.
 - *Low Barrier Navigation Centers*: Low Barrier Navigation Centers shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65660. The element must demonstrate compliance with this requirement and include programs as appropriate.
 - *Permanent Supportive Housing*: Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and include programs as appropriate.
 - *Single Room Occupancy*: The element should describe zoning that encourages and facilitates single room occupancy or add or modify programs as appropriate.
 - *Accessory Dwelling Units (ADUs)*: The element indicates ADUs are not permitted in mixed use zones (Table 5.2) which appears inconsistent with statutory requirements. As a result, the element should include a description of whether ADUs are permitted in compliance with statutory requirements and include programs if necessary.
5. *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 identifies multifamily parking requirements of two spaces per unit, including garage requirements. The element should specifically evaluate these requirements for impacts on housing cost and supply, particularly for the cost impacts and smaller bedroom types and add programs to address constraint.

Processing and Permit Procedures: While the element includes information about processing times, it should also describe the procedures for a typical single-family and multifamily development. The analysis should address the approval body, the number of public hearing if any, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing, and approval certainty. For example, the element should identify and analyze approval findings for impacts on approval certainty, the presence of processes or guidelines to promote certainty and add or modify programs as appropriate.

On/Off-Site Improvements: The element must identify subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability. 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>.

Building Codes and Enforcement: The element mentions the City has adopted the 2013 Building Code; however, the City should be enforcing the 2019 Building Code. The element should either describe the City utilizes the current Building Code or include a program as appropriate.

Constraints on housing for Persons with Disabilities:

- *Reasonable Accommodation Procedure:* The element briefly mentions the City having a reasonable accommodation procedure but should also describe the procedure and evaluate impacts, including identifying and analyzing findings of approval.
- *Definition of Family:* The element should identify and evaluate any definition of family used in zoning and land use for impacts on housing for persons with disabilities and include programs if necessary.
- *Residential Care Facilities for Seven or More Persons:* The element requires a conditional use permit for group homes for seven or more persons in the MDR, HDR, and Com MU zones, unlike other similar uses (p.100) and appears to exclude the use from residential zones. The element should specifically analyze these constraints for impacts on housing supply and choices, approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.

SB 330 Preliminary Application: The element must clarify compliance with SB 330 (Statutes of 2019) and add or modify programs to establish compliance if necessary.

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures to implement SB 35 (Chapter 366, Statutes of 2017) and add or modify programs to establish a procedure if necessary.

Local Ordinances: The element must specifically analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development.

Zoning, Development Standards and Fees: The element must clarify whether the community complies with new transparency requirements for posting all zoning, development standards and fees or include programs as appropriate.

6. *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. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)

Requests for Lower Density and Approvals Times: The element must analyze (1) requests to develop housing at densities below those identified in the inventory, and (2) the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any hinderances on the construction of a locality's share of the regional housing need and programs should be added or modified as appropriate.

7. *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 indicates a minimal need for farmworkers according to the 2020 Census. However, farmworkers from the broader area and those employed seasonally may have housing needs, including within the City's boundaries. As a result, the element should at least acknowledge the housing needs of permanent and seasonal farmworkers at a county-level (e.g., using USDA county-level farmworker data) and include programs as appropriate.

8. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

The element identified units at-risk of converting to market rate uses within a ten-year period. Many of the expiration dates listed for potential at-risk developments differ from HCD records. The element should reconcile these differences, including revising the element as appropriate.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

Programs must include specific commitment and definitive implementation timelines to demonstrate a “beneficial impact” in the planning period. Table 7.1 includes several programs with 2018, 2019, and 2020 timelines (p. 125). These programs must be revised with discrete timelines to be completed during the planning period (2021-2029). In addition, essentially all programs have timelines or completion dates of “ongoing” or “monitor annually” and should be revised with discrete timelines (e.g., annual (beyond monitoring) or by year) where appropriate. Finally, Program 13 (Infrastructure Availability) commits to “pursue a study to evaluate” impacts on infrastructure, however, the element should include specific commitment to actual outcomes in the planning period.

2. *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 B4, 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 (Promote Lot Consolidation):* The Program should commit to when and what incentives will be established and include a proactive and regular (e.g., annual) marketing component with the development community and property owners.
- *Replacement Housing Requirements:* The housing element must include a program to provide replacement housing. (Gov. Code, § 65583.2, subd. (g)(3).) The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).
- *Sites Identified in Prior Planning Periods:* If necessary, the element must include a program for vacant sites identified in two of more consecutive planning periods’ housing elements or non-vacant 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 zoning that will 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.

3. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

Program 5 (Affordable Housing Incentives): The Program should commit to annual and proactive outreach to the development community. In addition, the Program should consider timing earlier in the planning period than three years.

Program 20 (Persons with Disabilities): The Program could consider similar actions for other special needs group (e.g., seniors, large families, female-headed households and homeless).

State Density Bonus Law: The element should include a program to establish or revise an ordinance in compliance with respect to changes to State Density Bonus Law pursuant to Government Code, section 65915.

4. *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 Findings B5 and B6, 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.

5. *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 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.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units 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).)*

Program 3 (Second Unit Ordinance): The element includes a program to update the City's Accessory Dwelling Unit Ordinance with State law in 2018 and monitoring ADU development (p. 127). However, the Program should commit to a date in the near future (June 2022) for a compliant ADU ordinance. In addition, the element must include a

program that incentivizes or promotes ADU development for very low-, low-, and moderate-income households. Examples include exploring and pursuing funding, modifying development standards, and reducing fees beyond state law, 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).)

HCD understands the draft element was made available for review on October 10, 2021, only a few days before 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 the course of 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.

In addition, the element should also summarize the public comments received 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>.