

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

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December 14, 2021

Carrie Tai, Director
Community Development Department
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

Dear Carrie Tai:

RE: City of Manhattan Beach 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Manhattan Beach's (City) 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 13, 2021 with you, Talyn Mirzakhian, Planning Manager, and Erika Van Sickel and Janet Rodriguez, the City's Consultants.

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 the statutory deadline (October 15, 2021), 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).

Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

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.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the County 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 hard work and cooperation of you, Talyn Mirzakhian and rest of the housing element update team 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 Divya Sen, of our staff, at Divya.Sen@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF MANHATTAN BEACH

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).)*

Integration and Segregation: The element provided some data on integration and segregation. The element must also discuss and analyze this data for trends over time and patterns across census tracts particularly for race and income. Additionally, it must evaluate patterns at a regional basis, comparing the City to the region.

Disparities in Access to Opportunity: The element includes limited local data on access to opportunity, but no regional data and analysis on access to transportation and environmental opportunities. The element should include complete data on disparities in access to opportunity and evaluate patterns at a local and evaluate both local and regional patterns and trends, including impacts on access to opportunity for protected characteristics.

Disproportionate Housing Needs: including Displacement: The element includes some data on cost-burdened households, overcrowding, and substandard housing at a City level but should also include analysis at a regional level for cost-burdened and overcrowded households. In addition, the analysis must address patterns and trends for displacement and homelessness.

Local Data and Knowledge, and Other Relevant Factors: While the element includes local data and knowledge (pp. 28 to 30 and p. 57), it must also 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: The element identifies contributing factors to fair housing issues. In addition, the element should prioritize these factors

to better formulate policies and programs and carry out meaningful actions to affirmatively further fair housing (AFFH).

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. In addition, 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 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 Characteristics: The element identifies the age of the housing stock (p. B-17). However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations.

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 regional housing need allocation (RHNA) of 774 housing units, of which 487 are for lower-income households. To address this need, the element relies on vacant sites and nonvacant. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Sites Inventory: HCD understands some sites identified in the site inventory are City owned. The site inventory must identify which sites are City owned and how the City will be supporting development of these sites. In addition, how the City will comply with the Surplus Land Act Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5. For small sites that are City-owned that need lot-consolidation, the element should describe plans to facilitate lot-consolidation of these sites with privately-owned sites.

Realistic Capacity: The element should analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow 100 percent nonresidential uses (e.g., mixed-use). This analysis should consider the likelihood of 100 percent nonresidential development, performance standards, and development trends supporting residential development.

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 site. While the element includes some analysis to support lot consolidation, the element needs to relate this analysis and the characteristics of selected sites. The element should provide specific examples with the densities, affordability and, if applicable, circumstances leading to consolidation, such as common ownership. 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 lower-income housing need.

Suitability of Nonvacant Sites: While the element identifies factors for nonvacant sites (p. E-3), it must also describe the methodology used to determine the additional development potential within the planning period. This analysis must be included for both the sites with existing zoning and candidate sites for rezoning. For example, the element includes sites identified as a Masonic center, a church site, a country club, but no analysis was provided to demonstrate whether these existing uses would impede development of these sites within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

In addition, specific analysis and actions are necessary because the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households and any candidate sites for rezone. 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.

Accessory Dwelling Units (ADU): The element assumes an ADU buildout of 10 ADUs per year for a potential buildout of 86 units within the planning period. Given that the City has permitted 1 ADU average from 2018-2020, it is not clear if a production level

of 10 ADUs per year will be achievable over the planning period. As a result, the element should be updated to include supporting analysis for potential ADU production. Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability (i.e., Program 1). Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). Finally, if necessary, 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.

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 must identify and analyze all relevant land use controls for impacts as potential constraints on a variety of housing types. The analysis must also evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities and cost and supply of housing. For example, the analysis should address the height limit of 30 feet for all zones (p. 13 – 14). The element should discuss how residential developments can achieve maximum allowable densities with the restrictions and the inability to provide flexibility per the voter initiative, and whether there is a standard of higher heights outside the coastal zone. Furthermore, the element states “parking requirements are most stringent for larger units and least stringent for smaller, more affordable units,” (p. 14) however, multifamily residential (smaller units) still requires 2 spaces per unit. The analysis should analyze parking standards particularly for studio and one-bedroom units. Finally, the element should describe how the local voter initiative allows incentives, concessions, and waivers and modifications to development standards under State Density Bonus Law. The element should include programs to address or remove the identified constraints.

Fees and Exaction: The element must describe all required fees for single family and multifamily housing development, including impact fees, and analyze their impact as potential constraints on housing supply and affordability. For example, the analysis should describe the \$20,000 neighborhood overlay district application. In addition, it is unclear whether Table 9, which provides typical fees reflects of the fees identified in Appendix A.

Local Processing and Permit Procedures: While the element includes voter restriction as part of development standards (p. 12), the analysis should address how this

requirement may constraint the development of housing and how it applies to residential development in commercial ones. The discussion should also discuss any impact on the imposition of the overlay for proposed rezone and any interaction with density bonus law and the waivers, modifications and incentives allowed under the density bonus law.

Local Coastal Program: The element should describe what areas of the City are subject to coastal zone regulations (p. 15). The analysis should address intersections between City coastal preservation policies and the housing element strategy, policies and programs such as any impact on future or existing housing development within the designated coastal zone of the City. Specifically, the impact on the proposed overlay zone and whether Coastal Commission approval would be required.

Design Review: The element states that any new design review would be objective pursuant SB 330, but it does not commit to modify existing standards. The element must describe and analyze the design review guidelines and 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.

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

Constraints on Housing for Persons with Disabilities: The element (Appendix C pp. 7 and 18) currently explains that residential care facilities serving seven or more persons are permitted with in RH Zones (Table 2). However, on page 18 it says residential care facilitates are allowed in the RH, RPD, RSC and CG zones with Conditional Use Permit and in the PS zone with a Use Permit. Residential care facilitates serving six or less are allowed in all residential zones but on Table 2 it says RS, RM, and RH zones. The element must be updated for consistency. The analysis should also address constraints on housing for persons with disabilities or residential care facilitate for seven or more persons, including excluding these uses from several residential zones subject to exception processes (e.g., use permit). The element should include actions as appropriate to remove or mitigate the constraints.

5. *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).)*

While the element quantifies the City's special needs populations (pp. B-20 to B24)., it must also analyze their special housing needs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (availability senior housing units, 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.

B. 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 demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. Programs should be evaluated to ensure meaningful and specific actions and objectives. Programs containing unclear language (e.g., “Evaluate”; “Consider”; “Encourage”; “as needed” etc.) should be amended to include specific and measurable actions. For example:

Program 3 Affordable Housing Streamlining: Describe when the City will evaluate and amend Chapter 10.84 and provide specific commitments to remove governmental constraints relating to discretionary permit procedures.

In addition, programs that should be revised with discrete timelines (e.g., month and year) include: Program 4 (Affordable Senior Housing Preservation), Program 14 (Manufactured Housing), Program 25 (Specialized Housing Types to Assist Persons with Special Needs) and Program 21 (Reasonably Accommodate Housing for Persons with Physical and Developmental Disabilities).

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 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 Accessory Dwelling Unit Program: The element must include specific commitments and actions to incentivize the production of ADU and include specific dates and actions for monitoring the development of ADU per the ADU projection assumptions in the sites inventory.

Program 2 Adequate Sites: The Program should also include a general description of the development standards that will be proposed for the overlay and ensure that standards will be adopted to facilitate development at the maximum densities allowed under the overlay.

Program 13 Lot Consolidation Incentive: Program 13 should provide specific commitments to facilitate lot consolidation and development of housing on small sites identified in the inventory. For example, the program could commit to (1) granting density bonuses above state density bonus law. (Gov. Code, § 65915.); (2) deferring fees specifically for consolidation; (3) expediting permit processing; (4) identifying and targeting specific financial resources; (5) modifying development standards, or (6) requests for proposals or assistance in parcel assemblage on city-owned sites. In addition, the program must identify specific timeframes for the City to implement each action outlined in the program.

Program 22 Housing Replacement: As the element identifies sites with existing residential uses, the Program must commit to replacing these units pursuant to the requirements as set forth in Government Code section 65915, subdivision (c)(3).

Nonvacant Sites Reliance to Accommodate RHNA: As the element relies upon nonvacant sites to accommodate the regional housing need for lower-income households, it should include a program(s) to promote residential development of those sites. The program(s) could commit to provide financial assistance, regulatory concessions, or incentives to encourage and facilitate new, or more intense, residential development on the sites. Examples of incentives include identifying and targeting specific financial resources and reducing appropriate development standards.

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).)*

The element must include a program(s) to assist in the development of housing affordable to low-, very low- and ELI households. Programs must be revised or added to the element to assist in the development of housing for ELI households. Program actions could include prioritizing some funding for housing developments affordable

to ELI households and offering financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, SRO units, to address the identified housing needs for ELI households.

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 Finding(s) A4, 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. In addition, the element should be revised as follows:

Program 15 Multifamily Residential Development Standards and Streamlining in the Mixed- Use (CL, CD, and CNE) Commercial Districts: Provide specific timeframes for the City to implement actions. In addition, it is HCD's understanding that development standards will apply to the overlay zone, the Program should clarify and or commit to development standards that will facilitate the development at the proposed densities.

Program to Mitigate Non-Governmental Constraints: The element must be revised to include a program that mitigates non-governmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category. (Gov. Code, § 65583.2, subd. (c)(3).)

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 A1, the element must include a complete analysis of affirmatively further fair housing AFFH. Based on the outcomes of that analysis, the element must add or modify programs. In addition, Program 11 (Fair/Equal Housing) should include specific commitments to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to AFFH pursuant to Government Code section 8899.50.

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 (p. 5 and Appendix B and F), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element, specifically lower-income households. The element could describe the efforts to advertise and engage lower-income households in workshops and the Home Town faire, circulate the housing element to low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.

In addition, HCD understands the City made the element available to the public after submitting for HCD's review. 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.