

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

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September 1, 2022

Kevin Kearney, City Manager  
City of Bradbury  
600 Winston Avenue  
Bradbury, California 91008

Dear Kevin Kearney:

**RE: City of Bradbury's 6<sup>th</sup> Cycle (2022-2029) Draft Housing Element**

Thank you for submitting the City of Bradbury's (City) draft housing element received for review on June 15, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered public comments from Californians for Homeownership pursuant to Government Code section 65585, subdivision (c). HCD also considered the City's written response to Californian's for Homeownership's public comment.

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 the 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.

The element appears to identify a shortfall of adequate sites to accommodate the regional housing need allocation (RHNA) and appears to include Policy 2 (Multifamily Housing) to address this shortfall. Pursuant to Senate Bill 197 (Chapter 70, Statutes of 2022), as the City did not adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), unless the City's adopted element is found in compliance by October 15, 2022, HCD cannot find the element in compliance until the rezoning is complete.

Kevin Kearney, City Manager  
September 1, 2022

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need technical assistance, please contact Claire Sullivan-Halpern at [Claire.Sullivan-Halpern@hcd.ca.gov](mailto:Claire.Sullivan-Halpern@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## **APPENDIX CITY OF BRADBURY**

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 include an evaluation of the cumulative effectiveness of programs in addressing the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness).

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

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

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element includes some discussion of the number of sites by concentrations of socio-economic characteristics. However, this approach to whether identified sites affirmatively further fair housing does not account for where the sites are located. The analysis should address the number of units by all income groups, and location (e.g., neighborhood, planning area), discuss any isolation of the regional housing need allocation (RHNA) by income group and evaluate the magnitude of the impact on existing concentrations of socio-economic characteristics by area. The analysis should be supported by local data and knowledge and other relevant factors and address overlapping fair housing issues with other components of the assessment of fair housing (e.g., segregation and integration, disparities in access to opportunity).

Local Data and Knowledge: As noted in the element (p. B-4), the City consists of one census tract and one block group which complicates an evaluation of patterns related to fair housing based on state and federal data. For this reason, the element should emphasize using local data and knowledge to supplement the data and mapping, including knowledge of City representatives, neighborhood leaders, on-site workers, care providers and other organizations serving residents, planning documents such as locally adopted ordinances, other elements of the general plan, infrastructure assessments, and mobility assessments to fully describe the impacts on fair housing patterns and trends.

Contributing Factors: The element should re-assess and prioritize contributing factors upon completion of analysis and make revisions as appropriate.

Goals, Actions, Metrics, and Milestones: The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. 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 specific commitments, milestones, geographic targeting, and metrics and given that most of the City is considered a higher-income community, the element should focus on programs that enhance housing mobility and encourage the development of more affordable housing choices in an inclusive manner.

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 (ELI). (Gov. Code, § 65583, subd. (a)(1).)*

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

Extremely Low-Income Households (ELI): The element includes some basic information regarding ELI households such as the number of households and projected housing needs. However, given the unique and disproportionate needs of ELI households, the element must include analysis to better formulate policies and programs. For example, the element should analyze tenure, cost burden, overcrowding and other household characteristics then examine the availability of resources to determine gaps in housing needs. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

Vacancy Rate: The element identifies a vacancy rate of approximately 30 percent A vacancy rate of 30 percent is atypical even in areas with significant seasonal

influences. The element should include analysis of this vacancy rate, including impacts on the availability of the housing stock and add or modify policies and programs as appropriate.

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).)*

Realistic Capacity: The sites inventory includes potential net units; however, it must also provide an analysis of the methodology used to calculate residential capacity. This is particularly important given the element assumes maximum densities on the proposed City Hall site. For example, 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, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

Nonvacant Sites: While the element identifies a nonvacant site to accommodate the regional housing need for lower-income households, it should demonstrate the additional development potential 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).)

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

City-Owned Sites: The element must include discussion of the City-Owned (City Hall) sites identified to accommodate the RHNA. Specifically, the analysis should address any known barriers to development (e.g., lease, parking, parcel shape, relocation of existing uses), plans and actions necessary for leasing the site, anticipated schedule of actions to issue building permits in the planning period and compliance with the Surplus Land Act.

Accessory Dwelling Units (ADU): The element may utilize ADUs toward the RHNA based on factors such as the number of ADUs developed in the prior planning period and any other relevant factors. The element describes the City has permitted approximately One ADU per year since 2014 (none of which has been reported to HCD) and utilizes ADUs in three situations: (1) Privately Owned Hillside Parcels, (2) Vacant Undeveloped Parcels and (3) Developed Parcels. With these situations combined, the element appears to be using 40 ADUs toward the RHNA in the planning period; well in excess of past trends. As a result, the element should either include analysis to support these assumptions, particularly for Privately Owned Hillside Parcels and Vacant Undeveloped Parcels, or rescale assumptions based on past trends. An analysis must address other relevant factors such as ADUs not being available for occupancy and should account for the likelihood of ADUs being built in the planning period given past trends.

Environmental Constraints: While the element includes a general discussion of environmental constraints, it should relate those constraints to identified sites and discuss impacts on development in the planning period. In addition, the element should discuss any other known conditions (e.g., parcel shape, title conditions, easements, litigation) that preclude or impact the financial feasibility of development on identified sites in the planning period.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within 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. For more information on program requirements, please see HCD's Housing Element Sites Inventory Guidebook.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element lists several development standards for emergency shelters (p. IV-13). However, it should also evaluate these development standards as potential constraints, particularly proximity requirements and bed or person limits, and add or modify programs to address identified constraints. In addition, the element should consider application of the affordable housing overlay beyond the City Hall site. Finally, as noted in the element, the City has created an overlay that permits emergency shelters without discretionary action; however, based on communications with the City, the land use map has not been amended. In sum, zoning is not available for an emergency shelter to utilize. Pursuant to Government Code section 65583, subdivision (a)(4), zoning for emergency shelters was required to be available since the first year of the fourth cycle of the housing element (2008). Zoning is

still not available and as a result, HCD cannot find the element into compliance until zoning is complete.

- *By Right Permanent Supportive Housing and Low Barrier Navigation Centers:* The element states the City does not have multifamily or mixed-use zones and therefore is compliant with requirements to permit these uses without discretionary review. However, the City does have zones allowing multifamily uses and as a result should include a program to permit these uses pursuant to Government Code sections 65650 and 65660.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

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: While the element lists various zones, it should also list and evaluate development standards, including parking requirements, for the various zones for impacts on housing supply, cost, approval certainty and ability to achieve maximum densities. In addition, the element should be revised as follows:

- *State Density Bonus Law (SDBL):* The element should include a description of compliance with SDBL pursuant to Government Code section 65915 and add or modify programs as appropriate.
- *Variety of Lot Sizes:* The City is founded on large lot development and indicates much of the City consists of large lots (p. B-84). Further, the element indicates a lack of multifamily development. While the element lists the availability of relatively smaller lots, these smaller lots appear to be a small portion of the City. The lack of a variety of lot sizes can impact housing supply, choices and affordability. As a result, the element should include analysis of the impacts of an apparent predominant large lot land use pattern and include programs as appropriate.
- *SB 35 Streamlined Ministerial Approval Process:* The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of

2017) Streamlined Ministerial Approval Process and add a program to address these requirements.

Housing for Persons with Disabilities: The element briefly describes its reasonable accommodation procedures. However, the element should also describe the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities. In addition, the element describes the family definition and concludes it is not a constraint. However, the definition includes such as a “common housekeeping management plan” and “intentionally structured relationship providing organization and stability” that may act as constraints. The element should analyze these provisions and add or modify programs to address 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).)*

Persons with Disabilities: The element should report and evaluate on the persons with disabilities by type (e.g., ambulatory, hearing). Please see SCAG’s Housing Data for more information.

Farmworkers and Employees: The element notes most of the City is zoned for agricultural use and is comprised of many farms with several employees. The element should also discuss the housing needs for other on-site workers such as housekeepers, grooms and workers associated with equestrian ranches and orchards, including the characteristics (e.g., income, household types) of these housing needs and whether approaches are appropriate.

### **C. Housing Programs**

1. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*



As noted in Finding B3, 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:

- *Policy 2 (Multifamily Housing)*: The element appears to identify a shortfall of sites to accommodate the RHNA. For any program intended to address a shortfall of sites at appropriate densities to accommodate the RHNA for lower-income households, the program must meet all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). In addition, the programs should identify the shortfall, minimum acreage and ensure development standards will be established to facilitate maximum densities.
  - *City-Owned (City Hall) Site*: The element should include a program with numerical objectives that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development of City-Owned sites. Actions should include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance.
  - *Policy 2 (Multifamily Housing)*: The Program commits to conduct a survey of SRO developments but should also commit to take actions within a specified time (e.g., six months) to encourage SRO development if assumptions in the element are not met.
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).)*

The element generally does not address this requirement. The element must include a program(s) with specific actions and timelines to assist in the development of housing for lower-income households, including extremely low-income and special needs households. Programs could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to lower-income, including extremely low-income and special needs households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/assist-in-development-housing.shtml>.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with*

*disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding B4, the element requires a complete analysis of potential governmental 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:

- *Policy 4 (Conditions for Neighborhood Compatibility Review)* should commit to revising findings of approval for the general Architectural Review process in addition to findings for accessory living quarters.
  - *Policy 2 (Zoning Code Provisions for Special Needs)* should commit to go beyond reviewing conditions of approval for residential care facilities for seven or more persons and revise conditions of approval. In addition, the action should commit to allow these uses in all residential zones.
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... (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.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

Policy 3 (ADU): AS noted in Finding B3, the element does not include a complete analysis of the realistic capacity for ADUs in the planning period. Based on the outcomes of a complete analysis, Policy 3 may warrant revision. In addition, based on a cursory review, the City's ADU ordinance may necessitate revision to comply with ADU law (Gov. Code, § 65852.2.). As a result, Policy 3 should commit to amend the ordinance early in the planning period (e.g., by June 2023). Finally, Policy 3 commits to conduct a survey to monitor ADU developments trends every other year but should also commit to take actions within a specified time (e.g., six months) if assumptions in the element are not met.

#### **D. Quantified Objectives**

*Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)*

While the element included some quantifiable conservation and rehabilitation objectives for above moderate-income households, it should also include objectives for lower-income households, including extremely low-income.

#### **E. General Plan Consistency**

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

While the element describes how general plan consistency will be maintained in the future, it should also demonstrate how internal consistency was achieved as part of this housing element update. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/analysis-consistency-general-plan.shtml>.

#### **F. 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)(9).)*

The element describes the City held a few workshops, made the document available to the public and received a few comments about the City's unique characteristics. However, the element must make a diligent effort to achieve public participation; beyond a workshop and making the document available. Moving forward, the City should employ additional methods for public outreach, particularly to include lower-income and special needs households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households. The City could also make a specific effort to reach the many on-site workers described in the element. Future versions should continue to summarize comments and revise the element as appropriate in response to comments.