

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

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January 24, 2020

Brian Schoenfisch, Program Manager
Community Planning and Implementation
Planning Department
City of San Diego
9485 Aero Drive
San Diego, CA 92117

Dear Brian Schoenfisch:

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

Thank you for submitting the City of San Diego's draft Housing Element received for review on November 25, 2019. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with state Housing Element law (Article 10.6 of the Government Code). In addition, please be aware several necessary revisions reflect changes to Housing Element law and other housing related laws since the prior planning period. The enclosed Appendix describes the revisions needed to comply with state Housing Element law.

To remain on an eight-year planning cycle, the City of San Diego must adopt its Housing Element within 120 calendar days from the statutory due date of April 15, 2021 for SANDAG localities. If adopted after this date, Gov. Code section 65588, subd. (e)(4) requires the Housing Element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on Housing Element adoption requirements, please visit HCD's website at:
http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.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 of San Diego 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 program; SB 2 Planning Grants as well as ongoing SB 2 funding (Permanent Local Housing Allocation) consider Housing Element compliance and/or annual reporting requirements pursuant to Gov. Code section 65400. With a compliant Housing Element, City of San Diego will meet Housing Element requirements for these funding sources.

HCD appreciates the city's Housing Element team for their dedication and cooperation throughout this process. Specifically, we appreciate the hard work Brian Schoenfisch, Program Manager, Vickie White, Senior Planner, Leslie Keaveney, Senior Planner, and Elizabeth Dickson, Associate Planner provided during the course of our review. We are committed to assisting the city in addressing all statutory requirements of Housing Element law. If you have any questions or need additional technical assistance, please contact Sohab Mehmood, of our staff, at (916) 263-1968.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" being more prominent than the last name "West".

Shannan West
Land Use & Planning Manager

Enclosure

APPENDIX City of San Diego

The following changes would bring the City of San Diego'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. (65588 (a) and (b).)

The review requirement is one of the most important features of the element update and generally consists of a review of progress in implementation, evaluation of the effectiveness of programs and discussion of the appropriateness of revising, adding or deleting future programs. While the element (Appendix F) reports on the progress in implementation of many programs, it must also evaluate effectiveness and adjust future programs accordingly.

B. Housing Needs, Resources, and Constraints

1. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

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

The element includes analysis and documentation of population and household characteristics. However, the element must include additional analysis to address statutory requirements, as follows:

- *Overpayment (level of payment compared to ability to pay):* The element must identify and analyze the total number of owner households overpaying for housing and the total number of lower-income renter households overpaying.
- *Overcrowded Households:* The element must identify and analyze overcrowded households by tenure (i.e., renter and owners).
- *Extremely Low-income Households:* The element should quantify and evaluate the needs of extremely low-income households.

- *Housing Stock Conditions*: The element (Table A-29 and A-30 in appendix B) includes descriptions of the housing stock such as age, and the number of units lacking plumbing. However, this analysis must also estimate the number of units that need rehabilitation and replacement and may include area-based or needs-based factors to better guide policies and programs.
 - *Regional Housing Need Allocation*: The City of San Diego has a **draft** regional housing need allocation (RHNA) of 107,901 housing units, of which 44,821 housing units are for lower-income households. Until the final RHNA is adopted by the council of regional government (COG), the city's 6th cycle Housing Element cannot be found in substantial compliance.
2. *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).)*

To demonstrate the adequacy of sites and strategies to accommodate the city's RHNA, the element must address the following:

Sites Identified in Prior Planning Periods: The element described that the city is utilizing nonvacant sites that were identified in the last planning period and vacant sites identified in the last two planning periods (page D-6). Nonvacant sites identified in the last planning period and vacant sites identified in the last two planning period are ineligible to accommodate the 6th cycle RHNA for lower-income households unless specific programs are added to meet statutory requirements. To address this requirement, the inventory could identify which sites are being used to accommodate the housing needs of lower-income households and denote whether sites were identified in the past planning period (nonvacant) or past two planning period (vacant). See Section C1 for additional information regarding program requirements.

Sites Inventory: Affordability of Sites – The element must indicate the anticipated affordability level (lower-income, moderate, and above-moderate) of the units for each site identified in the sites inventory (Gov. Code, § 65583.2, subd. (c).). While the sites inventory in appendix D does identify which sites will accommodate the city's lower-income RHNA, it needs to show which sites accommodate the city's moderate and above moderate RHNA.

Community Plan Areas: The capacity calculations proposed in the sites inventory for the Kearney Mesa and Clairemont Mesa areas are based on pending community plan updates that will be increasing residential uses and densities. The element should include additional information on whether the zoning will be included as part of the update and the timeline for adopting those community plan updates. Please note, to accept these capacity calculations, the community plan updates need to be adopted by the beginning of the 6th cycle planning period or utilize existing allowable uses, densities and development standards.

Zoning for Lower-Income Households: The element must identify zoning appropriate to accommodate housing for lower-income households. The element may use zones meeting default densities (i.e., 30 units per acre in San Diego) without analysis or include analysis when utilizing zones not meeting default densities. Given the element appears to utilize 29 units per acre, an analysis must be included. Consult HCD for additional information on the required analysis.

Suitability of Non-Vacant Sites: The element must include a methodology to determine additional development potential on nonvacant sites, considering several statutory factors such as the extent to which existing uses may impede additional development. In addition, since the element relies on nonvacant sites to accommodate fifty percent or more of the housing need for lower-income households, it must address additional factors to demonstrate existing uses do not impede additional development in the planning period such as findings based on substantial evidence that the use is likely to be discontinued during the planning period (Government Code Section 65583.2(g) (1-2)). While the element identifies existing land-use for each site and includes some information about potential for redevelopment such as past trends, the element must include additional factors with supporting analysis and relate those factors to the inventory to demonstrate existing uses do not impede additional development. HCD will consult with the city to address these detailed statutory requirements.

Large and Small Sites: Sites larger than ten acres in size or smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. While the element includes some information of using large and small sites to accommodate a portion of the city's lower-income housing need (Table HE-D-9, page D-14), it must provide additional data and analysis as evidence these sites can adequately accommodate the city's lower-income housing need. For example, the analysis of small sites should include additional information regarding recent development such as overall development trends (e.g., proportion of total development on small sites), zoning, allowable density and a nexus to sites identified in the inventory.

Nonresidential Uses: The element includes sites zoned for nonresidential uses, e.g. commercial and sites in mixed-use zones. The element must describe how the estimated number of residential units for each site was determined. The estimate may rely on established minimum density standards or include analysis demonstrating how the number of units for each site was determined (Section 65583.2(c)). In addition, 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 and 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 and Availability of Infrastructure: The element must demonstrate sufficient existing or planned water, sewer, and other dry utility's supply capacity to accommodate the city's regional housing need. (Gov. Code, § 65583.2, subd. (b).). While, the element describes and sufficiently analyzes access to planned and existing water facilities, it does not discuss whether the city has sewer capacity to meet future housing needs. This section should be revised to discuss sewer capacity in relation to the identified sites and the city's regional housing needs.

Affirmatively Furthering Fair Housing: Several new requirements take effect January 1, 2021 to affirmatively further fair housing in Housing Elements. These requirements are intended for most 6th cycle Housing Elements, including the City of San Diego. Given the early timing of this submittal and pending guidance, the city should consult with HCD to address statutory requirements. For example, while the element attaches the regional analysis of impediments to fair housing choice, this document, by itself, is insufficient to address all pending statutory requirements such as identifying sites throughout San Diego to affirmatively further fair housing. HCD looks forward to addressing these requirements in consultation with the city.

Emergency Shelters and Transitional and Supportive Housing: The element identifies the IS-1-1 zone to accommodate emergency shelters by-right. However, the element should also include an analysis of the zone, capacity, suitability, appropriateness and proximity to services. In addition, the element must demonstrate transitional and supportive housing must be permitted as a residential use in all zones and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The element must demonstrate consistency with these statutory requirements and include a program, as appropriate. For more information, see <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/SB2-Memo050708.pdf>

Employee Housing: The element needs to adequately demonstrate that it addresses and can accommodate different types of housing needs. The element should include information on whether the city complies with Health and Safety Code Sections 17021.5 and 17021.6. Section 17021.5 requires that employee housing for six or fewer persons to be treated as a single-family structure and residential use. Section 17021.6 requires that employee housing consisting of no more than 36 beds in group quarters (or 12 units or less) designed for use by a single family or household to be treated as an agricultural use and allowed in the same manner as other agricultural uses are allowed in that zone.

3. *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 the city has a few zones that have additional development and land-use standards for certain areas in the city (page C-10, appendix C). For example, it states that the Community Plan Implementation Overlay Zone (CPIOZ) includes supplemental development regulations and the Coast Height Limit Overlay Zone (CHLOZ) and Clairemont Mesa Height Limit Overlay Zone (CMHLOZ) have height limits. In addition to supplemental development regulations and height limits, the element includes information on additional regulations for airport compatibility (page C-11). The element should describe and analyze these requirements as potential constraints, including available mitigations and evaluate and correct impacts on capacity calculations for the sites identified in these zones.

Fees and Exaction: The element includes a general description about the different fee categories required for a proposed housing development (page C-15-16). However, the element must describe the different fee categories and analyze potential constraints to development. For example, it should include a general cost associated with each fee category, and the proportion of fees to the overall development cost per multifamily and single-family by square foot. The element could also describe and analyze the fees required by the different communities throughout the city. It should also include a complete list of all fees typically required for a new project.

Local Processing and Permit Procedures: The element includes a list of the different types of permit processes and procedures for a proposed development (Table C-2, page C-13); however a requisite analysis should include a complete description of the each permit process, and timeframes and costs for each process listed or to obtain a specific permit. The element should also include whether the city imposes any design or architectural review requirements, the timeframe, and required findings for those reviews. Lastly, the element should include a description on how the city processes SB35 applications. Each of the areas noted above should be further described and analyzed for their impact as a potential constraint on development.

Local Ordinances: The element states that the city does has an inclusionary housing ordinance. The element should specifically analyze any other locally adopted ordinances such as short-term rental ordinances that directly impact the cost and supply of residential development.

On/Off-Site Improvements: The element must identify and analyze any on/off-site improvement requirements such as streets, sidewalks, water and sewer, drainage, curbs and gutters, street signs, park dedications, utility easements, and landscaping, 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>.

Codes and Enforcement: The element must describe which building code the city is enforcing and if there were any local amendments to the building code. 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>.

Constraints on Housing for Persons with Disabilities: The Housing Element must analyze potential governmental constraints to the development, improvement, and maintenance of housing for people with disabilities, demonstrate local efforts to remove any such constraints, and provide for reasonable accommodations for persons with disabilities through programs that remove constraints. To complete this analysis, the element should:

- Identify and analyze the city's definition of family.
- Describe the city's reasonable accommodation procedure or ordinance.
- Describe whether the city is compliant with Health and Safety Code Sections 1267.8, 1566.3, 1568.08 which require local governments to treat licensed group homes and residential care facilities with six or fewer residents no different than other residential uses.
- Describe if the city has any siting (e.g., concentration) requirements for group homes.

For additional information on this analysis, see the Building Blocks at <https://www.hcd.ca.gov/community-development/building-blocks/constraints/constraints-for-people-with-disabilities.shtml>

4. *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 Gov. 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).)*

Developed Densities and Permit Times: The element must be revised to include analysis of requests to develop housing at densities below those anticipated, and the length of time between receiving approval for a housing development and submittal of an application for building permits.

Availability of Financing and Cost of Land: The element should analyze nongovernmental constraints, specifically the availability of financing, the cost of land, and cost of construction. To complete this analysis the city should:

- Estimate the average cost of land or the range of costs per acre for single-family and multifamily-zoned developable parcels.
- Generally, estimate typical total construction costs, including materials and labor.
- Consider whether housing financing, including private financing and government assistance programs, is available in the community.

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 generally quantifies special-needs populations, it does not describe the unique needs of each special-needs group or resources currently available in San Diego to meet those needs. The element should be revised to include a quantification and analysis of persons with disabilities, including persons with developmental disabilities, elderly, large households, farmworkers, and female headed households. The element should add or revise programs as appropriate based on the outcomes of the analysis.

6. *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)(8) through 65583(a)(9)(D).*

While the element includes data on properties with expiring affordability restrictions within the next 10 years of the planning period, it must identify the number of senior units (if any) on the property, describe the methodology for determining the assessment of risk for properties to convert to market rate, and a list of qualified entities and potential funding sources. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/assisted-housing-developments.shtml> and for more information on identifying units at-risk, see the California Housing Partnership Corporation at <http://www.chpc.net>.

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).)*

To address the program requirements of Gov. Code section 65583, subd. (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the city's specific role in implementation; (2) definitive implementation timelines; (3) quantified objectives where appropriate; and (4) identification of responsible agencies and officials. Many of the programs in the element did not include a definitive timeframe for when the program will be implemented and thus the element should be revised to

include timeframes for all the identified programs. Additionally, the program section of the element included “programs” and “proposed activities.” This section should be revised to clearly distinguish between programs and proposed activities.

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 B-2, 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 may need to include the following programs:

Sites Identified in Prior Planning Periods: The element stated that the sites inventory includes vacant sites identified in one of more prior planning periods (Appendix D). If necessary, the element must include a program to ensure these sites, among other things, 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 (Gov. Code, § 65583.2, subd. (c).).

Low Barrier Navigation Centers: The element should describe the city’s procedure for complying with Government Code sections 65660, 65664, and 65666, requiring jurisdictions to allow low barrier navigation centers by right in zones allowing mixed use and nonresidential zones permitting multifamily uses if it meets specified requirements. If the city does not have procedure to comply, it should include a program in the element committing to complying with Gov. Code, § 65660, 65664, and 65666.

Supportive Housing: AB 2162 (Chapter 753, statutes of 2018) requires that supportive housing be considered a use by right in all zones where multifamily and mixed uses are permitted including nonresidential zones permitting multifamily uses. It also requires that a local government approve, within a statutory timeline, a supportive housing project that complies with specified criteria. The element should include a program committing to reviewing and revising its processes to comply with this law.

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 Gov. Code section. 65915, subdivision (c)(3). The Housing Element must be revised to include such analysis and a program, if necessary.

F. Consistency with General Plan

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).)

The General Plan is required to be “internally consistent.” As part of the Housing Element update, the city should review the General Plan to ensure internal consistency has been achieved and how it will be maintained.

For your information, some General Plan element updates are triggered by Housing Element adoption. For example, a jurisdiction must address environmental justice in its General Plan by the adoption of an environmental justice element, or by the integration of environmental justice goals, policies, and objectives into other General Plan elements upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018. (Gov. Code, § 65302, subd. (h).) In addition, the safety and conservation elements of the General Plan must include analysis and policies regarding fire and flood hazard management and be revised upon each Housing Element revision. (Gov. Code, § 65302, subd. (g).) Also, the land-use element must identify and analyze disadvantaged communities (unincorporated island or fringe communities within spheres of influence areas or isolated long established legacy communities) on, or before, the Housing Element’s adoption due date. (Gov. Code, § 65302.10, subd. (b).) HCD reminds the City of San Diego 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.

G. Coastal Zone Localities

Coastal localities shall document the number of low- and moderate-income units converted or demolished, and the number of replacement units provided. (Gov. Code, § 65588, subd. (d).)

The element does not meet the statutory requirements. To determine whether the city's affordable housing stock in the coastal zone is being protected and provided as required by Gov. Code section 65588, the element must be revised to include the following:

1. The number of new housing units approved for construction within the coastal zone since January 1982.
2. The number of housing units for persons and families of low- and moderate-income required to be provided in new housing developments either within the coastal zone or within three miles.
3. The number of existing residential dwelling units occupied by low- and moderate-income households required either within the coastal zone or three miles of the coastal zone that have been authorized to be demolished or converted since January 1982.
4. The number of residential dwelling units for low- and moderate-income households that have been required for replacement.