

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



September 30, 2021

Othon Mora, Director
Community Development Department
City of Imperial
400 South Imperial Avenue, Suite 101
Imperial, CA 92251

Dear Othon Mora:

RE: Review of the City of Imperial's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Imperial's (City) draft housing element received for review on August 4, 2021 along with revisions received on September 16, 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 telephone conversation on August 17, 2021, with Patrick Zabrocki, Project Planner.

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.

The City's statutory deadline to adopt a housing element is October 15, 2021. For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of this statutory deadline, then any rezoning to accommodate the regional housing needs allocation, including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant

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

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

HCD appreciates the hard work, dedication, and collaboration Patrick Zabrocki, Contract Planner, provided 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 Jose Ayala, of our staff, at Jose.Ayala@hcd.ca.gov.

Sincerely,

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

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF IMPERIAL

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

The element generally does not address this requirement. The housing element, among other things, must include outreach; an assessment of fair housing; identification and prioritization of contributing factors to fair housing issues; goals and actions sufficient to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity. Additionally, the element should discuss how identified sites AFFH. For further guidance, including HCD's AFFH Data Viewer, please visit AFFH in California webpage at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

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: Of all vacancies, approximately 81 percent are categorized as “other”. This figure is significantly disproportionate to the rest of the region (28 percent) and as a result the element should include analysis 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).)*

Large Sites: Sites larger than ten acres in size are deemed inadequate to accommodate housing for lower-income households unless analysis demonstrates the suitability of the sites for the development of housing affordable to lower-income households. The element describes the approximately 19-acre site as part of the Morningstar subdivision, but it does not analyze the suitability of the site. For example, typical developments utilizing state funding consist of approximately 50 to 150 units, yet the 19-acre site is anticipated for 440 units. To address this requirement, the element could discuss opportunities for phasing or lot splits to facilitate developments comparable to the typical state funded development. For additional information, see HCD’s Sites Inventory Guidebook at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

Site Map: The element does not include a map of available sites. The element must provide a map of sites listed in the inventory.

Electronic Site Inventory: 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> 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.

Sites with Zoning for a Variety of Housing Types:

- *Emergency Shelters*: The element indicates (Table 11) emergency shelters are permitted in the C2 zone, but it should also clearly identify which zones permit emergency shelters without discretionary action. For your information, the element cannot be found in compliance unless zoning is available to permit emergency shelters without discretionary action. If a zone is already available, the element should discuss available acreage in the zone, including typical parcel sizes and the presence of reuse opportunities, proximity of capacity to transportation and services and any conditions inappropriate for human habitability. In addition, the element should describe how emergency shelter parking requirements comply with AB 139 (Chapter 335, Statutes of 2019) or include a program as appropriate.
 - *Transitional and Supportive Housing*: 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 indicates (Table 11) transitional and supportive housing is only permitted like other residential uses if occupied by six or fewer persons. However, these uses should be permitted as residential uses regardless of occupancy. The element must demonstrate consistency with these statutory requirements and include a program, as appropriate.
 - *Low Barrier Navigation Centers*: Low Barrier Navigation Centers shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65660. The element must demonstrate compliance with this requirement and include programs as appropriate.
 - *Accessory Dwelling Units (ADU)*: The element states the City's Zoning Ordinance currently defines accessory dwelling units as "guest dwellings" or "accessory living quarters with no kitchen". This is not consistent with the definition in Government Code section 65852.2 (ADU law). Furthermore, the City must allow for ADUs in all zones allowing residential uses, not just residential zones, as noted in the element. The element must describe whether the City complies with current ADU law and include a program as appropriate to comply with law.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land-use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Local Processing and Permit Procedures: While the element provides a general description of the processing and permit procedures, it should describe and analyze approval findings for impacts on cost, timing, supply, and approval certainty.

Constraints on Housing for Persons with Disabilities: The element must include an analysis of potential constraints on housing for persons with disabilities. Specifically, the City must have a written procedure to provide reasonable accommodation in zoning and land use.

The element should either describe compliance with this requirement or include a program to establish a written procedure early in the planning period (e.g., one year). This is particularly critical given the enactment of these requirements since 2002 and importance of this procedure in addressing barriers to housing for persons with disabilities.

On/Off-site Improvements: While the element provides a general description of site improvements, it should also identify the actual standards and analyze their impact as potential constraints on housing supply, cost, and affordability.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1, subdivision (a)(1).

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

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)*

Approval Time and Requests for Lesser Densities: The element must include analysis of requests to develop housing at densities below those identified, the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially. The element must address any hinderance on the development of housing and include programs as appropriate.

6. *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 Developmental Disabilities: While the element provides general information regarding persons with disabilities, it must also identify and analyze persons with developmental disabilities in the jurisdiction and include programs as appropriate. HCD will send additional data under separate cover.

Elderly Households: To better formulate policies and programs, the element should analyze tenure (i.e., owners and renters) rates for elderly households.

Persons Experiencing Homelessness: The element currently uses 2010 Census data and states the region wide 2019 Point-in-Time count does include the number of homeless individuals in the jurisdiction. However, the element must include a local and current estimate of the number of persons experiencing homelessness. For more information, please see the Building Blocks at <https://www.hcd.ca.gov/community-development/building-blocks/housing-needs/people-experiencing-homelessness.shtml>.

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

The element states there are no assisted housing developments at-risk of conversion to market rate uses until 2032. However, HCD records show Imperial Villas may opt out of affordability terms in 2029. Therefore, the City should reconcile this information, and if necessary, provide analysis of at-risk units and add or modify programs as appropriate. For more information, please see HCD Building Blocks for housing elements at <https://www.hcd.ca.gov/community-development/building-blocks/housing-needs/assisted-housing-developments.shtml>.

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 have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines, objectives, and specific commitments, including:

- Programs to be revised with a discrete timeline include Program 1 (Residential Sites Inventory), Program 2 (Residential Sites Monitoring Program) and Program 12 (Special Needs Populations).
- Programs to be revised with specific commitment include Program 2 (Residential Sites Monitoring Program), Program 7 (Zoning Ordinance), Program 9 (Expedited Project Review), Program 10 (Flexibility in Development Standards) and Program 15 (Supportive and Transitional Housing Program).
- Programs to be revised with specific objectives include Program 3 (Affordable Housing Development), Program 4 (Lot Consolidation), Program 6 (ADU Fee Waiver Program), Program 9 (Expedited Project Review), Program 12 (Housing for Special Needs Populations) and Program 16 (Alternative Housing).

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 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.

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 programs to assist in the development of housing for lower- and moderate-income households, including special needs households. Specifically, programs should be added or modified to address the needs of farmworkers and persons with developmental disabilities. For example, the element could commit to proactive actions to coordinate with non-profit developers, employers or service providers, and other related organizations, to explore funding and incentives and to identify specific development opportunities.

4. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings B4 and B5, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City must revise or add programs and address and remove or mitigate any identified constraints. In addition, as noted on page 42, the element must have specific action to address heights for multifamily uses and the Planning Commission approval of maximum densities as potential constraints. While the element includes Program 10 (Flexibility in Development Standards), this program must go beyond "consider" with specific commitment to revise heights and should be revised with an additional action to address the Planning Commission approval regarding maximum densities.

5. *Promote AFFH opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry,*

national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)

As noted in Finding B1, the element does not include a complete assessment of fair housing. Depending on a complete analysis, the element must add or revise programs as appropriate.

6. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

As noted in Finding B7, the element may require analysis of units at-risk of converting to market rate uses. If applicable, the element may need to add or modify programs.

D. Public Participation

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

HCD understands the City held public workshops to solicit input for the housing element; however, the element must describe how input was incorporated into the draft housing element. Further, the element should describe additional methods for public outreach efforts in the future, particularly for include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts.

In addition, the element does not clearly describe when the element was made available for public comment. For your information, by not providing an opportunity for the public to review and comment on a draft of the element sufficiently in advance of submission, the City will not have yet made a diligent effort to encourage the public participation in the development of the element and the lack of availability reduces HCD's consideration of 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 revisions to 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.