

**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



November 16, 2021

Luis Garibay, Director
Economic and Community Development Department
City of Palmdale
38250 Sierra Highway
Palmdale, CA 93550

Dear Luis Garibay:

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

Thank you for submitting the City of Palmdale's (City) draft housing element received for review on September 17, 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 meeting on November 10, 2021 with Brenda Magaña, Senior Planner, Megan Taggart, Planning Manager, and Consultants: Simran Malhotra, Melissa Stark, and Veronica Tam.

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.

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).

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 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.

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 Reid Miller, of our staff, at Reid.Miller@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF PALMDALE

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 evaluate the effectiveness of prior programs and appropriately adjust goals, objectives, policies, and programs. To meet this requirement, a thorough program-by-program analysis is needed, including an indication of what programs activities from the previous housing element are incorporated into the 6th cycle update. For example, Programs 4 (Small Lot Consolidation Program) and 5 (Large Site Development Program) were largely ineffective in the last housing element cycle but are continued, without change, into the new draft element. This analysis is particularly important given the fact that the City only produced 857 housing units in the last RHNA Cycle from an expected 3,272, and only 161 units for lower-income residents.

In addition, as part of the review of programs in the past cycle, the element must provide an evaluation of the cumulative effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness).

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).)*

Sites Inventory: The element discusses the proposed number of sites and units relative to income, but it must also address other components of the assessment of fair housing (e.g., R/ECAP, Access to Opportunity, Disproportionate Housing Need, including Displacement). The accompanying analysis should also address how the sites are identified to improve conditions (or if sites exacerbate conditions, how a

program can mitigate the impact) and whether the sites are isolated by income group.

Additionally, the City should provide a map of the proposed sites in the sites inventory to evaluate whether the sites (and particularly the sites reserved for lower income residents) are distributed throughout the City or are concentrated in certain areas. For example, Table D-8 seems to show that over 80 percent of the sites for lower-income are in areas where at least 50 percent or more households are lower-income, but this is difficult to properly analyze without a map of proposed sites.

Regional Patterns and Trends: The element generally describes local patterns and trends but must also analyze Palmdale relative to the rest of the region regarding integration and segregation, disparities in access to opportunity, particularly relating to access to educational opportunities, and disproportionate housing needs and displacement risks.

Local Data and Knowledge: While the City does note that a lack of adequate funding and resources for outreach to gather local data and knowledge presents a problem, State law still requires that all housing elements incorporate local data and knowledge of the jurisdiction into the Affirmatively Furthering Fair Housing (AFFH) section. To assist in meeting this requirement, the element should provide local data not captured in regional, state, or federal data analysis. In addition, as noted in the element, the City has recently undertaken a comprehensive general plan amendment. The element should describe that process and whether the City considered its obligation to AFFH per Government Code section 8899.50, subdivision (b) when determining areas for new growth. This is particularly important because, as noted in the element on Page D-23, the areas to be rezoned for high density residential and accommodate the RHNA for lower-income seem to be areas of high segregation and poverty.

Other Relevant Factors: The City notes that housing choice vouchers can show patterns of concentration and integration. It also states that much of the housing choice vouchers are concentrated in the downtown area, and in the areas east and west of downtown. There is an additional note that even with these vouchers, many of the households who apply for them are still cost-burdened. The City should provide further analysis on how they plan to counteract these patterns in the AFFH analysis, or in the Housing Programs section.

Contributing Factors to Fair Housing Issues: The element must identify and prioritize contributing factors to fair housing issues. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. Examples include community opposition to affordable housing, housing discrimination, land use and zoning laws, lack of regional cooperation, location and type or lack of affordable housing and lack of public or private investment in areas of opportunity or affordable housing choices. For example, the City appears to be identifying a large portion of its lower-income RHNA in the RN3 zone; the City should provide analysis as to whether these sites are located in areas of high segregation and/or poverty, and whether the necessary land

use element update and accompanying zoning will improve or exacerbate these conditions. The City may also include further analysis to ensure that opportunities exist in higher resource areas for multifamily housing.

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. For example, Program 6 is highlighted in Table 42 to work with developers to overcome patterns of segregation, but Program 6 only commits to a land bank as funding becomes available and does not provide any alternative mechanisms to work with developers to build housing in other parts of the City. Based on the outcomes of a complete analysis, the element must be revised to add or modify goals and actions. 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. For further information about AFFH requirements, please refer to HCD's https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf#page=7.

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).)*

The City has a RHNA of 6,640 housing units, of which 2,712 are for lower-income households. To address this need, the element relies on vacant sites, including sites in Specific Plan Areas, Mixed-Use Overlay area, and the to be created Residential Neighborhood 3 (RN3) designation, which will have an allowable density range of 20-30 dwelling units per acre. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

"Pipeline" Projects: The element identifies a number of units in the pipeline per planned development and specific plan communities on page 56 of the element. However, it is unclear if actual projects have been proposed for these areas, or if the capacity credited is based on the anticipated build out of these areas. If projects have yet to be proposed in these areas, the element should include them in the sites inventory rather than credit them toward the RHNA, and include information related to any phasing or other development requirements that could impact buildout in the planning period. If they are approved projects, the element should state whether the units are expected to be built in the planning period.

Sites Inventory: The sites inventory lists sites by assessor parcel number, parcel size, minimum density, maximum density, income level, and minimum number of units, but it should also list each site's proposed general plan designation. The

element must also include a map of the City indicating where each site in the inventory is located as required by Government Code section 65583.2, subdivision (b)(7). As a note, the information on Table 38 on page 55 and Table 41 on page 58 should be reviewed to ensure they accurately reflect the available sites and capacity in Appendix B.

Electronic Site Inventory: For your information, 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.

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 sites are suitable to accommodate housing for lower-income households. In addition, page 57 states that all sites to accommodate the lower income will require rezoning to the Residential Neighborhood 3 and includes Program 1 (Adequate Sites for RHNA and Monitoring of No Net Loss). However, in order for rezoned sites to accommodate the lower-income RHNA, they must accommodate at least 16 units. The City should provide analysis on efforts to consolidate these lots and, based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small sites. Alternatively, as the City seems to have adequate sites to accommodate their lower income RHNA without these small sites, they might consider allocated these smaller sites into the moderate income RHNA category.

Infrastructure: The element must demonstrate sufficient existing or planned water, sewer, and dry utilities capacity to accommodate the RHNA in the planning period. Particularly, the City notes on page 43 of the element that the Antelope Valley Groundwater Basin is in overdraft, and that may affect the City's water supply. The City should provide analysis as to whether this situation will affect the sites in the inventory and the overall ability of the City to meet its RHNA goals. If it is found that the overdraft and water shortages will affect the sites inventory and curtail the City's ability to achieve its RHNA, the element must include programs to address this constraint. 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#environmental>.

In addition, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The element must demonstrate compliance with these requirements or include a program as appropriate.

Accessory Dwelling Units (ADUs): The element projects that it will produce 160 ADUs in the planning period, 109 of which will be for lower income. However, the City's Annual Progress Reports (APR) submitted to HCD show no permitted ADUs. The City must provide analysis demonstrating how 160 ADUs in the planning period is reasonable based on past production, or alternatively, if the City's APRs are incorrect, it could modify the submitted APR to reflect production numbers more aligned to the projected amount of 20 units per year in the planning period. In addition, HCD would like to remind the City of HCD's June 29, 2021 letter outlining necessary revisions to the City's ADU ordinance. HCD understands that the City is working on revisions and looks forward to receiving the amended ordinance in the first quarter of 2022.

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 must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. Specifically, the City should describe when the land use element update and accompanying zoning will go into effect, and if development standards are available.

Zoning and Fee Transparency: The City must address whether it has complied with new transparency laws requiring all zoning and development standards to be posted on the City's website (Gov. Code, § 65940.1 (a)(1)(B)). It should also provide evidence that it complies with new transparency laws requiring all fees and inclusionary requirements to be posted on the City's website (Gov. Code, § 65940.1 (a)(1)(A)).

Streamlining Provisions: The element should clarify whether the City has procedures consistent with streamlining procedures pursuant to Government Code section 65913.4 and include programs as appropriate.

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 processing and allowance of group homes for seven or more persons does not appear to be addressed. The element should evaluate these requirements as constraints and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

“Partners Against Crime” Program: In Program 19, the City states that it will continue to implement “Partners Against Crime”. This program could be potentially problematic for a number of reasons, and the City should provide further analysis on whether this program could constitute a constraint on providing housing for all income levels throughout the community. Such analysis should address:

- how the program is enforced or implemented; what entity is charged with implementation and enforcement (e.g., police, code enforcement);
 - whether the program applies to both renters and homeowners;
 - whether the program is enforced against federally subsidized properties, or against housing that serves specific populations (e.g., people re-entering from contact with the criminal legal system or housing serving people with mental health or developmental disabilities);
 - whether the program requires or encourages property owners to conduct a criminal background check; and
 - what conduct is covered by the policy, and what locations of alleged criminal activity the ordinance covers (e.g., on the premises or off premises)
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 Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality’s planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

Approval Time and Requests 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.

5. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next ten 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 identifies several properties at risk of conversion to market-rate during the planning period (p. 28-29). While the element includes much of the required analysis, it must also fully assess the risk of each property converting to market rate during the planning period and identify qualified entities (e.g., public, and private

nonprofit corporations) that have legal and managerial capacity to acquire and manage these properties.

C. Housing Programs

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

Programs must 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. All programs must be evaluated to include discrete timing (e.g., month, year), as appropriate to account when the action will be completed to ensure a beneficial impact throughout the planning period.

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

As noted in Finding B2, 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:

The element should reconcile the timing for Programs 1 (Adequate sites for RHNA and Monitoring of No Net Loss), and 2 (By-Right Approval of Projects with 20 Percent Affordable Units). These programs are critical to demonstrating adequate sites. Based on the programs as described, the new general plan land use designation and by-right approval processing for certain affordable projects will be completed in 2022, but the accompanying zoning code updates including development standards will not be completed until October of 2024. The element

should describe how the City will process by-right applications under the new land use designation on sites identified to accommodate the RHNA for lower-income while the underlying zoning standards are inconsistent with the general plan. As the City is aware, pursuant to Government Code section 65860, subdivision (c), in the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended. In addition, the element should provide specific timeframes for the implementation of these programs (e.g., month and year) to demonstrate a beneficial impact within the planning period.

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 Findings B3 and B4, 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.

4. *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).)*

While the element includes Program 7 (Affordable Housing Development) to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable to extremely low-income (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, single-room occupancy (SRO) units, to address the identified housing needs for ELI households.

5. *Promote and Affirmatively Furthering Fair Housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. While the element includes Program 7 (Affordable Housing Development) and Program 20 (Fair Housing Services), goals and actions must create meaningful

impact to overcome contributing factors to fair housing issues and actions must have specific metrics and milestones. Each of the identified actions in Table 42 should include specific commitment and timeframes. In addition, Program 20 (Fair Housing services) should also describe how all the City's housing programs comply with and further the requirements and goals of Government Code section 8899.50, subdivision (b).

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).)

The element must include quantified objectives to establish an estimate of housing units by income category, including extremely low-income households, that can be constructed, rehabilitated, and conserved over the planning period. The City provides numbers for the expected conservation and preservation of units on page 77 of the element, but must also estimate the number of units that will be rehabilitated.

E. 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 as part of the general plan update, it must also demonstrate diligent efforts were made to involve all economic segments of the community specifically related to the development of the housing element. While the City made effort to include the public through workshops and surveys in the development of the general plan, moving forward, the City should employ additional methods for public outreach efforts in subsequent drafts of the housing element, particularly including lower-income and special needs households and neighborhoods with higher concentrations of lower-income and special needs households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income and special needs households in future public outreach efforts. The element should also describe when the draft was made available to the public for review, the efforts to circulate the housing element among 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. HCD encourages the City to consider these comments. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.