

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

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June 25, 2021

Cathreen Richards, Director
Planning Department
County of Inyo
168 N. Edwards Street
Independence, CA 93526

Dear Cathreen Richards:

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

Thank you for submitting the County of Inyo's (County) draft housing element received for review on April 28, 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 with you on June 17, 2021.

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 these, and other revisions needed to comply with State Housing Element Law.

As a reminder, the County's 6th cycle housing element was due April 30, 2021. As of today, the County has not completed the housing element process for the 6th cycle. The County's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the County to make revisions to the element as described herein, adopt, and submit to HCD to regain housing element compliance.

To remain on an eight-year planning cycle, the County must adopt its housing element within 120 calendar days from the statutory due date of April 30, 2021. If adopted after this date, Government Code section 65588, subdivision (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 County 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.

For your information, pursuant to Government Code section 65583.3, the County must submit an electronic sites inventory with its adopted housing element. The County 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#> for a copy of the form and instructions. The County can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

For your information, some general plan element updates are triggered by housing element adoption. 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.

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 County will meet housing element requirements for these and other funding sources.

HCD appreciates your diligent efforts provided during the course of our review. We are committed to assisting the County in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Shawn Danino, of our staff, at Shawn.Danino@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" being more prominent than the last name "West".

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX COUNTY OF INYO

The following changes are necessary to bring the County'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 Revise

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 reviews the 5th cycle programs but does not provide a specific review for programs regarding the effectiveness of the 5th cycle programs for meeting the community's special housing needs. An analysis must be provided for the cumulative impact of the previous housing element's programs to address the housing needs of special needs populations. The element should specifically evaluate programs targeted for special needs populations and provide a narrative analysis.

B. Housing Needs, Resources, and Constraints

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).)*

Age and condition of the housing stock: The element identifies the age of the housing stock (page 15) and include American Community Survey data on lack of complete kitchen and plumbing facilities. However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

2. *Affirmatively furthering 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).)*

The element has some basic information on opportunity areas and concentrated areas of poverty. However, the element generally does not address this requirement. The element, among other things, must include outreach, an assessment of fair housing, identification and prioritization of contributing factors to fair housing issues and goals and actions sufficient to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity. For more information, please contact HCD and visit <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

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).)*

Site Listing: While the element lists sites by parcel number, parcel size, zoning, general plan designation and capacity on each site, it must also identify the anticipated affordability level (e.g., lower, moderate, above moderate) of the units on the identified sites.

Realistic Capacity: The element must include an estimate of the number of units that can be accommodated on each site in the inventory. While the element includes an assumption of realistic capacity, it should also include an analysis accounting for land-use controls and site improvement requirements and typical densities of existing or approved residential developments at a similar affordability level.

In addition, the element assumes residential development on sites zoned for non-residential uses. To support this assumption, the element must include analysis to demonstrate the likelihood of residential uses on non-residentially zoned sites based on factors such as development trends including non-residential, performance standards requiring residential uses or other relevant factors such as enhanced policies and programs.

Suitability and Availability of Infrastructure: The element describes infrastructure limitations (page 53) in the County. However, it must also demonstrate sufficient total water and sewer capacity to accommodate the regional housing need by community plan area.

For your information, 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 should clarify consistency with these requirements and include programs as appropriate. For additional information and sample cover memo, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

Affirmatively Furthering Fair Housing: The element identifies and includes some analysis of the location and assumed affordability on identified sites relative to opportunity areas. However, the analysis should also address other fair housing issue areas such as households by income, overpayment, overcrowding and displacement risk and conclude whether the identified sites improve or exacerbate each of the fair housing issue areas. For more information, please contact HCD and visit <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

Zoning for a Variety of Housing Types (Emergency Shelters): The element describes the zones in which emergency shelters are permitted, acreage and proximity to services. However, the element must also list and analyze development standards for emergency shelters. For example, parking requirements may be inconsistent with new state law and should be addressed as constraints. The element must include programs as appropriate based on the outcomes of the analysis.

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).)*

Fees and Exactions: The element must describe all required fees for single family and multifamily housing development, including impact fees, and analyze their impact as potential constraints on housing supply and affordability. For example, the element lists typical planning fees for single family and multifamily development but should include all fees, including impact fees and analyze the cumulative amount relative to total development costs. For additional information and a sample analysis and tables, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/fees-and-exactions.shtml>.

Processing and Permit Procedures: The element must describe the typical approval process for single family and multifamily development. The description should address what approvals are necessary, who approves the application, whether and how many public hearings are required and list approval findings. The element should then analyze the process for impacts on approval certainty, cost, timing, and housing supply.

In addition, the element indicates multifamily development is subject to a conditional use permit (CUP). A CUP requirement for a permitted use is a constraint on development that impacts approval certainty, timing, and costs. The element should identify the requirement as a constraint and include specific commitment to address the constraint early in the planning period.

Building Codes and Code Enforcement: While the element mentions the County follows the uniform building code, it should also clarify which building code is utilized,

any local amendments and how codes are enforced and analyze impacts on the cost, affordability and supply of housing. 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>.

Persons with Disabilities: The element briefly describes its reasonable accommodation procedures but should further explain its reasonable accommodation criteria, including approval findings and process and analyze any family definition as a potential constraint. The element must include programs, as appropriate, to address any identified constraints depending on the outcomes of this analysis.

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.

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. 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 that potentially hinder the construction of a locality's share of the regional housing need.

C. 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 includes quantified objectives estimating the number of housing units by income category that can be constructed and rehabilitated over the planning period. However, the element should also include conservation objectives. For example, the element could use anticipated numerical outcomes from Programs 1.3.1 (Energy Efficiency), 3.4.1 and 3.4.2 (Manufactured and Mobile Homes) or 3.5.2 (Section 8 Housing Choice Vouchers).

D. 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).)*

On-going Programs: Numerous programs indicate an “ongoing” implementation status. While this may be appropriate for some programs, programs with quantified objectives or specific implementation actions must include completion dates resulting in beneficial impacts within the planning period. Programs needing revision include 3.1.1 (Land Release), 3.1.2 (Accessory Dwelling Units), 3.1.5 (Partnerships for Affordable Development), 3.2.1 (Encourage Higher Density), 3.2.3 (Higher Density in Commercial Zones), and 5.3.1 (Infrastructure). For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/program-overview.shtml>.

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 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 County 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:

Infrastructure: While Program 5.3.1 commits to exploring and researching ways to facilitate the provision of infrastructure to accommodate residential development, the program should commit to specific steps with discrete timelines beyond exploration to result in beneficial impact. For example, the program could commit to coordinate with special districts on an annual basis, apply for funding or support applications for funding on an annual basis.

County Owned Sites: If utilizing County owned sites toward housing needs, the element should commit to steps and timing to facilitate development such as coordination with developers, soliciting proposals for development, assisting with funding and facilitating appropriate zoning.

By-Right Permanent Supportive Housing: Pursuant to Government Code section 65651, the County must include a program to commit to amend zoning to permit permanent supportive housing by right.

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).)*

Extremely Low-Income Households: While the element includes programs to assist in the development of housing for lower-income households, it must also include a program(s) to assist in the development of housing affordable 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. 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>.

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 non-governmental constraints. Depending upon the results of that analysis, the County may need to revise or add programs and address and remove or mitigate any identified constraints. In addition:

Multifamily CUPs: The element indicates that multifamily housing developments over fifteen units are subject to CUP in the R-3 zoning district that allows the highest residential densities (page 44). The element must include a program to address this constraint.

5. *The housing element shall include programs to conserve and improve the condition of the existing affordable housing stock. (Gov. Code, § 65583, subd. (c)(4).)*

As noted in Finding B1, the element must estimate the number of units in need of rehabilitation and replacement. Depending upon the results of that analysis, the County may need to revise or add programs and address this need.

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

As noted in Finding B2, the element must include a complete analysis of affirmatively furthering fair housing. Based on the outcomes of that analysis, the element must add or modify programs as appropriate.

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 (Appendix A), the County must describe how and when the draft was made available (i.e., where was it posted) in addition to how comments were considered and incorporated into the element.