

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

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July 27, 2022

Heidi Kunstal, Director  
Community Development Department  
County of Del Norte  
981 H Street, Suite 110  
Crescent City, CA 95531

Dear Heidi Kunstal:

**RE: Review of the County of Del Norte's 6<sup>th</sup> Cycle (2022-2030) Draft Housing Element**

Thank you for submitting the County of Del Norte's (County) draft housing element received for review on April 28, 2022, along with revisions received on July 13, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by conversations on June 22 and 28, 2022 with yourself and consultants Ryan Lester, Jim Harnish, Vanessa Blodgett, and Michelle Nielsen.

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.

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 (September 15, 2022), 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). Please be aware, if the County fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed.

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. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the County meets 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 County to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the hard work and dedication of yourself, and consultants Ryan Lester, Jim Harnish, Vanessa Blodgett, and Michelle Nielsen during the course of our review. We are committed to assist the County in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Colin Cross, of our staff, at [Colin.Cross@hcd.ca.gov](mailto:Colin.Cross@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul McDougall', with a stylized flourish at the end.

Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX COUNTY OF DEL NORTE

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. 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).)*

Enforcement: While the element includes an overall summary of enforcement and states that there were no discrimination cases in 2020, it should describe and analyze any discrimination cases in the past few years prior to 2020.

Racial/Ethnic Areas of Concentration of Poverty and Concentrated Areas of Affluence (R/ECAP): While the element describes areas of high segregation and poverty, it should also analyze those areas in relation to fair housing issues.

Disparities in Access to Opportunity: While the element states that access to education for persons of protected characteristics is a constraint, it should add an analysis and programs as needed to address the identified constraint.

Disproportionate Housing Needs including Displacement: While the element analyzes displacement based on market pressure, it should analyze displacement due to disaster (e.g., fire, flood, and earthquake). In addition, the element describes the issue of vacation rentals in relation to displacement, but it should analyze whether it is a County-wide issue or whether vacation rentals create displacement risk in certain areas of the County. The element must also include a local and regional analysis for homelessness.

Sites Analysis: While the element includes statements of where sites are located in relation to the fair housing analysis, the element must clarify whether the location and affordability level of sites improve or exacerbate conditions for each fair housing issue. In addition, the element must include an analysis of racially concentrated areas of affluence in relation to the identified sites. The element states that sites are not concentrated in areas with high cost burden or overcrowding, but it should also address whether not identifying housing sites in those areas will exacerbate the identified issues. Lastly, the fair

housing sites analysis should include an analysis on displacement, substandard housing, and homelessness.

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. While the element includes some metrics and milestones in Table 65 of contributing factors, it must tie the table to Program HE-EE (Affirmatively Further Fair Housing). In addition, the programs must include specific commitment to affirmatively further fair housing as well as proactive outreach. Many programs that are identified as affirmatively furthering fair housing (AFFH) do not include specific commitments to actions beyond exploring, engaging, and encouraging.

2. *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).)*

Housing Stock Condition: The element identifies the age of the housing stock. However, it should also include an estimate of the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from the code enforcement agency or information from knowledgeable builders/developers, including nonprofit housing developers or organizations.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Realistic Capacity: The element identifies sites to meet the lower-income regional housing needs allocation (RHNA) in commercial zones. However, the element must provide more support for its capacity assumptions in these zones. The estimate must account for land use controls such as allowing 100 percent nonresidential uses. The element should demonstrate what specific trends, factors, and other evidence led to the assumptions. 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. While the element includes Program HE-R to allow multifamily by-right in the C-2, C-3, and C-4 zones if at least 20 percent of the units are affordable to lower income households, multifamily housing still requires a use permit if the development does not include 20 percent or more assisted units. The element identified the discretionary permit process as a potential constraint. The element should analyze whether this requirement is a barrier to the County's low-income RHNA strategy and add or revise a program to address the constraint. In addition, the element must include a zoning density for each site listed in Table 40 and describe what the realistic capacities are based on for those sites. The element must also address what the realistic capacities and affordability levels are based on when zoning and general plan densities differ.

Zoning for Lower-Income Households: While the element includes sites 5 and 6 with units assumed to be affordable to lower-income households, the sites inventory lists densities lower than the default density standard identified in the element. The element must include additional analysis to support affordability assumptions for the sites with densities below 15 dwelling units per acre.

Suitability of Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households, it only provides general descriptions of the existing use. The element must describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

Availability of Infrastructure: While the element includes some description of the lack of infrastructure (sites 6, 9, 14, 18, 19, and 21), it must demonstrate sufficient existing or planned water, sewer, and other dry utility's supply capacity to accommodate the County's regional housing need. (Gov. Code, § 65583.2, subd. (b).) The element should also identify infrastructure capacity by community area or service district relative to identified sites. However, for sites identified for housing for above moderate-income households not served by public sewer systems, the required information need not be listed on a parcel-by-parcel basis. While the element discusses the potential extension of water and sewer services on some sites, it must demonstrate that the services could be available during the planning period.

Environmental Constraints: Many sites in the inventory note a potential environmental constraint. While the element addresses some of the environmental constraints such as setbacks from creeks, it must address how identified constraints impact development on identified sites.

Large Sites: Sites larger than 10 acres in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower income housing (Gov. Code, § 65583.2, subd. (c)(2)(A).). For example, a site with a proposed and approved housing development that contains units affordable to lower income households would be an appropriate site to accommodate housing for lower-income households. (Gov. Code, § 65583.2, subd. (c)(2)(C).).

Zoning for a Variety of Housing Types (Emergency Shelters): While the element lists the performance and development standards, it states that the length of stay is not more than six days. In addition, the capacity of emergency shelters is limited to 12 beds. Both of these requirements should be analyzed as a constraint and must be addressed in a program. Lastly, the element states that emergency shelters are allowed in the Emergency Shelter Combining District, but the process requires a rezone and discretionary approval. The element cannot be found in compliance until a zone is available to allow emergency shelters by-right in compliance with Government Code, § 65583, subd. (a)(4).

4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: While the element includes a description of the conditional use permit (CUP) findings, it must analyze their potential impact on development approval certainty, timing, and cost. The element must demonstrate this process is not a constraint or it must include a program to address and remove or mitigate the CUP requirement. In addition, while the element clarified what determines lot coverage maximums for the R-3 zone, it should analyze whether developments subject to the 35 percent maximum when water and sewer are not in place can meet assumed densities in the inventory.

Local Processing and Permit Procedures: While the element lists the findings for the approval of a use permit which is required for multifamily developments in all commercial zones, it should clarify the County's intent for streamlined review. Program S (Development Streamlining (SB 35)) describes a streamlined review process in zones where multifamily uses are allowed by-right, but this does not apply to multifamily developments in commercial zones that include less than 20 percent of the development for developments with units affordable to lower-income households. The element should evaluate these provisions and include programs, as appropriate.

Constraints on Housing for Persons with Disabilities: Residential care facilities for six or fewer persons must be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. While Program HE-Q includes an action to allow residential care facilities for six or fewer residents by-right in all residential zones, it states that the County is currently in compliance. The element must clarify whether they are currently in compliance or whether the action is needed to comply with requirements for residential care facilities with six or fewer residents. In addition, the element states that residential care facilities for seven or more residents are only permitted in multifamily and commercial residential zones by conditional use permit. The element must analyze these constraints for impacts on housing supply and approval certainty for persons with disabilities and add a program to review and revise procedural requirements to permit group homes for seven or more persons in all zones allowing residential uses based on objective criteria to facilitate approval certainty.

## **B. 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 Government Code section 65583, subd. (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the County's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- *Program HE-I (Facilitation of Lower Income and Special Needs Housing):* The element must revise the program to clarify whether the actions listed are already in place, or whether they need to be implemented and include a specific timeframe for implementation. In addition, actions b and c should include specific timing for implementation.
  - *Program HE-N (Accessory Dwelling Unit Constraints):* The program should address timing of when the constraints will be removed (e.g., within 6 months of identification).
  - *Program HE-O (ADU Development):* The program should be revised to implement action f every two years if objectives and metrics are not being met.
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 A3, 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:

Program A (Available Sites Inventory): While this program mentions sites that were identified in previous housing elements, the program does not meet all of the requirements. If nonvacant sites identified in a prior adopted housing element or vacant sites identified in two or more consecutive planning periods, the sites are inadequate to accommodate housing for lower-income households unless:

- The site's current zoning is appropriate for the development of housing affordable to lower-income households by either including analysis or meeting the appropriate density. See Government Code section 65583.2, subdivision (c)(3), and
- The site is subject to a housing element program that requires rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households (Gov. Code, § 65583.2, subd. (c).).

Program R (Amend General Plan Text for Commercial Residential Density): While the element includes a reference to Government Code Section 65583.2(h) and (i), the program must commit to:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower income households. By-right means local government review must not require a conditional use permit, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 16 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
  - allow 100 percent residential use, and
  - require residential use occupy 50 percent of the total floor area of a mixed-use project.

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 Government Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

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



*housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding A4, the element requires a complete analysis of potential 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.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element requires a complete analysis of AFFH. Depending upon the results of that analysis, the County may need to revise or add programs and address and remove or mitigate any identified fair housing issues.