

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

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June 15, 2021

Elaine Kabala, Associate Planner
Planning Department
City of Bishop
377 West Line Street
Bishop, CA 93614

Dear Elaine Kabala:

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

Thank you for submitting the City of Bishop's (City) draft housing element received for review on April 16, 2021, along with revisions received on June 9, 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 June 4, 2021, with you and Sandra Bauer of Bauer Planning & Environmental Services, Inc.

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 April 30, 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.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of April 30, 2021 for Inyo County localities. 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.

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 and dedication of you and consultant Sandra Bauer during the course of our 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 Colin Cross, of our staff, at colin.cross@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 BISHOP

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. 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)).*

While the element contains some basic information on fair housing issues, it 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. HCD will provide samples and other resources under separate cover. For more information, please contact HCD and visit <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.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. (Gov. Code, § 65583, subd. (a)(1).)*

The element quantifies and analyzes the existing housing needs of extremely low-income (ELI) households but must also still quantify projected ELI housing needs. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of very low-income households qualify as ELI households.

3. *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).)*

While the element describes the age of the housing stock, it must also include analysis of the condition of the existing housing stock, including an estimate of 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.

4. *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).)*

General: The element identifies sites with various characteristics such as smaller (less than a half-acre) or larger (greater than 10 acres), non-vacant, zoned for non-residential uses and potential for accessory dwelling units. In its review, HCD did not utilize these sites toward demonstrating adequate sites to accommodate the regional housing need. If utilizing any of these sites, the element will require specific analysis pursuant to statutory requirements.

Sites Inventory: The sites inventory must identify for each site the number of units to be accommodated for each income category. Currently, with the incorporated revisions, the element addresses this requirement in the aggregate; however, it is required to show the number of units by income category for each site in the inventory.

Realistic Capacity: The element mentions a recent project built at approximately 24 units per acre and then appears to assume densities near maximum allowable densities in the sites inventory (Table 32). However, the estimate of the number of units for each site must account *for* land use controls and site improvements, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

Environmental Constraints: The element does not address this requirement. The element must describe any known environmental constraints that could impact housing development in the planning period.

Map of Sites: The element did not address this requirement. The element must include a general map of identified sites.

Affirmatively Furthering Fair Housing: The element must demonstrate the sites inventory affirmatively furthers fair housing. For more information, see HCD's guidance at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

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

Sites with Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element describes the emergency shelter combining district permits emergency shelters by right but should still clarify whether shelters are permitted without discretionary action. In addition, the element must evaluate the available acreage for characteristics like parcel size or potential redevelopment or reuse opportunities, proximity to services and describe development standards. The analysis must also address the appropriateness of other uses in the relevant zones for human habitation and whether parking requirements are limited to staff working in the emergency shelters and do not require more parking than other residential or commercial uses in the zone. The element must include programs as appropriate based on the outcomes of this analysis.
 - *Permanent Supportive Housing and Low Barrier Navigation Centers:* Permanent supportive housing and low barrier navigation centers shall be uses by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code sections 65651 and 65662. The element must demonstrate compliance with this requirement and include programs as appropriate.
 - *Employee Housing:* The element should also address whether the City's zoning adheres to Health and Safety Code sections 17021.5 and 17021.6, the Employee Housing Act. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone. The element must either demonstrate consistency with these requirements or include programs to amend zoning as appropriate. The element must demonstrate compliance with this requirement and include programs as appropriate.
5. *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).)*

While the element describes processing times, it must evaluate the processing and permit procedures' impacts as potential constraints on supply, cost, timing, and approval certainty. For example, the analysis should consider processing and

approval procedures and time for typical single- and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures.

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).)*

The element must include an estimate of the number of persons experiencing homelessness in Bishop. Currently, the element only provides numbers for the Alpine/Inyo/Mono Counties Continuum of Care as a whole. Additionally, the element must provide analysis regarding the special housing needs of the City's elderly population.

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).)*

Certain programs should be updated to provide clear commitment to outcomes beyond current language (e.g., seek, explore, facilitate success, work to establish) These include Programs 1.1 (City of Los Angeles Surplus Lands), 1.2 (Showcase Mixed Use Potential), 2.4 (Mobile Home Park Rehabilitation and Resident Ownership Program), 2.5 (Public Education), and 4.5 (Reconcile Lease Terms).

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 A4, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning was 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, if relying on nonvacant (one planning period) or vacant sites (two planning periods) identified in previous planning period(s) to accommodate the housing need of lower income households, the element must include a program. The program must rezone 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.

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 with proactive and specific efforts to assist in the development of housing for extremely low-income households and households with special needs, persons experiencing homelessness; farmworkers; persons with disabilities, including developmental; and elderly. Efforts should involve proactive and regular outreach to developers of affordable housing and should utilize incentives and financial and other resources. This requirement could potentially be addressed by expanding on the existing Program 3.1 (Pursue Grant Funding).

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 Finding A5, 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, to address and remove or mitigate any identified constraints.

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).)*

The element must include a program(s) to conserve and improve the condition of the existing stock, which may include addressing the loss of dwelling units. A program could provide grants for substantial rehabilitation, provide matching grants for homeowner improvements, or implement proactive code enforcement program.

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 A1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs.

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).)

Include quantified objectives estimating the number of housing units by income category, including extremely low-income households, that can be constructed, rehabilitated, and conserved over a five-year time period. This requirement could be addressed by utilizing a matrix like the one illustrated below:

Income	New Construction	Rehabilitation	Conservation/ Preservation
Extremely Low-			
Very Low-			
Low-			
Moderate-			
Above Moderate-			
TOTAL			

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).)

While the element describes various methods of public participation, it should also consider potential language access barriers in future efforts. In addition, HCD understands the City did not make the element available to the public prior to submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission to HCD, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of 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 making revisions to the document where appropriate.

HCD's future review will consider the extent to which the revised element documents were circulated and 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.