

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

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December 10, 2021

Alicia Velasco, Planning Director
Department of Community Development
Planning Division
City of Cypress
5275 Orange Avenue
Cypress, CA 90630

Dear Alicia Velasco:

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

Thank you for submitting the City of Cypress's (City) draft housing element received for review on October 12, 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 conversation on December 8, 2021 with you; Veronica Tam, Lead Consultant; and Laura Vander Neut, Staff Consultant. In addition, HCD considered comments from George Pardon pursuant to Government Code section 65585, subdivision (c).

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 (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 Mashal Ayobi of our staff, at Mashal.Ayobi@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 CITY OF CYPRESS

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))*

Patterns and Trends: The draft element reports data regarding the patterns of various socio-economic characteristics across all components of the required analysis (e.g., segregation and integration, access to opportunity, displacement). However, the element should also generally analyze the various socio-economic characteristics. An analysis should address patterns at the local and regional levels and trends in patterns over time. The element must also analyze regional patterns and trends for each category and subcategory of analysis. A regional analysis should compare conditions at the local level to the rest of the region, for example at the level of the County, Council of Governments, or other subregional geography.

Disparities in Access to Opportunity: The element is missing analysis on regional disparities in access to opportunity through local, federal, and/or state data. The element refers to Opportunity Maps to identify resource levels across the state without providing additional analysis. However, the element must include analysis to address this requirement. A complete analysis should address educational, economic, transportation, and environmental scores at the regional levels and describe any factors that are unique to Cypress.

Sites Inventory: The element provides information regarding the proportion of sites by income group according to various concentrations of socio-economic characteristics. In addition, the element should address the number of units by income group, magnitude of impact on local patterns, any isolation of the regional housing needs allocation (RHNA) by income group and address the placement of the sites such as concentrations of sites in key areas and corridors. This is critical because both Alternative 1 and 2 concentrate the lower-income need into two specific planning areas and Table B-2 show sites are located in area of high concentration of minority populations.

Contributing Factors: The element identifies many contributing factors to fair housing issues. In addition, the element should consider prioritizing these factors to better formulate policies and programs and carry out meaningful actions to affirmatively further fair housing (AFFH).

Goals, Priorities, Metrics, and Milestones: While the element provides some analysis and identifies contributing factors to fair housing issues in Cypress, it does not include sufficient actions to overcome patterns of segregation and foster inclusive communities. As a result, programs must be added and modified as appropriate to sufficiently respond to contributing factors to fair housing issues based upon a complete analysis. Goals and actions must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, 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.

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 3,936 housing units, of which 1,807 are for lower-income households. To address this need, the element relies on nonvacant sites in either the Cypress Town Center and Commons (CTCC) or Lincoln Specific Plan, pending voter approval. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Using Density to Credit Projects in the Pipeline: The element credits 48 market rate units and 50 units affordable to moderate income households' units from the Citrus Square Senior Community toward the regional housing need. The element should describe what remaining entitlements are needed for the property and when approvals are expected.

Realistic Capacity: The element appears to assume residential development on sites with zoning that allows 100 percent nonresidential uses, but to support this assumption, the element must analyze the likelihood of residential development in zoning where 100 percent nonresidential uses are allowed. The analysis should be based on factors such as development trends including nonresidential, performance standards requiring residential uses or other relevant factors such as enhanced policies and programs.

Nonvacant Sites: The element must demonstrate the potential for redevelopment of nonvacant sites. To address this requirement, the element mentions feasibility of development was determined by a high-level analysis and consideration of public input on p. 65, but the assumptions are not supported. The analysis should consider factors including the extent to which existing uses may constitute an impediment to additional

residential development, the City's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. For example, the element could consider indicators such as age and condition of the existing structure, presence of expiring leases, expressed developer interest, low improvement to land value ratio, and other factors. The element should describe and support (through development trends) the thresholds used to identify sites for redevelopment.

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Large Sites: The element identifies a site with MAP ID #127 which is 11.63 acres. Sites larger than ten 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)).

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. This is especially important for determining sites that have been utilized in multiple planning periods and are subject to by-right provisions. 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.

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).)*

Parking: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should address enclosed garage parking requirements for multifamily development for impacts on cost,

supply, housing choice and affordability and include programs to address identified constraints.

Local Processing and Permit Procedures: While the element describes the general permit procedure on p. 48, it must describe and analyze the City's permit processing and approval procedures by zone and housing type). For example, the analysis should consider processing and approval procedures and time for typical single- and multi-family developments, including type of permit, level of review, approval findings and any discretionary approval procedures evaluate the processing and permit procedures' impacts as potential constraints on approval certainty and transparency.

Design Review: The element must describe and analyze the design review guidelines and process on p. 48, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. For example, the analysis could describe thresholds for projects that require design review, required findings and discuss whether objective standards and guidelines improve development certainty and mitigate cost impacts.

Constraints on Housing for Persons with Disabilities: On p. 39, the element states large residential care facilities (Serving 7 or more) are conditionally permitted in the City's multi-family zones. It must describe and analyze how residential care facilities serving seven or more persons are approved including any approval findings. The element should analyze the process for potential constraints on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes for seven or more persons objectively with approval certainty.

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

At-Risk Analysis: While page 24 of the element discusses preservation options, the units identified as at-risk within a ten-year period must include a complete analysis. Missing from the element is the following. (Gov. Code, § 65583, subd. (a)(9).):

- Identification of public and private nonprofit corporations known to the City to have the legal and managerial capacity to acquire and manage at-risk units.
- Identification and consideration of use of federal, state and local financing and subsidy programs.

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).)

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. The element must provide quantified objectives where appropriate and all programs should be evaluated to ensure provision of discrete timing (e.g., month and year) to account for how often the action will occur as well as to ensure a beneficial impact throughout the planning period.

Programs containing unclear commitment (e.g., “Continue to facilitate”; “Explore”; “Consider”; “Encourage”; etc.) should be amended to include more specific and measurable actions and how the city will achieve them. Examples include, but are not limited to, Program 6 (Affordable Housing Assistance) and Program 7 (Accessory Dwelling Units).

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 A2, 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:

Rezoning Plan: Pursuant to Government Code 65583.2, subdivisions (h) & (i), Program 10 (Residential and Mixed-Use Sites Inventory), which rezones sites in the CTCC to accommodate the City’s RHNA, is subject to voter approval and therefore the program must detail any necessary steps, timing for completion of those steps and alternative measures with dates if milestones are not met. Please be aware, if voter approval is required and subsequently rejected, the housing element may no longer comply with state law.

Additionally, because the zoning is not yet in place, for sites accommodating lower incomes, the rezone program must include all the provisions of Government Code Section 65583.2 (h) and (i) as follows:

- 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 (CUP), planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 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.

Housing Replacement: On p. 66 of the Technical Background Report, the element states there are 5 identified sites that contain single family residences. 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 Gov. 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 A3, the element requires a complete analysis of potential 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. *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 analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis. 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 specific commitment, 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.

In addition, the element should include a program committing to implement Government Code section 8899.50(b) which requires the City to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to AFFH.

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

The element identifies 121 affordable units at-risk of conversion to market rate. The element must include a program that addresses preserving at-risk units and specifying actions to monitor at-risk units, including contacting property owners within at least one year of the affordability expiration dates on projects. The program for preserving at-risk units should include noticing requirements within 3 years and 6 months of the affordability expiration dates, in addition to coordinating with qualified entities such as nonprofit organizations and establish specific time parameters around such actions.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

The element is required to include a program that incentivizes or promotes accessory dwelling unit (ADU) development for very low-, low-, and moderate-income households. The element should go beyond “will research other potential tools to encourage ADU development” and commit to specific actions that will encourage and incentivize ADU production.

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 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 includes a general summary of the public participation process (p. HOU-3), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element should be revised to discuss outreach to lower-income and special needs groups during the public participation efforts, efforts to circulate the housing element among extremely low- low- and moderate-income, and special needs households and organizations that represent them, involve such groups and persons in the element throughout the process, participation in community workshops, and if translation services were provided. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.