

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

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September 8, 2021

Aaron Palmer, City Manager  
City of Live Oak  
9955 Live Oak Blvd  
Live Oak, CA 95953

Dear Aaron Palmer:

**RE: Review of the City of Live Oak's 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element**

Thank you for submitting the City of Live Oak's (City) draft housing element received for review on August 16, 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. This review was expedited to assist the City in maintaining its current eight-year planning period pursuant to Government Code Section 65585. Further, the City did not make diligent efforts to achieve public participation as required by statute. Given the shortened period to provide comments, HCD may consider any public comment in future reviews regardless of the contents of this review 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.

As a reminder, the City's 6<sup>th</sup> cycle housing element was due May 15, 2021. As of today, the City has not completed the housing element process for the 6<sup>th</sup> cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described in this review, 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 May 15, 2021 for Sacramento Area Council of Governments (SACOG) 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](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. 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](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and  
[http://opr.ca.gov/docs/Final\\_6.26.15.pdf](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 Irvin Saldana, of our staff, at [Irvin.Saldana@hcd.ca.gov](mailto:Irvin.Saldana@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" written in a larger, more prominent script than the last name "West".

Shannan West  
Land Use & Planning Unit Chief

Enclosure

## APPENDIX CITY OF LIVE OAK

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

### **A. Review and Revision**

*Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)*

The element must discuss the cumulative effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers, and persons experiencing homelessness). Programs should be revised as appropriate to reflect the results of this evaluation.

### **B. Housing Needs, Resources, and Constraints**

1. *Affirmatively further[ing] fair housing (AFFH) 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 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/affh/index.shtml>.

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).)*

**Parcel Listing:** The element lists parcels by various factors such as size and zoning. However, the listing must also include sites by general plan designation, number of units per site and anticipated affordability.

**Realistic Capacity:** The element must include an estimate of the number of units that can be accommodated on each site in the inventory. The estimate may rely on established minimum density standards or include analysis demonstrating how the number of units for each site was determined. (Gov. Code, § 65583.2, subd. (c).) The estimate of the number of units for each site must be adjusted as necessary, based on the land-use controls and site improvements, 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. Assumptions should be supported with information that provides complete project listings, zones, allowable densities, achieved densities, and clarify any density bonuses issued.

In addition, the element appears to assume residential development on sites with zoning that allows 100 percent nonresidential uses. If so, the element must account for the likelihood of nonresidential uses. The element should include analysis based on factors such as development trends, performance standards or other relevant factors. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly.

For more information, see the HCD's Housing Element Sites Inventory Guidebook at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

**Large/Small Sites:** The element seems to identify several sites that are larger than ten acres and smaller than a half-acre (Appendix A). These sites are not eligible absent a demonstration that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of housing units as projected for the site or unless other evidence is provided. For example, the element could describe the City's past experience in facilitating small-lot consolidation or large-lot subdivision. The element should include policies and programs that encourage and facilitate the development of large and small sites as appropriate.

**Previously Identified Nonvacant and Vacant Sites:** If nonvacant sites were identified in a prior adopted housing element or vacant sites were identified in two or more consecutive planning periods, the sites are inadequate to accommodate housing for lower-income households unless: 1) 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 and (2) 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).)

Zoning for Lower-Income Households: The element must demonstrate densities appropriate to accommodate housing for lower-income households. For communities with densities that meet specific standards (at least 20 units per acre for Live Oaks), no analysis is required. (Gov. Code, § 65583.2, subd. (c)(3).) Otherwise, an analysis must demonstrate appropriate densities based on factors such as market demand, financial feasibility, and development experience within identified zones.

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov).

Affirmatively Furthering Fair Housing (AFFH): The element does not address this requirement. The element must identify and analyze sites throughout the community to foster inclusive communities and AFFH. For example, the analysis should address whether the identified sites improve or exacerbate each of the fair housing issue areas. For more information, See HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Zoning for a Variety of Housing Types: The element must demonstrate zoning to encourage and facilitate a variety of housing types, as follows:

- *Emergency Shelters:* While the element describes emergency shelters are permitted in the City's R-3; R-4 *residential* districts. The element must describe capacity sufficient to accommodate the unmet need for emergency shelters and capacity for at least one shelter. This analysis could address available acreage or potential reuse of structures. Finally, the element mentions that development standards are consistent with state law; however, standards should be incorporated into the element and assessed for constraints. For example, recent changes to state law sets new development standards for parking. The element must demonstrate compliance with these requirements or include a program as appropriate.
- *Transitional and Supportive Housing:* The element notes transitional and supportive housing is permitted in some zones, but these uses must be

permitted in all zones allowing residential uses. For example, transitional and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. The element must demonstrate compliance with this requirement or add or modify a program to amend zoning.

- *Permanent Supportive Housing & 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 section 65651 and 65662. The element must demonstrate compliance with this requirement and include programs as appropriate.
  - *Manufactured Homes*: Manufactured (factory built) units must be permitted in all zones allowing single-family structures subject to the same permit requirements. Currently there is a zoning clearance requirement for manufactures homes, unlike single family uses. The element must clarify the zoning clearance requirement or add a program that commits to amending current zoning.
  - *Accessory Dwelling Units (ADUs)*: These units must be permitted subject to the same requirements as any residential structure is permitted. For example, multifamily residential units are permitted in the City's C-MU and C-MU (D) subject to a conditional use permit (CUP), therefore ADUs must be permitted in the City's commercial zones subject to a CUP.
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).)*

Processing and Permit Procedures: While the element includes information about processing times, it should also describe the procedures for a typical single family and multifamily development. The analysis should address the approval body, the number of public hearing if any, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing, and approval certainty. For example, the element should identify and analyze approval findings for impacts on approval certainty, the presence of processes or guidelines to promote certainty and add or modify programs as appropriate.

Housing for Persons with Disabilities: The element briefly describes its reasonable accommodation procedures. However, the element should also describe the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities.

Zoning, Development Standards, and Fees: The element must clarify its compliance with new transparency requirements for posting all zoning, development standards and fees for each parcel on the jurisdiction's website and add a program to address these requirements, if necessary.

Local Ordinances: The element must specifically analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development.

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program, if necessary, to address these requirements.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

The element generally did not address this requirement. The element must analyze potential nongovernmental constraints, including availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the sites inventory, and the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any hinderances on the jurisdiction's ability to accommodate Regional Housing Needs Allocation (RHNA) by income category and include programs as appropriate.

5. *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).)*

Homelessness: The element must provide a local estimate and analysis on the unsheltered population. While the element provides County level data, the element must be revised to include local data. For example, the element may use data provided by the local continuum of care or other resources such as the police department.

Farmworkers: The element should expand the discussion and analysis of housing needs of farmworkers. For example, the element could evaluate trends, incomes, characteristics of housing needs, effectiveness of past programs, lessons learned and potential for future solutions.

6. *An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. (Gov. Code, § 65583, subd. (a)(9).)*

The element indicates no developments are at-risk of converting to market rate uses. However, based on HCD records, the City has one development at-risk, Country Oaks Apartments. The element should be reconciled with HCD records and if necessary, inventory these at-risk units, assess their risk and revise programs as appropriate.

### **C. Housing Programs**

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

To have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines. Programs to be revised include Program 5 (Work with Sutter County), Program 8 (Participate in Financing Programs), Program 9 (Assist with Funding Applications) and Program 16 (Coordinate with Sutter County Housing Authority).

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



*agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B2, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

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 does not address this requirement. The element must include a program which specifically assists in the development of adequate housing to meet the needs of lower- and moderate-income households, including extremely low-income households and persons with special needs. Program actions could include proactive outreach and assistance to non-profit service providers and developers, prioritizing some funding for housing developments affordable to special needs households and offering financial incentives or regulatory concessions to encourage a variety of housing types.

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 nongovernmental and 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.

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

As noted in Finding B1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. Goals and actions must specifically respond to the analysis and identify and prioritize contributing factors to fair housing issues. Actions must have metrics and milestones as appropriate and address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. Please see HCD's AFFH memo for more information: [https://www.hcd.ca.gov/community-development/affh/docs/affh\\_document\\_final\\_4-27-2021.pdf](https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf).

6. *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).)*

Program 16 (Preservation of Restricted Units At-risk of Converting to Market Rate) should be revised with specific commitment to comply with noticing requirements, coordinate with qualified entities to purchase properties and provide education and support to tenants.

7. *Develop a plan that incentivizes and promotes the creation of ADU 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. (Gov. Code, § 65583, subd. (c)(7).)*

Programs must be added or modified to amend or establish an ordinance in compliance with state law and include incentives to promote the creation and affordability of ADUs. Examples include exploring and pursuing funding, modifying development standards and reducing fees beyond state law, increasing awareness, pre-approved plans and homeowner/applicant assistance tools. In addition, given the City's assumptions for ADUs exceed recent trends, the element should include a program to monitor permitted ADUs and affordability by the fourth year in the planning period and take appropriate action such as adjusting assumptions or rezoning within a specified time period (e.g., 6 months).

#### **D. Public Participation**

*Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort. (Gov. Code, § 65583, subd. (c)(9).)*

To address this requirement, the City released the draft housing element and held a public meeting for input on the same day, August 17, 2021. This is an insufficient effort to include both public agencies and all segments of the community. The untimely release of this draft provided insufficient time for any tangible participation to occur. The City must employ additional methods for public outreach efforts, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households or representative organizations. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in public outreach efforts. Further, the element must summarize public comments and describe how they were considered and incorporated into the element.

As mentioned above, HCD understands the City did not make the draft element available with sufficient time to consider public comments prior to submittal. Not providing an opportunity for the public to review and comment on a draft of the element in advance of submission is another example of not making a diligent effort to encourage public participation in the development of the element and it reduces HCD's ability to consider public comments in 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 employ additional methods and make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including revising the document where appropriate. HCD's future review will consider the extent to which the revised element documents employed additional methods 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.