

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



February 1, 2022

Eric Scherer, Director
Community Development Department
City of La Verne
3660 D Street,
La Verne, CA 91750

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

Dear Eric Scherer:

Thank you for submitting the City of La Verne's draft housing element received for review on December 2, 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.

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 October 15, 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.

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).


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 the City's housing element team during the review. We are committed to assist 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.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF LA VERNE

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 provide a cumulative evaluation of the effectiveness of past 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).

B. 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).)*

Outreach: Outreach specifically related to affirmatively furthering fair housing (AFFH) is foundational to a complete analysis and formulating appropriate goals and actions to overcome patterns of segregation and foster more inclusive communities. The element should summarize and relate its and other's outreach efforts to all components of the AFFH analysis and modify or add goals and actions as appropriate. For example, the element mentions outreach methods and some comments related to the overall housing element and generally describes the County-wide Analysis of Impediments to Fair Housing Choice (AI) which has considerable outreach. However, a summary of

that outreach should be tailored to the various components of the assessment of fair housing to better formulate appropriate programmatic response.

Enforcement: The element mentions local capacity for fair housing education and outreach, but it should also evaluate trends and characteristics related to fair housing complaints and address compliance with existing fair housing laws as well as any past or current fair housing lawsuits, findings, settlements, judgements, or complaints. Based on the outcomes of this evaluation, the element should summarize issues, identify contributing factors to fair housing issues and formulate meaningful goals and actions.

Disparities in Access to Opportunity: The element provides some information on access to opportunity using data derived from HCD/TCAC maps; however, the element should further analyze trends and patterns on a local and regional level related to education, transportation, and economic opportunity using local, federal, and state data. Please refer to page 35 of the AFFH guidebook for further guidance on this topic. (<https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>).

Disproportionate Housing Needs, including Displacement: The element includes some analysis related to cost-burdened households, overcrowding, and substandard housing but must still provide information on persons experiencing homelessness and expand the analysis on displacement risk. The analysis should address patterns and trends within the City (neighborhood to neighborhood) and on a regional level (City compared to region). Data maps provided by the Urban Displacement Project should be utilized to supplement the analysis. <https://www.urbandisplacement.org/maps/los-angeles-gentrification-and-displacement/>.

Sites Inventory: While the element includes some general discussion and conclusions of sites and AFFH, a full analysis should address location, number of sites and units by all income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity) and any isolation of the regional housing needs allocation (RHNA) by income group should be analyzed. For example, the City's use of the Old Town La Verne Specific Plan to meet the City's lower-income RHNA obligation should provide additional analysis that demonstrates the City's site selection will AFFH.

Local Data and Knowledge, and Other Relevant Factors: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. For

instance, the element should analyze historical land use, zoning (e.g., lack of multifamily zoning), governmental and nongovernmental spending including transportation investments, demographic trends, historical patterns of segregation, or other information that may have impeded housing choices and mobility.

Contributing Factors to Fair Housing Issues: The element should re-assess and prioritize contributing factors upon completion of analysis and make revisions as appropriate.

Goals, Actions, Metrics, and Milestones: The element must be revised to add or modify 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, as appropriate based on the outcomes of the analysis, housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community revitalization and displacement protection. For further guidance, please visit HCD's AFFH in California webpage at <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: In addition to the other factors listed for identified sites (e.g., parcel number, size, general plan), the element should list the land-use district for each site under the (OSLVSP). In addition, existing uses of nonvacant sites should be sufficiently described to facilitate an analysis of the potential for additional development.

Realistic Capacity: While the element provides a conservative calculation on realistic capacity; it should still provide support for this assumption and account for land use controls, site improvements, and typical densities of existing or approved residential developments at a similar affordability level. For example, the element could list recent developments by zone, maximum allowable density, built density and affordability.

In addition, while the element conservatively accounts for nonresidential uses, it must support this assumption and account for the potential for 100 percent non-residential uses. The analysis should address development trends, performance standards, and other relevant factors. For example, the element could commit to residential performance standards in the nonresidential districts of the specific plan or could describe all recent development in the zones allowing 100 percent

non-residential uses and how often 100 percent nonresidential uses occur. Depending on the results of a complete analysis, the element may need to adjust residential capacity calculations, policies, and programs accordingly.

Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need, it must include a methodology that demonstrates the potential for additional development in the planning period. The methodology must 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, analysis of any existing leases and 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.

In addition, the element is relying on more than 50 percent of the RHNA for lower-income households on nonvacant sites. The housing element will have to 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.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within three years. The element includes a relevant policy (p. HP-6), but it should clarify which sites were identified in prior planning periods.

Infrastructure: While the element generally describes water and sewer infrastructure, it must clarify sufficient existing or planned capacity to accommodate the RHNA or include programs if necessary.

Site Inventory Map: The element must include a general map of identified sites. For additional information, see the sites inventory analysis section of the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/inventory-of-land-suitable.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.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element indicates emergency shelters are permitted by right within the Arrow Corridor Specific Plan (SP814-21). However, the element must analyze capacity and development standards. The element should discuss total acreage, typical parcel sizes, and any reuse or other opportunities that could accommodate at least one emergency shelter and sufficient to accommodate the need for emergency shelters. In addition, the element should identify and analyze development standards for any potential constraints on emergency shelters.
- *Employee Housing:* The element should clarify compliance with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, section 17021.5 that 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. For additional information and sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/farmworkers.shtml>.

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).)*

Land Use Controls: 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 impacts on housing supply (e.g., number of units), costs, timing and ability to achieve maximum densities. The analysis should address parking, including the number of spaces and garage requirements, heights, and minimum lot sizes particularly for zones allowing multifamily uses. Based on the outcomes of a complete analysis, the element should include programs to address or remove the identified constraints.

Processing and Permit Procedures: While the element provides general information on timeframes for approval of residential projects (p. 60), it should evaluate the Development Review procedure, including typical number of hearings and approval findings. The analysis should address impacts on housing supply (number of units), cost, timing, and approval certainty.

Fees and Exactions: The element lists some entitlement fees, but it should describe and evaluate all required fees for single-family and multifamily housing development, including impact fees, and analyze their impact as potential constraints on housing supply and affordability. For example, the analysis should identify the total amount of fees, including impact fees and their proportion to the development costs for both a typical single family and multifamily housing development.

On / Off Site Improvements: The element must identify subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability. For additional information and a sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/codes-and-enforcement-on-offsite-improvement-standards.shtml>.

Inclusionary Housing: The element describes the City's inclusionary housing requirements on (p. 65) of the element but does not provide analysis on the impact of this requirement as a potential constraint on the development of housing for all income levels, specifically on housing supply and affordability. The analysis must evaluate the inclusionary policy's implementation framework, including levels of mandated affordability and the types of options and incentives offered to encourage and facilitate compliance with the inclusionary requirements. For rental inclusionary housing provisions, the analysis should demonstrate consistency with requirements of Government Code section 65680 (g) which requires provision of alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units. The City could engage the development community to facilitate this analysis.

Housing for Persons with Disabilities:

- *Reasonable Accommodation:* The element mentions the City has established a reasonable accommodation procedure but should also describe and analyze the procedure, including cost and approval findings. For example, the element lists several findings (p. 57) but should analyze how these findings impact a request for reasonable accommodation.
- *Family Definition:* The element should identify any definition of family utilized in zoning and land use and analyze that definition for impacts on housing for persons with disabilities.
- *Community Care Facilities:* While the element identifies how community care facilities serving six or fewer persons are permitted, it must describe and analyze how community care facilities serving seven or more persons are approved including any approval findings or lack of zones allowing these housing types. The element should analyze the process and zones

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. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... ..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... (Gov. Code, § 65583, subd. (a)(6).)*

Timing of Approval: The element must analyze 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 developing the RHNA.

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).)*

Persons with Developmental Disabilities: The element states that quantification available from the Department of Development Services (DDS) is by zip code which is larger than the City boundaries. As a result, the City utilizes federal level proportions to estimate the needs of persons with disabilities. However, the element should also describe the characteristics of those needs and may utilize information from DDS.

Farmworkers: According to the American Community Survey (ACS) 2015-2019 five-year estimate the element concludes that 0.8% of the population in La Verne is employed in "agriculture, forestry, fishing, hunting and mining." However, the ACS likely undercounts the needs of farmworkers, especially seasonal farmworkers. Further, farmworkers from the broader areas and those employed seasonally may have housing needs, including within the City's boundaries. As a result, the element should acknowledge the housing needs of permanent and seasonal farmworkers at a county-level (e.g., using USDA county-level farmworker data) and include programs as appropriate.

6. *Analyze existing assisted housing developments that are eligible to change to non-low-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).)*

The element lists two projects at-risk of converting to market rate uses in the planning period, but it must still include analysis, as follows:

- Total number of elderly and nonelderly units.
- 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.

For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/assisted-housing-developments.shtml> and for more information on identifying units at-risk, see the California Housing Partnership Corporation at <http://www.chpc.net>.

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 should be revised to include specific commitments and discrete timelines. Currently, there are several programs in the element that have “ongoing” or “annual monitoring” as timelines. However, programs should have discrete timelines (e.g., annual). Examples include Programs 1 (Housing Rehabilitation), 4 (Nonpermitted Accessory Dwelling Units), 8 (Monitor City-owned Mobile Home Parks), 11 (Housing for Extremely Low-Income Households), 16 (Accessory Dwelling Units), 18 (Lot Consolidation) and 24 (Transitional and Supportive Housing).

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 completesites 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. *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 B3 and B4, the element requires a complete analysis of potentialgovernmental and nongovernmental 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 B1, the element must include a complete analysis of AFFH. Basedon the outcomes of that analysis, the element must add or modify programs.

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).)*

Program 13 (Monitor and Preserve Affordable Housing) 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.

6. *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).)*

Program 16 (Accessory Dwelling Units) should be revised to conduct a review of ADU production and affordability every two years (instead of a mid-cycle review) and commit to additional actions such as adjusting assumptions, rezoning or establishing additional incentives within a specified timeframe (e.g., six months).

D. 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).)

While the element includes quantified objectives for new construction, rehabilitation and conservation by income group, it could consider quantified objectives for conservation (beyond at-risk preservation). For your information, the quantified objectives do not represent a ceiling, but rather set a target goal for the City to achieve, based on needs, resources, and constraints.

E. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd. (c)(9).)

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.

In addition, 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.

F. Consistency with General Plan

The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

The element must describe how the housing element is internally consistent with the rest of the general, including any information to demonstrate what was conducted to achieve internal consistency as part of this update. The element must also include more specific discussion on how internal consistency will be maintained throughout the planning period. For additional information and a sample program, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/analysis-consistency-general-plan.shtml>.