

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

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April 19, 2023

Marilyn Simpson, Director
Community Development Department
City of Irwindale
16102 Arrow Highway
Irwindale, CA 91706

Dear Marilyn Simpson:

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

Thank you for submitting the City of Irwindale's (City) draft housing element received for review on January 19, 2023. 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 substantially 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.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to make prior identified sites available or accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c)(1)(A) and Government Code section 65583.2, subdivision (c) are completed. As this year has passed and Program 8 (Rezone Targeted Housing Sites) has not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning have been completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the 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. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the 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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the hard work and dedication provided by the housing element team during the update and 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 Brandon Yung at brandon.yung@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 IRWINDALE

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 <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> 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).)

As part of the review of programs in the past cycle, the element must also provide an evaluation of the 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 in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

Enforcement and Outreach Capacity: While the element (p. 140) describes the City does not currently have any violations of fair housing laws; it should also describe how the City proactively complies with fair housing laws and regulations; including any past or present judgement, orders or other potential legal matters, including audits. Please see HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance memo (starting on p. 29) for additional information at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

Disproportionate Housing Needs, including Displacement Risk: The element must evaluate patterns and trends within the City related to persons experiencing homelessness and housing conditions. For homelessness, the element should examine disproportionate impacts on protected characteristics (e.g., race, disability) and patterns

of need, including areas with a higher incidence and access to transportation and services. For housing conditions, the element should discuss any areas of potentially higher needs of rehabilitation and replacement. The element may utilize local data and knowledge such as service providers and code enforcement officials to assist this analysis. In addition, while the element states there are no known displacement issues, it should also evaluate the potential for investment driven displacement risk such as addressing increased housing costs and the ability to pay for shelter. For more information, please see HCD's AFFH Guidance (starting on p. 40).

AFFH and Sites Inventory: The element includes some broad discussion and conclusions related to identified sites and AFFH but should also quantify the regional housing need allocation (RHNA) by income group (including moderate and above moderate) and location (e.g., neighborhood, planning area) then evaluate the impact on patterns and trends and any isolation or concentration of the RHNA by income group to better formulate appropriate policies and programs.

Local Data and Knowledge: 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, City staff and related local, county, or other planning documents. This piece of the analysis of fair housing issues is particularly important given the City consists of only two block groups where boundaries might not coincide with residential areas. For example, the analysis should incorporate the fair housing related outreach, knowledge from City staff, housing authority and community members.

Other Relevant Factors: Like local data and knowledge, other relevant factors are particularly important for the analysis of fair housing issues given how state and federal data and boundaries related to socio-economic patterns. For instance, the element can analyze historical land use, zoning and barriers to housing choices, investment practices, seeking investment or lack of seeking investment to promote affordability and inclusion, information about redlining/greenlining, restrictive covenants and other discriminatory practices, land use related lawsuits, local initiatives, demographic trends or other information that complements the state and federal data. For another instance, a November 2016 State Auditor Report on the City of Irwindale found that the Irwindale Housing Authority "gives an unfair advantage in its housing programs to residents who have lived in the City for 15 years or longer" (CA State Auditor report 2016-111). As part of its assessment of fair housing, the City should analyze how this impact patterns of socio-economics within the City and the City relative to the region and add or modify programs as appropriate such as priority scoring or other programs to promote more inclusive and equitable communities.

Contributing Factors to Fair Housing Issues: Based on the outcomes of a complete analysis, the element should re-assess contributing factors and particularly prioritize those factors then formulate appropriate policies and programs.

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).)*

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).)

Extremely Low-Income Households (ELI): The element includes some discussion of ELI households such as the total number of ELI households as a proportion of total households but should particularly analyze the disproportionate impact on housing situations and needs, including overpayment, overcrowding and other characteristics, resources and strategies and the magnitude of housing needs.

Housing Costs: The element includes some information on rental prices based on the American Community Survey (ACS). However, the element should utilize additional information (e.g., Zillow) to better reflect current market conditions.

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

Progress in Meeting the RHNA: The element indicates (p. 174) that seven units affordable to very lower-income households have been built or are under construction or approved but should also demonstrate their affordability based on actual or anticipated rents or sales prices or other mechanisms ensuring affordability (e.g., deed-restrictions). Additionally, the element states that these units' received certificates of occupancy in December 2021. However, Annual Progress Reports submitted by the City do not reflect this. The element should reconcile these figures and adjust assumptions as appropriate.

Realistic Capacity: The element explains that density was assumed at approximately 63 to 85 percent of maximum allowable densities. While this assumption may be conservative as stated (p. 180), the element should support these assumptions based on recent trends. For example, the element could list recent projects (including from surrounding communities) by zone, allowable density, built densities, affordability, and any utilized exceptions (e.g., density bonus). Alternatively, the element could utilize minimum densities and no further analysis is required.

Availability of Infrastructure: The element must demonstrate that infrastructure (e.g., water and sewer) are either accessible or planned to be accessible to identified sites in the inventory. In addition, the element should discuss whether total available capacity (existing and planned) of water and sewer are sufficient to accommodate the RHNA and add or modify programs as appropriate.

In addition, while the element notes the past element was delivered to water and sewer providers, it should discuss how the City will comply with these requirements for the current planning cycle. In addition, the element should clearly describe whether the City is a water or sewer provider and if so, whether a written procedure is available to grant priority service to developments with units affordable to lower-income households. If not, the element should add or modify programs, as appropriate.

Environmental Constraints: While the element states that identified sites do not have environmental constraints that would constrain development, it should also discuss any other known constraints that could preclude or constrain development in the planning period. Examples include parcel shape, conditions, easements, remediation, reclamation, and compatibility requirements.

Nonvacant Sites: The element must demonstrate the potential for redevelopment in the planning period on identified sites with existing uses. The analysis must consider how 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. While the analysis is sufficient for Sites 2 (12881 Ramona Boulevard) and 3 (13201 Ramona Boulevard), it should address the potential for redevelopment on Site 5 (Irwindale/Padilla). For example, the element could discuss the degree of underutilization, expressed interest in residential development from property owners or developers or absence of leases or other conditions that prevent redevelopment.

In addition, if the element relies on nonvacant sites to accommodate 50 percent or more of the RHNA for lower-income households, specific requirements are triggered to make findings (e.g., adopted resolution) based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period. While the element does not currently trigger this requirement, if future submittals do trigger this requirement, appropriate findings must be made based on substantial evidence.

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/planning-and-community-development/housing-elements> 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 includes Program 6 (Zoning Amendments) to amend zoning and comply with requirements pursuant to Government Code section 65583, subdivision (a)(4) (AB 2339). However, the element should identify the anticipated zone and analyze the suitability of capacity sufficient to meet the need for emergency shelters.

For additional information on these statutory requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

- *Employee Housing*: While the element states there are no residents employed in farmworker occupations, there is a housing need for farmworkers in the broader region. Further, employee housing is not limited to farmworkers. The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6. 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.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to parking (number of space and garage requirements) and heights in multifamily zones. The analysis should address any impacts on cost, supply (number of units), feasibility and ability to achieve maximum densities and include programs to address identified constraints.

Fees and Exaction: The element must describe 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 could identify the total amount of fees and their proportion to the development costs for both single-family and multifamily housing. In particular, the element should clarify whether analysis reflects development impact fees. For additional information and a sample analysis and tables, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/fees-and-exactions>.

Processing and Permit Procedures: While the element includes general information about processing times (p. 152), 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 by zoning district. 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.

Building Codes and their Enforcement: While the element describes the adopted building code, it should also identify and analyze any local amendments for impacts on housing costs and evaluate the type of code enforcement (e.g., proactive or complaint based) for impacts on housing costs and lower-income and special needs households.

Constraints on Housing for Persons with Disabilities: While the element generally describes the components of the reasonable accommodate procedure, it should specifically identify and analyze approval findings and any constraints on housing for persons with disabilities. In addition, the element states the City does not contain regulations for group homes but should also discuss where the uses are allowed and how the uses are permitted and evaluate any constraints. For your information, zoning and standards should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations. Zoning code regulations that isolate and regulate various types of housing for persons with disabilities based on the number of people and other factors may pose a constraint on housing choice for persons with disabilities. The element should include specific analysis of these and any other constraints for impacts on housing for persons with disabilities and add or modify programs as appropriate.

C. Housing Programs

1. *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 B3, 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:

- *Program 6 (Zoning Code Amendments)*: The Program should include specific commitment to establish appropriate zoning to encourage and facilitate a variety of housing types. While the element mentions various housing types, the Program should commit to additional provisions. For transitional and supportive housing, the element should commit to permit the uses as a residential use in all zones allowing residential uses and only subject to requirements of other residential uses of the same type (e.g., single-family and multifamily). For low

barrier navigation centers, the Program should commit to meet all requirements pursuant to Government Code 65661, including permitting the uses without discretion in all zones allowing multifamily uses. For single room occupancy, the Program should commit to appropriate development standards and permit procedures to encourage the use. Finally, while the Program commits to establish development standards to comply with SB 330 and SB 35, it should also commit to establish written procedures to comply with these requirements.

- *Program 8 (Rezone Targeted Housing Sites)*: The Program should specifically address all by right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). Examples include permitting multifamily development without discretionary action and requiring minimum densities. In addition, the Program should specifically commit to address the shortfall of sites (number of units by income group), minimum acreages, access to infrastructure, maximum allowable densities, and appropriate development standards to facilitate achieving maximum densities.
- *Programs 7 (Mixed Use Development) and 10 (Specific Plan)*: The Program should commit to appropriate development standards to facilitate achieving maximum densities.
- *Program 12 (Large Sites)*: The Program should commit to additional incentives to encourage housing affordable to lower-income households and how often the City will meet with property owners to identify affordable housing opportunities.
- *Program 13 (Allen Drive Site)*: The Program should commit to complying with the Surplus Land Act, if applicable, numeric objectives and affordability consistent with assumptions in the element and milestones for issuing final entitlements and building permits. Finally, the Program should commit to alternative actions if the site will not be developed in the planning period.
- *Program 16 (ADU Incentives)*: As noted in the element (p. 166), the Program should commit to amend the ADU ordinance and comply with state law.

2. *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).)*

While the element now includes some actions to assist in the development of housing for lower-income households such as developing a pamphlet, it must include additional actions. In addition, the element must include actions to assist the development of housing for extremely low-income households and special needs households. Program actions could include proactive outreach to identify development opportunities 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 (e.g., beyond State Density Bonus Law) 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 Finding B4, 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... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the City may need to revise or add programs. 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, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in higher opportunity or higher income areas, place-based strategies for community revitalization and displacement protection.

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).)

The element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. While the element includes these objectives for new construction and rehabilitation, it must also include conservation objectives. For your information, conservation objectives are not limited to unit at-risk of conversion to market rate uses and may include actions such as Program 1 (Code Enforcement).

E. General Plan Consistency

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).)

While the element discusses how internal consistency will be achieved with other elements of the general plan as part of the housing element update, it should also discuss how internal consistency will be maintained throughout the planning period.

F. 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).)

While the element describes some workshops, survey and public meetings for the housing element update, moving forward, the City should employ additional methods for public outreach efforts, particularly to include lower-income and special needs households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts. In addition, although the element provides some information on the public comments received, it should also describe how they were considered and incorporated into the element.