

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

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September 21, 2021

Domingo Gonzales, Administrator
Engineering Services
City Hall
220 East Mountain View St., Suite A
Barstow, CA 92311

Dear Domingo Gonzales:

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

Thank you for submitting the City of Barstow's (City) draft housing element received for review on August 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 revisions needed to comply with State Housing Element Law.

Government Code section 65588, subdivision (e)(4) requires a jurisdiction that failed to adopt its housing element within 120 calendar days from the statutory due date to revise its element every four years until adopting at least two consecutive revisions by the applicable due dates. The City is subject to the four-year revision requirement. Provided the City adopts its housing element on or before October 15, 2021, it will meet the first four-year update requirement. For more information on housing element adoption requirements, please visit HCD's website at: http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

HCD is committed to assisting Barstow in addressing all statutory requirements of State Housing Element Law and appreciates your efforts as well as the assistance consultants Elizabeth Dickson and Janet Rodriguez provided in the preparation of your draft element. If you have any questions or need additional technical assistance, please contact Gerlinde Bernd at Gerlinde.Bernd@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" being more prominent than the last name "West".

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF BARSTOW

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).)

As part of the evaluation of programs in the past cycle, the element must provide an explanation 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).

B. Housing Needs, Resources, and Constraints

1. *An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing 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 basic information regarding ELI households such as the number of households. However, given the unique and disproportionate needs of ELI households, the element must include analysis to better formulate policies and programs. For example, the element could analyze tenure, cost burden, overcrowding and other household characteristics then examine the availability of resources to determine gaps in housing needs. In addition, the element must identify projected housing needs. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of the regional housing need allocation (RHNA) for very low-income households qualify as ELI households. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

Overpayment: In addition to overall overpayment information, the element should analyze overpayment information for lower-income households by tenure. Often times, tenure information by income will reveal important conditions such as disproportionate housing challenges that can facilitate in better formulating policies and programs.

Housing Conditions: The element identifies the age of the housing stock. However, it must include an estimate and analysis of the number of units in need of rehabilitation and replacement. For example, the analysis could include utilize information from the recent survey, estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from other organizations. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

2. *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).)*

General: The element provides data and analysis regarding the patterns of various socio-economic characteristics across most components of the required analysis (e.g., segregation and integration, access to opportunity, displacement). However, the element should also discuss and analyze characteristics and trends for the various socio-economic characteristics. For example, the element identifies a racially/ethnically concentrated area of poverty, but it should also discuss trends and characteristics such as housing, infrastructure and neighborhood conditions and relationship to other components of the analysis such as overpayment, access to opportunity. Similar analysis should be conducted across all the components of the assessment of fair housing (e.g., segregation and integration, access to opportunity, disproportionate housing needs, including displacement).

Regional Analysis: The assessment of fair housing must address patterns and trends at a regional level. Patterns at a regional level must compare conditions at the local level to the rest of the region. This analysis should compare the locality at a county level or even broader regional level such as a Council of Government, where appropriate, for the purposes of promoting more inclusive communities.

Enforcement and Outreach: The element generally mentions outreach but should also summarize that outreach relative to AFFH or include additional outreach as appropriate. In addition, the element should describe enforcement cases and their characteristics to better understand contributing factors to fair housing issues.

Sites Inventory: The element must identify and analyze sites throughout the community to foster inclusive communities and AFFH. The element includes some discussion about identified sites for lower-income households but should also discuss the number of units for all income groups, evaluate the magnitude of the impact, describe any isolation of the sites identified to accommodate the RHNA and 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>.

Local Data and Knowledge: The element should incorporate local data and knowledge of the jurisdiction into the AFFH section. To assist in meeting this requirement, the element should provide local data not captured in regional, state, or federal data analysis.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Contributing Factors to Fair Housing Issues: The element includes summaries of fair housing issues, but it must still identify and prioritize contributing factors to fair housing issues to better formulate goals and actions. For more information, see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Goals, Priorities, 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 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.

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).)*

Realistic Capacity: The element must calculate the number of units per site and account for land use controls, site improvements and typical densities of existing or approved residential developments at a similar affordability level. The element assumes built densities of 15 units per acre in the medium density residential zone, but that assumption does not appear to reflect most recent development permit activity (Table 1). The element should include discussion of the realistic capacity assumptions for residential development relative to recent experience and land use controls and make adjustment as appropriate. In addition, several calculations in the parcel inventory do not appear to reflect realistic capacity assumptions and should be revised.

Infrastructure: The element generally describes infrastructure capacity, but it should clarify sufficient total water capacity to accommodate the regional housing need in the planning period.

Water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The element should discuss compliance with these requirements and if necessary, add or modify programs (Program 7) to establish a written procedure by a date early in the planning period. For additional information and sample cover memo, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

Environmental Constraints: While the element generally describes a few environmental conditions within the City, it must relate those conditions to identified sites and describe any other known environmental or other constraints that could impact housing development on identified sites in the planning period.

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 mentions emergency shelters are permitted in the Human Services zone and concludes sufficient capacity is available. The element should also clarify shelters are permitted without discretionary action and discuss available acreage in the zone, including typical parcel sizes and the presence of reuse opportunities. In addition, the analysis should address proximity to transportation and services and any conditions inappropriate for human habitability.
 - *Mobilehome Parks:* The element should clarify whether zoning is available to allow mobilehome parks and include programs if appropriate.
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).)*

Processing and Permit Procedures: The element mentions a Site Plan Review where projects are reviewed to determine the type of approval (i.e., ministerial, staff review through public hearing and Planning Commission review through public hearing). The element should also analyze what determines the level of review, the number of public

hearings, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing, approval certainty and any approaches to promote certainty and add or modify programs as appropriate.

Housing for Persons with Disabilities: The element excludes group homes for seven or more persons from some residential zones and, in some cases, subjects the use to a conditional use permit, unlike other similar uses. The element should specifically analyze these constraints for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.

State Density Bonus Law: The element should clarify whether the City's density bonus ordinance complies with Government Code section 65915 and add or modify programs as appropriate.

5. *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... (Gov. Code, § 65583, subd. (a)(6).)*

Developed Densities and Permit Times: The element must analyze requests to develop housing at densities below those anticipated. The analysis should address any potential hinderances on the construction of a locality's share of the regional housing need.

6. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

The element includes data and analysis for persons with special needs. However, to better formulate policies and programs, it should also identify and analyze large households by tenure (renters and owners), permanent and seasonal farmworkers at a county level (e.g., USDA Agricultural Census) and persons with developmental disabilities. HCD will send data under separate cover.

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 and specific commitment. Programs to be revised with discrete timelines include Program 2 (Downtown Barstow) and Program 10 (Financial Assistance for Housing). Programs to be revised with specific commitment include:

- *Program 9 (Alternative Housing):* The program should commit to actions to amend zoning for employee housing and adopt a small lot ordinance by a specific date.
- *Program 14 (Housing for Seniors):* The program should commit to actions to proactively market the City's materials and website.

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 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.

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).)*

Extremely Low-income (ELI) and Special Needs Households: The element must include a program(s) with specific actions and timelines to assist in the development of housing for ELI and special needs households, specifically, persons with disabilities, including developmental disabilities. The program(s) could commit the City to proactively reaching out to developers of affordable housing, adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to special needs households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers.

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 governmental 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.

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 B2, the element does not include a complete Assessment of Fair Housing (AFH). Depending on a complete analysis, the element may need to add or revise programs as appropriate.

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved... (Gov. Code, § 65583, subd. (b)(1 & 2).)

The element does not address this requirement and must include quantified objectives estimating the number of housing units by income category, including ELI 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			

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)(8).)

While the element describes workshops and an online survey (Appendix F), it should also summarize public comments and describe how comments were considered and incorporated into the element. Further, moving forward, the City should employ additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

In addition, HCD understands the City did not make the element available to the public prior to submittal to HCD. By not providing an opportunity for the public to review and comment on the draft of the element in advance of submission to HCD, the City has not yet complied with statutory mandates to make a diligent effort to encourage public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of this review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents were circulated and how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's finding in this letter.