

**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



November 22, 2021

Gayle Ackerman, Director
Department of Community Development
City of Lake Forest
100 Civic Center Dr.
Lake Forest, CA 92630

Dear Gayle Ackerman:

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

Thank you for submitting the City of Lake Forest's (City) draft housing element received for review on September 23, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on November 17, 2021 with Ms. Amy Stonich, Assistant Director of Community Development and Amanda Tropiano, Planning Consultant. In addition, HCD considered comments from Welcoming Neighbors Home Initiative and Barb Daly Organization 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 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).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

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

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

http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and
http://opr.ca.gov/docs/Final_6.26.15.pdf.

We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Mashal Ayobi, of our staff, at Mashal.Ayobi@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF LAKE FOREST

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).)*

Fair Housing and Enforcement: While the element does include an analysis of trends and patterns related to fair housing enforcement complaints, it must also describe compliance with existing fair housing laws and regulations and include information on fair housing outreach capacity. For additional information, please see pg. 28-30 on HCD AFFH Guidance: <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Regional Patterns and Trends: While the element includes some regional analysis related to factors such as race and ethnically and racially concentrated areas of poverty (R/ECAP), the element must include regional data and analysis on all fair housing components (e.g., integration and segregation, R/ECAP, access to opportunity, disproportionate housing needs) and analyze that data for patterns and trends.

Disproportionate Housing Needs, Including Displacement Risk: The element includes some data on cost burdened, overcrowded, and substandard housing conditions, however the element must analyze this data for patterns and trends over time. Additionally, as noted above, the element should include a regional analysis of

disproportionate housing needs. Lastly, the element must include a local and regional analysis of patterns and trends for people experiencing homelessness.

With respect to displacement, while the element analyzes displacement risk through examining the city's affordable housing stock, the analysis must consider other data sources for analysis. For example, according to HCD AFFH data viewer, the City has specific census tracts that have been categorized as "vulnerable to displacement". The element should incorporate this data and analyze it for trends, patterns, and include appropriate policies and programs.

Sites Inventory: While the element analyzed lower-income sites relative most to fair housing components, it must analyze moderate and above moderate RHNA sites against all fair housing analysis components and examine whether sites improve or exacerbate fair housing conditions.

Other Relevant Factors: The element must include other relevant factors such as changes and barriers in zoning, past redlining practices, restrictive covenants, history of investment and pertinent demographics that contribute to analyzing fair housing issues.

Local Data and Knowledge: 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, public comments, and service providers.

Contributing Factors: The element must identify factors that have contributed, created, perpetuates, or increases the severity of a fair housing condition. The element must also identify actions and programs that are responsive to the contributing factor. Specifically, the element lists land use and zoning laws as a contributing factor; however, the element must indicate what fair housing issues did land use and zoning laws contribute to and how.

Programs and Actions: Programs and actions must meaningfully overcome contributing factors and directly address fair housing issues. While the element included several programs for fair housing (e.g., Program 5, 8, 14, 21, 22, 23), these actions do not adequately address the City's fair housing issues. Additionally, while the City does not have any R/ECAPs or census tracts considered "high segregation and poverty." The element did identify the Southeast side of the City to have several overlapping fair housing conditions including low opportunity, high rates of diversity while other census tracts are majority white, and higher levels of cost burdened households. The element should include specific actions or programs that target this community with the goal of conservation and revitalization.

Based on the Assessment of Fair Housing (AFH), most of the City is considered a high opportunity area with a white majority. The element should focus on including strong actions that provide new housing choices in areas of high opportunity and enhancing mobility strategies. For examples of programs and actions, please see pg. 72-74 of HCD's AFFH Memo: https://hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf

2. *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).)*

Housing Stock Condition: The element analyzed the age of the housing stock, discussed code enforcement data, surveyed community members on housing conditions, and stated that the City's code enforcement states a very low percentage of the housing stock is in need of replacement. However, the element must explicitly estimate the number of units in need of major rehabilitation or replacement.

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 identifies 1,296 units that have been approved, entitled or under construction for lower and moderate-income households (pg. BR-73). Further, the element states that affordability was based on densities. However, the element must demonstrate affordability through actual or anticipated rents or sale prices or other mechanisms ensuring affordability such as inclusionary requirements or deed-restrictions.

Realistic Capacity: The element identifies sites with a mixed-use general plan designation where the base zoning allows for nonresidential uses (commercial, industrial, etc.). To demonstrate realistic capacity on these sites, the element must analyze and account for the likelihood of residential development in the zones that allow 100 percent nonresidential uses. The analysis should be based on factors such as development trends, performance standards or other relevant factors.

Mixed-Use Zoning: HCD understands that while the general plan designations for sites within the mixed-use and urban industrial land use designations are in place, the zoning has not been implemented to approve projects at the densities and uses as identified in the inventory. For your information, if zoning is not in place by beginning of the planning period (October 15, 2021), the element must include a program to commit to adopting the zoning changes. Additionally, for sites that are expected to accommodate the City's lower-income RHNA, programs must commit to housing element rezone requirements pursuant to Government Code section 65583.2 (h) and (i).

Suitability of Nonvacant Sites: The element identifies most of its RHNA at all income levels on nonvacant sites. The analysis stated that the City considered various factors when determining sites suitable for development such as ownership patterns, developer or owner interest, existing uses and degree of underutilization. Where applicable, the element should list the actual values for each of the sites to better relate the overall analysis to the sites inventory. Additionally, the analysis should describe why and how these factors demonstrate that these sites are suitable for development. The element could do this by examining current trends of redevelopment and listing past projects that reflect the factors being used.

The element must analyze whether existing uses constitute as an impediment for residential uses on the site. The element should include information on whether existing uses are operating, have been operating, or are or not anticipated to continue operating. Currently, the inventory lists most sites as “underutilized commercial;” however the element identifies sites existing uses in greater detail (e.g., strip commercial, retail shopping, grocery store, etc.) The element could also analyze the current existing uses, information on vacancies, the demand for the existing use, past and current development trends, examples of similar existing uses redeveloped into residential at similar densities and affordability as identified in the inventory, and policies and programs that facilitate residential development on nonvacant sites.

The element identifies 374 moderate-income units on an existing project called Saddleback Apartments. The complex was developed at 9 du/ac with 304 units and the City assumes an additional 374 units will be built during the planning period. However, the element provides no information to support the assumption and solely relies on the fact that the site has not been developed to the maximum capacity. The element must provide additional analysis demonstrating the likelihood of additional development through ownership or developer interest, current market trends, financial feasibility, or other factors.

Lastly, the element is relying upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. As part of the resolution to adopt the housing element, the City must make findings based on substantial evidence that the use is likely to be discontinued pursuant to Government Code section 65583.2, subdivision (g)(2).

Availability of Infrastructure: While the element examines the availability of infrastructure to accommodate the City’s RHNA, the element must discuss planned or existing access to dry utilities.

Sites with Zoning for a Variety of Housing Types:

- *Accessory Dwelling Units (ADUs):* After a cursory review of the City’s ordinance, HCD discovered several areas which were inconsistent with State ADU Law. This includes, but is not limited to, height restrictions, requirement of setbacks for junior accessory dwelling units (JADUs), restricting bedroom count, open space requirements, among others. HCD will provide a complete listing of ADU noncompliance issues under a separate cover. As a result, the element should add or revise a program to update the City’s ADU ordinance to comply with state law. For more information, please consult HCD’s ADU Guidebook, <https://www.hcd.ca.gov/policy-research/accessorydwellingunits.shtml>.
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. The analysis shall*

also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).

Land Use Controls: The element must identify and analyze all relevant land use controls as potential constraints on a variety of housing types. The analysis should review land use controls independently and cumulatively with other land use controls. The element should specifically list and analyze requirements related setbacks, lot coverage, minimum lot sizes, height limits, floor area ratios, open space, and any applicable development standards related to housing. The analysis should evaluate how these standards impact the ability to achieve the densities identified in the sites inventory. Additionally, it should discuss any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

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

Constraints on Housings for Persons with Disabilities:

- *Residential Care Facilities for Seven or More Persons:* Residential care facilities or group homes for seven or more persons appears to be excluded from several zones allowing residential uses and subject to a use permit in the A-1 zone. The element should evaluate these requirements as constraints and include programs as appropriate. The element should also discuss any spacing requirements between group homes.
 - *Reasonable Accommodation:* While the element briefly described the City's reasonable accommodation procedure, it must discuss the process for requesting a reasonable accommodation, time and costs associated with the request, and list the actual approval findings and analyze these findings for potential constraints on housing for people with disabilities.
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, 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... (Gov. Code, § 65583, subd. (a)(6).)*

Permit Times: The element must describe the length of time between project approval and request for a building permit. The analysis should address any hinderances on the

jurisdiction's ability to accommodate RHNA by income category and include programs as appropriate.

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).)*

While the element includes some data on farmworkers, it should specifically quantify the number of permanent and seasonal farmworkers at the City or County level (i.e., USDA data) to better understand the broader and unique housing needs of farmworkers.

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:

Shortfall of Sites: While the jurisdiction identified GP designations to allow for high-density housing to address the RHNA, the element appears to acknowledge that the zoning is not currently in place to implement the GP designations. If so, the City is showing a shortfall of sites to accommodate the RHNA for lower-income households.

If a shortfall exists, the element must include a program to specifically commit to acreage, allowable densities, and anticipated units. In addition, to accommodate the housing needs of lower-income households, the program should specifically commit to rezoning pursuant to Government Code section 65583.2, subdivisions (h) and (i). Specifically, the program must commit to:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a Conditional Use Permit, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;

- require a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
- allow 100 percent residential use, and
- require residential use occupy 50 percent of the total floor area of a mixed-use project.

Program 8 – Accessory Dwelling Units: While the element includes a program to explore ways to incentivize ADUs, it should also commit to revising and adopting an ADU ordinance compliant with state law and monitor trends for ADUs production. Lastly, the program should specify what incentives the City will commit to taking to facilitate the development of ADU within a specified timeframe.

Program 7 – Zoning Code Amendments – Housing Constraints: This Program commits to defining “agricultural worker housing” separate “employee housing” to comply with Health and Safety Code Sections 17021.5, .6, .8. The City should only refer to it as employee housing and not make a distinction between agricultural versus employee housing types.

2. *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 non-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.

3. *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 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. For additional guidance on program requirements to affirmatively further fair housing (AFFH), please see HCD’s guidance at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

4. *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 15 – Preservation of Affordable Housing Units: While the City’s affordable housing portfolio indicates eleven units at risk of converting to market rate in the next ten years (p. BR-45), the Program only commits to preserving eight of those units. This program should be revised with the goal of preserving all units at risk of converting in the next ten years. Additionally, the Program should commit to coordinating with qualified entities to preserve and maintain affordability of units at-risk of converting to market rate uses and comply with noticing requirements within three years, twelve months, and six months of the affordability expiration date.

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 lower-income households, it must also include objectives for the number of units that will be conserved/preserved for moderate and above moderate households.

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).)

The element was made available for public review by the City on September 22, 2021 and subsequently received by HCD on September 23, 2021. As a result, the City made the element available to the public concurrent with its submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the 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 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 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.