

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

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February 1, 2022

Patrick Prescott, Director  
Community Development Department  
City of Burbank  
150 N. Third St.  
Burbank, CA 91502

Dear Patrick Prescott:

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

Thank you for submitting the City of Burbank's (City) draft housing element received for review on December 3, 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 January 28, 2022, with Federico Ramirez, Assistant Community Development Director; Scott Plambaeck, Deputy City Planner; Shipra Rajesh, Associate Planner and the City's consultants Karen Warner and Josh Oshimo. In addition, HCD considered comments from Abundant Housing LA 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 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.

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.

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).

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

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](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and [http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).

HCD appreciates the cooperation and dedication the City planning staff, and Karen Warner provided during the course of our 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 Divya Sen, of our staff, at [Divya.Sen@hcd.ca.gov](mailto:Divya.Sen@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall". The signature is stylized and cursive.

Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF BURBANK

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. 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))*

Disparities in Access to Opportunity: The element includes limited local and regional data and analysis on access to opportunity of education, economic, transportation (pp. B-27 to B-34). However, a complete analysis should include an analysis of disparities in relation to education, economic opportunity, transportation at the regional level and analyze the data for trends and patterns.

Disproportionate Housing Needs: The element includes some local and regional data on cost-burdened households, overcrowding, homelessness and substandard housing, but does not include data on trends or patterns for regional analysis on homelessness. The element should include a complete regional data for homelessness and analyze the data and include an evaluation of impacts on protected characteristics, local patterns and access to opportunity such as services and programs.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): While the element addresses most of the analysis on housing development at income-levels and evaluates the sites relative to socio-economic patterns (pp. B-46 to B-50), it must also include analysis for integration & segregation patterns and trends related to people with protected characteristics and lower incomes. Based on the final analysis, the site inventory analysis should be updated to address how the sites are identified to improve conditions (or if sites exacerbate conditions, how a program can mitigate the impact), whether the sites are isolated by income group. This analysis should be supported by local data and knowledge and other relevant factors. In addition, The element states that over one half of the lower-income units are on sites susceptible to displacement risk, the City should identify what measures will be utilized to provide protection from displacement pressures (p. B-49).

Goals, Priorities, Metrics, and Milestones: The element added contributing factors, priority level, and actions with limited metrics and milestones (pp. B-53 to B-57). Actions have milestones but must also have clear metrics to address progress and viability of prioritized actions and go beyond the status quo to address housing mobility enhancement, new housing choices, place-based strategies for community preservation and revitalization, and displacement protection. In addition, the element identifies a number of actions in Table B-10 that are not reflected in the program commitments (pp. 1-108). Housing element program actions must be revised for consistency.

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).)*

The City has a regional housing needs allocation (RHNA) of 8,772 housing units, of which 3,971 are for lower-income households. To address this need, the element relies on pending and entitled residential projects, specific plans, and accessory dwelling units (ADUs). To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Realistic Capacity: While the element provides that "both specific plans selected sites within the respective planning areas exclusively nonresidential; however, for the Site Inventory, only sites with potential residential uses were included numerous" (pp. 1-85), this statement is insufficient to analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use). To address this finding, the element could provide total potential of buildout of both specific plans and compare it to the capacity of selected sites and development trends supporting residential development.

Small Sites: The revised element includes a program to encourage lot consolidation for the small parcels identified in the inventory, but still does not analyze the City's capacity for aggregating small parcels. The analysis could describe the City's role or track record in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for redevelopment, recent trends of lot consolidation, and/or information on the owners of each aggregated site. To assist in this analysis, the element could relate the conditions that led to the consolidation of projects listed on Table 1-42 to the identified sites.

Large Sites: Sites larger than 10 acres in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower income

housing. (Gov. Code, § 65583.2, subd. (c)(2)(A).) While the element includes some supporting analysis on TOD 4-Old IKEA and TOD 6-Burbank Town Center large sites, it should expand on how the example project provided are related to large sites by size, affordability, or other factors.

Suitability of Nonvacant Sites: While the element has some analysis that existing use is not an impediment on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households (pp. 1-78 to 1-83, Appendix D), it must also include analysis on how the existing uses will likely discontinue in the planning period. The analysis could provide information on existing leases, provide relevant information from the Downtown TOD Specific Plan market study, connect market trends or past examples relating to identified sites to show the likelihood of discontinuation, and include specific programs to facilitate development on lower-income sites.

Accessory Dwelling Units (ADU): The City is counting an average of 200 ADUs per year for a total of 1,600 ADUs to accommodate its RHNA. HCD's records indicate that the City has permitted 54 ADUs in 2018, 110 in 2019, 97 in 2020. The City provided additional documentation stating that it has permitted 243 ADUs from January through September 2021. When considering ADU permits issued since September 2021, the City averages 134 ADUs a year. As a result, the element should be revised to reduce the number of ADUs to accommodate the City's RHNA. In addition, while the element added Program 6b (Track and Monitor Accessory Dwelling Units), it should be revised to commit to monitor ADU production and affordability on more frequently than mid-cycle.

- 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). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Local Processing and Permit Procedures: While the element includes the purpose of the community meeting for multifamily (pp. 1-63), it should also provide detail information on the appeal process and analyze it for constraints. For example, the element could indicate if there are any requirements or parameters for requests for appeals.

Constraints on Housing for Persons with Disabilities: While the element includes reasonable accommodate process (pp. 1-58 to 1-59), it must include the findings for approval. The element should also analyze the finding that “for an accommodation to be denied, the requested accommodation must cause undue hardship or cause operational problems” for consistency with fair housing requirements. For example, HUD/DOJ guidance states, “For an accommodation to be denied, the requested accommodation must cause an undue financial and administrative burden or it would fundamentally alter the nature of the provider's operations.”

## **B. 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 A2, 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:

Sites Identified in Multiple Planning Periods: In conversations with the City, the two sites identified from the previous planning period is pending entitlement. Please be aware, should these entitlements not be completed, the City must allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households. (Gov. Code, § 65583.2, subd. (c).) The element should commit to monitor the pending entitlement of these projects and allow for by-right approval on those sites if projects are not approved as indicated.

Nonvacant Sites Reliance to Accommodate RHNA: As the element relies upon nonvacant sites to accommodate the regional housing need for lower-income households, it should include a program(s) to promote residential development of those sites. The program could commit to provide financial assistance, regulatory concessions, or incentives to encourage and facilitate new, or more intense, residential development on the sites. Examples of incentives include identifying and targeting specific financial resources and reducing appropriate development standards or proactively advertise and seek

development opportunities on city-owned sites through requests for proposals or other mechanisms.

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 includes Program 10 (Inclusionary Housing Ordinance) to support rentals for large households, it should specifically address how the City is assisting large families through that ordinance. For example, the element could describe what incentives are being provided for the provision of large family units.

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 A3, 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 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 A1, the element must include a complete analysis of affirmatively furthering fair housing (AFFH). Based on the outcomes of that analysis, the element must add or modify programs.

### **C. 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).)*

Moving forward and up to adoption, the City should continue to employ additional methods for public outreach efforts, particularly including lower-income and special needs households and neighborhoods with higher concentrations of lower-income and special needs households.