

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

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November 16, 2021

Abel Avalos, Director
Department of Community Development
City of Lakewood
5050 Clark Avenue
Lakewood, CA 90712

Dear Abel Avalos:

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

Thank you for submitting the City of Lakewood's draft housing element received for review on September 17, 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.

The City's statutory deadline to adopt a housing element was October 15, 2021. 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 this statutory deadline, 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 will meet housing element requirements for these and other funding sources.

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

HCD appreciates the dedication of the housing element team during the update. 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 Dulce Ochoa, of our staff, at dulce.ochoa@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF LAKEWOOD

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).)*

Outreach: The element describes must describe outreach activities specific to affirmatively furthering fair housing (AFFH), summary of comments and how comments were considered and incorporated into the analysis, contributing factors, goals and actions.

Sites Inventory: While the element included data on the location of RHNA sites relative to all fair housing components, the analysis should address the number of units by income group and magnitude of the impact to support conclusions related to whether identified sites AFFH.

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: Based on the outcomes of a complete analysis, the element should re-evaluate and prioritize contributing factors to fair housing issues as appropriate.

Goals and Actions: Based on the outcomes of a complete analysis, the element must be revised to add or modify goals and actions. Goals and actions must specifically respond to the analysis and prioritized contributing factors to fair housing issues. Actions must have metrics and milestones as appropriate and address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

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).)

Suitability of Nonvacant Sites: The element indicates most of the existing uses on nonvacant sites fall into four general categories: commercial strip/big box shopping center, single-family homes, religious facilities/religious educational facilities, and low intensity multifamily developments. For the nonvacant site analysis, the element states most of the sites are similar and therefore describes examples from each of the four categories (p. 82). However, each of the categories require additional analysis. The analysis should consider the extent to which existing uses may constitute an impediment to additional residential development, the City's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, 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. Specifically, to demonstrate the potential for additional development on nonvacant sites, the element must include additional analysis, as follows:

- *For commercial sites*, the element indicates all the identified sites have property owner or manager intent or interest in residential redevelopment (p. 83). However, this over-arching statement is not reflected in the individual descriptions. If there is no interest in residential development, the element should include additional analysis of the extent existing uses impede development to demonstrate the uses will likely discontinue in the planning period such as the current market demand for the existing use and any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site.
- *For single-family residential*, the element identifies similar characteristics including low density and age of structures (p. 89). However, the element should also discuss trends to support assumptions, including past experience with converting existing uses to higher density residential development.
- *For religious facilities*, the element mentions faith leaders have expressed a desire to provide affordable housing and should identify this interest on a site basis where possible. Where not possible, the element should discuss any conditions that preclude development, market conditions and additional regulatory incentives to encourage redevelopment.
- *For multifamily residential*, the element identifies similar characteristics include low intensity multifamily development and age of structures (p. 98). The element should also discuss trends to support assumptions, including past experience with converting existing uses to higher density residential development and any conditions that preclude development.

In addition, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd.(g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the

existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Realistic Capacity: The element will be implementing new commercial mixed-use zones and must account for the likelihood of 100 percent nonresidential development. This analysis should consider the likelihood of 100 percent nonresidential uses, performance standards for residential development and development trends supporting residential. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly.

Large Sites: Sites larger than ten 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).). The element indicates the Lakewood Center mall is the only site larger than 10 acres (p. 75). While the element indicates the property owner expressed interest in residential development, including an affordable component, it should also include a program to encourage development of this larger site.

Small Sites: For your information, sites below 0.5 acres are not deemed adequate to meet the lower-income RHNA absent analysis that development below 0.5 acres is appropriate to accommodate the lower-income housing need. These small sites were not used toward demonstrating adequate sites to accommodate the lower-income RHNA and should not be utilized for the purposes of meeting no net loss law pursuant to Government Code section 65863.

City-Owned Sites: The sites inventory identifies sites that are City-owned. The element must include an analysis to demonstrate their suitability and availability in the planning period. Specifically, the analysis should address general plan designations, zoning, allowable densities, support for residential capacity assumptions, existing uses and any known conditions that preclude development in the planning period and the potential schedule for development. If zoning does not currently allow residential uses at appropriate densities, then the element should include programs to rezone sites pursuant to Government Code section 65583.2, subdivisions (h) and (i).

Accessory Dwelling Units (ADUs): ADUs may be counted toward the RHNA based on past permitted units and other factors. In the element, the City projects 260 ADUs to be constructed over the planning period, averaging 32.5 units per year. This projection was based on figures provided based on the City permitting 21 ADUs as of July 2020. However, HCD records indicate 10 ADUs for 2018, 17 ADUs for 2019 and 17 ADUs for 2020. The element should reconcile these figures and adjust assumptions based on permitted units as appropriate. In estimating affordability, the City assumed over 95 percent of ADUs will be affordable to lower-income households based on recent applications. However, the element should consider other factors such as square footage, number of bedrooms, amenities, age of the structure, general location and other relevant factors and adjust affordability assumptions.

Infrastructure: While the element generally describes infrastructure, it must clarify sufficient existing and planned capacity to accommodate the City's RHNA.

In addition, 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.) The element should discuss compliance with this requirement and if necessary, add or modify programs to establish a written procedure by a date early in the planning period.

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.

Sites with Zoning for a Variety of Housing Types:

- *Emergency Shelters*: The element should describe and analyze the development standards of the M-2 zone and any conditions inappropriate for human habitability.
 - *Employee Housing*: Regardless of whether the City has a specific agricultural designation, the City must have zoning to permit employee housing in compliance with the Employee Housing Act, specifically, Health and Safety Code section 17021.5.
3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Constraints on Housing for Persons with Disabilities: The element must include an analysis of potential constraints on housing for persons with disabilities. Specifically, the element must identify and evaluate any definition of family applied for zoning purposes and include programs as appropriate.

4. *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).)

Land Costs: The element briefly mentions that land costs depend on various factors including if the site is vacant, accessibility to the site, and the site's buildable area (p. 67). However, the element must estimate the average cost or the range of costs per acre for single-family and multifamily-zoned developable parcels.

Permit Times: The element must analyze the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any hinderances on the construction of a the RHNA and programs should be added or modified as appropriate.

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

The element indicates there are an insignificant number of farmworkers in the City. However, farmworkers from the broader area and those employed seasonally may have housing needs, including within the City's boundaries. As a result, the element should at least acknowledge the housing needs of permanent and seasonal farmworkers at a county-level (e.g., using USDA county-level farmworker data) and include programs as appropriate.

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 B2, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a 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 A-1 (Adequate Sites):* The Program should commit to a minimum acreage to be rezoned, allowable densities, identified shortfall of sites and meet all requirements pursuant to Government Code section 65583.2, subdivisions (h) and

(i) such as permitting multifamily uses without discretionary action and residential only and affordability requirements.

- *Program A-7 (ADU Tracking and Monitoring)*: The Program should commit to assess whether additional strategies are necessary every 2 years and a timeline for updating the strategy (e.g., within 6 months).
- *Replacement Housing Requirements*: The housing element must include a program to provide replacement housing. (Gov. Code, § 65583.2, subd. (g)(3).) The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).
- *Program E-5 (Transitional and Supportive Housing)*: As noted on page 49, the Program should also commit to explicitly permit transitional and supportive housing as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone.

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).)*

The element must include programs to assist in the development of very low-, low-, and moderate-income households, including extremely low-income and all special needs households (e.g., elderly, homeless, farmworkers, persons with disabilities, female-headed households). Program actions could include proactive outreach and assistance to non-profit service providers and developers, prioritizing some funding for housing developments and offering financial incentives or regulatory concessions to encourage a variety of housing types.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings B3 and B4, the element requires a complete analysis of 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. In addition, the element should be revised as follows:

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs.

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 construction, it should consider increasing rehabilitation objectives and include objectives for conservation. For your information, conservation objectives are not limited to units at-risk of conversion to market rate uses and may include some activities planned under Actions C and D.

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).)

HCD understands the draft element was made available for review on September 13, 2021, only a few days before 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 the course of 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 making revisions to 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.