

**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](http://www.hcd.ca.gov)



February 1, 2022

Pete Carmichael, Director  
Community Development Department  
City of Irvine  
1 Civic Center Plaza  
Irvine, CA 92606

Dear Pete Carmichael:

**RE: City of Irvine's 6<sup>th</sup> Cycle (2021-2029) Revised Draft Housing Element**

Thank you for submitting the City of Irvine's (City) revised draft housing element update received for review on August 19, 2021, along with revisions received 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. In addition, HCD considered comments from Kennedy Commission and Tim Shaw, a City resident, pursuant to Government Code section 65585, subdivision (c).

The draft housing element addresses many statutory requirements described in HCD's October 18, 2021, letter; however, additional revisions are necessary to fully 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).

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> 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. 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).

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 must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate.

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).

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.

HCD is committed to assisting the City of Irvine in addressing all statutory requirements of housing element law and appreciates the continued hard work and dedication of your team in the preparation of the City's housing element and looks forward to receiving the City's adopted housing element. If you have any questions or need additional technical assistance, please contact Chelsea Lee, of our staff, at [Chelsea.Lee@hcd.ca.gov](mailto:Chelsea.Lee@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF IRVINE

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).)*

The element includes information in Appendix B on affirmatively furthering fair housing (AFFH). However, additional information is required as follows:

Local Data and Knowledge and Other Relevant Factors: HCD's prior review found that the element's AFFH analysis must be informed by regional and local data and knowledge from stakeholders within the City. The element now includes additional information using the City's Analysis of Impediments to Fair Housing Choice (AI) from 2015 and a regional AI from 2020. In addition, the element extracts information from a community survey that was generally related to housing discrimination. While this information is useful, the element should consider additional local data and knowledge that is tailored to all components of the assessment of fair housing to better formulate programmatic response. For example, the City could engage regional advocates or non-profit organizations to discuss conditions and circumstances relative to inequity in quality of life and patterns within the City and region. The element could also discuss past investments (local, state and federal), planning initiatives and the effectiveness of programs and strategies.

Goals, Priorities, Metrics, and Milestones: The element now includes additional AFFH programs beginning on page 8-22 but must be revised to add or modify goals based on the outcomes of a complete analysis. As discussed in HCD's prior review, many of these actions still do not contain metrics and milestones that will create meaningful

actions beyond combating discrimination to overcome historical and systematic patterns of segregation and foster inclusive, affordable, and stable communities.

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 23,610 housing units, of which 10,631 are for lower-income households. To address this need, the element relies on vacant residential sites, mixed-use sites, 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:

University Housing: In response to HCD's prior review, the element now eliminates the 4,406 units of university housing towards its credited RHNA and instead, credits 400 units for faculty and students on Site 102 towards its moderate-income RHNA. However, these changes do not appear to be reconciled in Table 7-2 (Capacity Determination) on pages 7-6 and 7-7.

Large Sites: In response to HCD's prior review, the element includes revisions that note the City has a track record of developing affordable housing on large sites, particularly in Planning Area 51 in the range of 82-197 units (pp. 7-37). However, it is unclear how these trends provide sufficient evidence as it relates to the sites identified for its lower-income RHNA in Table 7-8 (Suitability of Vacant and Nonvacant Lower-Income Sites). In particular, the estimated capacity for the City's six publicly owned sites ranges from 350-1400 units, a yield substantially higher than the City's record in Planning Area 51. Please see HCD's prior review for additional information.

Adequate Site Alternative: HCD's prior review found the element credits the preservation of 823 units affordable to lower-income households towards its RHNA. To do so, the element must demonstrate compliance with all statutory requirements in Gov. Code section 65583.1. In response, the City included Program D.1 (Affordable Housing Preservation/Committed Assistance Program) that commits the City to fulfilling these requirements by 2024. These revisions do not address HCD's finding. Please see HCD's prior review.

Water and Sewer Priority: HCD's prior review found the City must commit to promptly notifying and delivering a copy of the housing element to water and sewer service providers. The element was not revised to address this requirement. Please see HCD's prior review for additional information.

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).)*

Processing and Permit Procedures: HCD's prior review found the element must describe and analyze the design review, guidelines and process, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply, affordability, timing, and approval certainty. In addition, HCD noted that multifamily projects in several zones permitting multifamily development require a Conditional Use Permit (CUP), a potential constraint. In response, the element now includes clarifying information that the City does not require either design review nor conduct architectural review hearings as part of its permit and processing procedures and adds information on average CUP processing times. However, the element was still not revised to address HCD's comments on the CUP process for multifamily in multifamily zones. Please see HCD's prior review for additional information.

Constraints on Housing for Persons with Disabilities: HCD's prior review found the element must analyze its reasonable accommodation procedures for potential constraints for persons with disabilities and noted that residential care facilities serving seven or more persons are conditionally permitted in certain zones, a significant constraint to persons with disabilities. The element was not revised to address this finding. Please see HCD's prior review for additional information.

## **B. 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).)*

In response to HCD's prior review, the element now includes revisions to most of the programs identified. However, additional information is required for Programs G.3 (Zoning Changes) and J.2 (Displacement Prevention). Revisions to these programs still

do not otherwise result in beneficial impacts during the planning period. For example, Program G.3 does not identify specific zoning amendments required to remove governmental constraints found in HCD's prior review and Program J.2 indicates the City will "connect residents to resources..." (pp. 8-19) but does not otherwise identify specific actions or strategies to implement the program.

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 A1, 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.

Accessory Dwelling Units (ADUs): HCD's prior review found the element must analyze its parking requirements for consistency with ADU requirements. In response, the element now includes Program C.3 (Remove Barriers for ADUs) but does not otherwise contain specific program language that addresses HCD's finding. Please see HCD's prior review for additional information.

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).)*

HCD's prior review found the element must include a program that assists in the development of housing affordable to Extremely low income (ELI) households. In response, the element now adds Program B.6 (Funding, Incentives, and Concessions for Extremely Low-Income Developments) to "study the feasibility [of] incentives and concessions and the funding available" by January 2023. However, this action contains unclear language and should be amended to include more specific and measurable actions to demonstrate beneficial impacts during the planning period.

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 A2 and A3, 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 to address and remove or mitigate any identified constraints.

SB 35 Streamlined Ministerial Approval Process: The element now acknowledges the City has not established procedures and specifies on page 5-58 that Program H.3 will be added to the element to address these requirements. However, a corresponding program could not be found.

5. *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 assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. For additional guidance on program requirements to AFFH, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.