

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

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August 8, 2023

Lee Butler, Director  
Planning and Community Development Department  
City of Santa Cruz  
809 Center Street, Room 107  
Santa Cruz, CA 95060

Dear Lee Butler:

**RE: City of Santa Cruz's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element**

Thank you for submitting the City of Santa Cruz's (City) draft housing element received for review on May 10, 2023 along with revisions received on July 26, 2023. 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 July 5, 2023 with you, Eric Marlatt, Assistant Director, Mathew VanHua, Principal Planner, and Ines Galmiche, consultant. In addition, HCD considered comments from Santa Cruz YIMBY, David Kellogg, and YIMBY Law pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

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. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

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 (December 15, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be

completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

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 program, 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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

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 Jose Armando Jauregui, of our staff, at [jose.jauregui@hcd.ca.gov](mailto:jose.jauregui@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF SANTA CRUZ

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 <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> 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 and Enforcement: Outreach specifically related to affirmatively furthering fair housing (AFFH) is foundational to a complete analysis and formulating appropriate goals and actions to overcome patterns of segregation and foster more inclusive communities. The City has made a tremendous outreach effort but must summarize and relate this input to all components of the AFFH analysis and modify or add goals and actions as appropriate. In addition, the element should address the number of fair housing complaints and the characteristics of complaints to better formulate appropriate policies and programs.

Racially Concentrated Areas of Affluence (RCAA): The element identifies four RCAA within the City; however, it should also analyze these areas, including consideration of and provides an analysis on income at regional level; however, the analysis should also trends, conditions, coincidence with other fair housing factors (e.g., income, highest resource,), effectiveness or absence of past strategies (e.g., lack of publicly assisted housing and lack of multifamily zoning), local data and knowledge and other relevant factors. The element must add or modify meaningful programs based on the outcomes of this analysis, including actions to improve housing mobility within and beyond City's boundaries.

Disproportionate Housing Needs, Including Displacement Risk: The element provides some discussion on cost-burdened households and overcrowding. However, the element must evaluate trends and patterns within the City for substandard housing and persons experiencing homelessness. This analysis should utilize local data and knowledge and other relevant factors. For substandard housing, the element should discuss areas of the City where proportions of housing units needing rehabilitation may

be higher than other areas and may utilize local knowledge such as qualitative information for code enforcement staff. For persons experiencing homelessness, the element should discuss disproportionate needs for persons with protected characteristics, geographic areas of higher need (e.g., number of encampments) and access to opportunities, including transportation and services.

Local Data and Knowledge and Other Relevant Factors: The element must include local data, knowledge, and other relevant factors to supplement the analysis and complement federal, state, and regional data to capture emerging trends and issues related to fair housing. The element could utilize knowledge from local and regional advocates and service providers, City staff and related local and County planning documents. Additionally, the element should analyze historical land use, zoning and barriers to housing choices, governmental and nongovernmental spending including transportation investments, seeking investment or lack thereof to promote affordability and inclusion, local initiatives, demographic trends, historical patterns of segregation, or other information that may have impeded housing choices and mobility.

Contributing Factors to Fair Housing Issues: Upon a complete AFFH analysis, the element must reassess and prioritize contributing factors to fair housing issues and add or modify programs as appropriate.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected 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).)*

*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).)*

Extremely Low-Income (ELI) Households: The element does include some data on the number of existing and projected ELI households, but it must also include analysis of their housing needs. The analysis should evaluate disproportionate housing needs, including tenure, overpayment, overcrowding and other housing situations then discuss resources and strategies and the gap and magnitude of housing needs to better formulate appropriate policies and programs.

Housing Conditions: The element includes regional data on the age of the housing stock (p. C-32); however, it must also include an analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or

information from knowledgeable builders/developers, including nonprofit housing developers or organizations.

Housing Costs: While the element includes estimated rents for residents, it utilizes American Community Survey (ACS) data. The element should supplement census data with other sources to better evaluate market conditions and impacts on housing needs.

Farmworkers: While the element includes USDA data on farmworkers within the County, the element should be revised to include an analysis of farmworkers in the broader County. The analysis should address trends, characteristics, disproportionate needs, effectiveness of resources and strategies, magnitude of the housing need, including disproportionate housing need and the effectiveness of past policies, programs, and funding to help address those gaps. The analysis may utilize past farmworker housing studies and other studies generally applicable to their special housing needs. For example, the element could utilize a recent study conducted by University California at Merced that is available at [https://clc.ucmerced.edu/sites/clc.ucmerced.edu/files/page/documents/fwhs\\_report\\_2.2.2383.pdf](https://clc.ucmerced.edu/sites/clc.ucmerced.edu/files/page/documents/fwhs_report_2.2.2383.pdf). Based on the outcomes of the analysis, the element should add or modify programs to address this special housing need in the region.

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 toward the Regional Housing Needs Allocation (RHNA): While the element may utilize pipeline and potential development projects toward the RHNA, it must also demonstrate their affordability and availability in the planning period. Affordability must be demonstrated based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). Availability should account for the likelihood of project completion in the planning period and should address the status, necessary steps to issue permits, any barriers to development and other relevant factors. Given the element's reliance on pipeline projects, the element should include a program that commits to facilitating development and monitoring approvals of the projects (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, expediting approvals and monitoring of project progress, including rezoning or identification of additional sites, if necessary).

In addition, the element identifies anticipated projects with the University of California, Santa Cruz. To utilize these pending projects, the element must demonstrate their availability in the planning period as discussed above as well as other relevant factors, including whether the projects will meet the definition of a housing unit. For additional information, please see HCD's Housing Element Sites Inventory Guidebook (p. 6) available at [https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf).

Finally, the element identifies sites in several specific plans and should demonstrate the realistic availability of these sites and development in the planning period. For example, the element should discuss planned built out horizons, necessary steps to make sites available and any impediments to the availability of sites for development in the planning period.

Realistic Capacity: The element states the City is assuming 100 percent of the maximum allowable density on infill opportunity sites. However, the element must provide support for these conclusions by demonstrating how the City arrived at these assumptions for realistic capacity. This should be based on and adjusted for land use controls and site improvements; typical densities of existing or approved residential developments at a similar affordability level in the City. This analysis should describe in detail the zoning and development standards applicable for each of the specific plan areas being utilized and the underlying zoning, and how those inform the realistic capacity assumptions.

In addition, for sites zoned for nonresidential uses (e.g., commercial, and mixed-use zones), the element must describe how the estimated number of residential units for each site was determined. This analysis must adjust for the likelihood of 100 percent nonresidential development in any pertinent zones. For example, the element could describe the underlying zoning for sites in the relevant specific plan areas, whether 100 percent nonresidential development is allowed in these zones, the likelihood of 100 percent nonresidential development based on all past developments and any relevant programs or policies the City is undertaking to facilitate residential development in non-residential zones.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. While the element lists some recent developments and prior uses, it should also analyze the relationship of past trends to identified sites. For example, the element notes past developments with prior commercial uses but could describe the prior commercial uses and how those characteristics are similar to identified sites. In addition, the element should analyze the extent that existing uses may impede additional residential development, including current market demand for the existing use, existing leases or contracts that would perpetuate the existing use or prevent additional residential development and other indicators of property turnover such as expressed interest in residential development, age of structure, lack of improvements, low improvement to land value ratio, and other factors. For example, the element could expand the discussion of redevelopment potential on a site-by-site basis.

Small and Large Sites: Sites larger than ten acres in size or smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. While the element included a few examples (Tables G-3 and G-5), it must also relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income housing need. For

example, the analysis could describe the City's role or track record in facilitating small-lot consolidation, conditions rendering parcels suitable and ready for lot consolidation, or information from the owners of each aggregated site. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small and large sites.

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 (e.g., shape, easements, property conditions, zoning overlays, contamination).

Infrastructure: The element includes some discussion on water and sewer providers in the City. However, it must also clarify whether sufficient total water and sewer capacity (existing and planned) can accommodate the regional housing need and include programs if necessary.

In addition, the element includes a program (Program 2.6a) to grant priority water service to developments with units affordable to lower-income households. However, the element should also address whether a procedure is available to grant priority sewer service and if not, add or modify programs as appropriate.

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/planning-and-community-development/housing-elements> 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.

Zoning for a Variety of Housing Types (Emergency Shelters): While the element mentions emergency shelters are allowed in the Public Facilities District, it must comply with the requirements of Chapter 654, Statutes of 2022 (AB 2339). Among other things, the element should clarify shelters are permitted without discretionary action in a zone that allows a residential use and discuss available capacity, calculate the capacity available on sites to accommodate emergency shelters, and proximity to transportation and services. Secondly, the element must demonstrate the permit processing, development, and management standards for emergency shelters are objective, encourage and facilitate the development of, or conversion to, emergency shelters, and are in accordance to Government Code section 65583, subdivision a)(4)(A) or include a program to comply with this requirement.

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).)*

Land Use Controls: The element must identify and analyze all relevant land use controls impact as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to heights, and lot coverage. The analysis should address any impacts on cost, supply (number of units) and, particularly, the ability to achieve maximum densities without exceptions and include programs to address identified constraints.

Fees and Exaction: While the element included a listing of fees, the analysis should identify the total amount of fees per unit for typical single family and multifamily development and evaluate the proportion of total development costs for their impact on housing supply and cost.

Local Processing and Permit Procedures: The element provides a general summary of site design review process for the specific plan criteria (p. E-19); however, it should also explain how these standards are applied and met, whether there are any impacts on cost, timing and approval certainty and add or modify programs to address any identified constraints.

In addition, the element should address public comments on this draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

Building Codes and their Enforcement: The element provides an overview of building codes and their enforcement but should also identify any local amendments to the building code and analyze impacts on the cost and supply of housing.

Housing for Persons with Disabilities: The element indicates group homes for seven or more persons are allowed in residential zones but subjects the residential use to a special use permit, unlike other similar uses. The element should specifically analyze this constraint for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.

## **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... (Gov. Code, § 65583, subd. (c).)*



To have a beneficial impact in the planning period and achieve the goals and objectives of the housing element, Programs must have specific commitment and discrete timelines (e.g., annually, by 2025), as follows:

- Many programs state actions will "consider", "present", "review" without specific commitment toward completing actions. However, programs should be revised to include specific commitments toward housing outcomes. For example, a program should specifically commit to adopt measures. Examples of programs that should be revised with specific commitment include but are not limited to Programs 1.3b, 1.3c, 1.3e, 1.4b, 1.5a, 2.2g, 2.3a, 2.4a, 3.1c, 5.5b and 6.2c.
- Several programs commit to implementation on an ongoing basis or as projects are submitted but should instead commit to discrete timing such as annually or by a specified date (e.g., by 2025). Examples of programs that should be revised with discrete timing include but are not limited to Programs 2.2b, 2.4b, 3.1c, 3.3b, 3.3e, 3.4b, 3.6a, 4.2a, 5.3a and 6.4a.

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 A3, 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 Adequate Sites: If necessary to accommodate a shortfall of sites to accommodate the lower-income RHNA, the element must include programs to rezone sites and meet by right requirements pursuant to Government Code sections 65583.2, subdivisions (h) and (i). Examples of by right provisions include permitting multifamily development without discretionary action, requiring minimum densities, allowing 16 units per sites and residential performance standards. Additionally, if necessary, programs should commit to a number of units, minimum acreage, allowable densities and development standards that facilitate achieving maximum densities.

Sites Identified in Prior Planning Periods: If necessary, the element must include a program for vacant sites identified in two of more consecutive planning periods' housing elements or nonvacant sites identified in a prior housing element, that are currently

identified to accommodate housing for lower-income households. The program must be implemented within the first three years of the planning period and commit to zoning that will meet the density requirements for housing for lower-income households and allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households.

Faith-Based Sites: The element has identified faith-based sites to accommodate a portion of their RHNA. The element should include a program that commits to facilitating development of these sites. For example, actions can include assisting property owners in completing any necessary rezoning or entitlements; outreach with developers of affordable housing; providing incentives for development such as waiving fees; reduced development standards; providing technical assistance and supporting funding applications.

Transitional and Supportive Housing: While the element includes Program 3.4c to amend zoning and comply with state law, several zones (e.g., R-T (A), R-T (B), R-T (C), nonresidential zones) do not appear to permit transitional and supportive housing as residential uses similar to other residential uses of the same type in the same zone. Program 3.4c should be revised to specifically amend these zones as appropriate.

By-Right Permanent Supportive Housing: The element includes Program 3.4d to facilitate supportive housing that complies with Government Code section 65651 (AB 2162) on a case-by-case basis. However, Program 3.4d should also commit to amend zoning and permit these uses without discretionary action, as appropriate, to comply with Government Code section 65651.

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 A4, 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.

In addition, Actions 3.3f and action 3.3l timeline should be revised to be implemented earlier in the planning period (e.g., 2025).

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... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the City must revise or add or modify goals and actions. 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 specific commitment, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in higher opportunity or higher income areas, place-based strategies for community revitalization and displacement protection. For example, the element must add significant and meaningful housing mobility actions to overcome the existing patterns in the City related to the broader region.

5. *Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a)... (Gov. Code, § 65583, subd. (c)(6).)*

Program 2.5a includes various actions to preserve at-risk units but should also specifically commit to comply with noticing requirements (beyond reviewing) and assist and educate tenants.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

While Program 1.5a commits to annually monitor the production and affordability of accessory dwelling units (ADU) and amend regulations as appropriate, it should include additional alternative actions (e.g., rezoning) if assumptions are significantly not realized.

### **C. Coastal Zone and Replacement Requirements**

*Coastal localities shall document the number of low- and moderate-income units converted or demolished, and the number of replacement units provided. (Gov. Code, § 65588, subd. (d).)*

The element does not address this statutory requirement. To determine whether the City's affordable housing stock in the coastal zone is being protected and provided as required by Government Code section 65588, the element must be revised to include the following:

1. The number of new housing units approved for construction within the coastal zone since January 1982.
2. The number of housing units for persons and families of low- and moderate-income required to be provided in new housing developments either within the coastal zone or within three miles.

3. The number of existing residential dwelling units occupied by low- and moderate-income households either within the coastal zone or three miles of the coastal zone that have been authorized to be demolished or converted since January 1982.
4. The number of residential dwelling units for low- and moderate-income households that have been required for replacement.