

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

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April 5, 2022

Lori Ann Farrell Harrison, City Manager
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Lori Ann Farrell Harrison:

RE: City of Costa Mesa's 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Costa Mesa's (City) housing element adopted on February 2, 2022 and received for review on February 4, 2022. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from Disability Rights California, Costa Mesa Affordable Housing Coalition, Kennedy Commission, Nsight and Californians for Homeownership pursuant to Government Code section 65585, subdivision (c).

The adopted element addresses many statutory requirements described in HCD's prior December 3, 2022 review; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of 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.

HCD appreciates the hard work and dedication Jennifer Le, Scott Drapkin and the rest of the City's housing element team provided during the review. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need assistance, please contact me at Paul.McDougall@hcd.ca.gov.

Sincerely,

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

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF COSTA MESA

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).)*

While the element includes a general summary of outreach and includes some additional data related to disparities in access to opportunity, it largely was not revised to address HCD's findings related to the following:

- Enforcement
- Integration and Segregation (please see finding related to income and persons with disabilities)
- Racial/Ethnic Areas of Concentration of Poverty (R/ECAP) and Areas of Affluence (RCAA)
- Disproportionate Housing Need including Displacement Risk (please see finding related to overpayment, overcrowding, housing conditions and homelessness)
- Local Data and Knowledge, and Other Relevant Factors
- Goals, Actions, Metrics, and Milestones

Please see HCD's prior review which details the necessary revisions.

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).)

Extremely Low-income (ELI) Households: While the element includes some analysis of the existing housing needs of ELI households, it must still identify the projected housing need for ELI households as describe in HCD’s prior review.

Housing Conditions: The element describes the age of the housing stock and includes some information on code enforcement. However, the element must still include an estimate of the number of units in need of rehabilitation and replacement. This analysis could address housing conditions at a neighborhood or area level to address requirements related to the assessment of fair housing (See above). Please see HCD’s prior review for additional information.

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).)*

Suitability of Nonvacant Sites: While the element includes some additional information on development potential based on existing versus allowable intensities and a brief housing market analysis, it must still provide supporting information to demonstrate the similarity between redevelopment trends and identified sites. Please see HCD’s prior review for additional information.

In addition, as noted in the prior review, because the housing element relies upon nonvacant sites to accommodate more than 50 percent of the regional housing needs allocation (RHNA) for lower-income households, it 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. Based on a cursory review of the adoption resolution (Resolution Number 2022-06), findings were not made regarding existing uses. Future re-adoption of the housing element must contain the appropriate findings. HCD will provide samples under separate cover.

Small Sites: The element includes some analysis of small sites and the potential for consolidation and notes Policy 2.10 in the land use element of the general plan. However, Policy 2.10 appears oriented toward single family lots and does not provide clear mechanisms for promoting lot consolidation. As a result, the element should include a program with specific commitment and timing to establish incentives and promote lot consolidation, including outreach with property owners.

Large Sites: Sites larger than ten acres 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. For example, typical developments with units affordable to lower income households consist of 50 to 150 units. Several sites identified far exceed this typical range. HCD’s prior review found the element should demonstrate the potential for larger sites to be developed as

assumed in the planning period, including affordability. In response, the element now describes expressed interest in developing housing in the planning period and absence of explicit caps on affordability. However, the element should still describe how these larger sites facilitate affordability in the planning period, particularly given typical ranges for affordable developments. Further, the element must include a program to facilitate the assumed affordability on larger sites and, similar to Program 3B (Fairview Development Center), should consider alternative actions if the sites are not developed in the planning period as assumed, especially related to affordability.

Environmental Constraints: While the element now generally describes potential environmental constraints related to fire and flooding, it must still describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period.

Accessory Dwelling Units (ADUs): HCD's prior review found the element should reconcile 2020 numbers with HCD's records (19 ADUs) and rescale assumptions based on permitted units and other relevant factors and add or modify programs as appropriate. In response, the element now assumes 70 ADUs per year (adjusted from over 100 ADUs per year). However, these adjusted assumptions are not supported by analysis and programs. First, the element must still reconcile 2020 numbers (27 ADUs) with HCD records. Second, recent trends (20 ADUs per year since 2018) do not support a four-fold increase. While the element notes the uptick (41 ADUs in 2021), it should rescale assumptions to a more appropriate number around 40 to 50 ADUs per year.

Electronic Site Inventory: As noted in the prior review, 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 and submit an electronic version of the sites inventory. While the City has submitted an electronic version of the sites inventory, if changes occur, any future re-adopted versions of the element must also submit the electronic version of the sites inventory.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element now includes some discussion related to available acreage and proximity to transportation and services; but it should still clarify emergency shelters are permitted without discretionary action; discuss the presence of reuse opportunities; and analyze any conditions inappropriate for human habitation.
 - *Permanent Supportive Housing:* The element was not revised to address this finding. Please see HCD's prior review for additional information.
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).)*

Processing and Permit Procedures: The element now describes approval bodies for various entitlements and indicates typical multifamily developments are subject to Planning Commission approval. In addition, as noted in the prior review, the analysis should address the typical number of public hearings, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing and approval certainty.

Housing for Persons with Disabilities:

- *Reasonable Accommodation*: HCD's prior review found the City's reasonable accommodation procedure contains potential constraints. For example, while HCD agrees that local actions must be consistent with the general plan, the purpose of the procedure is to provide exception in land use, including the general plan, so persons with disabilities can enjoy access to housing. Further, the housing element, including provisions for reasonable accommodation and obligations to affirmatively further fair housing (AFFH), are also part of the general plan. In response, the element does not appear to agree the procedure contains constraints but commits (Program 2N) to review and revise the ordinance to comply with state and federal fair housing laws, which casts uncertainty on what will be revised. As a result, Program 2N should be revised to provide certainty and specific commitment to revise the ordinance and ensure a process that promotes housing access for persons with disabilities. For example, the Program could commit to revise the procedure with parameters on what will be achieved through revisions such as promoting access to housing for persons with disabilities, addressing constraints such as approval findings and establishing objective standards (e.g., health and safety) and guidance to promote certainty on how approval findings will be implemented.
- *Definition of Family*: HCD's prior review found the zoning code defines single housekeeping unit with multiple restrictions that may act as constraints on housing for persons with disabilities. In response, the element concludes the definition of family and single housekeeping unit do not touch on whether members are with a disability and is not intended to discriminate against persons with disabilities. However, the element provides no analysis to support this conclusion and should include a program to address the constraint. Please see HCD's prior review for additional information.
- *Group Homes*: The element includes various conclusions and statements about the City's zoning code and group homes, but it still must analyze the exclusion of these housing types from some residential zones and use permit and other requirements, including enforcement as constraints on housing for persons with disabilities and add or modify programs as appropriate. Based on a complete analysis, the element should add or modify program. 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).)

As noted in the prior review, to have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines and specific commitment. In response to add discrete timelines, the element, for several actions, now commits to review or evaluate programs annually. However, an annual review does not result in a beneficial impact or a housing outcome. Programs should have specific commitment with discrete timing to achieve a housing outcome in the planning period. For example, Program 1A (Owner Occupied Housing Rehabilitation) should at least annually market information on the program, describe when the City will evaluate effectiveness and make adjustments and could commit to process a target number of applications per year. Please see HCD's prior review for additional programs to be revised.

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: As noted in the prior review, programs to rezone sites and accommodate a shortfall of adequate sites (3C and 3D) must be revised to address all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i) and commit to allowable densities, minimum acreage to be rezoned, number of shortfall units and amending any caps on residential development. In response, the element now states rezoning is not necessary to accommodate a shortfall of adequate sites. However, the element does not demonstrate how this conclusion is derived. The element should either demonstrate how adequate sites are demonstrated based on existing zoning, including development standards or revise programs as described in HCD's prior review.
- Program 3B (Fairview Development Center): While the Program now commits to negotiate an agreement and alternative actions, it should also commit to facilitate development as appropriate, including zoning, incentives, expedited processing and

similar actions and include timing for when alternative actions will be completed if necessary.

- Large and Small Sites: As noted in Finding A3, programs should be added or modified to ensure availability and affordability of development in the planning period as anticipated in the sites inventory.

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).)*

ELI Households: Program 2L is now revised to subsidize processing fees when funding is available and promote the benefits of the program. However, the Program should also commit to additional actions to assist in the development of housing for ELI households. The Program should commit to proactively reach out to developers at least annually and ongoing to identify development opportunities, adopt priority processing and streamlined review, grant concessions and incentives and assist, support or pursue funding applications at least annually and ongoing throughout 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 A4, 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.

In addition, Program 3G now includes a specific schedule of actions to, among other things, engage the community, propose a ballot measure, adopt an inclusionary ordinance (exempting affordable housing proposals) and prepare planning amendments to meet the RHNA. However, the Program should also commit to adopt the various planning amendments, alternative actions if the appropriate zoning is not complete and provide parameters that the ballot measure or other actions will be undertaken to address this fundamental constraint to housing development (in addition to RHNA requirements).

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

As noted in Finding A1, the element requires a complete analysis of AFFH. Depending upon the results of that analysis, the City must revise or add programs.