

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

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May 23, 2022

David Crabtree, Interim Director
Community and Economic Development Department
City of La Habra
110 E La Habra Blvd
La Habra, CA 90631

Dear David Crabtree:

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

Thank you for submitting the City of La Habra's (City) revised draft housing element received for review on March 24, 2022. 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 some of the statutory requirements described in HCD's November 1, 2021 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 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).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision 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. 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.

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.

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 Mashal Ayobi, of our staff, at mashal.ayobi@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long horizontal stroke extending to the right.

Melinda Coy
Senior Housing Accountability Manager

Enclosure

APPENDIX CITY OF LA HABRA

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))*

Fair Housing Issues: HCD's prior review found that the element must incorporate local data and knowledge into the element. Based on the revisions, that the element shows that the City has concentrations of fair housing issues including majority-minority populations, higher prevalence of lower-income families, overcrowded housing units, displacement risks and higher levels of environmental conditions in census tracts located in the center of the City. As found in HCD's prior review, the element should supplement this analysis with local data and knowledge or other relevant factors. For example, the element can include information not limited to investment practices, presence of redlining, restrictive covenants, neighborhood investment or disinvestment, federal investment such as transportation infrastructure, or any other information that supplements the reported data and assists in a complete analysis. Additionally, the element briefly mentioned sundowning laws, school segregation, etc., the element could expand on this discussion if these historical practices contributed to the current conditions of these census tracts.

Disproportionate Need: While the element now includes information on homelessness, displacement risk, and overcrowding, as found in HCD's prior review, the element must analyze local patterns and trends related to substandard housing conditions.

Strategies, Actions, Metrics, and Milestones: While the element was revised to include additional actions, they were not meaningful and significant to sufficiently respond to contributing factors, overcome patterns of fair housing issues and foster inclusive communities. Additionally, as found in HCD's prior review the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. Lastly, the element did not include programs that address place-based strategies for revitalization and increasing housing opportunities in high opportunity areas. For your information, the element did include some actions that could address place-based strategies. These programs include A1 (Love La Habra), A2 (Capital

Improvements), C7 (Inclusionary Housing), D4 (Child Development Services), and D5 (Job Training). Additionally, throughout the AFH, the element referenced several strategies that the City implements to improve quality of life including child development centers, limited English outreach plans, ADA transition plan, college acceptance programs, recreational activities (art museum) for disadvantaged children, healthier communities initiatives, and more. The element could formulate place-based programs based off these efforts. As a reminder, place-based actions and programs must include a geographic focus, specific actions, metrics, and timelines for implementation.

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 need allocation (RHNA) of 804 housing units, of which 308 are for lower-income households. To address this need, the element relies on accessory dwelling units (ADUs), nonvacant sites in mixed-use zones, and pipeline projects. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Realistic Capacity: As found in HCD's prior review, the element must clearly state the methodology for determining realistic capacity. For example, while the element had stated it was assuming 85 percent of the maximum allowable density (pp. 4-17), the actual inventory for realistic capacity ranges from 66 to 100 percent of the maximum allowable density. For your information, the capacity calculations for Site #16 i.e., 310-340 E. Whittier Blvd is assuming double the maximum allowable density indicated on Table HE-4.4 (pp. 4-13). Specifically, the element states that the allowable density range is up to 24 units per acre on a site of 1.30 acre. If the element were to assume the maximum allowable density, this would yield a total of 31 units; however the element states that the realistic capacity for this site is 70 units.

Additionally, as found in HCD's prior review, the element should include clear supporting information on typical built densities of existing or approved residential developments at a similar affordability level to support density assumptions. For example, the element included Table HE-4.2 (p. 4-3) with several pipeline projects. To relate these examples to the analysis, the element could identify the allowable density, built density, level of affordability, and presence of exceptions such as a density bonus.

Realistic Capacity on Nonresidential Sites: While the element included additional information discussing the likelihood of residential in nonresidential zones, it generally did not address this finding. To demonstrate the likelihood of residential where nonresidential uses are allowed, the element stated that all mixed-use sites are allowed to develop at 100 percent residential. To supplement this, the element discussed incentives including removing minimum lot size requirements and eliminate requirements for multifamily components as part of mixed-use blocks. This information does not demonstrate or account for the likelihood that residential will be built in nonresidential zones. As found in HCD's prior review, the element should discuss additional factors such as performance

standards mandating a specified portion of residential, whether 100 percent commercial is allowed, utilization of residential incentives, development trends such as past projects. Additionally, the element could analyze all development activity in the identified nonresidential zones, how often residential development occurs and adjust residential capacity calculations, and commensurate the analysis with policies and programs.

Suitability of Nonvacant Sites: HCD's prior review found that the element must demonstrate the likelihood of redevelopment on nonvacant sites. The revised element included the existing use for pipeline project and high-level statements about the criteria applied to nonvacant site selection (pp. 4-17). However, this does not constitute as an analysis and the element does not sufficiently address this requirement. For example, the element stated that sites were considered if the existing land uses were shuttered or marginal. To better relate the discussion to the actual sites, the element should include additional information about each site conditions existing use and consider supplementing this information to demonstrate the potentially blighted conditions of the site i.e., images. The element also stated that sites were considered if there were multiple developer or owner inquiries. The element could further discuss the frequency of those inquiries. Lastly, the element concluded that the sites do not have lease agreements that would prevent redevelopment. The element should provide an analysis to support this assumption such as the methodology for determining whether lease agreements will act as an impediment.

For your information, while the element stated that it does not rely on nonvacant sites for more than 50 percent of its RHNA, if future revisions of the housing element result in the reliance on nonvacant sites for more than 50 percent of the RHNA, specific analysis and actions will be necessary. The housing element will need to 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.

Accessory Dwelling Units (ADU): While the element was revised to include additional information on ADU trends and reduce the number of ADUs from 400 to 300, it still does not support the current assumptions. Specifically, the element provides new data showing the City issued seven building permits for 2019, 38 for 2020 and 31 for 2021 (p. 4-9) averaging 25 ADUs per year which equates to a total of 202 during the planning period. However, the element is counting an average of 37 ADUs per year for a total of 300 ADUs. As found in HCD's prior review, the element does not support the current assumptions and must adjust figures to reflect a realistic estimate of ADUs.

Secondly, the element was revised to identify 300 ADUs solely to accommodate the City's lower-income RHNA. The element describes the affordability of ADU applications received in 2020. This affordability assumption is entirely inconsistent with HCD's pre-approved methodology, is not supported in the element, and puts a high degree of reliance on ADUs to accommodate its lower-income RHNA i.e., more than half. The element must revise affordability assumptions with realistic estimates.

Lastly, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor or affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within six months). Finally, if necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Electronic Sites Inventory: 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 for technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

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. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls:

- *Heights* – HCD's prior review found that the element must analyze whether the maximum number of stories can be achieved given the maximum height requirements (p. 3-18). The revised element stated that the City utilizes graduated height standards and allows for progressively higher buildings in different zones. However, this still does not address HCD's prior finding. For example, the R-7 zone allows for a maximum of five stores but only allows for a max of 50 feet in height, equating to a maximum of 10 feet per story. The same applies for the R-5 and R-6 zone. For your information, on average, most stories equate to 12-15 feet per story. The element should include additional analysis and programs that mitigate this constraint by ensuring that heights and stories are more permissive and facilitate achieving maximum heights and densities.
- *Parking* – HCD's prior review found that the element must analyze covered garage requirements and its impact on lot coverage and overall ability to achieve maximum densities. The element requires covered garages for a studio unit. The revised element

stated that due to the height and story allowances, covered garages can be built as a story in a project. However, this approach can potentially limit a project from reaching the maximum allowable density. The element should include programs that specifically mitigate or remove this constraint.

Design Review: While the element now includes additional information and analysis on the design review process, this generally does not address HCD's finding. Specifically, as part of the design review process, planning commission must find that the project is "appropriate and compatible with surrounding uses." The element should analyze this finding for constraints on approval timing and certainty. Absence of any guidance, these findings can create uncertainty and subjectivity during the approval process. The element could discuss how the City implements this finding and promotes clarity to the applicant. Lastly, the element states that to promote timely and clear approval processes, the element will adopt objective design standards pursuant to Senate Bill 35. The element should clarify whether these standards will be limited to SB 35 projects or can apply to other types of development. The element must include programs to address constraints.

Constraints on Housing for Persons with Disabilities (Residential Care Facilities for Seven or More Persons): HCD's prior review found that the element must describe whether residential care facilities severing seven or more persons are allowed. The element stated that this use is allowed are allowed with a conditional use permit. Additionally, the element has not clarified which zones these facilities are allowed in. For your information, excluding these uses from residential zones and subjecting these housing types to a conditional use permit (CUP) is generally considered a constraint. The element should analyze zoning and processes for this type of housing and include programs address constraints.

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. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

Density Requests: The revised element included a high-level discussion stating that the density of development depends on the product type and certain types of products will be built at lower or higher densities. This does not address HCD's prior finding. As found in the prior review, the element must specifically identify requests to develop at densities below those anticipated in the site inventory.

C. 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).)*

While the element included some revisions to address this finding, additional revisions will be needed to comply with this requirement. As found in HCD's prior review, to address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. All programs must be revised to include concrete timeframes for implementation.

- Programs A3 (Land Use/Community Preservation) and A4 (Residential Rehabilitation Program) – the element was not revised to address HCD's prior finding regarding this program. As stated in the prior review, the program must describe whether certain neighborhoods will be targeted and whether there will be proactive outreach and how often.
 - Program B2 (Priority Processing) – the element was not revised to address this finding. As stated in HCD's prior review, the element must include an implementation timeline for these actions. For example, the element states that it will adopt a streamlined procedure per SB 35 however lists the timeline as "2021-2029".
 - Program D3 (Homeless Services) – the element was not revised to address this finding. As found in HCD's prior review, the element must include a timeline for implementation. Specifically, Table HE-5.4 must be revised from "ongoing" to a specific date.
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 A2, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Program B4 – Accessory Dwelling Units: The City is relying on ADUs to accommodate a portion of its RHNA. While the element included a program to update the City’s ADU ordinance and implement ADU incentives, the element must specifically identify those incentives and a timeline for implementing incentives. For example, the element stated these actions will happen on annual basis. However, these are very specific actions that need a more discrete timeline i.e., updated ADU ordinance within one year of adoption. Additionally, while the element states it will monitor ADU applications and implement additional incentives, this program should commit to frequent monitoring (i.e., every two years) and take appropriate action such as adjusting assumptions or rezoning within a specified time period (e.g., six months).

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(s) A3 and 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.

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

As noted in Finding A1, the element must be revised to include meaningful actions that overcome fair housing issues and promote inclusive communities, include metrics, and generally address place-based strategies for revitalization, increasing housing choices in high opportunity areas, mobility enhancement, and addressing displacement risk.