

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

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January 14, 2022

Ryan Gohlich, Director
Community Development Department
City of Beverly Hills
455 North Rexford Drive, First Floor
Beverly Hills, CA, 90210

Dear Ryan Gohlich:

RE: City of Beverly Hills' 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Beverly Hills' (City) housing element adopted October 12, 2021 and received for review on October 18, 2021. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The adopted housing element addresses most statutory requirements described in HCD's July 30, 2021 review; 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 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. 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.

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 meets 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 Chelsea Lee, of our staff, at Chelsea.Lee@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

APPENDIX CITY OF BEVERLY HILLS

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 now includes additional information on outreach conducted, a few maps, and marginal sites analysis for some of the fair housing areas but generally does not address this requirement. Please see HCD's prior review for additional information and HCD's data viewer and guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

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).)*

Parcel Listing: The element now identifies the anticipated affordability levels of units on identified sites, but still does not include revisions to clarify generic descriptions of existing uses of sites identified in the inventory. Please see HCD's prior review for additional information.

Realistic Capacity: The element now includes minimal discussion that indicates allowable densities in the Mixed-Use Overlay Zone are higher than the default density for the City and lists recently approved projects in the R-4 zone that achieved densities between 30-59 units per acre. However, the element provides no analysis based on land-use controls, environmental constraints, infrastructure, and site improvements to demonstrate the calculation of residential capacity on identified sites. Please see HCD's prior review for additional information.

Suitability of Nonvacant Sites: HCD's prior review found the element must include analysis that demonstrates the potential for additional development of nonvacant sites.

In response, the element adds some information on ILV ratios and market conditions of sites in the Mixed-Use Overlay zone. However, the element does not provide sufficient analysis to demonstrate existing uses will discontinue in the planning period, analyze existing leases or contracts that would prevent redevelopment of sites, or provide evidence of the City's past experience with converting existing uses to higher density residential development. Please see HCD's prior review for additional information.

Environmental Constraints: HCD's prior review found the element must describe any known environmental constraints or other conditions on identified sites that could impact housing development in the planning period. In response, the element now states, "while environmental constraints will require development to incorporate measures to mitigate potential hazards, these constraints are not expected to preclude housing development consistent with the regional housing needs allocation (RHNA)," (p. B-56). This statement indicates the presence of constraints on sites identified; therefore, the element did not address this finding.

Replacement Requirements: HCD's prior review found the element includes sites in the Mixed-Use Overlay Zone with existing residential uses. The element was not revised to address this requirement. Please see HCD's prior review.

Accessory Dwelling Units (ADUs): The element now indicates that an additional 14 ADU permit applications were submitted in September 2021 to justify its projection of 150 ADUs in the planning period. The analysis should be based on permitted ADUs. Further, the City did not address discrepancies between the City and HCD's records on ADUs permitted in 2018, 2019, and 2020. The City must reconcile ADU figures with HCD records and rescale assumptions based on permitted ADUs.

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).)*

Land-Use Controls: In response to HCD's prior review to analyze development standards for impacts on achieving maximum densities, the element now includes additional examples of projects recently approved in the R-4 zone. In addition, the element addresses lot assemblage issues, noting that some of the R-4 projects involved singular lots and still achieved high densities. However, revisions added to Program 12.1 (Development Standards) to "study" and "consider" do not result in meaningful actions to address potential constraints on multifamily housing and this analysis.

Fees: In response to HCD's prior review to analyze fees for impacts on development costs, the element now includes a statement that indicates Program 12.2 (Reduced Fees for Affordable Housing) commits the City to conducting a fee study to assess whether additional waivers can be granted for affordable housing projects. However,

there are no revisions found in Program 12.2, nor is there an evaluation of fees. Please see HCD's prior review.

Processing and Permit Procedures: In response to HCD's prior review to analyze its permit and processing procedures for impacts on cost, supply, and built density, the element now adds minor revisions describing the design content of the "Residential Design Style Catalog," which includes architectural features, materials, and pictures of each design style. These revisions do not address HCD's findings. Please see HCD's prior review.

Constraints on Persons with Disabilities:

- *Family Definition:* In response to HCD's prior review, which found that the City's definition of family acts as a constraint on persons with disabilities and is discriminatory, the City responded to HCD by noting that "the City believes that the current definition complies with State law and that no revisions are necessary or appropriate at this time. It is important to recognize that the existing definition is part of an integrated set of land use regulations that has been carefully crafted to protect the integrity of existing single-and-multi-family neighborhoods..." (Exhibit 1, Housing Element Comments and Responses). Based upon the City's refusal to address these constraints, the adopted element still does not address this finding. Please see HCD's prior review.
- *Group Homes:* Similarly, HCD's prior review found that group homes for seven or more persons are excluded from most residential zones and did not evaluate approval requirements for impacts on objectivity and approval certainty. The City responded to HCD by noting that "the City believes the regulations for group homes for 7+ persons complies with State law" (Exhibit 1, Housing Element Comments and Responses). Based upon the City's response, the adopted element still does not address this finding. Please see HCD's prior review.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. (Gov. Code, § 65583, subd. (a)(6).)*

HCD's prior review found the element must address requests to develop housing at densities below those anticipated in the sites inventory and the length of time between receiving approval for housing development and submittal of application for building permits. The element was not revised to address this requirement. Please see HCD's prior review for additional information.

5. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts,*

mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)

HCD's prior review found the element must estimate the total costs of preserving at-risk units that are in danger of converting to market-rate during the next ten years. In response, the element presents confounding information that the earliest date of conversion for the Beverly Hills Senior Housing project is 2028 and is "technically classified as being at-risk of conversion..."; however, the "City has the right to purchase the upper floor for one dollar in 2041; therefore, this project is not at risk of conversion to market rate." These revisions do not address HCD's findings. 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).)*

The element now includes revisions that satisfactorily addresses timeframes for Programs 11.5 and 12.1. However, there are no revisions to Programs 9.3 (Home Repair and Improvement) and 10.3 (Housing Trust Fund). In addition, Program 10.4 (Accessory Dwelling Units) still requires timeframes for creating pre-approved ADU plans and for outreach materials, including an ADU webpage.

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 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.

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).)*

In response to HCD's prior review, the element now includes revisions that identify additional actions to assist low-, very low-, low- and moderate-income households in Program 10.6 (Partnerships with Affordable Housing Developers). However, none of these actions have corresponding timeframe commitments for implementation that will result in 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 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 add programs and address and remove or mitigate any identified constraints. In addition, while the element now includes revisions to Program 12.1 (Development Standards) that commit the City to amendments by 2024, it still contains terms including "studying" and "evaluating" that do not result in beneficial impacts during the planning period.

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 analysis of affirmatively furthering fair housing (AFFH). Based on the outcomes of that analysis, the element must add or modify programs.

6. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

As noted in Finding A5, the element must complete an analysis of units at risk of conversion to market rate during the planning period. The element must add or modify programs based on the outcomes of that analysis.

7. *Develop a plan that incentivizes and promotes the creation of ADU that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “ADU” has the same meaning as “ADU” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

The element now includes revisions that address some timeframes to actions identified in Program 10.4 (Accessory Dwelling Units). However, other actions still lack specified timeframes other than indicating “throughout the planning period,” including amending the zoning code to remove barriers regarding ADUs in multi-family zones, pre-plan checks and pre-approved ADU plans, and creating an ADU webpage.

C. Public Participation

Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort. (Gov. Code, § 65583, subd. (c)(9).)

The element now includes revisions that address when the draft was disseminated and how public comments were incorporated. The element also includes clarifying revisions on the types of outreach conducted, including an additional Planning Commission meeting, mailings to property owners, and an ADU survey. However, these revisions are insufficient in demonstrating that all economic segments of the community, particularly low-and moderate-income households and organizations that represent them, were involved in the development of the housing element. Please see HCD’s prior review.