

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



April 25, 2022

Melanie McCann, Principal Planner
Planning and Building Agency
City of Santa Ana
20 Civic Center Plaza
P.O. Box 1988
Santa Ana, CA 92702

Dear Melanie McCann:

RE: Santa Ana's 6th Cycle (2021-2029) Revised Draft Housing Element

Thank you for submitting the City of Santa Ana's (City) revised draft housing element received for review on February 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. Our review was facilitated by a conversation on April 12, 2022 with Jerry Guevara, Associate Planner; Fabiola Zelaya Melicher, Planning Manager; Holli Safran, Community Development Analyst; Ricardo Soto, Senior Planner; and yourself. Pursuant to Government Code section 65585, subdivision (c), HCD considered third party comments from Disability Rights California, The Kennedy Commission, THRIVE Santa Ana, and YIMBY Law in the preparation of its findings.

The adopted housing element addresses most statutory requirements described in HCD's December 20, 2021 review; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code), see enclosed Appendix. The element will meet the statutory requirements of State Housing Element Law once it has been revised and re-adopted to comply with the requirements.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), as the City failed to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), any rezone needed to accommodate the City's regional housing needs allocation (RHNA) must 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. In addition, as part of the review, HCD received several comments from stakeholders with program and policy suggestions that would assist the City in meeting housing element requirements. The City should consider these comments as part of its next revision of the housing element. 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, 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>.

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 City's effort throughout the course of the housing element 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 additional technical assistance, please contact Reid Miller, of our staff, at Reid.Miller@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SANTA ANA

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))*

Local Data and Knowledge: While the draft element was revised to meet many requirements of state law, it must still provide analysis that considers other relevant factors that contribute to fair housing issues in the jurisdiction, such as public participation, past policies, practices and investments, and demographic trends. Additionally, pursuant to third party comments, the element should describe and analyze its enforcement of the City's nuisance law and ensure that its application is consistent with the City's obligation to take proactive and meaningful actions to Affirmatively Furthering Fair Housing (AFFH) and take no action inconsistent with its obligation to AFFH pursuant to Government Code section 8890.50, subdivision (b). Any analysis should pay specific attention to how the City's enforcement of nuisance law adversely affects or exacerbates conditions for the City's unhoused population and housing for persons with disabilities. A similar analysis should also be provided for the City's enforcement of its reasonable accommodation policies, and their effect on persons with disabilities in throughout the City.

Disproportionate Housing Needs including Displacement Risk: While the element does include some data on displacement risk, it must still analyze the risk of displacement at a neighborhood or area level throughout the City. Additionally, the element continues to lack an analysis of homelessness patterns and trends. This analysis should evaluate the unhoused population by racial/ethnic, disability and geographical concentrations throughout the City. Programs should be added as necessary based on the conclusions from this analysis.

Contributing Factors: The element was largely not revised to meet this requirement. Please see HCD's prior review. Additionally, in re-assessing contributing factors upon

completion of a full AFFH analysis, the element should specifically consider issues of homelessness and displacement risk, including adding or modifying specific programs as appropriate.

Sites Inventory: While the revised element provides further discussion on whether the sites identified to meet the City's Regional Housing Needs Allocation (RHNA) are distributed throughout the community in a manner that AFFH, the element must still discuss whether the distribution of sites improves or exacerbates existing patterns and conditions. Specifically, the revised element notes in Appendix E, page 28, that most sites to satisfy lower-income RHNA are located in or near areas that are already predominantly lower-income and provides no analysis or program actions to be taken that ensures the placement of these sites will not exacerbate existing patterns.

Goals, Actions, Metrics, and Milestones: The revised element largely does not meet this requirement. Please see HCD's prior review, paying specific attention to addressing issues of homelessness and displacement throughout the City. In addition, the City should consider comments from third party stakeholders when identifying appropriate programs to address fair housing issues, patterns, and trends. For example, to address displacement risk, the City could consider tenant protection programs. To promote new housing choices and affordability in high opportunity areas, the City could prioritize additional density in higher resource, historically exclusionary neighbors or create community land trusts. To provide mobility choices, the City could support homeownership opportunities for historically excluded groups.

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 RHNA of 3,392 housing units, of which 1,265 are for lower-income households. To address this need, the element relies on vacant sites, including sites within the mixed-use areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Suitability of Nonvacant Sites: While the draft element was revised to provide some information on the City's site inventory rating system, it must still provide analysis describing how the factors demonstrate that these sites are suitable for addition residential development within the planning period. Furthermore, the element should describe any other factors considered in determining the potential for development such as expressed interest in redevelopment, any environmental factors that would inhibit development within the planning period, and incentives or programs to facilitate development on these sites. Specifically, as Table C-3 indicates that Site 2 is being used to meet the majority of the City's lower-income RHNA, more analysis is required to demonstrate that past trends support the development of lower-income housing in

this area, and to show that any affordable development would be located close to transit and services.

Small Sites: While the revised element provides evidence that sites of equivalent size to the proposed sites in the Harbor Corridor Specific Plan, the element must still show that these sites were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the proposed sites. The element must provide specific examples with the densities and affordability. For sites expected to be aggregated, the element must describe circumstances leading to consolidation, such as common ownership, the City's role, or track record in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, specific examples of projects that were built for lower-income households on similarly sized sites, densities and affordability and relate those examples back to the sites inventory. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small sites.

Availability of Infrastructure: While the draft element was revised to include some additional information on existing or planned dry utilities, it largely does not meet this requirement. Please see HCD's prior review.

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).)*

Mixed-Use Zones: While the revised element addressed some of the requirements outlined in HCD's December 20, 2021 review, it must still analyze the requirement that a mix of commercial and residential is required for housing development in the Metro East, Harbor Corridor, and Transit zones on the cost and supply of housing, including the ability to facilitate and not constraint the development of housing affordable to lower-income households. This is of particular importance given the City relies on units strictly in mixed-use zones to meet its lower-income RHNA. The element could provide examples of 100 percent affordable residential projects in the area or include a program (or programs) to ensure 100 percent residential uses are allowed in mixed-use zones and tie the activities back to facilitating housing affordable to lower income on mixed-use sites in the sites inventory.

4. *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).)*

Homelessness: The draft element was revised to include some analysis on types of shelter beds that are available, it did not specify if this capacity is adequate to serve the needs of the unhoused population throughout the City. Additionally, the revised draft does not offer a complete analysis on what actions the City plans to take to address housing this population group. The element must be revised to provide this analysis and add or strengthen 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 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).)*

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. Programs to be revised include the following:

While the element was revised to provide discrete timing for some programs (e.g., month, year) to account for how often the action will occur as well as to ensure a beneficial impact throughout the planning period, a majority of activities continue to have a timeframe described as "ongoing." Activities should have more discrete timing where feasible. For example, Program 4 (Neighborhood Improvement), the element states the City intends to "assist, create, and support neighborhood associations," but it does not describe how or when this assistance, creation or support will take place beyond hosting "annual events", which are likewise not described in detail. A distinct time frame must be provided for each activity in each program of the element to ensure the City is meeting its objectives, or if the City is not meeting objectives, adjust accordingly moving forward in the planning period.

Additionally, very few activities provide quantifiable objectives. For example, under Program 1 (Single Family Home Rehabilitation), Program 2 (Mobile Home Repair), and Program 3 (Multiple-Family Rental Rehabilitation), the element states that the element states that the City will provide various types of grants, but it does not provide quantifiable objectives as to how many people the City anticipates assisting in each program during the planning period.

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:

Program 16 (Transit Zoning Code), Program 17 (Metro Mixed-Use overlay), and Program 19 (Harbor Mixed-Use Transit Corridor Specific Plan): While the programs have been revised to include an update of review processes for the plan areas to streamline by-right housing and mixed-use development, it should include specific provisions and incentives to facilitate the development of housing on the sites identified in the sites inventory. The programs could commit to provide financial assistance, regulatory concessions, or incentives to encourage and facilitate new, or more intense, residential development on the sites especially for housing affordable to lower-income households. This is of particular importance given the fact that all the City's sites to accommodate lower-income RHNA are located in these areas. The City should also consider strengthening the City's Housing Opportunities Ordinance to promote additional affordable housing opportunities.

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 A3, 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.

Program 40 (Care Facilities): The draft element was not revised to address issues HCD highlighted in our previous letter. This program commits to amending the zoning codes to provide definitions for Community Care Facilities and impose regulatory

measures. Zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations. These housing types in many cases are subject to a conditional use permit, potentially subjecting housing for persons with disabilities to higher discretionary standards where an applicant must demonstrate compatibility with the neighborhood, unlike other residential uses.

Program 41 (Housing for People with Disabilities, Including Developmental Disabilities): This program has been revised to “review and evaluate” necessary reasonable accommodation findings to ensure compliance with Federal and State Law, it must specifically commit to remove constraints such as Finding 8 and ensure the review process and evaluation criteria meet current fair housing requirements and HUD guidance.

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 include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis. The element must include actions that promote and AFFH opportunities. For example, the element could include a program committing to implement Government Code section 8899.50(b) which requires the City to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to AFFH. In addition, the element could revise the program section to incorporate AFFH throughout tying program actions to addressing trends and patterns identified in the analysis.

Specifically, while Program 8 (Building Community Efforts) has received minor revisions to include an annual report to City Council and public review of housing element progress, it does not specify what said report or public review will be assessing to measure adequate progress. The program also does not address prioritization for lower-resourced, underserved areas per the AFFH analysis.

5. *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*

The draft element was not revised to meet this requirement. Program 35 (Preservation of At-Risk Units) should incorporate state preservation notice law (Gov. Code § 65863.10, 65863.11, and 65863.13) as well as should commit to proactive outreach to property owners regarding interest in renewing affordability restrictions and inform them about the notice requirements. For example, the City could initiate and support collaborative partnerships, identify state and federal funding, subordinate existing loans, and offer technical assistance to preserve the affordability of publicly subsidized affordable housing at risk of conversion.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units 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, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

While Program 51 (Multigenerational Housing and Accessory Dwelling Units) was revised to state that the City’s ADU ordinance will be updated to meet state law by February of 2023, it must include more specific commitment for other activities. For example, the program states it will “explore” opportunities for funding to assist lower and moderate-income homeowners to construct ADUs, it must commit to taking more specific and concrete actions to assist in facilitating these opportunities. In addition, as stated in the previous element, given the City’s assumptions for ADUs exceed recent trends, the element should include a program to monitor permitted ADUs and affordability every other year and take appropriate action such as adjusting assumptions or rezoning within a specified timeframe (e.g., six months).