

ATTACHMENT C
FEBRUARY 25, 2022 HCD CORRECTION LETTER

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

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February 25, 2022

David Reyes, Director
Planning and Community Development Department
City of Pasadena
175 North Garfield Avenue
Pasadena, CA 91101

Dear David Reyes:

RE: City of Pasadena's 6th Cycle (2021-2029) Revised Draft Housing Element

Thank you for submitting the City of Pasadena's (City) revised draft housing element received for review on December 29, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from Abundant Housing LA and the Pasadena Affordable Housing Coalition pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses some statutory requirements described in HCD's October 11, 2021 review; however, largely, the element was not revised to address HCD's prior findings and revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes 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. 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.

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: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

HCD is 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,

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 PASADENA

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. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

The revised element provided an adequate evaluation of the cumulative effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness). However, the element generally lacks an evaluation of the effectiveness of prior programs and an appropriate adjustment to goals, objectives, policies, and programs. Further, the element must still address public comments regarding past programs and these comments should be considered as part of this evaluation and adjustment of program in the 6th cycle.

B. 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: The element should incorporate local data and knowledge of the jurisdiction into the Affirmatively Furthering Fair Housing (AFFH) section. To assist in meeting this requirement, the element should provide local data not captured in regional, state, or federal data analysis. While the City does incorporate comments regarding AFFH from Our Future LA Coalition, Abundant Housing LA, and Pasadena Affordable Housing Coalition, it must still provide more evidence of outreach conducted for AFFH and show how that local data is integrated into the overall AFFH analysis.

Other Relevant Factors: The element was revised to include further discussion of other relevant factors such as past restrictive covenants and redlining as well as freeway construction and efforts related to Northwest Pasadena. The element was also revised to include additional analysis of the effectiveness of efforts in Northwest Pasadena and programs were modified as needed. However, the element must still provide more information on City's local preference policy and should also discuss the impacts of this policy on housing mobility on a regional level. The analysis should also further assess and address concerns that the policy perpetuates existing patterns of segregation within the City.

Goals, Actions, Metrics, and Milestones: While the element has been revised to include some actions in Appendix F (pp. 68-75), based on the outcomes of a complete analysis, these actions must be significant and meaningful to overcome patterns of segregation and foster more inclusive communities, including specific commitment, metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. Please see HCD's prior review.

- 2. 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: The element generally was not revised to address this requirement. Please see HCD's prior review.

Housing Conditions: The element generally was not revised to address this requirement. Please see HCD's prior review.

- 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).)*

Regional Housing Need Allocation (RHNA) Progress: The element generally was not revised to address this requirement. Please see HCD's prior review.

Realistic Capacity: While the element now supports capacity assumptions relative to maximum allowable densities, it still must account for the likelihood of 100 percent nonresidential uses. For example, the element includes some reasons why residential might occur in these zones and selects a few projects from the past, it still must address the likelihood of 100 percent nonresidential uses. For example, the element should examine all development activity in the pertinent zones, examine how often 100 percent nonresidential uses occur and account for that likelihood in the calculation of residential capacity.

Suitability of Nonvacant Sites: The element generally was not revised to address this requirement. Please see HCD's prior review.

In addition, as noted in the prior review, the element appears to rely on nonvacant sites to accommodate 50 percent or more of the RHNA for lower-income households. For your information, the housing element 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.

Replacement Housing Requirements: The element generally was not revised to address this requirement. Please see HCD's prior review.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within three years. The element now clarifies which sites were identified in prior planning periods, but it must also, as noted in the prior review, include a program if utilizing previously identified sites in the current planning period. For more information on program requirements, please see HCD's Housing Element Sites Inventory Guidebook at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

Small Sites: The element generally was not revised to address this requirement. Please see HCD's prior review.

Environmental Constraints: The element generally was not revised to address this requirement. Please see HCD's prior review.

Infrastructure: While the element now explains that procedures are available to grant priority water and sewer service to developments with units affordable to lower-income households, it must still clarify sufficient capacity to accommodate the RHNA as noted in the prior review.

Accessory Dwelling Units (ADUs): As noted in HCD's prior review, while the number of applications can be utilized to inform the potential for ADUs in the planning period, the analysis should be based on permitted ADUs and the approval information should be ancillary to permitted ADUs. In response, the element continues to utilize applications in estimating the number of ADUs in the planning period. Please see HCD's prior review for additional information.

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, any future 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 generally was not revised to address this requirement. Please see HCD's prior review.
 - *Transitional Housing*: The element now includes a program that appears intended to amend zoning to comply with state law regarding transitional housing, but it does not address HCD's prior finding. This Program (Program 9 – Removal of Constraints) should specifically amend zoning and comply with law, including addressing exclusion of these uses in lower density residential zoning districts as noted in the prior review.
 - *Employee Housing*: The element generally was not revised to address this requirement. Please see HCD's prior review.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element generally was not revised to address this requirement. Please see HCD's prior review. In addition, from the prior review, the element must address the following:

- *Specific Plans*: The element was not revised to analyze development caps in specific plans. Further, Program 9 (Removal of Constraints) does not appear to specifically commit to remove development caps. The element should include analysis and add or modify program as appropriate.
- *Inclusionary Requirements*: The element generally was not revised to address this requirement. Please see HCD's prior review.
- *State Density Bonus Law*: While the element includes Program 10 (Regulatory Incentives) to revise the City's density bonus ordinance, the Program should include specific commitment to not subject requests under State Density Bonus Law to discretionary actions.

Local Processing and Permit Procedures: The element generally was not revised to address this requirement. Please see HCD's prior review.

Housing for Persons with Disabilities: While the element now includes actions under Program 9 (Removal of Constraints) to remove constraints that inhibit residential care facilities for seven or more persons when the use operates as transitional and supportive, this Program does not address that these uses are excluded from residential zones and subject to a conditional use permit, unlike other residential uses. Please see HCD's prior review for additional information.

5. *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).)*

The element generally was not revised to address this requirement. Please see HCD's prior review.

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 revised several programs with specific commitment and timing, Programs 3 (Housing Rehabilitation), 16 (Housing for People with Disabilities) and 18 (Family, Youth and Student Housing) should still be revised with specific timelines. In addition, from the prior review:

- *Program 7 (Mixed Use/TOD Strategy)*: The prior review noted the Program should include actions toward actual housing outcomes. In response, the Program now commits to "explore" adjustments to zoning. The Program should make a specific and clear commitment to adjust zoning and other mechanisms as appropriate to promote mixed use and transit-oriented development.
- *Program 12 (Financial Assistance)*: While the Program now commits to identify opportunities, it should also add discrete timing (e.g., annually) for pursuing state and federal funding.

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 B3, 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. 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 B4, 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 B1, the element does not contain programs that satisfy the AFFH requirements for specific and meaningful actions accompanied by specific commitment, goals, and milestones to overcome fair housing issues. Based on a complete analysis, the element must add or revise programs.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd. (c)(8).)

As noted in the prior review, the element should summarize public comments and describe how they were considered and incorporated into the element. Further, the prior review called for the application of additional methods for public outreach, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. Finally, in the prior review, HCD received comments with many meaningful and valuable suggestions related to the housing element and HCD strongly encouraged the City to consider and address these comments, including revising the document as appropriate. The City appears to not have taken any actions to address HCD's prior finding. Please see HCD's prior review.