

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

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June 18, 2021

So Kim, Assistant Director
Community Development Department
City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92651

Dear So Kim:

RE: Review of Laguna Beach's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Laguna Beach's (City) draft housing element received for review on April 19, 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. Our review was facilitated by a telephone conversation on June 16, 2021, with you and your consultants Patty Anders, Nancy Bragado, and Veronica Tam. In addition, HCD considered comments from the Kennedy Commission, Public Law Center, and the Welcoming Neighbors Home Initiative pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; 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.

To remain on an eight-year planning cycle, the city must adopt its housing element within 120 calendar days from the statutory due date of October 15, 2021, for Southern California Association of Governments (SCAG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit HCD's website at: http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf.

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

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requirements pursuant to Government Code section 65400. With a compliant element, the City will meet housing element requirements for these and other funding sources.

HCD appreciates your hard work and dedication provided in preparation of the City's housing element and looks forward to receiving the City's adopted housing element. 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 black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Land Use & Planning Unit Chief

Enclosure


APPENDIX CITY OF LAGUNA BEACH

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).)


While the element includes a program-by-program review of implementation in the prior planning period, the review of past programs should also analyze the cumulative effectiveness of programs on addressing special housing needs over the previous planning period. This information provides the basis for developing more effective housing programs. 

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).)*

The element has some basic information on demographics and overall scores for access to opportunity. However, the element generally does not address this requirement. The element, among other things, must include outreach, an assessment of fair housing, identification, and prioritization of contributing factors to fair housing issues and goals and actions sufficient to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity. For more information, please contact HCD and visit <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. 

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*


The element quantifies existing and projected extremely low-income (ELI) households, including cost burdens, but it must also analyze their housing needs. For example, the analysis should address resources and strategies available to address the housing needs and summarize the magnitude and characteristics of housing needs to better inform appropriate policies and programs. HCD will send a sample analysis under separate cover. 


3. *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).)*

While the element includes some information on housing stock conditions from American Community Survey (ACS) data, it must also estimate the number of units in need of replacement and rehabilitation. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>. 


4. *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).)*

To demonstrate the adequacy of sites and strategies to accommodate the City's regional housing need allocation (RHNA), the element must include complete analyses as follows:

Sites Listing: The element must list sites by assessor parcel number. It must also include individual acreages and parcel numbers for Site 4, or any other site assumed to be consolidated. Lastly, it must include the number of units by assumed affordability and should consider a detailed description of existing uses to facilitate demonstration of the potential for additional development. For additional information and sample sites inventory, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/inventory-of-land-suitable.shtml>. 

Realistic Capacity: To calculate capacity, the element notes two recently approved or submitted projects. One is under development at 11 units per acre and the other is a proposed and not yet approved development at 66 units per acre. The element then assumes future development at 45 units per acre. Given the large range between approved or anticipated densities and small sample size, the element must include additional analysis that includes additional project listings with resulting densities and affordability and accounting for land use controls and site improvements. In addition, the element appears to rely on sites with zoning intended for non-residential uses but must account for the likelihood of residential development on zones intended for non- 

residential uses. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#zoning>.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. To address this requirement, the element describes several nonvacant sites including two church properties and one property with existing commercial uses that were selected for the inventory but does not include sufficient analysis on how these sites were determined to be likely for redevelopment in the planning period. For example, the element should describe and support (through development trends) the potential for additional development in the planning period and consider additional factors such as the age of structure, presence of expiring leases, condition of the structure, expressed interest in development. 

For your information, if the element relies on nonvacant sites for more than 50% of the lower-income RHNA, it must make findings of substantial evidence that the existing use does not constitute an impediment to development, and that the existing use is likely to discontinue.

Small Sites: Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. The element includes Site 4 which appears comprised of multiple sites that will redevelop as one site and, as a result, should demonstrate the potential for consolidation based on factors such as ownership, recent trends and other circumstance. Based on a complete analysis, the City should consider adding or revising programs to include incentives for promoting consolidation of sites.

Zoning for Lower Income: The element must demonstrate how adopted densities accommodate the housing needs of lower income households. For communities with densities that meet specific standards (at least 30 units per acre for Laguna Beach), no analysis is required. Otherwise, the element must include analysis based on factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households. To address this requirement, the element identifies non-residential zones where “residential housing, special needs” is permitted with no density limit subject to a conditional use permit. While the element notes some recent projects at densities exceeding 30 units per acre, it should include programs with clear commitment and deadlines to establish development standards and incentives that facilitate densities at or above 30 units per acre.

Environmental Constraints: The element describes general environmental constraints but does not relate those potential constraints toward identified sites. As a result, the element must include a discussion of whether the sites identified in the inventory have potential environmental or other constraints which could preclude or hinder housing development in the planning period.

Suitability and Availability of Infrastructure: The element notes the City has water and sewer capacity but must clarify whether sufficient total capacity is available to accommodate the regional housing need allocation in the planning period.

For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) In addition, local governments are required to immediately deliver the housing element to water and sewer service providers. The element must clarify consistency with these requirements or include programs as appropriate.

Affirmatively Furthering Fair Housing: The element must demonstrate the sites inventory affirmatively furthers fair housing. For more information, see HCD's guidance at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.





Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Accessory Dwelling Units (ADU): While the element notes many applications have been received for ADUs in recent years and concludes a conservative assumption of 15 ADUs per year over the planning period. However, while the number of applications can be utilized as a relevant factor, ADU assumptions must be based on permitted units. For your information and based on HCD's records, the City has permitted an annual average of 8 ADUs per year. The element should either reduce the number of ADUs per year or include additional analysis and programs to support an assumption higher than 8 ADUs per year.

Sites with Zoning for a Variety of Housing Types:


- Emergency Shelters: The element describes non-profit shelters currently operating in the City but must identify a zone to permit emergency shelters without discretionary action. The element must also analyze the suitability and capacity of that zone for an emergency shelter. For example, identifying the number of parcels, typical parcels sizes, whether the sites are nonvacant, and the potential capacity for adaptive reuse. To analyze the suitability of the zone, the element should also include information on surrounding uses and access to services. The element should clarify consistency with statutory requirements regarding parking and by-right zoning without discretion. Based on this analysis, programs must be added or modified to address any identified constraints.

For your information, effective January 1, 2008, if a local government cannot identify a zone to permit emergency shelters without a discretionary action, a program must have been implemented to amend zoning within one year of the adoption of the housing element. Given this time period has passed, HCD cannot find the element to comply with statutory requirements until the appropriate zoning is complete.

- **Transitional & Supportive Housing:** Transitional and supportive housing must be permitted as a residential use in all zones and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The element notes that zoning for special needs residential housing is permitted by-right in the R-1, R-2, and R/HP zones and with a Conditional Use Permit (CUP) in the I, R-3, SLV, C-N, LBP, and C-1 zones. However, the element does not demonstrate whether transitional and supportive housing is permitted as a use by-right in all zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses. The element should clarify consistency with these statutory requirements and include a program, as appropriate. 
 - **Permanent Supportive Housing and Low Barrier Navigation Centers:** Permanent supportive housing and low barrier navigation centers shall be uses by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651 and 65662. The element must demonstrate compliance with this requirement and include programs as appropriate. 
 - **Single Room Occupancy:** The element must demonstrate zoning available to encourage and facilitate single room occupancy or include programs as appropriate to establish appropriate zoning. 
 - **Housing for Farmworkers:** Currently, the element does not clarify how employee housing for six or fewer employees are permitted (pg. 3-11). The element must demonstrate that zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, section 17021.5 which requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Based on the outcome of this analysis, the element may need to include a program to amend zoning and comply with the Employee Housing Act. 
5. *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 must identify and analyze all relevant land-use controls impacts as potential constraints. The analysis must evaluate the cumulative impacts of land-use controls on the cost and supply of housing, including the ability to achieve maximum densities. For example, the element should specifically address heights, lot coverage, floor area ratios, performance standards for non-residential uses and any other requirements. In addition, the element should include a similar identification of development standards and analysis for the Downtown Specific Plan. Based on the outcomes of this analysis, the element must add or modify programs to address any identified constraints.

Fees and Exaction: While the element includes a summary of total fees for typical single family, multifamily and ADUs, this analysis should include all impact fees to analyze the cumulative impact on development costs.

Local Processing and Permit Procedures: While the element mentions the design review process is intended to protect Laguna Beach’s special character and atmosphere, it must also list and analyze the requirements for impacts on objectivity and approval certainty. Specially, the element notes criteria such as “neighborhood compatibility” and “privacy” but should analyze how those standards are applied and potential impacts. The element should include programs as appropriate to address any identified constraints. 

Codes and Enforcement: While the element mentions the City follows the California Building Code and that amendments do not reduce housing development, it must clearly state which version of the code is utilized and identify and analyze any amendment for impacts on housing cost. Finally, the element must describe how codes are enforced (e.g., complaint-based).

Constraints on Housing for Persons with Disabilities: The element notes that group homes or residential care facilities serving six or fewer disabled persons are allowed in all residential zones. However, the element should specify which zones and how group homes for seven or more persons are allowed and include programs as appropriate to promote availability, objectivity and approval certainty in all zones allowing residential uses. Secondly, the element explains a reasonable accommodation procedure was adopted but should also list and analyze approval findings, such as evaluating the reasonable accommodation request for impacts on surrounding uses. This approval finding essentially subjects a request for reasonable accommodation to a use permit finding and acts as a constraint on housing for persons with disabilities. Programs should be added or modified as appropriate to address this constraint.

Zoning, Development Standards and Fees: The element must clarify its compliance with new transparency requirements for posting all zoning, development standards and fees for each parcel on the jurisdiction’s website.

6. *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).)

The element provides some information on non-governmental constraints, including market, environmental, and infrastructural factors, but the element must include analysis of requests to develop housing at densities below those anticipated, and the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need.

- 7. 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 must quantify and analyze the housing needs of persons with special needs. Specifically, the element must include the most recent Point-in-Time (PIT) estimate for the homeless population. In addition, the element references ACS data and notes that there are no farmworkers in the City. However, farmworkers from the broader area may have housing needs, including within the City. As a result, the element should at least acknowledge the housing needs of farmworkers at a county (e.g., USDA permanent and seasonal data) and regional level and include programs as appropriate.

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).)*

To address the program requirements of Government Code section 65583, subdivisions (c)(1-6), and to facilitate implementation, several programs should be

revised to include more discrete timing, rather than “ongoing” or “in process”. Examples include actions under Programs 1 (Adequate Sites), 3 (Permit Streamlining), 5 (Accessory Dwelling Units), 7 (Affordable Housing Partnerships), 8 (Housing Preservation and Rehabilitation), and 9 (Affordable Housing Funding Programs). In addition, many programs do not contain clear commitment to complete a deliverable or action that will have a tangible and beneficial impact in the planning period and, as a result, should be revised. For example, actions under Program 1 (Adequate Sites) commit to “initiate” which does not result in any tangible outcome. Other examples include “explore”, “evaluate potential”, “explore feasibility”, “review zoning” and “consider”. Examples of actions with similar lack of clear commitment occur under Programs 2 (Zoning Toolbox), 5 (Accessory Dwelling Units), 6 (Special Needs Housing), 8 (Housing Preservation and Rehabilitation) and 9 (Affordable Housing Funding Programs).

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, mobile homes, 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 B4, the element does not contain a complete sites inventory and analysis. 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).)*

The element must include programs with proactive and specific efforts to assist in the development of housing for lower-income households, including extremely low-income households and households with special needs, persons experiencing homelessness; farmworkers; persons with disabilities, including developmental; and elderly. Efforts should involve proactive and regular outreach to developers of affordable housing and should utilize incentives and financial and other resources.

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 Finding B5, 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 to address and remove or mitigate any identified constraints. In addition:

Multifamily Zoning: The element indicates multifamily development in the R-3 zone (pg. A-5) permitting multifamily development requires a CUP and a program to remove the constraint was not implemented in the prior planning period. To address this lack of implementation, the element includes an action to “evaluate a potential amendment” with a timeline to initiate in 2024. However, actions must include a clear commitment to address and remove this fundamental constraint early in the planning period (e.g., within one year).

5. *The housing element shall include programs to conserve and improve the condition of the existing affordable housing stock. (Gov. Code, § 65583, subd. (c)(4).)*

As noted in Finding B3, the element must include additional information on housing stock conditions, specifically on the number of units in need of rehabilitation or replacement. Based on the outcomes of that analysis, the element must add or modify programs.

6. *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 assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs.

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

The element did not address this requirement. The element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. This requirement could be addressed by utilizing a matrix like the one illustrated below:

Income	New Construction	Rehabilitation	Conservation/ Preservation
Extremely Low-			
Very Low-			
Low-			
Moderate-			
Above Moderate-			
TOTAL			

E. 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).)

While the element describes two workshops, two meetings, and direct notices to the public, it should describe additional efforts to include a broad spectrum of individuals and representative organizations and consider language access barriers. For example, the City could contact, and interview interested parties and stakeholder. The element should also include a discussion of which stakeholders are on the City’s notification list(s) for public input, when, how, and who the draft of the element was distributed to, and how public input was incorporated into the draft element.

In addition, HCD understands the City only made the element available to the public two weeks prior of submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD’s ability to consider public comments in the course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD’s review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD’s future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City’s consideration of public comments must not be limited by HCD’s findings in this review letter.