

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

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December 8, 2021

Michael Webb, City Manager  
City of Davis  
23 Russell Blvd., Suite 1  
Davis, CA 95616

**RE: Davis 6<sup>th</sup> Cycle (2021-2029) Adopted Housing Element**

Dear Michael Webb:

Thank you for submitting the City of Davis' (City) housing element adopted on August 31, 2021 and received for review on September 10, 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. In addition, HCD considered comments from the Campaign for Fair Housing Elements, and Legal Services of Northern California pursuant to Government Code section 65585, subdivision (c).

The adopted housing element has made significant progress and addressed many of the statutory requirements described in our July 1, 2021 review; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6<sup>th</sup> cycle housing element was due May 15, 2021. As of today, the City has not completed the housing element process for the 6<sup>th</sup> cycle. The City's 5<sup>th</sup> cycle housing element no longer satisfies statutory requirements. HCD encourages the City to make revisions to the element as described herein, adopt, and submit to HCD to regain housing element compliance.

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

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element adoption. 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](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and  
[http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).

We appreciate the hard work and dedication of City staff throughout this process, 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 Irvin Saldana, of our staff, at [Irvin.Saldana@hcd.ca.gov](mailto:Irvin.Saldana@hcd.ca.gov).

Sincerely,

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

Melinda Coy  
Senior Housing Accountability Manager

Enclosure

## APPENDIX CITY OF DAVIS

The following changes would 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 [www.hcd.ca.gov/hpd](http://www.hcd.ca.gov/hpd). Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at [www.hcd.ca.gov/hpd/housing\\_element2/index.php](http://www.hcd.ca.gov/hpd/housing_element2/index.php) 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))*

*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).)*

Racially/Ethnically Concentrated Areas of Poverty (R/ECAP) and Racially Concentrated Areas of Affluence (R/CAA): While the element was revised to include additional analysis on census tract 106.08 (p. 134), the City's only identified R/ECAP, an analysis comparing concentrated areas of poverty relative to the region and within the locality must still be provided. In addition, while the element states there are no R/CAA's according to HCD's affirmatively furthering fair housing (AFFH) mapping tool (p. 140), the element must still provide an overview on areas of concentrated affluence. This analysis can be achieved by identifying census tracts with higher median incomes, providing analysis on the trends and patterns contributing to affluence in these areas, and conducting an evaluation of patterns at a local and regional level.

Disparities in Access to Opportunity: While the element was revised to include information on education, employment opportunity, transportation, and environmental quality (pp.145-154), it must still analyze unique disparities in relation to access to opportunities for education, employment and transportation and provide sufficient programs and policies to overcome these disparities. For additional information, please refer to page 35 of the AFFH guidebook (link: <https://www.hcd.ca.gov/community-development/affh/index.shtml#guicance>).

Sites Inventory: While the accompanying analysis for site inventory selection was revised to include some analysis on how sites may improve or exacerbate existing conditions (pp. 214-215), the analysis must incorporate potential candidate rezone

sites relative to access to opportunity, segregation and integration, concentrated areas of poverty and affluence and displacement risk.

Goals and Actions: The element must be revised to add or modify goals and actions. Goals and actions must specifically respond to the analysis and identify and prioritize contributing factors to fair housing issues. Actions must have metrics and milestones as appropriate and address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection and should respond to the unique circumstances of the City.

2. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

The City has a regional housing needs allocation (RHNA) of 2,075 housing units, of which 930 are for lower-income households. To address this need, the element relies on approved, pending projects, and nonvacant residential and commercial sites. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses as follows:

Student Housing: The housing element credits 105 units of housing in the Nishi project towards the RHNA for lower-income households. As mentioned in HCD's prior review, college and university student housing may be considered noninstitutional group quarters and not a housing unit for purposes of meeting the RHNA. As HCD understands, the development agreement for this project specifically targets students. To credit the 105 units toward the RHNA, the City must verify that the Nishi project meets the census definition of a housing unit and is not considered group quarters. For information on whether this housing project meets the definition of a housing unit, please consult with the Department of Finance at (916) 323-4086.

In addition, while the element outlines the methodology behind converting deed-restricted affordable beds into units, it must also demonstrate that renters, particularly nonindependent student renters, qualify for the deed-restricted leases. For example, the City can provide documentation that assures verification of income status, and provides substantial evidence that rent is based on the student's income, and not the corresponding legal guardian's income. Lastly, page 21 of the revised element reflects on fair-housing laws. However, given that the restricted leases are only available to students and not the general population, the element should analyze the existing development agreement to ensure compliance with all applicable fair housing laws.

Suitability of Nonvacant Sites: The revised sites inventory now appears to accommodate more than 50 percent of the City's allocated RHNA for lower-income households on nonvacant sites. Acknowledging Table 62 on page 210 and analysis provided on pages 205 and 206, the element must now provide substantial evidence

that the existing use is not an impediment to additional residential development in the planning period and is likely to discontinue during the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) As shown on page 206, the revised analysis for 240 G Street (Ace Hardware) is now sufficient, as it demonstrates a discontinued use, developer interest, and most importantly feasibility that the site has redevelopment potential during the planning period. The two remaining sites will need to demonstrate similar suitability for redevelopment and most importantly, link recent development trends to factors utilized for identifying these sites. For example, analysis on the E Street Plaza site can provide information on owner(s) interest to sell, as these sites currently house several businesses all under various ownership. Additionally, the element can include programs that incentivize the consolidation of small sites (907 4<sup>th</sup> street) and market the sale of the largest parcel included in the East Street Plaza site, a city-owned parking lot. Lastly, the element can also provide additional detail on market analysis or development trends and affordability related to the identified sites demonstrating the development of similar sites as similar unit capacity.

Candidate Sites for Rezoning: The revised element identifies a shortfall of adequate sites to accommodate the regional housing need for lower-income households. It also identifies candidate sites that will be rezoned within the first three years of the planning period. However, sites include a capacity assumption of 100 percent build out. The element must support the capacity methodology assumed for these sites pursuant to Government Code section 65583.2, subdivision (c)(3). In addition, Site 3 is a large site above ten acres (14 acres). To demonstrate this large site can accommodate the lower-income need, the element must demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower-income housing. (Gov. Code, § 65583.2, subd. (c)(2)(A).)

As recognized in the housing element, Measure J poses a constraint to the development of housing by requiring voter approval of any land use designation change from agricultural, open space, or urban reserve land use to an urban use designation. Since the ordinance was enacted in March of 2000, four of the six proposed rezones have failed. As the element has identified the need for rezoning to accommodate a shortfall of sites to accommodate the housing need, the element should clarify if any of the candidate sites to rezone would be subject to this measure and provide analysis on the constraints that this measure might impose on the development of these sites.

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).)*

*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... (Gov. Code, § 65583, subd. (c)(3).)*

Land Use Controls: As mentioned in HCD's July 1, 2021 review, the element must identify and analyze all relevant land use controls and their 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. The element should specifically address the process for which affordable housing developments have received parking reductions and describe how alternate transportation plans affect the cost and timing of development. Revisions made on page 254 are insufficient in addressing the cumulative impact current land-use controls have on the cost and supply of housing in the City.

In addition, the element was revised to include Program 4.4.1. This Program commits to consider suspending the City's 1 percent growth ordinance past 2025. However, SB 8, Statutes of 2021 amended the Housing Crisis Act (Gov. Code section 66300) until 2030, program timelines should be adjusted to reflect this date.

Permit Processing: The revised element states the City's planned development process does not preclude development, provides a range of typologies, and proves a helpful tool for infill projects. However, the element must still describe and analyze approval procedures, decision-making criteria on housing supply and affordability, especially for lower-income households, timing, development standards, and any pre-application counseling the City may offer in navigating the planned development process. The analysis demonstrate certainty in the process or provide policies and programs to mitigate and/or remove constraints.

## **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 (Section 65583(c)).*

Programs must demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. While many of the element's programs now have definitive deadlines for project completion, many programs still lack tangible objectives and metrics. Programs should be updated to include clear program actions that among other things, remove constraints to housing and facilitate housing productivity.

2. *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 was revised to include Program 1.3.1 (p. 279) to “Work with housing providers to meet the special housing needs of individuals with disabilities and developmental disabilities, extremely low, very low, and low incomes, large families, senior citizens, farmworkers and their families, female-headed households with children, and others with special needs”. However, the Program should include specific actions and commitments the City will take to implement this program, actions and commitments remain unclear. For example, the Program should be specific on the regulatory incentives, zoning standards, and programs it will offer to assist in the development of housing. These commitments should be targeted to address the unique needs of the special-needs populations and very-low and extremely low-income households.

3. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding A2, the element does not include a complete site’s inventory or analysis; as a result, the adequacy of sites and zoning has not been established. Based on the results of a complete site’s inventory and analysis, programs may need to be added or revised, to address a shortfall of sites and zoning for a variety of housing types. Once the City’s site inventory has been approved by HCD, Program 1.1.2 (rezone) (p. 275) will need to be amended to identify the acreage of sites to be rezoned during the first three years of 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 Finding A4, 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.

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).)*

Based on the outcomes of a complete AFFH analysis, the element must add or modify programs to include specific metrics and milestones to target meaningful AFFH outcomes, including providing mobility opportunity, place-based strategies, new housing opportunities, and preservation and conservation efforts to address displacement.

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. (Gov. Code, § 65583, subd. (c)(7).)*

The element is required to include a program that incentivizes or promotes accessory dwelling unit (ADU) development for very low-, low-, and moderate-income households. While the element now includes several programs that target ADU's starting on (pp. 281-282), it should relate quantified outcomes and objectives to the programmatic actions rather than the overall ADU production goal. In addition, if the City has not submitted its recently adopted ADU ordinance to HCD, it should do so immediately pursuant to Government Code section 65852.2, subdivision (h). Ordinances can be submitted to [ADU@hcd.ca.gov](mailto:ADU@hcd.ca.gov).

### **C. 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).)*

The City should continue to make a diligent effort in providing public participation opportunities for all economic segments of the community, on-going revisions should be released prior to HCD submittal. Incorporation of public input should be an ongoing effort at all stages of the housing element update.