

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

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May 16, 2023

Sophia Checa, Planning Manager
Planning and Building Department
City of Solvang
1644 Oak Street
Solvang, CA 93463

Dear Sophia Checa:

RE: The City of Solvang's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of Solvang's (City) draft housing element received for review on February 15, 2023. 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 Josh Richman pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to substantially 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.

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 (February 15, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). 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). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

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. 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.

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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

We are committed to assisting the City of Solvang in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Tristan Lanza, of our staff, at tristan.lanza@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SOLVANG

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 <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> 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).)

A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. While the element includes information on the progress in implementation of various programs from the previous element, some programs still necessitate an evaluation of effectiveness and progress. Examples include Programs 10, 11, 14, 17, 18, 20 and 22.

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))*

Disproportionate Housing Needs, Including Displacement: While the element states the increasing income gap and increasing housing costs indicate, lower-income residents in Solvang may be at risk of displacement, it should target programs to protect existing residents from displacement (e.g., first right of return to existing residents, just cause eviction or other efforts improving tenant stability beyond what is required by California Civil Code 1946.2).

Local Data and Knowledge: While the element includes some information on how the central portions of the City generally experience a higher number of fair housing issues than other areas in Solvang; however, the element should include additional local data and knowledge. For example, the element should include an analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, disparities in access to opportunity, and disproportionate housing needs within the City, including displacement risk.

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).)*

Housing Stock Condition: The element must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. 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 nonprofit housing developers or organizations.

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).)*

Approved/Pending Sites: The element (p. H-87) relies on approved/pending projects to accommodate a portion of the City's regional housing need allocation (RHNA) for lower-income households. While the housing element includes the number of units for each project by income group, it should also demonstrate the affordability and availability of the units. Affordability should be based on actual or anticipated rents, sales prices or other mechanisms (e.g., financing, affordability restrictions) ensuring their affordability. For availability, the element should describe the status of the project, including any necessary approvals or steps prior to development, development agreements, conditions, or requirements such as phasing or timing requirements that impact development in the planning period.

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 should clarify if sites were identified in prior planning periods and if so, which sites and include a program if utilizing previously identified sites in the current planning period.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While the element states emergency shelters are allowed by right in the DR zoning district, it should also demonstrate sufficient capacity to accommodate the identified need for shelters or for at least one emergency shelter. (Gov. Code, § 65583, subd. (a)(4).) The housing element must also demonstrate the permit processing, development, and management standards for emergency shelters are objective and encourage and facilitate the development of, or conversion to, emergency shelters. In addition, emergency shelters must only be subject to the same development and management standards applicable to residential or commercial development within the same zone except for those standards prescribed by statute.

For your information, Chapter 654, Statutes of 2022 (AB 2339), adds additional specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element may need to address these statutory requirements. For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

- *Transitional and Supportive Housing:* While the element (p. H-79) states that it allows both supportive and transitional housing by-right in all residential zoning districts in compliance with State law. Per Table H-46 single family are permitted in the AG zone but transitional and supportive housing are not. The housing element must demonstrate that transitional housing and supportive housing are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone (Government Code Section 65583(a)(5)).
 - *Single Room Occupancy (SRO) Units:* The element (p. H-80) states the City does not allow single-room occupancy residential units as a permitted use in any zone or through conditional use permits (CUP). However, the element includes Program HE-N where the City commits to providing developers with information to explore the benefits and opportunities that come with building SROs. The element should reconcile the statements and demonstrate zoning and capacity to encourage SROs.
 - *Manufactured Housing:* The housing element (p. H-81) must demonstrate the jurisdiction's zoning code allows and permits manufactured housing in the same manner and in the same zone as a conventional or stick-built structures are permitted (Government Code Section 65852.3). Per Table H-46 manufactured housing is not permitted in the same manner as single family in the DR, PRD, TRC and AG zones. The element must either demonstrate consistency with these requirements or include programs to amend zoning as appropriate.
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).)*

Local Processing and Permit Procedures: The element (p. H-66) states that most new development projects within the City, including multifamily residential developments, duplex units, townhomes, mixed-use developments, and condominiums, have required review and approval by the Design Review Committee (DRC). The element must describe and analyze the design review guidelines and process, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. For example, the analysis could describe required findings and discuss whether objective standards and guidelines improve development certainty and mitigate

cost impacts. The element must demonstrate this process is not a constraint or it must include a program to address this permitting requirement, as appropriate.

In addition, the element (p. H-77, Table H-46) indicates that zones intended for multifamily development require developments plans. The elements states that, through Program HE-N, the City will create a ministerial review process for multifamily projects that incorporate a minimum of 20 percent of units affordable to lower-income households; however, the element must analyze the development plan requirement as a constraint and include a program as appropriate.

Housing for Persons with Disabilities: The element notes group homes for seven or more persons are expressly permitted in the Institutional district and in residential zones subject to a CUP. The element should analyze the process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty similar to other residential uses. Secondly, it appears based on Table H-46, page H-77 that residential care facilities for six or fewer are not treated the same as single family. The element should ensure that residential care facilities for six or fewer are treated the same as single-family units and should include programs as necessary.

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

Requests for Lesser Densities and Approval Times: While the element states the City received no requests to develop identified sites below the minimum density as described in the sites inventory, it should also describe the length of time between project approval and request for a building permit.

6. *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).)*

While the element quantifies the City's special needs populations, it must also analyze their special housing needs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (availability senior housing units, number of large units, number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

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... (Gov. Code, § 65583, subd. (c).)*

Programs must demonstrate that they will have a beneficial impact within the planning period. Several programs (e.g., HE-F, HE-H) include actions with no description of how those actions will be implemented (e.g., “explore”). Programs should be amended, as appropriate to include implementation steps. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, and definitive timelines. Deliverables should occur early in the planning period to ensure actual housing outcomes. In addition:

HE-L Infill Incentives Ordinance Program: This program commits to a timeframe of within three years of the adoption deadline, to evaluate and revise, as necessary, residential development standards to remove constraints to multi-unit infill development. However, the program also commits to actions within one year of the adoption deadline. Program should be revised to include consistent timelines.

HE-O Municipal Code Updates Program: This program has a commitment deadline of within three years of housing element adoption; however, as the planning period has already started and the housing element has not been adopted, the commitment should specify a date early in the planning period (e.g., by 2025).

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 and B5, the element requires a complete analysis of potential governmental and non-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.

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... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element requires a complete affirmatively further fair housing (AFFH) analysis. Based on the outcomes of that analysis, the element must add or modify programs. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics, milestones, and geographic targeting. Specifically, the element should include actions with specific commitments, metrics and milestones as appropriate to protect existing residents from displacement housing and address mobility enhancement including new housing choices and affordability in higher opportunity areas (beyond RHNA) to result in an equitable quality of life and AFFH throughout the City. In addition, the following programs should be revised with geographic targeting:

- HE-A (Code Enforcement)
- HE-B (Housing Rehabilitation Assistance Program)
- HE-F (Local Workforce Housing)
- HE-G (Density Bonus Program)
- HE-H (Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Development)
- Program HE-C (Rental Assistance)
- HE-I (Application for Grants and Loans)
- HE-N (Affordable Housing Incentives Program)
- HE-P (Affirmatively Furthering Fair Housing)
- HE-Q (Housing for Disabled Persons)

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

Program HE-H Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Development states that the City will engage with local builders and homeowners to explore potential incentives to encourage the development of ADU and

JADU development in low density high opportunity areas. The program should list examples of ADU incentives. This can take the form of flexible zoning requirements, development standards, or processing and fee incentives that facilitate the creation of ADUs such as reduced parking requirements, fee waivers and more. Other strategies could include developing information packets to market ADU construction, targeted advertising of ADU development opportunities or establishing an ADU specialist within the planning department.

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)(9).)

While the element includes a general summary of the public participation process (p. H-22), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element should be revised to discuss outreach to lower-income and special needs groups during the public participation efforts, solicitation efforts for survey responses, and participation in community workshops, and if translation services were provided. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.