

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

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



August 19, 2022

Heidi Duron, Planning Director  
Land Use Services Department  
County of San Bernardino  
385 North Arrowhead Ave  
San Bernardino, CA 92415-0043

Dear Heidi Duron:

**RE: County of San Bernardino's 6<sup>th</sup> Cycle (2021-2029) Revised Draft Housing Element**

Thank you for submitting the County of San Bernardino's (County) revised draft housing element received for review on June 20, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on August 15, 2022 with the County's consultant, Colin Drukker, from Placeworks. In addition, HCD considered comments from Inland Counties Legal Services, Gary Stiler, Peoples Collective for Environmental Justice, Steve Bardwell, Kerrie Aley, Center for Biological Diversity and Morongo Basin Conservation Association, pursuant to Government Code section 65585, subdivision (c).

The revised draft element addresses many statutory requirements described in HCD's February 7, 2022 review; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code), as follows:

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

**Enforcement and Outreach Capacity:** HCD's prior review found that the element must describe how the County complies with existing fair housing laws. While the element now mentions the County is subject to federal and state fair housing

laws and complies with California Fair Employment and Housing Act, it must also discuss compliance with federal laws and other state fair housing laws (e.g., Government Code sections 65008, 8899.50 and 11135) and should also address any findings, lawsuits, enforcement actions, settlements, or judgments related to fair housing or civil rights. For more information, see pages 28-30 on HCD's AFFH Guidance Memo at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Goals, Actions, Metrics, and Milestones: Generally, as found in the prior review, the element must include significant and meaningful actions and programs to address fair housing issues and overcome contributing factors. For example, the Assessment of Fair Housing found that the County lacks a variety of housing choices and types and overall insufficient housing supply. While the element commits to some actions to increase supply in targeted growth areas, the County should consider additional actions such as Program 7 (Acquisition/Construction of Multifamily Units) to acquire and develop affordable rental housing in targeted growth areas. Additionally, as found in the prior review, several of the actions listed in Table 2-33 are either not reflected as programs, are missing quantifiable metrics, or lack specific commitments to implementation. Lastly, for your information, quantifiable metrics must target beneficial impacts for people, households, and neighborhoods (e.g., number of people or households assisted, number of housing units built, number of parks or infrastructure projects completed). HCD will follow-up under a separate cover with additional guidance.

2. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels... for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls... 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 (Parking for Multifamily): HCD's prior review found that the County must analyze requirements related to multifamily parking as potential constraints on housing (e.g., 2.5 parking spaces per unit). The revised element concludes these requirements do not act as constraint due to the low cost of land and adequate parcel sizes to accommodate the number of required parking spaces. However, the analysis should address cost impacts, cost variation throughout the County and particularly, disproportionate impacts on smaller bedroom types (e.g., studio to one bedroom). Based on the outcomes of this analysis, the element should add or modify programs to address the constraint.

Local Processing and Permit Procedures: The County subjects multifamily development for 50 units or more in multifamily zones (i.e., RM) to a conditional use permit (CUP). While the element lists conditions of approval for a recent affordable housing development, it should still evaluate the impacts of subjecting a multifamily development in a multifamily zone to an exception process (i.e., CUP). Requiring a CUP or exception process for multifamily housing in a zone intended for multifamily uses impacts approval timing and approval certainty and the element should include a program to address the constraint.

Constraints on Housing for Persons with Disabilities:

- *Residential Care Facilities for Seven or More Persons:* While the element includes Program 12 committing to permit licensed and unlicensed facilities to objective standards, it should clarify using these objective standards in all residential zones.
  - *Parking Requirements:* The element states that all residential care facilities are required to provide one parking space per bedroom. The revised element stated that this requirement does not serve as a constraint due to the abundance of land and large parcel sizes available for development but does not analyze the disproportionate cost impacts on housing for persons with disabilities, including subjecting these uses to standards that differ from other single family uses. The element should commit to revising parking requirements for these housing types similar to single family uses.
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... (Gov. Code, § 65583, subd. (c)(1).)*

Program 1–Land Use Inventory (reusing sites from prior planning periods): While the Program permits multifamily developments with 20 percent affordable to lower-income households by right, it should also clarify allowable densities appropriate to facilitate housing affordable to lower-income households.

The element will meet statutory requirements of State Housing Element Law once it has been revised and adopted to comply with the above requirements pursuant to Government Code section 65585.

For your information: Pursuant to Government Code section 65583.3, subdivision (b), the County must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory (for all income-levels). Please see HCD's housing element

webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml> for a copy of the form and instructions. Please note, upon adoption of the housing element, the County must submit an electronic version of the sites inventory with its adopted housing element to [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov).

As a reminder, the County's 6th cycle housing element was due October 15, 2021. As of today, the County has not completed the housing element process for the 6th cycle. The County's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the County to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the County 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 County will meet housing element requirements for these and other funding sources.

We are committed to assist the County 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](mailto:reid.miller@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager