

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

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Mark Tomich, Director
Development Services
City of Colton
659 N La Cadena Drive
Colton, CA 92324

Dear Mark Tomich:

RE: Review of the City of Colton's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Colton's (City) draft housing element received for review on August 5, 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 September 29, 2021 with you, Mario Suarez, Planning Manager and John Douglas, Consultant.

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 revisions needed to comply with State Housing Element Law.

The City's statutory deadline to adopt a housing element is October 15, 2021. 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 this statutory deadline, 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).

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.

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.

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. 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. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

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.

HCD appreciates the City's staff and its consultants' hard work provided during our review. 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 Divya Sen, of our staff, at Divya.Sen@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall

Enclosure

APPENDIX CITY OF COLTON

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 review requirement is one of the most important features of the element update. The review of past programs should analyze the City's progress in implementation over the previous planning period. This information provides the basis for developing a more effective housing program.

Program Appropriateness: The element includes a program-by-program review including a comparison of prior objectives versus actual results (Appendix C), but also needs to identify which programs will be continued, revised, or deleted in the updated housing element. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/review-revise.shtml>.

Special Needs Populations: As part of the review of programs in the past cycle, the element must provide an evaluation of the 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).

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing (AFFH) 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).)*

While the element included some maps on racial characteristics, poverty status, and opportunity areas, the element generally did 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/affh/index.shtml>.

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 Characteristics: While the element identifies the total number of overpaying households (p. 38), it must quantify and analyze the number of overpaying households by tenure (i.e., renter and owner). The element should also quantify vacancy by tenure (i.e., renter and owner). For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

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).)*

The City has a regional housing needs allocation (RHNA) of 5,434 housing units, of which 1,986 are for lower-income households. To address this need, the element relies on approved projects, vacant sites, underutilized sites and accessory dwelling units (ADUs). To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Previously Identified Nonvacant and Vacant Sites: The element must indicate if sites identified in the inventory were previously identified in past housing elements. If nonvacant sites identified in a prior adopted housing element or vacant sites identified in two or more consecutive planning periods, the sites are inadequate to accommodate housing for lower-income households unless:

- The site's current zoning is appropriate for the development of housing affordable to lower-income households by either including analysis or meeting the appropriate density; and
- The site is subject to a housing element program that requires rezoning within three years of the beginning of the planning period to allow residential use by-right for housing developments in which at least 20 percent of the units are affordable to lower-income households. (Gov. Code, § 65583.2, subd. (c).)

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also support these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element also must analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow 100 percent nonresidential uses (e.g., mixed-use and sites that can accommodate commercial). This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development. 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>.

Small Sites: The site inventory identifies small sites to accommodate the City's lower-income RHNA. 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 should provide specific examples with the densities, affordability and, if applicable, circumstances leading to consolidation, such as common ownership. The element should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income housing need. For sites to accommodate a shortfall of lower-income level, the sites physically must accommodate at least 16 units. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small sites.

Zoning for Lower-Income Households: While the element appears to indicate housing affordable to lower-income households can be accommodated on sites zoned R3 and R4 with densities of 20 to 25 dwelling units per acre, it does not include an analysis evaluating the adequacy of these zones. The element must include an analysis to demonstrate the adequacy of the R3 and R4 zones to encourage and facilitate the development of units affordable to lower-income households. The analysis should be based on factors such as market demand, development experience within zones, and specifically address the impacts of density on financial feasibility. For communities with densities that meet specific standards (at least 30 units per acre for Colton), this analysis is not required (Gov. Code, § 65583.2(c)(3)(B)).

Suitability of Nonvacant Sites: The element identifies nonvacant sites to accommodate the regional housing need for lower-income households (Table H-39). The element must describe the methodology used to determine the additional development potential of these sites within the planning period. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to

additional residential development, the City's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. For example, the element could consider indicators such as age and condition of the existing structure, presence of expiring leases, expressed developer interest, low improvement to land value ratio, and other factors.

Accessory Dwelling Units (ADU): The element assumes an ADU buildout of 14 ADUs per year for a potential buildout of 112 units within the planning period. Given that the City has only produced an average of 5 units per year since 2018, the element must demonstrate this production level will be achievable in the planning period or rescale assumptions. For example, the element should be updated to include a realistic estimate of the potential for ADUs and include policies and programs that incentivize the production of ADUs. Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within six months). Finally, if necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like additional outreach and marketing might be more appropriate.

Priority Water and Sewer: 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.) Local governments are required to immediately deliver the housing element to water and sewer service providers. HCD recommends including a cover memo describing the City housing element, including the City and regional housing needs. The element must demonstrate compliance with these requirements or add or revise programs as appropriate. For additional information and a sample cover memo, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

Infrastructure: The element must demonstrate the sites in the inventory have access to existing or planned water, sewer, and other dry utilities. (Gov. Code, § 65583.2, subd. (b).)

Environmental Constraints: While the element generally describes the City is in Very High Fire Severity Zone (pp. 75-77), it must relate those conditions to identified sites

and describe any other known environmental or other constraints that could impact housing development on identified sites in the planning period.

Sites with Zoning for a Variety of Housing Types:

Emergency Shelters: The element mentions emergency shelters are permitted by-right in the M-1 light industrial (p. 65). The element should evaluate the available acreage for characteristics like parcel size, potential redevelopment or reuse opportunities, and proximity to services, and describe development standards. The City must ensure that the zoning adheres to the new parking requirement standards per AB 139 (Chapter 335, Statutes of 2019). AB 139 requires that the zone for emergency shelter allows for sufficient parking for the staff of the emergency shelter. The element must include programs as appropriate based on the outcomes of this analysis.

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. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types (e.g., multifamily rental housing, mobilehomes, transitional housing). For example, the element must describe and analyze the development standards within the residential overlay zone. In addition, the analysis must also evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities. Specially, the element should analyze the maximum height limit of 2.5 stories, minimum unit size requirements, and the two enclosed parking space standard for multifamily developments. The element should include programs to address or remove the identified constraints.

Fees and Exaction: The element describes all required fees for single family and multifamily housing development, including impact fees (pp. 70-71), but should also analyze impact of fees as potential constraints on housing supply and affordability. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing.

Local Processing and Permit Procedures: The element must describe and analyze the City permit processing and approval procedures by zone and housing type for multifamily rental housing and single-family housing. The analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single family and multifamily developments, including type of permit, level of review (e.g., design review), approval findings and any discretionary approval procedures. In addition, the element should describe the City's SB 35 (Chapter 366, Statutes of 2017) streamlined ministerial approval procedure and application and include programs if appropriate.

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.

Constraints on Housing for Persons with Disabilities: The element (p. 65) currently details that residential care facilities serving seven or more persons are permitted with a conditional use permit (CUP), in VL, R1, R2, R3, and R4 Zones. The CUP and exclusion from listed zones should be analyzed as a constraint on housing for persons with disabilities, and the element should include actions as appropriate to remove or mitigate the constraints. In addition, while the element briefly mentions the City's reasonable accommodation process, it should also describe the procedure and evaluate impacts, including identifying and analyzing findings of approval.

5. *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 must be revised to 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. The element must also include a description of any program(s) that mitigate nongovernmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category. (Gov. Code, § 65583.2, subd. (c)(3).)

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, # of large units, # of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding and other strategies 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 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, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

Program 1 (Master Plans to Accommodate Diverse Housing Types): Provide specific actions the City will implement to achieve program objectives.

Program 2 (Appropriate Development Standards): Provide specific actions and timelines to implement this this program.

Program 7 (Density Bonus): Provide information on whether the City's density bonus ordinance complies with State Density Bonus Law and provide specific timeframes for updating the ordinance if required.

Program 8 (Mixed Use Development): Provide specific timeframes for when the City will seek partnerships.

Program 12 (Zoning Regulations and Initiatives for Extremely Low-Income (ELI) and Special Needs Housing): Provide specific timeframes for the amendment to the development code. Amendments should be make early enough (e.g., within one year of adoption of the element) to have a beneficial impact within the planning period.

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 (SRO) occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B4, 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. In addition, the element should be revised as follows:

- Program 9 (Provision of Adequate Sites): Page 90 of the element states that the City will increase its zoning in the R3/R4 zone to allow for a maximum of 25 units; however, the Housing Plan does not include this commitment. The element must reference this zone change as part of the program commitments to provide for adequate sites.
- As the element has identified a shortfall of adequate sites accommodate the regional housing need for lower-income households, Program 9 should specifically identify the shortfall including the number of acres to be rezoned, and commit to the following:
 - permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval;
 - accommodate a minimum of 16 units per site;
 - require a minimum density of 20 units per acre; and
 - at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
 - allow 100 percent residential use, and
 - require residential use occupy 50 percent of the total floor area of a mixed-use project.

For additional information, see the Building Blocks' at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/identify-adequate-sites.shtml>.

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 a program(s) to assist in the development of housing affordable to low-, very low- and ELI households. Programs must be revised or added to the element to assist in the development of housing for ELI households. Program actions could include prioritizing some funding for housing developments affordable to ELI households and offering financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, SRO units, to address the identified housing needs for ELI households. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

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 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.

5. *Promote AFFH 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 must include a complete analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs. Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies program(s) to encourage and promote affordable housing; however, most of these programs do not appear to facilitate any meaningful change nor address AFFH requirements. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results.

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).)

While the element includes a general summary of the public participation process (Appendix E), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element, specifically lower-income households and special needs group. The element could describe the efforts to provide translation services and to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

E. Consistency with General Plan

The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

The housing element affects a locality's policies for growth and residential land uses. The goals, policies and objectives of an updated housing element may conflict with those of the land-use, circulation, open space elements as well as zoning and redevelopment plans. The general plan is required to be "internally consistent." As part of the housing element update, the City should review the general plan to ensure internal consistency is maintained. In addition, The City should consider an internal consistency review as part of its annual general plan implementation report required under Government Code section 65400.