

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

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September 29, 2022

Forrest Ebbs, Director  
Community Development Department  
City of Antioch  
200 H Street  
Antioch, CA 94531

Dear Forrest Ebbs:

**RE: City of Antioch's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element**

Thank you for submitting the City of Antioch's (City) draft housing element update received for review on July 1, 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 conversations on August 15, 2022 and September 8 and 20, 2022. In addition, HCD considered comments from TransForm 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.

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.

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 (January 31, 2023), 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).

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.

We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Alex Contreras, of our staff, at [Alex.Contreras@hcd.ca.gov](mailto:Alex.Contreras@hcd.ca.gov).

Sincerely,

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

Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF ANTIOCH

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/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/building-blocks> 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).)*

Fair Housing Enforcement and Capacity: The housing element must include a summary of fair housing enforcement and outreach capacity. The analysis must address how the City complies with state and federal fair housing laws, including regulations, lawsuits, and related enforcement actions.

Disproportionate Housing Needs, Including Displacement Risk: While the element includes discussion on disproportionate housing needs, this discussion should also address the patterns within the City and evaluate any similarities with other components of the assessment of fair housing (e.g., segregation and integration, disparities in access to opportunity).

Affirmatively Furthering Fair Housing (AFFH) and Sites Inventory: While the element includes an analysis of identified sites to accommodate the regional housing need allocation (RHNA) to affirmatively furthering fair housing for the lower-income RHNA, it should also conduct this analysis with consideration for the moderate and above moderate RHNA.

Local Data and Knowledge: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers, City staff and related local and county planning documents.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the City. For instance, the element can analyze historical land use, zoning and barriers to housing choices, investment practices, seeking investment or lack

of seeking investment to promote affordability and inclusion, information about redlining/greenlining, restrictive covenants and other discriminatory practices, land use related lawsuits, local initiatives, demographic trends or other information that complements the state and federal data.

Contributing Factors to Fair Housing Issues: Based on the outcomes of a complete analysis, the element should re-assess contributing factors and particularly prioritize those factors then formulate appropriate policies and programs.

Goals and Actions: The element must be revised to add or modify goals and actions based on the outcomes of analysis described above. Goals and actions must specifically respond to the analysis and 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, discrete timing or milestones, geographic targeting and metrics or numerical targets. As appropriate, actions must address housing mobility, new housing choices and affordability in higher resource or higher income areas, place-based strategies for community preservation and revitalization and displacement protection.

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).)*

*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).)*

Extremely Low-Income (ELI) Households: The element does include some data on the number of existing and projected ELI households, but it must also include analysis of their housing needs. The analysis should evaluate tenure, overpayment, resources, and strategies available and the gap and magnitude of housing needs to better formulate policies and programs.

Overpayment: The element must quantify and analyze the number of lower-income households overpaying by tenure (i.e., renter and owner).

Housing Conditions: While the element estimates the number of units in need of rehabilitation, it should supplement this estimate with the number of units in need of replacement.

Housing Costs: While the element includes estimated rents for residents, it utilizes American Community Survey (ACS) data. The element should supplement census data with other sources (e.g., local knowledge).

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).)*

Realistic Capacity: Where zoning allows 100 percent nonresidential uses, the calculation of residential capacity should account for the likelihood of 100 percent nonresidential development. For example, the element could analyze all development activity in nonresidential zones allowing 100 percent nonresidential uses, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly. This analysis may incorporate any proposed policies such as residential performance standards, prohibition of commercial uses and should clarify that all zones allow residential uses, particularly 100 percent residential uses.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for additional development on nonvacant sites. While the element maps various areas with a description, in some cases, as noted in our conversation, the element should include additional discussion regarding the extent existing uses impede additional development such as market demand for the existing use and existing leases, contracts or other conditions that would perpetuate the existing use or prevent additional residential development. For example, Sites 1-82 are currently residential lots occupied primarily by single -family residences and Sites 120, 138, 154, 155, 164 and 166 are places of worship. The element should include a discussion of why the uses will likely discontinue or be redeveloped in the planning period. The element could also consider additional indicators of the potential for redevelopment such as age and condition of the existing structure, expressed developer or property owner interest, existing versus allowable floor area, and other factors.

Finally, the element identifies sites with existing residential uses. Absent a replacement housing policy, these sites are not adequate sites to accommodate lower-income households. The replacement housing policy should have at least the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).

AB 725: For jurisdictions that are considered Metropolitan, the element must identify at least 25 percent of the remaining moderate and above moderate RHNA on sites that allow at least four units of housing (e.g., four plex or greater) (Gov. Code, § 65583.2, subd. (c)(4)).

Infrastructure: While the element includes a general discussion on water and sewer capacity, it must demonstrate sufficient existing or planned water and sewer capacity to accommodate the City's regional housing need for the planning period.

Environmental Constraints: While the element generally describes environmental conditions, it should also describe any other known conditions (e.g., shape, easements, contamination) that could impact housing development on identified sites in the planning period.

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), 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](mailto:sitesinventory@hcd.ca.gov). HCD has not received a copy of the electronic inventory. Please note, 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](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

Zoning for a Variety of Housing Types (Emergency Shelters): The element mentions emergency shelters are permitted in an overlay district. However, the element should also clarify shelters are permitted without discretionary action and discuss available acreage, including typical parcel sizes and the presence of reuse opportunities, proximity to transportation and services and any conditions inappropriate for human habitability. The analysis should also list and evaluate development standards. Finally, parking requirements appear inconsistent with statutory requirements that limit parking to staff and as a result, the element should add or modify programs to revise parking requirements.

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).)*

*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... (Gov. Code, § 65583, subd. (a)(6).)*

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to parking, heights, lot coverage and allowable density ranges. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities.

Zoning Fees and Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards, and inclusionary requirements for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1(a)(1).

Building Codes: The element should identify and evaluate any local amendments to the building code for impacts on housing costs.

Fees and Exaction: The element provides a cumulative analysis of fees on various housing types but should also list all the various planning and impact fees, including regional transportation impact fees, to better evaluate the impacts on housing development costs.

Local Processing and Permit Procedures: While the element mentions uses are by-right, it should also describe the procedures for a typical single family and multifamily development complying with zoning. The analysis should address the approval body, the number of public hearing if any, approval findings and any other relevant information. The analysis should evaluate approval findings for impacts on approval certainty.

In addition, the element (p. 4-4) notes multifamily development are subject to a conditional use permit (CUP) in multifamily zones. Requiring a CUP or exception process for a use in its intended zone is a constraint. The element should include a program with specific commitment and discrete timing early in the planning period to remove or modify the requirement. This is particularly important since the past element had a program to address this requirement as a constraint.

Constraints on Housing for Persons with Disabilities: The element should analyze potential constraints on housing for persons with disabilities, as follows:

- *Reasonable Accommodation*: The element references the zoning code includes a reasonable accommodation procedure, it should include a description of the process and decision-making criteria such as approval findings and analysis of any potential constraints on housing for persons with disabilities and modify programs as appropriate.
- *Group Homes for Seven or More Persons*: The element indicates group homes for seven or more persons are allowed in a limited number of residential zones and subject to a CUP. The element should analyze the exclusion of these uses in all residential zones and the CUP requirement and add or modify programs to address the constraint.

Requests for Lesser Densities: The element must be revised to analyze requests to develop housing at densities below those anticipated in the sites inventory, including hinderance on the construction of a locality's share of the regional housing need.

5. *An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. (Gov. Code, § 65583, subd. (a)(9).)*

The analysis of at-risk unit must estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This

cost analysis for replacement housing may be done aggregately and does not have to contain a project-by-project cost estimate.

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

To have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines (e.g., at least annually or month and year) or timeframes earlier in the planning period. Examples include Programs 1.1.2 (Housing Rehabilitation), 1.1.3 (Community Education), 1.1.5 (Safe Housing Outreach), 2.1.3 (Meet with Potential Developers), 2.1.5 (Affordable Housing Program Inventory), 2.1.7 (Support Non-profit Housing), 2.1.9 (Unhoused Populations), 3.1.1 (Housing for Special Needs, 3.1.4 (Unhoused Population Coordination), 3.1.7 (Farmworker Housing), 3.1.9 (Housing and Services for those with Disabilities), 4.1.3 (Density Bonus Ordinance), 4.1.6 (Parking Requirements), 4.1.8 (Regional Fees) and 5.1.4 (Prioritize Hard to Serve Residents).

Additionally, programs should include specific commitment and actions toward beneficial impacts or housing outcomes. Program language such as “discuss”, “review”, “develop” and “explore” should be complemented or replaced with commitment such as adopt, pursue, apply or identify. Examples of programs that should be revised include Programs 2.1.9 (Unhoused Populations), 2.1.11 (Missing Middle Housing), 3.1.1 (Housing for Special Needs) and 3.1.7 (Farmworker Housing).

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. In addition, the element should be revised as follows:



- *Concurrent Rezoning*: HCD understands the City will be completing rezoning prior to the start of the planning period (January 31, 2023) to accommodate the RHNA, including for lower-income households. Please be aware, if rezoning is not completed by January 31, 2023, the element must include a program(s) to rezone sites with appropriate zoning and development standards pursuant to Government Code sections 65583, subdivision (c)(1), and 65583.2, subdivisions (h) and (i).
  - *Program 3.1.5 (Supportive and Transitional Housing)*: The Program currently conflates general requirements related to transitional and supportive housing and by-right permanent supportive housing (AB 2162). The program should make a clear and specific commitment to comply with both requirements.
  - *Replacement Housing Requirements*: The housing element must include a program to provide replacement housing. (Gov. Code, § 65583.2, subd. (g)(3).) The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).
  - *Large and Small Sites*: The element should include programs to encourage and facilitate development of housing for lower-income households on large and small sites. Examples of actions include amending zoning, establishing incentives and coordinating with property owners and developers.
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, 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 must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis.

5. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a)... (Gov. Code, § 65583, subd. (c)(6).)*

Program 1.1.1 (Preserve At-risk Projects) should commit to comply with noticing requirements and coordinate with qualified entities.

6. *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 2.1.8 (Promote Accessory Dwelling Units (ADU)) should commit to amend the ADU ordinance as necessary to comply with state law and monitor permitted ADUs and affordability every other year and take appropriate action such as adjusting assumptions or rezoning within a specified time (e.g., 6 months) if assumptions are not realized.

### **C. 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).)*

While the element includes quantified objectives for new construction, rehabilitation, and conservation by income group; it could consider quantified objectives for conservation (beyond at-risk preservation). For your information, the quantified objectives do not represent a ceiling, but rather set a target goal for the City to achieve, based on needs, resources, and constraints.