

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

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September 7, 2021

Elaine Lister, Director  
Community Development Department  
City of Mission Viejo  
200 Civic Center  
Mission Viejo, CA 92691

Dear Elaine Lister:

**RE: Review of the City of Mission Viejo's (2021-2029) Draft Housing Element**

Thank you for submitting the City of Mission Viejo's (City) draft housing element received for review on July 9, 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. In addition, HCD considered comments from the Kennedy Commission, Mission Viejo Planning Partnership, Public Law Center, and Welcoming Neighbors Home Initiative, 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.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of October 15, 2021 for Southern California Association of Governments (SCAG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit HCD's website at: [http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375\\_final100413.pdf](http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf).

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the County 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](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and [http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).

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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.

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 your commitment and hard work in the housing element update. HCD is 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 Colin Cross, of our staff, at [colin.cross@hcd.ca.gov](mailto:colin.cross@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name being more prominent.

Shannan West  
Land Use & Planning Unit Chief

Enclosure

## APPENDIX CITY OF MISSION VIEJO

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).)*

**General:** While the element includes some information on the progress in implementation from the previous element, it must evaluate the effectiveness of programs and reflect the results by revising programs in the current element. For example, the element explains Program 9 (Affordable Housing Outreach) continues to market the City-owned Site C which was rezoned to meet the regional housing needs allocation (RHNA) in the 4<sup>th</sup> cycle of the housing element. The element should discuss, among other things, the effectiveness of these marketing efforts and the lack of development proposals moving forward, particularly since the site appears to be undeveloped despite being available for over a decade. Based on the outcomes of this evaluation, programs should be revised as appropriate.

**Special Housing Needs:** As part of the evaluation of programs in the past cycle, the element must provide an explanation of the cumulative 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).)*

The element generally does 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 visit

HCD's Affirmatively Furthering Fair Housing in California website at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

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 Households (ELI):** While the element quantifies the projected housing needs of ELI households, given the unique and disproportionate needs of ELI households, the element must include analysis to better formulate policies and programs. For example, the element could analyze tenure, cost burden, overcrowding and other household characteristics then examine trends and the availability of resources to determine the magnitude of gaps in housing needs. 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>.

**Housing Costs:** The element includes some discussion of sales prices and affordability by income group, but to better analyze housing needs and formulate policies and programs, it should also include information and analysis of current market rents.

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).)*

**Parcel Listing:** The element must list sites by parcel number or unique reference, parcel size, zoning and the number of anticipated units, it must also list size for each parcel, general plan designation and existing use. The description of existing use is generic and must include sufficient detail to facilitate an analysis of the potential for additional development on nonvacant sites. For example, many sites describe existing uses as commercial. Instead, the inventory could describe the use as commercial, structure older than 50 years in poor condition, vacancies present, and existing floor area versus allowable floor area. For more information, see the HCD's Housing Element Sites Inventory Guidebook at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

**Realistic Capacity:** The element (p. 72) mentions an assumption of "full yield based on allowable density" and 50 percent yield on sites zoned with a housing overlay but provides no analysis or supporting information. The element should include additional and clear supporting information and estimate the number of units based on the land-use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level. For example, the element could clearly list other recent

projects, the zone, acreage, built density, allowable density, level of affordability and presence of exceptions such as a density bonus.

In addition, the element appears to assume residential development on sites with a housing overlay that could allow 100 percent nonresidential uses. The element must still account for the likelihood of nonresidential uses. For example, the element could analyze all development activity in identified nonresidential zones, how often residential development occurs and adjust residential capacity calculation, policies, and programs accordingly. The element should include analysis based on factors such as development trends, performance standards or other relevant factors. 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>.

Suitability of Nonvacant Sites: The element identifies nonvacant sites to accommodate the regional housing need for households of all incomes, stating that “factors such as existing uses, market conditions and property owner interest in redevelopment” were considered (p. 73). This statement alone is not adequate to demonstrate the suitability of these sites. A complete analysis should describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

The element must also analyze the extent to which existing uses may impede additional residential development and include 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. For example, the inventory includes the Idyllwillow Apartments, an existing apartment complex with 400 units, but does not describe any factors to indicate that this site might be redeveloped during the planning period.

In addition, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the regional housing need allocation.

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 has the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).



Small and Large Sites: Sites larger than ten acres in size or 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 parceling or consolidation. 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. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small sites.

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. For more information on program requirements, please see HCDs Housing Element Sites Inventory Guidebook at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

Affirmatively Furthering Fair Housing: The element does not address this requirement. The element must identify and analyze sites throughout the community to foster inclusive communities and (AFFH). For example, the analysis should address whether the identified sites improve or exacerbate each of the fair housing issue areas. For more information, See HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Infrastructure: The element generally describes infrastructure (p. 44) in the City. However, it must also clarify sufficient total water and sewer capacity (existing and planned) to accommodate the RHNA.

For your information, 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's housing element, including the City's housing needs and regional housing need. For additional information and sample cover memo, see the Building Blocks at <https://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

Environmental Constraints: The element must describe and analyze any known environmental constraints within the City that could impact development during the planning period. This is particularly important for Site C, as numerous public commenters have identified environmental constraints on the site that may pose an impediment to development. These constraints include, but are not limited to, the site's location in a flood zone, the high risk of landslides in the area, and the sloped terrain which may require extensive pre-development work to be done. Depending on the results of this analysis, the City may need to adjust the site inventory or add programs as appropriate.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing

element. The City must utilize standards, forms, and definitions adopted by HCD. 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.

Sites with Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element includes some discussion of zoning for emergency shelters but should clarify whether emergency shelters are permitted without discretionary action, describe typical parcel sizes and other opportunities for reuse and analyze developments standards, especially bed limits and parking requirements as potential constraints. For your information, recent changes to state law only allow sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone. The element should include programs, as appropriate, based on the outcomes of this analysis.
- *Employee Housing:* Regardless of housing need, the element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.) or add or modify programs. Specifically, section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone.
- *Other:* The element indicates the lack of zoning to facilitate low barrier navigation centers and by-right permanent supportive housing. However, the element does not contain specific commitment to make zoning available by a date certain and should be revised as noted in Findings C1 and C2.

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).)*

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 heights in multifamily zones. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Processing and Permit Procedures: While the element includes information about processing times and mentions the Planned Development permit, it should also describe the procedures for a typical single family and multifamily development. The analysis

should address the approval body, the number of public hearing(s) if any, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing and approval certainty. For example, the element should identify and analyze approval findings for impacts on approval certainty, the presence of processes or guidelines to promote certainty and add or modify programs as appropriate.

Fees and Other Exactions: The element lists planning fees but must also describe all required fees for single family and multifamily housing development, including impact fees, and analyze their impact 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. For additional information and a sample analysis and tables, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/fees-and-exactions.shtml>.

Housing for Persons with Disabilities:

- *Group Homes for Seven or More Persons:* The element excludes group homes for seven or more persons from some residential zones and subjects the use to a conditional use permit, unlike other similar uses. The element should specifically analyze these constraints for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.
- *Reasonable Accommodation:* The element identifies approval findings for granting a reasonable accommodation including whether requests are “reasonable” or “reasonably feasible” – potentially subjective criteria. The element should include an analysis of approval findings and add or modify program(s) as appropriate.

On-/Off-Site Improvements: The element must identify subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability. For additional information and a sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/codes-and-enforcement-on-offsite-improvement-standards.shtml>.

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program, if necessary, to address these requirements.

Other Local Ordinances: The element must analyze any locally adopted ordinances that directly impact the cost and supply of residential development (e.g., inclusionary requirements, short term rentals, growth controls, moratoriums, voter initiatives).

Zoning, Development Standards and Fees: The element must clarify compliance with new transparency requirements for posting all zoning, development standards and fees on the City’s website and add a program to address these requirements, if necessary.



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

The element includes some very broad discussion of land prices, construction costs and availability of financing but generally provides no information or quantification to analyze the impacts of nongovernmental constraints. In addition, the element must analyze requests to develop housing at densities below those anticipated in the sites inventory and the length of time between receiving approval for housing development and submittal of application for building permits. The analysis must address any hinderances on housing development and programs should be added as appropriate

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).)*

The element includes some general quantification; however, the element should include analysis of households with special housing needs. The analysis should include, but is not limited to, factors such as trends, household income, tenure, housing types, zoning, and available resources. Specifically, the element should address the total number of persons with disabilities, large households by tenure, and permanent, seasonal farmworkers (e.g., USDA county level data) and the characteristics and trends of persons experiencing homelessness. For additional information and a sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/large-families-female-head-household.shtml>.

### **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 have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines and specific commitment. Programs to be revised with discrete timelines include Programs 1 (Housing

Rehabilitation), 9 (Affordable Housing Outreach) and 10 (Emergency Shelters, Transitional and Supportive Housing). Programs must also include specific commitment. For example, several programs note the City is in the process of amending the development code. However, these programs should include a clear and specific commitment to amend zoning by a date certain. These programs include Program 7 (Density Bonus), 8 (Accessory Dwelling Units) and 10 (Emergency Shelters, Transitional and Supportive 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 must be revised as follows:

- *Program 5 (Land Use Element/Development Code):* The element includes Program 5 to address the identified shortfall of sites, particularly for lower-income households. The Program commits to amend zoning concurrent with adoption of the housing element. For your information, if any zoning amendment or rezoning is necessary *in the planning period* to accommodate a shortfall of adequate sites or unaccommodated need for lower-income households, the zoning must permit multifamily uses without discretionary action and address several other requirements pursuant to Government Code section 65583, subdivision (c), paragraph (1), and section 65583.2, subdivisions (h) and (i). Specifically, if adoption does not occur by October 15, 2021 or if the zoning is necessary after October 15, 2021, then sites must address the requirements described above.
- *City-Owned Sites:* The element includes Programs 6 (Surplus Public Lands) and 9 (Affordable Housing Outreach) with mention of city-owned lands but these programs should include specific commitment to facilitate development on these sites in the planning period. For example, instead of stating the City will implement a schedule of actions, the element should include the actual schedule and the actual actions. This is particularly important since Site C continues to be undeveloped. Also, Programs 6 or 9 should include actions to facilitate development such as zoning, outreach with developers, incentives, fee waivers, priority processing and financial assistance. If rezoning or zoning changes to appropriate densities is necessary, Programs should commit to rezoning pursuant to Government Code section 65583.2, subdivisions (h) and (i).

- *Sites Identified in Prior Planning Periods:* The element must include a program for vacant sites identified in two of more consecutive planning periods' housing elements or nonvacant sites identified in a prior housing element, that are currently identified to accommodate housing for lower-income households. The program must be implemented within the first three years of the planning period and commit to zoning that will meet the density requirements for housing for lower-income households and allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households. (Gov. Code, § 65583.2, subd. (c).)
  - *Replacement 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).
  - *Zoning for a Variety of Housing Types:* As noted in Findings B3 and C1, the element must include a specific commitment to amend zoning for a variety of housing types by a date certain.
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).)*

While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable to special needs households. Program actions could include prioritizing some funding for housing developments affordable to special needs households and offering financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily and single-room occupancy.

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 Findings B4 and B5, 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 assessment of fair housing. 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 and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. For additional guidance on program requirements to AFFH, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

Program 8 (Accessory Dwelling Units) commits to promote awareness of ADUs. In addition, the program should commit to establish incentives by a specified date and consider additional actions such as exploring and pursuing funding options. Further, the Program should commit to amend zoning, as noted in Finding C1, track the production and affordability of ADUs by the fourth year of the planning period and complete actions (e.g., rezone) within a specified time if assumptions are not realized.

#### **D. 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 and rehabilitation by income group for very low-, low-, moderate- and above-moderate income, it must also include quantified objectives for conservation. Examples of programs that could be utilized include Programs 2 (Home Weatherization Improvements), 3 (Code Enforcement) and 4 (Section 8 Certificate/Voucher).

#### **E. Public Participation**

*Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort. (Gov. Code, § 65583, subd. (c)(9).)*

While the element describes a few community meetings, it does not include a diligent effort to include all economic segments of the community in the development of the housing element. Moving forward, the City should employ additional methods for public outreach efforts, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts. In addition, the element should also summarize future public comments and describe how they were considered and incorporated into the element.



**Exhibit 1**  
**HCD 6<sup>th</sup> Housing Element Comments and Responses**  
**City of Mission Viejo**

HCD Comment (Letter of 9/7/2021)	Revised Draft Housing Element Page No.	Response/Revision
A. Review and revision	Appendix A	Appendix A have been revised to provide additional detail regarding the effectiveness of programs, including the City's efforts related to Site 3.  In addition, additional explanation has been provided regarding the cumulative 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.1 Affirmatively furthering fair housing	44-50 66-68	The element has been revised to include a description of public 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. In addition, Program 16 describes actions the City will take to affirmatively further fair housing.
B.2 Extremely Low-Income Households	9 13 15 60	The element describes tenure and racial/ethnic characteristics (Table H-8), overpayment (Table H-9), affordability criteria (Table H-16), and future housing needs (Table H-28) for ELI households. Program 9 describes actions the City is taking to encourage and facilitate production of housing to meet the needs of ELI households, and several other programs also address the special needs of the homeless and persons with disabilities, many of whom are extremely low income.
B.2 Housing Cost	15	The element includes discussion of sales prices and affordability by income group, which has been used to formulate policies and programs, and additional data has been provided regarding current market rents.
B.3 Sites inventory	Appendix B p. V-xx	<u>Parcel listing</u> . The element has been revised to include size for each parcel, general plan designation and additional information regarding existing uses.  <u>Realistic capacity</u> . Additional information has been provided regarding land-use controls, site improvements, typical densities of existing or approved

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		<p>residential developments at a similar affordability level and the likelihood of non-residential uses.</p> <p>Suitability of non-vacant sites. The element has been revised to consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.</p> <p><u>Replacement of existing units.</u> Program 9 has been revised to add a replacement housing policy pursuant to Government Code section 65915, subdivision (c), paragraph (3).</p> <p>Program 9 has been revised to address requirements for sites smaller than one-half acre or larger than 10 acres.</p>
B.3 Large and small sites	61 Appendix B	
B.3 Sites Identified in Prior Planning Periods	63	Program 9 has been revised to address this issue. Site C (Table B-2) is the only site used in a prior planning period.
B.3 Affirmatively Furthering Fair Housing	Appendix B	The element has been revised to address whether the identified sites improve or exacerbate fair housing issues.
B.3 Infrastructure	44	The element includes analysis regarding water and sewer capacity (existing and planned) and concludes that services are adequate to accommodate the level of development identified in the RHNA.
B.3 Environmental Constraints		The element has been revised to provide additional information regarding environmental constraints that could impact development during the planning period, including Site C.
B.3 Electronic sites inventory	63	Program 9 has been revised to include submittal of an electronic sites inventory to HCD with the adopted Housing Element pursuant to Government Code section 65583.3.
B.3 Sites with Zoning for a Variety of Housing Types	35 61-62	<u>Emergency shelters.</u> The element describes regulations for emergency shelters and potential sites for shelters in the Business Park district. Program 10 has been revised to reflect recent changes to state law regarding parking standards for emergency shelters.

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	34 62	Employee housing. Program 10 has been revised to address Employee Housing Act (Health and Safety Code, § 17000 et seq.) requirements, including section 17021.5 which requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone.
	68	<u>Other</u> . Table H-38 (Program 10) has been revised to include a specific commitment to make zoning available by a date certain.
B.4 Land use controls		<p>The element has been revised to provide additional analysis regarding relevant land-use controls impacts as potential constraints on a variety of housing types, including height limits in multifamily zones. The Mission Viejo Development Code includes a provision to allow additional height for projects in the RPD 30, RPD 50, and RPD 80 zoning districts. In addition, projects have exceeded baseline height standards as a concession for affordable housing in accordance with the state Density Bonus provisions.</p> <p>Three different housing projects were approved in Mission Viejo in the last 2-3 years. Two of these projects are not identified in the 5<sup>th</sup> cycle Housing Element, and each required a zone change and general plan amendment to change the land use to residential (one site was zoned commercial and the other was recreation/ open space.) These projects were approved with the developer requested height (number of stories), parking count and layout, and building setbacks. These projects are all either under construction or will be soon. City land use standards were not a constraint to development, either individually or cumulatively.</p>
B.4 Processing and permit procedures		<p>The element has been revised to include additional information about processing times, the Planned Development permit, and procedures for a typical single family and multifamily development including the approval body, the number of public hearings, and approval findings. The analysis addresses impacts on housing cost, supply, timing and approval certainty.</p> <p>The City supports and encourages "pre-application" meetings (at no cost to the developer) to help facilitate housing development. This greatly expedites the review process once an application is submitted, thus saving the</p>

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		<p>developer time and money. Further, the City has a 10-day building plan check process (for first submittal) and 5-day process for resubmittals. The City uses Contract Building Services (Charles Abbott Associates) and this significantly reduces developer timing, with greater staffing flexibility.</p>
B.4 Fees and Other Exactions		<p>The element has been revised to describe all required fees for single-family and multi-family housing development, including impact fees, and analyze their impact as potential constraints on housing supply and affordability.</p>
B.4 Housing for Persons with Disabilities:		<p><u>Group Homes for Seven or More Persons</u>: The element has been revised to include additional analysis of regulations for group homes for seven or more persons. In accordance with the City's General Plan Land Use Element, Large Group Homes are permitted with approval of a Conditional Use Permit.</p> <p><u>Reasonable Accommodation</u>: The element has been revised to include additional analysis of the approval findings for granting a reasonable accommodation. The City has received no requests for reasonable accommodation.</p>
B.4 On-/Off-Site Improvements	40	<p>The element has been revised to identify subdivision level improvement requirements, such as minimum street widths.</p>
B.4 SB 35 Streamlined Ministerial Approval Process	66 72	<p>Program 14 and Table H-38 have been revised to include preparation of written implementation procedures for the SB 35 Streamlined Ministerial Approval Process.</p>
B.4 Other Local Ordinances	39	<p>The element has been revised to analyze any locally adopted ordinances that directly impact the cost and supply of residential development (e.g., inclusionary requirements, short term rentals, growth controls, moratoriums, voter initiatives).</p>
B.4 Zoning, Development Standards and Fees	66 72	<p>The element has been revised to clarify compliance with new transparency requirements for posting all zoning, development standards and fees on the City's website, and Program 14 has been revised to address these requirements.</p>
B.5 Nongovernmental constraints		<p>The element has been revised to include additional information regarding land prices, construction costs and availability of financing. In addition, the element provides additional information regarding requests to develop housing at densities below those anticipated in the sites inventory and the</p>



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		length of time between receiving approval for housing development and submittal of application for building permits.
B.6 Special housing needs	7 21	Table H-4 shows the number of large households by tenure. Table H-26 shows the estimated number of farmworkers in Mission Viejo. Estimates of the homeless population are shown in Section 2.5.6.
C.1 Housing Programs	Chapter 6	Housing programs have been revised to include more discrete timelines and specific commitments.
C.2 Actions that will be taken to make sites available during the planning period	71 63	<u>Program 5 (Land Use Element/Development Code)</u> . This comment is not applicable because no rezoning is proposed. <u>City-Owned Sites</u> : Program 9 (Affordable Housing Outreach) has been revised to include specific commitment to facilitate development on these sites. <u>Sites Identified in Prior Planning Periods</u> : Program 9 has been revised to include a specific commitment for any sites that have been included in prior Housing Elements. <u>Replacement Requirements</u> : Program 9 has been revised to include a program to provide replacement housing. Program 9 has been revised to address special needs housing.
C.3 Programs to assist in the development of housing affordable to special needs households.		
C.4 Removing constraints		
C.5 Affirmatively furthering fair housing		The element has been revised to address the issues noted in Findings B4 and B5, above. The element has been revised to address AFFH issues as described above.
C.6 ADUs	62 71	Program 8 has been revised to commit to additional actions regarding ADUs.

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D. Quantified objectives	70	The element has been revised to provide quantified objectives for conservation.
E. Public Participation	4 Appendix C	Chapter 1 has been revised and Appendix C has been added to the element to provide further description of opportunities for public review that includes lower-income and special needs households and summarize public comments and describe how they were considered and incorporated into the element.