

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

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April 10, 2023

Kelly McAdoo, City Manager
City of Hayward
777 B Street, 4th Floor
Hayward, CA 94541

Dear Kelly McAdoo:

**RE: City of Hayward's 6th Cycle (2023-2031) Adopted with Draft Revisions
Housing Element**

Thank you for submitting the City of Hayward's (City) housing element that was adopted on February 7, 2023 and received on February 13, 2023 along with draft revisions received on March 21, 2023. Pursuant to Government Code section 65585, subdivision (b) and (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The adopted element with draft revisions addresses many statutory requirements described in HCD's November 28, 2023 review; however, revisions will be necessary to substantially comply with State Housing Element Law (Article 10.6 of the Gov. Code), as follows:

1. *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... (Gov. Code, § 65583, subd. (c)(1).)*

Action 9.1 (No Net Loss Zoning): The element includes Action 9.1 to implement a monitoring program that tracks capacity of identified sites and, if necessary, rezones additional capacity. While these actions put emphasis on publicly owned sites, the monitoring program should also monitor the progress of planned, approved and pending projects (Table C-3) and should monitor and evaluate all actions associated with developing publicly-owned sites (e.g., Actions 4.5, 8.6, 8.7, 8.8) in the planning period. For example, the Action should evaluate lack of progress or action and affordability as assumed in the sites inventory. The Action should specifically commit to identify alternative actions, if necessary, within a specified time (at least twice in the planning period).

2. *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. ©(5).)*

Goals, Priorities, Metrics, Actions & Milestones: The element includes many meaningful actions to affirmatively further fair housing (AFFH). However, in many cases, actions should either geographically target efforts or include metrics or numerical targets toward AFFH outcomes.

- *Geographic Targeting:* Examples of actions that should include geographic targeting include Actions H-1 (Minor Home Repair), H-4 (Affordable Housing Development Assistance), Action H-7 (Housing Choice Vouchers), H-19 (Housing for Special Needs), H-20 (Community Outreach and Education), H-21 (Foreclosure Prevention and Counseling), H-23 (Rent Stabilization and Tenant Protections) and H-25 (Consolidated Plan Update). Geographic targeting can be conducted in a variety of ways such as specific neighborhoods or planning areas, areas of higher need or throughout the City.
- *Metrics:* Examples of actions that should include metrics or numeric targets include Actions H-12 (Adaptive Reuse), H-13 (Variety of Housing Types), H-14 (Development Incentives), H-18 (Duplexes and Lot Splits), H-20 (Community Outreach and Education), H-23 (Rent Stabilization and Tenant Protections) and H-25 (Consolidated Plan Update).

Finally, the element should include additional displacement risk and place-based strategies toward community revitalization such as infrastructure, streetscapes, active transportation, community amenities, parks, and other community improvements. For more information, see HCD's AFFH Guidance at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

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

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 must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while 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.

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

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 make prior identified sites available or accommodate the RHNA, including for lower-income households, shall be completed no later than one year from the statutory deadline. Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until all necessary rezones pursuant to Government Code section 65583, subdivision (c) (1) (A) and Government Code section 65583.2, subdivision (c) are completed.

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 hard work and dedication of the housing element update team throughout the housing element review and update and looks forward to working with the City toward a compliant element. If you have any questions or need additional technical assistance, please contact Claire Sullivan-Halpern, of our staff, at Claire.Sullivan-Halpern@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager