

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

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February 18, 2022

Hilary Roverud, Director
Development Services Department
City of South Lake Tahoe
1052 Tata Lane
South Lake Tahoe, CA 96150

Dear Hilary Roverud:

RE: City of South Lake Tahoe's 6th Cycle (2022-2027) Draft Housing Element

Thank you for submitting the City of South Lake Tahoe's (City) draft housing element received for review on December 23, 2022, along with revisions received on February 7, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on February 4, 2022 with yourself, Zachary Thomas, and consultants Jennifer Gastelum and Amy Sinsheimer. In addition, HCD considered comments from David M. Jinkens 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.

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 (June 30, 2022), 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).

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 meets housing element requirements for these and other funding sources.

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.

HCD appreciates the hard work and dedication of yourself, Zachary Thomas, and consultants Jennifer Gastelum and Amy Sinsheimer during the review. 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 Hillary Prasad, of our staff, at Hillary.Prasad@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF SOUTH LAKE TAHOE

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. 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).)*

Disparities in Access to Opportunity: While the element includes some data on disparities in access to opportunity, it must provide additional information. Specifically, the element must analyze education access and whether there are policies, practices, or investments to promote access to proficient schools. For example, the element could evaluate educational opportunities relative to other components of the assessment of fair housing (e.g., segregation and integration, disproportionate housing needs).

Disproportionate Housing Needs including Displacement: While the element provides some data on disproportionate need, additional analysis is needed. The element must include a local analysis on how overcrowding in the City is related to the other components of the assessment of fair housing. In addition, the element should include a regional analysis on overcrowding and substandard housing. The element could also tie data from the housing conditions survey, housing issues hotline and SRO and multifamily inspections to the analysis on housing conditions. The element should also include an analysis on how the need of persons experiencing homelessness relates to other affirmatively furthering fair housing (AFFH) findings and analyze the effect on protected groups. Furthermore, the element should include an analysis of displacement relative to the region and describe where existing affordable units are located within the City. The element should also describe whether there is disinvestment in areas identified as lower income and segregated. Lastly, the element should examine displacement relative to disaster and impacts on protected groups (e.g., fire and flooding).

Sites Inventory: While the element includes some discussion of sites by income group and area, it should include additional discussion to better formulate policies and programs. For

example, the element could address the lack of sites identified to accommodate housing for lower-income households in the central area. Also, the element should address the impact of identified sites on existing patterns such as examining sites relative to existing affordable housing developments. The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will promote more inclusive communities such as identifying new opportunities (regardless of regional housing needs allocation (RHNA)) for housing affordable to lower-income households in higher income areas.

Contributing Factors: While table 4-46 lists contributing factors based on the AFFH analysis, it should prioritize the contributing factors.

Goals, Priorities, Metrics, and Milestones: The element must add or modify programs based on a complete analysis, including metrics and milestones as appropriate. In addition, while many of the programs in the element include metrics, some programs should be revised to explicitly AFFH by targeting appropriate areas. For example, Programs 2-1 (Pursue State and Federal Funds), 2-2 (Partnerships for Workforce Housing) and 2-6 (Assist Nonprofit Housing Developers) could target areas or neighborhoods of higher need and higher resource areas. Other examples include Programs 3-1 (Rehabilitation Loans), 3-5 (Preservation of Housing Conditions) and 3-8 (Multifamily Acquisition and Rehabilitation). Finally, Program 5-1 (Fair Housing) should be revised with metrics.

2. *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).)*

Sites Inventory: In Appendix A, parcels 023-231-003, 023-381-001, and 031-290-12 list a higher number of units than the identified developable acreage would allow given the realistic capacity assumptions. The element must revise or clarify the calculation of unit capacity on the identified sites. In addition, the sites analysis states that the number of units allowed per site are rounded down to the nearest whole number while the calculation in the sites inventory rounds up to the nearest whole number. The element must be revised to address these discrepancies related to unit capacity. Lastly, the element must clarify whether the identified developable acreage accounts for 30 percent lot coverage while calculating unit capacity of sites zoned for moderate income.

Realistic Capacity: While the element provides some description of realistic capacity assumptions, it must describe the realistic capacity assumptions for units allocated toward meeting the moderate income RHNA. The element must clarify whether the realistic capacity analysis for sites outside of the community plans apply to all income groups. While the element includes Table 4-48 with representative projects, many of the projects listed have lower buildout than what is assumed in the realistic capacity analysis,

especially the projects that included units for lower-income households. The element must add additional projects to support realistic capacity assumptions or revise assumptions to meet recent development examples.

In addition, the element includes sites with zoning that allows 100 percent nonresidential uses and indicates some residential projects have been built in these zones, but it should also evaluate the likelihood for residential uses. To demonstrate the likelihood for residential development in nonresidential zones, the element could describe any performance standards mandating a specified portion of residential and any factors increasing the potential for residential development such as incentives for residential use, and residential development trends in the same nonresidential zoning districts.

Suitability of Nonvacant Sites: The element lists one site as underutilized but should also describe the use sufficiently to facilitate analysis and demonstrate redevelopment potential in the planning period based on factors such as indicators of use turnover (e.g., expiring lease, interest in development, age and condition of structure, allowable versus existing floor area ratio(FAR)).

Accessory Dwelling Units (ADU): The element indicates the City modified its zoning code to ease barriers to the development of ADU's. However, after a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU Law. This includes, but is not limited to, prescribing junior accessory dwelling units (JADUs) have to be a conversion of a bedroom, JADU deed restrictions, and limiting the number of bedrooms, among others. HCD will provide a complete listing of ADU noncompliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance to comply with State law.

Zoning for a Variety of Housing Types (Emergency Shelters): The housing element must demonstrate the permit processing, development, and management standards for emergency shelters are objective and encourage and facilitate the development of, or conversion to, emergency shelters. In addition, emergency shelters must only be subject to the same development and management standards applicable to residential or commercial development within the same zone except for those standards prescribed by statute. The element must list out the findings and standards for emergency shelters and describe whether it complies with the parking requirements in AB 139. The element must analyze these requirements for constraints and add a program as appropriate.

3. *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).)*

Fees and Exaction: The element concluded that the total fees required for development are high, it must identify programs and actions to help mitigate the identified constraint. In addition, the element must describe the approval process and requirements for fee waivers for nonprofit developers.

Local Processing and Permit Procedures: While the element describes the processing and permit procedures for both the Tahoe Regional Planning Agency (TRPA) and the City, it should clarify whether approval of an “S” permit is required from both the City and TRPA. In addition, it should clarify whether the process of approval is separate and whether there are different requirements. The element must also describe whether there is other process or permit procedures that are required by the City in addition to the TRPA requirements. The element should describe the process to approve allowed and special uses. In addition, the element should describe the approval process for multifamily developments of more than four units including the review findings and procedures. Lastly, the element should estimate the time for typical single- and multi-family developments, including all steps listed in the element (neighbor notifications, public hearings, and issuing of permits). It should also clarify whether the estimated timing is for both single family and multifamily developments.

Design Review and Site Plans: The element must describe and analyze the design review and site plan guidelines and process, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. For example, the analysis could describe required findings and discuss whether objective standards and guidelines improve development certainty and mitigate cost impacts. The element must demonstrate this process is not a constraint or it must include a program to address this permitting requirement, as appropriate. In addition, the element must clarify whether by-right uses require TRPA approval and design review.

On/Off-Site Improvements: The element must identify curbing requirements and circulation improvements and analyze their impact as potential constraints on housing supply and affordability.

Constraints on Housing for Persons with Disabilities: The element must include an analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities. For example, the analysis must describe any zoning code definitions of family and any spacing or concentration requirements for housing for persons with disabilities.

4. *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).)*

Developed Densities and Permit Times: 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.

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 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 should have specific commitment and discrete timelines for implementation. Program that must be revised include

- Program 1-1 (Mixed-Use Development) should be revised with a discrete timeline for creating additional incentives.
- Program 1-2 (Development of Substandard/Underutilized Sites) should be revised with annual updates.
- Program 1-4 (Using Local Incentives) should be revised to include annual outreach to developers and provide timing of when basin wide regulations will be amended.
- Program 1-6 (Clarify How Residential-Care Facilities are Allowed Under State Law) should revise the timing of implementation to occur earlier in the planning period.
- Program 1-7 (Small Lot Consolidation) should include proactive outreach to developers as well as describe which incentives will be approved.
- Program 2-3 (Inter-Jurisdictional Cooperation for Housing) should commit to implement strategies with discrete timing based on the results from the interjurisdictional meetings and coordination.
- Program 2-4 (Analysis of Federal and State Lands) should be revised to include timing and outreach and coordination with federal and state agencies.
- Program 2-5 should explicitly commit to make appropriate adjustment to implement provisions consistent with State Density Bonus Law (Gov. Code, § 65915.) as noted on page 4-167.

- Program 2-7 (Homebuyer Assistance Program Administration Partnering) should take steps beyond “initiate” and commit to establish a program to provide homebuyer assistance.
 - Program 2-8 (Mitigate of TRPA Regulations) should include discrete timing (e.g., by 2024) to complete amendments instead of “the goal of achieving some of them every year”.
 - Program 2-12 (Inter-Agency Housing Program Coordination): The Program should include proactive outreach to developers once sites are identified.
 - Program 3-1 (Rehabilitation Loan Program Administration Partnering) must clarify the specific timing of implementation after the program is established and consider higher numerical targets.
 - Program 3-8 (Multifamily Acquisition and Rehabilitation Program) must provide a specific implementation date of when the program will be established.
 - Program 4-1 (Reasonable Accommodation and Land Coverage) should include timing earlier in the planning period as it is a carryover program from the last housing element.
 - Program 4-2 (Family Housing) should include proactive outreach with discrete timing (e.g., annually).
 - Program 4-3 (Employee Housing Act Compliance) must be revised to move up the timing of the program as it is a carryover program from the last housing element cycle.
 - Program 4-4 (Special Needs Housing) should include proactive outreach with developers and service providers to identify and pursue development opportunities with discrete timing (e.g., annually).
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 A2, 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.

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 Findings A3 and A4, 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.

- 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 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 A1, the element must include a complete analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs as appropriate.

C. 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)(9).)

While the element includes a general summary of the public participation process, it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element could describe the efforts 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.

In addition, HCD understands the City made the element available to the public concurrent with its submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.