

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

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January 7, 2020

Michalyn DelValle, Director
Planning Department
County of Lake
255 N. Forbes Street
Third Floor, Room 323
Lakeport, CA 95453

Dear Michalyn DelValle:

RE: Review of the County of Lake's 6th Cycle (2019-2027) Draft Housing Element

Thank you for submitting Lake County's draft Housing Element received for review on November 8, 2019, along with revisions received on January 3, 2020. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a telephone conversation on December 31, 2019 with Michalyn Delvalle, Mark Roberts, and Rob Fitzsimmons. In addition, HCD considered comments from Legal Services of Northern California 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 Government Code). In particular, revised program dates and an additional analysis of large sites in the inventory identified to accommodate lower income housing. The enclosed Appendix describes this and other revisions needed to comply with state Housing Element law.

To remain on an eight year planning cycle, the county must adopt its Housing Element within 120 calendar days from the statutory due date of August 15, 2019. If adopted after this date, Gov. Code section 65588, subd. (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

Government Code section 65588, subdivision (e)(4) requires a jurisdiction that failed to adopt its Housing Element within 120 calendar days from the statutory due date to revise its element every four years until adopting at least two consecutive revisions by the applicable due dates. The County of Lake did not meet the requirements of Gov. Code section 65588, subd. (e)(4); therefore, it is subject to the four-year revision requirement until the city has adopted at least two consecutive updated revisions by the applicable due dates.

Public participation in the development, adoption and implementation of the Housing Element is essential to effective housing planning. Throughout the Housing Element process, the County 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 program; and the ongoing SB 2 funding considers Housing Element compliance and/or annual reporting requirements pursuant to Gov. Code section 65400. With a compliant Housing Element, Lake County meets Housing Element requirements for these funding sources.

HCD appreciates the dedication of Michalyn Delvalle, Mark Roberts, and Rob Fitzsimmons during the course of our review. We are committed to assist Lake County in addressing all statutory requirements of Housing Element law. If you have any questions or need additional technical assistance, please contact Hillary Prasad, of our staff, at (916) 263-1784.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Land Use & Planning Manager

Enclosure

APPENDIX COUNTY OF LAKE

The following changes would bring County of Lake's Housing Element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing Element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the Housing Element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing state Housing Element law and other resources.

A. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

The review requirement is one of the most important features of the element update. The review of past programs should analyze the county's accomplishments over the previous planning period. This information provides the basis for developing a more effective housing program. The element (Table D) does not appear to include a complete update of past programs and should be revised with information on implementation progress in addition to an evaluation of program effectiveness. The Department will provide examples under a separate cover.

B. Housing Needs, Resources, and Constraints

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).)*

The element identifies the age of the housing stock (page 3-10). However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

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).)*

Replacement Housing Requirements: If the sites inventory identifies sites with existing residential uses, it must identify whether they are affordable to lower-income households or describe whether the additional residential development on the site requires the demolition of the existing residential use. For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Gov. Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

Large Sites: Sites larger than 10 acres in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate housing for lower income households (Gov. Code, § 65583.2, subd. (c)(2)(A)).

Suitability and Availability of Infrastructure: The element must demonstrate sufficient existing or planned water, sewer, and other dry utility's supply capacity to accommodate the county's regional housing need. (Gov. Code, § 65583.2, subd. (b).) The element must also identify infrastructure capacity by community area or service district relative to identified sites. However, for sites identified for housing for above moderate-income households not served by public sewer systems, the required information need not be listed on a parcel-by-parcel basis. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. HCD recommends including a cover memo describing the city/county's housing element, including the city/county's housing needs and regional housing need. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

Sites with Zoning for a Variety of Housing Types: Transitional Housing and Supportive Housing: The element does not adequately address supportive housing and describes the following about transitional housing “during the effective period of this element the City will review the Zoning Ordinance and consider inclusion of...transitional housing and ...allow them in appropriate zones if the need arises” (page 25). Pursuant to Chapter 633, Status of 2007 (SB2), transitional and supportive housing must be permitted as a residential use in all zones and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The element must demonstrate consistency with these statutory requirements and include a program, as appropriate. For additional information, see the Building Blocks SB745 Memo at <https://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/zoning-for-variety-housing-types.shtml>.

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).)*

Design Review: The element must describe and analyze the design review 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 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. For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/processing-permitting-procedures.shtml>.

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>.

Codes and Enforcement: The element must describe the county’s building and zoning code enforcement processes and procedures, including any local amendments to the building code, 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>.

Local Ordinances: The element must specifically analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development. The analysis should demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.

Minor Use Permit for Multifamily projects: The element indicates multifamily development of 20 or more units in zones permitting multifamily development requires a Minor Use Permit (MUP). The element must analyze the MUP process as a potential constraint on housing supply and affordability. The analysis should identify findings of approval for the MUP and their potential impact on development approval certainty, timing, and cost. The element must demonstrate this process is not a constraint or it must include a program to address and remove or mitigate the MUP requirement. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/processing-permitting-procedures.shtml>.

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. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

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.

Program to Mitigate Non-Governmental Constraints: The element must be revised to include a program that mitigates non-governmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category (Gov. Code, § 65583.2, subd. (c)(3).).

5. *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 must include a current local estimate of the number homeless individuals and families in need of emergency shelter. The need for emergency shelters must be based on annual and seasonal need. Information regarding homeless individuals and families within the community can be found by contacting local Continuum of Care or service providers. When possible, the estimate should be divided into single males, single females and families (one or more adults with children) as the shelter needs of each subgroup differ significantly. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/zoning-for-variety-housing-types.shtml>.

6. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(8) through 65583(a)(9)(D).)*

The element must update the analysis to include properties expiring within the next 10 years of the period (i.e., 2019-2029). For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/assisted-housing-developments.shtml> and for more information on identifying units at-risk, see the California Housing Partnership Corporation at <http://www.chpc.net>.

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).)*

Numerous programs list an implementation date of 2017 or 2019, programs with quantified objectives or specific implementation actions must include completion or initiation dates resulting in beneficial impacts within the planning period. Programs needing revision include:

- HE-6, Policies and procedures for expedited processing; HE-7, Increase awareness of availability of sites; HE-8, prioritize affordable housing projects; HE-38, Allow residential development in commercial areas; HE-43, Inform service districts to identify capacity improvements; HE-50, Reduced or deferred mitigation fees; HE-52, work with service providers of the developmentally disabled; HE-54, Review updated mapping of ground water recharge and stormwater areas; HE-55, Amend the zoning ordinance to reduce minimum home size; HE-57, Amend the zoning ordinance to reduce minimum home size; HE-58, Amend zoning ordinance to allow housing projects with at least 20% of affordable units to be permitted by right if identified in previous housing element; HE-59, amend zoning ordinance to allow supportive housing by right; HE-60, amend emergency shelter zoning ordinance; HE-61, amend zoning ordinance for agricultural employee housing; HE-62, amend zoning ordinance to allow residential units on second floor of commercial areas.

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

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 Gov. Code section 65584.09. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in the Finding B-2, the element does not include a complete sites inventory or analysis; as a result, the adequacy of sites and zoning has not been established. If the element does not identify adequate sites or zoning for a variety of housing types, it must include a program(s) as appropriate.

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 B-3, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the county 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).)*

Program to Affirmatively Further Fair Housing: While the element includes Program HE-30 which describes the county's Fair Housing and Equal Opportunity Plan, it must also include actions that promote and affirmatively furthering fair housing opportunities. For example, the element could include a program committing to implement Gov. Code section 8899.50(b) which requires the city to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing and take no action that is materially inconsistent with its obligation to affirmatively further fair housing. For your information pursuant to Gov. Code section 8899.50 "Affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all public agency's activities and programs relating to housing and community development.

Low Barrier Navigation Centers: The element should describe the County's procedure for complying with Government Code sections 65660, 65664, and 65666, requiring jurisdictions to allow low barrier navigation centers by right in zones allowing mixed use and nonresidential zones permitting multifamily uses if it meets specified requirements.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

The element should include a general summary of the public participation process and 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 could also summarize the public comments and describe how they were considered and incorporated into the element. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

During the period between the date of this review letter and the adoption of the final housing element, the county should continue its diligent public participation efforts to include all economic segments of the community.

E. All Other General Plan Elements

Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd.(c)(8).)

For your information, some General Plan element updates are triggered by Housing Element adoption. For example, a jurisdiction must address environmental justice in its General Plan by the adoption of an environmental justice element, or by the integration of environmental justice goals, policies, and objectives into other General Plan elements upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018. (Gov. Code, § 65302, subd. (h).) In addition, the safety and conservation elements of the General Plan must include analysis and policies regarding fire and flood hazard management and be revised upon each Housing Element revision. (Gov. Code, § 65302, subd. (g).) Also, the land-use element must identify and analyze disadvantaged communities (unincorporated island or fringe communities within spheres of influence areas or isolated long established legacy communities) on, or before, the Housing Element's adoption due date. (Gov. Code, § 65302.10, subd. (b).) HCD reminds the County of Lake 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.