

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

651 Bannan Street, Suite 400
Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



August 22, 2025

Cecilia Gallardo-Daly, Interim City Manager
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Cecilia Gallardo-Daly:

**RE: City of Costa Mesa Failure to Adopt a Compliant 6th Cycle Housing Element
– Notice of Violation**

The California Department of Housing and Community Development (HCD) has reviewed the City of Costa Mesa's (City) July 11, 2025, response to the Letter of Inquiry sent on April 30, 2025, which requested an update on the status of the City's 6th cycle housing element, due October 15, 2021.¹ While the City's most recent adopted housing element does meet statutory requirements, it does not substantially comply with requirements under Housing Element Law because the City has failed to complete its required rezones.² In addition, the City's proposed timeframe of September 2026 to adopt new zoning and submit documentation to HCD fails to comply with Housing Element Law.³ This timeline would delay HCD's review and determination of compliance until the last quarter of 2026 at the earliest, over five years past the City's statutory due date. Therefore, the City is in violation of Housing Element Law.⁴

Background

While HCD issued a letter to the City on May 9, 2023,⁵ finding the City's adopted housing element had met the statutory requirements of Housing Element Law, HCD's findings were conditioned upon the necessary and timely completion of the City's requisite rezones. On April 30, 2025, HCD issued a follow-up letter reminding the City that its housing element would not be found in substantial compliance until the City completed its statutorily required rezones necessary to implement Programs 3B, 3C, 3D and 3N, all of which are required to satisfy the City's lower-income Regional Housing Needs Allocation (RHNA) shortfall and to allow by-right processing of sites identified in

¹ Gov. Code, § 65588, subd. (e)(3).

² Gov. Code, § 65588, subd. (e)(4)(C).

³ Gov. Code, § 65583.4.

⁴ Gov. Code, §§ 65583.4; 65585, subd. (j).

⁵ Findings Letter is available at <https://hcdpowerbi.blob.core.windows.net/housing-elements/OraCostaMesaAdoptOut050923.pdf>.

its previous housing elements. HCD requested a revised and specific timeline for the necessary rezones and subsequent submission of an updated draft housing element. The City failed to respond by an extended deadline granted by HCD of June 23, 2025, and when the City did finally respond on July 11, 2025, the City proposed a timeline inconsistent with state law.

Government Code section 65583, subdivision (c)(1) requires a local government to 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 all income levels that could not be accommodated on sites identified in the inventory.

If a local government fails to complete the rezoning by its deadline, a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project (A) is proposed to be located on a site required to be rezoned pursuant to the program action required by that subparagraph and (B) complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program action required by that subparagraph.⁶

Under Government Code section 65585, subdivision (i)(1)(A), HCD has the authority to review any action or failure to act that it determines to be inconsistent with either an adopted housing element or Government Code section 65583, including any failure to implement program actions included in the housing element, and to issue written findings of such noncompliance. The City has failed to complete the required rezones to implement Programs 3B, 3C, 3D, and 3N, and the City's housing element will remain out of compliance unless and until the City completes the identified rezones.

6th Cycle Housing Element Submission and Review History

The 6th cycle planning period for the City is October 15, 2021, through October 15, 2029. The City failed to adopt a compliant housing element by its 6th cycle due date of October 15, 2021. HCD's records are as follows:

- On October 6, 2021, the City submitted a draft housing element to HCD for review.
- On December 3, 2021, HCD issued a findings letter to the City noting multiple revisions necessary for the housing element to be substantially compliant with Housing Element Law.
- On February 4, 2022, the City submitted an element which was adopted on February 2, 2022, to HCD for review.
- On April 5, 2022, HCD issued a second findings letter to the City noting revisions were still necessary for the housing element to be substantially compliant with Housing Element Law.

⁶ Gov. Code, § 65583, subd. (g)(1).

- On November 23, 2022, the City submitted a subsequent draft housing element to HCD for review.
- On January 20, 2023, HCD issued a third findings letter to the noting multiple revisions still necessary for the housing element to be substantially compliant with Housing Element Law.
- On March 10, 2023, the City submitted an element which was adopted on November 15, 2022, to HCD for review.
- On May 9, 2023, HCD issued a fourth findings letter to the City noting that the City's latest housing element met the statutory requirements of Housing Element Law but cannot be found in substantial compliance until the City has completed necessary rezones.
- On April 30, 2025, HCD issued a Letter of Inquiry to the City regarding its failure to submit completed rezones to HCD for review. The City failed to respond by the deadline of May 30, 2025.
- On June 9, 2025, HCD contacted the City to follow up on the Letter of Inquiry. The City responded by stating it did not receive the letter and was experiencing staff and leadership changes, including the departure of its then-City Manager, Lori Ann Farrell Harrison, and that Cecilia Gallardo-Daly had assumed the role of Interim City Manager. HCD requested that the Interim City Manager be notified about the letter to provide a formal response.
- On June 13, 2025, the City notified HCD that it was preparing a formal response to the Letter of Inquiry and mentioned its rezone program was underway. HCD extended the deadline to June 23, 2025, for the City to respond. However, the City failed to respond by that extended deadline.
- On July 11, 2025, the City formally responded to the April 30, 2025, Letter of Inquiry by stating it would adopt new zoning and submit its housing element and rezone documentation by September 2026.

Technical Assistance Offered

HCD has made resources and technical assistance available to assist local jurisdictions in creating comprehensive housing elements. This includes \$123 million in planning grants for regions, cities, and counties to prepare, adopt, and implement plans that streamline housing approvals and accelerate housing production. Under that program, the City applied for and was awarded \$310,000 through SB 2 and \$500,000 through the Local Early Action Planning Grant (LEAP) for local planning activities.

Consequences of Noncompliance

Consequences apply if the City does not have a housing element in substantial compliance with Housing Element Law. First, noncompliance results in ineligibility or delay in receiving state funds that require a compliant housing element as a condition precedent, including, but not limited to, the following:

- Permanent Local Housing Allocation Program
- Local Housing Trust Fund Program

- Infill Infrastructure Grant Program
- Senate Bill 1 Caltrans Sustainable Communities Grants
- Affordable Housing and Sustainable Communities Program

Second, under the Housing Accountability Act, jurisdictions that do not have a substantially compliant housing element are subject to the Builder's Remedy.⁷

In addition, jurisdictions that do not have a compliant housing element may face additional legal ramifications, including referral of the City to the Attorney General's Office for its violations of state law.⁸ Further, state law provides for court-imposed penalties for persistent noncompliance, including enhanced financial penalties. Government Code section 65585, subdivision (l)(1), establishes a minimum fine of \$10,000 per month, up to \$100,000 per month for jurisdictions that fail to comply with a court order to bring its housing element into compliance. If a jurisdiction remains noncompliant, a court may multiply those penalties by a factor of three and then six, depending on the duration of the continued noncompliance.⁹

Finally, in any action brought by the Attorney General or HCD to enforce the adoption of housing element revisions, jurisdictions are subject to additional fines of between \$10,000 and \$50,000 per month for each violation, accrued from the date of the violation until the date the violation is cured, including investigation costs, expert fees, attorneys' fees, costs, and any other relief the court deems appropriate.¹⁰ If a jurisdiction fails to comply after six months from the imposition of fees, the court may also appoint a receiver.¹¹

Findings and Conclusion

HCD finds that the City has failed to timely adopt a substantially compliant housing element and required rezoning and is therefore in violation of state law. Under Government Code section 65585, subdivision (i), HCD must give the City a reasonable time, no longer than 30 days, to respond to these findings. Therefore, the City has until September 21, 2025, to provide a written response to this notice before HCD may take any of the actions authorized by section 65585, including, but not limited to, referral to the California Office of the Attorney General.¹²

In addition, pursuant to Government Code Section 65585, subdivision (k), HCD hereby offers the City two meetings in person or via telephone within the next 30 days to discuss the City's failure to adopt a substantially compliant housing element and required rezoning.

⁷ Gov. Code, § 65589.5, subds. (d)(6), (f)(6), and (h)(11).

⁸ Gov. Code, § 65585, subds. (i)(1)(A) and (j).

⁹ Gov. Code, § 65585, subds. (l)(2) and (3).

¹⁰ Gov. Code, § 65009.1, subd. (a).

¹¹ Gov. Code, § 65585, subd. (l)(3)(B).

¹² Gov. Code § 65585, subd. (j).

State housing laws are effective only with the cooperation and compliance of local governments. HCD understands that local governments may encounter staffing and resource constraints in their efforts to gain compliance. However, housing elements, and the timely implementation thereof, are essential to developing a blueprint for growth and are a vital tool to address California's prolonged housing crisis. To meet the 6th cycle update requirements for a substantially compliant housing element, the City must complete its required rezonings and submit them to HCD for review and certification before it can be considered compliant.¹³

If you have any questions or would like to discuss the contents of this letter, please contact Dexter Egleston of our staff at Dexter.Egleston@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a stylized flourish extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

¹³ Gov. Code, § 65585, subds. (b)-(h).