

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

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April 4, 2023

Suzanne Thorsen, Director  
Community Development Department  
City of Benicia  
250 East L Street,  
Benicia, CA 94510

**RE: City of Benicia's 6<sup>th</sup> Cycle (2021-2029) Adopted Housing Element Update**

Dear Suzanne Thorsen:

Thank you for submitting the City of Benicia's (City) housing element adopted January 24, 2023 and received for review on February 6, 2023. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The adopted housing element addresses many statutory requirements described in HCD's November 22, 2022 review; however, revisions are necessary to comply with State Housing Element Law (article 10.6 of the Gov. Code), as follows:

1. *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).)*

*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).)*

Realistic Capacity: The element now accounts for land use controls and site improvements to support residential capacity and provides a few examples of recently approved residential projects in zones that allow 100 percent nonresidential uses. However, the element still does not account for the

likelihood of 100 percent nonresidential development and should either include analysis as described in the prior review or policies and programs to promote the likelihood of a residential component on the pertinent zones. For example, the element could include enhanced policies and programs to facilitate residential development in these zones such as performance standards, additional incentives for residential uses and include efforts to attract and assist residential developers to identified sites.

Nonvacant Site Analysis: As stated in HCDs November 22, 2022 review, the element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. While the element discusses various indicators of the potential for redevelopment, it should also support the validity of these indicators based on past experiences converting existing uses to higher density residential development. The element may utilize examples from nearby comparable communities to assist with this analysis. In addition, the element must evaluate the extent existing uses impede additional development such as addressing current market demand for the existing use, existing leases or contracts that would perpetuate the existing use or prevent additional residential development. Further, the analysis mentions property owner interest in residential development on a site-by-site basis. However, based on documentation (Appendix F), in most cases, property owners appear to only have expressed support for being included in the inventory which is not necessarily an indicator of interest in residential development in the planning period. The element should clarify this indicator and add analysis as appropriate to demonstrate the potential for redevelopment in the planning period. Finally, the analysis of existing uses should specifically be expanded for Sites 25, 26, 28, 33, 35, 36, 37, 49 and 51. Based on a complete analysis, the element may need to add or revise programs to facilitate redevelopment.

In addition, if the element relies on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households, specific requirements are triggered to make findings (e.g., adoption resolution) based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period.

Environmental Constraints: While the element generally discusses potential environmental constraints and mitigations, including general plan policies, it should specifically discuss any cost and feasibility impacts, particularly for flooding and sea level rise, and add or modify programs as appropriate.

Electronic Sites Inventory: Although the City has submitted electronic sites inventory as described in the prior review, if any changes occur, the City should submit revisions as part of any future re-adoption or submittal. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for additional information.

Programs: As noted above, the element does not include a complete site analysis. Depending upon the results of that analysis, the City may need to add or revise programs.

In addition, the element includes Program 1.16 to promote development on City-owned sites. However, the program should also include numerical objectives consistent with the assumptions in the sites inventory, clearly articulate anticipated dates and numerical objectives for issuing building permits and alternative actions (e.g., rezoning) within a specified time if the sites are not developed as anticipated.

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. (c)(5).)*

Affirmatively Furthering Fair Housing (AFFH): While the element includes various programs to AFFH, the programs should be modified with metrics or numerical targets and geographic targeting toward significant and meaningful outcomes. Specifically, Programs 1.02 (Housing Choice Vouchers), 1.05 (Education and Outreach), 2.04 (Funding), 2.05 (Funding), 3.05 (Special Needs) and 4.01 (Rehabilitation) should include geographic targeting to ensure housing opportunities are pursued throughout the City. In addition, Program 1.11 (Density Bonus) should increase the metric to target significant and meaningful outcomes.

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.

Please be aware 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 regional housing needs allocation (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.

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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the responsiveness and dedication the City's housing element team provided during the review. We are 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 Irvin Saldana, of our staff, at [Irvin.Saldana@hcd.ca.gov](mailto:Irvin.Saldana@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager