

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

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February 16, 2023

Noah Housh, Director  
Community Development Department  
City of Cotati  
201 W Sierra Avenue  
Cotati, CA 94931

Dear Noah Housh:

**RE: City of Cotati's 6<sup>th</sup> Cycle (2022-2029) Draft Housing Element**

Thank you for submitting the City of Cotati's (City) draft housing element update received for review on November 18, 2022, along with revisions received on February 15, 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. Our review was facilitated by a conversation on February 8, 2023 with planning consultants Jane Riley, Elliot Pickett, and Luke Lindenbusch. In addition, HCD considered comments from Greenbelt Alliance, YIMBY Law, Fair Housing Advocates of Northern California, and Ragghianti Freitas LLP pursuant to Government Code section 65585, subdivision (c).

The draft housing element addresses many statutory requirements; however, revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code. See enclosed Appendix.

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) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). 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). 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 these rezones are completed.

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. 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.

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>.

We are committed to assisting the City of Cotati in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Tristan Lanza, of our staff, at [tristan.lanza@hcd.ca.gov](mailto:tristan.lanza@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF COTATI

The following changes are necessary to bring the City of Cotati'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 <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> 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).)*

A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As part of this analysis, the element should describe the actual results of the prior element's programs, including quantification where appropriate and based on that information, re-evaluate program effectiveness and the appropriate modifications in the current planning period.

In addition, as part of the review of programs in the past cycle, the element must also provide an evaluation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers and persons experiencing homelessness). Programs should be revised as appropriate to reflect the results of this evaluation.

### **B. 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).)*

Segregation and Integration: While the element generally reports data on segregation and integration, it should also evaluate that data using local data and knowledge and other relevant factors. For example, the element should describe factors that influence the geographic concentration of higher and low-income residents within the City and describe the contributing factors to the concentration of higher income residents.

Disparities in Access to Opportunity: The element should evaluate other relevant factors that contribute to the lower education scores within the City. In addition, the element should describe what contributes to the differences in employment scores throughout the City. Lastly, the element should describe the environmental scores geographically within the City and what contributes to the differences in scores.

Disproportionate Housing Needs Including Displacement: While the element includes an analysis of overpayment, the element must also include a regional analysis of overcrowding (i.e., comparing the City to the region). Additionally, while the element identifies areas at risk of displacement due to flooding, the element must further describe the data used to support this and also include an analysis identifying areas at risk of displacement due to fire and earthquake especially since displacement was identified as a prioritized contributing factor to fair housing in the City.

Sites Inventory: The analysis must identify whether sites improve or exacerbate conditions and whether sites are isolated by income group. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). 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 be taken to promote equitable quality of life throughout the community (e.g., anti-displacement and place-based community revitalization strategies).

2. *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).)*

Extremely Low-Income (ELI) Households: The element includes analysis regarding ELI households such as the number of households and overpayment but must also identify projected housing needs. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of the regional housing need allocation (RHNA) for very low-income households qualify as ELI households.

Housing Conditions: The element identifies the age of the housing stock and the number of substandard housing units based on federal data. 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.

3. *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).)*

Progress in Meeting the Regional Housing Need Allocation (RHNA): As you know, the City's RHNA may be reduced by the number of new units pending, approved, permitted or built since June 30, 2022 by demonstrating availability and affordability based on rents, sale prices or other mechanisms ensuring affordability (e.g., deed restrictions). While the element clarifies that units for lower-income households will be deed-restricted, it must describe affordability of the units for moderate-income households based on actual rents or sales prices, beyond the size of the unit. In addition, the element must demonstrate the availability of pending and approved projects within the planning period. This includes addressing the public comment regarding barriers to develop these projects such as scheduling public hearings. Availability should address the status, anticipated completion, any barriers to development and other relevant factors such as build out horizons, phasing, and dropout rates to demonstrate the availability or likelihood of development in the planning period.

Realistic Capacity: While the element states realistic capacity considers land use controls and projects typically develop above maximum allowed densities due to State Density Bonus Law, it must provide support for these assumptions. For example, the element should describe recent projects that support the assumptions, and typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction. The element also needs to analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use). This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development

Zoning for Lower-Income Households: The element must demonstrate densities appropriate to accommodate housing for lower-income households. For communities with densities that meet specific standards (at least 20 units per acre for Cotati), no analysis is required. (Gov. Code, § 65583.2, subd. (c)(3).) Otherwise, an analysis must demonstrate appropriate densities based on factors such as market demand, financial feasibility, and development experience within identified zones. While the element states the City utilizes form based codes, it must include a complete analysis to demonstrate how the zoning encourages the development of units affordable for lower-income households. To estimate allowable densities within form-based codes, the element should describe the relationship between general plan land-use designation and the form-based code, development standards and achievable densities given typical unit sizes. The element could include additional examples of recently built projects and densities to support the analysis.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In addition, the element should analyze the extent that existing uses may impede additional residential development. For example, the element includes sites identified as single-family residents, religious institutions, and residential, but minimal analysis was provided to demonstrate whether these existing uses would impede development of these sites within the planning period. The element can summarize past

experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the sites identified. The element could also consider indicators such as age and condition of the existing structure expressed developer interest, low improvement to land value ratio, and other factors.

Adequate Sites Alternatives: Please note, under limited circumstances, the City may credit up to 25 percent of its adequate sites requirement by income group, by counting existing units preserved through the provision of “committed assistance” to that income category’s households at affordable housing costs or affordable rents. (Gov. Code, § 65583.1, subd. (c).) However, the housing element must demonstrate compliance with all the statutory requirements and must clarify whether the Windwood Apartments meets the Adequate Sites Program Alternative Checklist (Gov. Code, § 65583.1, subd. (c).) For example, the element must describe the public hearing process which found the units eligible and reasonably expected to convert to market-rate as well as the specific date in which the committed assistance will be in place. For additional information and an Alternative Adequate Sites Checklist, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/analysis-sites-and-zoning>.

Zoning for a Variety of Housing Types (Emergency Shelters): While the element was revised to describe development standards for emergency shelters, it must analyze whether the requirements in the management plan are consistent with statutory requirements per Government Code section 65583 (a)(4), a constraint to the development of emergency shelters, and add a program as appropriate. In addition, while the element states the City complies with AB 139 emergency shelter parking standards, the parking requirements listed require a greater number of parking spots than allowed and must be revised.

4. *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).)*

Land Use Controls: While the element describes land use controls, heights are limited to 35 feet in many commercial zones and specific plan areas that allow multifamily. The element must add a program to ensure three story developments are allowed in zones that allow multifamily. In addition, two parking spaces are required in the LP, NG, and CA zones regardless of the number of bedrooms per unit. The element must be revised to remove constraints on parking including but not limited to the number of spaces for studio and one-bedroom units, garage requirements for multifamily developments, and additional parking requirements for residential care homes. Lastly, the element should analyze whether maximum densities can be achieved in the NM and NU zones with required front

and rear setbacks, a maximum lot coverage of 50 percent, and height restriction of 28 feet and add a program as needed.

Fees and Exaction: The element must describe all required fees for single-family and multifamily housing development, including impact fees, and analyze their impact as potential constraints on housing supply and affordability. While the element includes a table of development impact fees, it must include all building and permit fees for single-family and multifamily developments. In addition, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing.

Local Processing and Permit Procedures: While the element describes the permitting times, it must clarify whether it is for both single-family and multifamily developments. In addition, the element must analyze the conditional use permit (CUP) findings and procedures for multifamily developments. The element states that CUPs are required for all multifamily housing of more than four units unless it is in the NU zone if 25 percent of the units are affordable to lower-income and the development proposes more than ten units. The element must analyze the CUP requirements as a potential constraint on housing supply and affordability and demonstrate realistic opportunities for multifamily. The analysis should identify findings of approval for the CUP and their potential impact on development approval certainty, timing, feasibility and cost. The analysis should address the approval body, the number of public hearing if any, approval findings and any other relevant information. If constraints are identified, programs should be included to address and remove or modify these constraints.

Building Codes and Enforcement: The element must describe and analyze which building code is enforced, any local amendments to the building code and their enforcement for impacts on housing supply and affordability.

5. *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).)*

Approval Time and Requests Lesser Densities: The element must include analysis of requests to develop housing at densities below those identified, the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially. The element must address any hinderance on the development of housing and include programs as appropriate.

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

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

Program 1-3 (Non-Profit and Agency Coordination – Existing Housing Needs): The program should be revised to include specific implementation of what will result from the identified discussions and reporting results to council.

Program 4-1 (Anti-Displacement Actions): The program must include specific timing of when the replacement housing requirements will be implemented.

Program 4-2 (Housing Discrimination Complaints): The program should be revised to include outreach beyond a brochure on the City's counter as well as specify what actions will result from participation in meetings.

Program 4-3 (Nondiscrimination & Fair Housing Information): The program should be revised to include timing on how often information and the inventory will be updated.

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 B3, 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 Finding(s) B4 and B5, 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. In addition, the element should be revised as follows:

Program 3-1 (Zoning for a Variety of Housing Types): While the element includes revisions to allowing group homes for more than seven residents, it limits the allowance of group homes to persons with disabilities. This language should be removed to ensure *all* group homes of seven or more residents are permitted in residential zones objectively with approval certainty similar to other residential uses, not just the ones who serve persons with disabilities. Additionally, the program should be revised to ensure approval certainty. Lastly, the timing of the rezone should be revised to be no later than February 2026.

Program 3-5 (Review Processing Fees): The program should be revised to commit to making revisions to City fees depending on the results from the comprehensive review.

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... (Gov. Code, § 65583, subd. (c)(5).)*

The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

#### **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).)*

While the element includes a description of its efforts to achieve public participation, it should 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.