

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

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July 29, 2024

Kerry Kallman, City Manager
City of Palos Verdes Estates
340 Palos Verdes Drive
Palos Verdes Estates, CA 90274

Dear Kerry Kallman:

RE: City of Palos Verdes Estates' 6th Cycle (2021-2029) Adopted Housing Element

Thank you for submitting the City of Palos Verdes Estates' (City) housing element update which was adopted on May 28, 2024; and received for review on May 30, 2024. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from Californians for Homeownership, Margaret Sharpe, Blake Gillman and Canzoneri Gottheim Law pursuant to Government Code section 65585, subdivision (c).

The adopted element meets the statutory requirements of State Housing Element Law (Gov. Code, § 65580 et seq) that were described in HCD's April 12, 2022 review. However, the housing element cannot be found in substantial compliance until the City has completed necessary rezones (Program 13 – Zoning Code Review and Update) that meet statutory requirements as described below.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that did not adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to make prior identified sites available or accommodate a shortfall of sites are completed pursuant to Government Code sections 65583, subdivision (c)(1)(A) and 65583.2, subdivision (c). As this year has passed and Program 13 (Zoning Code Review and Update) has not been completed, the housing element will remain out of compliance until the rezoning has been completed to meet all statutory requirements. Once the rezoning is completed, the City should submit the relevant ordinances, resolutions and other pertinent approval documentation. HCD will review the documentation and issue correspondence identifying the updated status of the City's housing element compliance.

Also, please be aware, the recent California appellate decision in *Martinez v. City of Clovis* found that while overlays can be used in a rezone, when the base zone allows

residential development, both the base zone and the overlay zone must comply with the minimum density requirements of Government Code section 65583.2, subdivision (h). The City should analyze how this decision may impact its current rezone strategy and may need to adjust accordingly. *Martinez v. City of Clovis* (2023) 90 Cal.App.5th 193, 307 Cal.Rptr.3d 64.

Additionally, the City must continue timely and effective implementation of all programs including but not limited to the following:

- Program 3 (Encourage Mixed Commercial and Residential Use)
- Program 7 (Accessory Dwelling Units (ADU))
- Program 8 (Density Bonus Incentives)
- Program 9 (Shared Housing)
- Program 10 (Affirmatively Furthering Fair Housing)
- Program 11 (Special Needs Housing)
- Program 12 (Lot Consolidation)
- Program 13 (Zoning Code Review and Update)
- Program 14 (Repurposing Existing Space within a Primary Residence)

In addition, as part of Programs 7 (ADU) and 13 (Zoning Code Review and Update), the City should update its ADU ordinance and address HCD non-compliance issues described in its April 4, 2024 letter.

The City must monitor and report on the results of these and other programs through the annual progress report, required pursuant to Government Code section 65400. Please be aware, Government Code section 65585, subdivision (i) grants HCD authority to review any action or failure to act by a local government that it determines is inconsistent with an adopted housing element or housing element law. This includes failure to implement program actions included in the housing element. HCD may revoke housing element compliance if the local government's actions do not comply with state law.

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>.

Kerry Kallman, City Manager
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HCD appreciates the effort the City' housing element team provided throughout the housing element review. HCD looks forward to receiving and reviewing final documentation of the necessary zoning. If HCD can provide assistance in implementing the housing element, please contact Andrea Grant, of our staff, at Andrea.Grant@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager