

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

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September 30, 2020

Christa Johnson, City Manager  
City of Del Mar  
1050 Camino del Mar  
Del Mar, CA 92014-2698

**RE: City of Del Mar Written Findings of Violation of California's Housing Element Law**

Dear Christa Johnson:

The California Department of Housing and Community Development (HCD) is hereby issuing its written findings that the City of Del Mar (City) has failed to implement a program action included in its 5<sup>th</sup> cycle housing element pursuant to Government Code section 65583, and that this failure has brought the City's housing element out of substantial compliance with California's Housing Element Law (Gov. Code, § 65580 et seq.).

HCD requests the City review this correspondence and provide a written response to these findings within 30 days and no later than October 30, 2020. HCD will review and consider the City's written response before taking any action authorized by Government Code section 65585. As noted below, such action may include revoking HCD's finding of substantial compliance with California's Housing Element Law and referral to the Attorney General's Office.

On June 6, 2013, HCD found that the City's housing element was in compliance with California's Housing Element Law. HCD based its compliance finding on, among other things, Programs 2-E (North Commercial (NC) Zone up to 20 units per acre), 2-F (Professional Commercial (PC) zone up to 20 units per acre) and most importantly 2-G (2.3 acres by right). Program 2-G committed to rezone roughly 2.3 acres in the NC Zone, to allow by-right residential development (without discretionary action) of the properties at a density of 20 to 25 dwelling units per acre within 12 months of adoption, a date that has long since lapsed.

On July 31, 2020, HCD issued a letter of technical assistance to clarify state requirements related to the adequate sites and the housing element update to assist the City in its decision-making. The correspondence made clear the City was required to accommodate the unaccommodated 4<sup>th</sup> cycle need within the first year of the 5<sup>th</sup> cycle planning period and was required to rezone for the 5<sup>th</sup> cycle shortfall, generally, within 3 years of the planning period that began in 2013. The correspondence also

clearly stated HCD may revoke housing element compliance but given the City's progress in implementation and schedule for upzoning in September 2020, HCD committed to monitoring the City's timely implementation. As of this writing, the City has failed to implement programs pursuant to its adopted housing element.

On September 8, 2020, the City Council voted to approve Program 2-F (20 dwelling units/acre in the Professional Commercial (PC) zone) but failed to approve Program 2-G (roughly 2.3 acres in the NC Zone, to allow by right residential development at 20 to 25 units per acre) and address the 4<sup>th</sup> and 5<sup>th</sup> cycle shortfall of adequate sites to accommodate the regional housing need.

HCD finds the City's housing element no longer complies with Government Code section 65583 and 65584.09. The deadline for required zoning actions has long passed, and the City failed to adopt sufficient zoning at the September 8, 2020 City Council meeting. Based on the foregoing, HCD finds that the City's housing element no longer substantially complies with California's Housing Element Law.

Currently, the City has 30 days to respond to HCD's written findings. HCD will review and consider City's written response before it takes any action authorized by Government Code section 65585. However, if HCD does not receive an adequate written response from the City within 30 days, then HCD may revoke the City's housing element compliance, as authorized by Government Code section 65585, subdivision (i)(1)(B). HCD may also take any and all additional action as authorized by Government Code section 65585, as stated above.

HCD looks forward to receiving the City's written response to his correspondence on or before October 30, 2020. If you have any questions or need additional information, please contact Jose Ayala at [Jose.Ayala@hcd.ca.gov](mailto:Jose.Ayala@hcd.ca.gov).

Sincerely,



Megan Kirkeby  
Deputy Director

cc: Joseph Smith, City of Del Mar, Planning Director  
Amanda Lee, City of Del Mar, Principal Planner