DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
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October 30, 2026

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

Dear Cecilia Gallardo-Daly:

RE: City of Costa Mesa's 6th Cycle (2021-2029) Adopted Amendment to the Housing Element and Rezone

Thank you for submitting the City of Costa Mesa's (City) amendment to the housing element that was adopted on September 1, 2026 and received for HCD's review on September 2, 2026. The California Department of Housing and Community Development (HCD) also received Resolution Numbers 2026-38, 2026-51 and 2026-52, Ordinance Numbers 2026-03 and 2026-08, and various other documents (Zoning Documents) related to rezoning to accommodate the regional housing need allocation (RHNA). HCD also received and considered public comments from Disability Rights California, the Public Interest Law Project, Brancart and Brancart, and the Law Office of Autumn Elliott, pursuant to Government Code section 65585, subdivision (c). Pursuant to Government Code section 65585, HCD is reporting the results of its review.

On May 9, 2023, HCD found the adopted housing element met the statutory requirements of State Housing Element Law (Gov. Code, § 65580 et seq). Further, on August 21, 2026, HCD found draft amendments to the housing element did not impact HCD's May 9, 2023 finding that the element meets statutory requirements. However, the element could not be found in substantial compliance until the City had adopted the draft amendments and completed all necessary rezones, including additional sites and the Fairview Developmental Center Specific Plan (FDCSP), to meet all statutory requirements and make zoning available to accommodate the RHNA. The Zoning Documents are intended to meet the statutory rezoning requirements and do meet most requirements, particularly for additional sites. However, residential capacity made available in the FDCSP does not meet all statutory requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). Specifically, the FDCSP must address:

- *By-right (Without discretionary review)*: Pursuant to Government Code section 65583.2, subdivisions (h) and (i), sites rezoned to accommodate the lower-income RHNA must permit owner occupied and rental multifamily residential

uses by-right for developments in which at least 20 percent of the units are affordable to lower-income households. However, Ordinance Number 2026-08 does not appear to address this requirement. The FDCSP must be revised to explicitly permit eligible developments without discretionary action.

- *Minimum Densities*: Pursuant to Government Code section 65583.2, subdivision (h), sites to accommodate the lower-income RHNA shall be zoned with a minimum density of at least 20 units per acre.
- *Non-residential Uses*: Pursuant to Government Code section 65583.2, subdivision (h), given the City's mixed-use approach, sites rezoned to accommodate the lower-income RHNA must require that residential uses occupy 50 percent of the total floor area of a mixed-use development and allow 100 percent residential uses. This requirement includes not allowing 100 percent non-residential uses on sites rezoned to accommodate the lower-income RHNA.

Once the City has amended the FDCSP or revised its zoning in some other way to address the above requirements, the City should submit all pertinent documentation for approval. HCD will review the documentation and issue correspondence identifying the updated status of the City's housing element compliance.

Please be aware, the California appellate decision in *Martinez v. City of Clovis* held that when a local government employs overlay zoning to accommodate its lower-income RHNA, both the base zone and the overlay zone must comply with the minimum density requirements of Government Code section 65583.2, subdivision (h). Furthermore, *New Commune DTLA LLC v. City of Redondo Beach* held that residential overlay zones cannot satisfy mandatory minimum density and residential use requirements of subdivision (h) when the underlying zoning allows for 100 percent nonresidential development on sites rezoned to accommodate the shortfall of lower-income RHNA. HCD reminds the City to continue compliance with these decisions and Government Code section 65583.2, subdivision (h) as part of the City's rezone strategy and implementation. (See *Martinez v. City of Clovis* 90 Cal.App.5th 193, 307 Cal.Rptr.3d 64 (2023); *New Commune DTLA LLC v. City of Redondo Beach* 115 Cal.App.5th 111, 337 Cal. Rptr. 3d 782 (2025).)

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

- Program 2B (Affordable Housing Development)
- Program 2C (Supportive Services for Special Housing Needs)
- Program 2F (Persons with Physical and Developmental Disabilities)
- Program 2G (Safety Element and Environmental Justice Policies)
- Program 2I (State Density Bonus Incentives)
- Program 2J (Transitional and Supportive Housing)
- Program 2L (Extremely Low-Income Households)
- Program 2M (Parking Standards for Residential Development)

- Program 2N (Reasonable Accommodation)
- Program 2O (Definition of Single Housekeeping Unit)
- Program 2P (Group Homes)
- Program 3B (Fairview Developmental Center)
- Program 3E (Accessory Dwelling Units)
- Program 3F (Motel Conversions and Efficiency Units)
- Program 3G (City-wide Vote Requirements)
- Program 3R (Development of Large Sites)
- Program 3S (Review and Revise Findings)
- Program 4A (Fair Housing)
- Program 4E (Low Barrier Navigation Centers)

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. HCD may revoke housing element compliance if the local government's actions or lack of actions do not comply with state law.

Further, while the City has adopted zoning changes related to constraints on housing for persons with disabilities, the City must continue to modify these zoning changes and address identified constraints. Specifically, the element indicates Programs 2N (Reasonable Accommodation), 2O (Definition of Single House Keeping Unit), and 2P (Group Homes) have been completed, but upon review of the zoning amendments, HCD finds the zoning amendments continue to contain several constraints on housing for persons with disabilities. Please see HCD's previous technical assistance for additional information and consider the recent California Civil Rights Department (CRD) settlement agreement. While HCD recognizes the City's efforts to pursue rezones and accommodate the RHNA, HCD also urges the City to expeditiously move forward and revise zoning to meet the intent and objectives of Programs 2N, 2O, and 2P, including engaging with commenters on this housing element review, stakeholders, HCD and CRD. Failure to make expeditious progress will trigger a review of the housing element that may result in revocation of substantial compliance

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 program, 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 would 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 Land Use and Climate Innovation at: https://www.lci.ca.gov/planning/general-plan/guidelines.html.

HCD appreciates the City's commitment in moving toward a compliant housing element and particularly commends the work of Anna McGill, Michelle Halligan, and Melinda Dacey. HCD is 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 Jose Armando Jauregui, of our staff, at Jose.jauregui@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager