

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

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December 22, 2023

Encarnacion "Shun" Patlan, Director
Planning and Building Department
City of Orange Cove
633 Sixth Street
Orange Cove, CA 93646

Dear Shun Patlan:

RE: City of Orange Cove 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of Orange Cove (City) draft housing element update received for review on September 25, 2023. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

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.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government does not adopt a compliant housing element within 120 days of the statutory deadline (December 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 does not 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.

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 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 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 City of Orange Cove's cooperation during the housing element 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 Melissa Vasquez of our staff, at
melissa.vasquez@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF ORANGE COVE

The following changes are necessary to bring the City'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. 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).)*

Concentrated Areas of Poverty: The element includes information relative to Racially and Ethnically Concentrated Areas of Poverty (R/ECAP) and areas of High Segregation and Poverty but should evaluate the characteristics of these areas, changes over time, comparisons to other neighborhoods in terms of equitable quality of life and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

Disproportionate Housing Needs, Including Displacement Risk: The element mentions a recent housing conditions survey and the number of units in need of rehabilitation and replacement. However, the element should also discuss the location of those units in need of rehabilitation and replacement then examine any patterns and trends to better formulate appropriate policies and programs such as targeted rehabilitation assistance.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): To examine whether identified sites AFFH, the element should examine sites by income group, location and socio-economic characteristics, including any isolation of the regional housing need allocation (RHNA) by income group. While the element identified capacity by census tract and various socio-economic indicators, it also shows that virtually all of the sites are located in one census tract and then concludes the identified sites better fair housing conditions despite the isolation of the RHNA. To better evaluate the impacts of identified sites on AFFH, the element should consider a geography different than census tracts then evaluate impacts on patterns of socio-economic characteristics. For example, the analysis could consider planning areas, neighborhoods or quadrants. Further, this analysis should incorporate local data and knowledge to overcome the data limitations as noted in the element (p. 3-3).

Local Data and Knowledge: The element notes that the City's small population limits the usefulness of the data, particularly since the census tracts extend well beyond the City limits and the data is influenced by demographic information beyond the City limits. For these reasons, the element should particularly utilize local data and knowledge to better understand any patterns or differences or lack of differences from neighborhood to neighborhood. For example, the element could utilize information from City officials (e.g., planners, code enforcement, civil engineers, local legislators), past surveys and assessments, data used for applications for funding, service providers, developers, school representatives, regional planners and service districts.

Contributing Factors to Fair Housing Issues: Based on the outcomes of a complete analysis, the element should re-assess and, especially, prioritize the contributing factors to fair housing issues.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

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).)

Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)

Housing Needs and Special Needs Assessment: The element includes a quantification of housing needs, including special needs for the region and some reporting of demographics for the City. While this quantification is generally adequate, the element should analyze the quantification to better understand housing needs and formulate appropriate policies and programs for the City. For example, this analysis should address trends, characteristics, magnitude of needs, resources and potential strategies and should at least be conducted for population growth, employment, tenure, overpayment, overcrowding, housing unit types, and special needs households.

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).)*

City-owned Sites: The element identifies two pending projects on City-owned sites that were sold pursuant to the Surplus Land Act (SLA). The element should also discuss the status of rezoning, remaining steps and any known barriers to development in the planning period. Based on the outcomes of this analysis, the element should add or

modify programs with a schedule of actions to facilitate development in the planning period.

Realistic Capacity: The element discusses assumptions for calculating residential realistic capacity (55 to 80 percent of maximum) and some mixed-use trends in nonresidential zones. The element further mentions calculating residential capacity at 50 percent of maximum allowable densities in zones that allow commercial development to account for a ground floor requirement. However, this assumption should also account for the likelihood that 100 percent nonresidential development may occur. For example, the element could discuss past trends, including how often 100 percent nonresidential development has occurred or is anticipated in the identified zone.

Environmental Constraints: The element briefly concludes there are no known environmental constraints on identified sites but should also support this conclusion. For example, the element could discuss some potential environmental conditions such as flood and sensitive habitat and relate those conditions to the identified sites. This analysis should also address any other known conditions that preclude development on identified sites in the planning period such as shape, access, easements, Williamson Act contracts, contamination and overlay zones.

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types:

- *Employee Housing*: The Employee Housing Act generally permits housing of no more than 12 units or 36 beds as an agriculture use (Health and Safety Code, § 17021.6), housing of six or less persons as a single family residence (Health and Safety Code, § 17021.5) and allows a streamlined and ministerial permit process for eligible developments of 36 units or spaces on agriculture lands (Health and Safety Code, § 17021.8.) The element generally mentions that temporary farm camps are permitted in the R-A zone and that zoning does not distinguish between employee housing and single family residences but should also discuss whether zoning explicitly complies with these requirements and add or modify programs, as appropriate.
- *Emergency Shelters*: While the element discusses recent legislation and requirements related to identifying zoning and capacity to accommodate emergency shelters, it should provide analysis to better inform programs to comply with these requirements. For example, the element could evaluate capacity in proposed zones, including proximity to transportation and homeless services. Based on the outcomes of this analysis, the element should add or modify programs, as appropriate.

- *By-right Permanent Supportive Housing*: The element states zoning complies with requirements to permit permanent supportive housing without discretionary action in compliance with Government Code section 65651 (AB 2162). However, the element also notes that supportive housing is limited to six or less persons which is inconsistent with statutory requirements. Further, AB 2162 relates to multifamily development among other provisions. The element should describe whether zoning complies with Government Code section 65651 and add or modify programs, as appropriate.
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: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should specifically address requirements related to multifamily heights in the R-3, C-2 and C-3 zones. For example, allowing at least three stories and 36 feet in these zones would better facilitate achieving maximum densities. The analysis should address any impacts on cost, supply and, particularly, the ability to achieve maximum densities and add or modify programs to address identified constraints.

State Density Bonus Law (SDBL): The element describes the City has a draft ordinance and that the ordinance simply refers back to SDBL. However, while referring to SDBL is a effective approach, an ordinance should at least have implementing provisions such as application and processing requirements and decision-making authority and criteria. The element should add or modify programs to amend the ordinance, including with implementing provisions, to comply with SDBL.

Local Processing and Permit Procedures: The element should evaluate processing and permit procedures for impacts on timing, cost and approval certainty. The element discusses the City's Site Plan Review (SPR), including listing approval findings but should also analyze those findings for potential impacts on approval certainty. Specifically, the SPR includes an approval finding that requires the proposed use will not be detrimental to public "convenience". This standard is subjective and potentially impacts certainty and should either be closely evaluated or removed to better promote certainty in the approval process.

Constraints on Housing for Persons with Disabilities: The element mentions group homes for six or fewer persons are permitted in any single-family residential zoning district but, as noted in Table 1J-4.2 (Residential Use Types Allowed by Zoning District), these uses are excluded from the R-A zone. The element should either reconcile this information or add or modify programs to permit group homes for six or fewer persons in the R-A zone. In addition, the element should closely evaluate spacing requirements of

500 feet and add or modify programs to address constraints on housing for persons with disabilities.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... 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.

B. Housing Programs

1. *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 A3, 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. In addition, the element should be revised as follows:

- *Program 3 (Adequate Sites):* The Program should specifically commit to a schedule of actions to facilitate development on City-owned sites in the planning period. Actions should include discrete timing for completing entitlements, assisting with funding and incentives, issuing permits and completing alternative actions (e.g., rezoning) if necessary to maintain adequate sites by a specified date if the projects do not progress toward completion in the planning period. In addition, if necessary to address a shortfall of capacity to accommodate the lower-income RHNA, rezoning should comply with by-right requirements

pursuant to Government Code section 65583.2, subdivisions (h) and (i). For example, developments with 20 percent of units affordable to lower-income households must be permitted without discretionary action and meet minimum density and residential performance standards. Finally, the Program should commit to establish incentives by a specified date to encourage parceling on large sites at appropriate sizes (e.g., 1 to 10 acres) to facilitate the development of housing affordable to lower-income households.

- *Program 4 (Water and Wastewater Service)*: The Program should commit to when the City will make improvements to better serve and strive to accommodate the RHNA. The Program should also include additional activities such as applying for funding and coordinating with appropriate entities to provide adequate service. Finally, the Program should commit to continue coordinating and taking appropriate action to make recently annexed sites (Howard Annexation) available for development in the planning period.
- *Program 12 (Zoning Code Amendments)*: For emergency shelters, the Program should also commit to amending the definition of emergency shelters, sufficient capacity to accommodate the need or at least one emergency shelter, including proximity to transportation and homeless services and appropriate development standards. For single room occupancy (SRO) units, the Program should also commit to appropriate development standards to encourage SROs.

2. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

The element should add or modify actions to assist in development of housing for lower-income and special housing needs, as follows:

- *Program 5 (Affordable Housing Incentives)*: While the Program describes actions to facilitate the development of affordable housing, it should also commit to proactive outreach and identifying development or other housing opportunities at least on an annual basis.
- *Program 6 (Support Funding for Farmworker Housing)*: The Program should expand upon actions, such as adding additional proactive actions (e.g., identifying development opportunities at least twice in the planning period) to support the development of housing for farmworkers.

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 A4 and A5, 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, as noted on page 4-3, Program 12 (Zoning Code Amendments) should commit to remove the use permit requirement for multifamily housing as part of a mixed-use development.

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).)*

As noted in Finding A1, 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, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high-opportunity areas, place-based strategies for community preservation and revitalization, and displacement protection.

In addition, while Program 21 (Housing Discrimination Monitoring and Referral) commits to establish a referral procedure and provide fair housing information on the City's website and in public buildings, it should be more responsive to the analysis and outreach. For example, the Program could commit to more active and robust outreach campaign to better connect residents with fair housing organizations.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

Programs must be expanded to include incentives to promote the creation and affordability of accessory dwelling units (ADU). Examples include exploring and pursuing funding, modifying development standards and reducing fees beyond state law, increasing awareness, pre-approved plans and homeowner/applicant assistance tools.

C. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

While the element includes quantified objectives for new construction and rehabilitation, it should also include conservation objectives. Examples of programs that may be utilized for

conservation objectives include Program 18 (Code Enforcement), Program 21 (Housing Choice Vouchers) and Program 21 (Housing Discrimination Monitoring and Referral).

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 general summary of the public participation process, including comments, it should also describe how comments were considered and incorporated into the element.

E. Consistency with General Plan

The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

The housing element affects a locality's policies for growth and residential land uses. The goals, policies and objectives of an updated housing element may conflict with those of the land-use, circulation, open space elements as well as zoning and redevelopment plans. The general plan is required to be "internally consistent." As part of the housing element update, the element should discuss how general plan consistency will be achieved as part of the housing element update and how it will be maintained throughout the planning period. In addition, The City could consider an internal consistency review as part of its annual general plan implementation report required under Government Code section 65400.