

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

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August 20, 2021

Cheryl Kitzerow, AICP
Community Development Director
City of Menifee
29844 Huan Road
Menifee, CA 92586

Dear Cheryl Kitzerow:

RE: Review of the City of Menifee's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Menifee's (City) draft housing element received for review on June 21, 2021. 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 telephone conversation on August 12, 2021, with Senior Planner Doug Darnell, Planning Manager Orlando Hernandez, and the City's consultant Candyce Burnett.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). In particular, the element must be revised to fully address statutory requirements regarding Affirmatively Furthering Fair Housing (AFFH) as well as adequately analyzing the suitability of sites and realistic capacity methodology, among other areas. The enclosed Appendix describes these and other revisions needed to comply with State Housing Element Law.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of October 15, 2021 for West Riverside Council of Governments (WRCOG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit HCD's website at: http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf.

Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and

instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

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: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

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.

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 meets housing element requirements for these and other funding sources.

We are committed to assisting the City of Menifee 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" being more prominent than the last name "West".

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF MENIFEE

The following changes are necessary to bring the City of Menifee'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 <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Affirmatively Furthering Fair Housing (AFFH) 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))*

Regional Trends and Patterns: The element describes local trends and patterns but must analyze Menifee relative to the rest of the region regarding integration and segregation, racially and ethnically concentrated areas of poverty, disparities in access to opportunity and disproportionate housing needs, including displacement risks.

Racially/Ethnically Concentrated Areas of Poverty (R/ECAP): While the element includes information relative to R/ECAP, the element must also include an analysis complemented by quantitative evidence for the local and regional comparison and include local and regional data on areas of affluence. The analysis should evaluate the patterns and changes over time and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

Site Inventory: While the element includes a map of the site inventory and states that the proposed sites meeting lower-income Regional Housing Needs Allocation (RHNA) are geographically distributed, the element also requires an analysis of these sites to demonstrate AFFH (Appendix B). The needed analysis should be reflective of housing development at all income-levels and evaluate the sites relative to socio-economic patterns. The sites inventory analysis should also address how the sites are identified to improve conditions (or if sites exacerbate conditions, how a program can mitigate the impact), whether the sites are isolated by income group, and the final analysis should be supported by local data and knowledge.

Contributing Factors: While the element contains fair housing issues and contributing factors retrieved from the Riverside County Analysis of Impediments (p. 3-59) the element must also list and prioritize contributing factors to fair housing issues specific to the City based on local data and the analysis in the element. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to

adequate goals and actions. Examples include community opposition to affordable housing, housing discrimination, land use and zoning laws, lack of regional cooperation, location and type or lack of affordable housing and lack of public or private investment in areas of opportunity or affordable housing choices. The element must include an accompanying analysis demonstrating strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Goals, Priorities, Metrics, and Milestones: The element contains a program to AFFH (Program Action 28) that addresses fair housing issues; however, the element must contain goals and actions that significantly seek to overcome contributing factors to fair housing issues (integration and segregation, racially and ethnically concentrated areas of poverty, areas of opportunity and disproportionate housing needs including displacement). Given that most of the City is considered a high and highest resource community, the element could focus on programs that enhance housing mobility and encourage development of more housing choices and affordable housing. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results.

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).)*

Housing Stock Conditions: While the element provides a basic analysis of the condition of housing stock and estimates based on data provided by Comprehensive Housing Affordability Strategy data (CHAS), it must also 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. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

3. *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).)*

While the element quantifies the number of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter, the element must also analyze their special housing needs using information specific to the City of Menifee. The current analyses should be expanded where necessary to include factors such as household income, tenure, housing types, zoning, available resources, and local programs, including housing element programs, that assist these special populations. Local officials, special needs service providers, or City social and health service providers may be able to assist with information to complete the analysis.

Farmworkers: The element provides a basic analysis of agricultural workers (p. 2-20) for the City of Menifee and provides farmworker data specifically for Riverside County. In addition to the revisions as stated above, the element should also provide Farmworker data specific to the City of Menifee.

4. *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).)*

The City has a RHNA of 6,609 housing units, of which 2,812 are for lower-income households. To address this need, the element relies on vacant sites (Table B-4), including sites in specific plan areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses of the following:

Realistic Capacity: While the element contains an estimate of the realistic capacity to accommodate housing for low- and very low-income households (p. B-4), it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

Zoning for Lower-Income Households: While the element appears to indicate housing affordable to lower-income households can be accommodated on sites zoned High Density Residential (HDR) with densities of 20 to 24 dwelling units per acre (p. B-5), it does not include an analysis evaluating the adequacy of these zones to accommodate housing affordable to lower-income households. The analysis should be based on factors such as market demand, development experience within zones, and specifically address the impacts of density on financial feasibility pursuant to Government Code section 65583.2, subdivision (c)(3)(A) and (B). For communities with densities that meet specific standards (at least 30 units per acre for Menifee), this analysis is not required (Gov. Code, § 65583.2, subd. (c)(3)(B)).

Large Sites: While the element includes an identification and accompanying analysis of seven large sites (Table B-5) larger than 10 acres (Figure B-1), the element must also demonstrate that these sites can accommodate the lower-income RHNA needs by demonstrating that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site, or, unless the housing element provides other evidence to HCD that the site is adequate to accommodate lower-income housing (Gov. Code, § 65583.2, subd. (c)(2)(A).). For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventoryanalysis/analysis-of-sites-and-zoning.shtml#analysis>.

Suitability of Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households, it provides no description of the identified existing uses. The methodology must consider factors including the extent to which identified existing uses may impede additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

5. *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. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Design Review: The element details recently adopted design standards (p. 3-31). However, the element must further describe and analyze the design review guidelines and process, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. For example, the analysis could describe required findings and discuss whether objective standards and guidelines improve development certainty and mitigate cost impacts. The element must demonstrate this process is not a constraint or it must include a program to address this permitting requirement, as appropriate.

In addition, the Housing Crisis Act of 2019 (SB 330, 2019) was signed by Governor Newsom on October 9, 2019 and became effective on January 1, 2020. The Housing Crisis Act (Gov. Code, § 66300) prohibits the City from imposing or enforcing design standards established on or after January 1, 2020 that are not objective design standards. The element should evaluate consistency with these requirements and include actions as appropriate.

On/Off-Site Improvements: The element must identify subdivision level improvement requirements, such as minimum street widths (e.g., 40 feet minimum street width), and analyze their impact as potential constraints on housing supply and affordability.

Local Processing and Permit Procedures: While the element describes the use permit procedure for mixed use housing, it must describe and analyze the City's permit processing and approval procedures by zone and housing type (e.g., multifamily rental housing, mobilehomes, housing for agricultural employees, supportive housing). The analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single- and multi-family developments, including type of permit, level of review, approval findings and any discretionary approval procedures.

In addition, while the element identifies its ministerial review process for plot plan reviews, the element requires a further description of this discretionary review process in detail as well as an explanation of what the City considers to be a major plot plan versus a minor plot plan as applied to multifamily housing and emergency shelters, and to detail the typical standards for a plot plan review.

Constraints on Housing for Persons with Disabilities: The element currently details that residential care facilities serving six or fewer persons are permitted in all residential zones. However, residential care facilities serving seven or more persons are limited to the same zones, except rural residential zones, with the approval of a conditional use permit (CUP). The element should analyze the process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

In addition, the element describes the City's procedure for requesting and granting reasonable accommodation to zoning and land use requirements for persons with disabilities (p. 3-25). The element must analyze the findings for granting a reasonable accommodation to determine if it is considered a constraint. Specifically, the element should analyze the finding that "the request will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others". The element should also provide information on who is the "approving authority" for reasonable accommodation requests.

6. *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. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

While the element provides analyses for availability of financing, price of land and cost of construction, the element must also provide an analysis of 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. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing (Gov. Code, § 65583, subd. (a)(6)).

B. 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 through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (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 Action 7: Accessory Dwelling Unit (ADU) Tracking Program: This program commits the City to creating an ADU tracking program to monitor ADU development and report to the required entities. The timeline for development of the tracking program is stated as "ongoing." The program should be revised to include a definitive implementation timeline and to clarify that the "tracking" program meets California State Law requirements for a "monitoring" program.

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)).*

Program Action 17: Lower-Income Households: This program recognizes the need for lower-income housing, particularly extremely low-income (ELI) housing. The program then commits the City to evaluating "the need for and establish appropriate programs, incentives [and] other methods to assist these households in acquiring affordable housing opportunities." However, the program is vague and does not adequately describe what the City is evaluating, who the City is partnering with, and what the overall

meaningful objectives are. The program also does not commit to any meaningful action to promote the development of ELI housing. This program should be revised to clarify the objectives and offer specificity as to what actions and partnerships the City is considering and commit the City to meaningful actions to the promotion and development of ELI housing.

3. *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 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 the Finding B2, the element does not include a complete sites inventory or analysis; as a result, the adequacy of sites and zoning has not been established. Based on the results of a complete sites inventory and analysis, programs may need to be added, or revised, to address a shortfall of sites and zoning for a variety of housing types. If the element does not identify adequate sites to accommodate the regional housing need for lower-income households, it must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need within the planning period (Gov. Code, § 65583.2, subd. (h) and (i)).

For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/identify-adequate-sites.shtml>

Program Action 1: Adequate Sites to Accommodate 2021-2029 RHNA: This program commits the City to further policy considerations regarding “opportunity” sites identified in the 5th cycle housing element that are being utilized in the 6th cycle element. However, the program is vague and does not specify what “policy considerations” the City is considering nor timing for consideration. The program should be revised to have specific actions and timeframes to meet the objectives of this program.

Program Action 3: Rezone Program to Accommodate Low and Very Low RHNA: This program commits the City to rezoning eight vacant parcels in order to accommodate the remaining RHNA and provide 50 percent vacant land. In addition to rezoning of the identified parcels to the stated High-Density Residential zone, the program needs to commit to including all the relevant rezone commitments required under Government Code section 65583.2, subdivision (h)(i). Specifically, the program must commit to: permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a conditional use permit, planned unit development permit, or other discretionary review or approval.

- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low- and low-income housing need, if those sites:
 - allow 100 percent residential use, and
 - require residential use occupy 50 percent of the total floor area of a mixed-use project.

Program 21: Emergency Shelters, Transitional and Supportive Housing: The element should specify that each amendment that must be made to the Municipal Code must be in compliance with State Law.

Program 22: This program, designed for people experiencing homelessness, speaks to the requirements under SB 2 (Chapter 633, Statutes of 2007), then states that the City adopted a comprehensive zoning update effective in January 2020 to address the requirements for emergency shelters, then lists the zones wherein by-right emergency shelters are allowed. The City then commits to amending the zoning code to allow transitional and supportive housing subject to the requirements of SB 2. However, the program is vague in its description of what is being amended regarding SB 2, and the program does not contain an adequate timeframe for adoption and implementation; it states “ongoing.” This program needs to be revised to address whether SB 2 was fully implemented, and if not fully implemented, then specify what amendments to the zoning code are necessary with regard to SB 2. Furthermore, if the City is amending the zoning code, the program should commit to a definitive timeline for adoption of zoning code amendments. Given that the City’s zoning ordinance is out of compliance with State law, zoning should take place within one year of adoption.

Program Action 26: Farmworker and Employee Housing Act Compliance: This program commits the City to updating Title 9 of the Menifee Municipal Code to comply with California Health and Safety Code sections 17021.5 and 17021.6. The program should be revised to also include compliance with Health and Safety Code section 17021.8.

4. *Promote AFFH 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 protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

Program Action 28: Affirmatively Furthering Fair Housing: While this program addresses AFFH findings, the program appears vague in the City’s commitments to AFFH. The only meaningful action is that the City will conduct at least one workshop over the course of the element period. HCD suggests revising this program to reference any and all programs geared toward AFFH within the element, especially those programs with beneficial impacts and definitive timelines for implementation of these programs. Additionally, the program commits the City to collaborating with various entities to address potential constraints to fair housing, including but not limited to an actions

analysis of barriers to entry into ownership, policies and restrictions that may or may still prevent disadvantaged groups from locating to Menifee, or specific actions that contribute to Menifee's ability to foster a more inclusive community. The program should also commit to definitive timelines for these types of analyses which will have beneficial impacts. Finally, depending upon any revised analyses provided for in Finding A1, additional program revisions may be required.

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 estimating the number of housing units by income category that can be constructed, it must be revised to include units that are expected to be rehabilitated and/or conserved.

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)(8).)

While the element includes a general summary of the public participation process, it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element should be revised to address how lower-income and special needs groups were outreached during the public participation efforts, when the draft was released, and if translation services were offered. 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. Additionally, the element should provide an analysis of how comments from all segments were considered and incorporated into the draft element. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.