

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

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June 22, 2021

Noah Alvey, Manager
Community Development Department
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

Dear Noah Alvey:

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

Thank you for submitting the City of Lemon Grove's (City) draft housing element received for review on April 23, 2021, along with revisions received on May 27 and June 6, 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 conversation with you on June 8, 2021.

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). The enclosed Appendix describes these, and other revisions needed to comply with State Housing Element Law.

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/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.

As a reminder, the City's 6th cycle housing element was due April 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to make revisions to the element as described herein, adopt, and submit to HCD to regain housing element compliance.

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 April 15, 2021 for San Diego Association of Governments (SANDAG) 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.

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 will meet housing element requirements for these and other funding sources.

HCD appreciates the dedication and responsiveness of the City's housing element team during the course of our review. We are committed to assist 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 Ayala, of our staff, at Jose.Ayala@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" and the last name "West" clearly distinguishable.

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF LEMON GROVE

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 <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. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

The element reviews the 5th cycle programs but does not provide a specific review for programs regarding the effectiveness of the 5th cycle programs for meeting the community's special housing needs. An analysis must be provided for the cumulative impact of the previous housing element's programs to address the housing needs of special needs populations. The element should specifically evaluate programs targeted for special needs populations and provide a narrative analysis.

B. 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).)*

The element did not address this requirement. Additional analysis is required to meet the statutory requirements. The element, among other things, must include outreach, an assessment of fair housing, identification and prioritization of contributing factors to fair housing issues and goals and actions sufficient to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity. HCD will provide additional resources and data under separate cover. For more information, please contact HCD and visit <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

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).)*

The element quantifies projected extremely low-income (ELI) households, but it must also analyze their existing housing needs. For example, the analysis should address tenure, cost burden, resources, and strategies available to address the housing needs and summarize the magnitude and characteristics of housing needs to better inform appropriate policies and programs. HCD will send a sample analysis under separate cover.

3. *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).)*

The element provides analysis regarding the housing stock age in the City and throughout the region. Additionally, the element includes information regarding the number of substandard units throughout the jurisdiction using ACS data. While this highlights some general themes, additional local data is required to fully meet this requirement. The element must also estimate the number of units in need of replacement and rehabilitation. For example, the analysis could 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>

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).)*

Sites Inventory: The element must list sites by parcel number, parcel size, zoning, general plan designation, number of units by income group, description of existing uses for any nonvacant sites sufficiently to facilitate demonstration of redevelopment potential and include a calculation of the realistic capacity of each site. While the inventory includes some information such as parcel number, it must also, among other provisions, group sites anticipated to consolidate, identify the anticipated affordability level of the units on the identified sites, and include a sufficient description of each nonvacant site's existing use to demonstrate redevelopment potential. The full use of the electronic sites inventory, noted above, will assist the City in meeting this requirement.

Realistic Capacity: The element describes numerous capacity factors for residential development throughout the jurisdiction. The element cites some recent projects (Figure 51) and states that they are built above densities; however, the element should also provide any information regarding the zones and allowable densities in the zone. Additionally, the City must list prior projects by affordability (not just entitled and under review projects) to support the project capacity trends.

The element assumes residential development on sites zoned for nonresidential uses. To support this assumption, the element lists some recent projects and describes how some zoning allows residential uses but does not address the likelihood of residential in zoning intended for nonresidential uses. For instance, the element states anticipated development capacity of 80% in the General Commercial zones; however, there is no consideration for the potential of 100% nonresidential development occurring in these zones. The element must include analysis based on factors such as development trends including nonresidential, performance standards requiring residential uses or other relevant factors such as enhanced policies and programs.

Suitability of Nonvacant Sites: The element did not address this requirement. The element must include an analysis to demonstrate the potential for redevelopment. The analysis shall consider factors, including but not limited to the extent existing uses constitute an impediment, past experience, development trends and market conditions. In addition, if relying on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households triggers requirements to make findings based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period. HCD will send examples under separate cover.

Small Sites: The element identifies several sites at less than a half-acre. These sites are not eligible absent a demonstration 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 other evidence is provided. To address this requirement, the analysis could describe the City's past experience in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for lot consolidation, or information from the owners of each aggregated site.

Suitability and Availability of Infrastructure: The element describes the availability of water and sewer to serve all the sites listed in the inventory. However, the element must also describe sufficient water capacity for the Regional Housing Needs Allotment (RHNA). Furthermore, the element must describe the availability of dry utility infrastructure on the sites listed in the inventory.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within three years. While the element includes a program to address this requirement, it should clarify which sites were identified in prior planning periods. For more information on program requirements, please see HCD's Housing Element Sites Inventory Guidebook at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

Replacement Housing Requirements: If the sites inventory identifies sites with existing residential uses, it must identify whether they are affordable to lower-income households or describe whether the additional residential development on the site requires the demolition of the existing residential use. For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program as appropriate.

Affirmatively Furthering Fair Housing: The element does not address this requirement. The element must identify sites throughout the community and evaluate whether sites foster inclusive communities and affirmatively further fair housing. For more information, please contact HCD and visit <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

Sites with Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element describes emergency shelters are permitted in the Emergency Shelter Overlay in the General Commercial zone subject to special conditions but must clarify the use is permitted without discretionary action. Further, the element must analyze the suitability and capacity of that zone for emergency shelters. For example, identifying the number of parcels, typical parcels sizes, whether the sites are nonvacant, and the potential capacity for adaptive reuse. To analyze the suitability of the zone, the element should also include information on surrounding uses, access to services and whether parking requirements are limited to staff working in the emergency shelters and do not require more parking than other residential or commercial uses in the zone. Based on this analysis, programs must be added or modified as appropriate.
- *Transitional and Supportive Housing:* The element indicates transitional and supportive are permitted the same as other uses of similar housing types but

- then mentions transitional housing is treated like residential care facilities, in some cases only allowed in the General Commercial zone and subject to a conditional use permit. Transitional and supportive housing must be permitted as a residential use in all zones and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The element must demonstrate consistency with this statutory requirement and include a program, as appropriate.
- *Permanent Supportive Housing*: Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and include programs as appropriate.
 - *Employee Housing*: The element should also address whether the City's zoning adheres to Health and Safety Code sections 17021.5 and 17021.6, the Employee Housing Act. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone. To address this requirement, the element concludes there is no specified needs for farmworkers; however, regardless of need, the element must either demonstrate consistency with these requirements or include programs to amend zoning as appropriate.
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).)*

Land-Use Controls: The element details the City's parking requirement of 2 garaged parking spaces per dwelling unit for multifamily developments. While this may be suitable for larger units, this requirement potentially constrains the development of smaller units. Additionally, the requirement for the parking spaces to be garaged

imposes an additional cost onto development. The element must include an analysis of the impacts of these requirements on the cost and supply of housing and add or modify programs as appropriate.

Processing and Permit Procedures: The element identifies single family and multifamily development is subject to review by the planning commission or city council but should also analyze this process for impacts on housing cost, supply, timing, and approval certainty. For example, the element must identify approval findings and analyze their impacts. In addition, the element indicates multifamily development is subject to a conditional use permit or planned development permit, both of which require a high level of discretion and potentially impact approval timing and certainty. The element must address these requirements as potential constraints and add a program to remove, replace or modify these processes to promote certainty for multifamily development.

Housing for Persons with Disabilities: The element currently details that residential care facilities serving six or fewer persons are permitted in all zones. However, residential care facilities serving seven or more persons are limited to the General Commercial zones. The element must include a program to revise this requirement and allow for residential care facilities serving seven or more persons to be permitted in all residential zones. Further, the element notes group homes for seven or more persons are subject to a conditional use permit. 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.

Fees and Other Exactions: While the element includes information on fees for planning approvals, it must also analyze the cumulative impact of fees on development costs. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing.

Zoning, Development Standards and Fees: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards on the jurisdiction's website.

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).)

Identified Densities and Approval Times: The element did not address these requirements. The element must address requests to develop housing at densities below those anticipated in the sites inventory and the length of time between receiving approval for housing development and submittal of application for building permits. The analysis must address any hinderances on housing development and programs should be added as appropriate.

7. *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).)*

The element must quantify special housing needs and include an analysis, including but not limited to factors such as household income, tenure, housing types, zoning, and available resources. Specifically, the element should include an estimate of persons with developmental disabilities based on local data, elderly households by tenure (renters and owners) and information regarding the number of farmworkers, including permanent and seasonal, in the region. HCD will send data under separate cover for the San Diego region.

C. 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).)*

The element includes several programs where either the timeline for implementation should be earlier in the planning period or the program should have a discrete timeline instead of “ongoing”. Examples where the timeline should be earlier include: Program 12 (At-Risk), Program 13 (Cooperation and Coordination with Housing Stakeholders), Program 16 (Pursue Affordable Housing Funding Sources) and Program 21 (Encourage Housing for Extremely Low-Income Households).

In addition, Program 2 (Encourage Accessory Dwelling Units (ADU): The program should describe the incentives intended to promote affordability of ADUs and include a monitoring component that tracks the number of units and affordability and commitment to subsequent action by a date certain if assumptions are not met.

2. *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 B4, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning was 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.

3. *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 must include programs with proactive and specific efforts to assist in the development of housing for households with special needs, persons experiencing homelessness; farmworkers; persons with disabilities, including developmental; and elderly. Efforts should involve proactive and regular outreach to developers of affordable housing and should utilize incentives and financial and other resources. This requirement could potentially be addressed by expanding on existing Programs 16 (Pursue Affordable Housing Funding Sources) and 21 (Encourage Housing for Extremely Low-Income Households).

4. *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 Findings B5 and B6, the element requires a complete analysis of potential governmental and non-governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs to address and remove or mitigate any identified constraints.

5. *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 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).)*

As noted in Finding B1, analysis is required to address affirmatively furthering fair housing requirements. Based on the outcomes of a complete analysis, the element must include policies and programs.

D. 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).)

The element must include quantified objectives to establish an estimate of housing units by income category, including extremely low-income households, that can be constructed, rehabilitated, and conserved over the planning period. While the element includes new construction, rehabilitation, and conservation objectives, it could consider adding conservation objectives related to preserving units at-risk of conversion to market rate uses.

E. Water and Sewer Priority

For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) In addition, local governments are required to immediately deliver the housing element to water and sewer service providers. The element must demonstrate consistency with these requirements and include programs as appropriate. For additional information and sample cover memo, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.