

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

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December 5, 2022

Brendan Vieg, Director
Community Development Department
City of Chico
411 Main Street, 2nd Floor
Chico, CA 95927

Dear Brendan Vieg:

RE: City of Chico's 6th Cycle (2022-2030) Draft Housing Element

Thank you for submitting the City of Chico's (City) draft housing element received for review on September 7, 2022, along with revisions received on November 22, 2022. 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 on November 10, 2022, with you and the City's housing element team. In addition, HCD considered comments from House Sacramento, Thomas Barrett, Chico Builders Association, Epick Homes, Butte Environmental Council, Chris Nelson, and Mary Kay Benson pursuant to Government Code section 65585, subdivision (c).

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 the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due June 15, 2022. 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 revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

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 fails to adopt a compliant housing element within 120 days of the statutory deadline (June 15, 2022), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. 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 fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones pursuant to Government Code section 65583, subdivision (c)(1)(A) or Government Code section 65583.2, subdivision (c) 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 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.

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 hard work and dedication 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,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF CHICO

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/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/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).)*

Patterns and Trends: While the element reports some general information on income, it should specifically analyze patterns of different income concentrations throughout the City, from area to area or neighborhood, and complement that analysis with local data and knowledge and other relevant factors such as housing and neighborhood conditions and circumstances leading to differences. In addition, the element should add a specific analysis of areas of high segregation and poverty. The analysis should discuss household demographics, including comparisons to other areas of the City, and evaluate conditions of the neighborhood relative to quality of life (e.g., housing conditions, infrastructure, parks, community amenities, safe routes to school, environmental health) and effectiveness or absence of past strategies related to equitable quality of life. The element must add or modify programs based on the outcomes of this analysis.

Sites Inventory: The element (pp. 282-291) provides an overview of sites and affirmatively furthering fair housing (AFFH). While this analysis provides some information, such as the number of sites per Census Tract, this analysis should be based on the number of units by income group instead of the quantity of sites. The element should add a quantification of units through the AFFH components of analysis for all income groups. Furthermore, this section somewhat recognizes the inventory does not improve fair housing conditions and refers to remedying conditions in future sites inventories. However, the element should include specific analysis in this current inventory and appropriate policies and programs with significant and meaningful action to promote inclusive communities in this current housing element. HCD will send additional information under separate cover.

2. *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).)*

Progress toward the Regional Housing Need Allocation (RHNA): The element indicates (p. 262, site 8) that 154 units affordable to low-income households have been built or are under construction or approved but provides no information documenting how the affordability of the units was determined. As you know, the City's RHNA may be reduced by the number of new units built since December 31, 2021; however, the element must describe the City's methodology for assigning these units to the various income groups based on the actual or anticipated sales price, rent level or other mechanisms ensuring affordability (e.g., deed-restrictions).

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory to accommodate the lower and moderate income RHNA, it must also provide support for these assumptions. For example, the element can base the capacity assumptions on past projects, additional incentives, or provide other relevant analyses. Furthermore, for sites with zoning that allows 100 percent nonresidential uses, this must account for the occurrence of 100 percent nonresidential development. For example, the element could add programs to establish residential performance standards. The element could also evaluate past trends and how often 100 percent nonresidential occurs then incorporate that likelihood in the calculation of residential capacity.

Large Sites: The element includes a program to facilitate parceling on sites greater than ten acres to encourage housing for lower-income households but must also include analysis to formulate the appropriate programmatic response. For example, the analysis could address how large sites could be parceled to facilitate sites that can accommodate a typical state or federally funded development of 50 to 150 units. The analysis could also describe how parcels could be subdivided or built in phases or how the assumptions for the lower-income RHNA have been scaled to only assume a portion of the site for lower-income households. Further, the element identifies one site at approximately 23 acres and almost 700 units affordable to lower-income households. The state generally does not fund development of this size. Further, assuming a large portion of the lower-income RHNA on one site might exacerbate fair housing conditions as well as complying with no net loss law pursuant to Government Code section 65863. The element should consider rescaling assumptions for the lower-income RHNA on this site. For example, the element could utilize accessory dwelling units (ADU) to a portion of the lower income RHNA and assume a mixed income development on this site. Based on the outcomes of this analysis, the element should then add or modify programs.

Suitability of Nonvacant Sites: The sites inventory currently lists all sites as "vacant" although some of the sites have existing uses such as farmland, residential uses, auto repairs shops, and parking lots. As a reminder, a vacant site is a site without any improvements, such as houses, offices, buildings, or other improvements such as paved parking lots, or income production improvements, such as crops. The element should reconcile this information, re-examine the vacancy/nonvacancy of sites and if necessary, include an analysis of the potential for additional development on nonvacant sites.

Availability of Infrastructure: While the element explains sufficient capacity to meet daily demands, it should clarify sufficient total water and sewer capacity (existing and planned) to accommodate the RHNA.

In addition, 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.) The element (p. 36) states the City is the sewer provider and as a result, should describe whether the City has a procedure or include a program to establish a procedure by a specified date.

Environmental Constraints: While the element provides information on general environmental constraints, it should also relate those constraints to identified sites, discuss any other known conditions (e.g., shape, easements, overlays, contamination) and evaluate impacts on the development of identified sites in the planning period.

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/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.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While the element provides general information on emergency shelter zoning and permitting, it should also describe acreage, parcel sizes, potential for reuse and redevelopment, proximity of capacity to transportation and services, any conditions unfit for human habitation and list and evaluate development standards.
 - *Permanent Supportive Housing:* The element (p. 313) states the City will comply with AB 2162 provisions “as applicable” but does not provide any indication of how the City implements by right permanent supportive housing. The element must demonstrate compliance with these requirements or include a program to permit permanent supportive housing without discretionary action pursuant to Government Code section 65651.
 - *Manufactured Housing:* The element (p. 313) states manufactured homes may be located outside mobile home parks only when installed on and secured to, an approved perimeter foundation. The element must clarify whether this housing type is treated the same as single family residences and add or modify programs to permit manufactured housing in the same manner, if necessary.
3. *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... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element lists and includes a generic discussion of development standards but should also evaluate the impacts of these standards on housing cost, supply (number of units), feasibility and ability to achieve maximum densities. For example, the element can describe a recent or sample project to determine the feasibility of a project

being built at maximum density. Based on the outcomes of a complete analysis, the element should add or modify programs.

Constraints on Housing for Persons with Disabilities: The element must analyze potential governmental constraints on housing for persons with disabilities, as follows:

- *Reasonable Accommodation*: The element adds information about the process for requesting a reasonable accommodation but must also list and evaluate approval findings for this process. Furthermore, the element references Section 19.60.130 of the City of Chico Municipal Code, but this section also only provides information on the purpose of the process itself. In addition, the element notes that there has only been one request in recent years and any other request for accommodations are handled through other processes. The element must describe the process in full, including any approval findings, and determine whether this process is a constraint on housing for persons with disabilities. As a reminder, the lack of requests should not indicate that the current process is successful and does not absolve the City from instituting a formalized reasonable accommodation process.
- *Group Homes for Seven or More Persons*: The element describes group homes for seven or more persons as subject to a Conditional Use Permit (CUP) in all zones. The element must analyze the CUP findings for approval certainty and add or modify programs, as appropriate. For instance, the element should analyze compatibility findings and add programs to address the constraint.

4. *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).)*

The element must analyze requests to develop housing at densities below those anticipated in the sites inventory and analysis and the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any hinderances on the jurisdiction's ability to accommodate RHNA by income category and include programs as appropriate.

5. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

The element states (p. 229) that there are no units at risk of converting to non-low-income uses during the next ten years. However, HCD data shows there are projects (Rhodes Terrace, Valley View Apartments, Longfellow Apartments, Jarvis Gardens, and Cordillera) with expired or expiring affordability covenants in the next ten years. The element should

reconcile this information and, if necessary, add analysis such as an estimate of replacement versus preservation costs and a list of qualified entities that can preserve at-risk units and add programs, as appropriate.

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... (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact in the planning period and achieve the goals and objectives of the housing element, programs must have discrete timelines and specific commitment to housing outcomes. Example of programs with non-committal language (e.g., “explore”) that should be revised with specific commitment include Action 4.2.6 (City-owned Parking Lots), Action 5.1.4 (Single Room Occupancy) and Action 6.3.2 (City Sewer Connection).

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 A2, 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.

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 a program(s) with specific actions and timelines to assist in the development of housing for extremely low-income households, special needs households, and farmworkers. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to extremely low-income households, special needs households, and farmworkers; assisting, supporting, or pursuing funding applications; and outreach and coordination with affordable housing developers.

For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/assist-in-development-housing.shtml>.

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 A3 and A4, 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.

5. *The Housing Element shall include programs to conserve and improve the condition of the existing affordable housing stock. (Gov. Code, § 65583, subd. (c)(4).)*

The element should add a program to conserve and improve mobilehome parks. For example, the element can add a program that commits the City to building partnerships with non-profit developers and seeking and applying for funding, such as the MPRROP or MORE programs.

6. *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 include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. Goals and actions must significantly seek to overcome contributing factors to fair housing issues and should facilitate meaningful change to address AFFH requirements. Furthermore, programs should include specific commitment, discrete timing, geographic targeting and metrics or numeric outcomes. As appropriate, programs 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.

7. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

As noted in Finding A5, upon a complete analysis of at-risk units, the element may need to add or modify programs. For example, Program 6.2.1 (Track Affordable Units) could be

modified to comply with noticing requirements, assist with funding or support funding applications, coordinate with qualified entities and support and educate tenants.

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 by income group for very low-, low-, moderate- and above-moderate income, it must also include quantified objectives for conservation. Examples of programs that could be utilized include Action 1.4.2 (Housing Conditions Survey), Action 1.4.3 (Home Weatherization Improvements), Action 3.3.4 (Section 8 Voucher), and Action 6.1.2 (Annexed Housing Conditions Survey). In addition, upon a complete analysis of at-risk units, the element could also cite any program to conserve affordability of these units.

D. 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 City should review and describe how the general plan internal consistency will be maintained throughout the planning period.