

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

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December 21, 2021

Robert A. Lopez, Director
Community Development Department
City of Cerritos
18125 S. Bloomfield Avenue
Cerritos, CA 90703

Dear Robert A. Lopez:

RE: Cerritos' 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the Cerritos' (City) draft housing element received for review on October 22, 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 on December 17, 2021 with you, Kristin Aguila, Advance Planning Manager and consultants Diane L. Bathgate and Brady M. Woods.

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 October 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 revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

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 (October 15, 2021), then any rezoning to 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).

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.

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.

HCD is committed to assisting Cerritos in addressing all statutory requirements of Housing Element Law. If you have any questions or need additional technical assistance, please contact Fidel Herrera at fidel.herrera@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Paul McDougall', with a stylized flourish at the end.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF CERRITOS

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. 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).)*

Outreach: Outreach specifically related to affirmatively furthering fair housing (AFFH) is foundational to a complete analysis and formulating appropriate goals and actions to overcome patterns of segregation and foster more inclusive communities. The element must relate outreach to all components of the AFFH analysis and modify or add goals and actions as appropriate.

Disproportionate Housing Needs, including Displacement Risk: To better formulate policies and programs, the element should address the disproportionate housing needs of persons experiencing homelessness, including evaluating impacts on protected characteristics and access to opportunity. In addition, related to displacement, the element could utilize information from the Urban Displacement Project mapping neighborhood change projects available at <https://www.urbandisplacement.org/maps/los-angeles-gentrification-and-displacement/>.

Sites Inventory and Affirmatively Further Fair Housing: The element includes information on the number of parcels by regional housing needs allocation (RHNA) income group and concentrations of socio-economic characteristics. However, the element should also evaluate the number of units by income group, magnitude of impact relative to existing patterns and any isolation of the RHNA by income group then evaluate whether identified sites improve or exacerbate segregation and integration.

Local Data and Knowledge, and Other Relevant Factors: The element generally does not address these requirements. The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with

local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Also, the element includes some general information on lending and hate crimes, but it must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element should analyze historical land use, zoning, governmental and nongovernmental spending including transportation investments, demographic trends, historical patterns of segregation, or other information that may have impeded housing choices and mobility.

Contributing Factors: The element should re-assess and prioritize contributing factors upon completion of analysis and make revisions as appropriate.

Goals, Actions, Metrics, and Milestones: 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.

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).)*

Extremely Low Income (ELI): While the element quantifies existing and projected ELI households, it must also expand the analysis of their housing needs. The analysis of ELI housing needs should consider tenure, cost burden, overcrowding and other household characteristics then examine the availability of resources to determine gaps in housing needs. To assist the analysis, see Southern California's Association of Government's (SCAG) Local Housing Data and sample analysis at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

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).)*

Housing Conditions: While the element includes some information on the age of the housing stock, it must also estimate the number of units in need of rehabilitation and replacement. For example, the analysis could use code enforcement activity to calculate a city-wide estimate.

Housing Costs: While the element includes information on rents based on 2015-2019 ACS data, it must include information on rent prices in the City based on current market conditions. Current market rents can be collected through a phone survey of

properties within the jurisdictions, surveying rental magazines, or online searches for rent information, and/or through a survey of property management companies.

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).)*

Regional Housing Need Allocation (RHNA): The element lists various sites for rezoning (Appendix B) to accommodate the RHNA; however, these sites do not appear to meet the entire RHNA. The element should re-evaluate capacity and sites and make adjustments as necessary to accommodate the RHNA.

Small Sites: The element Table B2 identifies two sites (site 7) and one in site A smaller than a half-acre. Sites smaller than half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated 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 describes other evidence to HCD that the site is adequate to accommodate lower income housing. As a result, if utilizing these sites toward the housing need for lower-income households, the element must include analysis and programs as appropriate.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, 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.

Nonvacant Sites: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households, it must include a methodology that demonstrates the potential for additional development in the planning period. For example, the methodology could consider factors such as the extent to which 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. 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.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, it must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses

will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the regional housing need allocation.

Infrastructure: While the element describes infrastructure is accessible, it must also clarify sufficient total water and sewer capacity (existing and planned) to accommodate the RHNA.

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:

- *Transitional and Supportive Housing:* The element states the City will develop internal administrative policies and procedures to establish the method for the processing of transitional and supportive housing proposals; however zoning should explicitly permit these uses in compliance with state law and Program 1 (Housing for Homeless and Special Needs) should be modified as appropriate.
 - *Employee Housing:* Regardless of the housing need for farmworkers, zoning must be consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.). Specifically, Health and Safety Code 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. Programs should be added or modified to address this statutory requirement.
 - *Emergency Shelters:* While the element includes Program 1 (Housing Needs for Homeless and Special Needs) and acknowledges requirements pursuant to Assembly Bill 139, it must provide analysis to demonstrate whether parking requirements are limited to staff working in the emergency shelters. In addition, given the City has identified one apparently isolated area to accommodate the need for emergency shelters, the element should demonstrate realistic opportunities by evaluating the extent existing uses impede the likelihood of developing an emergency shelter. Finally, the element must list and evaluate development standards and modify programs if appropriate.
 - *Single Room Occupancy:* The element must identify zoning to encourage and facilitate these uses or add or modify programs 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).

Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types including lot sizes, heights and parking for all zones. The analysis must also evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities and include programs to address or remove any identified constraints as appropriate.

Processing and Permit Procedures: The element includes some information about the design review process and review by the Planning Commission and City Council; however, it must analyze these processes. An analysis should evaluate the typical number of hearing and approval findings for impacts on housing cost, timing, number of units and most importantly, approval certainty. For example, without objective standards, review standards such as compatibility may impact certainty, timing, cost and the number of units. In addition, the City appears to regularly use an Area Development Plan (ADP) and master plan of development process—essentially requiring a specific plan on a site or area basis. The element should discuss this process, evaluate impacts on housing cost, timing and approval certainty and add or modify programs as appropriate.

Building Codes: The element must describe which building code the City enforces, including any local amendments, and analyze their impact as potential constraints on housing supply and affordability.

On/Off Site Improvements: The element must list and analyze standard improvement requirements, such as minimum street widths, and analyze their impact as potential constraints on housing supply and affordability.

Fees: While the element includes a general analysis of fees and provides a list of residential filing fee schedule, it must include a cumulative analysis and describe all required fees for single family and multifamily housing development, including impact fees, and analyze their impact as potential constraints on housing supply and affordability. 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, development standards and fees for each parcel on the jurisdiction's website.

Housing for Persons with Disabilities: While the element identifies how community care facilities serving six or fewer persons are permitted, it must describe and analyze how community care facilities serving seven or more persons are approved including

any approval findings. The element (p. 114) states community care facilities must have a valid business license to operate. The element should analyze the process and requirement as potential constraints on housing for persons with disabilities and add or modify programs as appropriate. The element must ensure zoning permits group homes for seven or more persons objectively with approval certainty. Secondly, the element must analyze the reasonable accommodation procedure Chapter 23.30.040 Application Section (1)(e) "Whether the requested accommodation would result in a detriment to the surrounding neighborhood," as a potential constraint on housing supply and affordability. The element must demonstrate these processes and provisions are not a constraint and add or modify programs to address and remove or mitigate these constraints.

Local Ordinances: The element must specifically analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development. The analysis should demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.

SB 35 Streamlined Ministerial Approval Process: The element must describe the availability of written procedures for the SB 35 streamlined, ministerial approval process or include a program as appropriate.

6. *Analyze existing assisted housing developments that are eligible to change to nonlow-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 identifies Emerald Villas and Pioneer Villas that are at risk of converting from affordable to market-rate uses during the next 10 years; however, the element must include analysis. The element must estimate and analyze the costs of replacement versus preservation for units at risk in the current planning period, list qualified entities with the capacity to acquire multifamily developments at-risk and modify Program 7 (Affordable Housing Preservation) 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 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 have a beneficial impact in the planning period and meet the goals and objectives of the housing element, programs must have specific commitment and timelines toward tangible outcomes. The element includes Programs 1 (Housing for Homeless and Special Needs) and 16 (Accessory Dwelling Units) that include a timeline of three years from adoption of the housing element. These programs should be revised to include initiation dates (within two years) resulting in beneficial impacts within the planning period. Examples of additional programs to be revised include:

- *Program 1 (Housing for Homeless and Special Needs)* commits to “potential” amendments. However, these amendments are clearly required and roving language should be removed.
- *Program 2 (Disabled Housing Program)* must commit to definite time frames for implementation (e.g., within two years) and a schedule of steps the City will take to support a disabled housing program such as proactive outreach with developers.
- *Program 4 (Shared Housing)* should commit to actions beyond establishing membership toward actual outcomes in the planning period.
- *Program 6 (Re-establish Residential Assistance)* should commit to how often the City will pursue alternative financing options.
- *Program 8 (Density Bonus)* should be revised to include specific commitment and timeline for amending the City’s ordinance in compliance with State Density Bonus Law.

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 A4, the element does not include a complete site analysis. 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:

Rezone Program for Adequate Sites: The element appears to rely on rezoning of sites (Table B-2) to accommodate the regional housing need, including for lower-income households; however the element must include a program to identify sites and make

appropriate zoning available to accommodate the RHNA by income group within the planning period. Rezoning programs to accommodate the RHNA must identify the shortfall of sites, minimum acreage to be rezoned, candidate sites for rezoning and completion dates. Rezoning programs to accommodate the RHNA for lower-income households must meet all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). Examples include nondiscretionary approval, requiring minimum densities, permitting at least 16 units per site and residential performance standards.

Transitional and Supportive Housing: The element must include or modify a program to amend the zoning ordinance to permit transitional and supportive housing as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone.

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).)*

Assist in Development Program: The element must include a program(s) with specific actions and timelines to assist in the development of housing for extremely low-income households. 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; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers.

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 finding A5, the element requires a complete analysis of potential governmental 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. *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 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 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.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

While the element includes *Program 16 (Accessory Dwelling Units)* that commits to amend municipal code to reflect current state law, it must be revised to also incentivize and promote the creation of ADU’s. The element is required to include a program that incentivizes or promotes ADU development for very low-, low-, and moderate-income households. This can take the form of flexible zoning requirements, development standards, or processing and fee incentives that facilitate the creation of ADUs, such as reduced parking requirements, fee waivers and more. Other strategies could include developing information packets to market ADU construction, targeted advertising of ADU development opportunities or establishing an ADU specialist within the planning department.

C. 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 should also summarize how comments were considered and incorporated into the element.