

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

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February 11, 2022

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

Dear Cheryl Kitzerow:

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

Thank you for submitting the City of Menifee's (City) revised draft housing element which was received for review on December 14, 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. HCD understands the element was recently adopted. While HCD received notification of adoption, it has not received a copy of the adopted element for review. The City should promptly submit the adopted element pursuant to Government Code section 65585, subdivision (g)

The draft housing element addresses many statutory requirements described in HCD's November 15, 2021, review; however, revisions are necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code) as follows:

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))*

Sites Inventory: While the revised element includes a summary of the local contributing factors in relation to the sites inventory, as stated in HCD's prior review, the element must analyze whether continuing to site housing in the northeast area will exacerbate conditions. For example, the element states on page 3-83 "The northern portion of the northeast quadrant experiences the lowest resource and opportunity classification in the city." The element should include programs to address how the City will improve conditions in the northeast section of the City. The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis.

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).)

Realistic Capacity: While the element includes examples of affordable housing projects from nearby jurisdictions on page B-5, the element as stated on HCD's prior review could list other projects since the City's incorporation, the zone, acreage, built density, allowable density, and level of affordability.

Suitability of Nonvacant Sites: The element includes some additional discussion of the various categories of sites, market conditions and lists some recent redevelopment activity. However, the element should still include analysis of the extent existing uses impede additional development. For example, the element describes various factors utilized to identify high potential sites but does not appear to reflect all of those factors in the inventory. Further, the element lists recent trends but should also utilize those trends to support the validity of factors used to determine potential. The City may also consider adding additional factors to support redevelopment potential such as whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment. Please see HCD's prior review for additional information.

Zoning for Lower-Income Households: While the element includes development examples of affordable housing developments in the region, it still does not include an analysis demonstrating how 24 du/acre promotes the financial feasibility of housing affordable to lower-income households. As stated in the prior review, the city could consult with local affordable housing developers to understand what densities are appropriate to facilitate housing affordable to lower-income development in the Menifee area.

Large Sites: While the element revised Program Action 29 to state "it will incentivize housing on large sites based on a housing market and impact study", the element must further provide commitment actions that will facilitate the development of affordable housing on identified large sites in addition to the creation of incentives based on a study. Please see HCD's prior letters for more information.

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, 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).)

Constraints on Housing for Persons with Disabilities: While the element revised Program Action 24 on pages 4-16 (Housing for People with Disabilities) to review Title 9 and amend the Development Code to update the Reasonable Accommodation provisions to address potential constraints, it is not clear if the element will 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 program should be revised to clarify the city’s commitment. In addition, as stated on HCD’s August 20, 2021, letter the element should also provide information on who is the “approving authority” for reasonable accommodation requests.

4. *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).)*

Program Action 3 (Rezone Program to Accommodate Low and Very Low Income Regional Housing Needs Allocation(RHNA)): While the element commits to rezone sites to accommodate a shortfall of sites for lower income RHNA, it was not revised to address all by-right requirements. The program must commit to rezone to the following standards:

- Minimum of 16 units per site;
- Minimum density of 20 units per acre;
- At least 50 percent of identified shortfall is accommodated on residential only zoned sites, or up to 100 percent of the identified shortfall can be met on mixed-use sites if the mixed-use zoning allows both
 - 100 percent of a development to be residential; and
 - requires a minimum of 50 percent of the square footage in a mixed-use development to be residential; and permits owner-occupied and rental multifamily residential use by-right for developments in which at least 20 percent of the units are affordable to lower-income households during the planning period.

Program Action 24 (Housing for Persons with Disabilities): While the program is revised to amend the Menifee Municipal Code and state that the City will permit Group Residential Facilities and Residential Day Care (seven or more persons) with a conditional use permit (CUP) or by right in Rural Residential zones in conformance with State Law, as stated in HCD's prior review, the element should specifically analyze the constraints for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and modify this program as appropriate.

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).)*

Program Action 32 (Affirmatively Furthering Fair Housing (AFFH)) and Program Action 33 (Fair Housing Program): The element revised both Program Actions 32 and 33; however, as stated in HCD's prior review, the element must include measurable and specific actions metrics and milestones to target meaningful outcomes 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.

The element will meet the statutory requirements of State Housing Element Law once it has been revised to comply with the above requirements.

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 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.

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 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).

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.

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 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 Tristan Lanza, of our staff, at tristan.lanza@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a stylized flourish at the end.

Melinda Coy
Senior Accountability Manager