

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

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September 3, 2021

Joann Lombardo, Director
Department of Community Development
City of Chino Hills
14000 City Center Drive
Chino Hills, CA 91709

Dear Joann Lombardo:

RE: Review of Chino Hills's 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting Chino Hills's (City) draft housing element received for review on July 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.

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.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of October 15, 2021 for Southern California Association of Governments (SCAG) 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 is committed to assisting Chino Hills in addressing all statutory requirements of State Housing Element Law and appreciates your efforts as well as consultants Jennifer Murillo and David Bergman in the preparation of your draft element. If you have any questions or need additional technical assistance, please contact Gerlinde Bernd at Gerlinde.Bernd@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Land Use & Planning Unit Chief

Enclosure

APPENDIX CITY OF CHINO HILLS

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).)

Special Housing Needs: The element must provide an explanation of the cumulative effectiveness of actions in addressing the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers and persons experiencing homelessness).

Adequate Sites Rezone: To demonstrate adequate sites for the prior planning period, the prior element included Measure 1.1 (p. C-2) to rezone sites and accommodate the shortfall of appropriately zoned sites to accommodate the regional housing need for lower-income households. While sites appear to have been rezoned, the element must also demonstrate the sites were available for development since, based on the discussion in the element, some rezoning appears to be related to projects. The element must also demonstrate rezoning complied with the requirements of Government Code section 65583.2, subdivisions (h) and (i). For example, while the element indicates the residential capacity of the rezoned sites, it must also demonstrate the rezoned sites have a site capacity of at least 16 units, permit rental and owner multifamily development without discretionary review at minimum densities of 20 dwelling units per acre, and that at least at least 50 percent of the very low- and low-income housing need shall be accommodated on sites designated for exclusive residential uses or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

The element must also demonstrate the sites were rezoned during the prior planning period which ends October 15, 2021. (Gov. Code, §§ 65585 and 65588.) If the element does not demonstrate compliance with the statutory requirements, it must include a program to accommodate the unaccommodated need within the first year of the planning period. For additional information, go to <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

B. Housing Needs, Resources, and Constraints

1. *An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low-income households... (Gov. Code, § 65583, subd. (a)(1).)*

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).)

Extremely Low-Income Households (ELI): While the element quantifies existing and projected ELI households, it must also analyze their housing needs. For example, the element could analyze trends, tenure, cost burden, overcrowding and other household characteristics then examine the availability of resources to determine gaps in housing needs. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

Housing Conditions: The element identifies the age of the housing stock. However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from other organizations. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

2. *Affirmatively further[ing] fair housing (AFFH) in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

Assessment of Fair Housing: While the element includes some maps and reporting of data as well as noting the absences of racially and ethnically concentrated areas of poverty, it generally does not address this requirement. The element must include analysis of segregation and integration, particularly disability, familial status and income, concentrated areas of affluence, individual components of access to opportunity and disproportionate housing needs, including displacement risk.

Other Relevant Factors: The element provides useful information on demographics and lending patterns but should include other relevant factors such as historical governmental and nongovernmental land use, zoning and investment practices (e.g., infrastructure).

Site Inventory: The element includes some general discussion and conclusions that identified sites for lower-income households are dispersed throughout the City include analysis to support these conclusions, including the number of units per site by income group for each of the AFFH categories relative to the existing patterns (number of households), impacts on patterns of disproportionate housing needs (e.g., overpayment, overcrowding, displacement).

Goals, Priorities, 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 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.

3. *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 Needs Allocation (RHNA) Progress: The City's RHNA may be reduced by the number of new units pending, approved, permitted or built since July 1, 2021 by demonstrating availability and affordability based on rents, sale prices or other mechanisms ensuring affordability (e.g., deed restrictions). The element lists units affordable to lower- and moderate-income households (p. B-39) but must also demonstrate affordability as described above.

Realistic Capacity: The element utilizes various assumptions as a percent of maximum allowable densities to calculate residential capacity on identified sites but does not support these assumptions. For example, utilized densities do not appear consistent with recent multifamily developments (p. 69). The element should include additional and clear supporting information on typical densities of existing or approved residential developments at a similar affordability level. For example, the element could clearly list other recent projects, the zone, acreage, built density, allowable density, level of affordability and presence of exceptions such as a density bonus.

Large Sites: Sites larger than ten acres in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. Based on communication between HCD and the City, the large sites included in the inventory are anticipated to be parceled in the near future into sizes that are considered appropriate to encourage housing for lower income households. As a result, the element should include discussion of these efforts and programs as appropriate.

Nonvacant Sites: The housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower income households. For your information, the housing element 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.

Accessory Dwelling Unit (ADU) Trends: The element relies on 457 ADUs to accommodate a portion of the City's RHNA, including for lower-income households. The element appears to rely on the number of ADU applications and plan check submittals. While this information may be utilized to inform the potential for ADUs in the planning period, the analysis should be based on permitted ADUs and the other information should be ancillary to permitted ADUs. For your information, HCD records indicate permitted ADUs of 5 in 2020 and has no records for 2018 and 2019. The element should reconcile these numbers and adjust assumptions as appropriate.

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. The element should clarify if sites were identified in prior planning periods and if so, which sites and include a program if utilizing previously identified sites in the current planning period. 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>.

Zoning for Variety of Housing Types:

- *Emergency Shelters:* The element describes that the Business Park zone permits emergency shelters without discretionary action. The element should also describe development standards. For example, the element must address 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.
- *Permanent Supportive Housing and Low Barrier Navigation Centers:* Permanent supportive housing and low barrier navigation centers 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 sections 65651 and 65660. The element must demonstrate compliance with these requirements and include programs as appropriate.
- *Housing for Agricultural Employees:* The element must demonstrate zoning in compliance with the Employee Housing Act, specifically Health and Safety Codes sections 17021.5, 17021.6 and 17021.8. For example, 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. The element must demonstrate compliance with these zoning requirements or include programs to amend zoning as appropriate.

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.

4. *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. (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls: The element must identify and analyze all relevant land-use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land-use controls independently and cumulatively with other land-use controls. The analysis should specifically address requirements related to parking and heights. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

State Density Bonus Law: While the element describes the City has recently utilized density bonuses, it should also discuss whether the City complies with State Density Bonus Law (Gov. Code, § 65915) and include programs as appropriate.

Building Codes and Enforcement: The element must describe and analyze which building code (e.g., 2019) is enforced, any local amendments to the building code and their enforcement for impacts on housing supply and affordability. For additional information and a sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/codes-and-enforcement-on-offsite-improvement-standards.shtml>.

Site Improvements: The element must identify subdivision level improvement requirements, such as minimum street widths (e.g., 40 foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability. For additional information and a sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/codes-and-enforcement-on-offsite-improvement-standards.shtml>.

Fees and Exactions: The element must 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. For additional information and a sample analysis and tables, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/fees-and-exactions.shtml>.

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined

Ministerial Approval Process and add a program to address these requirements if necessary.

Constraints on Persons with Disabilities: The element must analyze potential constraints on housing for persons with disabilities. Specifically, the element must include analysis and programs, as appropriate, to address procedures for group homes for seven or more persons. For example, group homes for seven or more persons are subject to a minor use permit, unlike other similar uses. The element should specifically analyze this constraint for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.

Zoning, Development Standards and Fees: The element must clarify compliance with new transparency requirements for posting all zoning, development standards and fees on the City's website and add a program to address these requirements, if necessary.

Water Sewer Priority: 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.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The element should discuss compliance with these requirements and if necessary, add or modify programs to establish a written procedure by a date early in the planning period. 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>.

5. *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. (Gov. Code, § 65583, subd. (a)(6).)*

The element must analyze 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

6. *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 includes some general quantification; however, should include analysis of households with special housing needs. The analysis should include, but is not limited to,

factors such as household income, tenure, housing types, zoning, and available resources. Specifically, the element should address tenure for elderly households and large households and permanent and seasonal farmworkers (e.g., USDA county level data). For additional information and a sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/large-families-female-head-household.shtml>.

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).)*

To have a beneficial impact in the planning period and address the goals of the housing element, programs must be revised with discrete timelines. Programs to be revised include Actions H-2.1 (Additional Grant Funds), H-2.2 (Mobilehome Parks), H-4.1 (Partner with Affordable Developers), H-4.2 (Identify Locations), H-4.3 (Seek Grant Funds) and H-4.1.4 (Expand Accessibility).

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 B3, 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. In addition:

Policy H-1.1 (Rezone Program): The element includes Policy H-1.1 to rezone sites to accommodate housing for lower-income households. The program must meet all the requirements of Government Code section 65583.2, subdivisions (h) and (i). Specifically, the program must commit to permit owner-occupied and rental multifamily uses by-right

for developments in which 20 percent or more of the units are affordable to lower income households.

Action H-1.5.5 (ADU Monitoring): The program should commit to monitor permitted ADUs and affordability every other year and take appropriate action such as adjusting assumptions or rezoning within a specified time (e.g., 6 months).

City-Owned Sites: Given the element includes City-owned sites toward the RHNA for lower-income households, it should include a schedule of actions to facilitate development such as outreach, requests for proposals, facilitating entitlement and assisting with funding.

Infrastructure: The element notes the City will be undertaking master plans for water and sewer capacity and as a result should include a program to complete the master plans and take steps as appropriate to insure adequate planned capacity to accommodate the RHNA.

Previously Identified in Prior Planning Periods: If utilizing sites identified in prior planning period(s), the element must include a program for vacant sites identified in two of more consecutive planning periods' housing elements or nonvacant sites identified in a prior housing element, that are currently identified to accommodate housing for lower-income households. The program must be implemented within the first three years of the planning period and commit to zoning that will meet the density requirements for housing for lower-income households and allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower-income households. (Gov. Code, § 65583.2, subd. (c).)

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).)*

While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable to ELI and all special needs households. Program actions could include prioritizing some funding for housing developments affordable to ELI households and offering financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, single-room occupancy (SRO) units, to address the identified housing needs for ELI 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 B4 and B5, 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 to address and remove or mitigate any identified constraints.

5. *Promote AFFH opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B2, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. For additional guidance on program requirements to AFFH, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

6. *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).)*

Policy H-2.4 (Maintaining Affordability) should be revised with specific commitment to comply with noticing requirements, coordinate with qualified entities to purchase properties and provide education and support to tenants. In addition, the element should identify qualified entities. For more information, see HCD's webpage at <https://www.hcd.ca.gov/policy-research/preserving-existing-affordable-housing.shtml>.

D. Public Participation

Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort. (Gov. Code, § 65583, subd. (c)(9).)

While the element describes community meetings and the City's website, moving forward, the City should employ additional methods for public outreach efforts, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts. In addition, the element should also summarize future public comments and describe how they were considered and incorporated into the element.