

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

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January 28, 2022

Travis Clark, Director
Community Development Department
City of Twentynine Palms
6136 Adobe Road
Twentynine Palms, CA 92277

Dear Travis Clark:

RE: City of Twentynine Palms' 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Twentynine Palms' (City) draft housing element received for review on November 29, 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 January 25, 2022 with you and your consultant Nicole Criste of Terra Nova Planning and Research. In addition, HCD considered comments from the Morongo Basin Conservation Association 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 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 appreciates the work of the housing element team during 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 Reid Miller, of our staff, at Reid.Miller@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Programs Manager

Enclosure

APPENDIX CITY OF TWENTYNINE PALMS

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).)

As part of the review of programs in the past cycle, the element must also provide an evaluation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers and persons experiencing homelessness). Programs should be revised as appropriate to reflect the results of this evaluation.

B. Housing Needs, Resources, and Constraints

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

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 explains some broad outreach related to the housing element (p. A-3); however, outreach should be specific to AFFH. For example, the outreach could specifically target fair housing organizations or neighborhoods with relatively concentrated poverty for input related to housing and community development needs and access to opportunities such as education and transportation. Further, the element mentions the regional analysis of impediments to fair housing choice (AI) but could summarize and tailor outreach from that process to formulate appropriate programmatic response. Also, HCD received public comments regarding short term rentals and fair housing issues. The element should incorporate these comments into the assessment of fair housing and goals and actions.

Enforcement: The element lists various fair housing laws and mentions the City periodically reviews policies and codes for compliance with state fair housing laws but should also discuss the results of those reviews, including compliance with existing state and federal fair housing laws and regulations and any past or current fair housing lawsuits, findings, settlements, judgements, and complaints. For additional information, please see pages 28-30 on HCD's AFFH Guidance Memo at <https://www.hcd.ca.gov/community-development/affh/index.shtml>

Disproportionate Housing Needs including Displacement: While the element evaluates patterns and trends related to overpayment; it should still analyze local patterns and characteristics related to substandard housing; persons experiencing homelessness; and displacement risk. For housing conditions, the element indicates that trends related to substandard housing are decreasing but it should also evaluate any patterns of substandard housing within the City. For example, the element makes a brief mention that blight is more prevalent in some areas of town but should expand this discussion related to the characteristics of the housing conditions and severity of disproportionate housing needs in different areas of town and coincidence with other factors of the assessment of fair housing. For persons experiencing homelessness, the element should discuss any disproportionate impacts on protected characteristics such as race and disability and access to opportunities such as shelter, services, and other programs. For displacement, the element discusses trends in rates of overpayment but should also address how these trends impact displacement overall for the City, patterns in different areas of the City and coincidence with other factors of the assessment of fair housing.

Sites Inventory: While the element includes some general discussion and conclusions of sites and AFFH, a full analysis should address location, the number of sites and units by all income groups, any isolation of the RHNA by income group and how identified sites by income group impact the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity).

Local Data and Knowledge, and Other Relevant Factors: 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, service providers and other planning documents or processes. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element should analyze historical land use, zoning (e.g., lack of multifamily 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 to Fair Housing Issues: The element identifies many contributing factors to fair housing issues. In addition, based on the outcomes of a complete analysis, the element should re-assess and particularly prioritize these factors to better formulate policies and programs and carry out meaningful actions to AFFH.

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 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) Households: While the element identifies the projected number of ELI households, it must also analyze their existing housing needs. This is particularly important given the unique and disproportionate needs of ELI households. For example, the element should analyze tenure, cost burden and other household characteristics then examine trends and the availability of resources to determine the magnitude of 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>.

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 Costs: While the element includes information on sales prices and rents, information from the American Community Survey does not fully reflect current market conditions and the element should include additional data sources. For example, 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).)*

Sites Inventory: The element aggregate sites for the lower- and moderate-income regional housing need allocation (RHNA) but it must identify the anticipated affordability level for each site identified in the sites inventory. In addition, the element does not appear to list sites to accommodate the RHNA for above moderate-income households. Also, Table HS-47 should list sites by general plan designation. Finally, the map of sites provided on page HS-86 should be revised to identify each site listed in the inventory.

Realistic Capacity: The element must include a methodology to estimate residential capacity on identified sites. 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, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element does not describe the methodology for estimating residential capacity but appears to assume capacity at maximum allowable densities. The element must either provide analysis to support this assumption or recalculate residential capacity based on a methodology as described above.

Large Sites: Sites larger than ten acres in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated large sites are suitable to accommodate housing for lower-income households. A demonstration should be based on past experience in developing sites of an equivalent size and affordability or other evidence. Further, the element should include policies and programs to facilitate development of housing for lower-income households on larger sites. Parcel Number 62313107 and 62313106 are both listed in the sites inventory, presumably to satisfy the City's lower-income RHNA, and are larger than ten acres. While the element included a few examples of multifamily developments (p. 97), it must provide specific examples with the densities, affordability, and size as those sites proposed in the inventory. The element should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income RHNA. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on large sites. Alternatively, the large sites could be moved to accommodate the City's moderate income RHNA without further analysis.

Zoning for Lower-Income Households: The element must demonstrate zoning appropriate to accommodate housing for lower-income households. For communities with densities that meet specific standards (allow at least 30 units per acre for Twentynine Palms), no analysis is required. Otherwise, the element must include an analysis based on, including but not limited to, factors such as market demand, financial feasibility and development experience within identified zones demonstrating how the adopted densities can accommodate housing for lower-income households. The element includes discussion of the zoning allowing 8 and 24 units per acre but should clearly state that 8 units per acre is not being utilized to accommodate the lower-income RHNA. In addition, the element states 24 units per acre is appropriate to accommodate the lower-income RHNA based on the affordability of market rate homes, information from developers and examples of existing multifamily development but must provide information and analysis to support this conclusion. For example, the element should include current information on market rate homes, discuss what information was gathered from developers, particularly related to financial feasibility and additional information of recent experience such as year built and subsidies or market rate development.

Environmental Constraints: The element describes some environmental conditions within the City, but it should also relate those conditions to identified sites and describe any other known environmental or other constraints that could impact housing development on identified sites in the planning period.

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. If appropriate, the element should clarify which sites were identified in prior planning periods and include a program, as described below, if utilizing previously identified sites in the current 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:* The element describes parking requirements for emergency shelters are based on demonstrated need. These requirements do not comply with statutory requirements and programs should be added or modified to address this constraint. Emergency Shelters parking requirements pursuant to AB 139 (Chapter 335, Statutes of 2019) must only be sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone.
 - *Permanent Supportive Housing:* Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and include programs as appropriate.
 - *Employee Housing:* The element must demonstrate zoning in compliance with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone. The element discusses that caretaker units for on-site employees are allowed in several zones, however, zoning should explicitly comply with the Employee Housing Act and program should be added or modified 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... (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 address heights, lot coverage if applicable and parking requirements for multifamily development, particularly smaller bedroom (e.g., studio and one bedroom) types for impacts on cost, supply (number of units) and ability to achieve maximum densities and include programs to address identified constraints.

Local Processing and Permit Procedures: The element provides a description (p. HS-67) of approval processes for multifamily housing developments, and states that multifamily developments larger than ten units require an Administrative Use Permit (AUP), while multifamily developments of twenty-five units or more require a Conditional Use Permit (CUP). This information contrasts with the review of past programs (p. HS-95) where the element reports zoning was amended to permit multifamily uses without discretionary action. The element should reconcile this information and if multifamily uses in multifamily zones are subject to a use permit, the element should include programs to address the constraint. For example, programs should amend zoning and procedures to replace or modify the procedures.

Housing for Persons with Disabilities: The element should identify and analyze any definition of family used in zoning and land use for potential impacts on housing for persons with disabilities.

On-/Off-Site Improvements: The element mentions some requirements for site improvements such as parks, facilities, streets and other improvements but it should identify and analyze the actual standards for impacts on housing cost and supply.

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.

Other Local Ordinances: The element must analyze any locally adopted ordinances that directly impacts the cost and supply or residential development (e.g., inclusionary requirements, short term rentals, growth controls). Specifically, HCD has received public comment regarding the implementation of the City's short term rental ordinance, and the effect that its implementation could have on increasing displacement risk and/or housing costs for long-term renters in the City. Public comment also provided a number of proposals on how to implement a more equitable short-term rental policy. The element should analyze these requirements, consider public comments, and add or modify programs as appropriate.

6. *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).)*

Approval Time and Requests Lesser Densities: The element must include analysis of requests to develop housing at densities below those identified, the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially. The element must address any hinderance on the development of housing and include programs as appropriate.

7. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

Farmworkers: The element indicates on Page HS-27 that there is little, or no farmworkers employed in fulltime farming occupations in Twentynine Palms. However, farmworkers from the broader area and those employed seasonally may have housing needs, including within the City's boundaries. As a result, the element should at least acknowledge the housing needs of permanent and seasonal farmworkers at a county-level (e.g., using USDA county-level farmworker data) and include programs as appropriate.

8. *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 no units are at-risk of converting to market rate uses, however, based on HCD records, the El Paseo Apartments are at-risk of conversion in the next ten years. As a result, the element should list these apartments, analyze the risk of conversion, and add or modify programs as appropriate. HCD will send additional information under separate cover.

C. Housing Programs

1. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B4, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning 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, the element should be revised as follows:

- *Program HS-8 (Downtown Specific Plan)*: In addition to facilitating zoning, the Program should include a schedule of actions to facilitate development on the City-Owned/City Hall site. In addition, the Program should commit to comply with all requirements pursuant to the Surplus Land Act, commencing with Government Code section 54220.
- *Program HS-17 (Community -Wide Sewer and Wastewater Treatment)*: The Program should include specific commitment and discrete timing to pursue funding annually as needed and a schedule of actions to coordinate and pursue infrastructure opportunities with the military installation.
- *Sites Identified in Prior Planning Periods*: If utilizing nonvacant sites identified in the prior planning period, the element must include a program. 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.

2. *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 ELI 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 ELI households; assisting, supporting, or pursuing funding applications; and outreach and coordination with affordable housing developers.

In addition, Programs HS-5 (Affordable Housing Assistance and Development) and HS-11 (Housing for Special Populations) should include discrete timelines (e.g., annually). For Program HS-5, the timeframe should go beyond an annual review and proactively reach affordable developers to identify opportunities on an annual basis. For Program HS-11, in addition to annually with assignment of CDBG funds, the Program, like Program HS-5, should include annual contact with developers to identify opportunities.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings B5 and B6, the element requires a complete analysis of potential governmental and 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.

In addition, Program HS-14 (Residential and Congregate Care Facilities) should go beyond “consider easing some of the locational requirements” and make a specific commitment to remove or reduce locational requirements and ensure zoning does not constraint housing for persons with disabilities. In addition, the Program should make a specific commitment to replace or modify use permit requirements and amend zoning (e.g., allowing in all zones permitting single family uses) to ensure zoning and permit procedure promote approval certainty and objectivity.

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

As noted in Finding B1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis.

D. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

While the element includes objectives for rehabilitation and new construction, the element must also include objectives for conservation and consider conservation objectives beyond at-risk units. For example, conservation objectives could consider Programs HS-7 (Housing Choice Vouchers), HS-4 (Legalize Unpermitted Accessory Structures) and HS-1 (Code Enforcement).

E. 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)(9).)

While the City made considerable effort to include the public through workshops and surveys, moving forward, the City should employ additional methods for public outreach efforts in the future, 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 describe how comments were considered and incorporated into the element.