

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

## DIVISION OF HOUSING POLICY DEVELOPMENT

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



August 30, 2018

Samuel A. Escobar, City Manager  
City of Orange Cove  
633 Sixth Street  
Orange Cove, CA 93646

**RE: Emergency Shelter Zoning Status**

Dear Samuel A. Escobar:

On December 14, 2016, pursuant to Government Code section 65585, subdivision (h), the Department of Housing and Community Development (HCD) reported the results of its review of Orange Cove's adopted 5<sup>th</sup> cycle housing element.

Orange Cove's adopted 5<sup>th</sup> cycle housing element included Adequate Sites Program 5, which committed to zone and permit emergency shelters without discretionary action within one year of housing element adoption pursuant to Gov. Code section 65583, subd. (a)(4)(A).

On May 7, 2018, HCD issued correspondence requesting current status on the implementation of program actions. HCD has not received a response. Orange Cove's housing element remains out of compliance until the city fully implements Adequate Sites Program 5. Additional information regarding Orange Cove's housing element compliance can be found in HCD's December 14, 2016 correspondence, which is attached for your reference.

Please be aware housing element law and other housing-related laws have been changed or added and took effect January 1, 2018. For more information, see HCD's website at <http://www.hcd.ca.gov/policy-research/lhp.shtml>.

Information regarding emergency shelters and zoning requirements can be found on HCD's website at: <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/SB2-Memo050708.pdf>.

In 2017, the Governor signed the 2017 Legislative Housing Package, which provides a renewed focus on housing, one of the most basic needs for every Californian. Chapter 370 Statutes of 2017, Assembly Bill (AB) 72, became law as part of this package. AB 72 expands and clarifies HCD's enforcement by authorizing HCD to find a jurisdiction out of compliance with state housing law at any time. HCD will review local government's

actions and inactions, including program actions committed within an adopted housing element, to determine consistency or inconsistency with state housing law. If HCD makes findings of inconsistency, housing element compliance may be revoked and additional actions may be taken, including referral to the Attorney General's Office.

Compliance with housing element law and taking actions consistent with the housing element are valuable steps in meeting the housing needs of the community. In addition, housing element compliance is a consideration for many state and regional funding programs, including the Infill Infrastructure Grant Program, Housing Related Parks Program, CDBG, HOME, and CalTrans SB 1 grants. If you have questions or need additional information, contact Jess Negrete, Policy Analyst, at (916) 263-7437.

Sincerely,



Zachary Olmstead  
Deputy Director

Enclosure

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December 14, 2016

Mr. Sam Escobar, City Manager  
City of Orange Cove  
633 Sixth Street  
Orange Cove, CA 93646

Dear Mr. Escobar:

**RE: Review of Orange Cove's 5<sup>th</sup> Cycle (2015-2023) Adopted Housing Element**

Thank you for submitting Orange Cove's adopted housing element which was received for review on September 15, 2016. Pursuant to Government (GC) Code Section 65585(h), the Department is reporting the results of its review.

The adopted element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (GC, Article 10.6). Specifically, while the element now meets CDBG eligibility requirements for the housing element, it must still be revised to address some of the findings in the Department's June 29, 2016 review (enclosure). The following is still necessary to comply with State housing element law (GC, Article 10.6):

- 1. Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

No revisions were received regarding the following findings from the prior review of the draft housing element. Please see the prior review

- Regional Housing Need Allocation
- Annexation
- Zoning for Lower Income Households
- Realistic Capacity
- Zoning for a Variety of Types (Emergency Shelters)

2. *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 (Section 65583(a)(7)).*

**Special Needs:** Please see the Department's prior review regarding persons with disabilities, including developmental. For additional information see the Department's Building Blocks at [http://www.hcd.ca.gov/housing-policy-development/housing-element/hn\\_shn\\_home.php](http://www.hcd.ca.gov/housing-policy-development/housing-element/hn_shn_home.php).

3. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in Finding 1, 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. While the element now includes a program to rezone sites, if being utilized to address a shortfall of capacity for lower-income households, this program must address requirements pursuant to Section 65583(c)(1) and 65583.2(h) and (i) such as permitting multifamily uses without discretionary action, a minimum of 16 units per site, minimum densities and 50 percent of sites for the lower-income need on sites designated for residential use only.

In addition, the element must still be revised to address the following findings from the prior review:

- Emergency Shelters
- Transitional and Supportive Housing

The element will comply once revised to address the above findings and re-adopted and submitted to the Department.

Please note the due date for the City to revise its next element is December 31, 2019. Senate Bill 375, (Chapter 728, Statutes of 2008), amended GC Section 65588(e)(4) to require a jurisdiction that failed to adopt its housing element within 120 calendar days from the statutory due date to revise its element every four years until adopting at least two consecutive revisions by the applicable due dates. For information on housing element adoption requirements, please visit our Department's website at:  
[http://www.hcd.ca.gov/hpd/SB375/sb375\\_final100413.pdf](http://www.hcd.ca.gov/hpd/SB375/sb375_final100413.pdf)

The Department is committed to assisting the City in addressing all statutory requirements of housing element law and extends its partnership in ongoing implementation. If you have any questions or need technical assistance, please contact Paul McDougall, of our staff, at (916) 263-7420.

Sincerely,



Glen A. Campora  
Assistant Deputy Director

Enclosure

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June 29, 2016

Mr. Sam Escobar, City Manager  
City of Orange Cove  
633 Sixth Street  
Orange Cove, CA 93646

Dear Mr. Escobar:

**RE: Review of Orange Cove's 5<sup>th</sup> Cycle (2015-2023) Draft Housing Element**

Thank you for submitting the City of Orange Cove's draft housing element received for review on May 10, 2016. Pursuant to Government Code (GC) Section 65585(b), the Department is reporting the results of its review.

The draft element meets many statutory requirements; however, further revisions will be necessary to comply with State housing element law (GC, Article 10.6). The enclosed Appendix describes revisions needed to comply with State housing element law.

To remain on an eight-year planning cycle, pursuant to Senate Bill 375 (Chapter 728, Statutes of 2008) the City must have adopted its housing element within 120 calendar days from the statutory due date of December 31, 2015 for Fresno COG localities. Since the element will be adopted after this date, GC Section 65588(e)(4) requires the element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For information on housing element adoption requirements, visit our website at: [http://www.hcd.ca.gov/hpd/hrc/plan/he/he\\_review\\_adoptionsteps110812.pdf](http://www.hcd.ca.gov/hpd/hrc/plan/he/he_review_adoptionsteps110812.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 of Orange Cove must 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.

Also, on January 6, 2016, HCD released a Notice of Funding Availability (NOFA) for the Mobilehome Park Rehabilitation and Resident Ownership Program (MPROP). This program replaces the former Mobilehome Park Resident Ownership Program (MPROP) and allows expanded uses of funds. The purposes of this new program are to loan funds to facilitate converting mobilehome park ownership to park residents or a qualified nonprofit corporation, and assist with repairs or accessibility upgrades meeting specified criteria. This program supports housing element goals such as encouraging a variety of

housing types, preserving affordable housing, and assisting mobilehome owners, particularly those with lower-incomes. Applications are accepted over the counter beginning March 2, 2016 through March 1, 2017. Further information is available on the Department's website at: <http://www.hcd.ca.gov/financial-assistance/mobilehome-park-rehabilitation-resident-ownership-program/index.html> .

The Department appreciates the City's effort and cooperation in preparation of the housing element and looks forward to receiving Orange Cove's adopted housing element. If you have any questions or need additional technical assistance, please contact Paul McDougall, of our staff, at (916) 263-7420.

Sincerely,



Glen A. Campora  
Assistant Deputy Director

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## APPENDIX CITY OF ORANGE COVE

The following changes would bring Orange Cove'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 the Department's website at [www.hcd.ca.gov/hpd](http://www.hcd.ca.gov/hpd). Among other resources, the Housing Element section contains the Department's latest technical assistance tool, Building Blocks for Effective Housing Elements (Building Blocks), available at [www.hcd.ca.gov/hpd/housing\\_element2/index.php](http://www.hcd.ca.gov/hpd/housing_element2/index.php) and includes the Government Code addressing State housing element law and other resources.

### **A. Housing Needs, Resources, and Constraints**

- 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 (Section 65583(a)(2)).*

While the element includes some information on extremely low income households, overcrowded households and households overpaying, it should include additional quantification and analysis. For example, the element must quantify and analyze the number of overcrowded households by tenure (i.e., renter and owner) and lower-income households paying more than 30 percent of their income on housing. For additional information and sample analysis, see the Building Blocks at [http://www.hcd.ca.gov/hpd/housing\\_element2/EHN\\_Overpayment.php](http://www.hcd.ca.gov/hpd/housing_element2/EHN_Overpayment.php).

- 2. Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

Regional Housing Need Allocation: Table 31 (Regional Housing Need Allocation) indicates a projected housing need of 669 units for Orange Cove. The projected need by income group (i.e., Very Low and Low) should be evaluated and revised as appropriate for consistency with the final regional housing needs allocation plan.

Annexation: The housing element appears to utilize sites within a pending annexation area to accommodate housing need for lower-income households. Specifically, the approximately 9 acres identified in Table 35 appear to be the only appropriately sized sites with zoning deemed appropriate to accommodate housing needs for lower-income households.

If utilizing these sites, the element must include an evaluation of the suitability of the annexed sites, including the following information:

- Consistency with LAFCO policies;
- Actions to pre-zone prior to annexation;
- Timeline to complete annexation early enough in the planning period to facilitate development of annexed sites (e.g., within two years from start of planning period); and
- Programs committing to anticipated timelines and action to rezone alternative sites if annexation is not completed as anticipated.

If not utilizing these R-3 zoned sites, the City may utilize other sites within existing boundaries. For example, nonvacant sites or existing nonresidential zoned sites within the current boundaries could be re-zoned to appropriate residential zoning designations and densities to accommodate the regional housing need. If choosing these alternatives, the element must describe the suitability of these sites and include programs committing to completing the rezoning early in the planning period (e.g., within three years of the beginning of the planning period). For additional information, see the *Building Blocks* at [http://www.hcd.ca.gov/hpd/housing\\_element2/SIA\\_land.php](http://www.hcd.ca.gov/hpd/housing_element2/SIA_land.php).

**Zoning for Lower-Income Households:** If relying on densities less than 20 units per acre (e.g., R-2 zoned sites) to accommodate the housing needs of lower-income households, the housing element must provide analysis that demonstrates the appropriateness of zoning to accommodate the lower-income need. The analysis must include, but is not limited to, factors such as market demand, financial feasibility and development experience. Additional information can be found at our Department's website [http://www.hcd.ca.gov/hpd/housing\\_element2/SIA\\_zoning.php#zoning](http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#zoning).

**Realistic Capacity:** The element indicates development capacity was estimated on sites in the inventory based on size of the parcel, density allowed per zoning and the amount of land remaining after subtracting for right of way purposes (pages 71 and 78). However, the element should also include analysis to support this assumption and account for other land use controls such as describing recently built densities. For additional information, see the *Building Blocks* at [http://www.hcd.ca.gov/hpd/housing\\_element2/SIA\\_zoning.php](http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php).

**Infrastructure:** The element includes some discussion of infrastructure capacity. However, it should describe whether sufficient capacity exists and is planned to accommodate the total regional housing need and include programs as appropriate.

**Zoning for a Variety of Housing Types (Emergency Shelters):** Based on communication with the City, zoning will be amended to permit emergency shelters without discretionary action in the M-1 and M-2 zones. The element must include an analysis of the appropriateness of the zones and demonstrate sufficient capacity to accommodate the need for emergency shelters (Section 65583(a)(4)). For example, identifying other

permitted uses, the number of parcels, typical parcels sizes, whether the sites are nonvacant, and the potential capacity for adaptive reuse. For additional information and a sample analysis, see the *Building Blocks* at [http://www.hcd.ca.gov/hpd/housing\\_element2/SIA\\_variety.php#Emergency](http://www.hcd.ca.gov/hpd/housing_element2/SIA_variety.php#Emergency).

3. *Analyze 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 (Section 65583(a)(5)).*

**Codes and Enforcement:** The element must describe building codes and their enforcement, including whether the City is utilizing the current building code, any local amendments to the building code, 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/hpd/housing\\_element2/CON\\_offsite.php](http://www.hcd.ca.gov/hpd/housing_element2/CON_offsite.php).

**Second Units:** The element should evaluate development standards for second units and add or revise programs as appropriate to address constraints. Particularly, the element should evaluate the occupancy limits for immediate family members and could amend Program 8 (page 124) to address any potential constraint.

4. *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 (Section 65583(a)(7)).*

**Special Needs:** The identification and analysis of special needs should be expanded beyond the basic information and general description of the various groups. Specifically, the housing element should include a detailed quantification and analysis and programs as appropriate for persons with disabilities, including developmental and farmworkers. For additional information see the Department's Building Blocks at [http://www.hcd.ca.gov/housing-policy-development/housing-element/hn\\_shn\\_home.php](http://www.hcd.ca.gov/housing-policy-development/housing-element/hn_shn_home.php).

## **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 (Section 65583(c)).*

Some programs indicate "ongoing" implementation status. While this may be appropriate for some programs, programs with quantified objectives or specific implementation

actions must include more discrete timelines (e.g., annual, bi-annual) resulting in beneficial impacts within the planning period. Examples of programs needing revision are Program 7 (page 115: incentives for infill development), Program 6 (page 119: rehabilitation program), Program 9 (page 124: incentives for tax credits) and Program 1 (page 125: fair housing program). See the Building Blocks [http://www.hcd.ca.gov/hpd/housing\\_element2/PRO\\_overview.php](http://www.hcd.ca.gov/hpd/housing_element2/PRO_overview.php).

2. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in Finding A2, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition:

***Emergency Shelters:*** The element includes a program to amend zoning to permit emergency shelters without discretionary action. However, zoning for emergency shelters was required to be completed within one year from the adoption of the prior element. As a result, the element will not be in full compliance with statutory requirements until zoning is completed for emergency shelters pursuant to GC Section 65583(c)(4)).

***Transitional and Supportive Housing:*** The element includes a program to amend zoning to permit transitional and supportive housing as a residential use in some zones. For your information, transitional and supportive housing should be a residential use in all zones allowing residential uses.

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 (Section 65583(c)(2)).*

The element should include additional specific actions and timelines to assist in the development of housing for lower and moderate-income households. Examples include priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to lower and moderate income households; assisting, supporting or

pursuing funding applications, and coordinating with housing developers. While the element includes some programs, it should be revised with additional actions. For additional information, see the Building Blocks at [http://www.hcd.ca.gov/hpd/housing\\_element2/PRO\\_assist.php](http://www.hcd.ca.gov/hpd/housing_element2/PRO_assist.php).

4. *The housing element shall contain programs which address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing (Section 65583(c)(3)).*

As noted in Finding A3, the element requires a complete analysis of potential governmental constraints. Depending upon results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

5. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) 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 (Section 65583(c)(6)).*

While the element includes Program 2 (page 121) to monitor at-risk units, it must add or modify program(s) with specific and proactive actions to preserve the at-risk units. For example, the program could support applications by nonprofits for funding to purchase at-risk units, strengthen relationships with the listed nonprofits and develop a plan or strategy for quickly moving forward in the case units are noticed to convert to market-rate uses in the planning period, and consider pursuing funding on at least an annual basis. The program could also commit to contacting non-profits immediately to develop a preservation strategy by a date certain and be ready to quickly act when notice of conversion is received and monitoring the units to ensure tenants receive proper notifications. For additional information and a sample program, see the *Building Blocks* at [http://www.hcd.ca.gov/hpd/housing\\_element2/PRO\\_atrisk.php](http://www.hcd.ca.gov/hpd/housing_element2/PRO_atrisk.php).

Also, the element could consider expanding its list of qualified entities to preserve at-risk units. More information can be found at <http://www.hcd.ca.gov/housing-policy-development/housing-resource-center/technical/presrv/>.

## **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 (Section 65583(c)(8)).*

While the housing element includes a general summary of the public participation process, it should also describe comments received and how those comments are incorporated into the document.

#### **D. Other**

As noted in the Department's memo (at below link), the Department encourages Orange Cove to consider the San Joaquin Valley Fair Housing and Equity Assessment as part of the housing element update and utilize various resources available to the City, including mapping and GIS services. The housing element is a tremendous opportunity to evaluate demographic patterns, housing needs, identification of sites and potential strategies to affirmatively further fair housing. The Department welcomes the opportunity to work with the City to develop innovative approaches to meet its housing and community development needs. For more information and sample programs, please contact the Department and see our website at <http://www.hcd.ca.gov/housing-policy-development/docs/san-joaquin-fair-housing020915.pdf>.

In addition, some other elements of the general plan must be updated on or before the next adoption of the housing element. The safety and conservation elements of the general plan must include analysis and policies regarding fire and flood hazard management (GC Section 65302(g)). Also, the land-use element must address disadvantaged communities (unincorporated island or fringe communities within spheres of influence areas or isolated long established "legacy" communities) based on available data, including, but not limited to, data and analysis applicable to spheres of influence areas pursuant to GC Section 56430. The Department urges the City to consider these 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/SB244\\_Technical\\_Advisory.pdf](http://opr.ca.gov/docs/SB244_Technical_Advisory.pdf) and [http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).