

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

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March 1, 2023

Larry Ronk, Director
Community Development Department
City of McFarland
401 West Kern Avenue
McFarland, CA 93250

Dear Larry Ronk:

RE: City of McFarland's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of McFarland's (City) draft housing element received for review on December 1, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from David Kellogg 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.

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. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

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 (December 31, 2023), then any rezoning to make prior sites available or accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial

compliance until all necessary rezones pursuant to Government Code section 65583, subdivision (c)(1)(A) and Government Code section 65583.2, subdivision (c) are completed.

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: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the hard work and dedication of the housing element update team. We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law and welcome the opportunity to meet with the City and discuss steps toward compliance. If you have any questions or need additional technical assistance, please contact me at paul.mcdougall@hcd.ca.gov.

Sincerely,

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

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF MCFARLAND

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 Revise

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).)

The review and revise requirement is an essential feature to formulating appropriate policies and programs in the current cycle. The review of past programs should describe progress in implementation of previous actions, including results compared to objectives and evaluate the effectiveness of actions to make appropriate adjustments in the current planning period. In most cases, the element does not describe progress in implementation and as a result, an evaluation of effectiveness and appropriateness cannot be completed. For example, Program 1.3 was intended to proactively enforce codes to maintain and improve housing and neighborhoods. For progress in implementation and evaluation of effectiveness, the element notes the Program is an essential element of affordable housing. Instead, the element should report on the number of code enforcement cases, whether enforcement was proactive and whether the overall efforts resulted in improvements to housing and neighborhoods. From there, the element should modify policies and programs, including incorporating analysis from the housing needs assessment and other related components of the housing element. HCD will send sample analyses under separate cover and welcomes the opportunity to assist the City in meeting this statutory requirement.

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).)*

The element includes some mapping of socio-economic characteristics but largely does not address this requirement. Among other items, the assessment of affirmatively furthering fair housing (AFFH) should address patterns and trends of socio-economic characteristics within the City (comparing neighborhoods or areas) and the City compared to the region.

The assessment should also incorporate local data and knowledge and other relevant factors to summary issues and prioritize contributing factors to fair housing issues. HCD has prepared data and mapping to assist the City in addition to detailed and easily readable guidance that is available at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>. HCD will also provide sample analyses under separate cover.

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).)*

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).)

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).)

Extremely Low-income (ELI) Households: The element mentions the number of existing ELI households (p. 28) but should also identify the projected housing needs of ELI households and analyze their housing needs. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of the regional housing need allocation (RHNA) for very low-income households qualify as ELI households. To analyze existing housing needs, the element should analyze tenure, cost burden, overcrowding and other household characteristics then examine the availability of resources to determine gaps in housing needs.

Housing Costs: The element describes housing costs based on the American Community Survey (ACS) but should consider additional sources (e.g., Zillow.com, Apartments.com) to better reflect current market conditions.

Persons with Developmental Disabilities: In addition to addressing overall persons with disabilities, the element should specifically analyze the housing needs of persons with development disabilities, including quantification, characteristics, available resources and a determination of gaps in addressing housing needs. For data, please see the Department of Developmental Services at <https://www.dds.ca.gov/transparency/facts-stats/>. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/people-disabilities-including-developmental-disabilities>. HCD will also send sample analyses under separate cover.

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).)

Sites Inventory: The element lists sites by parcel number, size, zoning, general plan designation and the assumed number of units but should also describe the existing use, particularly for Table B-5. The description of existing uses should be sufficiently detailed to facilitate an analysis of the potential for redevelopment. In addition, the element should disaggregate the number of units by income groups. For example, Parcel 201-120-169 shows 152 units for low- and moderate-income groups but instead should list the number of units for each income group. Finally, Table B-5 lists sites with multiple zones. If sites are split zoned, the element should list the acreage in each zone. Otherwise, the element should describe how development is facilitated on sites with multiple zoning. For more information, see HCD's Building Blocks.

Realistic Capacity: The element mentions residential capacity was calculated using parcel size and allowable densities then accounting for site characteristics. However, the calculation should also account for typical densities of existing or approved residential developments at a similar affordability level. In addition, many of the identified sites appear to be identified with non-residential zoning that allows 100 percent non-residential uses and as a result, the residential capacity calculation should account for the likelihood of 100 percent non-residential uses. For example, the element could describe how often 100 percent non-residential uses occurs in these zones and incorporate that likelihood into the residential calculation. Alternatively, the element could add or modify programs to establish residential performance standards or incentives to encourage residential uses.

Small and Large Sites: Sites smaller than a half-acre and larger than ten acres are deemed inadequate to accommodate the lower-income regional housing need allocation (RHNA) unless the element demonstrates that sites of equivalent size and affordability occurred in the prior planning period or provides other analysis and programs to demonstrate their suitability for housing for lower-income households. Alternatively, the element may utilize small and large sites toward the moderate- and above moderate-income RHNA. For example, for small sites, the element could describe common ownership and other indicators of potential for consolidation, including recent trends. For large sites, the element could describe the potential for phasing or parceling at appropriate sizes (e.g., 1-10 acres). Based on the outcomes of the analysis, the element should add or modify programs to encourage the development of housing for lower-income households. HCD will send sample analyses under separate cover upon further discussion with the City.

Suitability of Nonvacant Sites: The element does not clearly describe whether nonvacant sites are utilized toward the RHNA. If utilizing nonvacant sites, the element must demonstrate their potential for redevelopment. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, any and other information that may prevent redevelopment of the site for additional residential development. Additionally, the element could add or modify programmatic commitment with regulatory

or other incentives or standards to encourage additional residential development on these sites.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, it must demonstrate that the existing use is not an impediment to additional residential development in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) This can be demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period as part of an adoption resolution. Please see HCD's Sites Inventory Guidebook (starting on p. 26) at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf.

Finally, absent a replacement housing program, sites with existing residential uses could potentially not be considered adequate sites to accommodate lower-income households. The replacement housing program must the same requirements as set forth in Government Code section 65915, subdivision (c)(3). For more information, please see HCD's Sites Inventory Guidebook (starting on p. 28).

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, please see HCD's Sites Inventory Guidebook (starting on p. 11).

Zoning for Lower-Income Households: The element must demonstrate densities appropriate to accommodate housing for lower income households. For communities with densities that meet specific standards (at least 20 units per acre for McFarland), no analysis is required. (Gov. Code, § 65583.2, subd. (c)(3).) Otherwise, an analysis must demonstrate appropriate densities based on factors such as market demand, financial feasibility and development experience within identified zones. Currently, the element identifies capacity in the C-O, C-1 and R-4 zones toward the lower-income RHNA. The R-4 zone allows 24 units per acre and as a result, no analysis is required. However, the element should clearly describe the allowable density in the C-O and C-1 zones and if necessary, analyze the appropriateness of zoning as described above.

Accessory Dwelling Units (ADU): The element may utilize ADUs toward the RHNA based on recent trends, affordability, resources, incentives and other relevant factors. The element currently lists single family parcels with ADU potential. However, a parcel listing is not necessary, and the analysis should instead be based on trends and affordability. For example, if the City permitted five ADUs per year over the last four years then that trends could be utilized over the eight year planning period. For more information on utilizing ADUs toward the RHNA, please see HCD's Sites Inventory Guidebook (starting on p. 30). HCD will send sample analyses under separate cover.

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance. Please note, upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

Zoning for a Variety of Housing Types:

- *Emergency Shelters*: While the element notes emergency shelters are permitted by-right in the C-2 zone, it should clarify that by-right is without discretionary action or include a program to modify permit procedures. In addition, the element must
 - describe capacity available to meet the need for emergency shelters including available acreage, typical parcel sizes, reuse opportunities and proximity to transit and services;
 - list and evaluate development standards and other requirements imposed on emergency shelters;
 - describe compliance with Government Code section 65583, subdivision a)(4)(A) or include a program to comply with this requirement. For your information, pursuant to Government Code section 65583, subdivision a)(4)(A), parking requirements should be limited to allowing 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; and
 - if applicable, meet requirements pursuant to AB 2339 such as demonstrating vacant and nonvacant sites that allow residential use are suitable for development in the planning period. For more information on applicability and timing requirements of AB 2339, please see HCD's guidance at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.
- *Employee Housing*: The element mentions zoning complies with the Employee Housing Act but then describes farmworker housing is permitted similar to multifamily uses, circumstances that appear inconsistent. The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, 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. Also, 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. Based on a complete analysis, the element should add or modify programs to revise zoning and permit procedures in compliance with the Employee Housing Act. For more information, please see HCD's Building Blocks.

- *Low Barrier Navigation Centers:* 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 section 65660. The element must demonstrate compliance with this requirement and include programs as appropriate.
- *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.
- *Accessory Dwelling Units:* The element appears to describe provisions inconsistent with State ADU Law. For example, ADUs are subject to discretionary review and only allowed in the R-1 zone which is not consistent with State ADU Law. The element should add or modify programs to amend the ordinance to meet all requirements under State ADU Law. HCD will provide a full review of the ordinance to assist with amendments. For more information, contact HCD's ADU team at ADU@hcd.ca.gov.

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).)*

An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... ..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).)

Local Processing and Permit Procedures: While the element describes staff review applications for conformity with the zoning code and general plan, it should list findings of approval or any other decision-making criteria and evaluate impacts on housing supply (number of units), cost, timing and approval certainty.

In addition, the element should address public comments on this draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

State Density Bonus Law: The element should describe the City's ordinance to implement State Density Bonus Law (Gov. Code, § 65915), evaluate compliance and, if necessary, add or modify programs to revise the ordinance.

Building Codes and Enforcement: The element discusses the City has adopted the same 2022 building code as the County but should also describe and analyze any local (including County) amendments to the building code for impacts on housing cost.

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.

Streamlining Provisions: The element should clarify whether the City has procedures consistent with streamlining procedures pursuant to Government Code section 65913.4 (SB 35) and include programs as appropriate.

Constraints on Housing for Persons with Disabilities (Family Definition): The element indicates (p. 70) zoning was amended with a definition of family. However, the element should describe the definition and evaluate potential impacts on housing for persons with disabilities, particularly any constraints on the number and relationship of people.

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

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 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, as noted on page 54, the City may have long term sewer capacity issues beyond the eight-year planning period. As a result, the element could add a program to pursue funding and other opportunities to mitigate the potential capacity issues in future planning cycles.

2. *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 should add or modify programs to assist in the development of housing for lower-income households, including ELI and special needs households, as follows:

- *Program 1-5 (Low-income Homeowners):* The Program should commit to how often the City will provide funding or apply for and support funding applications.
- *Program 4-1 (Grant Bonuses for Three- and Four-Bedroom Units):* The Program should commit to when the ordinance will be amended (e.g., by 2025).
- *Program 4-4 (Special Needs Housing):* The Program should commit to how often (e.g., at least annually) the City will consult with housing opportunities and specifically commit to identify development opportunities on a regular basis (e.g., every other year).
- *Program 5-4 (Apply for Funding to Promote Infill Housing):* The Program should commit to how often (e.g., every other year) the City will apply for and support funding applications.
- *ELI Households and Farmworkers:* The element should add or modify programs with specific commitment to assist in the development of housing for ELI households and farmworkers. A program could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives (beyond State Density Bonus Law) for housing developments that include units affordable to extremely low-income households or farmworkers; assisting, supporting or pursuing funding applications; outreach and coordination with affordable housing developers to annually identify development opportunities and coordinating with farmworker employers and other related organizations. For additional information, please see HCD's Building Blocks.

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 B4 and B5, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, the element should be revised, as follows:

- *Program 1-2 (Zoning and Housing Types)*: In addition to complying with state law, the programs should amend zoning to permit group homes (six or fewer persons and seven or more persons), regardless of licensing, in all residential zones similar to other residential uses of similar form.
- *Program 4-2 (Universal Design and Reasonable Accommodation)*: The Program commits to continue allowing reasonable accommodation in zoning and land use. However, the element (p. 42) notes a need to establish a written procedure for reasonable accommodation. The element should reconcile these differences by either describing an existing procedure free of constraints or modifying Program 4-2 to establish a written procedure by a specified date. For more information and templates to assist with this analysis, please see HCD's Housing Planning Hub Site at <https://www.hcd.ca.gov/planning-and-community-development/technical-assistance>.

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... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete analysis of AFFH. Based on the outcome of that analysis, the element must add or modify programs. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics, milestones, and geographic targeting as appropriate and must address housing mobility enhancement (more choices and affordability across geographies), new housing choices and affordability in relatively higher opportunity and income areas, place-based strategies for community preservation and revitalization and displacement protection. HCD will send samples of AFFH programs under separate cover.

5. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent...for very low, low-, or moderate-income households... (Gov. Code, § 65583, subd. (c)(7).)*

As noted in Finding B3, the element should add or modify programs to amend the ADU ordinance. While the element includes Program 1-2 (Zoning and Housing Types), the Program is limited to changing references to "Second Units" and should be expanded to amend the ordinance in compliance with ADU Law. In addition, the Program should consider incentives beyond promoting public awareness. For example, the Program could commit to pursue funding, establish prototype plans or modify development standards (e.g., heights, unit size) beyond ADU law.

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 City made considerable effort to include the public through workshops and meetings, moving forward, the City should employ additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income households in future public outreach efforts. For additional information, please see HCD's Building Blocks.

In addition, while the element very generally mentions some comments, it should provide additional explanation as well as describing how those comments were incorporated into the element for past and future public participation efforts.

E. Water and Sewer Priority

A public agency or private entity providing water or sewer services shall adopt written policies and procedures, not later than July 1, 2006, and at least once every five years thereafter, with specific objective standards for provision of services in conformance with this section. (Gov. Code, § 65589.7, subd. (b).)

As noted on page 3 of the element, the City is its own water and sewer provider. As a result, the element should discuss whether the City has written procedures to grant priority service to developments with units affordable to lower-income households and, if necessary, add or modify programs to establish a procedure by a specified date.