

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

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February 13, 2024

David Dunn, City Administrator  
City of Montague  
230 South 13th Street  
Montague, CA 96064

Dear David Dunn:

**RE: City of Montague's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element**

Thank you for submitting the City of Montague's (City) draft housing element received for review on November 20, 2023, along with revisions received on February 9, 2024. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on December 21, 2023, with you and the City's consultants. In addition, HCD considered comments from David Kellogg pursuant to Government Code section 65585, subdivision (c).

The draft element, including revisions, addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq), as follows:

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

*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).)*

Local Data and Knowledge and Other Relevant Factors: With factors such as a smaller population, being within one census tract and the census tract extending well beyond the City limits, the state and federal data is influenced by demographic information beyond the City limits. For these and other reasons, the analysis of fair housing should particularly utilize local data and knowledge and other relevant factors to better understand any local patterns or differences or lack of differences from neighborhood to neighborhood. Local data and

knowledge and other relevant factors should be used across all of the fair housing analysis components (e.g., segregation and integration, disparities in access to opportunity and disproportionate housing needs). Examples of local data and knowledge include information from City officials (e.g., planners, code enforcement, civil engineers, local legislators), past surveys and assessments, infrastructure investments to inform capital improvement plans, data used for applications for funding, service providers, developers, school representatives, regional planners, service districts and other sources. For example, the recent housing condition survey, City officials and service providers could better inform any local patterns or differences in housing conditions and access to opportunity for persons experiencing homelessness. Examples of other relevant factors include land use, zoning, development patterns, state and federal investment, physical or social barriers and access to schools (e.g., safe routes to school), community amenities, facilities and programs. For example, the element could discuss any differences between neighborhoods that might have been influenced by the highway or railroad. HCD will send an analysis guide to assist the City with this analysis.

Disproportionate Housing Needs including Displacement Risks: The element includes some data on regional displacement risk (p. A-41). However, the element must evaluate trends and patterns within the City for disproportionate housing needs, including cost burdening, overcrowding, homelessness, and substandard housing. In addition, the element briefly mentions displacement but must still provide data, analysis and conclusions.

Contributing Factors: Based on the outcome of a complete analysis, the element should reassess and prioritize contributing factors to fair housing issues and prioritize those factors and then formulate appropriate policies and programs.

Programs: As noted above, the element requires a complete affirmatively furthering fair housing (AFFH) analysis. Depending upon the results of that analysis, the City may need to revise or add 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, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement (housing choices and affordability across geographies), new housing choices and affordability in higher opportunity or income areas (throughout the City), place-based strategies for community preservation and revitalization, and displacement protection.

2. *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 Conditions: The element identifies the age of the housing stock (p. A-31). However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including nonprofit housing developers or organizations. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/housing-stock-characteristics>.

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).)*

*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... (Gov. Code, § 65583, subd. (c)(1).)*

Parcel Inventory: While the element identifies sites by various factors such as size, general plan designation, zoning and realistic capacity, it should also list sites by anticipated affordability (e.g., lower-income, moderate, above-moderate)

Small Sites: Sites smaller than a half-acre are not suitable for the development of housing for lower-income households unless sites of equivalent size and affordability were developed in the prior planning period or other evidence demonstrates the suitability of small sites. For your information, unless the element includes appropriate analysis and programs, small sites should not be utilized toward the lower-income Regional Housing Needs Allocation (RHNA) for the purposes of maintaining adequate sites pursuant to Government Code section 65863.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods generally shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within one or 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. The program should rezone and permit housing developments with 20 percent affordability by-right (without discretionary action) at appropriate densities pursuant to Government Code section 65583.2, subdivision (c)).

Environmental Constraints: While the element generally describes a few environmental conditions within the City (p. C-6), it must describe how these conditions relate to identified sites including any other known constraints within

the City that could impact housing development in the planning period. Examples of other conditions include shape, access to public right of way, property conditions, easements, airport compatibility, Williamson Act contracts and contamination.

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/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

Zoning for a Variety of Housing Types (Manufactured Housing): Manufactured homes that are built on a permanent foundation must be allowed in the same manner and in the same zones as conventional or stick-built structures. Specifically, manufactured homes on a permanent structure should only be subject to the same development standards that a conventional single-family residential dwelling would be subject to. Additionally, the element should demonstrate zoning to encourage and facilitate mobile home parks. The element must demonstrate consistency with this requirement or add or modify programs as appropriate.

Programs: As noted above, 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.

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).)*

*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).)*

Local Processing and Permit Procedures: While the element includes information about processing times, it should also describe the procedures for a typical single family and multifamily development. The analysis should address the approval process of various uses by zone, the approval body, design review requirements, the number of public hearing if any, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing and approval certainty. For example, the element should identify and analyze approval findings for impacts on approval certainty, the presence of processes or guidelines to promote certainty and add or modify programs as appropriate.

Finally, the element should address public comments 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.

Housing for Persons with Disabilities: The element briefly references its zoning ordinance for the City's reasonable accommodation procedures. The element must describe its reasonable accommodation procedures, including the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities.

Programs: As noted above, 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 4.2.5 (Group Homes) indicates that group homes for seven or more persons with state licensing will only be permitted in some residential zones and subject to a conditional use permit (CUP). The Program should address the CUP requirement as a constraint and clarify that group homes will be permitted in all zones allowing residential uses similar to other residential uses of the same type in the same zone.

5. *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).)*

Programs HE 5.1.1 (Support Housing for Extremely Low-income Households) and HE.5.1.2 (Promote the City's Housing Programs to Affordable Housing Developers): The Programs should include proactive outreach to affordable housing developers to identify development opportunities at least every other year.

6. *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 quantified objectives for new construction and rehabilitation by income group for extremely low-, very low-, low-, moderate- and above-moderate income, it must also include quantified objectives for conservation by income group. Examples of activities include weatherization, code enforcement, energy conservation, mobile home park preservation and fair housing education and enforcement.

7. *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).)*

The element notes that public participation played an important role in formulation and refinement of the element. The element should be updated to clarify how public participation informed the element and summarize the public comments received on this draft.

The element will meet the statutory requirements of State Housing Element Law once it has been revised, adopted, submitted, and reviewed by HCD to comply with the above requirements pursuant to Government Code section 65585.

As a reminder, the City's 6th cycle housing element was due February 15, 2023. 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.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline (February 15, 2023) cannot be found in compliance until rezones to make prior identified sites available or accommodate a shortfall of sites pursuant to Government Code sections 65583, subdivision (c)(1)(A) and 65583.2, subdivision (c) are completed. As this year has essentially passed, the housing element will remain out of compliance until the rezoning have been completed, if necessary.

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.

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 Affordable Housing and Sustainable Communities program, 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 is committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Sayed Murad, of our staff, at [sayed.murad@hcd.ca.gov](mailto:sayed.murad@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