

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

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March 27, 2024

Jaylen French, Manager  
Department of Development Services  
City of Escalon  
2060 McHenry Avenue  
Escalon, CA 95320

Dear Jaylen French:

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

Thank you for submitting the City of Escalon's (City) draft housing element received for review on December 29, 2023. Pursuant to Government Code section 65585, 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 substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). 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 December 31, 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.

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 does not adopt a compliant housing element within 120 days of the statutory deadline (December 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). 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). Please be aware, if the City does not adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones 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 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>.

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 Joanna Chang, of our staff, at [Joanna.Chang@hcd.ca.gov](mailto:Joanna.Chang@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF ESCALON

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 <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> 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 element must include a program-by-program review including a quantification or explanation of progress and evaluation of effectiveness of programs in achieving objectives and how programs will be adjusted in the current planning cycle. Particularly, in many cases for progress in implementation, the element explains the program "...has been implemented on an ongoing basis." Instead, the element should discuss actual results or outcomes in relation to the program's objectives then evaluate whether the program was effective.

In addition, as part of the evaluation of programs in the past cycle, the element must also provide an explanation 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). Based on the outcomes of this analysis, the element should add or modify programs.

### **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).)*

Enforcement and Outreach: The element explains various fair housing laws but should also discuss how the City complies with fair housing laws. In addition, the element should discuss any past or current fair housing lawsuits, findings, settlements, judgements, or complaints.

Integration and Segregation: The element includes some data on integration and segregation but should also discuss local patterns (within the City) related to concentrations of familial status and persons with disabilities.

Disproportionate Housing Needs and Displacement Risk: The element includes some general information on housing conditions but should also evaluate those needs, impacts and patterns within the City. Specifically, the element should discuss any areas of potentially higher needs of rehabilitation and replacement. The element should utilize local data and knowledge such as code enforcement officials to assist this analysis.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element generally concludes that identified sites are spread throughout the City and primarily located in higher resource areas but should include analysis to support these conclusions or draw other conclusions. The analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The analysis should also incorporate approved and pending projects and discuss whether the distribution of sites improves or exacerbates fair housing conditions. If sites exacerbate conditions, the element should identify mitigating program actions.

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 and service providers. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Contributing Factors to Fair Housing Issues: Based on the outcomes of a complete analysis, the element should re-assess and prioritize contributing factors to fair housing issues.

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 Households (ELI): The element must quantify the total number of projected ELI households. 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.

Overpayment: While the element identifies the total number of households overpaying for housing (p. 4-8), it must analyze the number of lower-income households overpaying for housing by tenure (i.e., renter and owner) and incorporate or modify policies and programs as appropriate.

Housing Conditions: The element must analyze 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 or estimates from code enforcement officials.

Housing Costs: While the element includes information on the median home value based on American Community Survey data, it should consider other data sources to better reflect market conditions.

Housing Stock (Unit Types): The element must quantify and analyzes the number and proportion of housing units by type. An analysis should address trends and how disproportions of housing types can affect choices and affordability.

Special Housing Needs (Farmworkers): While the element includes some general data on farmworkers, it should also utilize information from the Office of Education regarding migrant student programs. In addition, the analysis should address trends, characteristics, disproportionate needs, effectiveness of resources and strategies, magnitude of the housing need, including disproportionate housing need and the effectiveness of past policies, programs, and funding to help address those gaps. The analysis may utilize past farmworker housing studies and other studies generally applicable to their special housing needs. For example, the element could utilize a recent study conducted by University California at Merced that is available at [https://clc.ucmerced.edu/sites/clc.ucmerced.edu/files/page/documents/fwhs\\_report\\_2.2.2383.pdf](https://clc.ucmerced.edu/sites/clc.ucmerced.edu/files/page/documents/fwhs_report_2.2.2383.pdf). Based on the outcomes of the analysis, the element should add or modify programs to address this special housing need in the region.

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).)*

Progress toward the RHNA: While the element may utilize pending, approved, or built (pipeline) units toward the RHNA since June 30, 2023, it must also demonstrate their affordability and availability in the planning period. Regarding affordability, the element

must describe the methodology for the planned 18 units affordable to lower-income households based on actual or anticipated sales price, rent or other mechanisms that ensure affordability (e.g., deed-restrictions). Regarding availability, the element indicates the status of pipeline projects as planned along with anticipated occupancy but should also discuss remaining steps to building permit issuance, any known barriers and likelihood the units will be built in the planning period.

Realistic Capacity: The element utilizes minimum densities to determine the realistic capacity of the sites then accounts for the likelihood of 100 percent nonresidential development by multiplying a factor, based on trends, by the minimum density for sites with nonresidential zones. This is an acceptable methodology. However, the element appears to calculate the residential capacity for Sites 11, 12 and 13 utilizing the total acreage even though the total acreage is not anticipated to develop. Instead, for these sites, the element should apply the methodology to the developable acreage.

Availability of Infrastructure: Though the element states that Escalon has adequate infrastructure to accommodate the development of its RHNA (p. 3-65), it should clarify whether there is sufficient total water capacity (existing and planned) to accommodate the RHNA. In addition, the element should also describe the existing or planned accessibility of infrastructure to identified sites and, if necessary, add or modify programs to address identified constraints.

The element (Program 3-1 (B)) – Neighborhood Improvements) indicates that the City will continue to prioritize water and sewer service for developments with units affordable to lower-income households. However, the element should clarify whether a written procedure is available to grant priority service and if not, modify Program 3-1 to establish a procedure by a specified date early in the planning period.

Zoning for Lower-Income Households: Pursuant to Section 65583.2 (c)(3)(A) and (B), the element must identify densities appropriate to encourage and facilitate the development of housing for lower-income households. The element may utilize a statutorily prescribed density (default density) where no analysis is required or provide analysis based on factors such as market demand, financial feasibility, and development experience within zones. While the element utilizes a default density for most sites, it does not appear to utilize default densities for Site 12 (APN 225-020-18). As a result, the element should either provide rezone the site to meet statutory requirements, utilize the site for the moderate or above moderate-income RHNA or provide analysis to demonstrate the appropriateness of the zoning. Based on HCD experience, while the element may provide analysis, densities of 15 units per acre have not been considered appropriate for developments of housing for lower-income households.

Environmental Constraints: While the element generally describes existing environmental hazards that may constrain housing development within the City (pp. 3-66-67), it must describe how these constraints relate to identified sites, including whether the constraints preclude development in the planning period. In addition, the element should examine any other known constraints or condition that preclude development in the planning period. Example of other known constraints or conditions

include shape, access, easements, property conditions, environmental overlays, Williamson Act contracts, contamination and airport and other compatibility issues.

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), 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](mailto:sitesinventory@hcd.ca.gov). Please note, 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#element> 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:

- *Employee Housing*: 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. While the element describes consistency with section 17021.5, it should also discuss consistency with section 17021.8. Specifically, section 17021.8 requires that a development is subject to a streamlined, ministerial approval process and is not subject to a conditional use permit (CUP) if the development is an eligible agricultural employee housing development. Based on a complete analysis, the element should add or modify programs.
  - *Emergency Shelters*: The element states that the City will amend its zoning code to permit emergency shelters without discretionary action in a zone that allows residential uses. However, the element should describe capacity in the proposed zone(s) and demonstrate sufficient capacity to accommodate the need for emergency shelters including capacity for at least one emergency shelter. The analysis of capacity should describe acreage, parcel sizes, uses, potential for redevelopment, if applicable, and proximity to transportation and services then utilize the statutory methodology to demonstrate sufficient capacity. Based on the outcomes of this analysis, the element should amend Program 2-1 (Zoning for a Variety of Housing Types), including revising the definition of emergency shelters, amending a zone that allows residential uses and establishing appropriate development standards.
  - *Single Room Occupancy (SRO) Units*: The element must identify a zone(s) that allow SROs and demonstrate zoning, development standards and permit procedures encourage the use or add or modify programs as appropriate.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element must identify and analyze all relevant land use controls, and potential constraints on a variety of housing types (e.g., multifamily rental housing, mobilehomes, transitional housing). In particular, the analysis should address multifamily heights and parking requirements, including guest parking and impacts on studios. The analysis should address impacts on housing cost and supply and ability to achieve maximum densities.

In addition, the element should demonstrate compliance with State Density Bonus Law (SDBL), including eligibility requirements, density bonuses, concessions, parking reductions and waiver or modification processes and add or modify programs to ensure compliance.

Codes and Enforcement: The element briefly mentions the City enforces compliance with the 2022 building code but should also list and analyze any local amendments for impacts on housing costs and supply and evaluate enforcement type (e.g., proactive, complaint-based) for impacts on lower-income and special needs households.

On/Off-Site Improvements: The element describes on- and off-site improvements but should also analyze impacts on housing costs and supply and add or modify programs, as appropriate.

Fees and Exaction: While the element cumulatively displays impact fees on a per unit basis, it should also include planning and processing fees and analyze impacts on development costs individually and cumulatively. For example, the analysis should address the water connection fee which nearly represents half of total fees. Based on the outcomes of this analysis, the element should add or modify programs, as appropriate.

Local Processing and Permit Procedures: The element must describe and analyze the City's permit processing and approval procedures for a typical development that is consistent with the general plan and zoning. The analysis should address the type of permit, approval body, number of hearings, design guidelines (including the newly adopted guidelines) and approval findings and evaluate impacts on housing cost and supply and approval certainty.

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

Housing for Persons with Disabilities (Reasonable Accommodation): The element briefly references procedures to request reasonable accommodation (p. 5-32). However, the element should also describe the policies and decision-making criteria such application procedures, fees, and approval findings, and analyze any potential constraints on housing for persons with disabilities.



Inclusionary Housing: The element must describe and analyze the City's Affordable Housing Ordinance requirements and their impacts as potential constraints on the development of housing for all income levels, specifically on housing supply and cost. The analysis must evaluate the inclusionary policy's implementation framework, including availability of incentives, relationship with SDBL and alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units. The City could also engage the development community to facilitate this analysis.

Growth Management Ordinance (GMO): The element mentions the GMO but should fully describe the ordinance including limits or caps on permits, eligibility or scoring criteria, approval body, approval procedures, carryover, allocation expirations, limits on allocations, carryover of allocations, exemptions, and any other relevant requirements. Then, the element should evaluate the impacts of the GMO on housing costs and supply, timing, and the ability to achieve the RHNA. Based on the outcomes of this analysis, the element should add or modify programs to address identified constraints.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... ..the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)*

Construction Costs: The element includes some general discussion pertaining to land costs and availability of financing (p. 4-30) but should also discuss construction costs, including impacts on housing costs and supply.

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.

### **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... ..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, programs should be added or modified, as follows:

- *Program 1-2(C) (Maintain Viable Sites)*: The Program should clarify that permitting multifamily developments with 20 percent affordability will also include sites identified in prior planning period, as noted in the element (p. 3-61).
- *Program 1-2(F) (Maintain Viable Sites)*: Given the reliance on religious institutional sites, the Program should specifically monitor the effectiveness of Programs in encouraging development and pursue alternative measures within a specified time.
- *Program 2-1(D) (Zoning for a Variety of Housing Types)*: The Program should clarify that the City's accessory dwelling unit ordinance (ADU) will be revised to ensure compliance with State ADU law, if necessary, upon review by HCD within a timely manner (e.g., within six months).

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

- *Program 2-5 (Affordable Housing Funding and Incentives)*: The Program should specifically commit to identify development opportunities at least every other year.
- *Program 2-6 (Farmworker Housing)*: The Program should be expanded based on the outcomes of a complete analysis such as identifying opportunities to integrate farmworkers into developments, offer incentives for housing for farmworkers, subsequent actions toward outcomes from meeting with surrounding jurisdiction, proactive marketing of existing programs, establishing partnerships with non-profit and affordable developers to identify housing opportunities and addressing housing and neighborhood conditions for existing farmworkers.
- *Program 4-2(C) (Housing Outreach and Stakeholder Engagement)*: The Program should be revised with discrete timing (e.g., at least every other year).
- *Program 4-2(E) (Housing Outreach and Stakeholder Engagement)*: The Program should go beyond outreach with stakeholders and provide education, facilitating partnerships and assisting with entitlement processes.

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 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 2-1(E)(Zoning for a Variety of Housing Types) should specifically commit to permit group homes for seven or more persons, regardless of licensing, in all zones allowing residential uses and address the CUP as a constraint by replacing or modifying procedures or zoning to permit group homes for seven or more persons similar to other residential uses of the same type in the same zone.

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 requires a complete 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 relatively higher opportunity or income areas (throughout the City), place-based strategies for community preservation and revitalization, and displacement protection.

#### **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).)*

The element includes quantified objectives by income category that can be constructed, rehabilitated. However, rehabilitation objectives should be increased to better reflect the housing needs of the community and conservation objectives should be added.

Conservation objectives can be a wide array of activities that are intended to conserve housing or promote tenant stability. Examples include Programs 3-3 (Conservation of Affordable Units and Mobile Homes), 3-4 (Energy Conservation), 5-3 (Anti-Displacement Actions), 5-4 (Housing Choice Vouchers) and 5-6 (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 element includes a general summary of the public participation process (Appendix C), it must also summarize the input and describe how the input was considered and incorporated into the element.