

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

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March 1, 2024

Jay Schlosser, Director  
Development Services  
City of Tehachapi  
115 South Robinson Street  
Tehachapi, CA 93561

Dear Jay Schlosser:

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

Thank you for submitting the City of Tehachapi's (City) draft housing element received for review on December 4, 2023. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review.

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.

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 (RHNA) 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>.

HCD appreciates the hard work and diligence of the City in preparing a housing element update and is 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 Shawn Danino, of our staff, at [Shawn.Danino@hcd.ca.gov](mailto:Shawn.Danino@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 TEHACHAPI**

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 Revision**

*Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)*

Special Housing Needs: While the element lists some programs that target special housing needs, it should also evaluate the cumulative effectiveness of programs in addressing special housing needs (e.g., elderly, persons with disabilities, large households, farmworkers, female-headed households, and persons experiencing homelessness). For example, the element could discuss prior objectives related to special housing needs, any accomplishments or implementation and whether programs were effective in addressing special housing needs. Based on the outcome of this evaluation, the element should add or modify programs to address special housing needs.

### **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).)*

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): While the element lists and discusses identified sites by income group and various fair housing characteristics, it should consider a different geography. Specifically, the element should analyze identified sites and the regional housing need allocation (RHNA) by a geography smaller than census tracts given the size of the City. For example, the analysis could be conducted on a neighborhood level, planning area or smaller sections of the City. The analysis should address any isolation of the RHNA by income group and add or modify programs as appropriate to promote equitable and inclusive neighborhoods.

Local Data and Knowledge and Other Relevant Factors: With factors such as a smaller population 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 emphasize 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 any major roadways. HCD will send an analysis guide to assist the City with this analysis.

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.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

Extremely Low-Income (ELI) Households: While the element includes some basic information about ELI households, given the unique and disproportionate needs of ELI households, the element must include analysis to better formulate policies and programs. For example, the element could analyze trends, cost burden, overcrowding and other household characteristics then examine the effectiveness of policies and resources to determine gaps in housing needs. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/extremely-low-income-housing-needs>.

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).)*

Infrastructure: The element briefly states the City has adequate sewer capacity to accommodate future development but should clarify whether there is sufficient total capacity to accommodate the RHNA and if not, add programs to address the lack of capacity. In addition, the element describes various constraints related to total water capacity and as a result, should add or modify programs to address identified constraints.

Finally, water and sewer service providers must establish specific written procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) While Program 3.1 (Water and Sewer Providers) states the City will grant priority service, the element should clarify whether a written procedure is available and if not, add or modify Program 3.1 to establish a written procedure by a date early in the planning period.

Environmental Constraints: The element generally describes some potential environmental constraints but should also relate those constraints to identified sites. In addition, the element mentions other potential constraints such as shape and access but should also address any other known conditions that preclude development in the planning period. Examples of other known conditions include property conditions, easements, Williamson Act contract and airport or other overlays.

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.

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

Land Use Controls: The element must identify and analyze all relevant land use controls as potential constraints on housing cost, supply (number of units) and ability to achieve maximum densities. The element makes a statement that development standards do not impede the ability to achieve maximum densities but should also provide analysis to support this statement. For example, the element could provide a survey of recent or sample projects, seek input from the development community or utilize a hypothetical project to demonstrate the appropriateness of land use controls and add or modify programs to mitigate or remove any identified constraints.

Processing and Permit Procedures: The element notes that multifamily uses are subject to a minor use permit (MUP) in zones intended for multifamily uses. The element should specifically analyze this requirement as a constraint and add or modify programs to address the constraint. For example, the element should discuss potential impacts on approval certainty as a result of a MUP and add or modify a program to replace the procedure.

Housing for Persons with Disabilities: The element generally describes the City's reasonable accommodation procedure, including listing approval findings. However, the element should also analyze the procedure for potential constraints. For example, the element should analyze approval findings such as alternatives to waiver requests. In addition, the element appears to exclude group homes for seven or more persons from all zones allowing residential uses, unlike other similar residential uses. The element should specifically analyze the exclusion of these uses as a constraint and add or modify a program to allow group homes for seven or more persons in all zones allowing residential uses with zoning and procedures similar to other residential uses of the same type in the same zone.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2... (Gov. Code, § 65583, subd. (a)(6).)*

Request for Lesser Densities: The element should describe the typical amount of time between receiving approval for housing development and submittal of application for building permits and discuss any hindrances on construction.

6. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

The element lists some at-risk units and concludes there are no units at-risk of conversion to market rate uses in the next ten years. However, based on HCD records, the City does have units at-risk of conversion to market rate uses (Mulberry Villa Apartments – 44 units). The element should reconcile this information and revise the element as appropriate, including an assessment of risk, estimate of replacement versus preservation costs, identification of qualified entities that can acquire and manage at-risk properties (qualified entities) and potential funding resources. HCD will send additional information on at-risk properties under separate cover.

If necessary, based on the outcomes of a complete analysis, the element may need to add or modify programs to preserve at-risk properties. Examples of actions include ensuring compliance with noticing requirements, coordinating with qualified entities, assisting with funding or supporting applications for funding and educating and supporting tenants.

### **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, the element should be revised, as follows:

- *Program 5.1 (Monitoring of Project Pipeline)*: Instead of approvals, the Program should monitor progress toward completion and at a specific date, evaluate whether projects will likely be completed in the planning period and commit to alternative strategies (e.g., rezoning) by a specified date if necessary to maintain adequate sites to accommodate the RHNA.
- *Prior Identified Sites*: The element indicates sites identified in prior planning period are being utilized toward the RHNA and states a program is not necessary since sites allow residential uses by right. However, these sites are not eligible for to be utilized toward the lower-income RHNA unless the element denotes which sites are being utilized and includes a program to rezone the sites to permit development with 20 percent affordability by right (without discretionary action) pursuant to Government Code section 65583.2, subdivision (c).
- *Program 4.6 (Transitional and Supportive Housing)*: The Program appears to be conflating to separate requirements. The Program should specifically commit to permit transitional and supportive housing in the T2 zone, as noted on p. C-20) and to permit permanent supportive housing in zones that allow multifamily uses without discretionary action pursuant to Government Code section 65651.
- *Emergency Shelters*: The element should include a program to amend the definition of emergency shelters in compliance with new statutory requirements. In addition, the element notes that parking requirements are consistent with statutory requirements. However, parking should be limited to the amount of parking only sufficient to accommodate staff. As a result, the element should add a program to revise parking requirements for emergency shelters.

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).)*

Program 3.4 (Proactive Partnerships for Affordable Housing): The Program should specifically commit to identify development opportunities every year and assist in the development of housing for lower-income households, including ELI and special housing needs.

Program 4.2 (Persons with Disabilities): The Program should commit to when and how often the City will conduct various activities to assist housing for persons with disabilities.

ELI Households: The element should include actions beyond weatherization for ELI households. Examples of actions include proactively identifying development opportunities, prioritizing funding, enhancing zoning and incentives, targeting resources to existing households.

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 4.7 (Community Care Facilities) commits to allow group homes for six or fewer persons in all residential zones but should also commit to permit these uses similar to single-family residential uses.

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 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).)*

Upon a complete analysis of units at-risk, the element should update the quantified objectives for the planning period to include at-risk units. In addition, quantified objectives for ELI households should be included for new construction, rehabilitation, and conservation.