

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

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December 26, 2023

Dawn E. Marple, City Planner
Planning and Community Development Department
City of Fowler
128 S. 5th Street,
Fowler, CA 93625

Dear Dawn E. Marple:

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

Thank you for submitting the City of Fowler's (City) draft housing element received for review on September 28, 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.

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 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)(1) 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 fails to 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 dedication the City's housing element team provided during the review. We are 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 Laurissa Wells, of our staff, at Laurissa.Wells@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF FOWLER

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).)

As part of the review of programs in the past cycle, the element must provide an evaluation 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).

B. Housing Needs, Resources, and Constraints

1. *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).)*

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).)

Housing Needs and Special Needs Assessment: The element includes a quantification of housing needs, including special needs for the region and some reporting of demographics for the City. While this quantification is generally adequate, the element should analyze the quantification to better understand housing needs and formulate appropriate policies and programs for the City. For example, this analysis should address trends, characteristics, magnitude of needs, resources and potential strategies

and should at least be conducted for population growth, employment, tenure, overpayment, overcrowding, housing unit types, and special needs households._

2. *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).)*

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element should also analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow 100 percent nonresidential uses (e.g., commercial). This analysis should consider the likelihood of nonresidential development, performance standards, and development trends, accounting for 100 percent nonresidential development.

Suitability of Nonvacant Sites: While the element relies primarily on vacant sites to accommodate the regional housing needs allocation (RHNA), the element includes a site that is noted as “partially vacant”. The element should provide a brief description of the existing uses on the parcel and evaluate the extent existing uses impede additional residential development.

Small and Large Sites: Sites larger than ten acres in size or smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for lower-income households. For small sites, the element must provide specific examples with the densities, affordability and, if applicable, circumstances leading to consolidation, including any common ownership of parcels. The element should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income housing need. For large sites, the element must provide evidence to demonstrate the suitability of sites larger than 10 acres (Site Number 3) to accommodate housing for lower-income households. The evidence could include additional discussion on how development might occur on the sites, analysis of prior redevelopment of large sites for affordable housing, or other evidence to demonstrate the suitability of these sites. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small and large sites at appropriate sizes for lower-income households.

Sites Identified in Prior Planning Periods: While the sites inventory denotes which sites from prior planning periods are used to accommodate the RHNA in the current cycle,

the element must also include a program to ensure that the sites are rezoned to meet all the requirements set forth in Government Code section 65583.2, subdivision (c).

Infrastructure: The element includes some discussion on water providers in the City. However, it must also clarify whether sufficient total water capacity (existing and planned) can accommodate the regional housing need and include programs if necessary.

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 for technical assistance.

Zoning for a Variety of Housing Types (Emergency Shelters): The City does not appear to identify existing zoning that permit emergency shelters by-right (without discretionary action). Subsequent draft submissions must comply with the requirements of Chapter 654, Statutes of 2022 (AB 2339). Among other things, the element should clarify shelters are permitted without discretionary action in a zone that allows a residential use and discuss available capacity, calculate the capacity available on sites to accommodate emergency shelters, and proximity to transportation and services. Secondly, the element must demonstrate the permit processing, development, and management standards for emergency shelters are objective, encourage and facilitate the development of, or conversion to, emergency shelters, and are in accordance with Government Code section 65583, subdivision (a)(4)(A) and add or modify a program to comply with this requirement. Lastly, the element must add or modify a program to update the definition of emergency shelters to include, for example, other interim interventions.

3. *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 impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to parking, heights, lot coverage and limits on allowable densities. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints.

Fees and Exaction: While the element includes some general discussion about fees, including a recent survey of jurisdictions in California, it should list and evaluate planning fees and all fees, including impact fees, for a typical single family and multifamily development. The evaluation of fees for typical developments should list the various fees and evaluate the cumulative impact on total development costs. For additional information, please see other jurisdictions in the Fresno Council of Government Multijurisdictional Housing Element (e.g., Reedley).

Codes and Enforcement: The element must describe and analyze which building code (e.g., 2022) is enforced, any local amendments to the building code and their enforcement for impacts on housing supply and affordability. For additional information and a sample analysis, see the *Building Blocks* at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/codes-and-enforcement-and-onsite-offsite-improvement-standards>.

Constraints on Housing for Persons with Disabilities: For your information, zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. While the element includes Program 14 (Zoning Ordinance Amendments), it should closely examine zoning and permit procedures for group homes for six or fewer persons and seven or more persons for potential constraints on housing for persons with disabilities to better formulate specific commitment to address identified constraints. For example, these housing types should not be excluded from residential zones, most notably low-density zones, which can constrain the availability of housing choices for persons with disabilities. Requiring these housing types to obtain a special use or conditional use permit (CUP) could potentially subject housing for persons with disabilities to higher discretionary standards where an applicant must demonstrate compatibility with the neighborhood, unlike other residential uses. The element should analyze constraints on housing for persons with disabilities and modify Program 14 (Zoning Ordinance Amendments) with specific commitment to address identified constraints.

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 B2, 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.

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 7 (Support Funding for Farmworker Housing): The Program should expand upon actions, such as adding additional proactive actions (e.g., identifying development opportunities at least twice in the planning period) to support the development of housing for farmworkers.

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 Finding B3, 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.

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).)*

The element must be revised to add or modify to 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, geographic targeting, metrics or numerical objectives and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. Specifically, the element should add actions to promote housing mobility (housing choices and affordability) in relatively higher-income areas and place-based strategies toward community revitalization in relatively lower-income areas, including addressing environmental conditions. In addition, the following programs should be revised:

- *Program 6 (Affordable Housing Incentives)*: The Program should increase the metric and include a metric for promoting housing choices and affordability in relatively higher-income areas (e.g., at least 50 percent of 50 units in relatively higher-income areas).
- *Program 11 (Encourage Accessory Units)*: The Program should increase the metric and include a metric for promoting housing choices and affordability in relatively higher-income areas.
- *Program 20 (Housing and Rental Rehabilitation)*: The Program should increase the metric and include a metric for rehabilitation in relatively lower-income areas.
- *Program 21 (Code Enforcement)*: The Program should increase the metric and include a metric for rehabilitation in relatively lower-income areas.

D. 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 City made considerable effort to include the public through workshops and surveys, 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, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/public-participation>.