

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



January 3, 2023

Andrea Keefer, Director
Planning Department
City of Buellton
107 West Highway 246
Buellton, CA 93427

Dear Andrea Keefer:

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

Thank you for submitting the City of Buellton's (City) draft housing element received for review on October 6, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on December 19, 2022 with yourself, Cara Miralles, Irma Tucker and consultants Jean Ward, Mary Wright, Adam Pisakirewicz and Veronica Tam.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

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 (February 15, 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 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.

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 Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the hard work and dedication of City staff and consultants during the housing element update. 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 Gianna Marasovich, of our staff, at Gianna.Marasovich@hcd.ca.gov.

Sincerely,

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF BUELLTON

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. 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: While the element stated there was a fair housing complaint based on a disability, it must describe enforcement referral processes that the City may have in place and any enforcement actions resulting from the fair housing disability complaint. In addition, the analysis must address compliance with existing fair housing laws.

Integration and Segregation: While the element includes some data on segregation and integration, additional information is needed. The element should describe what contributes to the higher concentration of Hispanic residents in District Three. In addition, the element must analyze populations with disabilities and familial status both locally and regionally (City compared to the broader to region).

Disparities in Access to Opportunity: While the element included some data, additional information is required. The element must include a regional analysis of educational and economic opportunities. Additionally, a complete analysis on access to transportation must include job proximity, analyze what contributes to the different scores throughout the City, describe access to transit for protected classes, as well as provide a regional analysis on transportation access. The element must also analyze what contributes to the differences in environmental scores within the City and provide a regional analysis.

Disproportionate Housing Needs Including Displacement: The element must provide geographic analysis on overcrowding and cost burdened households both locally and regionally. In addition, the element must analyze concentrations of substandard housing in the City as well as provide a regional analysis. Lastly, the element must analyze the

disproportionate housing needs for persons experiencing homeless as well as risk of displacement, including displacement due to disaster.

Affirmatively Furthering Fair Housing (AFFH) and Identified Sites: The element must analyze how the identified sites contribute to or mitigate fair housing issues. The element must identify and analyze sites throughout the community to foster inclusive communities and affirmatively further fair housing. An analysis should address all of the income categories of identified sites with respect to location, the number of units by all income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). If sites exacerbate conditions, the element should identify further program actions that will be taken to promote equitable quality of life throughout the community (e.g., anti-displacement and place-based community revitalization strategies). For more information, See HCD's guidance at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

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 quantifies existing and projected ELI households, it must also analyze their housing needs. The analysis of ELI housing needs should consider tenure, overpayment, overcrowding, resources and the effectiveness of strategies and the magnitude of housing need.

3. *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).)*

Overpayment: While the element identifies the total number of lower-income households overpaying, it must include this data by tenure and analyze their housing needs.

Housing Costs: While the element includes estimated rents for residents, it utilizes American Community Survey (ACS) data. The element should supplement census data with other sources (e.g., local knowledge) to reflect more current market conditions.

Housing Conditions: While the element estimates the number of units in need of rehabilitation based on a 2014 survey, it should update this information to better reflect current conditions. For example, the element could apply the past proportion of units needing rehabilitation to the current number of units in the housing stock. The element could also update the information based on knowledge from staff or the success of program efforts.

4. *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 Regional Housing Need Allocation (RHNA): The City's RHNA may be reduced by the number of new units built, approved, or pending since June 30, 2022; however, the element must demonstrate their affordability and availability in the planning period. The availability or likelihood the units will be built in the planning period should account for any barriers to development, phasing, anticipated buildout horizons, market conditions, and other relevant factors. The analysis should specifically clarify the meaning of "actual affordability" for identified units.

Realistic Capacity: The element identifies several sites with the Affordable Housing Opportunity Zone (AHOZ); most of which have base zoning that allows 100 percent nonresidential uses. The element describes that past trends on sites with the AHOZ include developments without a residential component but then concludes that 100 percent of the remaining AHOZ sites are anticipated to be developed with residential uses. Given the inconsistency, the element should include additional information to support the assumption that residential will occur on all the remaining AHOZ sites or rescale residential capacity assumptions based on past trends.

Accessory Dwelling Units (ADU): The element states (p. H-71) that ADUs are assumed to be categorized as moderate income due to their average size. The element should support this affordability assumption with other information such as comparable rental information, surveys from permitted ADUs or other indicators of affordability.

Environmental Constraints: While the element generally describes a few environmental conditions within the City, it must relate those conditions to identified sites and describe any other known environmental or other constraints that could impact housing development on identified sites in the planning period.

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

For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. HCD recommends including a cover memo describing the City's housing element, including the City's housing needs and regional housing need. The element should demonstrate compliance with these requirements and add or modify programs, if necessary. For additional information and sample cover memo, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/priority-water-and-sewer>.

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*: While the element references Program 3 for compliance with emergency shelters, the program only addresses compliance with AB 139, parking standards. The element should describe the development standards of the CR zone that allows emergency shelters without discretionary action and should describe the capacity in that zone as well as the provide an analysis of proximity to transportation and services for these sites, hazardous conditions, and any conditions inappropriate for human habitability. In addition, the element states that current emergency shelter spacing is 500 ft. However, emergency shelter spacing must not exceed 300 ft. The element must be revised to analyze constraints and add programs as appropriate.
 - *Transitional and Supportive Housing*: Transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. Specifically, transitional housing should also be allowed in the PRD zone and while Program 3 modifies requirements for AB 2162, by-right permanent supportive housing, the element must demonstrate all supportive housing is only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The element must demonstrate compliance with these requirements and include programs as appropriate.
 - *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 as a conventional single-family residential dwelling. The element must demonstrate consistency with this requirement or add or modify programs as appropriate.
5. *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. Specifically, the element must analyze the maximum site coverage of 30 percent and minimum open space requirement of 40 percent in the multifamily residential zone and clarify whether three stories are allowed in that zone. The element should also analyze the minimum landscape requirement and minimum open space requirement in the RM zone as a potential constraint and whether maximum densities can be achieved with land use controls. In addition, the element should describe the Development Opportunity Reserve Incentive Program including its requirements and findings and clarify whether it is discretionary. The element must also describe whether 100 percent residential development is allowed in the Avenue of Flags Specific Plan, and whether three stories are allowed in the Specific Plan. It should also describe how the standards work in conjunction with the requirement of commercial on the ground floor and how the density increase is determined if a development is using DOR incentives.

In addition, the element states (p. H-46) in Table 24 that residential is not allowed in commercial or M zones, but it is unclear whether mixed-use developments are allowed in those zones. The element should clarify if the Affordable Housing Overlay Zone sites allow stand-alone residential if fewer than 20 percent of the units are affordable. The element should also clarify if residential is allowed by-right or if a conditional use permit (CUP) is required in the Overlay Zone. Additionally, the element states in the Review of the 5th Cycle that parcels over six acres require a specific plan. The element should clarify if this requirement will affect the overlay zones identified in the sites inventory and add a program to address constraint. The element must also analyze the additional requirements (tentative and final parcel maps, design requirements, planned unit developments, etc.) for mixed-use zones as a constraint and clarify if three stories are allowed in mixed-use zones.

Local Processing and Permit Procedures: While the element lists review times for various approvals, it must also describe and analyze the total estimated time for permit processing for single-family and multi-family developments. The element must also describe the process and findings of approval required in the AHOZ and evaluate impacts on timing, cost, feasibility and approval certainty. The element may utilize past projects to assist with this analysis. In addition, the element must describe the requirements and approval findings for the Planned Residential District and clarify if the process is optional.

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program to address these requirements.

On/Off-Site Improvements: The element must identify typical subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability.

Codes and their Enforcement: While the element describes the City's current building code, it must describe the City's building and zoning code enforcement processes and procedures, including whether code enforcement is targeted or complaint based, and analyze their impact as potential constraints on housing supply and affordability.

Other Local Ordinances: While the element analyzes the City's inclusionary ordinance, it must analyze any other locally adopted ordinances that directly impacts the cost and supply or residential development (e.g., short term rentals, growth controls, crime free ordinances). Additionally, the element should clarify if the City is compliant with the Housing Crisis Act.

Housing for Persons with Disabilities: The element must include an analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities. For example, the analysis must describe any zoning code definitions of family and any spacing or concentration requirements for housing for persons with disabilities. In addition, the element states (pp. H-46 and H-51) that residential care for seven or more requires a minor use permit (MUP). The element should clarify if these requirements are objective and if they allow approval certainty as well as the level of approval. 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. 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 CUP could potentially subject housing for persons with disabilities to higher discretionary exceptions processes and standards where an applicant must, for example, demonstrate compatibility with the neighborhood, unlike other residential uses.

6. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... ..the price of land... (Gov. Code, § 65583, subd. (a)(6).)*

Price of Land: The element states the price of land varies (page H-66); however, the element should be revised to include actual price of land for residential development.

7. *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).)*

While the element quantifies the City’s female-headed household population, it must also analyze their special housing needs. For a complete analysis of this population group, the element should discuss challenges this population faces, the existing resources to meet those needs, an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

B. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact in the planning period and achieve the goals and objectives of the housing element, programs must have specific commitment to housing outcomes and discrete timing (e.g., at least annually or by 2024). Examples of programs that should be revised include:

- *Program 1.d (Affordable Housing Incentives)*: The program should include proactive outreach to developers about available incentives. In addition, the program should revise any actions related to LEAP funding to align with LEAP deadlines.
- *Program 2.c (ADU)*: The program should include proactive outreach for ADU incentives and should include affordability level for the identified metric. Additionally, this program should clarify whether all incentives are already in place and if they are not, it should include timing of when preapproved plans and the City's webpage will be available.
- *Program 4.b (CDBG and HOME)*: This program should be revised to include how often the City will participate in the HOME Consortium as well as what actions will be taken to develop special needs housing.
- *Program 5.a (Emergency Mobile Home Repair)*: A program should be added for the rehabilitation of other unit types in addition to mobile homes.
- *Program 5.b (Relocation Assistance for Displaced Tenants)*: The program should be revised to include specific commitment to a housing outcome, beyond “explore.”
- *Program 7.a (Fair Housing Enforcement and Capacity)*: The program should be revised to include how often educational outreach will occur.
- *Program 7.b (Access to Opportunity)*: This program should be revised to include other special needs groups such as farmworkers and female headed households. Additionally, the program should describe the actions the City will take to encourage development for seniors and persons with disabilities.

2. *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 A4, 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.

3. *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 must include a program(s) with specific actions and timelines to assist in the development of housing for extremely low-income households. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to extremely low-income households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/assist-development-housing>.

In addition, the element must also include a program(s) to assist in the development of housing for all special needs households (e.g., homeless, farmworkers, female-headed households), including specific actions to address the housing needs of farmworkers. Program actions could include proactive outreach and assistance to nonprofit service providers and developers, prioritizing some funding for housing developments affordable to special needs households and offering financial incentives or regulatory concessions to encourage a variety of housing types.

Finally, due to the City's extremely low vacancy rates as noted on page H-24, a program could be added to address to increase housing supply and choices (not limited to the RHNA) for disproportionately impacted households, including lower and moderate-income households.

4. *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 A5 and A6, 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 3.a (Amend Zoning) includes an action to update emergency shelter parking standards, but must also address spacing requirements and other identified constraints.

5. *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 A1, the element requires a complete AFFH analysis. The element must be revised to add goals and actions based on the outcomes of a complete analysis. 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 numeric objectives and, as appropriate, 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.

C. 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 summary of the public participation process, the element should also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element could describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element should also describe the availability of translation services at public meetings.