

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

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November 22, 2023

Aaron Bock, Assistant Director  
Resource Management Agency  
County of Tulare  
5691 S Mooney Blvd  
Visalia, CA 93277

Dear Aaron Bock:

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

Thank you for submitting the County of Tulare's (County) draft housing element received for review on August 28, 2023. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on November 16, 2023 with you, Russell Kashiwa and Sandy Roper. In addition, HCD considered comments from David Kellogg and the Leadership Counsel for Justice and Accountability pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to 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 County 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) 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 County 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 County meets 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 County 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 commitment and responsiveness during the housing element update and review. We are committed to assist the County in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jed Hackett, of our staff, at [jed.hackett@hcd.ca.gov](mailto:jed.hackett@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX COUNTY OF TULARE

The following changes are necessary to bring the County'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. *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 must explain how the County complies with various fair housing laws and describe any enforcement actions, lawsuits, or judgements related to fair housing. For a list of fair housing laws, please see HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo (p. 29) at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

Racial/Ethnic Areas of Concentration of Poverty (R/ECAP): The element includes information relative to R/ECAP but should evaluate the characteristics of these areas, changes over time, comparisons to other neighborhoods in terms of equitable quality of life, incorporate local data and knowledge and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

Disproportionate Housing Needs, including Displacement: The element reports some data on persons experiencing homelessness but should also discuss patterns and trends and access to services and other opportunities. For example, the element could discuss areas where more persons experience homelessness and how transportation and homeless services are available to those areas.

Identified Sites and AFFH: The element must demonstrate how identified sites AFFH. While the element includes some discussion about the County's efforts and quantifies the regional housing need allocation (RHNA) by area and resource categories (e.g., low, moderate, high), it must include analysis of the quantification and should expand the analysis beyond resource categories to at least include race, income, overpayment, overcrowding and displacement risk. Further, the analysis should address how the identification of sites impacts the existing patterns of socio-economic concentrations, including any isolation of the RHNA by income group, whether the RHNA is well distributed throughout the County and any other relevant factors that influences the identification of sites such as availability of infrastructure and hazard areas.

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 and patterns and trends 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 outcome of a complete analysis, the element should reassess 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).)*

*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).)*

Unincorporated Data: In some cases, the element includes data of housing and household characteristics for the entire County, including incorporated cities. However,

the element should include data for the unincorporated County. Data for the unincorporated County should be includes for at least households by tenure, household size, overcrowding, extremely low-income households, persons with disabilities, large households by tenure, female headed households, elderly households by tenure and housing units by type (e.g., single family detached and attached, multifamily, mobile home)

Extremely Low-Income (ELI) Households: The element does include some data on the number of existing and projected ELI households, but it must also include analysis of their housing needs. The analysis should evaluate tenure, overpayment, resources, and strategies available and the gap and magnitude of housing needs to better formulate policies and programs.

Housing Costs: The element includes information on housing costs based on the American Community Survey but should also include other sources of data for rents and sales prices (e.g., Zillow, apartments.com) to better reflect current market conditions.

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).)*

Realistic Capacity: The element discusses the calculation of realistic capacity on identified sites but should also discuss the likelihood of utilizing the mixed-use overlay and 100 percent nonresidential uses occurring on identified sites despite residential assumptions. For example, the element could examine all recent development on sites with the mixed-use overlay or zoning allowing 100 percent nonresidential uses; how often the development had a residential component; and then account for that likelihood in the calculation of residential capacity.

Suitability of Nonvacant Sites: Current uses on identified sites are either vacant or agricultural/open space. For sites with agricultural/open space, the element should evaluate the extent existing uses impede additional development given the current uses. For example, the element could discuss some recent trends in converting these uses and whether the existing uses where an impediment to additional development.

Accessory Dwelling Units (ADU) and Manufactured Homes: The element may utilize alternative methods to identify adequate sites toward the RHNA, including the potential for ADUs and manufactured homes on rural lots (e.g., septic and well). For example, the element could examine past trends and other relevant factors then demonstrate the anticipated affordability to utilize these housing types toward the RHNA. For more information, please see HCD's guidance at [https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf).

Availability of Infrastructure: The element must demonstrate existing and planned total water and sewer capacity to accommodate the RHNA. To demonstrate this capacity, the element includes Table 7-5 with available capacity by water or sewer by unincorporate community and planned residential capacity for the lower-income RHNA. However, this analysis should also incorporate the moderate and above moderate RHNA. This analysis may incorporate other methods of identifying sites such as the potential for ADU and manufactured homes on rural lots utilizing septic and wells. Based on the outcomes of this analysis, the element should add or modify programs to address infrastructure constraints.

Environmental Constraints: The element generally discusses environmental constraints such as flood and geologic hazards but should also address any other known conditions that could preclude development in the planning period such as shape, access, contamination and airport compatibility. For example, the element briefly discusses allowed uses within the airport compatibility areas; however, it should discuss airport compatibility relative to identified inventory sites.

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. While the element included a few examples about infill developments (p. 7-5), it must provide specific examples of development of equivalent size and affordability as identified sites in the inventory for both small and large sites. For example, the element describes some single family developments but multifamily developments are assumed toward the lower-income RHNA in the sites inventory. The element could provide other evidence to demonstrate the suitability of small and large sites to facilitate development of housing affordable to lower-income households. For example, for small sites, the element could demonstrate the potential for consolidation. For large sites, the element could demonstrate the potential for parceling to appropriate sizes. Alternatively, the element could shift these sites toward the moderate and above moderate income RHNA. Based on the outcomes of a complete analysis, the element should add or modify programs. HCD will send sample analyses and programs under separate cover.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within three years. The element should clarify if sites were identified in prior planning periods and if so, which sites and include a program if utilizing previously identified sites in the current planning period. For more information on program requirements, please see the Department's Housing Element Sites Inventory Guidebook at [https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf).

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the County must submit an electronic sites inventory with its adopted housing element. The County 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 County 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:

- *Emergency Shelters:* The element should clarify that emergency shelters are permitted without discretionary action, whether parking requirements are consistent with statute to only be sufficient for employees and meet new requirements pursuant to AB 2339 (zones allowing residential uses). AB 2339 generally expands the definition of emergency shelters, requires sufficient capacity in zones allowing residential uses and in close proximity to services and prescribes how to calculate capacity to accommodate the need for emergency shelters. For more information on AB 2339, please see HCD's guidance at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.
  - *Low Barrier Navigation Centers:* The element should be revised to address whether zoning complies with Government Code 65661 and add a program if needed.
  - *Permanent Supportive Housing:* The element should be revised to address whether zoning complies with Government Code 65651 and add a program if needed.
  - *Employee Housing Act:* The element contains references that a Special Use Permit is required to allow employee housing for more than 12 employees. The element should explain how this requirement complies with Health and Safety Code section 17021.6. In addition, the element should clarify compliance with Health and Safety Code section 17021.5 (e.g., six or fewer employees) and 17021.8 and add programs if necessary.
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).)*

Local Processing and Permit Procedures: The element should address public comments on this draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations (e.g., Public Resources Code 21080.1 & 21080.2) and add or modify programs as appropriate.



In addition, the element should clarify whether the County has procedures consistent with streamlining procedures pursuant to Government Code section 65913.4 and include programs as appropriate.

Persons with Disabilities: The element contains some analysis and discussion of approval processes for housing for persons with disabilities; however, it should analyze the reasonable accommodation procedure, definition of family and zoning and permit procedures for group homes for seven or more persons, as follows:

- *Reasonable Accommodation:* The element should discuss the procedures for reasonable accommodations including submittal requirements, fees, decision maker and approval findings.
- *Definition of Family:* The element should be revised to identify the definition of family and evaluate any constraints that may exist for housing for persons with disabilities (including any discussion of impacts on the number and relationship of people).
- *Group Homes for Seven or More Persons:* The element should clearly identify which zones allow group homes for seven or more persons and permit procedures utilized to allow these uses. Generally, excluding these uses from zones that allow other residential uses or subjecting these homes to a use permit or similar permit is a constraint that should be analyzed and addressed by adding or modifying programs.

Zoning, Development Standard and Fee Transparency: The element should discuss whether zoning code and fees are posted on the County's website and include a program to address if necessary.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, 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).)*

Timing and Density: The element contains some discussion of permit approval timing and the densities of approved and pipeline projects; however, this discussion should be expanded to include the typical time between final approvals and request for building permits. If permit approvals and requests for building permit are at the same time, the element should explain these circumstances. Additionally, the element should include a discussion of requests for densities that are less than assumptions in the sites inventory. If there is significant trend of requesting lesser densities, then the element should add or modify programs to promote higher densities.



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

The element lists various assisted developments (Table 3-61) but should also list these developments by anticipated expiration of affordability terms. In addition, the element identifies two development at-risk of conversion in the planning period but should also examine Vera Cruz (49 units) as potentially at-risk in the next ten years. Finally, the element should consider listing additional qualified entities with capacity to acquire and manage these properties. HCD will send additional information under separate cover.

### **C. 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 should include specific commitment and discrete timelines (e.g., at least annually, by 2025). Examples of programs that should be revised with discrete timing include Programs 3.3 (Employee and Farmworker Housing), 3.6 (Farmworker Assessment), 3.7 (Apply for Funding for Farmworker Housing), 5.2 (Meet with Affordable Housing Developers), 8.1 (Technical Assistance), 8.4 (Support Special Districts), 11.1 (Technical and Financial Assistance), 11.2 (Extremely Low-income Households) and 11.3 (Infill Housing Development).

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 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 County 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).)*

While the element includes a variety of programs to address some special needs, it should also include specific efforts to assist in the development of housing and services for persons with disabilities and persons experiencing homelessness. Examples of actions include coordination with regional entities and local governments, assisting with funding and supporting applications for funding, outreach and partnership with non-profits and technical assistance.

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 Finding B4, the element requires a complete analysis of potential governmental and non-governmental constraints. Depending upon the results of that analysis, the County may need to revise or add programs and address and remove or mitigate any identified constraints.

7. *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 Findings B1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the County may need to revise or add programs. Goals and actions must be significant and meaningful to overcome contributing factors to fair housing issues. Actions must have specific commitment, metrics, 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.

8. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

While the element includes various actions (Program 10) to preserve at-risk units, it should also commit to comply with noticing requirements (3 years, 12 months, 6 months).

9. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

Programs must be added or expanded to include incentives to promote the creation and affordability of ADUs. Examples include exploring and pursuing funding, modifying development standards and reducing fees beyond state law, increasing awareness, pre-approved plans and homeowner/applicant assistance tools.

#### **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 must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. While the element includes some of these objectives by income group for very low-, low-, moderate- and above-moderate income, the element must also include objectives for extremely low-income households. Further, the element should include conservation objectives, including but not limited to preservation of at-risk units. Other conservation objectives could include efforts under Program 9 (Code Enforcement).

#### **E. Consistency with General Plan**

*The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)*

While the element includes an in-depth discussion of all the components of the general plan, it should also discuss how internal consistency will be achieved and maintained throughout the planning period. For example, the element could discuss how internal consistency will be achieved through the adoption process of the general plan amendment for the housing element and that consistency will be maintained as part of the public hearing for the annual report on the implementation of the housing element.