

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

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October 23, 2023

Paul Bernal, Director  
Community Development Department  
City of Visalia,  
315 E. Acequia Avenue,  
City of Visalia, CA 93291

Dear Paul Bernal:

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

Thank you for submitting the City of Visalia's (City) draft housing element received for review on July 25, 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.

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). 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 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 commitment and cooperation of the housing element update team during the update and our 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 Irvin Saldana, of our staff, at [Irvin.Saldana@hcd.ca.gov](mailto:Irvin.Saldana@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 VISALIA**

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 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).)*

The element must provide a cumulative evaluation of the effectiveness of past 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).)*

Fair Housing Enforcement and Capacity: While the housing element includes a summary of fair housing enforcement and outreach capacity at the county level, it must also quantify and evaluate complaints at the City level. In addition, the element should discuss how the City complies with existing fair housing laws and regulations, any past fair housing lawsuits, consent decrees or other related legal matters.

Patterns and Trends: While the element reports general information and data, it must analyze this data for trends over time, patterns across census tracts, and coincidence with other components of the assessment of fair housing that go beyond general statements. Additionally, the element must broaden its regional analysis. For example, the element could compare the City with neighboring counties such as Kings, Kern, and Fresno County.

Racially Concentrated Areas of Poverty/Affluence): The element identified one census tract that qualified as a R/ECAP and a total of three census tracts that qualified as RCAA's; however, the element should evaluate the factors that contribute to this outcome. This analysis should utilize local data knowledge and other relevant factors to achieve a comprehensive analysis. For example, the element could examine past land use practices, investments, and quality of life relative to the rest of the City and region and then formulate appropriate programs to promote more inclusive communities and equitable quality of life. Based on a complete analysis, the City can consider additional actions (not limited to the Regional Housing Need Allocation (RHNA)) to promote housing mobility and improve new housing opportunities throughout the City.

Disproportionate Housing Needs Including Displacement: The element must evaluate patterns and needs related to housing conditions and people experiencing homelessness. For housing conditions, the element should evaluate whether any neighborhoods or areas have a higher need of rehabilitation and replacement than other areas. For persons experiencing homelessness, the element should examine disproportionate impacts on protected characteristics (e.g., race, disability) and patterns of need, including access to transportation and services. The analysis should utilize local data and knowledge from service providers and code enforcement officials. Pending a complete analysis, the element should highlight any gaps in addressing the need and integrate policies and programs to effectively overcome disparities in addressing the City's housing stock and unsheltered population.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): Based on the City's site location relative to all components of the fair housing analysis, the City must identify additional sites to AFFH. The element mentions that most sites, including those for lower-income households, are in areas of high and highest resource; however, there are still large concentrations of lower-income units near lower-resource, (low-income) census tracts that have high concentrations of Hispanic/Latino residents, including in the City's Downtown. While the City's multifamily zones are limited, the element should identify additional innovative strategies to effectively promote housing mobility and integration throughout the City. For example, missing middle unit types can be used as a tool to promote additional units throughout the City.

Contributing Factors: The element identifies many contributing factors to fair housing issues but must prioritize these factors to better formulate policies and programs and carry out meaningful actions to AFFH.

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).)*

Farmworkers: While the element includes data on seasonal and permanent farmworkers, it should also analyze housing needs and characteristics to better formulate policies and programs. An analysis should address housing challenges and conditions, present strategies, and resources to meet the need, and provide an assessment of gaps in resources for farmworkers within the City. The element should enhance existing policies and programs based on a revised analysis. Furthermore,

while trends seem to point to a decline in farmworkers in Visalia, the element should continue to consider the presence of farmworkers from the broader areas (county-wide) and those employed seasonally, including within the City's boundaries.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Progress toward the RHNA: As you know, the City's RHNA may be reduced by the number of new units built or approved since June 30, 2023; however, the element must demonstrate the affordability of units in the planning period based on actual sales price, rent level, or other mechanisms ensuring affordability (e.g., deed restrictions). While the element provides affordability assumptions based on deed restrictions for projects listed on P. 131, the element doesn't demonstrate affordability for the remaining projects in (Table 55) of the element. In addition, the element must discuss the availability or likelihood that units will be built in the planning period and should account for remaining steps in the entitlement process, any barriers to development, phasing, anticipated build-out horizons, market conditions, and other relevant factors to demonstrate their availability in the planning period.

Realistic Capacity: While the element provides conservative assumptions for buildout, realistic capacity assumptions must still account for all land use controls and site improvements. In addition, the element should demonstrate how trends, factors, and evidence in Table 57 led to capacity assumptions in Table 59. For example, projects used to make capacity determinations seem limited to the City's R-1-5 and R-M-2 zones and generally do not account for the City's higher-density zones and commercial zones. Moreover, the City seems to use capacity assumptions in Table 62 that are higher than in Table 59. The element should validate capacity assumptions in both tables. Lastly, the element assumes 55 percent capacity for nonresidential zones. While this capacity assumption is conservative, the element provides no support for these assumptions. For example, the element could examine all development activity within the nonresidential zones, assess how often residential development occurs, and then adjust the calculation of residential capacity along with relevant policies, and programs. Moreover, the element should commit to a mid-cycle assessment of residential development in zones that allow 100 percent nonresidential usage and make adjustments, as appropriate, to capacity assumptions. Based on observable trends, the City may need to identify additional sites to meet the RHNA.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. The analysis shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the City's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. For example, the

element lists various factors (e.g., age of structure, improvement to land value ratio, and FAR) to indicate the potential for redevelopment in the planning period; however, the element should evaluate development trends or provide recent experience in redevelopment of structures based on those factors.

City-Owned Sites: The element should analyze the suitability and availability of City-Owned sites to meet the RHNA in the planning period. The analysis should discuss the status, anticipated steps for development including disposition, any known barriers to development and other relevant factors to development in the planning period. Based on a complete analysis, the element should add or modify programs to comply with the Surplus Land Act, commit to numerical objectives, including affordability, aligned with assumptions in the inventory, and a schedule of actions to facilitate development. A schedule of actions may include coordination with appropriate entities, including potential developers, disposition of the land, zoning, funding, facilitating other entitlements and issuing permits. Lastly, the program should identify and make alternative sites with zoning of equivalent capacity and density by a specified date if sites are not made available by a date early in the planning period.

Large Sites: While the element states large sites will only use ten acres of buildable acreage to accommodate lower-income RHNA, it must still provide analysis regarding the development of housing for lower-income households on large sites where the acreage of the parcel exceeds ten acres. Absent sufficient evidence that sites of equivalent size with affordability were successfully developed during the planning prior planning period or other evidence that demonstrates the suitability of these sites, the large sites are deemed inadequate to accommodate housing for lower-income households. For example, the element should describe the characteristics of anticipated development on identified large sites, including opportunities and timing for specific-plan development, further subdivision, parceling, site planning or other methods to facilitate appropriately sized sites that encourage the development of housing affordable to lower-income households. Based on the outcomes of this analysis, the element should add or modify programs.

Infrastructure Availability: The element should clarify if there is sufficient infrastructure capacity to accommodate the RHNA. In addition, if the City is dependent on the expansion of a water treatment facility to accommodate the RHNA, the element must include a program committing to actions and a timeline to make sufficient infrastructure available to accommodate the RHNA.

Annexation Required to Accommodate RHNA: If the City must rely on annexation to accommodate its regional housing need, the element must include a program committing to completing the annexation. In addition, the element must also include an evaluation of the suitability of the annexed sites, including the following information:

- consistency with LAFCO policies;
- actions to pre-zone prior to annexation;
- descriptions of the zone, density, development standards and design requirements;
- the anticipated housing capacity allowed by each site;

- timeline to complete annexation which is early enough in the planning period to facilitate development of annexed sites (e.g., within the first two years of the planning period);
- analysis of the suitability and availability of sites including identification of any known barriers to development in the planning period such as conservation easements or conditions under Williamson Act contracts; and
- if necessary, demonstrate compliance with the requirements of the adequate sites program requirements of Government Code section 65583.2, subdivisions (h) and (i).

Instead of relying upon annexation, the City may utilize other sites within existing City boundaries. For example, nonvacant sites or existing nonresidential zoned sites within the current City boundaries could be re-zoned to appropriate residential zoning designations and densities to accommodate the regional housing need. Or existing residential zoned sites within the current City boundaries could be re-zoned to residential zoning designations with higher densities to accommodate the regional housing need. If choosing these alternatives, the element must describe the suitability of these sites and include programs committing to completing the rezoning early in the planning period (e.g., within three years of the beginning of the planning period). For additional information, see the *Building Blocks* at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/inventory-of-land-suitable>.

Previously Identified Nonvacant and Vacant Sites: If nonvacant sites identified in a prior adopted housing element or vacant sites identified in two or more consecutive planning periods, the sites are inadequate to accommodate housing for lower-income households unless:

- The site's current zoning is appropriate for the development of housing affordable to lower-income households by either including analysis or meeting the appropriate density and
- The site is subject to a housing element program that requires rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower-income households. (Gov. Code, § 65583.2, subd. (c).)

Environmental Constraints: While the element generally describes potential environmental constraints, it must still describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period (e.g., shape, access, contamination, easements, conditions, compatibility).

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/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

## Zoning for a Variety of Housing Types:

- *Emergency Shelters*: The element should clarify whether emergency shelters are permitted without discretionary action, discuss status (vacant vs nonvacant) and reuse or redevelopment opportunities, proximity to services, and list and evaluate development standards and capacity as potential constraints. In addition, the element must comply with the requirements of Chapter 654, Statutes of 2022 (AB 2339). For more information, 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 (LBNC)*: LBNC's shall be a use by-right in zones where multifamily and mixed uses are permitted, including non-residential zones permitting multifamily uses pursuant to Government Code section 65660. While the element provides information on how LBNC's are allowed, the City's conditional use permit (CUP) requirement in non-residential zones is not in compliance with state law; therefore, the City must add a program as appropriate.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: The element must identify and analyze the impact of all relevant land use controls as potential constraints on a variety of housing types in all zones that allow residential uses, including commercial zones open to residential uses. The analysis should address any impacts on cost, supply, housing choice, feasibility, timing, approval certainty, and ability to achieve maximum densities and include programs to address identified constraints. Specifically, the element should analyze minimum lot size, and height requirements in multifamily, commercial, and mixed-use zones. For example, in the R-M-3 zone, minimum lot requirements require a two-acre minimum. Requiring such a large lot size could pose a constraint on multifamily development. Lastly, the element should evaluate current parking standards (p. 101) as a constraint and include a program to mitigate the constraint.

Local Processing and Permit Procedures: While the element outlines decision-making criteria and offers a general overview of processing timeframes, it should describe and analyze processing times and the procedures for a typical single-family and multifamily development that is consistent with zoning. The analysis should address the approval body, the number of public hearings, if any, approval findings, and any other relevant information. In addition, the analysis should address impacts on housing cost, supply, timing, and approval certainty.



In addition, the element indicates multifamily development in zones permitting multifamily development require a CUP for projects greater than 80 units. The element must analyze the CUP process as a potential constraint on housing supply and affordability. The analysis should identify findings of approval for the CUP and their potential impact on development approval certainty, timing, and cost. The element must demonstrate this process is not a constraint or it must include a program to address and remove or mitigate the CUP requirement. For additional information, see the *Building Blocks* at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/processing-and-permitting-procedures>.

In addition, the element should clarify how approval certainty is facilitated for residential projects in the OC and CMU zones. Currently, the element mentions projects in these zones are evaluated on a per-project basis in the absence of development standards (p. 85).

Finally, the element should discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

Fees and Exaction: The element should describe and analyze fees as a proportion of the development costs for both single-family and multifamily housing. Based on the outcomes of the analysis, the element should include programs to address identified constraints.

Housing for Persons with Disabilities (Reasonable Accommodation): The element describes the City currently has a procedure for requesting and granting reasonable accommodation for persons with disabilities; however, the element should also describe approval findings and the process for providing reasonable accommodations.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning, development standards, and fees for each parcel on the jurisdiction's website pursuant to Government Code section 65940.1(a)(1)(A) and (B)).

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

Permit Times and Request for Lesser Densities: The element must include analysis of requests to develop housing at densities below those identified in the site inventory; and the length of time between receiving approval for a housing development and submittal of an application for building permits. The element must address any hinderance on the development of housing and include programs as appropriate.

## 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 must have discrete timing (e.g., at least annually or by 2025) and specific commitment to housing outcomes and refrain from language such as “explore” while also having discrete timing (e.g., at least annually or by January 2024).

The following programs should be revised:

- Program 1.3: Conditional Use Permit Process
- Program 1.4: Housing Education
- Program 2.5: Incentives for Infill Affordable Housing
- Program 3.2: Multiple Family Developments
- Program 3.11: City Incentives for Affordable Housing
- Program 3.15: Promoting Accessory Dwelling Units
- Program 3.17: Planning for Large Sites
- Program 5.9: Special Needs Housing Outreach and Incentives
- Program 7.2: Socio-economic Segregation and Concentrations of Low Resources Areas
- Program 7.3 Improve Place-Based Strategies

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... (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.

As a reminder, the element must be revised to include a program to comply with the requirements of the Surplus Land Act. Program goals and objectives must commit to numerical objectives, including affordability, aligned with assumptions in the inventory, and a schedule of actions to facilitate development. In addition, programs to facilitate large lot development must be included. For example, the element can include programs to facilitate and incentivize lot splits.

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).)*

In Visalia, 18 percent of renter households are considered overcrowded. While proposed policy and program actions support larger unit types, program metrics, and objectives should be enhanced commensurate with the need. For example, Program 5.6 can go beyond facilitating the construction of 16 units per year.

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...(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 1.3 (Conditional Use Permit Process) should be revised to eliminate replace or modify the CUP requirement for projects above 80 units. While the element commits to reviewing this process on an annual basis, CUP processes affect the cost and timing of affordable projects and therefore should be treated as a constraint to housing.

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 B1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis, including listing and prioritization of contributing factors to fair housing issues. Goals and actions must significantly seek to overcome contributing factors to fair housing issues and must include quantifiable metrics and milestones for evaluating progress on programs, actions, and fair housing results. 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 higher opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

6. *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).)*

Program 5.8 (Municipal Code Updates): Accessory Dwelling Units (ADU) must be permitted in all zones that allow residential uses. In addition, and in the interim, until the City adopts an ADU ordinance compliant with state law, the element should commit to defer to state ADU and Junior Accessory Dwelling Unit (JADU) laws.

#### **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).)*

As a reminder, 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 must 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. Moreover, the City's consideration of public comment shall not be restricted by the findings in this review. Lastly, the element must be revised to include how feedback was considered and incorporated into the draft element following the City's second community workshop.