

**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](http://www.hcd.ca.gov)



March 15, 2024

Bernard Jimenez, Assistant Director  
Public Works and Planning Department  
County of Fresno  
220 Tulare Street, 6<sup>th</sup> Floor  
Fresno, CA 93721

Dear Bernard Jimenez:

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

Thank you for submitting the County of Fresno's (County) draft housing element received for review on December 18, 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 March 4, 2024, with the County's housing element team. In addition, HCD considered comments from Leadership Counsel for Justice and Accountability and Self-Help Enterprises 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.

As a reminder, the County's 6th cycle housing element was due December 31, 2023. As of today, the County has not completed the housing element process for the 6th cycle. The County's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the County to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government does not adopt a compliant housing element within 120 days of the statutory deadline (December 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the 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.

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.

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 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 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 hard work and dedication of the County's housing element team during the review. We are committed to assisting the County in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jose Ayala, of our staff, at [Jose.Ayala@hcd.ca.gov](mailto:Jose.Ayala@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX COUNTY OF FRESNO

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. 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).)*

Disproportionate Housing Needs, Including Displacement Risk: The element includes some general information on persons experiencing homelessness but should also evaluate that information. Specifically, the element should examine the disproportionate impacts on people with protected characteristics and services available and patterns of need or areas with higher concentrations of persons experiencing homelessness, including access to transportation and services. The element should utilize local data and knowledge such as service providers to assist this analysis.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element analyzed the identified sites by income group for various fair housing components including race, income, access to opportunity, and disproportionate housing needs. However, the element should also evaluate whether the location of sites improves or exacerbates current fair housing conditions by synthesizing the individual analysis by area and providing the cumulative impact of site selection. This can be provided in narrative form as a conclusion to the AFFH site analysis.

Contributing Factors: Upon a complete analysis of affirmatively furthering fair housing, the element should re-assess the contributing factors to fair housing issues and consider prioritizing these factors to better formulate policies and programs and carry out meaningful actions to AFFH.

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).)*

*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).)*

**Extremely Low-Income (ELI) Households:** While the element quantifies existing ELI housing needs, it must still analyze their housing needs – beyond quantification. The analysis of ELI housing needs should analyze the disproportionate housing needs of ELI households, resources, the effectiveness of strategies, and the magnitude of the gap in addressing housing needs. For additional information, please see HCD’s Building Blocks.

- 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 in Meeting the Regional Housing Need Allocation (RHNA):** The element may utilize constructed, approved, and pending development (pipeline) toward the RHNA. However, the element must demonstrate the affordability and availability of these developments in the planning period, as follows:

- **Availability:** The element describes the Friant Ranch development by status and anticipated number of units but should also discuss necessary steps and anticipated timing of re-entitlement, anticipated and any known barriers to development in the planning period.
- **Affordability:** The element lists three pipeline projects (Willow Heights Apartments, Del Rey, and Friant Ranch) as developments with units projected to meet the lower-income RHNA. However, the element must describe what mechanisms (state funding, deed-restrictions, inclusionary requirements, etc.) are used to justify the suitability of these sites to meet the lower-income RHNA.
- **Monitoring:** Given the reliance on pipeline projects, the element should include a program to monitor progress of pipeline projects toward completion in the planning period and, if necessary, take alternative action (e.g., rezoning) by a specified date if projects are not progressing toward completion in the planning period. This program should also monitor permitting and affordability for other strategies such as manufactured homes and rural single-family homes.

**Availability of Infrastructure:** The element briefly describes the County’s infrastructure but should evaluate the availability of existing and planned capacity to accommodate the RHNA. This analysis should be conducted at a community plan, planning area, district, or other level relative to planned residential capacity in each of the areas.

**Environmental Constraints:** While the element generally describes a few environmental conditions within the County, 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 (e.g., shape, access, easements, property conditions, zoning overlays, contamination, conservation easements, Williamson Act contracts).

Manufactured Homes: The element may utilize the potential for manufactured housing toward the RHNA based on permitted trends, anticipated affordability, and other relevant factors. While the element discusses affordability based on factors such as sales prices and land costs, it should also address costs related to transportation and financing. Based on the outcomes of a complete analysis, the element should adjust affordability assumptions and should consider lesser affordability assumptions for lower-income households.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element must add a program action to update the definition of emergency shelters and comply with all provisions of Government Code section 65583, subdivision (4)(A).
  - *Permanent Supportive Housing:* The element must describe compliance with permanent supportive housing provisions in Government Code 65651 and, if necessary, add or modify programs to amend zoning.
  - *Single Room Occupancy (SRO) Units:* While the County allows SRO in the R-2/R-2A and R-3/R-3A zones, it must also include an analysis of how the County's development standards and permitting procedures facilitate and encourage the development of SROs and add or modify programs as appropriate to address any constraint. For example, the element could describe why it regulates SROs based on the number of units.
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: While the element provides some analysis of land use controls, particularly the height restriction in the R-2A and R-3A zones, the conclusions do not appear to reflect typical understanding of development standards and facilitating maximum densities. For example, the element indicates that 22 and 29 units per acre can be achieved by limiting unit sizes. Limiting unit sizes does not address whether the heights are a constraint and avoids and faults the analysis. Instead, the analysis should utilize past projects or seek input from the development community. For your information, one story height limits in multifamily zone are a constraint. The element should recognize the constraint and add or modify programs to increase heights in multifamily zones.

Fees and Exaction: While the element provides an overview of the County's fees, is should also analyze fees as a percentage of total project cost and provide a comparison of total fees to neighboring incorporated jurisdictions.

Local Processing and Permit Procedures: The element provides an overview of the County’s processing and permit procedures and states that approvals are largely by-right. However, the element should describe the decision-making criteria (e.g., approval findings) used to evaluate projects and analyze any potential constraints, including impacts on approval certainty. Upon completing this analysis, the County may need to add or modify programs to address identified constraints.

Codes and Enforcement: While the element provides an overview of the building codes used in the County, the element must also describe the type of enforcement (proactive, reactive, complaint-basis) and any challenges associated with enforcement across the County’s large geographical area.

Constraints on Housing for Persons with Disabilities:

- *Residential Care Facilities (Seven or More Persons)*: While the element includes Program 33 (Improving Housing Options) to permit large residential care facilities (seven or more persons) in all zones where other residential uses are permitted, the Program should also commit to permit these uses in a similar manner to other residential uses of the same type in the same zone. In addition, the element should analyze the conditional use permit (CUP) as a constraint, including evaluating impacts on timing, cost and approval certainty and modify programs as appropriate to address identified constraints.
- *Land Use Controls*: The element should analyze parking requirements for residential care facilities for impacts on housing cost and feasibility. Based on the outcomes of this analysis, the element should add or modify programs to address the constraints on housing for persons with disabilities.
- *Reasonable Accommodation Appeals*: While the element provides information regarding the reasonable accommodation process, it should provide further information on approval findings and clarify the appeals process for reasonable accommodations. For example, the element should describe whether a third party can contest a reasonable accommodation approval and the applicant’s appeal process for a denial of a reasonable accommodation request.

**B. Housing Programs**

1. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city’s or county’s share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding A3, 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.

In addition, Program 15 (Lot Merger and Subdivision) should include additional and proactive actions to encourage affordable development on lots larger than ten acres. Examples include establishing incentives or other strategies to promote affordability, priority processing, assisting with funding, and fee waivers.

2. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

Programs 17 (Affordable Housing Incentives) and 18 (ELI Households): The Programs should specifically and proactively reach out to developers of affordability housing, at least annually, and identify development opportunities, including assisting with rezoning if necessary in higher resource areas.

Farmworkers: While the element briefly mentions farmworkers in a few programs, it must have specific and significant efforts given the magnitude of the needs in the region. For example, the element could commit to proactive actions to coordinate with nonprofit developers, employers, and other related organizations, to explore funding and incentives, annually identify specific development opportunities, pursue strategies to integrate affordable housing, and target rehabilitation and conservation and improvement programs toward farmworkers.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding A4, the element requires a complete analysis of potential 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.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the County may need to revise or add programs. In addition, goals and actions must specifically respond to the analysis and 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, metrics or numeric targets, geographic targeting, and milestones and must address, as appropriate, housing mobility enhancement, new housing choices and affordability in higher 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).)*

In addition to the public comment already in the element, Self Help Enterprises and Leadership Counsel for Justice and Accountability have provided valuable input to assist in updating a compliance and meaningful housing elements. For example, comments related to rezoning, utilizing public lands, suitable sites, fee deferral, environmental justice and AFFH and program suggestions will assist the County in meeting statutory requirements and addressing the housing needs for all segments of the community. HCD encourages the County to consider and incorporate these comments into the housing element.