

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

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September 20, 2023

Paul Johnson, Director
Planning Division
City of Bakersfield
1715 Chester Avenue
Bakersfield, CA 93301

Dear Paul Johnson:

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

Thank you for submitting the City of Bakersfield's (City) draft housing element update received for review on June 22, 2023, along with revisions received on September 5, 2023. 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 conversations on August 1, 2023 and August 9, 2023 with you, Kassandra Gale, Assistant Planning Director; Christopher Boyle, Development Services Director; Jose Fernandez, Associate Planner; and your consultants, Emily Green, Veronica Tam, Brenna Weatherby, and Jason Montague. In addition, HCD considered comments from several stakeholders, including Leadership Counsel for Justice and Accountability and Home Builders Association of Kern County, pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq.). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households; by making information regularly available while 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 you, your staff, and your consultants provided in preparation of the City's housing element and looks forward to working with the City toward a compliant housing element. If you have any questions or need additional technical assistance, please contact Shawn Danino, of our staff, at shawn.danino@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF BAKERSFIELD

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 <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, Building Blocks for Effective Housing Elements (Building Blocks), available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> 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).)*

Racially/Ethnically Concentrated Areas of Poverty (R/ECAP): While the element briefly states R/ECAPs are concentrated in Central and Southeast Bakersfield and mentions a few demographics, it should specifically analyze these areas for quality of life relative to other areas and formulate appropriate and meaningful policies and programs. For example, an analysis should address housing conditions, neighborhood conditions, infrastructure, parks, community amenities, safe routes to school, environmental health, effectiveness of past strategies and compare R/ECAPs to other areas such as higher opportunity areas or concentrated areas of affluence. The analysis should also incorporate local data and knowledge such as commenters on this review and other relevant factors such as market factors on housing stability, past zoning, and land use, redlining, lack of investment, state, and federal investment (e.g., housing, transportation, infrastructure) and lack of strategies to promote inclusion. Based on the outcomes of this analysis, the element should include significant and meaningful program that are in stride with the needs to promote equitable quality of life and inclusive communities. For example, the element should significantly enhance strategies related to housing mobility (not limited to the regional housing need allocation (RHNA)), displacement risk and place-based community revitalization.

Racial Concentration of Affluence (RCAA): While the element indicates the presence of RCAAs, it should also analyze these areas. For example, an analysis should address trends, conditions, coincidence with other fair housing factors (e.g., race, highest resource, overpayment), effectiveness or absence of past strategies (e.g., lack of publicly assisted housing and lack of multifamily zoning), local data and knowledge and other relevant factors.

Disproportionate Housing Needs: The element includes some general information on persons experiencing homelessness, farmworkers and housing conditions but should also evaluate that information, as follows:

- *For persons experiencing homelessness*, the element mentions disproportionate impacts on protected characteristics and geographic areas with higher need as well as some proposed strategies but should also discuss the access to services, shelter, sanitation, and amenities to better formulate appropriate policies and programs, including geographic targeting and metrics or numeric targets.
- *For farmworkers*, while the element makes brief statements regarding housing types and incomes, it should examine the disproportionate housing needs of farmworkers. For example, the element could discuss the impacts of salaries on affordability, displacement, and safe and sanitary housing conditions.
- *For housing conditions*, the element should discuss any geographic patterns or areas of higher need for rehabilitation and replacement, how that coincides with other fair housing factors (e.g., environmental quality, overpayment, displacement risk) then discuss the magnitude of the need to better formulate appropriate policies and programs, geographic targeting and metrics or numeric targets.

These analyses should utilize local data and knowledge such as service providers, code enforcement and other officials and commenters on this review to assist with this analysis.

Affirmatively Furthering Fair Housing (AFFH) and Identified Sites: The element must identify sites throughout the community to foster inclusive communities. While the element identifies and show sites and zoning throughout the community, many census tracts in the Southwest and Northeast portions of the City are considered highest resource areas by the Tax Credit and Allocation Committee (TCAC), but do not have any capacity for lower-income households. These census tracts include, but are not limited to, 6029005104, 6029002820, 6029003204, 6029002821, 6029002811, 6029002807, and 6029003123. In addition, the inventory appears to concentrate a large share of units available to lower-income households in the Southeast and Central portions of the City, where several census tracts are considered either low, moderately resourced, or high segregation and poverty areas by TCAC. These census tracts include, but are not limited to, 6029001600, 6029001300, 6029000600, 6029003202, 6029002500, and 6029002400. Given these and other circumstances, the element should further discuss whether this strategy potentially isolates a significant number of the housing need for lower-income and moderate and above-moderate households by location and include actions as appropriate, such as additional zoning for a variety of housing choices, displacement strategies and place-based strategies toward community revitalization.

Contributing Factors to Fair Housing Issues: Based on the outcomes of a complete analysis, the element should re-assess and prioritize the contributing factors to fair housing issues.

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

Progress in Meeting the RHNA: The City's RHNA may be reduced by pending, approved, or completed projects; however, the element must demonstrate their availability in the planning period. The element lists pipeline projects crediting 3,407 total units, all of which are above moderate-income (p. E-7). In addition, while the element provides estimated dates of completion, the element should also discuss any remaining steps, barriers to development, phasing, build out or planning horizons and other relevant factors to demonstrate their availability in the planning period.

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 of equivalent size and affordability were developed in the past. The element may provide other evidence to demonstrate the suitability of these sites to accommodate housing for lower-income households, including responsive policies and programs. While the element included a few examples about developments with lot consolidation, it must also provide specific examples with the densities, affordability and, if applicable, circumstances leading to consolidation. The element should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income housing need and provide analysis that shows that maximum allowable densities can be reached on sites smaller than a half-acre.

In addition, the City provides details on 25 sites over ten acres that have received letters of interest from property owners. However, given that these sites are expected to accommodate 16,832 units, including 9,298 units affordable to lower-income households, the element must specifically analyze their suitability to accommodate housing for lower-income households. For example, the element could describe its parceling strategy at appropriate sizes and include some analysis to ensure maximum densities are reachable given the City's development standards. Based on a complete analysis, the City should add or revise programs to include incentives for facilitating development on these sites for housing affordable to lower-income households.

Suitability of Nonvacant Sites: While the element describes several factors (e.g., improvement to land value, age of structure, existing floor area) utilized to identify suitable nonvacant sites, it should also analyze the validity of these factors. An analysis should utilize recent development trends on nonvacant sites and how those trends and

prior uses relate to the factors. Further, the element lists parcels by some of these factors but to the extent possible, should list parcels by all the utilized factors. Finally, while the element discusses that most nonvacant sites are underutilized parking lots and a few developments have occurred, it should still discuss the extent existing uses impede additional development for parking lots and other nonvacant sites. For example, the analysis could discuss how development on parking lots would not result in a loss of necessary parking or that the existing viable use would continue. For other nonvacant sites, the element could generally discuss the lack of impediments and indicators of turnover such as expressed interest in residential redevelopment, lack of known leases or other conditions that preclude redevelopment, lack of recent investment and turnover in uses or occupants.

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:

- *Employee Housing:* The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5, 17021.6 and 17021.8. For example, section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone. While the element broadly describes these requirements (p. C-26), it should demonstrate compliance with these policies, and modify policies and programs as appropriate. In addition, the City provided a matrix of revisions that described pre-approved plans for farmworker housing that were not found inside the element. Therefore, the element should be revised to clarify the timeline of these plans. For additional information and sample analysis, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/farmworkers>.
- *Single-Room Occupancies (SRO):* The element describes its plans to incentivize SROs in broad detail (p. E-31 and 34). However, the current zoning code only allows SROs in the C-C zone. Given the City's strategy to encourage these naturally affordable housing units, it should clarify which zones SROs will be permitted during the planning period, how development standards will encourage the use and add or modify the programs, as appropriate.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of*

housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)

Land Use Controls: The element identifies many land use controls as potential constraints on a variety of housing types and describes its strategies to remove parking minimums and mitigate some development standards that may constrain housing supply. However, the analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to maximum building coverage, floor area ratio (FAR), required open space per unit, minimum lot area, setbacks, height limits, 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.

SB-330: The Housing Crisis Act of 2019 (SB 330, 2019) was signed by Governor Newsom on October 9, 2019 and became effective on January 1, 2020. The Housing Crisis Act (Gov. Code, § 66300) generally prohibits a locality from enacting a development policy, standard or condition that reduces intensity, imposes moratoriums, enforces subjective design standards, or implements any provision that limits approvals or caps population. These provisions remain in effect until January 1, 2025. Specifically, Government Code section 66300, subdivision (b)(1)(D), with limited exception, does not allow affected jurisdictions to adopt new or enforce existing limits on the number of land-use approvals or permits. The City broadly describes these requirements (p. C-52) but should also evaluate consistency with these requirements.

Building Codes and their Enforcement: The element broadly describes how municipal codes are currently enforced (p. C-27 and 28). However, the element should describe the type (e.g., complaint-based) and degree of code enforcement. For additional information and a sample analysis, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/codes-and-enforcement-and-onsite-offsite-improvement-standards>.

4. *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: The element describes constraints related to requests to develop densities below those anticipated. However, the element should also describe the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need.

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 and achieve the goals of the housing elements, programs should have specific commitment, discrete timing (e.g., at least annually) and where applicable, increased numerical objectives. Several programs and actions lack specific commitment and discrete timelines, and some actions should increase numerical objectives and include timelines that should be moved earlier in the planning period to ensure a beneficial impact, as follows:

- *Earlier Timing:* Examples of actions that should have earlier dates include Action 5.3 (Farmworker Housing, currently January 2028) and Action 17.10 (targeted community programs in Central and Southeast Bakersfield by January 2028).
- *Discrete Timing:* Examples of actions that should have discrete timing include Action 4.1 (State and Federal Funding), Action 5.3 (Farmworker Housing), Action 11.1 (Funding for Homeless Service Providers) and Action 14.1 (Funding for Homeowners).
- *Numerical Objectives:* Several actions have objectives or numerical targets that should be increased in stride with the level of need in the jurisdiction. Examples include, but are not limited to, Action 5.4 (240 farmworker housing units), Action 5.6 (100 student housing units within 8 years), Action 5.8 (one Homekey application over 8 years for 20 extremely low-income (ELI) households), Action 8.10 (15 moderate income units per year), Action 8.14 (100 units of alternate housing types), Action 10.2 (10 home rehabilitations over 8 years), Action 11.3 (100 housing units for persons experiencing homelessness), Action 15.4 (plant 100 trees over 8 years), and Action 17.9 (10 affordable ADUs over 8 years).
- *Specific Commitment:* Some actions in the element lack specific commitments and should be amended. These include, but are not limited to, Action 8.9 (coordinate with High-Speed Rail Authority), and Action 19.1 (analysis of 15-minute neighborhoods). In addition, the City should consider making a firm commitment to establish smaller unit typologies outside of Accessory Dwelling Units (ADUs) that will increase housing opportunities across income categories.

Finally, commenters on this review offered many meaningful program suggestions related to clarity, specific commitment, timing, and numeric objectives. HCD encourages

the City to continue engaging with the public and commenters and make adjustments as appropriate.

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 A2, 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. In addition, the element should be revised, as follows:

- *Action 7.5 (General Plan and Zoning Amendments):* The Action commits to re-designate and rezone sites to accommodate the RHNA prior to the beginning of the planning period. Please be aware, if these zoning actions are not completed by December 31, 2023, the element must include a program(s) to rezone sites with appropriate zoning and development standards pursuant to Government Code sections 65583, subdivision (c)(1), and 65583.2, subdivisions (h) and (i).
- *Action 7.4 (Publicly-owned Sites):* The Action should commit to additional actions with discrete timing to facilitate development on publicly-owned sites such as facilitating entitlements, assisting with funding, and issuing building permits. Further, the Program should clarify that alternative actions will be taken if development is not feasible *in the planning period* and commit to when alternative actions will be completed.
- *Action 8.4 (Lot Consolidation):* The Program should commit to establish incentives to promote lot consolidation.
- *Action 9.1 (Large Sites):* The Action should commit to when strategies, including incentives, will be established to encourage parceling of large sites at appropriate sizes and affordability.
- *Action 13.1 (Monitor Accessory Dwelling Units (ADU)):* The Action should commit to additional alternative actions if production is not meeting assumptions in the inventory (e.g., rezoning).

- *Action 18.1 (Annexation)*: The Action should clarify that alternative actions will be taken if development is not feasible *in the planning period* and commit to when alternative actions will be completed.

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).)*

Action 5.3 (Farmworkers): As noted in Finding A1, the element must complete an analysis of farmworker housing needs. Based on the outcomes of a complete analysis, the element should add actions to assist in development of housing, address constraints, conserve and improve the existing housing stock and promote fair housing opportunities for farmworkers. Further, Action 5.3 should commit to additional actions and more frequently identifying development and conservation and improvement opportunities (e.g., at least annually)

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 A3 and A4, 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.

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 must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. Programs to AFFH should go beyond status quo actions and should be significant and meaningful to promote inclusive and equitable communities. Programs should include specific commitment, timing, geographic targeting and metrics or numerical targets and should, as appropriate, address housing mobility, encourage new housing choices in higher resource areas, improve place-based strategies toward community revitalization and protect existing residents from displacement.

The element should, for example, commit to additional programs to promote housing mobility (not limited to the RHNA), address displacement risk and enhance place-based strategies toward community revitalization. Finally, the element should commit to assessing and revising programs through a mid-cycle review. Please see HCD's AFFH memo for more information: https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf#page=23.

C. 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 provides a summary of quantified objectives (Table 2-1). These objectives include new construction, rehabilitation, and conservation objectives by income group. However, the element could consider additional conservation objectives. Conservation objectives may include a variety of strategies employed by the City to promote tenant stability and conserve the existing housing stock. Examples include Program 2 (Safe and Sanitary Housing), Program 6 (Tenant and Owner Protections and Support) and Program 15 (Support Climate Change Resiliency in Buildings and Neighborhoods)

D. Public Participation

Local governments shall make a diligent effort to achieve public participation oof all segments of the community in the development of the Housing Element and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

While the City made extensive efforts to reach the public, including hosting events and meeting with key stakeholders and summarizing community feedback, it should also further discuss how input was incorporated into the housing element.

In addition, HCD received comments with many meaningful and valuable suggestions related to the housing element and HCD strongly encourages the City to consider and address these comments, including revising the document as appropriate. Examples include a rental assistance program with a target of 300 tenants per year, establishing and defining missing middle housing typologies, and investing in additional incentives for Transit Oriented development.

Finally, HCD notes that public comments were received from the Leadership Council of Bakersfield and the Home Builders Association of Kern County, and the City expressed interest in responding to these comments during the review period but was not able to do so while meeting public noticing requirements, pursuant to Government Code 65585. These comments should be considered and incorporated into the City's next housing element submission.