

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

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October 11, 2024

Jami Westervelt, Director
Economic and Community Development Department
352 Fifth Street
Gustine, CA 95322

Dear Jami Westervelt:

RE: City of Gustine's 6th Cycle (2024-2032) Draft Housing Element

Thank you for submitting the City of Gustine's (City) draft housing element received for review on August 2, 2024. Pursuant to Government Code section 65585, the California Department of Housing and Community Development (HCD) is reporting the results of its review.

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 City's 6th cycle housing element was due January 31, 2024. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City 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 (January 31, 2024), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City does not adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant, the 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 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 coordination and time of the consultants and City staff to prepare the housing element as part of the multi-jurisdictional housing element process. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Andrea Grant, of our staff, at andrea.grant@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF GUSTINE

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <https://www.hcd.ca.gov/planning-and-community-development/hcd-memos>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks> and includes the Government Code addressing State Housing Element Law and other resources.

A. 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).)

Unaccommodated Need: To demonstrate adequate sites for the prior planning period, the prior element included Program 1-A (p. D1-2) to rezone sites and accommodate the shortfall of appropriately zoned sites to accommodate the regional housing need allocation (RHNA) for lower-income households. The element should discuss whether the rezoning is complete and should include this information. Additionally, the element should also discuss whether rezoning meets by-right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i) and add analysis and programs, as appropriate to address the unaccommodated need from the prior planning period within the first year of the current planning period.

Special Housing Needs: As part of the evaluation of programs in the past cycle, the element must also provide an explanation of the cumulative 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 describes capacity to provide education and outreach and a summary of fair housing complaints. However, the element must also include a discussion of any findings, lawsuits, consent decrees, judgments, and any other legal matters regarding fair housing. For additional information, please see pages 28-30 on HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo at https://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf.

Disproportionate Housing Needs Including Displacement Risks: The element includes some general information on housing conditions but should also evaluate patterns within the City. Specifically, the element should discuss any areas of potentially higher needs of rehabilitation and replacement. The element should utilize local data and knowledge such as service providers and code enforcement officials to assist this analysis.

Local Data and Knowledge and Other Relevant Factors: While the element incorporates some local data and knowledge and other relevant factors, it should expand use of this information to better understand the patterns and trends of socioeconomic concentrations and disparities in access to opportunities. Local data and knowledge and other relevant factors should complement federal, state, and regional data. For example, the element could utilize information from city officials, local and regional advocates and service providers and can geographically analyze historical land use and investment practices or other information and demographic trends. For additional information, see HCD's AFFH Guidance Memo <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

Contributing Factors: The element identifies many contributing factors to fair housing issues. However, the element should consider prioritizing these factors to better formulate policies and programs and carry out meaningful actions to AFFH. Also, the element should re-assess contributing factors upon completion of analysis and make revisions as appropriate.

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).)

Employment: The element generally reports data regarding employment by industry but should also list and evaluate major employers in the City and nearby areas and employment dynamics related to job and housing relationships such as, wages, housing affordability and transportation.

Extremely Low-Income Households (ELI): The element includes some basic information regarding ELI households such as the number of households (p. D3-14) and rates of overpayment (pp. D3-5 to D3-6). However, given the unique and disproportionate needs of ELI households, the element must analyze the disproportionate housing needs and effectiveness of existing resources and strategies to better formulate policies and programs. For example, the element could analyze overcrowding and other household characteristics and compare characteristics to other income groups.

Housing Costs: While the element includes information on sales prices and rental information from the American Community Survey, the element should reflect current market conditions and utilize additional data sources.

Special Housing Needs:

- *Persons with Developmental Disabilities*: While the element quantifies (p. D3-10) the City's special needs populations with developmental disabilities, it should also discuss challenges faced by the population, housing situation for individuals (e.g. independent, living with parents, etc.), and effectiveness of policies and programs to address housing needs.
 - *Housing for Agricultural Workers*: While the element includes a general discussion (p. D3-16) of the housing needs of farmworkers in the City, the analysis should be expanded to discuss household characteristics, challenges or disproportionate housing needs faced by the farmworkers. The analysis could consider and expand upon past studies conducted in the region and statewide. HCD will send additional information under separate cover.
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 RHNA: The City's RHNA may be reduced by units built, permitted, approved, or pending; however, the element must demonstrate their availability in the planning period. Specifically, the element should discuss remaining steps to completion, anticipated completion, likelihood of development given past trends of approvals not resulting in built units and any known barriers to development to development in the planning period.

Parcel Inventory: The element lists parcels in the rezone sites inventory (Table D6-9) by various factors such as size and zoning district. However, the listing must also include sites by general plan designation.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. To address this requirement, the element describes in general the existing use of each nonvacant site (e.g., agriculture). However, the element should address the extent that existing uses may impede additional residential development. For example, the analysis should address past experiences converting existing uses to residential development, current market demand for the existing use, whether uses are operating, any conditions that would perpetuate the existing use or prevent additional residential development and relate those circumstances to the sites identified (Gov. Code, § 65583.2, subd. (g)(2).)

In addition, as noted in the housing element, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period (Gov. Code, § 65583.2, subd. (g)(2).). Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

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.

Sites with Zoning for a Variety of Housing Types (Emergency Shelters): While the element describes the capacity for emergency shelters in the City, it should also address the proximity of that capacity to transportation and services for these sites. In addition, the element should describe how emergency shelter parking requirements comply with AB139/Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement. For additional information and a sample analysis, see the Building Blocks at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-2-combined-update-mc-a11y.pdf>.

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: While the element includes information about processing times, it should also describe the procedures for a typical single family and multifamily development that meet the City's zoning requirements. The analysis should also address the approval body, the number of public hearing if any, approval findings, architectural review, impacts on housing cost, supply, timing and approval certainty. For example, the element should identify and analyze approval findings for impacts on approval certainty, the presence of processes or guidelines to promote certainty and add or modify programs as appropriate. Additionally, the element should expand discussion of Planned Unit Development and include whether these are optional, if there is designated zoning, and if there are fixed development standards available.

Finally, the element should address public comments on this revised draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

On/Off-Site Improvements: The element must identify typical off site improvement requirements and analyze the cost impact of on and off- site improvements on total development costs.

Codes and Enforcement: The element provides an overview of the building code implementation in Gustine but should also identify any local amendments to the building code and analyze impacts on the cost and supply of housing. Additionally, the element states that the City provides code enforcement through its police department. The element should provide further analysis on how code enforcement is conducted and separate from law enforcement, including potential impacts on lower-income households.

Constraints on Housing for Persons with Disabilities: The element briefly describes its reasonable accommodation procedures. However, the element should expand the discussion about the process and decision-making criteria such as the application, approval findings, any related fees and time parameters for this process.

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).)*

Approval Time: The element must analyze the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis must also address any hinderance on the development of housing and include programs as appropriate.

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

Housing for Agricultural Employees: While the element includes Program 6 (Zoning Ordinance Amendments), the Program should commit to comply with Health and Safety Code Section 17021.8 of the Employee Housing Act.

Low Barrier Navigation Centers: While the element includes Program 6 (Zoning Ordinance Amendments), the Program should commit to permit low barrier navigation centers by-right (without discretionary action) in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65660.

Single-Room Occupancy (SROs): While the element includes Program 6 (Zoning Ordinance Amendments), the Program should commit to modify permit procedures and development standards to encourage and facilitate SRO units.

Emergency Shelters: Program 6 should clarify that zoning will be revised to permit emergency shelters without discretionary action.

Program 2 (Adequate Sites for RHNA and Monitoring of No Net Loss): As noted on page D6-14, sites will be rezoned to allow a maximum density of 25 units per acre. Program 2 should commit to increase allowable densities in the pertinent general plan designation and zoning district.

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).)*

Program 1 (Regional Collaboration): The Program should commit to how often the City will collaborate with regional partners (e.g., at least annually), including developers and affordable housing advocates and consider efforts to AFFH and collaboration and coordination regarding implementation of the housing element.

Program 13 (Community and Economic Development): The Program should include discrete timing (e.g., at least annually, by 2026) for all specific actions and objectives.

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

Farmworkers: Given the importance of farmworkers and the regional needs, the element should expand actions to specifically address the needs of farmworkers that are responsive to the analysis. For example, the element could commit to providing technical assistance to developers, creating informational materials, and collaborating with employers to identify specific development opportunities or address existing housing conditions, or other proactive actions to facilitate the development of farmworker housing.

- 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 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.

Development Standards: Program 6 (Zoning Ordinance Amendments) should commit to increase heights to allow three stories in the R-3 and R-4 zones.

Fees: As noted on page D4-28, Program 8 (Facilitating Affordable Housing Development) should be modified to revise fees to be competitive with other cities in the region.

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 B1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the City may need to revise or add programs. 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, 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.

In addition, as noted on page D7-15, the element should include a summary of AFFH actions.

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 these objectives by income group for new construction, the element must also include objectives for rehabilitation and conservation units by income category. Additionally, conservation objectives should not be limited to at-risk preservation during the planning period and may include broader efforts to conserve the existing housing stock such as code enforcement, housing choice vouchers and weatherization.

E. Public Participation

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

While the City made considerable effort to include the public through community workshops, surveys, informational meetings, and stakeholder interviews, moving forward, the City should employ additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. For example, the City could conduct targeted stakeholder interviews or establish a committee representative of lower-income

households in future public outreach efforts. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/public-participation>.

F. 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).)

The element should describe how internal consistency will be achieved as part of the housing element update and should discuss updates of other elements of the general plan that are triggered by housing element adoption. 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>.