

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

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June 20, 2024

Michael G. Pitcock, City Manager
City of Waterford
101 E Street
Waterford, CA 95386

Dear Michael G. Pitcock:

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

Thank you for submitting the City of Waterford's (City) draft housing element received for review on March 22, 2024. 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 May 31, 2024 with David Niskanen and Jailah Smith, consultants with J.B. Anderson Land Use Planning. 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.

As a reminder, the City's 6th cycle housing element was due December 31, 2023. 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, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), as the City did not adopt a compliant housing element within 120 days of the statutory deadline (December 31, 2023), the City must complete rezones to make prior identified sites available or accommodate a shortfall of the regional housing need allocation (RHNA) no later than one year from the statutory deadline. 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 all necessary rezones are completed pursuant to Government Code sections 65583, (c)(1)(A) and 65583.2, subdivision (c).

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 assistance David Niskanen provided during the housing element 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 Emily Hovda, of our staff, at Emily.Hovda@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF WATERFORD

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).)

Adequate Sites Rezone: To demonstrate adequate sites from the prior planning period, the prior element included Program 1.5 (Residential Sites Inventory – Lake Pointe Master Development Plan) and Program 1.6 (Mixed-Use Residential) to rezone sites and accommodate the shortfall of appropriately zoned sites to accommodate the regional housing need allocation (RHNA) for lower-income households. The City recently submitted Ordinance 2018-06 for HCD's review. While this ordinance does address the minimum density requirements and performance standards for mixed-use development, it still must demonstrate whether rezoned sites have a site capacity of at least 16 units and permit rental and owner multifamily development without discretionary review.

The element must also demonstrate the sites were rezoned during the prior planning period which ended December 31, 2023. (Gov. Code, §§ 65585 and 65588.) If the element does not demonstrate compliance with the statutory requirements, it must include program to accommodate the unaccommodated need within the first year of the planning period.

Programs: A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As part of this analysis, the element should describe the actual results of the prior element's programs, compare those results to the objectives projected or planned, and based on an evaluation of any differences between what was planned versus achieved, provide a description of how the objectives and programs of the updated element incorporate changes resulting from the evaluation. This information and analysis provide the basis for developing an effective housing program. For example, Program 1.2 (Encourage Urban Infill) states that the City "continues to investigate ways to encourage urban infill," but does not state whether the City completed the report referenced in the Program language or completed any urban infill projects during the

planning period. As another example, Program 1.3 (Inventory of Government-Owned Land) states that the City “has continued to monitor and inventory government owned land within the City,” but does not state what the City has accomplished with the inventory beyond submitting information for the housing element annual progress report. Generally,

Lastly, the element must provide an evaluation 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). Programs should be revised as appropriate to reflect the results of this evaluation.

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: While the element includes a brief summary of fair housing complaints on a county-wide basis, it should include information on fair housing complaints more specific to the City and analyze those complaints for trends, patterns, and impacts on protected classes. The element should also discuss the City’s capacity for outreach efforts and its ability to handle fair housing cases locally. The element must describe capacity to provide enforcement and outreach which can consist of actions such as the ability to investigate complaints, obtain remedies, or engage in fair housing testing. The analysis could also evaluate data and the results from any fair housing testing. In addition, the analysis must address compliance with existing fair housing laws as well as any past or current fair housing lawsuits, findings, settlements, judgements, or complaints.

Local Patterns and Trends: The element includes data and maps regarding various components of the fair housing analysis. However, the element should also include analysis. An analysis should evaluate data for patterns throughout different parts of the community and trends over time. The analysis of patterns and trends should address all components of the fair housing analysis (e.g., integration and segregation (race, income, disability, and familial status) and disparities in access to opportunity (education, environmental, transportation, economic)). In addition to evaluating patterns and trends, the element should analyze coincidences with other components of the assessment of fair housing. For example, the element could describe whether patterns of median incomes are similar to race and access to opportunities. Lastly, the analysis should be complemented by local data and knowledge, including input from comments, and other relevant factors as described below.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element does not address this requirement. The analysis must identify whether sites improve or exacerbate conditions and whether sites are isolated by income group. An analysis should address the income categories of identified sites with respect to location, the

number of sites and units by all income groups and how that affects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to promote equitable quality of life throughout the community (e.g., anti-displacement and place-based community revitalization strategies). This is especially relevant for lower-income sites to accommodate the RHNA identified in the Lake Pointe Master Development Plan area.

Local Data, Knowledge, and Other Relevant Factors: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. The element should discuss patterns within specific community plan areas for all AFFH indicators. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use, zoning, proximity to industrial uses and public housing, major physical dividers such as highways and railroad tracks, recent annexations, waves of development and master planned areas compared to older areas, and investment practices or other information and demographic trends.

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

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).)

Housing Costs: While the element includes information on sales prices, the element must also include information on average local rental prices.

Special Housing Needs: While the element includes some data and analysis for special housing needs populations, it should also describe and analyze existing resources available to meet the needs of these populations (e.g., availability of senior housing units, number of large units, number of deed restricted units, etc.), specifically for seniors, persons with disabilities (including developmental disabilities), large households, female-headed households, farmworkers, and ELI households. This analysis should include an assessment of any gaps and the magnitude of need that may not be filled by existing resources. 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/large-families-and-female-headed-households>.

Farmworkers: While the element quantifies the number of farmworkers, it should also include analysis. The analysis should address trends, characteristics (e.g., permanent, seasonal, housing tenure), disproportionate needs, the magnitude and nature of the gap between resources and housing needs, and the effectiveness of past policies, programs, and funding to help address those gaps. The analysis may utilize past farmworker housing studies and other studies generally applicable to their special housing needs. For additional information on the disproportionate needs of farmworkers, see Farmworker Health in California: Health in a Time of Contagion, Drought, and Climate Change from the University of California, Merced at https://clc.ucmerced.edu/sites/clc.ucmerced.edu/files/page/documents/fwhs_report_2.2.2383.pdf.

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).)*

Parcel Listing:

- *Affordability* – While Table 41 includes estimates for the maximum and realistic number of units on each parcel, the element must include a breakdown of units for each income category (e.g., lower, moderate, and above-moderate income).
- *Existing Uses* – The element lists parcels by various factors such as size, zoning, general plan designation and existing use. However, the description of existing use is generic and must include sufficient detail to facilitate an analysis of the potential for additional development on nonvacant sites. For example, many sites describe existing uses as single family homes and agriculture operations. Instead, the inventory could describe the condition and age of the structures, whether agricultural businesses are operational, or other relevant information. For more information, see the HCD's Housing Element Sites Inventory Guidebook at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf.

- *Site V3* – The element notes that this Site is 0.95 acres, has a maximum density of 6 units; however, reflects a maximum capacity of 53.7 units. The City should review this and clarify the maximum and realistic capacity for this site.
- *Fractional units* – The site inventory currently lists sites to accommodate the RHNA using partial numbers (e.g., 5.94 units). The inventory should be revised with whole numbers for the number of units each site could accommodate.

Progress in Meeting the RHNA: The element should describe whether Carriage Square Estates and the Fahmy Subdivision are being counted as progress toward the RHNA. However, based on conversations with the City, it does appear that these projects may be counted towards the RHNA. If utilizing pending development toward the RHNA, the element must include an analysis demonstrating the affordability and availability of these units during the planning period. To demonstrate the availability of units within the planning period, the element could analyze infrastructure schedules, the City's past completion rates on pipeline projects, outreach with developers, and should describe any expiration dates on entitlements, anticipated timelines for final approvals, and any remaining steps for projects to receive final entitlements.

Small and Large Sites: Sites smaller than half an acre or greater than ten acres are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites of equivalent size with affordability were successfully developed during the prior planning period or other evidence demonstrates the suitability of these sites. The element should provide analysis of past trends or present other evidence to demonstrate the suitability of these sites. For example, the analysis could describe the City's role or track record in facilitating past lot consolidation, common ownership, policies, or incentives offered or proposed to encourage and facilitate lot consolidation or other conditions rendering parcels suitable and ready-for-lot consolidation.

Realistic Capacity: While the element provides realistic capacity estimates in Table 41, it must also provide specific analysis to support these capacity assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumption. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

Lastly, the element appears to assume residential development on sites with zoning that allows 100 percent nonresidential uses. Specifically, the element identified Site V44 to accommodate 162 units towards the RHNA. This site is described as a planned community that allows mixed-use development. The element must analyze the likelihood of residential development in zoning where 100 percent nonresidential uses are allowed. The analysis should be based on factors such as development trends including nonresidential, performance standards requiring residential uses or other relevant factors such as enhanced policies and programs.

Zoning for Lower-Income Households: The element must demonstrate densities appropriate to accommodate housing for lower-income households. For communities with densities that meet specific standards (at least 20 units per acre for Waterford), no analysis is required (Government Code section 65583.2(c)(3)). Otherwise, an analysis must demonstrate appropriate densities based on factors such as market demand, financial feasibility, and development experience within identified zones. The element indicates Site V7 to accommodate the City's lower-income RHNA. This site is located in the RS zone and reflects a zoning of 4-6 units per acre. As such, the element must include the analysis described above, rezone the Site, or utilize the site toward the moderate and above moderate-income RHNA.

Sites Identified from Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within the timeframe specified in Government Code section 65583.2(c). The element should clarify if sites were identified in prior planning periods and if so, which sites and add or modify a program pursuant to Government Code section 65583.2(c). For more information on program requirements, please see HCD's Housing Element Sites Inventory Guidebook at https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf.

Replacement Housing Requirements: The element identified nonvacant sites that include residential structures. Further, the element notes that these sites have residential uses that are not considered affordable and; therefore, the replacement provisions do not apply (p. 76). However, pursuant to Government Code section 65583.2(g)(3), the replacement provisions do apply on sites that are occupied by lower-income households, irrespective of whether the unit is considered affordable. Based on the outcome of a complete analysis, the element may need to add or modify programs as appropriate.

Suitability of Nonvacant Sites: The element notes that nonvacant sites were identified based on size, zoning, degree of vacancy, and existing uses. Majority of the nonvacant sites are noted as vacant with ranch homes and agricultural uses. However, this analysis does not demonstrate the likelihood for redevelopment. The analysis should discuss how ranch homes and existing agricultural uses are indicative or supportive of redevelopment potential. The analysis could consider factors including, but not limited to, the extent existing uses constitute an impediment to development, building age, degree of underutilization, whether uses are operational, building conditions, outreach efforts to landowners, the City's past experience converting existing uses, market conditions, existing leases or contracts, and incentives and standards to encourage development.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, the housing element must demonstrate that the existing use is not an impediment to additional residential development in the planning period (Gov. Code, § 65583.2, subd. (g)(2).). This can be

demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period (Gov. Code, § 65583.2, subd. (g)(2).).

Accessory Dwelling Units (ADUs): The element should clarify whether the City is utilizing ADUs to accommodate a portion of the RHNA. For example, Table 61 notes 27 ADUs for moderate-income households. If the City is projecting ADUs for the RHNA, a complete analysis should include number of units being projected, past trends, income levels, the methodology, and support for these assumptions. A complete analysis may also include resources, incentives, and other relevant factors. Based on a complete analysis, the element may need to add or modify policies and programs as appropriate.

Specific Plan Areas: The element relies on the Lake Pointe Master Development Plan to accommodate a portion of the City's RHNA. While the element indicates the Plan's residential capacity and estimates the number of units to be accommodated by each parcel, it does not provide sufficient analysis demonstrating the suitability for development in the planning period. For example, the element should discuss the anticipated timeline or build out horizon and adjust capacity assumptions as appropriate. To utilize residential capacity in specific plans, the element must:

- Identify approved or pending projects within these plans that are anticipated in the planning period, including anticipated affordability based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project;
- Describe necessary approvals or steps for entitlements for new development (e.g., design review, site plan review, etc.); and
- Describe any development agreements, and conditions or requirements such as phasing or timing requirements, that impact development in the planning period.

Availability of Infrastructure: While the element discusses the capacity of community service districts within the City, it should clarify whether there is sufficient sewer capacity (existing and planned) to accommodate the RHNA and the accessibility of infrastructure (existing and planned) to identified sites. Additionally, several sites are noted as having planned infrastructure (Table 41); however, the element should discuss and analyze the status of these plans, applicable timelines, and other factors that may affect the development of the planned infrastructure. Based on the outcomes of a complete analysis, the element should add or modify programs, as appropriate.

Water Sewer Priority: Water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The element should discuss compliance with these requirements and if necessary, add or modify programs (Program 6.5) to establish a written procedure by a date early in the planning period. For additional information and sample cover memo, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/priority-water-and-sewer>.

Environmental Constraints: While the element mentions environmental constraints generally, it should discuss environmental constraints relative to identified sites and describe any other known environmental or other constraints (e.g., shape, access, easements, conservation easements, Williamson Act contracts, military and other compatibility, contamination) that could impact housing development on identified sites in the planning period.

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), the County must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The County can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance. Please note, upon adoption of the housing element, the County must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element states that emergency shelters are allowed by-right in the Multifamily Residential (RH) and General Commercial (GC) Districts. However, the element should also describe the development standards of the RH and GC zones, including any special standards for emergency shelters and whether those standards are appropriate for emergency shelters, especially relating to parking. Specifically, the element must evaluate the City's emergency shelter parking requirements pursuant to AB 139/Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement. The element should also provide an analysis of capacity, including acreage, parcel size, vacancy status, and proximity to transportation and services for these sites, hazardous conditions, and any conditions inappropriate for human habitability.
- *Employee Housing:* The element states farmworker housing is allowed by-right in the single-family residential (RS) and agricultural (AG) zones. However, the element should address whether the City complies with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5, 17021.6 and 17021.8. 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. Section 17021.8 requires that a development is subject to a streamlined, ministerial approval process and is not subject to a conditional use permit (CUP) if the development is an eligible agricultural employee housing development. Based on a complete analysis, the element should add or modify programs.

- *Transitional and Supportive Housing:* While the element states that transitional and supportive housing is allowed in multiple residential zones without limitation or a use permit, the element should clarify whether transitional and supportive housing are permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The element must describe and analyze the City's transitional and supportive housing provisions and demonstrate consistency with statutory requirements or add or revise program(s) as appropriate.
 - *Permanent Supportive Housing:* Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and add or modify programs as appropriate.
 - *Manufactured Housing:* Manufactured homes that are built on a permanent foundation must be allowed in the same manner and in the same zones as conventional or stick-built structures. Specifically, manufactured homes on a permanent structure should only be subject to the same development standards that a conventional single-family residential dwelling is subject to. While the element indicates that manufactured housing and mobile homes are permitted in the medium and high-density residential districts and the mobile home park district without requiring a use permit, the element must demonstrate consistency with Government Code section 65852.3 or add or modify programs 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: While the element states that there is a 35-foot height limit in residential zones (p. 120), it should clarify whether this height limit allows for three story development. Additionally, the element must identify and analyze minimum unit sizes and lot coverage requirements. Lastly, the element should evaluate the City's parking requirements as potential constraints to development. The analysis should consider impacts on smaller (e.g., studio, one-bedroom) units. The analysis noted above for heights, lot coverage and parking requirements should consider any impacts on cost, supply, housing cost and ability to achieve maximum densities and include programs to address identified constraints.

Local Processing and Permit Procedures: The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined

Ministerial Approval Process and, if there are no written procedures, add a program to address these requirements.

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

Zoning and Fees Transparency: The element should clarify compliance with transparency requirements for posting all fees, zoning, and development standards on the City's website and add a program to address these requirements, if necessary.

Local Ordinances: The element must analyze any locally adopted ordinances that directly impact the cost and supply of residential development (e.g., inclusionary requirements, short term rentals, growth controls).

Housing for Persons with Disabilities: The element must analyze potential constraints on housing for persons with disabilities, as follows:

- *Reasonable Accommodation*: The element briefly describes the City's reasonable accommodation procedures. However, the element should also describe the decision-making criteria, application requirements, approval findings, fees, and analyze any potential constraints on housing for persons with disabilities. Based on a complete analysis, the element should add or modify program(s) to address any potential constraints.
- *Group Homes*: The City's zoning code as noted on page 132 of the element, appears to isolate and regulate various types of housing for persons with disabilities based on the number of people and other factors. Examples include residential care facilities and group homes for six or fewer persons or seven or more persons. First, zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. Second, these housing types are excluded from some residential zones, most notably low-density zones, which can constrain the availability of housing choices for persons with disabilities. Finally, these housing types in many cases are subject to a special use or conditional use permit, potentially subjecting housing for persons with disabilities to higher discretionary standards where an applicant must demonstrate compatibility with the neighborhood, unlike other residential uses. The element should include specific analysis of these and any other constraints, including their enforcement and considering public comments, for impacts on housing for persons with disabilities and add or modify programs as appropriate.
- *Standards*: The element should describe and analyze any siting, separation, or minimum distance requirements for residential care facilities as potential

constraints on housing for persons with disabilities. Based on a complete analysis, the element should add or modify programs as appropriate.

- *Definition of Family:* The element does not describe a definition of family. The element should identify and evaluate any definition of family utilized in zoning and land use for potential constraints on housing for persons with disabilities. For your information, zoning should simply implement a barrier-free definition of family that does not subject, potentially, persons with disabilities, to special regulations such as the number of persons, population types, relationships, and licenses. Zoning code regulations that isolate and regulate various types of housing for persons with disabilities based on the number of people, relationship to one another or other factors may pose a constraint on housing choice for persons with disabilities.

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 **specific commitment** (e.g., amend versus explore) and **discrete timing** (e.g., at least annually, by 2025). Examples of programs that should be revised include:

- Program 1.4 – Lot Consolidation
- Program 3.1 – Assist Developers with Grants and Subsidy
- Program 1.3 – Inventory of Government Owned Land
- Program 1.4 – Lot Consolidation
- Program 2.1 – Housing Authority
- Program 2.2 – California Housing Rehabilitation Program (HOME)
- Program 3.2 – Support County Housing Authority Programs
- Program 3.3 – Encourage Developers to Apply for Subsidized Rental Allocations
- Program 4.1 – Administration of Housing Choice Voucher Program (Section 8)
- Program 4.2 – HUD Home Rental Rehabilitation Program
- Program 4.3 – Rural Housing Services 504 Single Family Rehabilitation
- Program 5.1 – Encourage Nonprofit Application for HUD Section 202 Allocations
- Program 5.2 – Farmworker Housing
- Program 6.6 – Fast-Track/Priority Processing
- Program 6.9 – Stanislaus County Adequate Land Reserves
- Program 8.1 – Task Force to Determine the Effectiveness of Existing Programs
- Program 8.3 – Anti-Discrimination Laws

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

As noted in Finding B3, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the 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:

Water and Sewer Services: Program 6.5 (Housing Element Delivery to Water and Sewer Providers) should be revised to establish written policies and procedures that grant priority service to developments with units affordable to lower-income households.

No Net Loss Law: The element should add a program with specific actions to ensure development opportunities remain available throughout the planning period to accommodate, especially for lower- and moderate-income households, pursuant to Government Code 65863. For more information and a sample program, see HCD's No Net Loss Law Memo at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-166-final.pdf>.

Program 5.9 – Amendments to Waterford Municipal Code: The element indicates that the City will amend the zoning code to allow single room occupancy (SRO) units as a permitted use in the Central Commercial (CC) and CG Districts. The Program should be revised to also establish procedures and development standards to encourage and facilitate SRO development.

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).)*

Special Housing Needs: The element must include specific actions to assist in the development of housing for extremely low-income (ELI), farmworkers and persons experiencing homelessness. While the element includes programs to address the needs of these groups, these programs lack meaningful, proactive efforts and seem to primarily amount to supporting the County's actions. 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, pursuing strategies to integrate affordable, supportive, and/or transitional housing.

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

As noted in Finding B4, the element requires a complete analysis of potential governmental 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 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 commitments, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement (housing choices and affordability across geographies), new housing choices and affordability in relatively higher opportunity or income areas, place-based strategies for community preservation and revitalization, and displacement protection.

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).)

While the City made efforts to include the public through workshops and surveys, 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.

In addition, while the element notes that public comments were collected and considered, the element should also summarize the public comments and describe how they were considered and incorporated into the element. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/public-participation>.