

HCD Contra Costa County Comment Letter, April 21, 2023

HCD Comment	Location of Revisions in Clean Version of Adoption Draft Housing Element
A. Housing Needs, Resources, and Constraints	
1. <i>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).)</i>	
<u>Outreach and Enforcement:</u> The element lists a few fair housing related laws and discusses general efforts but should expand the discussion to demonstrate compliance. For example, the element should discuss compliance with Government Code section 8899.50 which requires affirmatively furthering fair housing (AFFH) in policies and programs. Also, the element should address how the County complies with the Housing Accountability Act beyond making zoning available for emergency shelters.	Pages 6-126 to 6-127
<u>Local to Regional Patterns of Income and Concentrated Areas of Affluence (RCAA):</u> The element briefly mentions concentrated areas of affluence (p. 6-92) and lists incomes by community plan area (p. 6-88). However, the element should include specific analysis of these areas to guide an appropriate policy response. The analysis should at least address evaluating trends, conditions, comparisons to other neighborhoods and the region, effectiveness or absence of past strategies, local data and knowledge and other relevant factors related to equitable quality of life. The element must add or modify meaningful programs based on the outcomes of this analysis.	Multiple pages in the Fair Housing Assessment section. First edits to address this comment are on page 6-97. Last on page 6-130. Maps on pages 6-156 through 6-174. Revisions to Action HE-A2.1 on page 6-266 to 6-267 Revisions to Action HE-A4.1 on page 6-277 Revisions to Action HE-A5.1 on page 6-279 Revisions to Action HE-A5.3 on page 6-280 Revisions to Action HE-A5.5 on page 6-280 to 6-281
<u>Disparities in Access to Opportunity:</u> The element provides maps and brief discussions regarding disparities in access to opportunity but should expand the discussion of access to environmental health (p. 104). For example, the analysis should address trends, disproportionate impacts on protected characteristics and income, comparison to the broader region and other neighboring counties, effectiveness or absence of past strategies, local data and	Page 6-111 Added new Action HE-A8.3 on page 6-289

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knowledge and other relevant factors related to equitable quality of life. The element must add or modify meaningful programs based on the outcomes of this analysis.	
<p><u>Disproportionate Housing Needs and Displacement Risk:</u> The element should analyze disproportionate housing needs related to persons experiencing homelessness, housing conditions and displacement risk. For homelessness, the element should examine disproportionate impacts on protected characteristics (e.g., race, disability) and patterns of need, including areas with a higher incidence and access to transportation and services. For housing conditions, the element should discuss any areas of potentially higher needs of rehabilitation and replacement. The element may utilize local data and knowledge such as service providers and code enforcement officials to assist this analysis. For displacement risk, the element should discuss patterns and degrees of displacement risk and could utilize data available on HCD’s Affirmatively Furthering Fair Housing (AFFH) Data Viewer available at https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing.</p>	<p>Page 6-101 Pages 6-119 to 6-123</p>
<p><u>Local Data and Knowledge:</u> The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the County 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, County staff and related local, county or other planning documents.</p>	<p>Page 6-97</p>
<p><u>Coincidence of Fair Housing Issues:</u> The element generally indicates significant fair housing issues with distinct patterns of segregation, concentrated areas of affluence, disparities in access to opportunity and disproportionate housing needs. To better formulate appropriate policies and programs, the element should examine the coincidence across these fair housing issues and incorporate local data and knowledge and other relevant factors.</p>	<p>Pages 6-152 to 6-153</p>
<p><u>Contributing Factors to Fair Housing Issues:</u> Based on the outcomes of a complete analysis, the element should re-assess contributing factors and prioritize those factors then formulate appropriate policies and programs.</p>	<p>Pages 6-153 to 6-155</p>

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<p>2. <i>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).)</i></p> <p><i>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).)</i></p> <p><i>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).)</i></p>	
<p><u>Extremely Low-Income Households (ELI)</u>: The element includes some brief data on ELI households but should particularly analyze the disproportionate impact on housing situations and needs, including overpayment, overcrowding and other characteristics, resources and strategies and the magnitude of housing needs.</p>	<p>Pages 6-81 to 6-82</p>
<p><u>Overpayment</u>: While the element identifies the total number of overpaying households, it must quantify and analyze the number of overpaying households by tenure (i.e., renter and owner) and the lower-income households paying more than 30 percent of their income on housing by tenure. For additional information and sample analysis, see the Building Blocks at https://www.hcd.ca.gov/planning-and-community-development/hcd-memos.</p>	<p>Pages 6-59 to 6-61</p>
<p><u>Special Housing Needs</u>: The element should expand the analysis of special housing needs, as follows:</p> <ul style="list-style-type: none"> • <i>Persons with Disabilities</i>: Evaluate persons with disabilities by type (e.g., hearing, cognitive, physical). • <i>Elderly</i>: Analyze tenure and other household characteristics. • <i>Female-headed Households</i>: Address household income, poverty, housing situations and available resources. 	<p>Persons with Disabilities: pages 6-72 to 6-73</p> <p>Elderly: pages 6-71 to 6-72</p> <p>Female-headed Households: page 6-75</p>
<p>3. <i>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).)</i></p>	
<p><u>Progress in Meeting the Regional Housing Need Allocation (RHNA)</u>: The County's RHNA may be reduced by pending, approved, under construction and new units built since June 30, 2022; however, the element must demonstrate their affordability and availability in the planning period. For affordability, in some cases, the element describes affordability based on inclusionary requirements which is sufficient but in other cases, no information is provided. The element should demonstrate affordability for these projects based on actual or anticipated rents or sales prices or other mechanisms ensure affordability (e.g., deed-restrictions). Availability</p>	<p>Table 6-57 on pages 6-213 to 6-217</p> <p>Pages 6-236 to 6-237</p> <p>Appendix A: Removed the following APNs from the maps at the beginning of Appendix A and the sites lists in Tables A and B at the end of Appendix A: 159-230-007,</p>

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<p>should account for the likelihood of project completion in the planning period and should address the status, necessary steps to issue permits, any barriers to development and other relevant factors.</p>	<p>096-050-016, 172-080-007,172-150-012, 380-220-066</p>
<p><u>Small and Large Sites:</u> 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 are suitable to accommodate housing for lower-income households. While the element notes a track record of consolidation of small sites, 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 County’s lower-income housing need. In addition, the element identifies one large site and states other large sites have developed but should also discuss affordability and relate those conditions to the identified site. Based on a complete analysis, the County should consider adding or revising programs to include incentives for facilitating affordable development on small and large sites.</p>	<p>Page 6-221 to 6-222</p>
<p><u>Environmental Constraints:</u> While the element addresses environmental constraints and potential constraints on development, it should also discuss any other known constraints that could preclude or constrain development in the planning period. Examples include parcel shape, conditions, easements, remediation, reclamation and compatibility requirements.</p>	<p>Page 6-210</p>
<p><u>AB 725:</u> For jurisdictions that are considered Metropolitan, the element must identify at least 25 percent of the remaining moderate and above-moderate RHNA on sites that allow at least four units of housing (e.g., four plex or greater) (Gov. Code, § 65583.2, subd. (c)(4)).</p>	<p>Page 6-236</p>
<p><u>Nonvacant Sites:</u> The element must demonstrate the potential for redevelopment in the planning period on identified sites with existing uses. The analysis must consider how existing uses may constitute an impediment to additional residential development, the County’s past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites. While the analysis is sufficient for many sites, for publicly owned sites, including school sites and Site 91 that is occupied with a mobile home park, the element should discuss the anticipated schedule for disposition, if applicable, and development including any known barriers to development in the planning period. In addition, the element should expand the discussion of Sites 16, 18, 19, 23, 24, 31, 32, 35, 42, 50, 80, 82 and</p>	<p>Appendix A: Removed previous draft Sites #18 (APNs 197010013, 197010014, 197010016) and 81 (primary APN 094-026-007) from the sites exhibits</p> <p>Appendix A: Added information to exhibits for Sites (note that most sites have been renumbered due to</p>

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<p>91. For example, the element could discuss the degree of underutilization, expressed interest in residential development from property owners or developers or absence of leases or other conditions that prevent redevelopment.</p> <p>Finally, if the element relies on nonvacant sites to accommodate 50 percent or more of the RHNA for lower-income households, specific requirements are triggered to make findings (e.g., adoption resolution) based on substantial evidence that the existing use is not an impediment and will likely discontinue in the planning period. While the element does not currently trigger this requirement, if future submittals do trigger this requirement, the appropriate findings must be made based on substantial evidence.</p>	<p>deletion of previous draft sites 18 and 81) :</p> <ul style="list-style-type: none"> • 16 (Page A-37) • 18 (Page A-40) • 20 (Page A-43) • 22 (Page A-46) • 23 (Page A-48) • 30 (Page A-56) • 31 (Page A-58) • 34 (Page A-62) • 41 (Page A-70) • 49 (Page A-79) • 77 (Page A-108) • 79 (Page A-111) • 80 (Page A-113) • 87 (Page A-124) • 88 (Page A-126) • 89 (Page A-127) <p>Noted. Currently, the draft sites inventory does not have 50 percent or more of the RHNA accommodated on nonvacant sites.</p> <p>No revisions have been made to address this part of this comment.</p>
<p><u>Electronic Sites Inventory:</u> 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. This is especially important for determining sites that have been utilized in multiple planning periods and are subject to by-right provisions. Please see HCD’s housing element webpage at https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.</p>	<p>Noted. Not applicable at this point in the process.</p> <p>No revisions have been made to address this comment.</p>

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<p><u>Zoning for a Variety of Housing Types (Emergency Shelters)</u>: While the element identifies zoning and development standards applicable to emergency shelters, it should also analyze parking requirements which should be limited to a sufficient number for staff and add or modify programs, as appropriate.</p> <p>In addition, please be aware Chapter 654, Statutes of 2022 (AB 2339), adds specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element may need to address these statutory requirements. For additional information and timing requirements, please see HCD’s memo at https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf.</p>	<p>Page 6-181</p> <p>Edited footnote on Table 6-52, page 6-189</p> <p>Pages 6-191 to 6-193</p> <p>Revisions to Action HE-A6.1 on page 6-282 to 6-283</p>
<p><i>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).)</i></p>	
<p><u>Land Use Controls</u>: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. The analysis should specifically address requirements related to heights and lot coverages in multifamily zones. The analysis should address any impacts on cost, supply (number of units), feasibility and ability to achieve maximum densities and include programs to address identified constraints.</p>	<p>Revisions to Action HE-A5.1 on page 6-279</p>
<p><u>Local Processing and Permit Procedures</u>: The element describes the land use permit procedure, including required findings, and concludes the findings do not constrain development but should also analyze those required findings. For example, findings such as “marginal development within neighborhoods” or “adversely affect the preservation of property values and the protection of tax base” are potentially subjective and may have a disproportionate impact on housing affordable to lower income households. The element should specifically analyze these findings and add or modify programs to address identified constraints.</p>	<p>Page 6-187 under Provisions for a Variety of Housing</p> <p>Revisions to Action HE-A6.1 on pages 6-282 to 6-283</p>
<p><u>Constraints on Housing for Persons with Disabilities</u>: The element must include an analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities. For example, the analysis must describe any zoning code definitions of family and any spacing or concentration requirements for housing for persons with disabilities.</p>	<p>Page 6-194</p> <p>Revisions to Action HE-A6.1 on page 6-282 to 6-283</p>

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<p>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).)</p>	
<p><u>Permit Times:</u> The element explains that the time between entitlement and application for a building permit depends on several factors such as the number of units and funding. However, the element should also estimate of the length of time between receiving approval for a housing development and submittal of an application for building permits and evaluate any hinderances on the construction of a locality's share of the regional housing need.</p>	Page 6-203
<p>B. Housing Programs</p>	
<p>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).)</p> <p>As noted in Finding A3, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the County may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.</p> <p>In addition, the element includes Programs A2.1 (Funding for Affordable Development) and A2.2 (County-owned Land) but these or new programs should have a specific schedule of actions to facilitate development on publicly owned sites in the sites inventory, including housing authority site. A schedule of actions should include compliance with Surplus Land Act, if applicable, numerical objectives consistent with the assumptions in the sites inventory and milestones for coordination with developers, dispositions, final entitlements and building permits. The Program should also include alternative actions if the developments are not making sufficient progress to be built in the planning period.</p>	<p>Revisions to Action HE-A2.2 on page 6-267 to 6-268</p>
<p>2. 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</p>	<p>Revisions to Action HE-A3.2 on pages 6-274 to 6-275</p>

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<p><i>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).)</i></p> <p>As noted in Findings A4 and A5, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the County may need to revise or add programs and address and remove or mitigate any identified constraints.</p> <p>In addition, the element includes Program A3.2 (Reasonable Accommodation) to draft a procedure by 2024. The Program should also commit to when the procedure will be adopted or completed. This timeline should be early (e.g., by February 2024) in the planning period given the lack of past implementation.</p>	
<p><i>3. 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).)</i></p> <p>As noted in Finding A1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the County may need to revise or add programs. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, milestones, geographic targeting and metrics or numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in higher opportunity or higher income areas, place-based strategies for community revitalization and displacement protection.</p>	<p>Revisions to Action HE-A1.1 on page 6-262</p> <p>Revisions to Action HE-A1.4 on page 6-263</p> <p>Revisions to Action HE-A3.3 on pages 6-275 to 6-276</p>
<p><i>4. Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)</i></p> <p>The element includes meaningful actions to promote the creation of accessory dwelling units (ADUs). However, the element should also commit to monitor the production and affordability of ADUs at least twice in the planning period and take appropriate action such as adjusting assumptions or rezoning within a specified time (e.g., 1 year) if assumptions are not realized.</p>	<p>New actions HE-A2.10 and A2.11 added on pages 6-272 to 6-273</p>
<p>C. Quantified Objectives</p>	
<p><i>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).)</i></p>	<p>Page 6-291 - Table 6-65</p>

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<p>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, conservation objectives should be increased to better reflect the housing needs in the planning period. For your information, conservation objectives are not limited to unit at-risk of conversion to market rate uses and may include actions such as Program A1.2 (Weatherization), A1.3 (Vacant Properties) and A1.4 (Code Enforcement</p>	