

Attachment: Response to HCD Comments on City of Oakley Draft Housing Element January 19, 2023

On November 29, 2022, the City of Oakley (City) received a comment letter from the California Department of Housing and Community Development (HCD) on the Draft Housing Element. The City reviewed these comments, revised the document, and prepared the Revised HCD Review Draft Housing Element (Housing Element), which is available to review on the City's website: <https://www.ci.oakley.ca.us/2023-2031-housing-element-update/>. To help the reader track revisions, this attachment to the Housing Element outlines the comments from HCD's letter with responses from the City describing how and where comments were addressed in the Housing Element.

1. Review and Revision

- A. *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).)*

HCD Comment 1:

The review requirement is one of the important features of the element update. The review of past programs should analyze the City's accomplishments over the previous planning period. This information provides the basis for development a more effective housing program. A thorough program-by-program is necessary to evaluate City's performance in addressing housing goals. Specifically, as part of this analysis, the element should evaluate the effectiveness of programs by quantifying results where possible, compare those results to the objectives projected or planned.

Response 1:

- *Revised Table 7-2 (Evaluation of 2015-2023 City of Oakley Housing Element Programs) to provide additional details and evaluate performance and progress on programs.*

2. Housing Needs, Resources, and Constraints

- A. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commending 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))*

HCD Comment 2: Enforcement: The analysis must describe compliance with existing fair housing laws and regulations and include information on fair housing outreach capacity.

Response 2: *Added more description on page 4-10 of City's capacity for local fair housing compliance and outreach, providing details on how the City currently addresses fair housing issues and provides information to the community on fair housing.*

HCD Comment 3: Assessment of Fair Housing: The element provides data and analysis regarding the patterns of various socio-economic characteristics across all components of the required analysis (e.g., segregation and integration, access to opportunity, displacement). However, the element should all discuss and analyze patterns and trends over time across census tracts for the various socio-economic characteristics and provide conclusions based on that analysis to better formulate policies and programs and carry out meaningful actions to Affirmatively Furthering Fair Housing (AFFH).

Response 3: *Expanded discussion on pages 4-17 (race/ethnicity), 4-24 (disability), 4-38 (median income) to include 2010-2014 ACS data and describe trends over time. Earlier data was not available in the HCD AFFH data viewer for most of the other socio-economic characteristics.*

HCD Comment 4: Local Data and 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. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element could incorporate the historical land use and investment practices and other information and demographic trends outlined in the Introduction and community context section of the housing element to help inform the AFFH analysis.

Response 4: *Added a Historical Development and Investment section on pages 4-11 through 4-13 to provide more historical context and to help inform the AFFH analysis.*

HCD Comment 5: Access to Opportunity: The element identifies Oakley as mostly a lower and moderate resourced community and identifies several areas of disparities including lower education scores and lack of access to transit. As part of the analysis, the element should incorporate local data and knowledge to identify historic trends that influence these patterns. The element could also describe current community development other efforts the City is undertaking to address these disparities and include programs to address patterns as appropriate.

Response 5:

- Added historical context on pages 4-11 through 4-13 in a new Historical Development and Investment section.
- Expanded discussion of access to opportunity on page 4-55.
- Expanded Action 2.3 (Infrastructure Investment Program) related to improvements in the Downtown

HCD Comment 6: Disproportionate Housing Needs, Including Displacement: While the element provides some discussion on cost-burdened households, persons experiencing homeless, and displacement, it must include a complete analysis of households in overcrowded conditions and substandard housing. This analysis should utilize local data and knowledge and other relevant factors. For the analysis of overcrowding the analysis should specially address overcrowding for both homeowners and renters. For substandard housing, the element should discuss areas of the City where proportions of housing units needing rehabilitation may be higher than other areas and should utilize local knowledge.

Response 6:

- *Expanded discussion of overcrowding by tenure on page 4-67 in the Overcrowded Households section.*
- *Added description of areas with higher rehabilitation needs on page 4-69 in the Substandard Conditions section.*

HCD Comment 7: Sites Inventory: The element must include data on the location of regional housing need allocation (RHNA) sites by income group relative to all fair housing components. The analysis should address the number of units by income group and location, any isolation of the RHNA by income group, magnitude of the impact on existing concentrations of socio-economic characteristics and discuss how the sites improve fair housing conditions. The analysis should be supported by local data and knowledge and other relevant factors and

programs should be added or modified as appropriate to promote inclusive and equitable communities. For example, the element could examine the concentration of moderate income RHNA in the Downtown Specific Plan.

Response 7:

- *Expanded discussion in the Assessment of Sites Inventory and Fair Housing, beginning on page 4-81, to include expanded discussions with tables and figures, of the sites inventory in relation to race and ethnicity (page 4-81), income (page 4-83), populations with disabilities (4-85), familial status (4-87), access to opportunity (4-88), overpayment (4-90), overcrowding (4-91), and housing choice vouchers (4-93).*

HCD Comment 8: Contributing Factors: The element should re-assess and prioritize contributing factors based on a complete analysis.

Response 8:

- *Updated Table 4-30 (Fair Housing Issues, Contributing Factors, and Actions) to reflect changes made to the Housing Element.*

B. *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).)*

HCD Comment 9: Overpayment: While the element identifies the total number of households overpaying for housing, it must quantify and analyze the number of lower-income households overpaying for housing by tenure (i.e., renter and owner) and add or modify policies and programs as appropriate.

Response 9: *Added analysis on pages 2-50 and 2-51 of the Overpayment section.*

HCD Comment 10: Housing Conditions: The element identifies the age of the housing stock. However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations.

Response 10: *Added analysis on page 2-43 of the Substandard Housing Conditions.*

C. *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).)*

HCD Comment 11: Progress in Meeting the RHNA: The City's RHNA may be reduced by the number of new units built, approved, or pending since June 30, 2022; however, the element must demonstrate their availability in the planning period. Availability should address the status, anticipated completion, any barriers to development and other relevant factors such as build out horizons, phasing, and dropout rates to demonstrate the availability or likelihood of development in the planning period.

Response 11:

- *Made adjustments to the residential sites inventory by moving entitled projects without*

final maps to the vacant and underutilized section.

- *Updated Table 3-2 (Final Maps Approved and Under Construction) to include the status of each project as of December 2022.*
- *Updated Table 3-3 (Vacant Land with Tentative Subdivision Maps) to include more information on the sites, including APN, size, General Plan designation, and zoning. Also removed sites that were now under construction.*
- *Updated Figure 3-2 (Sites Inventory Map) to reflect changes.*

HCD Comment 12: Sites Inventory: 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 “e.g., non-vacant” and must include sufficient detail to facilitate an analysis of the potential for additional development on nonvacant sites.

Response 12: *The site profiles, starting on page 3-22, provide details on each of the non-vacant AHO sites. More detail was added to the profiles, including structure age and condition, improvement to land value ratio, and other site characteristics.*

HCD Comment 13: 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/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.

Response 13: *The final sites inventory will be provided in the electronic sites inventory spreadsheet along with the adopted Housing Element*

HCD Comment 14: Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. 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.

Response 14:

- *Expanded analysis of density of recently built multifamily/affordable housing developments on page 3-15.*
- *Added text on page 3-15 to address realistic capacity assumptions.*

HCD Comment 15: Suitability of Nonvacant Sites: The element identifies nonvacant sites to accommodate the regional housing need and outline the general methodology for how sites were considered. To demonstrate the redevelopment potential of the sites in the inventory, the element should relate the factors described in the methodology to the characteristics of each site. In addition, a complete analysis must demonstrate the extent to which existing uses may impede additional residential development. The element should summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the sites identified. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends

demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment and describe other incentives or standards to encourage additional residential development on these sites.

Response 15:

- *Provided additional context in the Non-Vacant Site Assumptions section on page 3-16.*
- *Expanded description of AHO sites in the site profiles starting on page 3-22. And*
- *Provided additional details in Table 3-4 (Capacity on Existing AHO Sites) to clarify that the underutilized sites contain single-family homes.*

HCD Comment 16: Suitability and Availability of Infrastructure: While element demonstrates sufficient capacity, it must identify if sites identified have access to existing or planned water, sewer, and other dry utilities supply. (Gov. Code, § 65583.2, subd. (b).)

Response 16:

- Clarified in the Infrastructure Availability section, beginning on page 3-36, that all of the sites identified in the sites inventory have adequate access or planned access to water, sewer, and dry utilities.

HCD Comment 17: Environmental Constraints: While the element generally describes a few environmental conditions within the City (Table H3-1), it must describe how these conditions relate to identified sites including any known environmental constraints within the City that could impact housing development in the planning period. (Gov. Code, § 65583.2, subd. (b).)

Response 17:

- *Added an Environmental Constraints section with a description and map of relevant environmental constraints (i.e., flooding and wetlands) on pages 3-37 and 3-38 of the Sites Inventory Chapter.*

HCD Comment 18: Sites with Zoning for a Variety of Housing Types:

Emergency Shelters: The element identifies one City-owned site to accommodate the emergency shelter need. The element should describe the process that would be necessary to approve an emergency shelter including decision criteria for approval of the use of the site.

Response 18a:

- *The City modified Action 3.6 (Adequate Emergency Shelters) to commit to identifying an additional zoning district where emergency shelters will be permitted by-right.*

Manufactured Housing: The housing element must demonstrate the jurisdiction's zoning code allows and permits manufactured housing in the same manner and in the same zone as a conventional or stick-built structures are permitted.

Response 18b:

- *Added a Manufactured Housing section and analysis beginning on page 6-17 of the Constraints Chapter.*
- *Added language to Action 3.5 (Zoning Amendments for Special Needs Housing) to amend the Zoning Code to ensure that manufactured homes or permanent foundations are allowed in the same manner and in the same zones*

as other single family dwellings.

D. 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).)

HCD Comment 19: Land Use Controls: The element must identify and analyze all relevant land use controls and evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities and cost and supply of housing. Specifically, the element should describe and analyze the development standards within the Downtown Specific Plan including whether 100 percent residential development is allowed. The analysis should also describe past or current efforts to remove identified governmental constraints.

Response 19:

- *Added text on pages 6-8 and 6-9 to clarify that standalone residential is allowed in the Downtown Support and Residential Commercial Conversion Opportunity subareas, but residential is only allowed on upper floors in the Downtown Core area. Because the sites inventory does not assume any lower-income sites in the Downtown Area (only moderate income sites), the requirement for ground floor commercial on the one Downtown Core site included in the inventory is not considered a constraint.*
- *The analysis on page 6-8 already concluded that several of the development standards in the Downtown Specific Plan have the potential to act as a constraint to housing production and therefore a program was included in the Housing Element to update the DSP to remove these constraints.*

HCD Comment 20: Affordable Housing Overlay: The element relies on sites in the Affordable Housing Overlay (AHO). While some information was provided on how the overlay allows residential the element must include a complete description and analysis of the Overlay, including affordability requirements, development standards, and application processing procedures. The elements must also clarify if the maximum density allowed under the AHO is considered the base density for purposes of calculating density.

Response 20: *Added discussion to the Affordable Housing Overlay section on page 6-10 to clarify approval procedures and that there are not currently affordability requirements in the AHO ordinance.*

HCD Comment 21: On/Off-Site Improvements: While the element describes the on and off-site improvement requirements, it does not analyze those requirements on the cost and supply of housing. In particular, the element states that developers are responsible for various off-site improvements and infrastructure improvements.

Response 21: *Expanded analysis to the On- and Off-Site Improvements section on page 6-27.*

HCD Comment 22: Constraints on Housing for Persons with Disabilities: The analysis must describe and analyze any zoning code definitions of family.

Response 22:

- *Added a Definition of Family section and analysis on page 6-16 of the Constraints Chapter.*
- *Expanded Action 3.6 (Zoning Amendments for Special needs Housing) to add a definition of “family” to the Zoning Code.*

3. Housing Programs

- A. *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 through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

HCD Comment 23: Programs must demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. All programs should be evaluated to ensure meaningful and specific actions to assist in implementation and include objectives, quantified as appropriate.

In addition, programs should be revised as follows:

- Action 1.4 (Promote Accessory Dwelling Units (ADU)): The program should describe specific actions the City will take to promote the Pre-Approved ADU plans and How-to-Guide.
- Action 1.6 (Density Bonus Ordinance): The program should provide specific timing for updating the density bonus ordinance.
- Action 1.7 (Monitor Development Fees): The program should have a specific timing for monitoring, include information on how the city will monitor, and depending on the result, commit to actions to mitigate constraints.

Response 23:

- *Added specific actions and timeframes to Action 1.4 (Promote Accessory Dwelling Units) to promote the Pre-Approved ADU plans and How-to-Guide.*
- *Modified Action 1.6 (Density Bonus Ordinance) to identify a specific timeline for updating the ordinance.*
- *Deleted Action 1.7 (Monitor Development Fees) since local fees in Oakley are generally close to the regional average and the regional agency fees are outside the control of the City.*

- B. *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. (Gov. Code, § 65583, subd. (c)(1).)*

HCD Comment 24: 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:

- Action 1.8 (Amendment to the Downtown Specific Plan): Given the dependence of the Downtown Specific Plan for sites within the inventory, the City should consider accelerating the development of modifications to this plan. Alternatively, rather than all zoning modifications being completed by 2025, the City could phase zoning modifications that must be made to comply with state law or remove constraints to the development earlier in the planning period.

Response 24:

- *Revisions made to the sites inventory to address previous comments so no additional actions are needed to address this comment.*
- *Changed timeframe in Action 1.7 (Amendments to the Downtown Specific Plan) to December 2024.*

- C. *The State 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).)*

HCD Comment 25: Action 1.3 (Encourage Development of New Affordable Rental Housing) and Action 3.4 (Housing for Extremely-Low Income (ELI) and Special Needs Groups: These programs should be revised to include specific actions on how it will implement this program, timeframes for each action, and objectives and metrics to demonstrate how these housing needs will be addressed.

Response 25:

- *Added more details to the outreach strategy in Action 1.3 (Encourage development of new affordable rental housing) to facilitate affordable housing development. Also combined Action 3.4 (Housing for Extremely-low income households and special needs groups) with Action 1.3.*

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).)

HCD Comment 26: 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.

- Action 1.5 (Objective Standards): The program should ensure that when adopted, objective standards should facilitate the development of housing at the densities that will be allowed under the AHO, once amended.
- Action 3.6 (Zoning Amendments for Special Needs Housing): The program must specify how it will reduce constraints for residential care facilities for more than six persons. 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. Permitting procedures should ensure inclusion in all residential zones and approval certainty and objectivity for housing for persons with disabilities.

Response 26:

- *Added language to Action 1.5 (Objective Standards) to ensure that objective standards facilitate housing at the densities that will be allowed under the modified AHO.*
- *Revised language in Action 3.5 (Zoning Amendments for Special Needs Housing) to permit residential care facilities for more than six persons in all residential zones.*

D. *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 protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. ©(5).)*

HCD Comment 27: As noted in Finding B1, the element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. In addition, 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 should be revised to include specific commitments, milestones, geographic targeting and metrics or numerical outcomes and, as appropriate, must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community revitalization and displacement protection. Given that most of the City is considered a low and moderate resource community, the element could focus on programs that center on place-based strategies for community revitalization, protecting residents from investment-driven displacement, and enhancing housing mobility to encourage the development of more housing choices.

Response 27: *Revised Actions 1.1 (Rezone Adequate Sites to Meet Remaining RHNA Need), 1.3 (Encourage Development of New Affordable Rental Housing), 1.4 (Promote Accessory Dwelling Units), 1.5 (Objective Standards), 2.1 (Rehabilitation of Existing Housing Units), 2.2 (Code Enforcement), 2.3 (Infrastructure Investment Program), 3.1 (Increase Access to Homeownership), 3.2 (Promote Fair Housing), 3.3 (Housing Choice Voucher Program), to clarify objectives and commitments related to AFFH, as well as geographic targeting where appropriate.*

4. Quantified Objectives

A. *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).)*

HCD Comment 28: 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 objectives for new construction and preservation, it must include objectives for rehabilitation.

Response 28: *Added a quantified objective for rehabilitation to Action 2.2 (Code Enforcement) and reflected that change in Table 8-1 (Quantified Objective Summary 2023-2031 Planning Period).*

5. Public Participation

A. *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).)

HCD Comment 29: While the element includes a general summary of the public participation process, the element must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. Specifically, the element must describe the efforts to circulate the housing element among lower-income households and organizations that represent them and how the City involved such groups and persons in the element throughout the process. In addition, the element while the element summarizes public comments, it should describe how they were considered and incorporated into the element.

Response 29:

- *Expanded description of outreach efforts on pages 1-4 (Online Community Survey) and 1-8 (Community Workshop).*
- *Added language to Action 1.1 (Rezone Adequate Sites to Meet Remaining RHNA Need) to commit to conducting additional outreach to lower-income residents in the selection of AHO sites and modification to the AHO ordinance.*