



CITY OF ORLAND
CITY COUNCIL AGENDA

MEETING DATE: April 16, 2024

TO: City of Orland City Council
FROM: Scott Friend, AICP – City Planner
MEETING DATE: April 16, 2024; 6:30 p.m., Carnegie Center, 912 Third Street, Orland, CA 95963

SUBJECT: **General Plan Amendment (GPA) #2023-02: Supplement to /Re-Adoption of the 2021-2029 6th Cycle Housing Element Update.** The 2021-2029 Housing Element was adopted by the Orland City Council on March 1, 2022. Upon adoption, State Housing Law requires that the Housing Element be sent to the California Department of Housing and Community Development (HCD) to determine compliance with State Housing Law. After review of the document, HCD determined that the Housing Element was not in full compliance with State Housing Law and certain revisions/additions were necessary. This resulted in a revision of the 2021-2029 Housing Element which requires a re-adoption of the Housing Element. The revised document is being presented to the Council with this report.

Environmental Review: The Planning Commission recommends that the City Council determine that the proposed action is *exempt* from further CEQA review pursuant CEQA Guidelines Section 15061(b)(3), the “common sense exemption”.

NOTE: No action is being recommended or requested regarding this matter at this time. The information contained herein is for informational purposes only. A formally noticed public hearing has been scheduled with the City Council at their first meeting in May.

Summary:

At its regular meeting of January 18, 2024, the Planning Commission held a public hearing to consider making a recommendation to the City Council on the adoption of a revised version of the City of Orland 6th Cycle Housing Element. Upon the conclusion of the public hearing, the Planning Commission engaged with staff on the matter. During the Planning Commissions consideration of the topic, concern was expressed by the Commission that the document did not reflect the realities of the City (use of data) nor did the policy direction of the document reflect the policy direction that the Planning Commission envisions for the future of the City. Upon the conclusion of the Planning Commissions discussion, the Commission voted 5-0 to continue to the item the regular meeting of the Planning Commission in February.

The regular February meeting of the Planning Commission was cancelled due to scheduling issues and the item was returned to the Planning Commission at their regular meeting in March. Following the continued consideration of the matter and after substantial dialogue, the Planning Commission has recommended via a 3-1 vote that City Council approve the revised 6th Cycle Housing Element as presented with this report.

With this report, staff has attached both the original Planning Commission staff report and attachments from the January 18th meeting as well as the revised staff report and attachments from the Planning Commission meeting from March. The original documents from the January 18th meeting are intended to provide the Council with an overview of the Housing Element preparation process and to highlight the major changes and edits that have been made to the draft element. No changes have been made to these materials or to the draft Element since their publication.

Discussion:

State law requires General Plan Housing Elements be updated on eight-year cycles, and the Element must be reviewed and approved by the California Housing and Community Development Department (HCD). The 2021-2029 Housing Element recommended for approval to the City Council by the Planning Commission on November 18th, 2021, and was adopted by the Orland City Council on March 1, 2022. After adoption, the Housing Element was sent to the California Department of Housing and Community Development (HCD) for final review and certification as required by State Housing Law (Government Code §§65580 - 65589.11). Upon review, HCD determined that the Housing Element was not in full compliance with State Housing Law and certain revisions/additions were necessary. After a six-month process, working with HCD and revising sections of the Housing Element, the Housing Element is now considered by HCD to comply with the requirements of State Housing Law. See **Attachment A** for HCD's substantial compliance letter. The *revised* 2021-2029 Housing Element will be presented to the City Council for re-adoption at a public hearing in May as noted previously in this report.

Recommendation: *(note: no action is being requested at this meeting. The recommendation actions noted below will be made to the City Council at their next regular meeting scheduled to occur on May 7th)*

The Planning Commission recommends that the City Council take the following action(s):

- 1) Conduct a public hearing to review and consider the proposed revisions to the 2021-2029 6th Cycle Housing Element of the City of Orland; and

2) Adopt City Council Resolution No. 2024-___, approving General Plan Amendment (GPA) 2023-02 and adopting the *revised* 2021-2029 Housing Element Update, and, approving the CEQA exemption as presented.

As noted above the adopted 2021-2029 Housing Element required revision to comply with State Housing Law. This resulted in several changes to the existing Housing Element Programs as well as the addition of seven (7) new Programs. Also, additional analysis and figures were added to the Housing Element based on HCD comments. With the exception of minor typo revisions, all revisions/additions are shown in **Attachment B**. The revised 2021-2029 Housing Element is included in the staff report as **Attachment C**. The December 21st, 2023, Planning Commission staff report for General Plan Amendment (GPA) #2023-02: 2021-2029 6th Cycle Housing Element Update is included as **Attachment D**.

Review Criteria:

Pursuant to the requirements of California Government Code Section 65358, the City's General Plan may be amended based upon the following findings:

1. The proposed amendment is in the public interest.
2. The proposed amendment is consistent and compatible with the rest of the General Plan.
3. The potential effects of the proposed amendment have been evaluated and have been determined not to be detrimental to the public health, safety, or welfare.
4. The proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA).

Environmental Determination:

The Planning Commission recommends that the City Council determine that the proposed revision to the Housing Element to be categorically exempt pursuant to CEQA Guidelines Section 15061(b)(3) - the "*common sense exemption*" as it can be seen with certainty that there is no possibility that the General Plan Amendment would have a significant effect on the physical environment, and therefore the project is exempt from CEQA review.

A Notice of Exemption was prepared for this project and has been included with this staff report as **Attachment E - Notice of Exemption**.

Recommendation:

No action or recommendation is made at this time. The information presented with this staff report is intended only for informational purposes. Formal action on this matter will be requested at the regularly scheduled City Council meeting of May 6th.

ATTACHMENTS:

- **Attachment A – Planning Commission Staff Report – dated *January 18th, 2024***
- **Attachment B - Planning Commission Staff Report – dated *March 21st, 2024***
- **Attachment C – Copy of revised 2021-2029 Housing Element document (*full text of document provided on USB drive due to length and complexity*).**



CITY OF ORLAND STAFF REPORT

MEETING DATE: January 18, 2024

TO: City of Orlando Planning Commission

FROM: Scott Friend, AICP – City Planner

SUBJECT: **General Plan Amendment (GPA) #2023-02: Supplement to the 2021-2029 6th Cycle Housing Element Update. Public Hearing.** The 2021-2029 Housing Element was recommended for approval to the City Council by the Planning Commission on November 18th, 2021, and was adopted by the Orlando City Council on March 1, 2022. Upon review, HCD determined that the Housing Element was not in full compliance with State Housing Law and that revisions/additions were necessary. This resulted in a revision of the 2021-2029 Housing Element which requires a re-adoption of the Housing Element.

Environmental Review: Staff recommends that the Planning Commission determine that the proposed action is *exempt* from further CEQA review pursuant CEQA Guidelines Section 15061(b)(3), known as the “common sense exemption”.

SUMMARY:

State law requires General Plan Housing Elements be updated on eight-year cycles, and the Element must be reviewed and approved by the California Housing and Community Development Department (HCD). The 2021-2029 Housing Element recommended for approval to the City Council by the Planning Commission on November 18th, 2021, and was adopted by the Orlando City Council on March 1, 2022. After adoption, the Housing Element was sent to the California Department of Housing and Community Development (HCD) for final review and certification as required by State Housing Law (Government Code §§65580 - 65589.11). Upon review, HCD determined that the Housing Element was not in full compliance with State Housing Law and certain revisions/additions were necessary. After a six-month process, working with HCD and revising sections of the Housing Element, the Housing Element is now considered by HCD to comply with the requirements of State Housing Law. See **Attachment A** for HCD’s substantial compliance letter. The **revised** 2021-2029 Housing Element will be presented to the City Council for re-adoption at a public hearing, to be determined at a later date.

DISCUSSION:

As noted previously, the City adopted 2021-2029 Housing Element was determined by the California Housing and Community Development Department (HCD) to require revisions necessary to comply with State Housing Law. This resulted in several changes to the existing Housing Element Programs as well as the addition of seven (7) new Programs. Furthermore, additional analysis and figures were added to the Housing Element based on HCD comments. Except for minor typo revisions, all revisions/additions are shown in **Attachment B**. The revised 2021-2029 Housing Element is included in the staff report as **Attachment C**. The November 18th, 2021, Planning Commission staff report for (GPA) #2021-02: *2021-2029 6th Cycle Housing Element Update* is included as **Attachment D**.

In conformance with Government Code §65352, and prior to the City taking action to adopt the presented **revised** 2021-2029 Housing Element Update and General Plan Amendment, staff has referred the proposed action to the following entities for comments:

1. The County of Glenn
2. Orland Unified School District
3. Glenn County Local Agency Formation Commission (LAFCO)
4. Orland Unit Water Users Association (OUWUA)
5. Glenn County Groundwater Sustainability Agency (GSA)
6. State Water Resources Control Board
7. The following Native American Tribes:
 - a. Mooretown Rancheria of Maidu Indians
 - b. Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
 - c. Paskenta Band of Nomlaki Indians
 - d. Mechoopda Indian Tribe of Chico Rancheria
8. Central Valley Flood Protection Board

ENVIRONMENTAL DETERMINATION:

The amendment to the City's General Plan for this action has been determined to qualify as being *exempt* from California Environmental Quality Act (CEQA) requirements pursuant to Section 15061 (b)(3). Specifically, section 15061(b)(3) states, in part, that a project is exempt from CEQA if "the activity is covered by the "common sense" exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA" (see **Attachment E – Notice of Exemption**).

RECOMMENDATIONS:

Staff recommends that the Planning Commission find that the project is categorically exempt from further review pursuant to the California Environmental Quality Act (CEQA) and, recommend approval of GPA#2023-02 to the City Council.

Staff recommends the following process for the consideration of this matter:

1. Accept report by staff;
2. Open the public hearing and take public testimony;
3. Close the public hearing and initiate consideration of the project; and
4. Motion and vote.

If the Planning Commission determines that it intends to approve the project as proposed and as described in this report, staff offers the following motion for the Commission's consideration:

1. California Environmental Quality Act: *Move that the Planning Commission determine that the project is categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section §15061(b)(3).*
2. General Plan Amendment: *Move that the Planning Commission make a recommendation the City Council to adopt Resolution 2023-XX approving GPA #2023-02 as presented herein.*

ATTACHMENTS:

- **Attachment A – HCD Substantial Compliance letter**
- **Attachment B – Revisions to adopted 2021-2029 Housing Element**
- **Attachment C – Copy of revised 2021-2029 Housing Element document (*full text of document provided on USB drive due to length and complexity*).**
- **Attachment D – November 18, 2021 Planning Commission staff report (date of original approval).**
- **Attachment E – Notice of CEQA Exemption**
- **Attachment F – Planning Commission Resolution – 2023-____**

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

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November 21, 2023

Pete Carr, City Manager
City of Orland
815 Fourth Street
Orland, CA, 95963

Dear Pete Carr:

RE: City of Orland's 6th Cycle (2021-2029) Revised Draft Housing Element

Thank you for submitting the City of Orland's (City) revised draft housing element that was received for review on November 21, 2023. The revised draft was made available to the public for seven days. Pursuant to Government Code section 65585, the Department of Housing and Community Development (HCD) is reporting the results of its review.

The revised draft element meets the statutory requirements that were described in HCD's May 12, 2022, review. The housing element will substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq) when it is adopted, submitted to, and approved by HCD, in accordance with Government Code section 65585.

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.

For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

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 hard work, patience, collaboration and dedication the housing element team provided in the review and update of the housing element. HCD particularly applauds the efforts of Scott Friend and Mike Martin. HCD looks forward to receiving the City's adopted housing element. If you have any questions or need additional technical assistance, please contact Jose Ayala at Jose.Ayala@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Revisions to 2021-2029 Housing Element as a Result of HCD State Housing Law Compliance Review

The following indicates the revisions made to the previously adopted City of Orland 2021-2023 Housing Element as result of HCD State Housing Law compliance review. Note: revisions are shown in a ~~strike through~~/double underline format.

Pages 14 - 16 of the 2021-2029 Housing Element have been revised as follows:

- Remove Governmental Constraints to Housing Development for Persons with Disabilities: adopt a formalized reasonable accommodation procedure to allow approval of variances needed by individuals with disabilities (Program HE-3.D). ~~This was not achieved due to limited staffing resources.~~ The City adopted a reasonable accommodation ordinance into the municipal code.

Effectiveness of Programs for Special Needs Groups

The City has demonstrated a great effort in working towards accomplishing many of the objectives set for all of the 21 programs of the 2014-2021 Housing Element. The City met all of its 21 program objectives to some degree resulting the continuation of 8 programs, modifying 8 programs, and deletion of 5 programs because they were completed. Appendix A provides a review of all of the 2014 programs.

As a part of analyzing prior programs, the element must provide an explanation of the effectiveness of goals, policies, and related action in meeting the housing needs of special needs populations. Table HE achievements related to special needs populations are summarized below:

Seniors. As shown in **Figure 47: Year Built**, the City has a significant older housing stock built prior to the passage of the Americans with Disabilities Act (ADA) in 1990. Rehabilitation and physical improvements are important to ensure that housing is accessible to older populations. The City administered a Housing Rehabilitation Program (Program HE-1.B), which resulted in the rehabilitation of approximately two housing units annually. The City maintains a CDBG Revolving Loan Fund for the Program.

In addition, many seniors are on restricted incomes and in need of affordable housing options. While the 2014 Housing Element did not have a program specifically identified for the production of senior housing, there were multiple programs which assist in this development. Program HE-2.C resulted in the production of nine ADUs, many of which were constructed to provide affordable housing to seniors. Program HE-3.C resulted in the development of 33 affordable single family homes through the Community Housing Improvement Program. Program HE-2.B assisted in the development of residential units by identifying vacant and underutilized land in the City and resulted in the rezoning of a property from commercial uses to high density residential uses. While the units produced through these programs are not age-

restricted, they do help to increase the supply of affordable housing that is potentially available to seniors who meet income requirements.

Persons with Disabilities. Persons with disabilities also benefit from housing rehabilitation. Orland has a significantly older housing stock built prior to the passage of the Americans with Disabilities Act (ADA) in 1990. The Housing Rehabilitation (Program HE-1.B) resulted in physical improvements to and average of two units per year. In addition, the Program HE-3.D established a reasonable accommodation ordinance which was designed to remove governmental constraints for disable persons.

Large Households. Large households, defined as consisting of five or more persons residing together, typically lack adequately sized and affordable housing options. As discussed in Housing Needs Assessment, and shown in Figure 75, large households make up approximately 21 percent of all households in the City. The Large Household Program (Program HE-3.F) requires the City to offer incentives to housing developers for the production of rental housing units for three or more bedrooms. However, while the city encourages the development of these larger units, no developers agreed to add larger units during the 2014-2021 time period. Additional actions are needed to increase the housing supply and diversity of housing options to accommodate the needs for large households, such as incentives for Accessory Dwelling Units (ADUs) and a formal procedure identifying incentives for housing with three bedrooms or greater.

Farm Workers. There are an estimated 525 Orland residents employed in the agriculture, forestry, fishing and hunting, and mining industries. This is about 17% of the total employed population. The majority of these persons would most likely be employed in agriculture or mining as forestry, hunting and fishing opportunities in Orland is virtually non-existent. However, farmworker needs are accommodated through housing programs and policies that assist lower-income households in general rather than specialized programs, such as the At-Risk Housing program (Program AH-1.1.1), which monitors at-risk affordable units, Housing for special Needs Population program (Program AH-1.2.2) which provides for expedited processing, concessions and incentives for affordable housing, , and Extremely Low-Income Housing Program (Program AH-1.2.4), which promotes Single-Room Occupancy (SRO), one-bedroom units, and supportive housing.

Single-Parent Households (Female-Headed). As discussed in Housing Needs Assessments – Familial Status, 20-40% of children reside in households headed by single mothers in the City. Many single parent households, especially female-headed households, live in poverty due to low incomes and higher family expenses. The First time Homebuyers program (Program HE.1-C) provides an important resource for these and other lower-income households, including single-parent households. Recently, the City was able to renew the First-time Buyers program while some loans are in process, no loans have been awarded as of yet. However, through the Community Housing Improvement Program (CHIP) which provides housing for lower-income households, 82 new single family homes have been constructed. This program is effective and will be continued. While this program was not especially affective during the 2014-2021 time period, the recent renewal of the First-time Homebuyers program will assist in the effort to

increase affordable housing options for special needs groups as opportunities arise.

Homeless. A lack of affordable housing for low- and moderate incomes increases the number of persons whose incomes fall below the poverty level and may be housing insecure. The Affordable Housing Preservation program (Program HE-3.A), the Self Help Housing Development program (program HE-3.C) and Emergency Shelters & Transitional/Supportive Housing program (Program HE-3.G) have supported the preservation and expansion of the affordable housing supply, but the need continues to exceed available resources, Rental subsidies provided through the HABC Housing Choice Voucher program have helped address housing insecurity, as well.

While the City has made progress towards its goals to provide affordable housing, including housing for special needs populations, the overall need continues to exceed available resources. Each of the programs included in the 5th Cycle has been evaluated for inclusion in the 6th Cycle. Programs were removed if they constituted a routine function by the City or were no longer relevant based on funding resources and requirements. Programs were kept and/or consolidated into a revised or new program for the 6th Cycle. In addition, new and/or revised goals, policies, and programs have been identified to respond to the governmental and nongovernmental constraints identified in the various sections of the Housing Element. The 2021 Housing Element includes the list of goals, policies, and programs recommended for the 2021-2029 planning period based on this combination of analyses.

Page 20 of the 2021-2029 Housing Element has been revised as follows:

Program: HQL-1.2.1: Housing Rehabilitation Program. Continue the City program to provide financial assistance to owner and renter low-income households for housing rehabilitation. The City will develop outreach materials that are posted on the City’s website and are available at City Hall. Building inspectors will provide outreach materials to potential applicants when deemed appropriate.

Responsible Party: Finance Department, Grants Administration

Financing: CDBG and HOME funds

Time Frame: Ongoing. Analyze need and capacity on an annual basis, and determine if the City’s existing Revolving Loan Fund has sufficient funds to accommodate need. If not, complete new applications for State CDBG and/or HOME funds as needed. Develop and post outreach materials by 2025.

Page 22 of the 2021-2029 Housing Element has been revised as follows:

Program HQY-1.2.1: Medium and High-Density Residential Sites Amendment to Families per Structure Requirement. Amend the Residential Two-Family Zone (R-2) and Multiple Family

Residential and Professional Zone (R-3) in the City zoning code to remove the public safety height requirement, the requirement that limits development to no more than “four families per structure” and replace the conditional use permit process with a site plan or similar process to promote approval certainty.

Responsible Party: Planning Department

Financing: General Fund

Time Frame: Amendment adopted by November 2022

Program HQY-1.2.2: Development Processing System Review. Monitor the development processing/review procedures to minimize the time required for review by the City. The City shall continue to make available to prospective developers the option of having a pre-application meeting prior to submittal of a formal project application. In reviewing these procedures, the City will solicit input from local developers, real estate agents, nonprofit housing groups and other interested parties. The City will also prepare a written procedure to implement streamlining provisions of Government Code section 65913.4 (SB 35).

Responsible Party: City Manager, Planning Department

Funding Source: General Fund

Time Frame: Ongoing, annually, written procedure by 2026

Program HQY-1.2.3: Removal of Governmental Constraints to Housing Development for Persons with Disabilities. Develop and formalize the process that a person with disabilities or their representative must follow to make a reasonable accommodation request that both streamlines the permit review process and provides reasonable accommodation for a disability. The process will allow for review and approval at the staff level and have minimal or no fees associated with it. This information will be made available to the public through postings and brochures at the City and on the City’s website.

Responsible Party: Planning and Building Departments

Funding Source: General Fund

Time Frame: The formalized procedure will be adopted by January 2025

Pages 23 – 24 of the 2021-2029 Housing Element have been revised as follows:

Program: HQY-1.2.5: Transitional and Supportive Housing. Amend the City’s Zoning Code to allow transitional and supportive housing in non-residential zones (C-1, M-L and DT-MU) and only subject to requirements that apply to other residential dwellings of the same type in the same zone.

Responsible Party: Planning Department

Funding Source: General Fund

Time Frame: The zoning code will be amended by January 2025

Program: HQY-1.2.6: By Right Permanent Supportive Housing. Amend the City's Zoning Code to allow Permanent Supportive Housing as a use by right in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if it meets specified requirements, as defined and delineated in Government Code section 65651.

Responsible Party: Planning Department

Funding Source: General Fund

Time Frame: The zoning code will be amended by January 2025

Program: HQY-1.2.7: Group Homes for Seven or More Persons. Amend the City's Zoning Code and permit procedures to allow group homes for seven or more persons in all zones allowing residential use and only subject to objective standards similar to other residential uses of the same type in the same zone.

Responsible Party: Planning Department

Funding Source: General Fund

Time Frame: The zoning code will be amended by January 2025

Program: HQY-1.2.8: Family Definition. Amend the City's Zoning Code to allow group homes for seven or more persons in all zones allowing residential use and only subject to objective standards similar to other residential uses of the same type in the same zone.

Responsible Party: Planning Department

Funding Source: General Fund

Time Frame: The zoning code will be amended by January 2025

Program AH-1.1.1: At-Risk Units Monitoring Program. The City will annually assess the status of publicly subsidized, rent restricted affordable housing units to determine the contract expiration dates for the project's funding sources, and communicate with property owners and comply with noticing requirements under Government Code 65863.10. For projects with contracts that will expire in the next 3 years (ascertained annually), develop a proactive plan to preserve affordable rents at these projects. This will include initiation of discussions with owners, coordination with qualified entities with capacity to acquire and manage properties and assisting with financial resources to extend contracts.

Responsible Party: Finance Department, Grants Administration

Funding Source: CDBG and HOME, General Fund

Page 25 of the 2021-2029 Housing Element has been revised as follows:

Program AH-1.2.1: Funding for Affordable Housing Development. Participate with developers in funding applications where the City is an eligible applicant or co-applicant (as described in the Resources chapter of this document.). The City will post information on its website to inform potential developers of the City’s support for affordable housing development and who to contact for information.

Responsible Party: Finance Department, Grants Administration

Funding Source: General Fund

Time Frame: Ongoing, as funding opportunities are made available and at least bi-annual contact with affordable housing developers to identify development opportunities

Program AH-1.2.2: Housing for Special Needs Populations. Support the construction of housing and provision of services for residents deemed to have special needs, which includes but is not limited to seniors, farmworkers, persons with disabilities, female- headed households, and those experiencing homelessness. City support will include but is not limited to: support of and/or pursuing funding applications with developers, expediting processing, and granting concessions and incentives for housing developments that include units targeted to or appropriate for these households. On at least an annual basis, meet with the Glenn County Community Action Department and Dos Rios Continuum of Care (CoC) staff to discuss the housing needs of these groups served by the County and CoC, and to strategize funding and potential development opportunities.

Responsible Party: City Manager, Planning Department

Funding Source: General Fund

Time Frame: Ongoing, with annual meetings to identify development opportunities

Program AH-1.2.3: Large Household Housing. The City will establish a program to offer incentives for the development of rental housing with three or more bedrooms. These incentives may include but are not limited to fee reductions, modifications to development standards, and/or financial incentives. In addition, the City will prepare and make available materials so that developers are aware of the City’s incentives.

Responsible Party: Planning Department

Funding Source: General Fund

Time Frame: Ongoing. The Program will be developed by September 2022, with marketing materials developed by December 2022. Incentives will be considered as part of annual outreach with developers.

Pages 28- 29 of the 2021-2029 Housing Element have been revised as follows:

Policy: FH-1.1: Move towards more balanced and integrated living patterns by addressing:

1. older affordable and naturally occurring affordable housing, low-income households, and people of color throughout the City;
2. disparities in rates of homeownership for Hispanic/Latino residents compared to White residents;
3. increase housing choices and affordability; and
4. employ place-based strategies toward community revitalization.

Program FH-1.1.1: The City will conduct outreach in both English and Spanish at least once per year to encourage owners to apply for funding through the City’s Community Development Block Grant (CDBG) Housing Rehabilitation Program. The City will focus on its older stock of affordable and naturally occurring affordable housing properties for neighborhood revitalization. Outreach may consist of the following: posting links on the City’s website and Facebook page, posting physical flyers at City Hall and around the City, and sending an “email blast” to the City’s stakeholder contact list.

Responsible Party: Grants Management & Planning Department

Financing: Allocation of staff time and cost of bilingual outreach materials through General Fund

Timeframe: At least one qualifying property to receive funding through the City’s Housing Rehabilitation Program every year of the Housing Element cycle, starting in the 2nd year, provided a qualified pool of applicants. The City will evaluate its outreach efforts at least once per year and adjust as deemed necessary by governing bodies and City staff.

Geographic Targeting: Throughout the City

Metric: 8 units in the planning period

Program FH-1.1.2: The City will meet with Community Housing Improvement Program (CHIP) and Habitat for Humanity Yuba-Sutter (Habitat) once per year to discuss potential development opportunities in the City and methods for collaboration. Focus on feasibility of self-help housing that includes low-interest loan and down payment assistance programs. Assist developers with affirmative outreach to people of color, including Spanish language materials. Evaluate if the City’s Community Development Block Grant (CDBG) Homebuyer Program can be used for down payment assistance.

Responsible Party: City Manager & Planning Department

Financing: Allocation of staff time and cost of bilingual outreach materials through General Fund

Timeframe: City to evaluate if its CDBG Homebuyer Program can be used for down payment assistance for this program by the end of the 2nd year of the Housing Element cycle. CHIP and Habitat to be in development on at least one project each or in collaboration by the end of the Housing Element cycle.

Geographic Targeting: Throughout the City

Metric: At least one project in the planning period

Program FH-1.1.3: The City will utilize land use strategies to promote housing choices throughout the City, including accessory dwelling units, junior accessory dwelling units, duplexes to fourplexes, lots splits, smaller lot single family and other innovative housing types

Responsible Party: City Manager & Planning Department

Financing: Allocation of staff time

Timeframe: City to disseminate information bulletins, at least every other year, throughout the City as part of outreach efforts and provide technical assistance on a project basis

Geographic Targeting: Throughout the City

Metric: At least 20 units in the planning period

Program FH-1.1.4: The City will, as part of its capital improvement program (CIP) through state and federal funding will seek public improvements throughout the City and areas of higher need, including but not limited to street improvements, streetscapes, sidewalks, lighting, safe routes to school, park improvements, community facilities and community amenities.

Responsible Party: City Manager & Planning Department

Financing: General Fund

Timeframe: Annually as part of the CIP and seek application for state or federal funding at least twice in the planning period

Geographic Targeting: Throughout the City and areas of higher need

Metric: At least four improvements in the planning period

Page 30 of the 2021-2029 Housing Element has been revised as follows:

Program FH-1.2.1: In collaboration with Glenn County and the City of Willows, assist with publishing an annual Request for Proposal (RFP) for Permanent Local Housing Allocation (PLHA) funds to attract affordable housing developers to the region.

Responsible Party: City Manager & Planning Department

Financing: Allocation of staff time

Timeframe: Starting in the first year and continuing throughout the Housing Element cycle, assist with publishing an annual RFP for PLHA funds.

Geographic Targeting: Throughout the City

Metric: At least one project in the planning period

Program FH-1.2.2: The City will meet with Glenn County Community Action Department at least once per year to coordinate information, referrals, and outreach to residents for available services related to emergencies, employment, housing, and income. This may include posting links on the City’s website and Facebook page, posting physical flyers at City Hall, and sending an “email blast” to the City’s stakeholder contact list at least once per year in English and Spanish.

Responsible Party: City Manager & Planning Department

Financing: Allocation of staff time and cost of bilingual outreach materials through General Fund

Timeframe: Coordinate information, referrals, and outreach by the end of the 1st year of the Housing Element cycle. The City will evaluate its outreach efforts at least once per year and adjust as deemed necessary by governing bodies and City staff.

Geographic Targeting: Throughout the City

Metric: At least once per year

Page 31 of the 2021-2029 Housing Element has been revised as follows:

Program FH-1.3.1: As of 2019, approximately 43% of Orland residents spoke Spanish at home. The City will expand access to community meetings by providing live interpretation in Spanish. The City will also expand access to materials created for the public such as flyers, brochures, public notices, fact sheets, social media, etc. by providing written materials in both English and Spanish. Bilingual English/Spanish City staff members may conduct the live interpretation and written translation, or the City may contract with a professional translator.

Responsible Party: Planning Department & City Administration

Financing: Allocation of staff time

Timeframe: Provide English/Spanish language access as described in the program by the end of the 2nd year of the Housing Element cycle. Conduct an

analysis of languages spoken at home using data from the U.S. Census American Community Survey at least once every two years to evaluate if additional language access is needed.

Geographic Targeting: Throughout the City

Metric: Evaluate once every two years and make adjustment as necessary

Program FH-1.4.1: Meet with North Valley Property Owners Association (NVPOA) and Legal Services of Northern California (LSNC) at least once per year to coordinate fair housing information, referrals, and outreach to residents. This may include promoting NVPOA and LSNC’s fair housing workshops by posting links on the City’s website and Facebook page, posting physical flyers at City Hall, and sending an “email blast” to the City’s stakeholder contact list.

Responsible Party: Planning Department & City Administration

Financing: Allocation of staff time. The City may apply for, or work with a consultant to apply for, CDBG funds through State HCD to support fair housing enforcement and outreach activities.

Timeframe: Coordinate information, referrals, and outreach by the end of the 1st year of the Housing Element cycle. Thereafter, outreach will occur annually.

Geographic Targeting: Throughout the City

Metric: Annual outreach

Pages 35 - 37 of the 2021-2029 Housing Element have been revised as follows:

Local Data and Knowledge and Local Patterns

As noted above, census tracts either overlap with City boundaries or the census tracts encompass large areas of the City. Further, block group data in a rural setting can be less accurate due to sample sizes. These circumstances combined make evaluating socio-economic patterns within the City more challenging but based on local data and knowledge, the City generally does not have distinct patterns of socio-economic characteristics and neighborhood quality of life is fairly homogenous throughout the City, as follows:

- *Income and Affordability:* Generally, household incomes do not vary substantially throughout the City with most households earning less than \$100,000 and a majority of households earning less than \$50,000 (See Figures 42 and 43). Based on local knowledge, this mix of incomes is generally spread throughout the City with no major differences between neighborhoods or areas of the City.

Further, sales prices and rents do not vary substantially throughout the City. A few very small areas (e.g., less than 10 units) in the southern central and northeast might have sizable differences in rents and sales prices but generally throughout most of the City, affordability is similar with no major patterns or differences in the affordability of homes. In addition, housing assisted by public funding is generally spread throughout all areas of the City and most subdivisions have been of similar size lots (e.g., 6,000 square foot lots). The City generally does not have large rural estate lots. There are only two parcels in the City zoned as Residential Estate. These parcels are currently and have been historically under agricultural use (orchards). The lack of differences in sales and rents, evenly distributed housing assisted with public funding and similar lot sizes indicates a fairly even pattern of income and no major differences between areas or neighborhoods.

- Identified Sites and Distribution by Income Group and Quadrant: To accommodate the RHNA, the City identified sites by zoning to accommodate a variety of incomes. These sites are generally spread out throughout the City. For example, each of the quadrants identify a similar share of site capacity anticipated to accommodate housing for lower income households. However, Quadrant 3 (southeastern) is anticipated to accommodate a large share of the moderate and above moderate-income households, mainly due to one site with significant lower density capacity. Despite the unevenness of the moderate and above moderate income distribution, these sites are not anticipated to impact the overall fairly even pattern of socio-economic characteristics throughout the City with a capacity of 293 units representing roughly 10 percent of the households.

Site Capacity by Income by Quadrant

<u>Quadrant</u>	<u>Lower Income</u>	<u>Moderate Income</u>	<u>Above Moderate Income</u>	<u>Total</u>
<u>1</u>	<u>32</u>	<u>35</u>	<u>0</u>	<u>67</u>
<u>2</u>	<u>36</u>	<u>0</u>	<u>0</u>	<u>36</u>
<u>3</u>	<u>0</u>	<u>29</u>	<u>118</u>	<u>147</u>
<u>4</u>	<u>43</u>	<u>0</u>	<u>0</u>	<u>43</u>
<u>TOTAL</u>	<u>79</u>	<u>64</u>	<u>118</u>	<u>293</u>

- Housing Conditions: The need for rehabilitation and replacement of housing is generally spread throughout the City. A majority of the housing stock (approximately 59 percent) that comprises most of the City area was built prior to 1980. Newer housing stock built after 2000 represents a small portion of the housing stock (approximately 16 percent) and is located in different areas of the City. Further, housing types (e.g., single family and multifamily) and age of structures are mixed throughout the City and code enforcement

cases generally do not have a distinct and re-occurring pattern in a particular part of the City. Considering that older structures are more likely to be in need of rehabilitation and are located throughout the City, there are no major differences in housing conditions from neighborhood to neighborhood.

- *Neighborhood Conditions:* Neighborhood conditions generally considers housing conditions, streets, sidewalks, streetscapes, lights, traffic signals, accessibility, safe routes to school and parks and recreation. While there are some differences between newer and older neighborhoods, overall, these conditions do not substantially differ and there are no distinct patterns of inequitable conditions or concentrations of substandard conditions. Most of the City was built prior to 1980 so subdivisions had different standards. For example, sidewalks have different widths. But there hasn't been any major or large master planned areas or subdivisions with significantly different communities such as larger lot sizes and substantial open spaces with new schools and other community amenities that created stark differences between areas of the City. Streets, lights, sidewalks and other improvements are well maintained throughout the City. Safe routes to school and other active transportation projects have occurred throughout the City.

The City is small (approximately three square miles) which provides easy access to all parts of the City. The City of Orland has six parks ranging in size from 0.26 to 23 acres for a total acreage of 47.35 acres. The City's major park and recreation area (Lely Aquatic Park) is located in the southeast and is easily accessible for everyone. Also, schools, including park and recreation facilities, and shopping, including fresh food, are located throughout the City or easily accessible by everyone.

- *Infrastructure Conditions and Quality:* Generally, the City is served by the same water and sewer systems and there are no major differences in terms of supply and quality. For example, the City has six wells that are located throughout the City and provide water for residents, but these wells are linked into one system and everyone generally shares the same water quality. Also, all sewage is processed by the City treatment facility.
- *Special Household Needs:* There are approximately 20 people experiencing homelessness in the City. The majority of persons experiencing homelessness tend to congregate -under a bridge (Hwy 99 W as it crosses Stony Creek) north of City limits in Glenn County and on occasion-in Library Park in the center of town, but given the fairly low numbers, there are no major differences from neighborhood to neighborhood for this special needs group. However, services and programs could be geographically targeted to provide better access.
- *Environmental Quality:* The City does not have any major industrial uses that with noxious fumes or other waste that disproportionately any neighborhoods. Given the size of the City and overall good air quality, everyone enjoys similar environmental quality.
- *Defining Features and Land Use Patterns:* The City has two defining features that influenced the land use pattern: Highway 32 and the California Northern Railroad tracks. While these features influence the patterns of the streets and neighborhoods, generally, they do not

separate neighborhoods and there isn't much difference in terms of socio-economic characteristics or the neighborhood conditions on either side of the features. For example, Highway 32 is a two-lane road that does not create a physical barrier between the north and south areas. The railroad tracks have five roadway crossing locations in the City providing easy access to and from all neighborhoods in the City.

- State, Federal and Other Policies or Factors: The City's socio-economic pattern has not been influenced by state or federal policies or other factors. There are no particular areas within the City that were influenced by redlining or a general inequity of investment versus other areas of the City.

Page 41 of the 2021-2029 Housing Element has been revised as follows:

Enforcement Cases

HUD data on Fair Housing and Equal Opportunity (2013-2022) shows the three reported inquiries. Two of the inquiries were described as "No Basis Given", one on a Retaliation Basis, and one on a Disability Basis. Additional data showed Given the low incidences of discrimination cases in Orland, existing programs and policy actions are deemed sufficient to account for future discrimination cases within Orland.

Page 81 of the 2021-2029 Housing Element has been revised as follows:

Environmental Burden

Figure 29: CalEnviroScreen 4.0 illustrates communities in California that are most affected by many sources of pollution, and where people are often especially vulnerable to pollution's effects. CalEnviroScreen uses environmental, health, and socioeconomic information to produce scores for every census tract in the state. An area with a high score is one that experiences a much higher pollution burden than areas with low scores. As shown in Figure 29, Orland is in the middle 40 to 60 range indicating that Orland is fairly typical when compared to other communities in California.

Educational Opportunity

Figure 30: School Attendance Boundary illustrates that all areas of the City, as well as the surrounding unincorporated area of the County is served by at least one school district. The Orland Unified School District provides kindergarten through high school educational opportunities in the City of Orland. The City also has one private school, the Providence Christian School and the Butte College-Glenn County campus.

Orland students are served by the Orland Unified School District (OUSD), which has six public schools reported on by the California Department of Education (CDE), including two elementary schools, one middle school, one high school, one independent study school, and one alternative school. Parents have the choice of sending their children to OUSD Online School instead of

sending them in person. North Valley High School typically serves students who have experienced challenges in traditional school environments. While these schools have limited data on performance scores for English language arts (ELA) and mathematics, this program offers a valuable resource for students to continue their education in a supportive environment. As shown in **Figure 31: TCAC Education Map (2022)**, at least 75% of students in Orland have a more positive educational outcome.

In Orland, the spatial distribution of public schools in relation to household median income are as follows: Mill Street School (elementary), Fairview Elementary, and CK Price Intermediate School are located in an area where the median household income was reported by the 2021 American Community Survey to be \$69,506. Orland High School and North Valley High School are located in an area where the median household income was reported by the 2021 American Community Survey to be \$45,739. While these median household incomes are vastly different, because of the limited number of schools in Orland, the household income in relation to the location of schools is a non-factor as elementary students in Orland attend the elementary school nearest their home and all students in Orland attend CK Price Intermediate School and Orland High School or North Valley High School.

Pages 82, 83, and 84 of the 2021-2029 Housing Element have been revised as follows:

Figure 29: CalEnviroScreen 4.0, Figure 30: School Attendance Boundary, and Figure 31: TCAC Education Map (2022) are new figures.

Page 107 of the 2021-2029 Housing Element has been revised as follows:

Overcrowding

Overcrowding is an important measure to help determine if there is adequate housing stock for the population. **Figure 52: Occupants per Room by Tenure, 2019** identifies the number of units that are considered by the federal government as Overcrowded (more than one occupant per room) and Severely Overcrowded (1.5 or more occupants per room). In 2019, there were an estimated 50 Overcrowded housing units in Orland, which was 2.0% of all units, and 42 Severely Overcrowded units, which was 1.6% of all units. All of the Overcrowded units are owner-occupied, while all of the Severely Overcrowded units are renter-occupied. (Note that the 2,552 estimated total number of housing units is for a different year (2019) and from a different source (U.S. Census Bureau) than the estimated number of housing units shown in **Figure 46: Housing Units by Type, 2010 and 2020**. As shown in **Figure 53: Overcrowding**, in approximately half the City, 5 to 10 percent of persons are in overcrowded housing situations while less than 5 percent are in severe overcrowding situation as shown in **Figure 54: Severe Overcrowding**.

Pages 108 and 109 of the 2021-2029 Housing Element have been revised as follows:

Figure 56: Overcrowding and Figure 57: Severe Overcrowding are new figures.

Page 113 of the 2021-2029 Housing Element has been revised as follows:

Figures 66 through 69 illustrate homeowners and renters in overpayment situations in the city. **Figure 66: Overpayment-Owners (2017-2021)** and **Figure 67 Overpayment-Owners (2010-2014)** illustrate the owner overpayment percentages between the two time periods. **Figure 68: Overpayment-Renters (2017-2021)** and **Figure 69 Overpayment-Renters (2010-2014)** illustrate the renter overpayment percentages between the two time periods.

Pages 114 - 117 of the 2021-2029 Housing Element have been revised as follows:

Figure 66: Overpayment-Owners (2017-2021), Figure 67 Overpayment-Owners (2010-2014), Figure 68: Overpayment-Renters (2017-2021), and Figure 69 Overpayment-Renters (2010-2014) are new figures.

Pages 128 and 129 of the 2021-2029 Housing Element have been revised as follows:

Large Households

A breakdown of the number of households by household size for Orland is shown in **Figure 75: Household Size, 2020**. Most households fall into the size categories of one person per household and two persons per household, each with about one-quarter of all households. Large person households, which is considered to be 5 or more persons, makes up approximately 21 percent of the City's households.

Figure 84: Household Size, 2020

<u>Household Size</u>	<u>Households</u>	<u>% of Total</u>
<u>1-person</u>	<u>616</u>	<u>22%</u>
<u>2-persons</u>	<u>692</u>	<u>25%</u>
<u>3-persons</u>	<u>532</u>	<u>19%</u>
<u>4-persons</u>	<u>393</u>	<u>14%</u>
<u>5-persons</u>	<u>310</u>	<u>11%</u>
<u>6-persons</u>	<u>149</u>	<u>5%</u>
<u>7+ persons</u>	<u>129</u>	<u>5%</u>

Page 157 of the 2021-2029 Housing Element has been revised as follows:

Land Use Controls

The City's land use policy is laid out in the City's General Plan and the Municipal Zoning Code. The General Plan guides the City's growth over a period of approximately 20 years. It includes land use designations for housing, commercial, office and industrial. The Municipal Zoning Code establishes design and development standards for all properties within the City. These standards include allowable land uses, minimum lot size, setbacks, lot coverage, building height, and parking requirements. The Zoning Code has three zoning designations for residential uses. Some residential uses are also allowed in certain commercial zoning districts as well. The City's Zoning Code establishes minimum lot sizes and dimensions and maximum families per structure, rather than units per acre. In addition, the City's General Plan also regulates the number of units allowed by setting the maximum units permitted in a zoning category regardless of lot sizes. The City does not regulate density based on persons per acre and any provisions related to population per acre are only a density assumption for planning purposes. Program HQY-1.2.1 is included in the Goals, Policies and Programs Chapter of this Housing Element to amend the maximum families per structure requirement in the zoning code.

Page 166 of the 2021-2029 Housing Element has been revised as follows:

Site Improvements, Development Impact Fees, and Processing Fees

For new developments, the City requires developers to install the needed infrastructure to service the homes. These include on and off-site improvements such as water and sewer lines, curbs, gutters, sidewalks, and streets. Other improvements may be installed by the City or some other local agency and the developer pays into a fund for the improvements (i.e. a traffic light on a major intersection). For larger subdivisions, the City may require a land donation for schools or parks, or the developer may have to build large infrastructure items such water tanks or retention basins.

The standards imposed by the City of Orland are very minimal and do not significantly impact development costs. For example, street, curb and sidewalk improvements are generally limited to the property frontage. These standards address health and safety codes and are not a constraint to the construction of housing.

Page 176 of the 2021-2029 Housing Element has been revised as follows:

Constraints on Housing for Persons with Disabilities

California Government Code Section 65583(a)(4) requires Housing Elements to analyze potential and actual constraints upon the development, maintenance, and improvement of housing for persons with disabilities and to demonstrate local efforts to remove governmental constraints that hinder the locality from meeting the need for housing for persons with disabilities. The City

allows many types of home modifications that accommodate persons with disabilities without requiring a permit. If the modifications involve encroachment on required zoning code setbacks or other zoning code provisions, an applicant can request a variance to remove accessibility impediments. The City plans to create a reasonable accommodation ordinance in this housing element cycle so that a variance would not be needed in such cases. Care facilities housing six or fewer people are allowed in the R-1, R-2, and R-3 zoning districts by right. The City does not have any special standards for these care facilities and if serving six or fewer people, there are no special noticing or community meetings needed. Residential care facilities serving more than six people are allowed in all residential zoning districts with a Conditional Use Permit. Requiring a conditional use permit, unlike other residential uses, may act as a constraint on housing for persons with disabilities. Program HQY-1.2.7 has been added to address the potential constraint.

The City defines family in zoning (Section 17.08.680) and land use, as follows:

"Family" means a group of individuals with a common bond by means of blood, marriage, or conscientiously established relations living together as a housekeeping unit sharing a dwelling unit.

Requiring a common bond by blood, marriage or conscientious decisions may be subject and impact housing for persons with disabilities. Program HQY-1.2.8 has been added to remove or modify these provisions to address potential constraints on housing for persons with disabilities.

Page 177 of the 2021-2029 Housing Element has been revised as follows:

Wastewater Collection and Treatment

The City of Orland's sewer system collects and treats all sewage from sources inside the city limits. Currently sewage service costs \$59.70 for every two months. The City's sanitary sewer system includes over 30 miles of pipelines, 400 sanitary sewer manholes, and four lift stations. Each lift station currently serves an area of less than 20 acres. All sewage is collected and processed by the Orland Wastewater Treatment Facility. According to the City's Public Works Department, during the last quarter of 2021, the City reported receiving approximately 0.66 mgd at the treatment plant. The City also received an average of approximately 0.65 mgd over the past year. The treatment plant capacity is 2.1 mgd leaving a remaining capacity of 1.45 mgd. According to the City's Public Works Department, the average single-family home produces approximately 431 gpd of wastewater. Based on this information, the RHNA of 247 units would account for 106,457 gallons per day (gpd) of wastewater. This increased demand would represent 7.3 percent of the 1.45 mgd remaining plant capacity. Since there is adequate capacity remaining at the Wastewater Facility to serve future residential uses at the 247 units would not result in the need for new or expanded facilities.

Page 178 of the 2021-2029 Housing Element has been revised as follows:

Water Service

The City of Orland provides water service to its residents. Water service costs \$61.35 every two months for a 15,000-gallon allotment. The source of water supply for Orland is groundwater pumped from six wells that produce between 350 and 1,090 gallons per minute (gpm). The wells are located throughout the City and range in depth from 150 feet to 400 feet. The City's RHNA for the 2021 to 2029 period is 247 units. The City provides water use estimates based on HUE, the amount of water a single-family home would use on a monthly basis. The average daily water demand per HUE is 571 gallons. As such 247 units represent water demand of 141,037 gpd. City water is obtained from the Colusa Groundwater Subbasin. The estimated storage capacity of the groundwater subbasin to a depth of 200 feet is approximately 13,025,887 AF or 4.24 trillion gallons. The 247 units annual water demand of 51,478,505 gallons represents 0.0012 percent of the available groundwater in the Colusa Groundwater Subbasin. Based on the City's existing groundwater pumping ability and the fact that currently there is not a regulated limit on the amount of groundwater that can be extracted for the Colusa Groundwater Subbasin, the City would have an adequate water supply to serve these units.



CITY OF ORLAND Staff Report

TO: **City of Orland Planning Commission**

FROM: Scott Friend, AICP – City Planner

MEETING DATE: November 18, 2021; 7:00 p.m.
Carnegie Center, 912 Third Street, Orland, CA 95963

SUBJECT: **General Plan Amendment (GPA) #2021-02: 2021-2029 6th Cycle Housing Element Update. Public Hearing.** State law requires every City and County in California to have a General Plan to contain a minimum of seven (7) required elements. The Housing Element is one of the seven required General Plan Elements. The City must periodically amend these elements to reflect changing conditions within the City and to maintain compliance with state and federal laws. The purpose of the Housing Element is to adequately plan for the existing and future housing needs of the City. This Element is being updated to address the 6th Cycle planning period spanning from 2021-2029.

Environmental Review: Staff recommends that the Planning Commission determine that the proposed action is *exempt* from further CEQA review pursuant to CEQA Guidelines Section 15061(b)(3), the “General Rule”.

Recommendation:

Staff recommends that the Planning Commission take the following action(s):

- 1) Conduct a public hearing to review the draft 2021-2029 6th Cycle Housing Element; and
- 2) Adopt Resolution No. 2021-XX, recommending that the City Council approve the General Plan Amendment (GPA) adopting the 2021-2029 Housing Element Update as presented.

Project Summary:

The Housing Element is one of the seven State-mandated elements of the General Plan. All cities and counties in the State of California are required to update their General Plan Housing Elements on a regular basis and to submit the updated Element to the California Department of Housing and Community Development (HCD) for review and certification. It is the only element of the General Plan that is required by law to be updated on a regular basis. The current update cycle for the City of Orland is eight (8) years. The Planning period for the proposed Housing Element is 2021-2029.

The proposed 2021-2029 Housing Element document has been made available for public review via a webpage dedicated to the project and available to the public since October 14th.

Additionally, the City has hosted two (2) public meetings (June 23rd and August 5th) on the project; has made four (4) formal social media posts inviting participation at meetings, notifying the public of document availability and notifying people of the Planning Commission public hearing); has sent ten (10) email “blasts” to interested persons and stakeholders with meeting invitations, informational links, notifications of website updates and providing general information) and has formally notified the public of all meetings related to the project including the Planning Commission public hearing.

No substantive public comment letters have been received on the project to date and no changes or comments have been received based upon the documents availability to the public. As required by State law, the document has been sent to the State Housing and Community Development Department (HCD) however no initial review comments have yet been received as a result of that action. Staff had anticipated the receipt of early-review comments from the State prior to the Planning Commission meeting, however, comments have not yet been received as hoped for or as anticipated.

As this matter is a formal amendment to the City’s adopted General Plan, this item is being presented to the Planning Commission at a formally noticed Public Hearing for a recommendation to the City Council and will be advanced to the City Council following review and consideration by the Planning Commission.

Background:

The City's adopted Housing Element (2014-2019) was adopted by the City Council in August of 2014. That document is the 5th cycle of required Housing Element updates in the State of California. The proposed element spans an eight (8) year planning period and will remain valid for the years spanning 2021-2029.

During the past planning period, the State of California has made numerous and substantial changes to State law dealing both with the subject of housing and with the required contents of Housing Elements. During the planning period the State has adopted countless new regulations addressing items to include accessory dwelling units, impact fee collection, permit streamlining, mandatory parking reductions or eliminations, and, in some instances has eliminated discretionary review for certain qualifying residential projects and has required the mandatory approval of development concessions.

During the time period of the current Housing Element, the City has received over \$400,000 in grant funds for infrastructure improvements and housing-related planning projects as a result of having an adopted and compliant Housing Element. Adoption of the proposed Housing Element will help to ensure that the City retains its eligibility status for future grant opportunities during the next Housing Element cycle.

The City initiated work on the Housing Element update in the spring of 2021 with the issuance of a Request for Proposal (RFP) seeking consultants to update the City’s existing adopted Element. As a result of the RFP, the City received four (4) proposals. Following a review and vetting of the proposals received, the City retained Housing

Tools to prepare the update. During the plan preparation process the City and Housing Tools have undertaken the following actions:

- Established a dedicated project webpage accessible from the City’s homepage and City Planning Department webpage.
- Held two (2) formal public input meetings (June 23rd and August 5th).
- Issued four (4) formal social media posts in regard to the project and providing project updates.
- Issued ten (10) email “blasts” to interested persons and parties providing project details, meeting information, document availability details, etc..
- All materials and meetings have been made available in multiple languages. And,
- A hardcopy of the public review draft of the proposed document has been made available to the public for review since October 14th at City Hall and electronically on the dedicated project webpage/city website.

Discussion:

The draft 2021-2029 Housing Element evaluates the effectiveness and appropriateness of the previous Housing Element; assesses the housing needs of residents, the workforce, and special needs groups; analyzes the inventory of resources and constraints; addressed federal and state fair housing issues, and develops policies and programs to meet unmet housing needs. The 2021-2029 Housing Element carries forward a majority of the goals and policies of the adopted Housing Element. More substantive changes have been made to various programs to include timing updates; the deletion of programs that were implemented or completed; edits for consistency and clarity; edits to address fair housing assessment requirements, and modifications or the establishment of new programs to align with the goals, policies and programs of the document with State law and its various requirements.

As a part of the update process, the 2021-2029 Housing Element must show an adequate plan to meet the existing and projected housing needs for all economic segments of the community. HCD determines what the housing needs of the region are and then distributes the units within the region and amongst vary income level groupings. The allocation is called the Regional Housing Needs Allocation (RHNA). The City of Orland’s RHNA for the 2021-2029 planning period is shown in the table below.

<i><u>Income Level</u></i>	<i><u>Housing Unit Allocation</u></i>
Very Low	62
Low	31
Moderate	44
Above Moderate	110
Total	247

As shown in the table, the City's total RHNA for the planning period is 247 dwelling units. For the planning period, the total allocation for all of the Glenn County was 661 (Willows – 185; Unincorporated Glenn County – 229). In comparison, the total RHNA for the 2014-2019 planning period was 80 units and the allocation for the 2009-2014 planning period was 621 dwelling units. Similar to the analysis in the 2009-2014 and the 2014-2019 Housing Elements, the 2021-2029 Housing Elements' analysis shows that there is enough existing inventory of vacant or underutilized sites that will allow the City to meet the RHNA for the planning period without rezoning any land for higher density housing. The inventory of vacant or underutilized sites can be found in the Resources and Opportunities section of the proposed Housing Element document.

General Plan Consistency:

The proposed 2021-2029 General Plan Housing Element is internally consistent with the goals, objectives and policies contained in the other Elements of the City of Orland General Plan. The Housing Element facilitates the provision of housing for all income categories and at a full range of development densities needed to serve existing and future residents of the City.

Environmental Determination:

The amendment to the City's General Plan for this action has been determined to qualify as being *exempt* from California Environmental Quality Act (CEQA) requirements pursuant to Section 15061 (b)(3). Specifically, section 15061(b)(3) states, in part, that a project is exempt from CEQA if “the activity is covered by the General Rule that CEQA applies only to project which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA” (see **Attachment B – Notice of Exemption**).

Recommendation:

Staff recommends that the Planning Commission find that the project is categorically exempt from further review pursuant to the California Environmental Quality Act (CEQA) and, recommend approval of GPA#2021-02 to the City Council.

Staff recommends the following process for the consideration of this matter:

1. Accept report by staff;
2. Open the public hearing and take public testimony;
3. Close the public hearing and initiate consideration of the project; and
4. Motion and vote.

If the Planning Commission determines that it intends to approve the project as proposed and as described in this report, staff offers the following motion for the Commission's consideration:

1. California Environmental Quality Act:

Move that the Planning Commission determine that the project is categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section §15061(b)(3), the General Rule.

2. General Plan Amendment:

Move that the Planning Commission make a recommendation the City Council to adopt Resolution 2021-XX approving GPA #2021-02 as presented herein.

ATTACHMENTS:

- **Attachment A – Copy of Draft 2021-2029 Housing Element document (*full text of document previously provided due to length and complexity*)**
- **Attachment B – Draft Notice of CEQA Exemption**
- **Attachment C – Copy of Project Webpage (homepage)**
- **Attachment D – Copy of Regional Housing Needs Assessment Assignment Letter from HCD dated August 5, 2020.**
- **Attachment E – Planning Commission Resolution – 2021-XX**

NOTICE OF EXEMPTION

CEQA: California Environmental Quality Act

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

From: City of Orland
815 Fourth St.
Orland, CA 95963

County Clerk
526 West Sycamore Street
Willows, CA 95988

Project Title: **City of Orland General Plan Amendment 23-02:** State law required that localities update their General Plan Housing Elements every eight years. The City of Orland is revising its 2021-2029 Housing Element to comply with State Housing Law.

Project Location - Specific: City-wide
- **City:** Orland
- **County:** Glenn

Description of Nature, Purpose, and Beneficiaries of Project:

Update of the City's General Plan Housing Element to comply with State law.

Name of Public Agency Approving Project: City of Orland

Name of Person or Agency Carrying Out Project: City of Orland

- Ministerial (Sec. 21080 (b) (1); 15268);
- Declared Emergency (Sec. 21080 (b) (3); 15269 (a));
- Emergency Project (Sec. 21080 (b) (4); 15269 (b) (c));
- Categorical Exemption. Type and Section Number: Section 15061(b)(3).
- Statutory Exemption. Code Number:

Reasons why project is exempt:

The City of Orland Planning Commission has determined that this project is exempt from CEQA as it can be seen with certainty that there is no possibility that the proposed update to the City of Orland Housing Element would have a significant effect on the environment. Therefore, the project is exempt pursuant to CEQA Guidelines Section 15061(b)(3).

Lead Agency Contact Person: Scott Friend; City Planner
Area Code/Telephone/Extension: (530) 865-1608, Extension 3059.

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: January 19, 2024 Title: City Planner
 Signed by Lead Agency Date Received for Filing At OPR:

PLANNING COMMISSION RESOLUTION NO. 2023-___

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ORLAND, CALIFORNIA RECOMMENDING ADOPTION OF THE REVISION TO THE 6TH CYCLE HOUSING ELEMENT (GPA #2023-02) WHICH IS THE CITY'S HOUSING ELEMENT COVERING THE YEARS 2021-2029, AND RECOMMENDING AUTHORIZATION OF STAFF TO SUBMIT THE REVISED 6TH CYCLE HOUSING ELEMENT TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) FOR CERTIFICATION

WHEREAS, State law requires cities and counties to prepare and adopt a General Plan to guide the future development of a city and or county; and

WHEREAS, all General Plans are required to contain a Housing Element and Housing Elements are required to be updated every 8-years; and

WHEREAS, according to State law, the Housing Element of the General Plan must provide information, policies and programs to encourage the development of housing to meet the needs of all the City's residents; and

WHEREAS, the City of Orland is required by State law to update its Housing Element in compliance with Government Code Section 65580 *et seq.* to guide the City's housing efforts; and

WHEREAS, on March 1, 2022 the Orland City Council adopted General Plan Amendment (GPA #2021-02) adopting the 2021-2029 Housing Element and directed staff to send the Housing Element to HCD for certification; and

WHEREAS, upon review of the adopted 2021-2029 Housing Element, HCD determined that the Housing Element did not meet the requirements of State Housing Law; and

WHEREAS, based on the HCD review, the staff determined that the Housing Element should be revised to comply with State Housing Law; and

WHEREAS, staff, with substantial assistance from HCD, revised the Housing Element and the revised Housing Element is considered to be in substantial compliance with State Housing Law as confirmed by HCD; and

WHEREAS, on November 11, 2023, the City noticed the public and made the revised Housing Element update available to the public for a seven-day review period as required by State Housing Law digitally via the City's website; and

WHEREAS, on December 11, 2023, the City noticed the public in a newspaper of general circulation of the December 21, 2023, Planning Commission public hearing for the revised Housing Element; and

WHEREAS, on December 21, 2023, the Planning Commission of the City of Orland held a noticed public hearing at their regularly scheduled December Planning Commission meeting to take public input, consider and make a recommendation to the City Council on the draft document; and

WHEREAS, the proposed General Plan Amendment GPA 2023-02 is considered a "Project" as defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq.; and

WHEREAS, the Planning Commission determined in the adoption of General Plan Amendment (GPA #2023-02) on December 21st, 2023 that the revised 2021-2029 Housing Element meets the statutory requirement to be determined to be exempt from further CEQA review pursuant to Section 15061(b)(3), known as the "*Common Sense*" exemption as it can be seen with certainty that there is no possibility that the Housing Element Update would have a significant effect on the environment; and

NOW THEREFORE BE IT RESOLVED, that the Planning Commission of the City of Orland does hereby recommend to the City Council of the City of Orland, approval of the revision to the 6th Cycle Housing Element (GPA #2023-02).

The foregoing resolution was passed and adopted at a regular adjourned meeting of the Orland Planning Commission held on **January 18, 2024** by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT OR NOT VOTING: Commissioners

Scott Friend, City Planner

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

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



November 21, 2023

Pete Carr, City Manager *PRC*
City of Orland
815 Fourth Street
Orland, CA, 95963

Dear Pete Carr:

RE: City of Orland's 6th Cycle (2021-2029) Revised Draft Housing Element

Thank you for submitting the City of Orland's (City) revised draft housing element that was received for review on November 21, 2023. The revised draft was made available to the public for seven days. Pursuant to Government Code section 65585, the Department of Housing and Community Development (HCD) is reporting the results of its review.

The revised draft element meets the statutory requirements that were described in HCD's May 12, 2022, review. The housing element will substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq) when it is adopted, submitted to, and approved by HCD, in accordance with Government Code section 65585.

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.

For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Pete Carr, City Manager
Page 2

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 hard work, patience, collaboration and dedication the housing element team provided in the review and update of the housing element. HCD particularly applauds the efforts of Scott Friend and Mike Martin. HCD looks forward to receiving the City's adopted housing element. If you have any questions or need additional technical assistance, please contact Jose Ayala at Jose.Ayala@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul McDougall", with a stylized flourish at the end.

Paul McDougall
Senior Program Manager



CITY OF ORLAND STAFF REPORT - SUPPLEMENT

MEETING DATE: March 21, 2024

TO: City of Orland Planning Commission

FROM: Scott Friend, AICP – City Planner

SUBJECT: **General Plan Amendment (GPA) #2023-02: Supplement to the 2021-2029 6th Cycle Housing Element Update. Public Hearing.** The 2021-2029 Housing Element was recommended for approval to the City Council by the Planning Commission on November 18th, 2021, and was adopted by the Orland City Council on March 1, 2022. Upon review, HCD determined that the Housing Element was not in full compliance with State Housing Law and certain revisions/additions were necessary. This resulted in a revision of the 2021-2029 Housing Element which requires a re-adoption of the Housing Element.

Environmental Review: Staff recommends that the Planning Commission determine that the proposed action is *exempt* from further CEQA review pursuant CEQA Guidelines Section 15061(b)(3), known as the “common sense exemption”.

SUPPLEMENTAL NARRATIVE:

At its regular meeting of January 18, 2024, the Planning Commission held a public hearing to consider making a recommendation to the City Council on the adoption of a revised version of the City of Orland 6th Cycle Housing Element. Upon the conclusion of the public hearing, the Planning Commission engaged with staff on the matter. During the Planning Commissions consideration of the topic, concern was expressed by the Commission that the document did not reflect the realities of the City (use of data) nor did the policy direction of the document reflect the policy direction that the Planning Commission envisions for the future of the City. Upon the conclusion of the Planning Commissions discussion, the Commission voted 5-0 to continue to the item the regular meeting of the Planning Commission in February. The regular February meeting of the Planning Commission was cancelled and thus this item is now being returned to the Commission for continued discussion and/or action.

With this report, staff has attached both the original staff report and attachments from the January 18th meeting as well as included additional new attachments. The original documents from the January 18th

meeting are intended to provide the Commission with an overview of the Housing Element preparation process and to highlight the major changes and edits that have been made to the draft element. No changes have been made to the prior meeting materials. The new attachments are intended to respond to various comments made during the public hearing process and to provide supplemental information to the Planning Commission on the matter. The new attachments are intended to further advance the dialogue on the topic and are intended to assist the Commission members with their consideration of the item.

(text below republished from Original Staff Report dated January 18, 2024)

SUMMARY:

State law requires General Plan Housing Elements be updated on eight-year cycles, and the Element must be reviewed and approved by the California Housing and Community Development Department (HCD). The 2021-2029 Housing Element recommended for approval to the City Council by the Planning Commission on November 18th, 2021, and was adopted by the Orland City Council on March 1, 2022. After adoption, the Housing Element was sent to the California Department of Housing and Community Development (HCD) for final review and certification as required by State Housing Law (Government Code §§65580 - 65589.11). Upon review, HCD determined that the Housing Element was not in full compliance with State Housing Law and certain revisions/additions were necessary. After a six-month process, working with HCD and revising sections of the Housing Element, the Housing Element is now considered by HCD to comply with the requirements of State Housing Law. See **Attachment A** for HCD's substantial compliance letter. The **revised** 2021-2029 Housing Element will be presented to the City Council for re-adoption at a public hearing, to be determined at a later date.

DISCUSSION:

As noted previously, the adopted 2021-2029 Housing Element required revision to comply with State Housing Law. This resulted in several changes to the existing Housing Element Programs as well as seven (7) new Programs. Furthermore, additional analysis and figures were added to the Housing Element based on HCD comments. Except for minor typo revisions, all revisions/additions are shown in **Attachment B**. The revised 2021-2029 Housing Element is included in the staff report as **Attachment C**. The November 18th, 2021, Planning Commission staff report for (GPA) #2021-02: *2021-2029 6th Cycle Housing Element Update* is included as **Attachment D**.

In conformance with Government Code §65352, and prior to the City taking action to adopt the presented **revised** 2021-2029 Housing Element Update and General Plan Amendment, staff has referred the proposed action to the following entities for comments:

1. The County of Glenn
2. Orland Unified School District
3. Glenn County Local Agency Formation Commission (LAFCO)
4. Orland Unit Water Users Association (OUWUA)
5. Glenn County Groundwater Sustainability Agency (GSA)
6. State Water Resources Control Board
7. The following Native American Tribes:
 - a. Mooretown Rancheria of Maidu Indians

- b. Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
 - c. Paskenta Band of Nomlaki Indians
 - d. Mechoopda Indian Tribe of Chico Rancheria
8. Central Valley Flood Protection Board

ENVIRONMENTAL DETERMINATION:

The amendment to the City's General Plan for this action has been determined to qualify as being *exempt* from California Environmental Quality Act (CEQA) requirements pursuant to Section 15061 (b)(3). Specifically, section 15061(b)(3) states, in part, that a project is exempt from CEQA if "the activity is covered by the "common sense" exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA" (see **Attachment E – Notice of Exemption**).

RECOMMENDATIONS:

Staff recommends that the Planning Commission find that the project is categorically exempt from further review pursuant to the California Environmental Quality Act (CEQA) and, recommend approval of GPA#2023-02 to the City Council.

Staff recommends the following process for the consideration of this matter:

1. Accept report by staff;
2. Open the public hearing and take public testimony;
3. Close the public hearing and initiate consideration of the project; and
4. Motion and vote.

If the Planning Commission determines that it intends to approve the project as proposed and as described in this report, staff offers the following motion for the Commission's consideration:

1. California Environmental Quality Act: *Move that the Planning Commission determine that the project is categorically exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section §15061(b)(3).*
2. General Plan Amendment: *Move that the Planning Commission make a recommendation the City Council to adopt Resolution 2023-XX approving GPA #2023-02 as presented herein.*

ATTACHMENTS:

- **Attachment A – HCD Substantial Compliance letter**
- **Attachment B – Revisions to adopted 2021-2029 Housing Element**
- **Attachment C – Copy of revised 2021-2029 Housing Element document (*full text of document provided on USB drive due to length and complexity*).**
- **Attachment D – November 18, 2021 Planning Commission staff report.**
- **Attachment E – Notice of CEQA Exemption**
- **Attachment F – Planning Commission Resolution – 2023-XX**

New Report Attachments:

- **Attachment G** - Detailed analysis of major revisions to the Housing Element (note: this analysis is based on the information previously provided as Attachment C – *Revisions to 2021-2029 Housing Element as a Result of HCD State Housing Law Compliance Review – (to be provided to the Planning Commission prior to meeting.)*)
- **Attachment H** - Summary description of the “Builders Remedy”
- **Attachment I** – Summary analysis of Countywide funding and programs potentially affected by a City of Orland Housing Element non-compliance determination by HCD

The Builder's Remedy: What Every Developer Should Know

March 7, 2023

In recent months, a lesser known provision of California's housing laws has been making headlines throughout the state as a potential seismic shock, potentially removing many obstacles to housing development in California.

Under the "Builder's Remedy," California cities and counties out of compliance with Housing Element law have forfeited their authority to deny affordable housing projects on the grounds the project is inconsistent with zoning and/or General Plan standards.¹ This may provide key opportunities for developers to entitle housing projects throughout California, including in jurisdictions that have typically placed strict limits on the size, density, or location of housing projects.

Developers should be keenly aware of the Builders Remedy, and how it can be used to their advantage throughout the 252 jurisdictions in California that the California Department of Housing and Community Development ("HCD") lists as currently out of compliance with State Housing Element law.

Below, we've outlined answers to some common developer questions regarding use of the Builder's Remedy.

What is the Builder's Remedy?

Government Code section 65589.5(d)(5), known as the "Builder's Remedy," is a provision of California's Housing Accountability Act that prevents jurisdictions without a substantially compliant housing element from denying certain housing projects, even if such projects do not comply with the jurisdiction's zoning ordinance or general plan.

Pursuant to Government Code section 65589.5(d), cities and other local entities may not disapprove certain housing projects or condition their approval in a manner that renders the projects infeasible unless certain specific conditions are met. One of these conditions states that a local jurisdiction may not use inconsistency with a zoning ordinance or general plan to deny a project or condition a project

in way that makes it infeasible unless that local jurisdiction has adopted a housing element that is in substantial compliance with State Housing Element law.

Consequently, if a city or county is out of compliance with State Housing Element Law, developers may propose certain housing projects that are inconsistent with the jurisdiction's zoning ordinance or general plan, and the jurisdiction may not use that inconsistency as a basis to deny the Project.

Why is the Builder's Remedy coming up now?

Under State law, every local jurisdiction must adopt an updated version of the housing element of its General Plan every five or eight years.² Before adopting an updated housing element, a local jurisdiction must submit a draft housing element to HCD for review. HCD then either certifies that the draft housing element complies with State law, or provides the local jurisdiction with comments to revise and resubmit the draft housing element.³ In the past three years, most jurisdictions have faced a deadline to adopt an updated housing element – including all cities and counties in the Southern California Association of Governments (including, but not limited to, cities within Los Angeles, Orange, and Riverside Counties), which had to adopt compliant housing elements by October 15, 2021, and all cities and counties in the Association of Bay Area Governments (including, but not limited to, cities within Alameda, Contra Costa, San Mateo, Santa Clara, and Marin Counties), which had to adopt compliant housing elements by January 31, 2023.⁴ Any city or county that missed its respective deadline to adopt a substantially compliant housing element was immediately out of compliance with State Housing Element Law, and HCD has suggested that any city or county that currently lacks an HCD-approved housing element after its relevant deadline is currently subject to the Builder's Remedy.⁵ By HCD's latest count, 252 jurisdictions are currently out of compliance and potentially subject to the Builder's Remedy.

How do I know if my project is eligible for the Builder's Remedy?

The project must be a "Housing Development Project" under the Housing Accountability Act.

The Builders Remedy is only available for residential projects that meet the Housing Accountability Act's definition of a "Housing Development Project," which is limited to developments consisting of one of the following:

- Residential units only.
- Mixed-use developments consisting of residential and nonresidential uses with *at least two-thirds* of the square footage designated for residential use.
- Transitional housing or supportive housing.⁶

The Builder's Remedy is *not* available for entirely commercial or non-residential projects.

The project must meet affordability requirements.

The Builder's Remedy is further limited to projects that meet specific affordability thresholds. In order to qualify, a project must include:

- Twenty percent of the total units sold or rented to lower-income households;⁷
- One-hundred percent of the units sold or rented to moderate-income households;⁸ or
- The project must be an emergency shelter.⁹

The project must be located in a city or county that is not currently in substantial compliance with state housing element law.

As discussed above, the project must be located in city or county that is currently out of compliance with State Housing Element law. HCD maintains a Housing Element Compliance Report which lists all jurisdictions out of compliance with State Housing Element law at: <https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-review-and-compliance-report>.

Currently, HCD lists 103 of the 109 cities and counties in the Association of Bay Area Governments as out of compliance with State Housing Element law, and 106 of the 197 cities and counties in the Southern California Association of Governments as out of compliance with State Housing Element law.

However, there are different degrees of non-compliance, and not all cities and counties are similarly situated. Some cities and counties listed as "non-compliant" have submitted first or second draft housing elements to HCD that are currently under review, and are prepared to adopt a revised housing element, therefore escaping the Builder's Remedy, as soon as HCD certifies that the submitted housing element complies with State Law. Other cities and counties have not even taken the first step of drafting a revised housing element, and can be expected to remain subject to the Builder's Remedy for a lengthy period of time.

Landowners and developers interested in an assessment of a particular jurisdiction's susceptibility to Builder's Remedy provisions may contact Hanson Bridgett's Land Use Group.

I think I have an eligible Builders Remedy project, what should I do next?

Since cities and counties are no longer subject to the Builder's Remedy after adopting a compliant housing element, it is important for developers to take the first steps in submitting a potential project while a jurisdiction remains out of compliance.

HCD has recently clarified that a developer that submits a preliminary application subject to Government Code section 65941.1, commonly referred to as Senate Bill 330 ("SB 330"), while a city or county is subject to the Builder's Remedy will maintain a vested right to develop that project subject to the Builder's Remedy even if the city or county eventually adopts a compliant housing element before the project is approved.¹⁰

Therefore, *in order to ensure that the benefit of the Builder's Remedy applies to a project throughout the entirety of the entitlement process, a developer should submit a SB 330 preliminary application for the project, and as soon as possible while the jurisdiction remains out of compliance.* This is especially important given the varying stages that jurisdictions may be in with respect to adopting a compliant housing element.

Are there any other grounds under which a local jurisdiction can deny a project that qualifies for the Builder's Remedy?

Under Government Code section 65589.5(d), a project that qualifies for the Builder's Remedy can still be denied or conditioned in a way that renders it infeasible in certain very narrow circumstances where the reviewing jurisdiction is able to make one of the following written findings, supported by substantial evidence:

- The project would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income households;
- Denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low-income households; or
- The project is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

What future legal developments might be relevant to Builder's Remedy projects?

While the Builder's Remedy was enacted over thirty years ago, it has not been used frequently in the past. However, HCD's recent guidance and the many cities and counties in noncompliance bring unique opportunities for developers, as evidenced by recent high profile Builder's Remedy project submittals in Santa Monica and Los Angeles.

Nevertheless, given the relatively untested nature of the Builder's Remedy, there are uncertainties for developers, which may be addressed by HCD, the legislature, or courts as more jurisdictions are forced to reckon with Builder's Remedy project applications. Such uncertainties include:

- While some jurisdictions, such as Mountain View, have begun processing applications, other jurisdictions, such as Los Altos Hills, have refused to process applications, arguing that they have already submitted a draft housing element to HCD which the City believes is compliant (and which the City has officially adopted) and are merely waiting for HCD to officially deem the housing elements compliant. Jurisdictions in the latter camp will argue that any eventual finding of compliance should be backdated to the date that the city adopted the draft housing

element. No California court has examined this issue, though it should be noted that HCD currently lists all cities and counties that have adopted housing element drafts not yet approved by HCD as "out of compliance," and recent comments from HCD suggest that the agency believes that jurisdictions are subject to the Builder's Remedy until HCD officially certifies their housing element as compliant.

- Government Code section 65589.5, subdivision (f)(1) states that cities or counties may, however, require that a housing development project comply with objective, written development standards, conditions, and policies appropriate to, and consistent with, meeting the Regional Housing Needs Allocation ("RHNA") needs, and further clarifies that any such development standards, conditions, and policies shall be applied to "facilitate and accommodate development" at the density permitted on the site and proposed by the development. It remains to be seen how this provision is meant to interact with the Builder's Remedy and which, if any, development standards or policies can be deemed "consistent with" meeting RHNA needs.
- Builder's Remedy projects are still subject to the California Environmental Quality Act ("CEQA"), and to the extent that Builder's Remedy projects require discretionary approvals, they must nevertheless undergo environmental review.¹¹ However, given the narrow bases for project denial under Government Code section 65589.5(d), it is unclear to what extent a jurisdiction can deny a Builder's Remedy project based on the information reported in a CEQA environmental review document. Currently, there is very limited precedent regarding the interaction between the protection afforded to housing projects under the Housing Accountability Act and the environmental review mandates of CEQA.

Despite these uncertainties, the Builder's Remedy seems poised to afford developers throughout the state a golden opportunity to get traction on projects which may have been non-starters with local jurisdictions even a year ago.

Landowners and developers interested in submitting a project under the Builder's Remedy may contact Hanson Bridgett's Land Use Group.

¹ Government Code, § 65589.5, subd. (d)(5).

² Government Code, § 65588.

³ Government Code, § 65585.

⁴ A list of all housing element due dates for jurisdictions in California can be found [here \[PDF\]](#)

⁵ Some cities have taken the position that adopting a Housing Element that a city has determined is substantially compliant with State law while waiting for HCD to complete its review of the Housing Element is sufficient to comply with State Housing Element law and avoid the Builder's Remedy, though HCD has not endorsed this interpretation. More detail on this issue is included under "What future legal developments might be relevant to Builder's Remedy projects?"

⁶ Government Code § 65589.5, subd. (h)(2).

⁷ "Lower-income households" is defined in Health and Safety Code section 50079.6, and must be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of the area median income.

⁸ "Moderate-income households" is defined in Health and Safety Code section 50093, and includes persons of families of middle income as defined in Government Code section 65008, and must be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of the area median income.

⁹ Government Code, § 65589.5, subd (d);

¹⁰ October 5, 2022 Letter of Technical Assistance, Melinda Coy, Proactive Housing Accountability Unit Chief, Department of Housing and Community Development.

¹¹ Alternatively, a Builder's Remedy project may qualify for a CEQA exemption.

CONTACTS



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This article is a summary for general information and discussion only and may be considered an advertisement for certain purposes. It is not a full analysis of the matters presented, does not create an attorney-client relationship, and may not be relied upon as legal advice.

Permanent Local Housing Allocation (PLHA)
 Glenn County, City of Orland, City of Willows
 March 2024 Status Update

[Background](#)

The formula Permanent Local Housing Allocation (PLHA) program provides annual grant allocations from the State to each incorporated local jurisdiction in California to implement plans to increase and/or preserve the affordable housing stock, and address homelessness. Annual funding amounts are subject to the amount of revenue from real estate transaction recording fees collected by the State. Jurisdictions apply in five-year cycles and must have Housing Element compliance to be eligible. In 2020, Glenn County and the Cities of Orland and Willows entered into legally binding agreements to “pool” their allocations for the first five-year cycle and designated Glenn County to be the administrative entity. The jurisdictions also approved a joint five-year plan for the funds for 2019-2023.

[Current Status of Funds](#)

As of March 2024, funds have been allocated to two projects: Shasta Garden Apartments in Orland by Dawson Holdings, Inc. (affordable multi-family rental housing, \$150,000) and Purpose Place in Orland by Habitat for Humanity Yuba-Sutter (permanent supportive housing \$552,140). Funds for these projects are from the 2019 and 2020 allocation years. All three jurisdictions were invited to participate in selecting the projects to receive funds.

PLHA Formula Funds 2019-2023: Glenn County, Orland, and Willows

Allocation	2019	2020	2021	2022	2023	5-Year Estimate (2019-2023)
Activity	Affordable multi-family rental housing	Permanent supportive housing	Permanent supportive housing	Affordable multi-family rental housing	Affordable multi-family rental housing	
Orland	\$92,529	\$141,285	\$143,355	\$78,680	Unknown	\$555,180
Willows	\$93,631	\$140,243	\$138,491	\$74,653	Unknown	\$561,792
Glenn County	\$106,856	\$164,549	\$201,716	\$98,005	Unknown	\$641,136
Total	\$293,016	\$446,077	\$483,562	\$251,338	Unknown	\$1,758,108
5% Admin	\$14,650	\$22,303	\$24,178	\$12,567	Unknown	\$87,905
Notes	Fully expended	Fully expended	Not yet awarded – apply in 2023/24 <i>*dependent on Housing Element Compliance</i>	Not yet awarded – apply in 2023/24 <i>*dependent on Housing Element Compliance</i>	Not yet awarded – apply in 2024/25 <i>*dependent on Housing Element Compliance</i>	

PLHA formula allocations run one year behind the current calendar year. This is because the State has to calculate the allocations based upon the actual amount taken into the Senate Bill 2 fund during the prior year. The 2021, 2022, and 2023 allocation years have not yet been awarded to the County. The County anticipates applying for the 2021 and 2022 funds during FY 23/24. The 2023 funds will not be made available by the State until the 2024 NOFA. The 2021 funds were made available in 2022, however, the County was unable to apply for those funds at that time due to lack of Housing Element compliance by all three jurisdictions. If Housing Element compliance is reached, the County will be able to apply for the 2021 funds during this fiscal year’s application period.

Allocation Years	Application Deadline (Expiring funds)	5-Year Plan Amendment Deadline	Disbursement Request Deadline
Round 2 (2020)	February 2024	June 30, 2024	April 30, 2025
Round 3 (2021)	February 2025	June 30, 2025	April 30, 2026
Round 4 (2022)	February 2026	June 30, 2026	April 30, 2027
Round 5 (2023)	February 2027	June 30, 2027	April 30, 2028

Next Steps

Glenn County administered a Request for Proposals (RFP)/Request for Qualifications (RFQ) process for PLHA formula funds in 2023. There were four responses to the RFP/RFQ, and all were deemed qualified affordable housing developers by the City/County review and ranking committee and the County Board of Supervisors. Habitat for Humanity Yuba-Sutter's Purpose Place Project was ranked #1 for the RFP and was allocated PLHA funding (see the table on page 1).

Glenn County is working on scheduling introductory meetings with the Cities of Orland and Willows, and the developers that were approved through the RFP/RFQ process but have not yet been allocated funding. These developers are Pacific West Communities, Danco, and Jamboree.

<https://www.hcd.ca.gov/grants-and-funding/programs-active/permanent-local-housing-allocation>

Contact Information

Please direct any questions or comments you have to both of the following contacts:

Robyn Nygard, Program & Administrative Services Coordinator
 Glenn County Community Action Department
 Direct phone: (530) 934-1531 ext. 161531
 Email: rnygard@countyofglenn.net

Janelle Kelly, Program Manager II
 Glenn County Health & Human Services
 Direct phone: (530) 934-1538
 Email: jkelly@countyofglenn.net

Jessica Candela, Community Development Project Manager
Housing Tools (Consultant)
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