

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

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March 29, 2023

Brian Dossey, Town Manager  
Town of Colma  
1198 El Camino Real  
Colma, CA, 94014

Dear Brian Dossey:

**RE: Town of Colma's 6<sup>th</sup> Cycle (2023-2031) Adopted Housing Element**

Thank you for submitting the Town of Colma's (Town) housing element adopted January 25, 2023 and received for review on January 30, 2023. Pursuant to Government Code section 65585, subdivision (h), the California Department of Housing and Community Development (HCD) is reporting the results of its review. HCD considered comments from Housing Leadership Council of San Mateo County and David Kellogg pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses many statutory requirements described in HCD's September 14, 2022 review; however, additional revisions are necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code), see enclosed Appendix.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the Town fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. During the housing element revision process, the Town must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate. Please be

aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; 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 Town 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 Town 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 effort that the housing element team provided throughout the housing element review. We are committed to assist the Town in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Molivann Phlong, of our staff, at [Molivann.Phlong@hcd.ca.gov](mailto:Molivann.Phlong@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

## APPENDIX TOWN OF COLMA

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

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

### **A. Housing Needs, Resources, and Constraints**

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

Integration and Segregation: While the element states the Town is integrated because it is one census tract, it must supplement this analysis with local knowledge on patterns and geographic trends within the Town and add or modify programs as appropriate.

Affirmatively Furthering Fair Housing (AFFH) and Identified Sites: While the element analyzes sites against census data, the Town is located within one census tract. The element should include local knowledge and other factors to demonstrate whether sites identified to meet the regional housing needs allocation (RHNA) are distributed throughout the community in a manner that affirmatively furthers fair housing. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g., anti-displacement strategies).

Contributing Factors to Fair Housing Issues: As noted in the prior review, based on the outcomes of a complete analysis, the element must re-assess and prioritize contributing factors to fair housing issues. Please see HCD's prior review for additional information.

2. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

Overpayment: While the element includes information on overpayment by household income, it does not correlate to households by income level. For example, the analysis discusses incomes at less than \$75,000 but the income limit for a 4 person households is approximately \$149,000. The element must quantify and analyze the number of lower-income households overpaying by tenure (i.e. renter and owner).

Housing Stock Conditions: The element now includes Program 7.2 (Neighborhood Improvement) with various actions, including assessing the conditions of the housing stock. However, the element could include an approximate estimate of the need of rehabilitation and replacement to better guide the formulation of Program 7.2. For example, the element could use estimates from past code enforcement to prioritize areas for assessing conditions. In addition, Program 7.2 (Neighborhood Improvement Code Enforcement) must include specific timing to implement each action.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For example, the element should provide examples of recent development to support assumptions and describe trends and factors.

Suitability of Nonvacant Sites: While the element describes the existing uses on each site, it must support these assumptions with examples of projects with similar characteristics and affordability. The feasibility of sites must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, and any existing leases or other contracts that would perpetuate the existing uses or prevent redevelopment of the site for additional residential development, and regulatory or other incentives or standards to encourage additional residential development on these sites (Gov. Code, § 65583.2, subd. (g).) The element must also address whether the identified environmental and topographical constraints were considered in the suitability of the sites. In addition, the element should describe the feasibility of developing on the Sandblaster site with required remediation and the statement that a retaining wall is cost prohibitive to development. The feasibility of the Bocci Property must also be demonstrated. While the element states that the Town does not know when the current lease will expire, it states the site is not likely feasible for development while the existing use remains on the site. With this information, the element must demonstrate likelihood of development during this planning period or identify additional sites. Regarding the Kohl's site, the element should describe the similar projects mentioned that have been completed in Daly City and South San Francisco to help demonstrate feasibility of redevelopment.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, the housing element must demonstrate that the existing use is not an impediment to additional residential

development in the planning period. This can be demonstrated by analyzing the existing use is likely to be discontinued during the planning period (Gov. Code, § 65583.2, subd. (g)(2). Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Planned Development (PD) Permit: While the element was revised to add additional information, the element must demonstrate that the PD permit process is not a constraint as all sites in the inventory identified for multifamily development rely on the discretionary PD approval process. The element should add programs as appropriate to address the identified constraint.

Availability of Infrastructure: While the element was revised to state each site has access to water, sewer, and dry utilities, it must demonstrate sufficient existing supply capacity including availability and access to distribution facilities to accommodate the Town's RHNA for the planning period.

Zoning for a Variety of Housing Types:

- *Multifamily Zoning:* While the element was revised to state a PD permit is needed for multifamily developments of more than 6 units, and a conditional use permit (CUP) is required for multifamily developments up to 6 units, not allowing multifamily developments without a CUP is a constraint on housing supply and affordability. The element states a housing overlay will be created, but should also commit to how it will apply and whether it will create approval certainty for multifamily developments.
  - *Emergency Shelters:* The element must still describe the emergency shelter development and management standards currently required and add or revise a program as appropriate.
  - *Transitional and Supportive Housing:* While the element was revised to state transitional and supportive housing is permitted in the R and R-S zones, it must clarify that they are allowed as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. In addition, the element must have policies and procedures to accommodate AB 2162. The element should also describe the Town's procedure for complying with Government Code section 65651, subdivision. For example, section 65651 requires jurisdictions to allow supportive housing by right (without discretionary action) in zones allowing multifamily housing, including mixed-use and nonresidential zones when the development meets certain requirements.
4. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: While the element was revised to state that developments are limited by height, not the number of stories, it should demonstrate that three stories are allowed in the R and C zones. Lastly, the element should describe what uses are allowed in the mixed-use zone.

Parking: The element states that 1.5 parking spaces are required for studio and one-bedroom units. The element also states that the PD process could be utilized to remove the potential constraint. Requiring a discretionary process to remove an identified constraint should be addressed and the element should include a program to address the parking requirements. While the element states that parking is not a constraint because identified sites are within half a mile of transit, it must still analyze parking as a constraint for all areas allowing residential, not just the sites inventory and add or revise programs as needed.

Fees and Exaction: While the element was revised to add an analysis of the affordable housing fee, it should clarify whether there are additional fees including impact fees other than a school fee. In addition, the element demonstrates that fees for multifamily developments are significantly higher than single-family fees on a per unit basis. The element must include a program to address this constraint.

Local Processing and Permit Procedures: While the element states that the discretion of the planned development (PD) permit allows flexibility, it should still address potential constraints on multifamily developments as noted in the prior review. In addition, the element should describe the development standards and approval process for the new housing overlay as well as the development standards in the mixed-use zones. Lastly, the element states that the Town is not subject to SB 35 streamlining, but HCD data shows that the Town is subject to the 10 percent requirement. Further, conditions may change in the current planning cycle. A program must be added to create a streamlined, ministerial approval process pursuant to SB35.

Inclusionary Housing: While the element added additional information on inclusionary requirements, it must analyze the inclusionary's policy and available options to encourage and facilitate compliance with the inclusionary requirements such as availability of options to comply with the requirements, incentives and intersections with State Density Bonus Law.

Constraints on Housing for Persons with Disabilities: While the element references a reasonable accommodation procedure, it must still list approval findings and the approval process for the reasonable accommodation procedure and analyze as a constraint or add a program as appropriate. In addition, the element states "family" is defined as a household, but the element should include the definition of family and/or household to insure it is not a constraint. Lastly, while program 4.4 (Housing Opportunities for Persons with Developmental Disabilities) was added to assess development standards for care facilities, the program must include specific timing and commitment to ensuring group homes for both six or fewer and seven or more residents are allowed objectively with approval certainty in all zones that allow residential uses and similar to other residential uses of the same form.

Water Sewer Priority: This finding was not addressed, please see HCD's prior review for additional information.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)*

Financing, Price of Land and Cost of Construction: The element must describe and analyze the availability of financing, the price of land, and cost of construction as a potential constraint on housing production. When analyzing the availability of financing, the element could consider other relevant factors such as down payment assistance to lower-income households and homeowner association fees. For additional information, see the Building Blocks at: <https://www.hcd.ca.gov/planning-and-community-development/regional-housing-needs-allocation>.

Developed Densities and Permit Times: This finding was not addressed, please see HCD's prior review for additional information.

## **B. Housing Programs**

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact in the planning period, programs must have specific commitment and discrete timelines (e.g., at least annually, by 2025), as follows:

- *Program 1.1 (Manufactured Housing Design Standards)*: The program should be revised to include specific timing to implement the objective standards.
- *Program 2.2 (Accessory Dwelling Units (ADU))*: The program should be revised to include specific implementation and timing of incentives if ADU assumptions are not met.
- *Program 3.2 (Density Bonus Provisions for Affordable Housing)*: The program should be revised to specify when the first update to the Town's density bonus will occur.
- *Program 3.3 (High-Density Housing Near Colma)*: The program should be revised to specify when the zoning update will take place and how often outreach will occur.
- *Program 3.5 (Planned Development Zoning Provisions for Single Family Attached Development)*: This program was deleted and replaced with a new program. The

new program 3.5 should include specific timing and implementation for the new housing overlay zone. If this program is necessary to accommodate the Town's RHNA for lower-income households, it must meet all by-right rezone requirements pursuant to Government Code sections 65583.2, subdivisions (h) and (i).

- Numerous programs in the draft element were removed including programs 3.8 (Development Agreement), 3.9 (Funding District), 4.4 (Inform Local Developers of Opportunities to Provide Transitional and Supportive Housing), 4.5 (Transitional and Supportive Housing), 4.6 (Reach Out to Local Service Providers), 54 (Housing Recordkeeping). The element must clarify why the programs were removed, or address HCD's prior findings.
- *Program 4.1 (Reasonable Accommodations Ordinance Public Information, Ordinance Amendment and Monitoring)*: The program should be revised to include timing of when revisions will be made.
- *Program 4.2 (Senior Housing)*: This finding was not addressed, please see HCD's prior review.
- *Program 4.3 (Emergency Shelters)*: The program should be revised to include specific timing for outreach and resources. The element should also clarify whether the Town's emergency shelter standards comply with AB 139 parking requirements.
- *Program 4.4 (Housing Opportunities for Persons with Developmental Disabilities)*: This program should be revised to include specific timing of implementation.
- *Program 5.1 (Knowledgeable Housing Referral)*: The program should be revised to include proactive outreach and how often it will occur throughout the planning period.
- *Program 5.4 (Address Needs of Extremely Low-Income Households (ELI))*: This program was not revised to include implementation actions or results after identified meetings. The program should include specific implementation actions and timing to assist ELI households. Please see HCD's prior review for additional information.
- *Program 6.2 (Encourage Use of Energy Conservation Measures)*: The program should be revised to include specific timing of implementation.
- *Program 7.2 (Neighborhood Improvement)*: The program should be revised to clarify whether it includes a crime free ordinance. If so, it should be analyzed as a constraint on fair housing. The program should also clarify what action is being implemented if the element states actions are complete. Lastly, the program should describe how often the housing stock will be accessed and include specific timing to implement each action.

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



As noted in Finding A3, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the Town may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Program 3.1 (Planned Development Districts and Mixed Use) and 3.6 (Ensure No Net Loss of Required Units): While these programs were removed from the element, they should be included with specific actions. Please see HCD's prior review for additional information.

Previously Identified Nonvacant and Vacant Sites: This finding was not addressed, please see HCD's prior review.

Replacement Housing Requirements: This finding was not addressed, please see HCD's prior review.

3. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

The element must include a program(s) with specific actions and timelines to assist in the development of housing for ELI households. While the element includes Program 5.4 to address ELI households, the program must commit to actions beyond meeting with developers. The program should be revised to include specific actions and outcomes and could further commit the Town to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to ELI households; and assisting, supporting, or pursuing funding applications.

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

As noted in Findings A4 and A5, the element requires a complete analysis of potential governmental and non-governmental constraints. Depending upon the results of that analysis, the Town may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, programs should be revised as follows:

Program 3.1 (Develop Objective Development and Design Standards): The program should specify what is included as well as timing of when they will be adopted. The program should also clarify whether a PD permit will still be required as a discretionary process.

Program 4.5 (Low-Barrier Navigation Centers): The program must be revised to allow Low-Barrier Navigation Centers (AB 101) in all zones where multifamily and mixed-uses are permitted.

Design Review: While the element was revised to add programs to adopt objective design standards, programs 1.1 and 3.1 must include clear timing of implementation.

Density Bonus: While the element states the Town is in compliance with State Density Bonus Law, Program 3.2 must include timing of the first update to the ordinance being that it was last updated in 2005.

5. *The Housing Element shall include programs to conserve and improve the condition of the existing affordable housing stock. (Gov. Code, § 65583, subd. (c)(4).)*

The element must include a program(s) to conserve and improve the condition of the existing stock, which may include addressing the loss of dwelling units. While the element includes program 7.2, it should include specific timing to implement the actions listed in the program. This is especially important as the Town did not include an estimate of housing units in need of rehabilitation or replacement within the Town.

6. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, milestones, geographic targeting and metrics or numeric objectives and, as appropriate, must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

### **C. Quantified Objectives**

*Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)*

The element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. While the element was revised to include quantified objectives for construction, it must also include objectives for rehabilitation as well as conservation/preservation.