

**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](http://www.hcd.ca.gov)



February 7, 2022

Brad Johnson, Director  
Community Development Department  
City of Claremont  
207 Harvard Avenue  
Claremont, CA 91711

Dear Brad Johnson:

**RE: City of Claremont's 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element**

Thank you for submitting the City of Claremont's (City) draft housing element received for review on December 10, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

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 (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

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.

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: [http://opr.ca.gov/docs/OPR\\_Appendix\\_C\\_final.pdf](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and [http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).

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 City meets housing element requirements for these and other funding sources.

We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jamillah Williams, of our staff, at [Jamillah.Williams@hcd.ca.gov](mailto:Jamillah.Williams@hcd.ca.gov).

Sincerely,



Paul McDougall

Senior Program Manager

Enclosure

## **APPENDIX CITY OF CLAREMONT**

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

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> 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))*

Fair Housing Enforcement and Outreach: The element must address the ability to provide enforcement and outreach capacity which can consist of actions such as ability to investigate complaints, obtain remedies, or the ability to engage in fair housing testing. The analysis must also describe compliance with existing fair housing laws and regulations and include information on fair housing outreach capacity. Furthermore, the element should address outreach related to AFFH, indicate any findings, lawsuits or enforcement actions taken, and describe how many fair housing complaints by characteristics the City has received over the past few years.

Local Data and Knowledge, and Other Relevant Factors: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Integration and Segregation: The element includes some data on integration and segregation (pp. 92-109) but must analyze that data for patterns and trends overtime. For example, there appears to be some overlap and a correlation between the identified issues in the area south of the railroad and higher numbers of households with disabilities, minorities, and lower incomes. The City should analyze this for patterns of segregation. Additionally, the element needs to provide local and regional data and analysis for race and disability and regional data and analysis for familial

status and concluding with a summary of issues. To strengthen the analysis for race, the element could include dissimilarity index data.

Racial/Ethnic Concentrated Areas of Poverty (R/ECAP): The element includes information relative to R/ECAP and supplies maps as data, but does not analyze the data, summarize findings, and offer conclusions, including at a local and regional level. In addition, the City should also analyze the racial concentrations as it relates to areas of affluence the City identified. The element could use local knowledge to help explain how these areas developed. The combination in the R/ECAP and areas of affluence analyses will help guide goals and actions to address fair housing issues. The analysis should evaluate the patterns and changes over time and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

Access to Opportunity: The element provides qualitative information (pp. 116-119) on the access to opportunity but must also provide a complete local and regional analysis of patterns and trends for education and environmental and regional analysis for economic and transportation. A complete analysis should include the locally and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data and must also include analysis for persons with disabilities. Please refer to page 35 of the AFFH guidebook (link: <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>) for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to Claremont.

Disproportionate Housing Needs including Displacement Risk: While the element reports some data on overcrowded households, cost burden, substandard housing, and displacement, it must also include stronger local and regional analysis of trends and patterns for all these areas and include local and regional data and analysis for homelessness, as well as relevant analysis for persons with disabilities. The element indicates there are no emergency shelters in the City. The displacement narrative should also include some data and analysis concerning patterns of investment/disinvestment in the City. The analysis should look at patterns, trends, other local knowledge, and conclude with a summary of fair housing issues

Site Inventory and AFFH: While the element describes the requirement for evaluating sites for fair housing constraints, the element does not include the analysis of identified sites and AFFH. The element must include an analysis demonstrating whether sites identified to meet the regional housing needs allocation (RHNA) are distributed throughout the community in a manner that AFFH. 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 majority of sites are concentrated in areas where 25-50 percent of people have low to moderate income and a few are in areas where 50-75 percent of people have low to moderate incomes. Additionally, sites appear to mostly be

concentrated in the southern half of the City. The element should address this and 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 overcome patterns of segregation and promote inclusive communities, including actions beyond the RHNA.

Contributing Factors: While the element lists contributing factors, it does not identify associated metrics and milestones to evaluate the impact of meaningful actions. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies Program 34 (Tenant/Landlord Services) to address fair housing complaints; however, this program does not appear to facilitate any meaningful change nor address AFFH requirements. Given that most of the City is considered a high resource community, the element could focus on programs that enhance housing mobility and encourage development of more housing choices and affordable housing. Programs also should be based on identified contributing factors, be significant and meaningful. The element must add, and revise programs based on a complete analysis and listing and prioritization of contributing factors to fair housing issues. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

Extremely Low-Income Households (ELI): The element must quantify existing ELI households and analyze their housing needs. The analysis of ELI housing needs should consider tenure and rates of overpayment, consider existing housing resources and the magnitude of gaps in addressing these housing needs to formulate appropriate policies and programs.

3. *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).)*

Units Needing Rehabilitation or Replacement: The element identifies the age of the housing stock (p. 36). However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or

information from knowledgeable builders/developers, including non-profit housing developers or organizations. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

4. *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).)*

The City has a RHNA of 1,711 housing units, of which 866 are for lower-income households. To address this need, the element relies on vacant and nonvacant sites, including sites within the Residential 30 Overlay and Mixed-Use areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Progress in Meeting the RHNA: Please be aware, Table 8-29 (RHNA credits and Remaining Need) and Table 8-30 (Sites Adequacy) appear to be inconsistent as it appears that the City is crediting 125 units that are entitled but those units are not the accounted for in Table 8-30. The element should be revised for consistency.

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

Realistic Capacity: The element assumes 75 percent buildout to determine capacity based on a review of similar projects over the past three years within the city and surrounding areas, but this is insufficient to establish realistic capacity. The element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

In addition, the element appears to assume residential development on sites with zoning that allow 100 percent nonresidential uses. While the element mentions the mixed-use overlay, it must still account for the likelihood of 100 percent nonresidential uses. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculation, policies and program accordingly. The element should include

analysis based on factors such as development trends, performance standards or other relevant factors.

Previously Identified Nonvacant and Vacant Sites: While the element states that 5<sup>th</sup> cycle RHNA sites were included in the inventory, the inventory does not identify those sites. If nonvacant sites identified in a prior adopted housing element or vacant sites identified in two or more consecutive planning periods, the sites are inadequate to accommodate housing for lower-income households unless:

- The site's current zoning is appropriate for the development of housing affordable to lower-income households by either including analysis or meeting the appropriate density, and
- The site is subject to a housing element program that requires rezoning within three years of the beginning of the planning period to allow residential use by-right for housing developments in which at least 20 percent of the units are affordable to lower-income households. (Gov. Code, § 65583.2, subd. (c).)

Suitability of Nonvacant Sites: While the element describes the methodology for identifying and prioritizing underutilized sites was based on factors such as year constructed, improvement ratio, underutilization index, among others, it must list a description of these values in the sites inventory. This is particularly important since the sites inventory only generically describes existing uses such as "commercial" or "religious facilities". The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In addition, the element must support the various factors utilized to demonstrate the potential for additional development or include additional factors or another method. Support should be based on market conditions, development trends and the City's past experience with converting existing uses to higher density residential development and should related to existing uses on identified sites and regulatory or other incentives or standards to encourage additional residential development on these sites. For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses.

In addition, as noted in the housing element, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in 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.

City-Owned Sites: Several Sites are identified as "public facilities". If sites are City-owned, the element must identify these sites and include a description of whether there are any plans to sell the property during the planning period and how the jurisdiction

will comply with the Surplus Land Act Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

Replacement Housing Requirements: If the sites inventory identifies sites with existing residential uses, it must identify whether they are affordable to lower-income households or describe whether the additional residential development on the site requires the demolition of the existing residential use. For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households. (Gov. Code, § 65583.2, subd. (g)(3).) Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

Small Sites: Sites smaller than an half acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower-income housing. (Gov. Code, § 65583.2, subd. (c)(2)(A).) For example, a site with a proposed and approved housing development that contains units affordable to lower-income households would be an appropriate site to accommodate housing for lower-income households. (Gov. Code, § 65583.2, subd. (c)(2)(C).)

Accessory Dwelling Units (ADU): The element assumes an ADU build out of 48 ADUs per year based upon an expected increase in production from 2017-2020 averages. However, according to HCD records the City permitted two units in 2018, 9 in 2019, and 16 in 2020. Given that the City has only produced an average of nine units per year since 2018, it is not clear if this production level will be achievable in the planning period. As a result, the element should be updated to include a realistic estimate of the potential for ADUs and include policies and programs that incentivize the production of ADUs. Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within six months). Finally, if necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability.

Availability of Infrastructure: While the element generally describes water, sewer, and dry utility infrastructure capacity to accommodate the City's regional housing need, it must also describe the availability and access to distribution facilities, to accommodate the RHNA. (Gov. Code, § 65583.2, subd. (b).)



For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The element must demonstrate compliance with these requirements and include programs if necessary.

5. *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: The element is proposing to rezone sites to several residential designations including MFR 30, MU 30, MU 60, VSSP, RMX, MX, MU3; however, it is unclear whether these designations currently exist or will be created. In addition, the element must describe and evaluate the development standards for these designations relative to achieving maximum densities including whether stand-alone residential will be allowed in mixed-use zones. The element should also indicate the types of residential development that is permitted, how residential is permitted, and necessary approval procedures.

Housing Density Residential Overlay: The element must evaluate the standards for the housing opportunities overlay to ensure that they continue to facilitate housing production on the opportunity sites identified in the sites inventory. In particular, the element must evaluate whether the requirement that the project be 50 percent affordable to utilize the overlay acts a constraint to residential development on these sites. For example, a 50 percent affordability requirement may act as a constraint to using the overlay depending on the level of subsidy required per unit and the availability of funding to support the level of affordability or available incentives.

Fees and Exaction: While the element describes planning and impact fees, it does not analyze their impact as potential constraints on housing supply and affordability. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing. For additional information and a sample analysis and tables, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/fees-and-exactions.shtml>.

Design Review: The element must describe and analyze the design review guidelines including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. While the element describes multiple review processes, it does not detail the Architectural Commission, the Rural Claremont Architectural and Landscape Standards review, and the Land Use review. The analysis should indicate if these reviews are discretionary and should describe required findings

and discuss whether objective standards and guidelines improve development certainty and mitigate cost impacts. The element must demonstrate this process is not a constraint or it must include a program to address this permitting requirement, as appropriate.

On/Off-Site Improvements: The element must identify subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width) and analyze their impact as potential constraints on housing supply and affordability.

Building Codes and Enforcement: While the element describes the building code adopted by the City, it does not describe and analyze their enforcement.

Local Ordinances: The element must specifically analyze locally adopted ordinances such as the City's Multifamily Rental Housing Ordinance or any short-term rental ordinances that directly impact the cost and supply of residential development.

Crime Free Ordinances: The City states that it will continue to implement a "Crime Free" Multi Housing Program. This program could be potentially problematic for a number of reasons including disparate impacts on communities of color, and the City should provide further analysis on whether this ordinance could constitute a constraint on providing housing for all income levels throughout the community. Such analysis should address:

- how the program is enforced or implemented.
- what entity is charged with implementation and enforcement (e.g., police, code enforcement);
- whether the program or ordinance applies to both renters and homeowners.
- whether the program or ordinance is enforced against federally subsidized properties, or against housing that serves specific populations (e.g., people re-entering from contact with the criminal legal system or housing serving people with mental health or developmental disabilities);
- whether the program or ordinance requires or encourages property owners to conduct a criminal background check; and
- what conduct is covered by the ordinance/policy, and what locations of alleged criminal activity the ordinance covers (e.g., on the premises or off premises).

Housing for Persons with Disabilities: The element subjects group homes for seven or more persons the use to a conditional use permit (CUP), unlike other similar uses. Zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. The element should specifically analyze these constraints for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.

6. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of*

*households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

The element must quantify the number of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter and analyze their special housing needs. The analysis should include, but is not limited to, factors such as household income, tenure, housing types, zoning, and available resources. For example, the element should quantify the total number of senior households and identify the number of available senior housing units available. While the element includes the total percent of single-parent households in Claremont, it must separate female-headed households from the total. Finally, the element should identify the location of the nearest emergency shelter and if any seasonal facilities are available for persons experiencing homelessness in Claremont.

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

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines (i.e. month and year); (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Additionally, all programs should be evaluated to ensure meaningful and specific actions, objectives, and commitments. Programs containing unclear language (e.g., "evaluate"; "can offer"; "recommend"; etc.) should be amended to include more specific and measurable actions.

Programs to be revised include but are not limited to the following:

- Program 2 (*Crime-Free Environments for Families*) seeks to eliminate criminal environments. The element should describe the types and objective of outreach, how the City will expand the program and should include an implementation timeframe.
- Program 3 (*Safe and Healthy Environments for Children*) should describe how the City will work with agencies, residents, owners to address social and criminal problems, how often the City will meet with these groups, and what actions will be

taken after strategies are developed and should also include an implementation timeframe.

- Program 4 (*Building Relationships between City and Housing Managers*) should go beyond “exploring” the feasibility of expanding rehabilitation assistance and specify actions that will be taken to expand rehabilitation assistance. It should also describe how often staff will inspect complexes for compliance with City Codes and how often will the City reach out to housing managers of multifamily complexes.
- Program 6 (*Inclusionary Housing*) should describe how often the City will monitor impacts.
- Programs 8-12 should identify a responsible party and funding source.
- Programs 13 (*Park Fees Reductions/Waivers*) and 15 (*Affordable Housing on Small Lots*) must include an implementation timeframe.
- Program 16 (*Conservation of At-Risk Housing*) needs implementation timeframe and should describe how often the City will reach out to property owners and explore funding sources.
- Program 20 (*Section 8 Rental Subsidies*) should describe how often the City will work with the County, how often the City will provide referrals, and specify a timeframe for when the City will expand the Section 8 program.
- Program 22 (*Maintain Residential Capacity*) should indicate how often the City will monitor sites.
- Program 23 (*Low Barrier Navigation Centers*) should include an implementation timeframe to describe when zoning code will be revised.
- Program 24 (*Emergency Shelters*) should include an implementation timeframe.
- Program 26 (*Family and Senior Emergency Fund for Low-Income Families*) should describe how often the City perform outreach to communities with disproportionate housing needs.
- Program 28 (*Support Services and Resources for the Homeless*) should describe how many homeless persons the City will assist.
- Programs 30 (*Community-Based Organization Homeless Funding*) should identify an implementation timeframe.
- Programs 31 and 33-34 should identify implementation timeframe for all corresponding objectives.

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 A4, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

In addition, Program 5 (Provision of Adequate Sites) should identify the shortfall, minimum acreage to be rezoned, allowable densities, anticipated development standards or ensuring development standards will facilitate achieving maximum allowable densities, reference to candidate sites to be rezoned. The Program must also commit to:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
  - accommodate a minimum of 16 units per site;
  - require a minimum density of 20 units per acre; and
  - at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
    - allow 100 percent residential use, and
    - require residential use occupy 50 percent of the total floor area of a mixed-use project.
3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings A5 and A6, the element requires a complete analysis of potential governmental and non-governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition:

Program to Mitigate Nongovernmental Constraints: The element must be revised to include a program that mitigates nongovernmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category. (Gov. Code, § 65583.2, subd. (c)(3).)

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and*

*any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

Program to AFFH: While the element includes Program 34 (*Tenant/Landlord Services*) which describes how the City responds to fair housing complaints, it must also include actions that promote and AFFH opportunities. For example, the element could include a program committing to implement Government Code section 8899.50(b) which requires the City to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to affirmatively further fair housing. For your information pursuant to Government Code section 8899.50 “Affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, AFFH means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to AFFH extends to all public agency’s activities and programs relating to housing and community development.

Program 2 (Crime-Free Environments for Families): Crime-free programs typically target low-income and minority communities of color and have negative impacts on these communities. The City should describe how it will ensure that Program 2 will remain compliant with fair housing regulation.

## **C. Public Participation**

*Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)*

While the element includes a general summary of the public participation process (pages 169-177), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element could describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. The element should also clarify if translation services were available at stakeholder meetings. In addition, the element must describe how other public comments were considered and incorporated into the rest of the element.

In addition, HCD understands the City made the element available to the public concurrent with its submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD’s ability to consider public comments in the

course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.