

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

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January 13, 2023

Alexis Morris, Community Development Director  
Community Development Department  
City of Brentwood  
150 City Park Way  
Brentwood, CA 94513

Dear Alexis Morris:

**RE: City of Brentwood's 6<sup>th</sup> Cycle (2023-2031) Draft Housing Element**

Thank you for submitting the City of Brentwood's (City) draft housing element received for review on October 17, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from YIMBY Law pursuant to Government Code section 65585, subdivision (c).

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.

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) (1) 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 City 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. 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.

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 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>.

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,

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

Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF BRENTWOOD

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 <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).)*

Enforcement: While the element includes analysis of fair housing complaints, it must describe the City's compliance with existing fair housing laws and regulations. For additional information, please see pages 28-30 on HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo at [https://www.hcd.ca.gov/community-development/affh/docs/AFFH\\_Document\\_Final\\_4-27-2021.pdf](https://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf)

Integration and Segregation (Race): The element includes a short and brief description about block group data related to the location of nonwhite residents. However, the element must include additional data points and analyze that for patterns throughout the City and trends over time. In addition to evaluating patterns and trends, the element should analyze coincidences with other components of the assessment of fair housing.

Integration and Segregation (Income): The element provided some information on local patterns and trends and a brief statement acknowledging disparities between incomes for homeowners and renters. This is an incomplete analysis. While the element provided some data, it should analyze this for local patterns and trends. Additionally, the analysis should evaluate spatial trends and patterns such as differences in income groups across neighborhoods. Lastly, the evaluation should analyze any coincidences with other fair housing components.

Racially Concentrated Areas of Affluence (RCAA): The element concluded that the City does not have any census tracts designated as an RCAA. However, HCD's AFFH data viewer indicates that the City does have an RCAA. The element must incorporate this data and analyze this for patterns, trends, and other fair housing coincidences.

To access additional data points regarding race, income, and other key components for the fair housing assessment, please see HCD's AFFH Data Viewer at <https://affh-data-resources-cahcd.hub.arcgis.com>

Access to Opportunities: While the element included some data and high-level statements regarding access to opportunities including education, economic, and environmental, revisions will be needed to address this requirement. For example, to address the analysis of access to educational opportunities, the element includes a statement that southern census tracts has the highest educational outcomes. To provide an analysis of economic opportunities, the element summarized the city-wide job proximity, commute times, and unemployment rate. Lastly, to address analyzing environmental access and issues, the element notes that certain parts of the City have less environmental scores compared to other neighborhoods. A complete analysis includes identifying various data points, analyzing that data for trends and patterns throughout the City, and identifying any concentrations or coincidences with other fair housing components.

Disproportionate Housing Needs (Displacement Risks and Substandard Housing Conditions): While the element included data regarding displacement risks and substandard housing conditions, it must also analyze this data for trends and patterns throughout the City and identifying any concentrations or coincidences with other fair housing components.

Local Data, Knowledge, and Other Relevant Factors: The element included some high-level information on hate crimes, lending patterns, and housing choice vouchers. However, the element did not discuss how this data relates, supports, or supplements the existing analysis, fair housing conclusions, or contributing factors. The element must consider other relevant factors that have contributed to certain fair housing conditions. This analysis must consider information that is unique to the City or region, such as governmental and nongovernmental actions, historical land use and zoning practices (e.g., past redlining/greenlining, restrictive covenants, etc.), disparities in investment to specific communities, or other information that may have impeded housing choices and mobility. 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, public comments, and service providers.

Sites Inventory: 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 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: Upon a complete AFFH analysis, the element must assess and prioritize contributing factors to fair housing issues and add or modify programs as appropriate.

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).)*

*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).)*

*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).)*

Extremely Low-Income Households (ELI): The element must quantify the number of existing ELI households by tenure and analyze their housing needs, including overpayment, overcrowding and other characteristics, resources and strategies and the magnitude of housing needs.

Additionally, the element must quantify the projected number of ELI households. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of the RHNA for very low-income households qualify as ELI households. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/extremely-low-income-housing-needs>.

Housing Conditions: The element provides some information on age of the housing stock. However, it must 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 organizations. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/housing-stock-characteristics>.

Persons with Developmental Disabilities: The element stated the number of total persons with developmental disabilities that was served by the East Bay Regional Center (p. 2-15). This quantification represents the total population for persons with disabilities in the County. However, the element must also provide a local estimate of persons with disabilities.

Special Needs Households: The element includes data and a general discussion of housing challenges faced by special needs households. However, the element must be revised to include an analysis of the existing needs and resources for each special need group including seniors, farmworkers, large households, persons with disabilities including developmental disabilities, ELI households (also noted above), and persons experiencing homelessness.. For example, the element should discuss the existing resources to meet housing needs (availability of shelter beds, number of large units,

number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

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).)*

Progress towards RHNA: The element is crediting 968 units including two units affordable for lower-income households that are pending, approved, or under construction towards the RHNA. The element states that for the two affordable units, “no affordability information is available” (p. B-7). However, to credit these units towards the City’s lower-income RHNA, the element must demonstrate affordability based on actual or projected sales prices, rent levels, or other mechanisms establishing affordability (e.g., deed restrictions) in the planning period.

Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. The element included a short discussion stating that agricultural and residential uses do not pose a constraint to development and the City does not have past performance trends. This does not address the requirements.

The element should address the extent to which the existing uses may constitute an impediment to additional residential development, past experiences converting existing uses to higher density residential development, current market demand for the existing use, existing leases or contracts that would perpetuate the existing use or prevent additional residential development or other relevant information to demonstrate the potential for redevelopment. The element could also consider indicators such as age and condition of the existing structure, expressed developer interest, low improvement to land value ratio, and other factors. Based on a complete analysis the element may need to add or revise programs to facilitate redevelopment.

While the element does not currently rely upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, if future revisions and modifications result in the City relying on nonvacant sites to accommodate more than 50 percent then the 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.

Sites Size: Sites larger than ten acres in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites of equivalent size with affordability were successfully developed during the prior planning period or other evidence demonstrates the suitability of these sites. The element identifies two large sites at 15 and 19 acres and indicates that these sites will be developed as part of the specific plan development process possibly noting that the City



still needs to initiate the development of a specific plan (p. B-9). The element must provide analysis of past trends or present other evidence to demonstrate the suitability and feasibility of developing of these sites. The element could also discuss whether or not a specific plan is present, timing and phasing of any current or future specific plans, or other evidence that indicates sites of these sizes can be redeveloped into lower-income housing during the planning period.

Realistic Capacity: The element includes a methodology for assuming capacity. This methodology utilizes the midpoint of the density range and multiplies that by the total building acreage. Further, the element states that the City past performance is limited; however they are currently processing seven projects that include affordable units. However, this is an incomplete analysis and does not provide support for the assumptions in the inventory. For example, the element should include projects and examples that are reflective of the realistic capacity assumptions i.e., projects that have developed at the midpoint of the density range. The element could also include comparable projects from neighboring cities (Antioch, Oakley, etc.,). To support assumptions, the element should demonstrate what specific criteria, 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.

Additionally, the element stated that realistic capacity assumptions was based on the buildable acreage of the site and that buildable acreage was determined by discounting sites for environmental constraints, infrastructure, or other necessary site improvements. However, the sites inventory indicated that there were no discounts applied to sites i.e., gross and buildable acreage are listed as the same.

The element also identifies site in zones that allow nonresidential uses such as the City's transit village area. The element must analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow 100 percent nonresidential uses. This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/analysis-sites-and-zoning>.

AB 725: For jurisdictions that are considered Metropolitan, the element must identify at least 25 percent of the remaining moderate and above-moderate RHNA on sites that allow at least four units of housing (e.g., four plex or greater) (Gov. Code, § 65583.2, subd. (c)(4)).

Accessory Dwelling Units (ADU): ADUs may be counted toward the RHNA based on past trends and other factors. The City projects 135 ADUs during the planning period for an average of 16 ADUs annually. The projection was based on the following figures provided in the element: 9 ADUs in 2019, 20 in 2020, 16 in 2021, and 18 in 2022 equating to an average of 15 ADUs per year. However, the City's Annual Progress Reports (APR) indicate that the City permitted 3 ADUs in 2019, 7 in 2020, 16 in 2021. Along with the data

provided in the element for 18 ADUs in 2022, the City's 4-year average is 11 ADUs per year. The element should reconcile these figures and adjust assumptions based on a realistic estimate of the potential for ADUs and include policies and programs that commit to incentivizing ADUs. Depending on the analysis, the element must commit to monitor ADU production and affordability throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. If necessary, additional actions should be taken in a timely manner (e.g., within six months). The degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Previously Identified Nonvacant and Vacant Sites: It is unclear whether the element identifies sites that were used in previously planning periods. For your information, nonvacant sites identified in the prior planning period or vacant sites identified in two or more consecutive planning periods are inadequate to accommodate housing for lower-income households unless the element includes a program that requires rezoning within one or three years (whichever is applicable) of the beginning of the planning period to allow residential use at appropriate densities 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).) The element should clarify which sites were used in the previous planning periods (if any) and include a program as appropriate.

Infrastructure Availability: The element included a capacity analysis for water, sewer and dry utilities. The analysis noted that at this time the City is currently in the process of expanding their treatment capacity and that expansion should be sufficient for the buildout (p. 3-12-14). Given this information, the element should clarify if there is sufficient infrastructure capacity to accommodate the RHNA. In addition, if the City is dependent on the expansion of water treatment facility to accommodate the RHNA, the element must include a program committing to actions and a timeline to make sufficient infrastructure available to accommodate the RHNA.

Environmental Constraints: While the element generally describes potential environmental constraints, it must still describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period (e.g., shape, contamination, easements, conditions, compatibility).

Sites Inventory Electronic Form: Please note, 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/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](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).



### Zoning for a Variety of Housing Types:

- *Emergency Shelters* – The element states that City requires emergency shelters have a minimum of two off-street parking spaces plus one additional off street parking space for each ten beds, or fraction thereof (p. 3-12). However, pursuant to Government Code section 65583, subdivision a)(4)(A), parking for emergency shelters should only be the number of spaces necessary for staff working in the shelter and no more than other uses in the same zones. The element should discuss compliance with this requirement or include a program, if necessary.
  - *By-Right Permanent Supportive Housing (AB 2162)*: The element notes that a conditional use permit (CUP) is required for supportive housing in mixed-use and commercial zones (p. 3-12). However, supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with these requirements and include programs as appropriate.
  - *Accessory Dwelling Unit (ADU)* – The element notes that some zones allow ADUs with a CUP. For your information, ADUs must be allowed ministerially and without discretion. The element should analyze consistency with this requirement and include a program, if appropriate. Additionally, after a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU Law. This includes, but is not limited to, height requirements and allowing ADUs on multifamily lots. The element must include a program to update the City's ADU ordinance in compliance with state law.
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: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types (e.g., multifamily rental housing, mobilehomes, transitional housing), as follows:

- *Zoning and Densities* – The element includes a listing of the General Plan Land Uses and the associated zoning and density ranges (p. 3-7). Specifically, it notes that the Residential Very High Density (R-VHD zone) and R-3 zone allows for 20-30 units per acre. However, the element then states that multifamily structures shall not exceed 16 units per gross acre (p. 3-8) effectively acting as a constraint to achieving maximum densities. The element must analyze this requirement as a potential constraint on achieving maximum densities, cost, feasibility and supply (number of units) of housing. For your information, the element must demonstrate

densities appropriate to accommodate housing for lower income households. For communities with densities that meet specific standards (at least 30 units per acre for Brentwood), no analysis is required. (Gov. Code, § 65583.2, subd. (c)(3).) While the City may have zones that allow for up to 30 units per acre, as noted above, requiring that developments cannot exceed the midpoint of the density range can act as potential constraint to providing housing for lower-income households. The element must include an analysis that evaluates how these requirements specifically impact providing housing for lower-income households, in addition to the analysis noted above. Based on a complete analysis, the element may need to add or modify programs to mitigate or remove this constraint.

- The element must include an analysis of all residential zones, especially those identified to accommodate a variety of housing types and the RHNA. Specifically, the element identified the Planned Development (PD) zone to accommodate a portion of its RHNA. As part of the analysis, the element should identify all applicable land use controls including development standards, allowable densities, zoning, and any other relevant requirements. The analysis should evaluate these requirements for impacts on achieving maximum densities, cost, feasibility and supply (number of units) of housing. Lastly, the element should identify and analyze any minimum unit size requirements.
- *Parking* – The element notes that multifamily housing is required to provide two parking spaces per unit and acknowledges that this requirement can act as a constraint (p. 3-21). The element must analyze this requirement and its impact on cost, supply, housing choice and affordability and include programs to address identified constraints.

Local Processing and Permit Procedures: The element provides a description of some types of permits that are “common” under the City’s processes including a design and site development review and CUP. This is not a complete analysis and does not address the requirements. The element must describe and analyze the City’s permit processing and approval procedures by zone and housing type (e.g., multifamily rental housing, mobilehomes, housing for agricultural employees, supportive housing. The analysis should consider processing and approval procedures and time for typical single-family and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures. The analysis must evaluate the processing and permit procedures’ impacts as potential constraints on approval certainty and timing, promoting objectivity, feasibility, and housing supply and affordability. For additional information and sample analysis, see the *Building Blocks* at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/processing-and-permitting-procedures>.

Additionally, the element indicates that City requires a design and site development review process which includes evaluating criteria related to “good design” and compatibility with surrounding uses (p. 3-38). The element must clearly detail the type of uses that are subject to a design and site development review. Additionally and as noted above, the element must identify and evaluate any approval findings or decision-making criteria for this requirement. The analysis should address impacts on housing cost, supply, timing and

approval certainty. Based on a complete analysis, the element should include programs to address or remove the identified constraints.

Constraints on Housing for Persons with Disabilities:

- *Reasonable Accommodation* – The element identifies approval findings for granting a reasonable accommodation including finding related to impacts on surrounding uses. Reasonable accommodation should be a unique exception process from a CUP, especially given its importance in addressing barriers to housing for persons with disabilities. The element should include a program to amend the Reasonable Accommodation Ordinance and remove constraints, namely the “potential impact on surrounding uses” approval finding.
- *Definition of Family* – The element defines a Family as a traditional family who jointly occupy a single dwelling unit with joint uses and responsibilities for common areas and a rental unit but be jointly occupied under a single written lease. (p. 3-23). The element should analyze the characteristic of having to require all residents to be under a single written lease as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate
- *Residential Care Facilities of Seven or More* – The element states that these uses are permitted with a CUP in all zones. The element notes that parking requirements are also subject to a CUP. For your information, excluding these uses from residential zones, subjecting the uses to a CUP, and applying onerous requirements is considered a constraint. Lastly, the element should identify any spacing or siting requirements. The element must include or modify programs as appropriate with specific commitment to allow the use in residential zones with objectivity and certainty.

For more information on addressing constraints on housing for persons with disabilities, please see HCD’s guidance: <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality’s share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)*

The element must analyze (1) requests to develop housing at densities below those identified in the inventory, (2) the length of time between receiving approval for a housing development and submittal of an application for building permits, and (3) any local efforts to address or mitigate nongovernmental constraints such as reduced fees, financing for affordable housing or expedited processes. The analysis should address any hinderances on the construction of a locality’s share of the regional housing need and programs should be added or modified as appropriate.

6. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

The element provides an analysis of 96 affordable units located in the City. However, CHPC records indicate that the City's affordable housing inventory includes 639 units. The element should be revised to analyze all affordable housing units and assess their risks of converting to market rate in the next ten years.

## **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 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; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- *Proactive Efforts:* Several programs focus on providing education and information on City housing services through website updates. These actions are also repetitive from the last planning period (as noted below). These programs should incorporate and describe more proactive outreach efforts. This includes but is not limited to Program H.1b, H.1e, H.1f, H.2c and H.3d. In addition, the following program should be revised as follows:
  - Program H.2e (Partnerships Program) – This program states when entities show interest in development, the City will coordinate and consider partnerships with these entities. However, this program largely relies on the development community outreaching to the City. Instead, this program should be revised to commit the City to proactively build relationships and collaborative opportunities with these entities. For example, the program could commit to reaching out to local and regional nonprofits and other entities engaged in building affordable housing, hosting builder and developer roundtable meetings to identify opportunities, and to market sites and incentives to the development communities to build relationships and interest.
- *Responsiveness:* As noted above, programs must achieve beneficial impact during the planning period. The element included several programs and efforts recycled from the last planning period. Many of these recycled programs indicated limited

outcomes or results as noted in the review and revise section of the housing element. Additionally, these recycled programs included little to no changes from the previous planning period. While in certain instances, it may be appropriate to continue existing efforts, the element highly relies on existing and recycling previous programs and proposes little to no changes for this planning period. The City should evaluate and incorporate changes where applicable to programs including but not limited to Action H.1H, H.1g, H.1f, H.1i, H.1k, H.2a, H.2b, H.2c, H.2k, H.3a and H.2n.

- *Specific Commitments:* To achieve beneficial impact during the planning period, programs should include, where appropriate, a commitment to implementation of specific actions. The element includes several programs that largely rely on “exploring”, “considering”, etc.. While the element can include programs to study a certain topic, it includes a preponderance of programs that do not go beyond studying or exploring a particular action. The element should revise programs to include more specific commitments and implementation actions. This includes but is not limited to Program H.1a, H.1e, H.1g, H.2g, H.1n, H.2e, H.2h, H.2f, H.3b, H.3c and H.2d. In addition, the following programs should be revised as follows:
  - Program H.1g (Residential Design Guidelines) and H.2g (Streamline Application Process) – Both of these programs commit to meeting with developers and soliciting input and feedback on the City’s design guidelines and approval process. However, the program should commit to taking actions as a result of the feedback from the development communities. For example, the program could include a commitment to soliciting feedback from developers and making revisions to the guidelines/approval process if any constraints are identified as part of the feedback received. This program should also be modified to include a timeline or frequency for those actions.
  - Program H.1n (Residential Incentives) – This program states that the City will encourage development on RHNA sites by promoting existing and new incentives. This program should be revised to include more information on the existing incentives the City already offers. In addition, the element should identify, at minimum, examples of possible incentives that would be developed and a timeline for development of these incentives.
  - Program H.2d (Affordable Housing Assistance) – This program states that it will consider and explore types of financial assistance available for affordable housing. This program needs specific commitments such as reviewing, applying, and accessing affordable housing funds. The element could consider including commitments to provide technical assistance for developers to access financial assistance and funding sources and sending staff to trainings for different funding programs to learn how to apply for these sources.
  - Program H.2f (Support Housing Sponsors) – This program includes very little commitment and states that the City “may” provide support and “may” collaborate with developers in developing city-owned parcels. This

program should be revised with firm commitments to specific actions and included quantified or numerical objectives.

- Program H.1h (Code Enforcement) – This program commits to provide code enforcement. However, this program should include more proactive efforts such as assisting in homeowners in addressing code enforcement violations such as providing technical assistance or funding resources.

- *Timelines:* The element commits to complying with various state laws including state density bonus law and replacement program for nonvacant sites within 2-3 years of the planning period. However, given the importance of these programs, the element should commit to comply with these requirements sooner in the planning period (e.g., one year).

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 City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Program H.1b (Accessory Dwelling Units) – This program commits to various actions to facilitate the development of ADUs. Of these actions, this program commits to making funding opportunities and FAQs publicly available. However, because the City is relying on ADUs to accommodate a portion of its RHNA, the element must include strong programs and actions. As such, this program should be revised to include more proactive outreach and engagement efforts surrounding ADUs. For example, this program could commit to advertising ADU resources in the City's newsletters, sending out mailers, and posting this information at public/community amenities.

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).)*

ELI Households and Special Needs Populations – The element must include a program(s) with specific actions and timelines to assist in the development of housing special needs populations including ELI households and persons with disabilities. While the element included some programs to possibly address the needs of these populations including Program H.2d, H.3c, H.3f, several of these programs need revisions as noted above and



do not commit to any significant actions. For example, Program H.3f include actions to encourage affordable housing developers to utilize funding opportunities; however it is likely that they do not need to be encouraged as they already actively apply for these funding sources. Additionally, City's ELI population is 2009 households and program H.2d commits to helping 20 households during the 8 year planning period. To accurately address the needs of the community, the element should aim to help additional households. The element should include stronger program(s) such as commitments to priority processing, granting fee waivers or deferrals, modifying development standards, and granting concessions and incentives for housing developments that include units affordable to ELI households.

Program H.1e (Community Education) – This program aims to encourage other entities such as the Contra Costa County HOME consortium and CDBG urban county to educate households about available programs. This program should be revised to commit the City to proactively educating and outreaching with households and special needs populations on available programs. This program could also commit to help households access available resources. Additionally, the element includes a quantified objective of assisting 30 housing units with rehabilitation. However, program commitments do not demonstrate how the City will accomplish this outcome. As such, the element should include actions that can help assist with meeting this outcome.

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 nongovernmental 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, the element should be revised as follows:

Program H.1a (Biennial Evaluation) – this program states that in the event the City's growth management program is reinstated, the City shall evaluate this program for constraints. Please Note, SB 330 (Gov. Code, § 66300) generally prohibits a locality from enacting a development policy, standard or condition that reduces intensity, imposes moratoriums, enforces subjective design standards, or implements any provision that limits approvals or caps population. This program should include a commitment to evaluate this program for consistency with SB 330 requirements, in the event the City may reinstate this effort. Additionally, this program commits to evaluating various factors on a biennial basis including processing times, development costs, and densities. However, the program only commits to addressing constraints, if any, on the City's mid-range density policy. If as part of the evaluation, constraints are identified for other factors noted above, this program should also commit to mitigating or removing those constraints. Lastly, this program should include a timeline for implementation.

Program H.1m (SB 35) – This program commits to establishing and implementing an SB 35 process if the City is subject to SB 35 at any point in the planning period. For your information, the City is currently subject to SB 35 and as such, this process should be developed and implemented within one year of the planning period.

Program H.4g (Reasonable Accommodation) – As noted in the program, the element must include actions to remove constraints for persons with disabilities. In response to this requirement, the element included an action to maintain information about the reasonable accommodation procedure on the City's website. The element should include additional and more tangible actions with proactive efforts to address this requirement.

- 5 *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 requires a complete AFFH analysis. Depending upon the results of that analysis, the City may need to revise or add programs. Additionally, while the element included some programs to address fair housing issues and contributing factors, several programs will need to be revised. First, many of the programs listed were not significant and meaningful to overcome contributing factors and address fair housing issues. Second, programs had little to no commitment to specific actions or deliverables. Several actions focused on simply “encouraging” “promoting” and considering”. Third, programs did not include any geographic or neighborhood targeting. Fourth, programs did not include quantified metrics. For your information, metrics should target beneficial impacts for people, households and neighborhoods ( e.g., number of people or households assisted, number of housing units built, number of parks or infrastructure projects completed). Lastly, in addition to addressing fair housing issues and contributing factors, programs must generally address enhancing housing mobility, providing new housing choices and affordability in high opportunity areas, place-based strategies that promote community preservation and revitalization, and displacement protection. For a list of sample policies and programs, please visit page 73 of HCD's AFFH Guidance: [https://www.hcd.ca.gov/community-development/affh/docs/affh\\_document\\_final\\_4-27-2021.pdf](https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf).

6. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance. (Gov. Code, § 65583, subd. (c)(6).)*

Program H.1d (Monitor At-Risk) – This program states it will consider opportunities to preserving ongoing affordability by providing financial resources and technical assistance. However, this program should include a firm commitment and go beyond “consider”. This program should also be modified to include noticing requirements within 3 years, 12 months and 6 months of the affordability expiration dates. Lastly, the program should

commit to tenant education and assistance and coordinating with qualified entities such as nonprofit organizations and establish specific time parameters around such actions.

### **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 included quantified objectives for each income level-based categories such as “RHNA” and “Special needs units”. However, the element must include quantified objectives based on the following categories: new construction, rehabilitation, and conservation/preservation over the planning period.

### **D. 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).)*

The element did not demonstrate diligent efforts to involve all economic segments of the community in the development of the housing element, specifically lower-income and special needs populations. Based on the information provided in the element, the City employed limited community engagement efforts. For example, the element summarizes a survey, project website, and workshops targeting elected officials but open to the public. Additionally, the survey employed indicates that a majority of responses were received by homeowners. The City also relied heavily on workshops with elected officials present. These efforts do not demonstrate diligent and proactive ways to engage all segments of the community. Lastly, the element included copies of staff reports and information provided at these workshops. Much of the materials were not provided and presented in manner that addresses language or educational barriers. For example, attaching HCD’s sites inventory guidance and a factsheet on new housing laws provided by attorneys will not be easily digestible by households that do not have a technical degree in planning. One strategy to promote inclusive outreach and engagement is reaching special needs populations is by ensuring the materials and information provided is easily understandable and digestible.

Moving forward, the City must employ a variety of methods such as efforts to advertise and engage lower-income households in workshops and additional methods, circulate the housing element to low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process.

In addition, the element must summarize the public comments and feedback and describe how they were considered and incorporated into the element.