

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

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November 29, 2021

Jason Kruckeberg, Director
Department of Development Services
City of Arcadia
240 West Huntington Dr.
P.O. Box 60021
Arcadia, CA 91066

Dear Jason Kruckeberg:

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

Thank you for submitting the City of Arcadia's (City) draft housing element received for review on October 1, 2021, along with revisions received on November 15, 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. Our review was facilitated by a conversation on November 4, 2021 with you, Stephanie Ellsworth, Lisa Flores, Dave Barquist, Matt Horton and Molly Mendoza.

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).

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.

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 and
http://opr.ca.gov/docs/Final_6.26.15.pdf.

HCD appreciates your diligent efforts and responsiveness provided during the review. 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.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF ARCADIA

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. Review and Revision

Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)

As part of the evaluation of programs in the past cycle, the element must provide an explanation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers, and persons experiencing homelessness).

B. 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).)*

The element includes the Assessment of Fair Housing (AFH); however, additional information is necessary to address the requisite affirmatively furthering fair housing (AFFH) analysis requirement, including local contributing factors to the fair housing issues and develop strong programs and strategies to address the identified fair housing issues. Specifically, the element provides data regarding the patterns of various socio-economic characteristics across components of the required analysis (e.g., segregation and integration, racially and ethnically concentrated areas of poverty and affluence, access to opportunity, displacement); however, the element should also analyze trends for potential fair housing problems specific to Arcadia. In addition, the following analysis is required:

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 revisions should address:

- Degree of outreach to all sectors of the community.
- Ongoing outreach and public participation throughout the planning period.
- Indicate any findings, lawsuits or enforcement actions taken.
- Describe how many fair housing complaints the City has received over the past few years.

Integration and Segregation: While the element includes some data on integration and segregation (p. 3-46), the element must include a local and regional analysis of patterns and trends. While the element utilizes the dissimilarity index to describe integration and segregation on race, the element should include local knowledge regarding racial segregation. Local knowledge or additional data sources are important because while the dissimilarity index measures integration in comparison to white residents, the majority of the City's population are Asian. Furthermore, the element should describe any local knowledge, a comparison of northern and southern blocks groups that demonstrated income disparities, and a regional analysis for income describing similar concentrations and trends of poverty in surrounding areas. The element must also analyze local and regional patterns and trends of segregation and integration based on familial status and persons with disabilities and conclude with a summary of issues.

Racial/Ethnic Concentrated Areas of Affluence (RCAA): While the element includes data relative to RCAA, it should also include an analysis of local and regional patterns and trends. Because the City as a whole is considered a "highest resource area" (p. 3-58), the analysis should emphasize the regional perspective, evaluating the patterns and changes over time and considering other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

Disparities in Access to Opportunity: The element provides some information on the access to opportunity (Table 3-13 on page 3-56) but it must also provide a complete local and regional analysis of patterns and trends for all components. A comprehensive analysis should include the local and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data; and provide a description of education, environment, and employment. It should also include analyses for persons with disabilities as well as access to transit. 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 Arcadia.

Disproportionate Housing Needs including Displacement Risk: While the element includes some data on overcrowded households, cost burden, and displacement, it must also include data and analysis of substandard housing conditions and homelessness. Additionally, the element must provide a local and regional analysis for

all disproportionate housing needs and analyze the data including looking at patterns, trends, other local knowledge, and conclude with a summary of fair housing issues.

Contributing Factors: While the element lists two contributing factors (p. 3-43), it must prioritize contributing factors to fair housing issues based on the analysis.

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies Programs 5-25 (Fair Housing) and 5-26 (Fair Housing Assistance) to encourage and promote affordable housing; however, most of these programs do 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.shtm>.

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).)*

While the element quantifies the existing housing needs of extremely low-income (ELI) households, it must still quantify projected ELI housing needs. 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 very low-income households qualify as ELI households.

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).)*

The City has a regional housing need allocation (RHNA) of 3,214 housing units, of which 1,672 are for lower-income households. To address this need, the element relies on vacant and nonvacant sites, including sites in Specific Plan Areas and within the Mixed-Use Overlay areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Arcadia Golf Course: On page A-25, the element indicated that the City owns the Arcadia Par 3 Golf Course and is currently exploring potential future sale of the property and/or redevelopment of the site and has spoken with developers regarding

the development of affordable housing on the site. The element must address current and potential general plan designations, allowable densities, support for residential capacity assumptions, existing uses and any known conditions that preclude development in the planning period and the potential schedule for development. As the zoning does not currently allow residential uses at appropriate densities, then the element must include programs to rezone sites pursuant to Government Code section 65583.2, subdivisions (h) and (i). In addition, the element must 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.

Realistic Capacity: The element states that it assumes an 80 percent buildout to determine capacity based on buildable acreage. However, the analysis must also support this estimate based on typical densities of existing or approved residential developments at a similar affordability level. In addition, while the element provided some overlay and mixed-use development examples to support the 80 percent buildout assumption, the element must indicate whether the calculations included density bonus units.

The element must also consider the calculation for sites that allow nonresidential uses (e.g., mixed-use) based on the likelihood of nonresidential development, performance standards, development trends supporting residential development, and any existing or planned policies, programs, or local guidance or efforts promoting residential development in nonresidential zones. The element must clarify whether 100 percent residential is allowed in commercial and mixed-use zones as well as whether residential uses are allowed by-right in the Downtown Mixed-Use expansion and overlay; the Mixed-Use upzone; and the CG overlay. In addition, on page A-17, the element indicated that with the implementation of the overlay, 100 percent residential would be allowed by-right in the Live Oak Corridor except in Las Tunas. The element should analyze the impact of this standard on the City's realistic capacity and revise the calculation as necessary.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. To address this requirement, the element describes in general the existing use of each nonvacant site for example "multifamily housing" or religious structure". In addition, small nonvacant sites descriptions are limited to "Small Sites Strategy," which is not adequate to demonstrate the potential for redevelopment in the planning period. The element should describe the existing use and the existing units on all sites in the inventory. 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 should analyze the extent that existing uses may impede additional residential development. For example, the element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the sites identified. 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. Many identified sites have existing multifamily housing or townhouses, given the fact that the element estimates a low number of units needing substantial rehabilitation, the element must identify the likelihood that the existing use will be terminated during the planning period.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, the housing element must demonstrate that the existing use is not an impediment to additional residential development in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) This can be demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period. (Gov. Code, § 65583.2, subd. (g)(2).)

Small Sites: The inventory lists 441 lower-income units on smaller sites. Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size and affordability were successfully developed during the prior planning period or unless the element describes other evidence to HCD that the site is adequate to accommodate lower-income housing. (Gov. Code, § 65583.2, subd. (c)(2)(A).) While the element includes examples of small site development; it does not relate these examples to the affordability of these projects. To strengthen the existing analysis, the history of small site development example should describe trends specific to the development of housing affordable to lower-income households.

Previously Identified Nonvacant and Vacant Sites: While the sites inventory identifies whether most sites were identified in the previous housing element cycle, sites 451, 456-457, 462, 466-467, did not indicate if they were identified in the 5th cycle. For any vacant sites, the element should also indicate if sites were identified in the 4th cycle.

Accessory Dwelling Units (ADU): The element assumes an ADU build out of 26 ADU and/or junior accessory dwelling unit (JADU) per year based upon doubling the average assumption over the past few years. Given that the City has only produced an average of 12 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. 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.

Environmental Constraints: While the element describes environmental conditions within the City (p. 3-40), it must describe any mitigation measures being taken to address those constraints within the City that could impact housing development in the planning period. (Gov. Code, § 65583.2, subd. (b).)

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While the element states that emergency shelters are permitted in the M-1 industrial zone, it must clarify whether emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone(s) must demonstrate the M-1 zone has sufficient capacity to accommodate the identified need for shelters or for at least one emergency shelter, whichever is greater. (Gov. Code, § 65583, subd. (a)(4).) The housing element must also demonstrate the permit processing, development, and management standards for emergency shelters are objective and encourage and facilitate the development of, or conversion to, emergency shelters. In addition, emergency shelters must only be subject to the same development and management standards applicable to residential or commercial development within the same zone except for those standards prescribed by statute.
- *Transitional and Supportive Housing:* Transitional and supportive housing require a use permit in zones where single family homes are permitted by right. Transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).) The element must describe and analyze the City's transitional and supportive housing standards and codes and demonstrate consistency with Gov. Code Section 65583(a)(5) or add or revise programs which comply with the statutory requirements. Finally, the City's definition of supportive housing should be analyzed for consistency with state law and revised as necessary.
- *Single Room Occupancy (SRO):* Page 3-27 provides the definition of an SRO but does not state where they are allowed. The element must describe where SROs are allowed or add a program as appropriate to update the zoning code and permit to allow the development of SROs.
- *Employee Housing:* The element states that employee housing is permitted in the special use zone. In addition, the element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone.

- *Mobilehomes*: Page 3-27 states that mobilehomes are not permitted as long-term housing. The housing element must demonstrate the jurisdiction's zoning code allows and permits manufactured housing in the same manner and in the same zone as a conventional or stick-built structures are permitted (Gov. Code Section 65852.3). Specifically, manufactured homes should only be subject to the same development standards that a conventional single-family residential dwelling on the same lot would be subject to, with the exception of, architectural requirements for roof overhang, roofing material, and siding material. (Gov. Code Section 65852.3(a).)
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.*

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). The analysis must also evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities and cost and supply of housing. The analysis should also describe past or current efforts to remove identified governmental constraints. The element must address the following:

- Pages 3-10 and 3-11 describe the same minimum and maximum densities in the CBD, MU, and DMU zones, for example the CBD lists a minimum density of 80 dwelling units and acre and a maximum of 80 dwelling units an acre. Although the City indicated that the intent of this was to create diversity in building appearance (made possible by differing height regulations per zone), having the same minimum and maximum density in a zone is a constraint because it provides no flexibility in development. The element must analyze this as a constraint and add a program to address the density requirement.
- As part of HCD's call with the City, staff indicated that three stories were allowed in the R3 zone despite a maximum building height of 30 feet, but Table 3-2 (p. 3-12 and 3-13) does not provide information beyond two stories. The element should clarify if three stories are allowed in the R3 zone without a use permit. If not, the City must add a program to amend its development standards to be consistent with state law.
- The element should list and analyze minimum unit sizes.

Parking Requirements: The element must analyze the requirement of two covered parking spaces per multifamily dwelling unit for its impact as a potential constraint on housing development (p. 3-14). Should the analysis determine the parking standards or permit procedures are a constraint on residential development, it must include a program to address or remove any identified constraints.

Fees and Exaction: While the element lists development fees on (p. 3-33), it must indicate if all fees are the same for single and multifamily. The element must also analyze their impact as potential constraints on housing supply and affordability and describe the City's efforts to mitigate the constraint. 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. Page 3-33 of the element indicated that the City would explore opportunities to lower development fees for affordable developments but did not describe how it would do this, the element should be revised to include a program to address fees.

Processing and Permit Procedures: While the element describes the use permit procedure for mixed-use housing, it 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 must evaluate the processing and permit procedures' impacts as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single- and multi-family developments, including type of permit, level of review, approval findings and any discretionary approval procedures. The element states that a minor use permit is required for multifamily developments in mixed-use and CBD zones. The element should describe any impacts on sites in the inventory. If so, this should be analyzed as a constraint and addressed in a program.

Design Review: The element must describe and analyze the site plan and design review guidelines and processes, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. For example, the analysis could 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.

Local Ordinances: The element must specifically analyze locally adopted ordinances such as inclusionary ordinance or short-term rental ordinance that directly impact the cost and supply of residential development. The analysis should demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.

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.

Codes and Enforcement: The element must describe the City's building and zoning code enforcement processes and procedures, including any local amendments to the building code, and analyze their impact as potential constraints on housing supply and affordability.

Constraints on Housing for Persons with Disabilities: While the element describes the City's Reasonable Accommodation procedure on page 3-27, it must analyze the findings as a constraint for persons with disabilities including the associated fees, the application process, and findings. In addition, the element lists the U.S. Census Bureau and California's Office of Planning and Research definition of family, but the element must include the City's definition of family.

In addition, the element currently details that residential care facilities serving six or fewer persons are permitted in all residential zones. However, residential care facilities serving seven or more persons are limited to two zones with the approval of a conditional use permit (CUP). The element should analyze the process and exclusion from residential zones as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

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

Developed Densities and Permit Times: The element must be revised to include analysis of requests to develop housing at densities below those anticipated in the sites inventory and the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any potential hinderances on the construction of a locality's share of the regional housing need. The element must also describe any efforts to mitigate non-governmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category.

C. 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) all programs must be revised with discrete timelines (i.e. month and year); (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- *Program 5-1 (Home Rehabilitation)* should describe how information will be distributed and how often, as well as proactive outreach.
 - *Program 5-2 (Code Enforcement)* should describe how often the City will provide proactive outreach to the surrounding community.
 - *Program 5-3 (Residential Design Guidelines)* should describe the requirements for exemption from discretionary reviews for affordable housing projects.
 - *Program 5-5 (Preservation of Middle-Income Housing through New Housing Authorities)* should indicate the program's implementation status. It is currently unclear if the new housing authorities have been established.
 - *Program 5-11 (Housing Density Bonus)* should specify when the ordinance will be updated.
 - *Program 5-15 (Lot Consolidation Incentives)* should include a timeframe for when the City will update their fee schedule and identify additional incentives, as well as the method and frequency of advertisement to developers.
 - *Program 5-17 (Public Information About Affordable Housing)* should provide information regarding how often outreach will occur and how often the brochure will be updated.
 - *Program 5-23 (Homeless Program Assistance)* should include implementation timeframe and frequency.
 - Numerous programs continue to indicate an "ongoing" implementation status. While this may be appropriate for some programs, programs with quantified objectives or specific implementation actions must include completion or initiation dates (including month and year) resulting in beneficial impacts within the planning period. Programs needing revision include Programs 5.1, 5.2, 5.10, 5.11, 5.15, 5.16, 5.17, 5.19, and 5.21 through 5.24.
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 B3, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Rezone Program for Adequate Sites: Currently the element demonstrates a shortfall of adequate sites with zoning currently in place to accommodate the RHNA within the planning period. In order to provide sufficient sites to accommodate the RHNA, programs including but not limited to 5-7 (Establish an Overlay to Permit Residential Uses in the Commercial General Zone), 5-8 (Expansion of the Downtown Mixed-Use Area to Permit Residential Uses), and 5-9 (Expand and Update the Residential Flex Mixed-Use overlay in the Live Oak Corridor) commit to, among other things, amend the zoning to increase densities and allow residential units in areas that previously did not allow residential development. However, in order to accommodate the lower-income need, programs must demonstrate compliance with Government Code section 65583.2, subdivisions (h) and (i). Specifically, programs must 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.

Replacement Housing Requirements: While Program 5-16 (Preservation of Rental Opportunities) provides replacement housing in the City, the program must be revised to meet all statutory requirements. Nonvacant sites identified in the sites inventory 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, require a replacement housing program for units affordable to lower-income households. (Gov. Code, § 65583.2, subd. (g)(3).) Absent a compliant replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c)(3).

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).)*

Program 5-22 (Affordable Housing for Families and Persons with Special Needs) should describe what land use policies will be adopted for extremely low-income households and offer specific commitments towards implementation other than “exploring” regulatory incentives. The program should include specific timeframes for implementing the incentives and revising the zoning code.

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 Finding(s) B4 and B5, 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.

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 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 5-25 (Fair Housing, 3rd bullet point): The percentage is missing for both.*

Program to AFFH: While the element includes Program 5-25 (Fair Housing) which describes how the City responds to fair housing complaints, it must include more than collaboration for discrimination complaints, include specific timeframes for outreach and how often workshops will occur throughout the planning period, and include outreach. The element must also include actions that promote AFFH opportunities as stated in Finding B1. For example, the element could include a program committing to implement Government Code section 8899.50, subdivision (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 AFFH. Programs should address enhancing housing mobility strategies; encouraging development of new affordable housing in high resource areas; improving place-based strategies to encourage community conservation and revitalization, including preservation of existing affordable housing; and protecting existing residents from displacement. The programs should also include metrics and milestones for evaluating progress on programs, actions, and fair housing results.

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 5-4 (Preservation of At-Risk Units) should incorporate state preservation notice law (Gov. Code § 65863.10, 65863.11, and 65863.13) as well as should commit to proactive outreach to property owners regarding interest in renewing affordability restrictions and inform them about the notice requirements.

7. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, “accessory dwelling units” has the same meaning as “accessory dwelling unit” as defined in paragraph (4) of subdivision (i) of Section 65852.2. (Gov. Code, § 65583, subd. (c)(7).)*

The element is required to include a program that incentivizes or promotes ADU development for very low-, low-, and moderate-income households. This can take the form of flexible zoning requirements, development standards, or processing and fee incentives that facilitate the creation of ADUs, such as reduced parking requirements, fee waivers and more. Other strategies could include developing information packets to market ADU construction, targeted advertising of ADU development opportunities or establishing an ADU specialist within the planning department. Program 5-12 (ADU and JADU Incentive and Monitoring Program) should be revised to include specific incentives to encourage ADU production in the City during 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)(8).)

While the element includes a general summary of the public participation process (p. 13 and 1-4), 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. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into 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 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 revising 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.