

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

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November 1, 2021

Fermin Preciado, Director
Development Services/City Engineer
City of Yucaipa
34272 Yucaipa Blvd
Yucaipa, CA 92399

Dear Fermin Preciado:

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

Thank you for submitting the City of Yucaipa's (City) draft housing element received for review on September 2, 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 telephone conversation on October 22, 2021 with Benjamin Matlock, Planning Manager.

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 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, 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).

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the County 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.

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.

Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at 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.

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.

HCD appreciates the City's staff hard work provided during our review. We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Divya Sen, of our staff, at Divya.Sen@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF YUCAIPA

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).)

Special Needs Populations: As part of the review of programs in the past cycle, the element must provide an evaluation of the cumulative 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))*

Regional Trends and Patterns: For all categories of analysis (e.g., segregation and integration, racially and ethnically concentrated areas of affluence, access to opportunity, and disproportionate housing needs, including displacement), the element addresses some requirements to analyze local patterns and trends. However, the element must also analyze regional patterns and trends for each category and subcategory of analysis. A regional analysis should compare conditions at the local level to the rest of the region. This analysis could compare the locality at a county level or other subregional geography.

Racial/Ethnic Concentrated Areas of Poverty (R/ECAP): The element should provide supporting maps and/or data to show which census block groups have household poverty rates of 15 to 20 percent and analyze those block groups in relationship to other categories of analysis (e.g., segregation and integration, access to opportunity, and disproportionate housing needs). To support the analysis of areas of concentrated affluence, the element could also include maps to analyze where the City's higher income residents reside.

Access to Opportunity: The element includes local data (pp. 3-34 to 3-39) on access to opportunity of education, transportation, and environment, but it does not include local analysis on economic conditions. The element should include complete local data for economic conditions and analyze the data for trends and patterns. In addition, the element should provide analysis of disparities in access to opportunity that must specifically address the housing and community development needs of persons with disabilities (see page 36 of the [AFFH Guidance Memo](#)).

Disproportionate Housing Needs including Displacement Risks: The element includes local data (pp. 3-33) on cost burden, overcrowding, substandard housing, and displacement, but it should also include local analysis on homelessness. The element should include complete local data for homelessness and analyze the data for trends and patterns.

Other Relevant Factors: While the element includes local data and knowledge, it must also include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element must analyze the impact of the Program 5 Crime Free Multi-Housing on affirmatively furthering fair housing (AFFH) throughout the City. Additional other relevant factors include historical land use and investment practices or other information and demographic trends.

Sites: The element should include a map of the site inventory that states that the proposed sites to meet lower-income regional housing needs allocation (RHNA) are geographically distributed to AFFH. The accompanying analysis shall also be reflective of housing development at all income-levels and evaluate the sites relative to socio-economic patterns. The site inventory analysis should address how the sites are identified to improve conditions (or if sites exacerbate conditions, how a program can mitigate the impact), whether the sites are isolated by income group and should be supported by local data and knowledge.

Goals, Priorities, Metrics, and Milestones: Goals and actions must create meaningful impact to overcome contributing factors to fair housing issues. Currently, programs are not sufficient to facilitate meaningful change and address AFFH requirements. Based on the outcomes of a complete analysis, the element must be revised to add or modify goals and actions. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection.

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

The element identifies the age of the housing stock (p. 2-11). However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations.

For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/housing-stock-characteristics.shtml>.

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 RHNA of 2,866 housing units, of which 1,201 are for lower-income households. To address this need, the element relies on approved and planned projects, vacant sites, and underutilized sites. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Sites Inventory: Table 4-6 (p. 4-18) shows a shortfall in sites available for the above moderate housing category. While there does seem to be a surplus of sites in the moderate-income category, the element must either reallocate capacity from this surplus to show that there are sufficient sites to accommodate the RHNA by income group or include a program to rezone capacity to accommodate the shortfall.

Previously Identified Nonvacant and Vacant Sites: The element must indicate if sites identified in the inventory were previously identified in past housing elements. If nonvacant sites identified in a prior adopted housing element or vacant sites identified in two or more consecutive planning periods, the sites are inadequate to accommodate housing for lower-income households unless:

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

Small Sites: The site inventory identifies small sites to accommodate the City's lower-income RHNA (Strategy 6 sites 1, 2, 3, and 4). Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites are suitable to accommodate housing for

lower-income households. The element should provide specific examples with the densities, affordability and, if applicable, circumstances leading to consolidation, such as common ownership. The element should relate these examples to the sites identified to accommodate the RHNA for lower-income households to demonstrate that these sites can adequately accommodate the City's lower-income housing need.

As the element relies on consolidated small sites to accommodate the RHNA for lower-income households (Strategy 6 sites 1, 2, and 3), it should include a program(s) to facilitate lot consolidation and development of housing on small sites. For example, the program could commit to (1) granting density bonuses above state density bonus law (Gov. Code, § 65915.); (2) deferring fees specifically for consolidation; (3) expediting permit processing; (4) identifying and targeting specific financial resources; and, (5) modifying development standards. For additional information, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/program-requirements/address-remove-mitigate-constraints.shtml>.

Large Sites: Strategies 3 and 5 accommodate the City housing need for lower-income households are large parcels between 10 and 20.5 acres (p. 4-17). Since most developments utilizing state or federal financial resources include 50 to 150 units, the element must include analysis describing the feasibility of large parcel development of housing affordable to lower-income households. For example, the analysis could describe opportunities for specific-plan development and further subdivision or other methods to facilitate the development of housing affordable to lower-income households on large sites. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#realistic>.

Zoning for Lower-Income Households: The element assumes densities at 24 units per acre can accommodate the housing need for lower-income, but it does not include a complete analysis supporting the appropriateness of this density to facilitate lower-income housing. Pursuant to Section 65583.2(c)(3)(A) and (B), the element must identify sites with zoning and densities appropriate to encourage and facilitate the development of housing for lower-income households based on factors such as market demand, financial feasibility and development experience within zones. For communities with densities that meet specific standards (at least 30 units per acre for Yucaipa), this analysis is not required (Section 65583.2(c)(3)(B)).

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 "commercial". This alone is not adequate to demonstrate the potential for redevelopment in the planning period. 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 needs to also analyze the extent that existing uses may impede additional residential development. 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.

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Replacement Housing Requirements: If the sites inventory identifies sites with existing residential uses (Strategy 6 sites 3 and 4), it must identify whether they are affordable to lower-income households or describe whether the additional residential development on the site requires the demolition of the existing residential use. For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

Accessory Dwelling Units (ADU): The element assumes an ADU buildout of 31 ADUs per year for a potential buildout of 251 units within the planning period. Given that the City has permitted 3 ADUs in 2018, 5 in 2019, 12 in 2020 (for an average of 6 units per year), it is not clear if a production level of 31 ADUs per year will be achievable over the planning period. As a result, the element should be updated to include a realistic estimate of potential ADU production. 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 6 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.

Sites with Zoning for a Variety of Housing Types:

- *Emergency Shelters:* Emergency Shelters parking requirements should be updated pursuant to AB 139 (Chapter 335, Statutes of 2019).

- *Accessory Dwelling Units (ADUs):* ADUs do not appear to be permitted consistent with state law. For example, ADUs are not permitted in all zones allowing residential uses (Table 3-5). The element should demonstrate consistency with state requirements including programs as appropriate.
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. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (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). 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. For example, the element must analyze minimum lot size requirements (e.g., RM-24 minimum lot size is five acres where multifamily is allowed) [p.3-12]. The element must also clarify whether sites identified to accommodate for lower income RHNA meets minimum lot sizes by zoning district (p. 3-12 and 4-17) or would require lot consolidation to be developed. Furthermore, the element should describe typical amenities required for multifamily and parking requirements for one bedroom multifamily and analyze these requirements for impacts to the cost of development. The analysis should also describe past or current efforts to remove identified governmental constraints. The element should include programs to address or remove the identified constraints.

Local Processing and Permit Procedures: The element should describe the City's SB35 (Chapter 366, Statutes of 2017) streamlined ministerial approval procedure and application and include programs if appropriate.

Zoning, Development Standards and Fees: The element must clarify its compliance with new transparency requirements for posting all zoning, development standards and fees for each parcel on the jurisdiction's website.

Low Barrier Navigation Centers and Permanent Supportive Housing: Low barrier navigation centers and permanent 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 sections 65651 and 65662. The element must demonstrate compliance with this requirement and include programs as appropriate.

Constraints on Housing for Persons with Disabilities: The element currently details that residential care facilities six or fewer are treated same as residential uses and permitted RL, RS, RM and PD zones. However, residential care facilities serving seven or more persons are treated similarly to other multifamily-family type projects and conditionally permitted in RM & PD zones (p. 3-7 and 3-10). The element should analyze the process as a potential constraint on housing for persons with disabilities, including whether the uses are excluded from some residential zones and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

“Crime Free” Ordinance: In Program 5, the City states that it will continue to implement a “Crime Free” ordinance. This program could be potentially problematic for a number of reasons including impeding the City’s ability to AFFH, and the City should provide further analysis on whether this ordinance could constitute a constraint on providing housing for all income levels throughout the community. Such analysis should address:

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

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).)*

The element must be revised to include the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need.

6. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

The element must include a current local estimate of the number homeless individuals and families in need of emergency shelter. The need for emergency shelters must be based on annual and seasonal need. Information regarding homeless individuals and families within the community can be found by contacting local Continuum of Care or service providers. When possible, the estimate should be divided into single males, single females, and families (one or more adults with children) as the shelter needs of each subgroup differ significantly. Furthermore, the analysis should include how the current estimate and 32 beds year-round is determined and the total capacity in the CS zone (p. 2-27).

For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/zoning-for-variety-housing-types.shtml>.

7. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next ten 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 identifies Yucaipa Crest is expected to expire in 2026. If units are identified as at-risk within a ten-year period (2021–2031), the analysis of “at-risk” units must include the following (Gov. Code, § 65583, subd. (a)(9).):

- Listing of each development by project name and address
- Type of governmental assistance received
- Earliest date of change from low-income use; and
- Total number of elderly and non-elderly units.
- Estimated total cost for producing, replacing, and preserving the units at-risk.
- Identification of public and private non-profit corporations known to the City to have the legal and managerial capacity to acquire and manage at-risk units.
- Identification and consideration of use of federal, state and local financing and subsidy programs.

For additional information and sample analysis, see the *Building Blocks* at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/assisted-housing-developments.shtml> and for more information on identifying units at-risk, see the California Housing Partnership Corporation at <http://www.chpc.net>.

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

- General: All programs must be evaluated to provide discrete timing (e.g., month, year) to account for how often the action will occur as well as to ensure a beneficial impact throughout the planning period and quantify objectives where feasible.
 - *Program 3 (Single-Family Home Repair):* Quantify the number of homes needing repair.
 - *Program 4 (Multiple-Family Housing Repair):* Quantify the number of units needing repair.
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 B4, 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:

HCD understands while the general plan designations for sites within the CG-O, R-24, IN, RM-24, CG-USP land use designations are in place, it is unclear which sites need rezoning and whether the implementing zoning amendments have yet to be adopted. Please be aware, if zoning is not in place by beginning of the planning period (October

15, 2021), the element must include a program to commit to adopting the zoning changes. For programs that are expected to accommodate a shortfall of sites to meet the RHNA for lower-income households (Program 10, 12, and 13), the program must commit to housing element rezone requirements pursuant to Government Code section 65583.2 (h) and (i).

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

The element must include a program(s) to assist in the development of housing affordable to low-, very low- and ELI households. Programs must be revised or added to the element to assist in the development of housing for ELI households. Program actions could include prioritizing some funding for housing developments affordable to ELI households and offering financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, SRO units, to address the identified housing needs for ELI households. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/extremely-low-income-housing-needs.shtml>.

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 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.

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).)*

As noted in Finding B1, the element must include a complete analysis of AFFH. Based on the outcomes of that analysis, the element must add or modify programs.

E. 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.1-4 and p.5-4)), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element, specifically lower-income households. The element could describe the efforts to provide translation services and 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. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

In addition, HCD understands the City made the element available to the public concurrent with its submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.