

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

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



October 3, 2022

Marlene Subhashini, Director  
Community Development Department  
City of Foster City  
610 Foster City Blvd  
Foster City, CA 94404

Dear Marlene Subhashini:

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

Thank you for submitting the City of Foster City's (City) draft housing element received for review on July 5, 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. Our review was facilitated by a telephone conversation on September 20, 2022 with yourself, Thai-Chau Le, and consultants Leslie Carmichael and Arly Cassidy Dolbakian. In addition, HCD considered comments from G.H. Dabado, Housing Leadership Council, and YIMBY Law and Greenbelt Alliance 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 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). 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 rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), (1) (A) and Government Code section 65583.2, subdivision (c) 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>.

HCD appreciates the cooperation the housing element team 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 Anthony Errichetto, of our staff, at [Anthony.Errichetto@hcd.ca.gov](mailto:Anthony.Errichetto@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF FOSTER CITY

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/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/building-blocks> 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).)*

A review of the previous element should address past progress in implementation, evaluate the effectiveness of programs and make adjustments in the current housing element. The element (Appendix E) generally states whether programs should be retained, removed, or modified but must also describe progress in implementation and evaluate effectiveness to inform this statement.

In addition, as part of this analysis, the element must provide an evaluation 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). Programs should be revised as appropriate to reflect the results of this evaluation.

For more information, please see HCD's *Building Blocks*.

### 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).)*

Fair Housing Issues: The element identifies many contributing factors to fair housing issues. However, the element should also address the fair housing issue of aging multifamily housing that is vulnerable to redevelopment and displacement of low and moderate-income residents. Additionally, the element should discuss the high-water table issue and any disproportionate impacts on protected characteristics to better formulate policies and programs.

Enforcement and Outreach: While the element discuss complaints based on state and federal data, it could also identify cases and their characteristics utilizing local data from fair housing service providers. In addition, the element states the City complies with a few housing-related laws such the Housing Accountability Act and No Net Loss Law but it should also discuss how the City complies with state and federal fair housing laws and any past settlements, lawsuits, or other legal actions. Based on a complete analysis, the element should re-assess contributing factors to fair housing issues and policies and programs.

Integration and Segregation: While the element reports on data related to segregation and integration, it must discuss and analyze this data for trends over time and patterns across census tracts as well as comparing the City as a whole to the broader region for race, disability, familial status and income. The analysis should also incorporate local data and knowledge and other relevant factors to better formulate appropriate policies and programs. For example, the element's Racial Isolation Index (pp. B-20 to B-21) indicates there is segregation of Asian residents; however, the analysis should discuss and analyze this data for trends over time and patterns across census tracts within the City. As for another example, the element should analyze where concentrations of above-moderate income residents exist geographically in the City as well as include a regional analysis, comparing the higher-incomes within the City to the surrounding region. An example of local data could be a local accessibility assessment into the evaluation of patterns of higher concentrations of persons with disabilities. Other relevant factors could be historical zoning and land use and potential resulting lack of access to housing choices and affordability.

Disparities in Access to Opportunity: While the element reports some data on disparities in access to opportunity, it largely must analyze that data. For example, the element should describe and analyze whether there is equal access to high performing schools throughout the City as well as include a regional analysis of how surrounding jurisdictions compare with TCAC education scores. The element should also analyze whether there is equal access to jobs for residents of all economic segments, in addition to comparing employment trends in the City to patterns in surrounding areas (e.g., lower economic scores in areas bordering the City). The element should include a map of access to transit within the City, analyze what transit options are available in the City, and whether they are accessible throughout the City. This section should be accompanied by an analysis of such patterns on a regional basis, comparing trends within the City to the region. Lastly, while the element states the City scores well on TCAC's environmental scores (p. B-52), it should include an analysis of what contributes to such positive environmental outcomes and be compared to environmental trends within the greater region.

Disproportionate Housing Needs including Displacement: While the element reports some data on disproportionate needs, it still must analyze that data. For example, the element states (p. B-62) that there are no concentrations of renter cost burden; however, the maps show a variation with part of the City having a rate of 40 to 60 percent of renters with cost burden near a tract with less than 20 percent cost burden. This perceived concentration of cost burden for renters must be analyzed. The element should also describe and analyze where concentrations of cost burden exist geographically for owners as well as what

contributes to this trend. This section should be accompanied by an analysis of such patterns on a regional basis, comparing trends within the City to the region. The element must also include an analysis of where local overcrowding and substandard housing exists geographically as well as an analysis of such patterns on a regional basis. While the element includes a map of local risk of displacement (p. B-69), it only briefly discusses displacement trends. The element should provide analysis and conclusions regarding displacement vulnerability (e.g., half of the City is determined to be vulnerable). The analysis should also discuss displacement risk due to disaster, including seismic activity and flooding. Lastly, this section should be accompanied by an analysis of displacement patterns on a regional basis, comparing trends within the City to the region.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element mentions the City does not have any segregation issues within the City but is somewhat segregated as a whole on a regional level and that the distribution of sites will allow lower-income households access to amenities and services. However, the element should discuss the location (e.g., neighborhoods, census tracts, planning areas) of sites, including the number of units by income group and discuss the impact of identified sites on existing patterns of socio-economic characteristics. The analysis should put special emphasis on any isolation of the regional housing need allocation (RHNA) by income group and distribution of units by income group throughout the community.

Contributing Factors to Fair Housing Issues: The element identifies many contributing factors to fair housing issues, but it must prioritize these factors in Table 2-3 to better formulate policies and programs and carry out meaningful actions to AFFH. Additionally, the element should explain how Table 2-3 and Table 3-1 are related, because while both tie to fair housing issues, contributing factors are different.

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

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

Extremely Low-Income (ELI) Households: The element reports some data on the number of existing and projected ELI households, but it must also include analysis of their housing needs. The analysis should evaluate tenure, overpayment, resources, and strategies available and the gap and magnitude of housing needs to better formulate policies and programs.

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

Overpayment: While the element identifies the total number of households overpaying for housing, it must quantify and analyze the number of lower-income households overpaying for housing by tenure (i.e., renter and owner) and add or modify policies and programs as appropriate.

Housing Conditions: While the element describes housing conditions of ownership units, the element must also include an analysis of rental units in need of rehabilitation and replacement.

Housing Costs: While the element includes estimated rents for residents, it utilizes American Community Survey (ACS) data. The element should supplement census data with other sources (e.g., local knowledge).

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

Progress in Meeting the RHNA: The element indicates (Table 13, D-34) that pipeline and proposed projects have been built or are under construction or approved but provides no information documenting how affordability of the units was determined. The City's RHNA may be reduced by the number of new units built since June 30, 2022; however, the element must demonstrate their affordability based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). The element should also discuss the status, any barriers to development and other relevant factors to demonstrate their affordability in the planning period. For example, the element should clarify whether the Schooner Bay application has been submitted to the City for review. The element should clarify the status of this project and where it is in the permit process and anticipated timeline for completion in the planning period.

Sites Inventory: The element lists parcels based on various factors but must also list the general plan designation and existing uses. In addition, the element must clarify whether the listed capacity is total capacity or includes realistic capacity assumptions. Lastly, the element must clarify whether the sites previously identified in the 5<sup>th</sup> cycle were vacant or nonvacant and add or modify programs as appropriate.

In addition, the element should consider public commenters on this draft as part of the sites inventory, including the expressed interest of property owner to develop residential uses in the planning period.

Realistic Capacity: While the element provides assumptions for buildout on each site, support must be provided for assumptions. For example, the element should demonstrate

what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. Many of the sites are on parcels with existing apartment developments. The element must clarify whether the City assumes the entire site for each identified apartment complex will be redeveloped, or which portions of the site will be redeveloped (e.g., acreage and location) and provide support. Many of the sites assumes 100 percent of base zoned density for the multifamily units in the Beach Cove, Franciscan, Harbor Cove, Sand Cove, Lagoons, Eaves Apartments, and Shadow Cove sites. The analysis must provide substantial support and demonstrate a significant history of developing at maximum density within the City as well as feasibility including land use control requirements such as parking and open space. In addition to clarifying realistic capacity assumptions, the Foster's Landing site must also clarify whether the site will need to be rezoned and whether existing units will need to be demolished to support the additional units. The element must also clarify what the allowed density is on the 1010 Metro Center (OSH) site, whether rezoning is needed, and the basis for the realistic capacity assumptions.

In Table 2 (p. D-7), all project examples are in the CM and PD zones; the element should describe examples of development in residential zones to support assumptions in the sites inventory. In addition, the element must clarify whether it is assumed that projects will have to utilize the PD process and therefore have additional discretionary requirements. In addition, the average density of projects listed in Table 2 is above the allowed density for the R4 zone, the element should clarify whether this includes density bonus units. In addition, Table 11 (page D-32) and Table 12 (page D-33) list the capacity of sites as lower-income, however Table 13 on page D-34 has a different breakdown of affordability for these sites. The unit count and affordability level should be adjusted to clarify the discrepancy.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for additional development on nonvacant sites, including the extent existing uses impede additional development such as market demand for the existing use and existing leases, contracts or other conditions that would perpetuate the existing use or prevent additional residential development. While the element generally discusses the interest of several property owners to be included in the sites inventory, it should also discuss the potential for additional development in the planning period. The discussion should address any barriers to development in the planning period and any expressed interest in residential development in the planning period. In addition, some of the sites do not have expressed interest in residential development (e.g., Franciscan, Lagoons, Eaves) and generally states recent trends support the assumption of their potential for additional development in the planning period. However, the element should discuss the characteristics and circumstances of recent development and similarities to identified sites. For example, the analysis could address the redevelopment of carport areas by relating these plans to other projects developing in a similar manner.

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 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.

Large Sites: Sites larger than ten acres in size are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated that sites of equivalent size and affordability have been developed or other evidence is provided to demonstrate how the sites facilitate the development of housing for lower-income households. The element contains several sites larger than ten acres and as a result, the element should either demonstrate their suitability to facilitate development affordable to lower-income households or remove the sites. For example, the element could discuss the application of the City's inclusionary requirements or other incentives to promote the assumed affordability and number of units.

Availability of Infrastructure: The element describes infrastructure constraints in the City (p. C-8). However, it must also demonstrate sufficient total water capacity (existing and planned) to accommodate the RHNA. In addition, the element must analyze availability and constraints of dry utilities to accommodate the regional housing need, including potential impacts on identified sites, and add programs to address constraints, if needed. Lastly, while the element states that there are some utility constraints, the element must describe whether they affect any identified sites and add programs as appropriate.

Environmental Constraints: The element should include an analysis of the effectiveness of mitigation measures to address potential environmental constraints (e.g., seismic activity, high water tables). The element must describe how environmental conditions relate to identified sites including any other known conditions within the City that could impact housing development in the planning period.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* The element must demonstrate the PF, C-1, and C-2 zones still has sufficient capacity to accommodate the identified housing need for emergency shelters. (Gov. Code, § 65583, subd. (a)(4).) For example, identifying the number of parcels, typical parcels sizes, whether the sites are nonvacant, the potential capacity for adaptive reuse, and analyze their access to opportunities and services. In addition, the element must 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 particular, the element describes a maximum of 10 beds, a maximum stay of 60 days, and parking requirements that do not appear to comply with statutory requirements pursuant to Government Code section 65583, subdivision (a)(4)(A).



- *Transitional and Supportive Housing*: Transitional and supportive housing must be allowed in zones that allow for residential uses (e.g., downtown commercial, community commercial, etc.). The element should reconcile this information and specifically clarify whether the City permits these types of housing as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone pursuant to Government Code section 65583 (a)(5).
- *By-right Permanent Supportive Housing*: 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.
- *Single Room Occupancy (SRO)*: The element must describe where SROs are allowed or add a program as appropriate.
- *Accessory Dwelling Units (ADUs)*: The element indicates the City modifies its zoning code to ease barriers to the development of ADU's. However, after a cursory review of the City's ordinance, HCD discovered several areas which are not consistent with State ADU Law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance in order to comply with state law. For more information, please consult HCD's ADU Guidebook, published in December 2020, which provides detailed information on new state requirements surrounding ADU development.

5. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

Land Use Controls: While the element lists various development standards (p. C-4), it should also evaluate those standards for impacts on housing costs, feasibility, and ability to achieve maximum densities. This analysis should specifically address minimum lot and unit sizes and open space requirements, particularly in multifamily zones.

Fees and Exaction: The element provides a cumulative analysis of fees on various housing types but, to better evaluate the impacts on housing development costs, it should also list the various impact fees (e.g., transportation fees, library fees, park fees, affordable housing fees, capital improvement fees, utility). The element should also separately list and evaluate planning fees (e.g., variance, conditional use permits (CUPs), planned developments, site plans, specific plans, subdivisions, and environmental fees).

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all fees, zoning, and development standards for

each parcel on the jurisdiction's website pursuant to Government Code section 65940.1(a)(1).

Local Processing and Permit Procedures: While the element includes information about processing times, it should also describe the procedures for a typical single family and multifamily development. The analysis should address the approval body, the number of public hearing if any, approval findings and any other relevant information. The analysis should address impacts on housing cost, supply, timing, and approval certainty. The element should describe the findings and procedures for CUPs in the City, as well as the site review process and explain whether they follow the same processes and timelines for single family and multifamily developments.

In addition, the element should clearly describe whether the Planned Development process, including subsequent use permit, is required or optional to applicants. If required, the element should include specific analysis of the impacts of absence of fixed development standards on housing supply (number of units), cost, timing, feasibility and approval certainty.

Design Review: The element must describe and analyze the design review guidelines and process, 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.

Inclusionary Requirements: While the element describes mandated affordability levels, it should also analyze the inclusionary requirements for impacts on housing costs. The analysis should address any discretionary processes, interaction with State Density Bonus Law and alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units. The City could engage the development community to facilitate this analysis.

State Density Bonus Law: The City's current density bonus ordinance should be reviewed for compliance with current state density bonus law and programs should be added as necessary.

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 which building code (e.g., 2019) is enforced, any local amendments to the code, the City's building and zoning code enforcement processes and procedures, and analyze their impact as potential constraints on housing supply and affordability

Constraints on Housing for Persons with Disabilities: The element excludes group homes for seven or more persons from some residential zones and subjects the use to a CUP, unlike other similar uses. The element should specifically analyze these constraints for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate. Lastly, the element must describe the process and decision-making criteria such as approval findings for the City's reasonable accommodation procedure and analyze any potential constraints on housing for persons with disabilities.

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).)*

Persons with Disabilities: While the element provides the percent of persons with disabilities within the City and their type of disability, the element must include an analysis of the special housing needs for this population. The analysis should discuss challenges faced by persons with disabilities, the existing strategies, and resources to meet those needs, an assessment of any gaps in resources and magnitude of needs, and proposed policies, programs, and funding to help address those needs.

7. *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).)*

While HCD data shows the Metro Center Senior Homes affordability as expiring in 2026, the element lists these units as expiring in 2050. The element should clarify how affordability was determined, what it is based on and if necessary, revise the analysis of units at-risk of conversion to market rate uses.

### **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... (Gov. Code, § 65583, subd. (c).)*

To have a beneficial impact and achieve the goals and objectives of the housing element, program must have specific commitment and discrete timing (e.g., at least annually, by a specific date). Examples of programs that should be revised include:

- *Program H-B-1-a (Continue Code Enforcement):* The program could clarify whether this program is linked to Program H-B-2-a and whether there are specific programs

or outreach for rehabilitation assistance. The program should also include a metric or targeted numerical outcome.

- *Programs H-B-2 (Encourage Rehabilitation)*: The programs should include proactive outreach and discrete timing (e.g., at least annually).
- *Programs H-C-4-a (Rental Housing Assistance Information), H-E-3-c (Cooperative Ventures)*: The programs should be revised to include proactive outreach, discrete timing and a metric.
- *Program H-C-3-b (Anti-Displacement Strategy)*: The program should include discrete timing upon establishing the strategy.
- *Program H-D-2-a (Potential Re-Use of Commercial Sites)*: While the program provides meaningful criteria for evaluating future sites, it could also commit to amending zoning with a discrete timeline.
- *Programs H-D-5-a (School Sites) and H-D-5-b (Religious and Nonprofit-Owned Sites)*: The program should consider actions beyond meeting to have a beneficial impact in the planning period, including establishing appropriate zoning, anticipated outcomes, and discrete timelines.
- *Program H-D-6-a (Minimize Governmental Constraints)*: The program should consider actions beyond reporting recommendations and more frequent review of potential governmental constraints.
- *Program H-D-6-g (Farmworker Housing and Employee Housing Act)*: The program should specifically commit to amend zoning consistent with the Employee Housing Action (i.e., Health and Safety Code sections 17021.5, 17021.6 and 17021.8).
- *Program H-E-3-a (Density Bonuses for Affordable Housing Projects)*: Based upon a complete analysis, the program should commit to amend the ordinance by a specified date.
- *Program H-E-5-a (New Agreements for Affordability of Existing Rental Units)*: The program should specify how often the City will pursue funding and include a metric.
- *Program H-F-1-a (Facilities and Services for Special Needs)*: The program must include proactive outreach, discrete timing, and actions for persons with developmental disabilities.
- *Program H-F-1-f (Support Services for Special Needs Population)*: The program should include commitment to implement following the roundtable, as well as how often meetings and implementation will occur.
- *Program H-F-1-h (Age Friendly Initiative)*: The program should include commitment to implement the plan.
- *Program H-F-2-d (Emergency Shelter Zoning)*: Based on a complete analysis, the program must include specific commitment to address parking and other identified constraints by a specified date.
- *Program H-F-3-a (Transitional and Supportive Housing Zoning)*: Based on a complete analysis of requirements, the program should include commitment to address identified constraints by a specified date.
- *Program H-G-2-a (Anti-Discrimination Regulations)*: The program must include commitment to how often the City will conduct outreach after 2023.

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).)*

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-D-1-b (General Plan and Zoning Amendments):* The program commits to amend the general plan and zoning to accommodate the RHNA upon adoption of the housing element. Please be aware, if rezoning, specifically for the lower-income RHNA, is not completed by January 31, 2023, the element must include a program(s) to rezone sites with appropriate zoning and development standards pursuant to Government Code sections 65583, subdivision (c)(1), and 65583.2, subdivisions (h) and (i).
  - *Program H-D-4-h (ADU Monitoring):* The program should monitor production in addition to affordability, including for ADUs anticipated in multifamily development. Further, monitoring affordability should be consistent with assumptions in the inventory (58 percent) and alternative actions should be taken more than once in the planning period and should specifically commit to rezoning if necessary.
3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

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:

- *Parking:* While the element includes Program H-D-6-c (Parking Requirements), the program should include a specific commitment to revise parking standards to mitigate constraints on housing development.
- *Program H-D-6-b (Minimize Zoning Constraints):* The program must include specific commitment to amend all listed and necessary zoning amendments and should manufactured homes are allowed as a single-family use in all zones allowing single family uses.

- *Program H-F-1-d (Reasonable Accommodation)*: Based on a complete analysis of constraints in reasonable accommodations, the program must include a commitment to mitigate constraints and revise timing if needed.
  - *Program H-F-1-i (Community Care Facilities)*: Based on the outcomes of a complete analysis, the program should commit to allow community care facilities in all residential zones and revise procedures with an objective process and facilitate approval certainty.
4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis.

5. *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).)*

While the element includes Program H-C-2-b (Continue to Monitor Expiration of Affordability Covenants), it should incorporate proactive outreach to owners and State Preservation Notice Law requirements (Government Code Sections 65863.10, 65863.11, and 65863.13).

#### **D. Quantified Objectives**

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

The element must include quantified objectives to establish an estimate of housing units by income category that can be constructed, rehabilitated, and conserved over the planning period. While the element includes these objectives, it should specifically list objectives for extremely low-income households and conservation objectives should not be limited to at-risk preservation.

## **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)(9).)*

While the element includes a general summary of the public participation process, it should also include a summary of how public comments were considered and incorporated into the element. Further, the element should describe additional methods for public outreach efforts in the future, particularly to include lower-income and special needs households and neighborhoods with higher concentrations of lower-income households. The element must describe whether translation services were available for various outreach methods.

## **F. Consistency with General Plan**

*The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)*

While the element discusses how internal consistency will be achieved with other elements of the general plan as part of the housing element update, it should also discuss how internal consistency will be maintained throughout the planning period.