

**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)



December 31, 2021

Alex Hamilton, Interim Director  
Community Development Department  
City of San Marino  
2200 Huntington Drive  
San Marino, CA 91108

Dear Alex Hamilton:

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

Thank you for submitting the City of San Marino's (City) draft housing element received for review on November 1, 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 December 30, 2022 with you and Bret K. McNulty, the City's consultant. In addition, HCD considered comments from several private citizens 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 revisions needed to comply with State Housing Element Law.

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

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation (RHNA), including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

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

HCD is 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 Molivann Phlong, of our staff, at [molivann.phlong@hcd.ca.gov](mailto:molivann.phlong@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long, sweeping horizontal line extending to the right.

Melinda Coy  
Senior Housing Accountability Manager

Enclosure

## APPENDIX CITY OF SAN MARINO

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).)*

A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. Table 4 must be revised to describe the actual results of the prior element's programs (quantified where possible), compare those results to the objectives projected or planned, and based on an evaluation of any differences between what was planned versus achieved, provide a description of how the objectives and programs of the updated element incorporate changes resulting from the evaluation. This information and analysis provide the basis for developing a more effective housing program.

In addition, 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))*

Regional Analysis and Analysis of Trends and Patterns: The element generally describes local data but must also analyze San Marino relative to the rest of the region regarding enforcement and outreach, integration, and segregation, racially and ethnically concentrated areas of poverty (R/ECAP) and areas of affluence, disparities in access to opportunity, and disproportionate housing needs and displacement risks.

In addition, wherever possible, the analysis and summary should include a discussion at a geographic level appropriate to better determine any locational trends—simply reporting information at a city-wide level will not fully display patterns and impacts on protected characteristics. Examples of appropriate geographic levels include census tracts, block groups, neighborhoods, housing development, or any other sub-section of a locality.

Fair Housing Enforcement and Outreach: The element provides (page 90) some information on Fair Housing enforcement and public outreach. However, the element must include the City's ability to provide enforcement and outreach capacity which can consist of actions such as the City's ability to investigate complaints, obtain remedies, or the City's ability to engage in fair housing testing. The element must address compliance with existing fair housing laws and regulations; findings, lawsuits, enforcement actions, settlements, or judgments related to fair housing or civil rights; and summarize fair housing issues related to enforcement and outreach capacity and the relationship to other fair housing issues (e.g., segregation and integration, racially and ethnically concentrated areas of poverty, etc.).

Integration and Segregation: The element includes some local data and analysis on integration and segregation (page 91); however, the element must analyze segregation and integration of familial status. The element must also analyze segregation and integration of race, familial status, disability, and income locally and regionally for patterns over time, complemented by data, and concluding with a summary of issues. To strengthen the analysis for race, the element could include updated dissimilarity index data.

Racial/Ethnic Concentrated Areas of Poverty (R/ECAP) and Affluence (RCAA): The element notes there are no R/ECAPs in the City and states that there are no RCAAs given the equal distribution of wealth within City limits (page 106). However, the element should analyze some of the census tracts that have significantly higher rates of white population and income as RCAA and compare both this analysis, and R/ECAPs to the neighboring region.

Disparities in Access to Opportunity: The element provides (page 97) some information on the access to opportunity. A complete analysis should include the locally and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data. Please refer to page 35 of the Affirmatively Furthering Fair Housing (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 San Marino.

Disproportionate Housing Needs and Displacement: The element does include (page 104) some data on disproportionate housing needs and displacement. However, the element must also analyze the data including looking at trends, patterns, and other local knowledge, and conclude with a summary of issues.

Identification and Prioritization Contributing Factors: The element must list and prioritize contributing factors to fair housing issues. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. Examples include community opposition to affordable housing, housing discrimination, land use and zoning laws, lack of regional cooperation, location and type or lack of affordable housing and lack of public or private investment in areas of opportunity or affordable housing choices. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Site Inventory: The element must include an analysis demonstrating whether sites identified to meet the RHNA are distributed throughout the community in a manner that affirmatively furthers fair housing. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). The element should also discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g., anti-displacement strategies).

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies a program to provide fair housing services through the Fair Housing Foundation; however, this program does not appear to facilitate any meaningful change nor address AFFH requirements. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. The element may need to include additional programs and actions to integrate the AFFH analysis into policies and programs.

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).)*

Units in Need Rehabilitation or Replacement: The element identifies (page 106) substandard housing. 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.

Overpayment – Income Category and Tenure: While the element identifies (page 10) the total number of overpaying households, it must quantify and analyze the number of overpaying households by tenure (i.e., renter and owner) and the lower-income households paying more than 30 percent of their income on housing.

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 397 housing units, of which 240 are for lower-income households. To address this need, the element relies on permitting residential uses in commercial zones, accessory dwelling units and junior accessory dwelling units, rezoning, utilizing a housing overlay, and including missing middle housing. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses.

Sites Inventory: The sites inventory lists several sites with multiple APNs. These parcels should be listed separately. Tables 6 and 11 must describe existing uses for any nonvacant sites and include a calculation of the realistic capacity of each site by income category. The element must also include a general map of identified sites.

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

Realistic Capacity: While the element provides (page 40) assumptions of buildout for sites included in the inventory, it must also provide support for these 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 City, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element also needs to analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use) or in areas that will be subject to an overlay, pursuant to the underlying zoning. This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development.

Small Sites: The sites inventory identifies small sites to accommodate the City's lower-income RHNA. 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 and affordability. For sites expected to be aggregated, the element must describe

circumstances leading to consolidation, such as common ownership, the City's role or track record in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, specific examples of projects that were built for lower-income households on similarly sized sites, densities and affordability and relate those examples back to the sites inventory. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small sites.

Suitability of Nonvacant Sites: While the element identifies (page 42) nonvacant sites to accommodate the regional housing need for lower-income households, it provides no description of how the potential for redevelopment. The element must describe the methodology used to determine the additional development potential within the planning period. For example, the element includes portions of sites such as the Huntington Library and the Southwestern Academy, and sites with religious institutions, but no analysis was provided to demonstrate whether these existing uses would impede development of these sites within the planning period or how development is expected to occur on these sites. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment. The element could also discuss conversations with property owners and institutions to demonstrate interest in residential development.

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)). For additional information and sample analysis, see the *Building Blocks* at: <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#analysis>.

Missing Middle Projections: The element is projecting 75 units that will be developed based on the development of a missing middle ordinance to accommodate a portion of its above moderate income RHNA. To utilize projections, the element must 1) include a site-specific inventory of sites where the ordinance is being applied to 2) include a nonvacant sites analysis demonstrating the likelihood of redevelopment and that the existing use will not constitute as an impediment for additional residential use and 3) include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and



facilitate development. The element should support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through the ordinance.

Accessory Dwelling Units (ADU): The element assumes (page 44) an ADU build out of 241 ADU and/or junior accessory dwelling unit (JADU) in the planning cycle. Given that the City has only produced an average of 9 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 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:

*Accessory Dwelling Units:* After a cursory review of the City's ADU ordinance, HCD discovered several areas which were not consistent with State ADU Law. This includes, but is not limited to, additional permits for ADU approval, and bedroom limitations. In addition, ADUs need to be allowed in any zones that allow residential use. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should include in Program 1.3 to update the City's ADU and zoning ordinances 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 ADU requirements

*Emergency Shelters:* The housing element must demonstrate the permit processing, development, and management standards for emergency shelters are consistent with Government Code section 65583 (a)(4)(A). While housing element law does allow a jurisdiction to limit the number of beds or persons permitted to be served nightly by a facility, standards must be designed to encourage and facilitate the development of, or conversion to, an emergency shelter. The element must analyze the ten-bed limit as a potential constraint for the development of emergency shelters and ensure that parking standards only reflect the need for sufficient parking to accommodate all staff working in the emergency shelter. In addition, the element must demonstrate the commercial zone has sufficient capacity to accommodate the housing need for at least one emergency shelters.

*Low Barrier Navigation Centers:* Low Barrier Navigation Centers 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 65660. The element must demonstrate compliance with this requirement and include programs as appropriate.

*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 this requirement and include 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 and Development Standards: Currently, development standards do not support the development of multifamily housing. While HCD recognizes that zoning has not yet been created to implement new overlays to accommodate multifamily housing, the element should generally describe and commit to expectations for development standards in these zones. For example, the element should describe if 100 percent residential projects be allowed in the C-1 zone or if a commercial component be required for new multifamily development. In addition, the element should commit to ensuring that development standards including height, lot coverage, and parking facilitate the development of multifamily housing at the allowable densities assumed in the inventory.

Design Review: The element must describe and analyze the design review guidelines, including approval procedures and decision-making criteria, for their impact as potential constraints on housing supply and affordability. For example, the analysis should analyze the requirement to present plans to the neighbors and whether this requirement will remain for multifamily housing in areas covered by the various overlays. 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 ordinances or short-term rental ordinances 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.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting updated development fees and all zoning and development standards for each parcel on the City's website pursuant to Government Code section 65940.1(a)(1).

SB 35 Streamlined Ministerial Approval Process: The element must include a program to adhere to the SB 35 Ministerial Approval Process for development projects that meet specific requirements.

Constraints on Housing for Persons with Disabilities: The element briefly describes its reasonable accommodation procedures. However, the element should also describe the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities. The element currently details that licensed residential care facilities serving six or fewer persons are permitted in the R-1 zone. However, it does not discuss how residential care facilities serving seven or more persons are permitted. If non-licensed group homes are only allowed with a conditional use permit, the element should analyze the process 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. Finally, the element includes in its definition of family "This shall not include an individual paying rent to a landlord for the purpose of temporarily residing in a dwelling unit." The element must clarify what is meant by this phrase and analyze its inclusion for potential constraints on persons with disabilities.

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 analysis of requests to develop housing at densities below those anticipated, and 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).)*

General: While the element includes data and a general discussion of housing challenges faced by special needs households, it still must provide an analysis of the existing needs and resources for each special need group including seniors, female-headed households, large householders, and extremely low-income (ELI) households. For example, the element should discuss the existing resources to meet housing needs (availability of shelter beds, number of large units, number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

Extremely Low-Income Households (ELI): While the element quantifies existing and projected ELI households, it must also analyze their housing needs. The analysis of ELI housing needs could consider tenure and rates of overcrowding and overpayment and consider existing housing resources.

Persons with Developmental Disabilities: The element provides (page 10) information on Special Needs Populations. However, the element must quantify the number of persons with developmental disabilities and analyze the special housing needs of persons with developmental disabilities. The term developmental disability refers to a severe and chronic disability attributable to a mental or physical impairment, such as cerebral palsy, epilepsy, or autism, that begins before individuals reach adulthood. (Welfare and Institutions Code, § 4512.) The analysis could include the following:

- a quantification of the total number of persons with developmental disabilities;
- a description of the types of developmental disabilities;
- a description of the housing need, including a description of the potential housing problems; and
- a discussion of resources, policies and programs including existing housing and services, for persons with developmental disabilities.

## **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.

All programs must be revised to demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Programs containing unclear language (e.g., “Evaluate”; “Consider”; “Encourage”; etc.) must be amended to include more specific and measurable actions. Deliverables should occur early in the planning period to ensure actual housing outcomes. The element must provide quantified objectives where appropriate and discrete timing for all programs (e.g., month and year) to account for how often the action will occur as well as to ensure a beneficial impact throughout the planning period.

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:

Shortfall of Adequate Sites: Currently the element identifies a shortfall of adequate sites to accommodate the RHNA within the planning period. In order to provide sufficient sites to accommodate the RHNA, Program 1.6, 1.7, 1.11, 1.12, commit to, among other things, creating several new overlays and modification of the zoning code. However, in order to accommodate the lower-income need, programs must specifically commit to acreage, allowable densities and anticipated units. In addition, the program should specifically commit to rezoning pursuant to Government Code section 65583.2, subdivisions (h) and (i).

The program 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 conditional use permit, 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.

Program 1.15: While this program commits to the City following the Surplus Lands Act for sites such as the City-owned Stoneman property, it does not commit to the other action items outlined on page 50 including instigating the lot split, rezoning, the release of the request for proposals, and other actions necessary to facilitate development of this site within the planning period.

Programs to Facilitate Redevelopment of Nonvacant Sites: The element must include a program with specific actions and timelines to assist in the development of housing identified in the sites inventory. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to lower and moderate-income households; assisting, supporting or pursuing funding applications; and working with housing developers coordinate and implement a strategy for developing housing affordable to lower- and moderate-income households.

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) with specific actions and timelines to assist in the development of housing for lower-income households, including ELI and special needs households. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to ELI and special needs households; proactive outreach and assistance to non-profit service providers and developers; prioritizing some funding for housing developments with ELI and special needs households; assisting, supporting or pursuing funding applications; and annual outreach with housing developers to coordinate and pursue housing opportunities.

4. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings 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).) Program to Affirmatively Further Fair Housing:*

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. In addition, While the element includes Program 3.2 which describes how the City responds to fair housing complaints, it must also include actions that promote and AFFH opportunities and address priority issues identified in the AFFH section of the element. For example, the element could include a program committing to implement Government Code section 8899.50(b) which requires the City to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to AFFH.

#### **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 by income group for construction, the element must also describe any conservation or preservation objectives and describe rehabilitation by income category. Strong program objectives and commitments are especially critical for rehabilitation as survey results outlined on page 161 demonstrate that 65 percent of respondents are concerned that older homes will be deteriorating and in need of repair in the next ten years.