

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

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December 3, 2021

Luke Watson, Deputy City Manager
Community Development Department
City of Temecula
41000 Main Street
Temecula, CA 92590

Dear Luke Watson:

RE: City of Temecula 6th Cycle (2021-2029) Draft Housing Element

Thank you for submitting the City of Temecula (City) draft housing element received for review on October 5, 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 November 19, 2021 with Senior Management Analyst, Mr. Brandon Rabidou and Planning consultant Amanda Tropiano.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

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

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

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.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf and http://opr.ca.gov/docs/Final_6.26.15.pdf.

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 diligent work Amanda Tropiano and Brandon Rabidou during our review. We are committed to assisting the City of Temecula in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Tristan Lanza, of our staff, at tristan.lanza@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF TEMECULA

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

A. Review and Revision

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

As part of the review of programs in the past cycle, 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).

B. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

The element includes the Assessment of Fair Housing (AFH) that was prepared in 2017 and is only pertinent until 2022. The analysis must be for the entire planning period and additional information is necessary to address the requisite affirmatively furthering fair housing (AFFH) analysis requirement, including local contributing factors to the fair housing issues and develop strong programs and strategies to address the identified fair housing issues as follows:

Enforcement and Outreach: The element describes past outreach efforts and fair housing services from the City's Analysis of Impediments (AI) completed in 2017. While the element lists the partnership with the Fair Housing Council of Riverside County, it must also include recent information on fair housing enforcement as well as local knowledge. Enforcement should include data and evaluation (e.g., characteristics of complaints) of any past or current fair housing lawsuits, findings, settlements, judgements, and complaints as well as confirm that the City complies with fair housing law. The analysis could also evaluate data and the results from any fair housing

testing. In addition, the analysis should also include ongoing outreach throughout the planning period.

Integration and Segregation: While the element utilized data from the City's 2017 AI, the element must be updated to include recent data. The regional analysis of race should include an analysis of concentrations of race in comparison to the surrounding area, not just as a percentage of the overall population. In addition, the element must analyze whether families or non-family households are concentrated in certain areas or spread throughout the City and also include a regional level analysis (comparing the City to the region). The element must provide a local and regional analysis for race, disability, familial status, and income.

Racial/Ethnic Areas of Concentration of Poverty (R/ECAP): The element includes information relative to R/ECAP but the analysis must also provide a regional comparison. In addition, the City should also address concentrated areas of affluence. The combination of the R/ECAP and areas of affluence analyses will help guide goals and actions to address fair housing issues. The analysis should evaluate the patterns and changes over time at a local and regional level. Furthermore, the element does list one area of high poverty and segregation therefore the City should analyze this concentration and consider relevant factors such as past policies, practices, and investments as well as whether or not there is a concentration of subsidized housing units in that area.

Access to Opportunity: While the element contains some general information on access to opportunity from its 2017 AI, it must be updated with more recent data and must include a local and regional analysis in relation to education, economy, transportation and environmental factors. The analysis should include maps and descriptions as appropriate. The element must also include a regional analysis regarding overall access comparing the City to the surrounding region.

Disproportionate Housing Needs: While the element analyzes displacement, it must also include an analysis of all factors related to disproportionate housing needs to include the following:

- **Cost Burden:** The element has some information on cost burden; however the element must be revised to expand on the local analysis by including overall cost burden and include a regional analysis.
- **Risk of Displacement:** While the element stated that there was no displacement risk due to investment, it is unclear what data was utilized to reach this conclusion. The element should include an analysis to support the conclusion. In addition, the element must analyze the risk of displacement due to disaster (i.e. fire, flood earthquake).
- **Overcrowding, substandard housing and homelessness:** The element must be revised to include a local and regional analysis of overcrowding, substandard housing and homelessness including looking at trends, patterns, and other local knowledge, and conclude with a summary of issues.

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

Contributing Factors: While the element contains information on contributing factors, it must also identify, evaluate, and prioritize the contributing factors to fair housing. Furthermore, the analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

Goals, Priorities, Metrics, and Milestones: The element must be revised to add or modify 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, 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. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>.

2. *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 4,193 housing units, of which 2,160 are for lower-income households. To address this need, the element relies on vacant sites, including sites in Specific Plan Areas and within the Affordable Housing Overlay area. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Progress in Meeting the RHNA: The element indicates (p. HBR 52, Table 32) that 159 units are either approved or are in the process of being approved of which 132 are affordable to lower-income households. The element must include additional information on the status of these units including any remaining entitlement that are needed prior to approval, and for projects approved, but not yet built, the jurisdiction must demonstrate the units are expected to be built in the planning period. The

element must also include an analysis to demonstrate the affordability of these units based on actual or projected sales prices, rent levels, or other mechanisms establishing affordability in the planning period.

Sites Inventory: The element must clarify whether all sites in Appendix A are vacant and if the unit count includes realistic capacity assumptions. In addition, the unit count listed in the sites inventory should be the number of units without a decimal, currently there are sites listed that do not equal one unit per site. The sites inventory should include the allowed densities for all sites listed in the inventory. The element must also include a general map of identified sites.

Realistic Capacity: While the element mentions an assumption of 85 percent of maximum allowable densities to calculate residential capacity on identified sites (p. HBR 125), it must also provide support for these assumptions. The capacity methodology must estimate of the number of units for each site based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities. The element must also provide support for the assumptions within the three specific plans (Old Town, Harveston and Uptown) including accounting for the likelihood of development of 100 percent nonresidential uses. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculation, policies and program accordingly. The element should include analysis based on factors such as development trends, performance standards or other relevant factors.

Zoning Appropriate for Lower-Income: The element should clarify if the Affordable Housing Overlay which allows up to 30 units per acre applies to these sites. If not, the element must include an analysis evaluating the appropriateness of zoning to accommodate housing affordable to lower-income households. The analysis should be based on factors such as market demand, development experience within zones, and specifically address the impacts of density on financial feasibility. For communities with densities that meet specific standards (at least 30 units per acre for Temecula), this analysis is not required.

Large Sites: Sites larger than ten acres in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower-income housing units as projected for the site or unless the housing element describes other evidence to HCD that the site is adequate to accommodate lower-income housing. (Gov. Code, § 65583.2, subd. (c)(2)(A).) For example, a site with a proposed and approved housing development that contains units affordable to lower-income households would be an appropriate site to accommodate housing for lower-income households. (Gov. Code, § 65583.2, subd. (c)(2)(C).) In addition, p. HBR 128 states that two of the large sites are City-owned. The element must identify which sites are owned by the City and include the potential schedule for development. The element must also include a description of whether

there are any plans to sell the property during the planning period and how the jurisdiction will comply with the Surplus Land Act Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

Availability of Infrastructure: While the element describes water and sewer infrastructure capacity (pg. HBR 106), it must also demonstrate sufficient existing or planned dry utilities, including the availability and access to distribution facilities to accommodate the City's RHNA. The element must also clarify that there is sufficient current or planned water and sewer capacity to meet the RHNA in all specific plans.

Environmental Constraints: While the element generally describes environmental conditions within the City (pg. HBR 111), it must relate those conditions to identified sites within the inventory and describe any other known environmental or other constraints that could impact housing development on identified sites in the planning period.

Accessory Dwelling Units: The element assumes an ADU build out of 18 ADU and/or junior accessory dwelling unit (JADU) per year based upon the City's 2020 production. Given that the City has only produced an average of 6 units per year since 2018, it is not clear if this production level will be achievable in the planning period. As a result, the element should be updated to include a realistic estimate of the potential for ADUs and include policies and programs that incentivize the production of ADUs. Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within six months). Finally, if necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Zoning for a Variety of Housing Types:

- *Emergency Shelters:* While the element states emergency shelters are allowed by right in the Medium and High-Density Residential districts, the element must describe the development standards and requirements. In addition, the element must also demonstrate the zones have sufficient capacity to accommodate the identified housing need and analyze the access to services for zones that allow emergency shelters without conditions. In addition, the element must ensure the parking requirements meet AB 139.
- *Transitional Housing and Supportive Housing:* The element describes the definition of transitional and supportive housing (p. HBR 95) but does not state whether the City complies. Transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).) The element must describe and analyze

the City's transitional and supportive housing standards and codes and demonstrate consistency with Government Code section 65583, subdivision (a)(5) or add or revise programs which comply with the statutory requirements.

- *Manufactured Housing*: The element identifies manufactured homes as suitable housing in all of its residential zoning districts. However, the housing element must demonstrate the jurisdiction's zoning code allows and permits manufactured housing in the same manner and in the same zone as a conventional or stick-built structures are permitted pursuant to Government Code Section 65852.3.
- *Agricultural Housing*: The element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone.
- *Single Room Occupancy (SRO)*: The element must clarify zoning that allows SRO units or add a program as appropriate.
- *ADUs*: The element must also clarify that ADUs are allowed in all zones that allow residential uses.

3. *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. The analysis should analyze land use controls independently and cumulatively with other land use controls including whether development standards impede the ability to achieve maximum allowable densities. Page HBR 75 lists target densities that are lower than the maximum density and states "The target density establishes a ceiling within the range which cannot be exceeded without Planning Commission/City Council approval." The element must clarify whether densities assumed in the sites inventory can be met without City Council approval and analyze whether this is a constraint and add a program as appropriate. In addition, Table 48 (HBR 80) lists zones that do not include minimum/maximum densities or Floor Area Ratios for the zones listed. The element

must clarify whether residential development is allowed in these zones. In mixed-use overlay, the element must also clarify if residential development is allowed without a commercial component.

Parking: The element must analyze the parking requirements (p. HBR 81) of two spaces for all residential dwelling units for properties with 12 or fewer units for its impact as a potential constraint on housing. Should the analysis determine the parking standards are a constraint on residential development, it must include a program to address or remove any identified constraints.

Fees and Exactions: The element must describe all required fees for single family and multifamily housing development, including environmental and impact fees, and analyze their impact as potential constraints on housing supply and affordability. In addition, the element must clarify if all fees listed in Table 54 (HBR 99) are the same for single family and multifamily developments. For example, the analysis could identify the total amount of fees and their proportion to the development costs for both single family and multifamily housing.

Density Bonus: The City's current density bonus ordinance should be reviewed for compliance with current state density bonus law. (Gov. Code, § 65915.) and programs should be added 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.

Processing and Permit Procedures: While the element (p. HBR 104) includes some 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 the element should describe how the standards of decision-making impact development certainty. Furthermore, the analysis should address impacts on housing cost, supply, timing and approval certainty. For example, the element (Table 57) should identify timeframes for conditional use permits, zoning changes, general plan amendments, site plan review, architectural/design review, parcel and tract maps, environmental impact reports and analyze approval findings for impacts on approval certainty, the presence of processes or guidelines to promote certainty and add or modify programs as appropriate. In addition, the element must analyze the difference in length of time to approve a single-family unit (four to six weeks) versus a multifamily unit (a minimum of a year) as a constraint on development. The element must also describe whether multifamily projects are required to have a discretionary hearing by City Council due to the size of the project (greater than 10,000 square feet) (p. HBR 104). Lastly, the element must address whether projects that are 100 percent affordable will be approved in the affordable housing overlay or whether they must be mixed-income projects (HBR 120).

Specific Plan: The element must describe any process requirements to develop in the specific plan as well as the process to subdivide lots into developable parcels.

Codes and Enforcement: The element must describe if there are any local amendments to the building code and their enforcement for impacts on housing supply and affordability.

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

Constraints on Housing for Persons with Disabilities:

- *Group Homes:* The element must analyze and revise requirements for both group homes for six or fewer residents as well as group homes for seven or more residents. Group homes for six or fewer residents must be allowed by-right in all residential zones. While the element conditionally permits the use for residential care facilities serving seven or more persons in residential and commercial zones, the element must include the City's process for objectively approving the conditional use permit and the description of the compatibility findings. The element must include the decisions making criteria as an objective procedure. The element also states it requires the State Fire Marshal's approval for group homes of seven or more residents. The element must be revised to 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.
 - *Reasonable Accommodation Procedure:* While the element (p. HBR103) indicates the City does have a reasonable accommodation procedure, it must list the specific findings and requirements for requesting and granting a reasonable accommodation separate from the conditional use permit procedures. The procedure should not be limited to the installation of accessibility improvements and must provide reasonable accommodations to zoning and land-use requirements for housing for persons with disabilities.
4. *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 contain an analysis of potential nongovernmental constraints including the following:

- Land Costs: Estimate the average cost per acre for single-family and multifamily zoned developable parcels.
- Availability of Financing: The element must include an analysis of whether housing financing, including private financing and government assistance programs, is generally available in the community.

Developed Densities and Permit Times: 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.

5. *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).)*

Farmworker Housing: The element indicates that there are only 228 farmworkers employed farming occupations in the City. However, farmworkers from the broader area and those employed seasonally may have housing needs, including within the City's boundaries. As a result, the element should at least acknowledge the housing needs of permanent and seasonal farmworkers at a county-level (e.g., using USDA county-level farmworker data) and include programs as appropriate.

6. *Analyze existing assisted housing developments that are eligible to change to nonlow-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 the element identifies 180 units for being at risk, the element lists four properties that are at-risk of expiring within the next 10 years for a total of 256 units. In addition, the element should describe any outreach to owners and interest in preserving the units identified. The element must identify local public agencies, public or private nonprofit corporations, and for-profit organizations with the legal and managerial capacity to acquire and manage at-risk projects pursuant to Government Code Section 65583, subdivision (a)(8)(C)). In addition, the element must list potential federal, state, and local funding sources that can be used to preserve the units.

While the element analyzes the cost of replacement for units designated high risk, the element must analyze replacement costs for all units with expiring restrictions in the next ten years. Furthermore, the analysis should contain the following:

- Estimate the costs of producing new rental housing (comparable in size and rent levels to existing at-risk units) to replace units converting from affordable to market rate. The analysis should consider current land costs and either current construction costs (square footage rates for multifamily development) or the actual cost of recently completed units.
- Estimate the cost of preserving the identified assisted housing developments including acquisition and rehabilitation costs long-term affordability controls and project-based rent subsidies.

A project-by-project replacement/preservation cost estimate is not required (Government Code Section 65583(a)(8)(B)). The element can make an assessment of the appropriate strategy (replace vs. preserve) based on sample cost estimates.

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 Gov. Code section 65583, subd. (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) all programs must be revised with discrete timelines (i.e. month and year); (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

- Program 6 (Density Bonus Ordinance): The program must be revised to include outreach to developers as well as how often the law will be monitored for updates and potential revisions.
- Program 7 (Land Assemblage and Affordable Housing Development): The program should be revised to include specific incentives to developers and include a how often outreach will occur within the planning period.
- Program 10 (Mortgage Credit Certificate Program): The program must update when the certification program will be implemented.
- Program 12 (Development Fees): The program should be updated to include outreach to developers and to revise the timeframe to include how often the program will be implemented within the planning period.
- Program 13 (Expedite Processing of Affordable Housing Projects): The element must clarify when the objective criteria will be developed and adopted as well as include proactive outreach to developers.

- Program 19 (Residential Improvement Program): The program must be revised to include how often the City will apply for funds 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:

Previously Identified Nonvacant and Vacant Sites: While the element includes a policy regarding sites identified for lower income that were listed in previous elements, this must be revised as a program with a specific timeframe for implementation. 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. See (Gov.Code section 65583.2, subdivision (c)(3)), 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).).

Program 1 (Land Use Policy and Development Capacity): This program mentions utilizing credits for constructed units towards the RHNA. If the units were constructed before June 30, 2021 they cannot count toward the 6th cycle RHNA. In addition, the program must include how often the inventory will be monitored and updated.

Program 3 (Public Property Conversion to Housing Program): This program should include a schedule of actions to facilitate development on City owned sites during the planning period. For example, the program could include zoning, outreach with developers, incentives, fee waivers, priority processing, or financial assistance.

Program 14 (Emergency Shelters and Transitional/Supportive Housing): As noted in Finding B.3, the element describes transitional housing as allowed in the same manner as emergency shelters, i.e., with a conditional use permit. However, transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).) The element must demonstrate consistency with Section 65583(a)(5) or add or revise programs which comply with the statutory requirements. In addition, this program must be implemented early in the planning period.

Housing for Agricultural Employees: As mentioned in finding B3, if the zoning code is not consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6, the element must include a program to revise the zoning code.

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

Program 8 (Housing for Extremely Low-Income Households): While Program 8 identifies SRO units and efficiency housing units to assist in meeting the needs of extremely low-income (ELI) households, it does not address the identified needs of larger ELI households. The element must also confirm whether the identified program incentives are currently in place or if they need to be adopted within the planning period.

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) B.4 and B.5, 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 following must be addressed:

Program 9 (Special Needs Housing Construction): The program should be revised to specifically list which special needs groups are included and what incentives will be offered to developers.

Program 16 (Zoning Code Amendments – Housing Constraints): This program must be revised to include permanent supportive housing by-right (AB 2162) as well as the residential care findings mentioned above in B.4.

Program to Mitigate Nongovernmental Constraints: The element must be revised to include a program that mitigates nongovernmental constraints that create a gap in the jurisdictions ability to meet RHNA by income category (Gov. Code, § 65583.2, subd. (c)(3).).

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).)*

While the element includes Program 22 (Equal Housing Opportunity), the program should be revised to commit to annual outreach, enforcement, and education. In addition, programs throughout the element should be revised to integrate the fair housing analysis. Actions must have specific commitment, 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.

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

Program 17 (Preserve At-Risk Housing Units): The program must be revised to include specific and proactive actions to preserve the at-risk units in addition to monitoring. In addition, the element should revise (c) tenant education, to include current State Preservation Notice Law (Gov. Code 65863.10, 65863.11, 65863.13) which requires owners to provide tenants and affected public entities (including the City) notices regarding expiring rental restrictions starting three years before expiration.

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

While the element includes Program 5 (ADUs), the City should provide specific incentives to promote the development. In addition, the timeframe should be revised to

include how often the City will monitor ADU production, as well as review and update the ordinance to comply with state law.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)

While appendix C tabulates general comments and goals from public comments, the element must also include the missing summary of public participation (p. HBR 6). In addition, the element must include information on whether the housing survey was available in multiple languages and how public comments were incorporated.