

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

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August 2, 2023

Mikhail Leza, Deputy Director  
Department of Planning and Development  
County of Santa Clara  
70 W Hedding Street  
San Jose, CA 95110

Dear Mikhail Leza:

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

Thank you for submitting the County of Santa Clara's (County) draft housing element received for review on May 20, 2023. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on July 5, 2023 with you, Michael Meehan, principal planner, and several others from the housing element update team. In addition, HCD considered the County's July 27, 2023 correspondence and comments from David Kellog pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the County's 6th cycle housing element was due January 31, 2023. As of today, the County has not completed the housing element process for the 6th cycle. The County's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the County to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the County 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.

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 make prior identified sites available or accommodate the regional housing needs allocation (RHNA) shall be completed no later than one year from the statutory deadline pursuant to Government Code sections 65583, subdivision (c) and 65583.2, subdivision (c). Please be aware, if the County fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

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 program, 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 County 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 County to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at:

<https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD is committed to assisting the County in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jose Armando Jauregui, of our staff, at [jose.jauregui@hcd.ca.gov](mailto:jose.jauregui@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX COUNTY OF SANTA CLARA

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/planning-and-community-development/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/planning-and-community-development/housing-elements/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).)*

While as part of the County's July 27, 2023, the County submitted a report of implementation of programs in the prior planning period. HCD understands this report was not incorporated into the element and was not made available to the public. As a result, HCD will consider the review of prior programs in future submittals of the housing element. In addition, this review of prior programs generally is limited to reporting of progress in implementation and should be supplemented by an evaluation of the effectiveness of programs in achieving objectives. Finally, as part of the review of programs in the past cycle, the element must provide an evaluation of the cumulative effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers, and persons experiencing homelessness).

### **B. Housing Needs, Resources, and Constraints**

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

The element includes some different data points and some analysis that are valuable in assessing fair housing issues. However, the element generally does not address this requirement and must assess fair housing, identify local contributing factors to the fair housing issues and develop significant and meaningful programs and strategies to address the identified fair housing issues. HCD will send samples of other jurisdictions and encourages the County to consider HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo available at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>. Examples of requirements that must be addressed include:

Enforcement and Outreach: The element must describe the County's compliance with state and federal fair housing laws, including findings, lawsuits, enforcement actions, settlements, or judgments related to fair housing or civil rights. Further, the element should incorporate its outreach into the assessment of fair housing to better understand pattern, trends and needs and formulate appropriate policies and programs.

Integration and Segregation: While the element briefly mentions some patterns and trends within the County related to race and household incomes, it should also compare the County to the broader region (e.g., bay area region) for these factors. In addition, the element should describe patterns and trends for familial status within the County (Comparing different areas of the County) and at a regional level (comparing the County to the broader region). Lastly, the element should analyze what contributes to the identified segregation of race within the County to better formulate appropriate policies and programs. For example, the analysis of patterns and trends should incorporate local data and knowledge and other relevant factors (See below) to refine the fair housing issues and formulate an appropriate and impactful policy and program.

Racial/Ethnic Areas of Concentration of Poverty (RECAP) and Racially Concentrated Areas of Affluence (RCAA): While the element states where R/ECAPs are located within the County, it must provide specific analysis of conditions and circumstances. The analysis should address trends, coincidence with other fair housing issues (segregation and integration, access to opportunities, disproportionate impacts), neighborhood conditions (e.g., housing, infrastructure, circulation, parks, community facilities and amenities) and compare overall quality of life to other areas of the County. Then, the element should formulate significant and meaningful policies and programs, including but not limited to place-based strategies toward community revitalization and mitigation of displacement risk. Similarly, the element must analyze the RCAAs. The analysis should consider coincidence with other fair housing issues, discuss the presence of RCAAs relative to the broader region and incorporate local data and knowledge and other relevant factors such as zoning and land use practices or lack of investment or other policies to promote affordable housing. Then, the element should include significant and meaningful actions to promote housing mobility and new housing opportunities in higher opportunity; higher income; and concentrated areas of affluence to facilitate more inclusive neighborhoods.

Disparities in Access to Opportunity: While the element provides an analysis of patterns and trends within the County (local analysis), it must be revised to include a regional analysis (comparing the County to the broader region) for education, economy, and environment. In addition, the element should describe whether there is equal access to transit throughout the County, including unincorporated areas. The element should also describe what factors contribute to low education scores and job access within unincorporated areas.

Disproportionate Housing Needs, Including Displacement: The element does include data or analysis on overcrowded households, substandard housing conditions, and

cost-burdened households, but it must also analyze the data including looking at trends, patterns, and other local knowledge and other relevant factors, and conclude with a summary of issues.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element must include data on the location of regional housing need allocation (RHNA) sites by income group relative to all fair housing components. The analysis should address the number of units by income group and location, any isolation of the RHNA by income group, magnitude of the impact on existing concentrations of socio-economic characteristics and discuss how the sites improve fair housing conditions. The analysis should be supported by local data and knowledge and other relevant factors and programs should be added or modified as appropriate to promote inclusive and equitable communities.

Local Data and Knowledge and Other Relevant Factors: While the element provides some general information on broad policies that can historically lead to issues in fair housing and lending patterns, the element must still supplement the analysis and complement state and federal data with local data and knowledge to capture emerging trends and issues, including utilizing knowledge from local and regional advocates, public comments, and service providers. Additionally, the element should analyze historical land use, zoning, governmental and nongovernmental spending including transportation investments, demographic trends, historical patterns of segregation, or other information that may have impeded housing choices and mobility.

Contributing Factors to Fair Housing: Upon a complete AFFH analysis, the element must assess and prioritize contributing factors to fair housing issues that are unique to the unincorporated areas of Santa Clara County and add or modify programs as appropriate.

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).)*

*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).)*

*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).)*

Housing Stock Condition: While the element states that the need for housing rehabilitation and replacement has increased since the last housing element, it must include an estimate of 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 nonprofit housing developers or organizations. Based on the outcomes of this analysis, the element should add or modify program to rehabilitate and conserve the existing housing stock.

Extremely Low Income (ELI) Households: The element must analyze the existing housing needs of ELI households. This is particularly important given the unique and disproportionate needs of ELI households. For example, the element should analyze tenure, cost burden and other household characteristics then examine trends and the availability of resources to determine the magnitude of gaps in housing needs. To assist the analysis, see the enclosed data and sample analysis at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/extremely-low-income-housing-needs>.

In addition, the element must identify the projected housing needs of ELI households. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of the RHNA for very low-income households qualify as ELI households.

Overpayment: The element must quantify and analyze the number of lower-income households overpaying by tenure (i.e., renter and owner).

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).

Special Needs Populations: While the element quantifies the County's special needs populations, it must also analyze the special housing needs for persons with disabilities and female-headed households. For a complete analysis, the element should discuss challenges faced by the population, the existing resources to meet those needs (availability senior housing units, 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.

In addition, while the element notes the number of permanent and seasonal farmworkers, given the significant need in the County, it should specifically evaluate trends, characteristics, disproportionate needs, effectiveness of resources and strategies, magnitude of the housing need, including disproportionate housing need and the effectiveness of past policies, programs, and funding to help address those gaps. The analysis may utilize past farmworker housing studies and other studies generally applicable to their special housing needs. For example, the element could utilize a recent study conducted by University California at Merced that is available at [https://clc.ucmerced.edu/sites/clc.ucmerced.edu/files/page/documents/fw\\_hs\\_report\\_2.2\\_2383.pdf](https://clc.ucmerced.edu/sites/clc.ucmerced.edu/files/page/documents/fw_hs_report_2.2_2383.pdf). Based on the outcomes of the analysis, the element should add or modify programs to address this significant special housing need in the region.

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).)*

Parcel Listing: While the element lists sites by parcel number or unique reference; parcel size; zoning and general plan designation; it must also list the realistic capacity, existing use, and anticipated affordability level on each parcel. For realistic capacity, the element list sites by a low and high potential residential capacity but should specifically list the realistic capacity based on analysis. This is particularly important for the purposes of implementing no net loss law pursuant to Government Code section 65863 and maintaining adequate sites to accommodate the RHNA by income group throughout the planning period. For existing uses, the parcel listing should describe existing uses sufficiently to facilitate an analysis that demonstrate the potential for redevelopment in the planning period.

Realistic Capacity: While the element provides 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 jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

In addition, the element appears to assume residential development on sites with zoning that allows 100 percent nonresidential uses, but to support this assumption, the element must analyze the likelihood of residential development in zoning where 100 percent nonresidential uses are allowed. For example, the element could describe all development in these or comparable zones and how often development included a residential component then adjust realistic capacity assumptions as appropriate.

Small and Large Sites: Sites larger than ten acres in size or 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 sufficiently analyze and describe the criteria utilized to deem small and large sites appropriate to accommodate the lower-income RHNA.

Additionally, the element should relate that analysis to the actual inventory to facilitate a complete analysis. For example, the analysis could describe the County's role or track record in facilitating small-lot consolidation and how that experience relates to the sites identified in the inventory to meet the lower-income needs, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for lot consolidation, or information from the owners of each aggregated site. Based on the outcomes of this analysis, the

element should add or modify programs to facilitate affordable development on small or large sites, as appropriate.

Zoning for Lower-Income Households: The element must demonstrate densities appropriate to accommodate housing for lower-income households. For communities with densities that meet specific standards (at least 30 units per acre), no analysis is required. (Gov. Code, § 65583.2, subd. (c)(3).) Otherwise, an analysis must demonstrate appropriate densities based on factors such as market demand, financial feasibility, and development experience within identified zones.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for additional development on nonvacant sites. The element generally provides a description of the properties like location and whether the property owner submitted an interest form but does not describe the results of the form or why the property might redevelop in the planning period. To address this requirement, the element should address the extent to which existing uses may constitute an impediment to additional residential development; the County's past experience with assisting San Jose annexations and similar sites with converting existing uses to higher density residential development; the current market demand for the existing use; an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development; development trends; market conditions, and regulatory or other incentives or standards to encourage additional residential development on these on Parkmoor/Burbank Neighborhood, Cambrian Park Neighborhood, and Pleasant Hills sites.

To provide sufficient capacity for the RHNA during the planning period and as part of identifying sites with potential for development, the element should consider public comments received regarding the inclusion of sites from property owners written interest in residential development in the planning period.

For your information, 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.

Pleasant Hills Golf Course: The housing element relies on the potential redevelopment of the Pleasant Hills Golf Course (Golf Course) to accommodate the lower-income housing for 855 units. The two parcels identified include a 70.5-acre parcel and a 43.5-acre parcel. The element must demonstrate the potential for this site to accommodate residential development within the planning period. For example, the element should describe if the use as a golf course discontinuing within the planning period; interest in development of this site; any required rezones or specific plans required prior to development, and any programs to facilitate the development of the Golf Course. In addition, as you are aware, 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).). In particular, the element could describe plans to subdivide or parcel the 70.5-acre site to support residential development affordable to lower-income households.

Stanford Specific Plan: The element relies upon the Stanford Specific Plan area to accommodate the County's regional housing need for all income groups. While the housing element indicates the Specific Plans' residential capacity and estimates the number of units by income group, it should demonstrate the suitability for development in the planning period. To utilize residential capacity in the specific plan, the element must:

- Describe necessary approvals or steps for entitlements for new development (e.g., design review, site plan review, etc.), including any known barriers to development in the planning period; and
- Analyze any requirements such as phasing or timing requirements that impact development in the planning period and large sites, if applicable, with policies and programs.

County-Owned Sites: While the element briefly describes its strategy to use County-Owned sites to accommodate a portion of the RHNA for lower-income households (p. 62), the analysis should include an analysis of necessary steps, any known barriers to development in the planning period, development schedule, including anticipated completion dates and add or modify programs based on the analysis.

Infrastructure: While the element states that there is sufficient water and sewer capacity to address the RHNA, it also states that there are limitations and constraints in certain areas of the unincorporated County. Given the lack of capacity, the element should include programs to address water and sewer infrastructure capacity such as pursuing funding and other opportunities to expand supply through conservation or employing strategies to secure additional water capacity.

For your information, the County is required to immediately deliver the housing element to water and sewer service providers. HCD recommends including a cover memo describing the County's housing element, including the County's housing needs and regional housing need. For additional information and sample cover memo, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/priority-water-and-sewer>.

Environmental Constraints: While the element generally describes some potential environmental constraints, it must also describe any other known environmental or other conditions that could impact housing development on identified sites in the planning period. (e.g., shape, agricultural preservation strategies, Williamson Act

contracts, contamination, easements, conditions, airport compatibility, planning horizons or other factors affecting the availability of proposed annexation areas).

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

#### Zoning for a Variety of Housing Types:

- *Emergency Shelters*: The element should describe the development standards of the zones that permit emergency shelters without discretionary action and should provide an analysis of sufficient and realistic capacity to accommodate the need for emergency shelters, proximity to transportation and services for these sites, hazardous conditions, and any conditions in appropriate for human habitability.

In addition, the element should describe how emergency shelter parking requirements comply with AB139/Government Code section 65583, subdivision (a)(4)(A) or include a program to comply with this requirement. Lastly, Chapter 654, Statutes of 2022 (AB 2339), adds specificity on how cities and counties plan for emergency shelters and ensure sufficient and suitable capacity. Future submittals of the housing element may need to address these statutory requirements. For additional information and timing requirements, please see HCD's memo at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.

- *Transitional and Supportive Housing*: Transitional housing and supportive housing are permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The element must demonstrate compliance with this requirement or include a program if necessary.
- *Permanent Supportive Housing*: By-right permanent supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with this requirement and include programs as appropriate.
- *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.
- *Single Room Occupancy (SRO) Units*: The element generally lists SROs as allowed uses with a conditional use permit (CUP) in some zones but should also discuss development standards and permit procedures that facilitate the uses and add or modify programs as appropriate to address any constraint.

- *Employee Housing*: While the element demonstrates the County permits employee housing for six or fewer employees pursuant to Health and Safety code section 17021.5, it should also demonstrate zoning in compliance with Health and Safety code sections 17021.6 and 17021.8. For example, 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.
  - *Accessory Dwelling Unit (ADU)*: The element indicates the County modifies its zoning code to ease barriers to the development of ADU's. However, after a cursory review of the County's ordinance, HCD discovered several areas which are not consistent with State ADU Law. HCD will provide a complete listing of ADU noncompliance issues under a separate cover. As a result, the element should add a program to update the County's ADU ordinance 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.
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... (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. The analysis should specifically address requirements related to parking for multifamily smaller bedroom types (e.g., studio and one bedroom), two family and caretakers' residence, open space requirements and minimum lot sizes. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints. In addition, the element should list the typical densities allowed in each zone.

In addition, while the element notes the County refers to State Density Bonus Law (SDBL), it should also describe how the County complies with SDBL through its ordinance. Specifically, while the County may refer to SDBL, its ordinance should have at least implementing provisions such as application requirements, eligibility criteria and decision making and processing criteria. Based on the outcomes of this analysis, the element should add or modify programs.

Local Processing and Permit Procedures: The analysis must evaluate the processing and permit procedures' impact as potential constraints on housing supply and affordability. For example, the analysis should consider processing and approval procedures and time for typical single- and multi-family developments, including type of permit, level of review, approval findings and any discretionary approval procedures. In

particular, the element should evaluate the Building Site Approval and Architectural and Site Approval requirements for multifamily in zones designated for multifamily uses (R3S, and R3) and include programs to remove or mitigate constraints as necessary.

In addition, the element should address public comments on this revised draft submittal and discuss compliance with the Permit Streamlining Act and intersections with CEQA and timing requirements, including streamlining determinations and add or modify programs as appropriate.

Design Review: The element must describe and analyze the architecture and site approval 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 include a program to address this permitting requirement, as appropriate.

Inclusionary Housing: The element generally mentions the County's inclusionary zoning ordinance, but it must also analyze the County's inclusionary housing requirements, including its impacts as potential constraints on the development of housing for all income levels. The analysis should evaluate the inclusionary broader policy's implementation framework, including the percentage of new residential construction that is dedicated to affordable housing, the types of options and incentives offered, relationships with SDBL and any other factors that may impact housing costs.

SB 35 Streamlined Ministerial Approval Process: Despite whether the County triggers requirements in the fifth cycle of the housing element, the element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program to address these requirements.

SB 330: The element should demonstrate how the City complies with SB 330 and add or modify programs if necessary. For example, the element should address actions that result in lesser intensification pursuant to Government Code section 66300 as well as provisions related to the Housing Accountability and Permit Streamlining Acts.

Constraints on Housing for Persons with Disabilities: The element must include an analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities, as follows:

- *Family Definition:* The element must describe and analyze any definitions of family used in zoning and land use for impacts on housing for persons with disabilities and add or modify programs as appropriate.
- *Reasonable Accommodation:* The element lists some decision-making criteria and appears to place the burden on applicants to demonstrate the request necessitates deviations and cannot be achieved through other means. However, the intent of a procedure is to proactively promote housing more inclusive to persons with disabilities. The element should closely evaluate these decision-making criteria and their application and add or modify programs as appropriate.

- *Group Homes for Seven or More Persons*: Group homes for seven or more persons appears to be excluded from several zones allowing residential uses and subject to a CUP. The element should evaluate these requirements as constraints and include specific commitment to amend zoning and permit procedures to allow these uses in all zones allowing residential with objectivity to facilitate approval certainty similar to other residential uses of the same type in the same zone. For more information on group homes, please see HCD's Group Home Technical Advisory at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

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

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... (Gov. Code, § 65583, subd. (a)(6).)*

Approval Time and Requests Lesser Densities: The element must include analysis of requests to develop housing at densities below those identified in the sites inventory, 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 and include programs as appropriate.

## 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 in the planning period and achieve the goals and objectives of the housing element, program must have discrete timing (e.g., annually) and specific commitment, as follows:

- *Program 1.24 (Community Plan to End Homelessness)*: The Program should go beyond describing the plan and annually reporting and commit to how and when the plan will be implemented throughout the planning period.

- *Program 1.29 (Farmworker Affordable Homeownership):* The Program should commit to how often the Program will be implemented throughout the planning period.
- *Program 2.08 (Housing Adjacent to Transit):* The Program should include discrete timing (e.g., at least annually) and commit to how the County will support development near transit.

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 County 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 2.01 (Housing Suitability and Prioritization Tool for County-Owned Properties): The element mentions County-Owned lands, but these programs should include specific commitment to facilitate development on these sites in the planning period. For example, instead of stating the County complete the GIS tool, the element should include a schedule of actions; the actual actions and milestones toward development (e.g., coordination, disposition, funding, incentives, entitlements, building permits and alternative actions).
- Annexation: The element must have specific commitment and discrete timing to facilitate annexation on identified sites. Examples include coordinating zoning and land use; collaboration with local governments and developers; assisting with funding; facilitating all entitlements as necessary and alternative actions if annexations do not occur by a specified date in the planning period (e.g., by 2028).
- Stanford Specific Plan: The element must include actions to facilitate development in the proposed Stanford area. Examples include coordinating zoning and land use; collaboration with local governments and developers; assisting with funding; facilitating all entitlements as necessary and alternative actions if annexations do not occur by a specified date in the planning period (e.g., by 2028).
- Sites Identified in Prior Planning Periods: If necessary, the element must include a program for vacant sites identified in two of more consecutive planning periods' housing elements or nonvacant sites identified in a prior housing element, that

are currently identified to accommodate housing for lower-income households. The program must be implemented within the first year or three years; whichever is appropriate, of the planning period and commit to zoning that will meet the density requirements for housing for lower-income households (30 units per acre) and allow by-right approval (without discretionary action) for housing developments that include 20 percent or more of its units affordable to lower-income households.

- Replacement Housing Requirements: The housing element must include a program to provide replacement housing. (Gov. Code, § 65583.2, subd. (g)(3).) The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c), paragraph (3).

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

The element must include program(s) with specific actions and timelines to assist in the development of housing for extremely low-income households and households with special needs. The element included programs 1.01-1.31; however, these Programs should include tangible deliverables beyond coordination and utilizing existing efforts. The element should be revised with programs such as proactive and annual outreach with developers to identify development opportunities, establishing priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to extremely low-income households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers. For additional information, see the Building Blocks <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/assist-development-housing>.

In addition, based on the outcomes of a complete analysis, the element must have specific actions to assist in the development of housing for farmworkers.

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 County 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... (Gov. Code, § 65583, subd. (c)(5).)*



As noted in Finding B1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the County may need to revise or add programs. In addition, 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 numerical targets and, as appropriate, address housing mobility enhancement, new housing choices and affordability in higher opportunity or higher income areas, place-based strategies for community revitalization and displacement protection. For example, the element must add significant and meaningful housing mobility actions to overcome the existing patterns in the County related to the broader region.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

While Program 2.7 (Streamline Accessory Dwelling Unit (ADU) Processing) commits to amend the ordinance to comply with SB 9; it should also commit to comply with ADU law; establish incentives such as modifying development standards (e.g., heights), pursuing funding; making prototype plans available; waiving fees beyond ADU law; proactive marketing and establishing points of contact to ease permitting processes. In addition, the element should monitor the production of affordability of ADUs at least twice in the planning period and commit to act within a specified time (e.g., six months) if assumptions are not realized.

#### **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).)*

While the element includes quantified objectives for new construction, it must also include objectives for units that will be rehabilitation for income groups beyond ELI households. In addition, the element should include conservation objectives by income group. Conservation objectives may include other activities intended to conserve housing such strategies employed by the County to promote tenant stability, code enforcement and energy conservation.