

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

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February 17, 2023

Kevin McSweeney, Director
Planning and Community Development
City of Fillmore
250 Central Avenue
Fillmore, CA 93015

Dear Kevin McSweeney:

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

Thank you for submitting the City of Fillmore's (City) draft housing element received for review on November 21, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on February 14, 2023 with you, and consultants Nick Chen and Bryant DeLaTorre. In addition, HCD considered comments from the Fillmore and Piru Affordable Housing Tasking Force of House Farm Workers!, pursuant to Government Code section 65585, subdivision (c).

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

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed. As this year has passed and Programs Action 3-1 (Create Residential Medium High 2 (15.1-20 du/ac) Zone and Complete Rezone of Identified Parcels), Action 3-2 (Create Housing Overlay Zone and Complete Rezone of Identified Parcels),

Action 3-3 (Complete Rezoning Actions in the North Fillmore Specific Plan), and Action 3-5 (Candidate Sites Used in Previous Housing Elements) have not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning have been completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

HCD is committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Molivann Phlong, of our staff, at Molivann.Phlong@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a stylized flourish at the end.

Melinda Coy
Proactive Housing Accountability Chief

Enclosure

APPENDIX CITY OF FILLMORE

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).)

A thorough program-by-program review is necessary to evaluate City's performance in addressing housing goals. As part of this analysis, the element should further describe the actual results of the prior element's programs; compare those results to the objectives projected or planned; and based on an evaluation of any differences between what was planned versus achieved provide a description of how the objectives and programs of the updated element incorporate changes resulting from the evaluation. This information and analysis provide the basis for developing a more effective housing program.

As part of the evaluation of programs in the past cycle, the element must provide an explanation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female-headed households, farmworkers and persons experiencing homelessness).

B. Housing Needs, Resources, and Constraints

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

Enforcement and Outreach: The element must include the City's ability to provide enforcement and outreach capacity which can consist of actions such as the City's ability to investigate complaints, obtain remedies, or the City's ability to engage in fair housing testing. In addition, the element states that the City works with the Housing Rights Center (HRC), which offers fair housing services to residents in Fillmore. While

the element states that a total of 35 housing discrimination cases were opened by HRC between 2017 and 2019 throughout Ventura County, it does not identify how many cases were from Fillmore and include their individual results.

Regional Analysis: The element generally describes local patterns and trends and includes some information of patterns in the immediate area around Fillmore but must also analyze Fillmore relative to the rest of the region regarding integration and segregation, disparities in access to opportunity, particularly relating to access to educational opportunities, and disproportionate housing needs and displacement risks.

Integration and Segregation: The element includes some data on integration and segregation for race, familiar status, and disabilities at the local level; however, the element must also analyze segregation and integration of income. In addition, data on integration and segregation should be analyzed for trends over time and patterns across census tracts and conclude with a summary of issues.

Disparities in Access to Opportunity: The element provides some information on the access to opportunity. However, a complete analysis must further include the locally and regional disparities of education, economic opportunities, transportation, and persons living with disabilities through local, federal, and/or state data. For education, the element must include the evaluation of the presence of policies, practices, and investment to promote access to more proficient schools or that contribute to a disparity in access to opportunity. For economic opportunities, the element should further describe the population that travels the most for work and describe the types of industries and describe the disparities in access to jobs and employment trends by protected groups. For transportation, the analysis should perform analyses to compare concentrations of protected groups with access to transportation options; assess disproportionate transportation needs for members of protected classes; and analyze the combined housing and transportation costs impacts on protected groups. For persons living with disabilities, the analysis needs to assess the supporting housing stock, housing stock of group homes, and housing for developmental and mental health disabilities.

Disproportionate Housing Needs and Displacement Risk: The element does include data on overcrowded households and cost-burdened households, but it must also analyze substandard housing conditions, homelessness, and displacement risk. The element must analyze the data including looking at trends, patterns, and other local knowledge, and conclude with a summary of issues.

Other Relevant Factors: The element must include other relevant factors that contribute to fair housing issues in the jurisdiction. For instance, the element can analyze historical land use and investment practices or other information and demographic trends.

Sites Inventory: The analysis must identify whether sites improve or exacerbate conditions and whether sites are isolated by income group. If sites exacerbate conditions, the element should identify further program actions that will be taken to promote equitable quality of life throughout the community (e.g., anti-displacement and place-based community revitalization strategies).

Contributing Factors: While the element provided contributing factors, they must also be prioritized and tied to fair housing issues and programs. Contributing factors create, contribute to, perpetuate, or increase the severity of fair housing issues and are fundamental to adequate goals and actions. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to affordable housing.

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

Housing Stock Conditions: The element identifies the age of the housing stock (page 2-27). However, it must include analysis of the condition of the existing housing stock and estimate the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/housing-stock-characteristics>.

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

The City has a regional housing need allocation (RHNA) of 415 housing units, of which 134 are for lower-income households. To address this need, the element relies on nonvacant sites, pipeline projects, a new Residential Medium High zone, a new Housing Overlay zone, an amendment to the North Fillmore Specific Plan (NFSP), and Accessory Dwelling Units (ADUs). 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 (page B-5) that 459 units (21 units affordable to very low-income and 90 units affordable to low-income households), are in the pipeline. However, the element must demonstrate the availability of pending projects within the planning period. Availability should address the status, anticipated completion, any barriers to development and other relevant factors such as build-out horizons, phasing, and dropout rates to demonstrate the availability or likelihood of development in the planning period. This is especially critical as all of the low-income RHNA is addressed through pipeline projects including the project proposed by People's Self Help. To ensure that these projects will be available in the planning period the element could include programs to facilitate their approval.

Sites Inventory: Pursuant to Table B-1, it appears that the City continues to have a shortfall of sites to accommodate the very-low income RHNA. The element should address how the City will address this shortfall.

Parcel Listing/Existing Uses: The element lists parcels by various factors such as size, zoning, general plan designation and existing use. However, the description of existing use is generic and must include sufficient detail to facilitate an analysis of the potential for addition development on nonvacant sites. The inventory could describe the use as offices, structure older than 50 years in poor condition, vacancies present, etc. For example, the element includes two sites owned by the former redevelopment agency and indicates that it is nonvacant but does not describe its current use. Alternatively, the inventory could utilize various data layers with similar information. In addition, the sites inventory must identify any publicly owned parcels.

Realistic Capacity: While the element states realistic capacity, it must provide support for these assumptions. The estimate may rely on established minimum density standards or include analysis demonstrating how the number of units for each site was determined. (Gov. Code, § 65583.2, subd(c).) 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. The element also needs to analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses (e.g., mixed-use). This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development.

Nonvacant Sites Analysis: While the element identifies nonvacant sites to accommodate the regional housing need for lower-income households, it provides no description of how the potential for redevelopment. The element must describe the methodology used to determine the additional development potential within the planning period. The methodology must consider factors including the extent to which existing uses may impede additional residential development, development trends, market conditions, any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and regulatory or other incentives or standards to encourage additional residential development on these sites. (Gov. Code, § 65583.2, subd. (g).) For sites with residential uses, the inventory could also describe structural conditions or other circumstances and trends demonstrating the redevelopment potential to more intense residential uses. For nonresidential sites, the inventory could also describe whether the use is operating, marginal or discontinued, and the condition of the structure or could describe any expressed interest in redevelopment.

Replacement Housing Requirements: If the sites inventory identifies sites with existing residential uses, it must identify whether they are affordable to lower-income households or describe whether the additional residential development on the site requires the demolition of the existing residential use. For nonvacant sites with existing, vacated, or demolished residential uses and occupied by, or subject to an affordability

requirement for, lower-income households within the last five years there must be a replacement housing program for units affordable to lower-income households (Gov. Code, § 65583.2, subd. (g)(3)). Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program has the same requirements as set forth in Government Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

Zoning for Lower-Income Households: The element relies upon the City inclusionary housing requirement/provision of subsidies to housing developments to accommodate the regional housing need for lower-income households. However, identifying potential results of an inclusionary zoning ordinance/examples of lower density subsidized housing projects, by itself, is not sufficient or appropriate to demonstrate the adequacy of a zone to accommodate housing affordable to lower-income households. The element must include either:

- An analysis, including, but not limited to, factors such as market demand, financial feasibility and development experience within identified zones demonstrating how the adopted densities can accommodate the RHNA for lower-income households; or
- For communities with densities that meet specific standards (at least 20 units per acre for Fillmore), no analysis is required other than identifying sufficient sites to accommodate the RHNA for lower-income households. (Gov. Code, § 65583.2, subd. (c)(3).)

Small and Large Sites: Sites smaller than half an acre or greater than ten acres are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites of equivalent size with affordability were successfully developed during the prior planning period or other evidence demonstrates the suitability of these sites. The element must provide analysis of past trends or present other evidence to demonstrate the suitability of these sites. For example, the analysis could describe the City's role or track record in facilitating past lot consolidation, common ownership, policies, or incentives offered or proposed to encourage and facilitate lot consolidation or other conditions rendering parcels suitable and ready-for-lot consolidation.

Suitability and Availability of Infrastructure: The element must demonstrate sufficient existing or planned water, sewer, and other dry utilities supply capacity, including the availability and access to distribution facilities to accommodate the City's regional housing need for the planning period. (Gov. Code, § 65583.2, subd. (b).)

Environmental Constraints: While the element generally describes a few environmental conditions within the City, it must describe any known environmental constraints within the City that could impact housing development in the planning period. (Gov. Code, § 65583.2, subd. (b).)

Sites with Zoning for a Variety of Housing Types:

- Emergency Shelters: The element must identify and analyze any development standards (e.g., spacing, parking, concentration requirements) and other requirements imposed on emergency shelters and describe compliance with Government Code section 65583, subdivision a)(4)(A). While the City allows emergency shelters by-right in the IR and IE districts, subsequent draft submissions must comply with the requirements of Chapter 654, Statutes of 2022 (AB 2339). Please note, these requirements became effective on January 1, 2023, and apply to any housing element submitted after January 1, 2023 if a jurisdiction failed to submit the initial draft before the due date of the housing element. As the City's initial draft was submitted on November 21, 2022, after October 14, 2021, due date, these provisions will apply. Among other changes, these amendments to Government Code section 65583, subdivision (a)(4) expands the definition of "emergency shelters", specifies the type of zoning designations that must be identified to allow emergency shelters as a permitted use without a conditional use or other discretionary permit, and demonstrate the appropriateness of sites to accommodate emergency shelters. For more information and applicable timing, see HCD's AB 2993 memorandum at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/ab2339-notice.pdf>.
- Transitional and Supportive Housing: The element must further analyze transitional housing and supportive housing, which 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. (c)(3).) The element must describe and analyze the City's transitional and supportive housing standards and codes and demonstrate consistency with AB 2162 and Sect© 65583(c)(3). The element should describe how projects proposed under AB 2162 are processed or add or revise programs which comply with the statutory requirements.
- 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, AB 101, and include programs as appropriate.
- Housing for Farmworkers: The element must demonstrate the 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.

- Accessory Dwelling Units: The element indicates the City modifies its zoning code to ease barriers to the development of ADU's. However, after a cursory review of the City's ordinance, HCD discovered several areas which were not consistent with State ADU Law. HCD will provide a complete listing of ADU non-compliance issues under a separate cover. As a result, the element should add a program to update the City's ADU ordinance in order to comply with state law. For more information, please see *Building Blocks* at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/accessory-dwelling-units>.
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 Division (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). (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls: The element must further identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types (e.g., multifamily rental housing, mobilehomes, transitional housing). The analysis must also evaluate the cumulative impacts of land use controls on the cost and supply of housing, including the ability to achieve maximum densities and cost and supply of housing such as the two-story height limits. The analysis should also describe past or current efforts to remove identified governmental constraints.

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(a)(1).

Fees and Exaction: While the element describes required fees for development, it must analyze their impact as potential constraints on housing supply and affordability. 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.

Local Processing and Permit Procedures: While the element describes planned development and processing times, it must further describe and analyze the City's permit processing and approval procedures by zone and housing type. The analysis must evaluate the processing and permit procedures' impacts 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. The City should also evaluate its application

procedures for compliance with the Permit Streamlining Act including, but not limited to, Government Code section 65943.

Streamlining Provisions (SB 35): The element should describe whether the City has procedures consistent with streamlining procedures pursuant to Government Code section 65913.4 and include programs as appropriate.

Inclusionary and 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.

On/Off-Site Improvements: While the element states that on-/off-site improvements cost may influence the price of housing, it must also describe and analyze improvement requirements.

Constraints on Housing for Persons with Disabilities: The element briefly describes its reasonable accommodation procedures. However, the element should also describe the process and decision-making criteria such as approval findings and analyze any potential constraints on housing for persons with disabilities. In addition, the element appears to regulate housing based on individual characteristics (e.g. sober-living, foster home, group home for disabilities) and requires a conditional use permit for any group home (licensed or non-licensed) and residential care facility of more than 6 people. Zoning and standards should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations. Zoning code regulations that isolate and regulate various types of housing for persons with disabilities based on the number of people and other factors may pose a constraint on housing choice for persons with disabilities. The element should include specific analysis of these and any other constraints for impacts on housing for persons with disabilities and add or modify programs as appropriate. For more information, please see HCD's Group Home technical advisory <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf>.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

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.

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

While the element quantifies the City's special needs populations, it must also analyze their special housing needs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (availability senior housing units, # of large units, # of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

7. *Analyze existing assisted housing developments that are eligible to change to non-low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

At-Risk Units: The element did not this finding. If units are identified at-risk within a 10-year period, the analysis of "at-risk" units must include the following (Gov. Code, § 65583, subd. (a)(9).):

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

For more information on identifying units at-risk, see the California Housing Partnership Corporation at <http://www.chpc.net>.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element through the administration of land use and development controls, the provision of*

regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)

To address the program requirements of Government Code section 65583, subd. (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the Town's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials.

All programs must be evaluated to ensure demonstrate that they will have a beneficial impact within the planning period. Beneficial impact means specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. In addition, all programs should be evaluated to ensure meaningful and specific actions and objectives. Programs containing unclear language (e.g., "Evaluate"; "Consider"; "Encourage"; etc.) should be amended to include more specific and measurable actions.

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.

Program 3-2 (Create Housing Overlay Zone and Complete Rezones of Identified Parcels): It appears that the City has a shortfall of site to accommodate the lower-income RHNA and includes Program 3-2 to complete an overlay to accommodate the regional housing need within the planning period. (Gov. Code, § 65583.2, subd. (h) and (i).) The element should describe to overlay, any criteria to access, density ranges, and must commit to:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;

- require a minimum density of 20 units per acre; and
 - at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
 - allow 100 percent residential use, and
 - require residential use occupy 50 percent of the total floor area of a mixed-use project.
3. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

The element must include a program(s) with specific actions and timelines to assist in the development of housing for extremely low-income households. The program(s) could commit the City to adopting priority processing, granting fee waivers or deferrals, modifying development standards, granting concessions and incentives for housing developments that include units affordable to extremely low-income households; assisting, supporting or pursuing funding applications; and outreach and coordination with affordable housing developers. For example, the element could include a program to facilitate the development of the sites owned by the former RDA in Fillmore within the planning period by issuing requests for interest or proposals.

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

As noted in Finding(s) B4 and B5, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

5. *The Housing Element shall include programs to conserve and improve the condition of the existing affordable housing stock. (Gov. Code, § 65583, subd. (c)(4).)*

The element did not address this requirement. It must include programs to conserve and improve the condition of housing stock. This could include tying code enforcement issues to rehabilitation resources for lower-income households, seek funding for rehabilitation programs, or other similar mechanisms.

6. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and*

any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)

As noted in Finding B1, the element requires a complete Affirmatively Furthering Fair Housing (AFFH) analysis. Depending upon the results of that analysis, the City may need to revise or add programs.

In addition, goals and actions must be revised to significantly seek to overcome contributing factors to fair housing issues. Programs also need to be based on identified contributing factors, be significant and meaningful. The element must add, and revise programs based on a complete analysis and listing and prioritization of contributing factors to fair housing issues and actions must enhance housing mobility, provide new housing choices and affordability in high opportunity areas, place-based strategies that promote community preservation and revitalization, and displacement protection. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, geographic targeting and fair housing results. For more information, please see HCD's guidance at <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

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).)*

Programs must be expanded to include incentives to promote the creation and affordability of ADUs. Examples include exploring and pursuing funding, modifying development standards, and reducing fees beyond state law, increasing awareness, pre-approved plans, and homeowner/applicant assistance tools.

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)(9).)

The element must include a general summary of the public participation process, also demonstrating diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element could describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.