

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

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December 6, 2022

Maya DeRosa, Planning & Building Director
Planning Department
City of St. Helena
1572 Railroad Avenue
St. Helena, CA 94574

Dear Maya DeRosa:

RE: City of St. Helena's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of St. Helena's (City) draft housing element received for review on October 5, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from Holland & Knight, Generation Housing, and Nancy Dervin pursuant to Government Code section 65585, subdivision (c).

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

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to 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). Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until these rezones are completed.

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

available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

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

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

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

Sincerely,



Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF ST. HELENA

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

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

A. Review and Revision

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

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: While the element includes analysis of fair housing complaints, it must describe the City's compliance with existing fair housing laws and regulations. For additional information, please see pages 28-30 on HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo at <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

Concentration of Fair Housing Issues: The assessment of fair housing (AFH) demonstrated that there is a concentration of several fair housing issues within the east and southeast quadrant of the City. For example, this area has the highest concentrations of lower-income households, highest percentage of single-headed households, greatest percentage living below the poverty line, high exposure to environmental burdens, and is considered the only low-resourced area in the City. As a result, the analysis should address trends, past and current policy efforts, and their effectiveness, neighborhood investment or disinvestment, local data and knowledge, and other relevant factors, particularly relative to equitable quality of life, resources, and strategies to address any inequities in quality of life.

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 Costs (For Sale and Rental Prices): While the element includes estimated rents and for sale housing costs for residents, it utilizes American Community Survey (ACS) data. The element should supplement census data with other sources (e.g., local knowledge) to better reflect current market conditions.

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).)*

Progress towards Regional Housing Needs Allocation (RHNA): The element is crediting 87 above moderate-income units from the Hunter Subdivision Project towards the RHNA. However, HCD has received public comment indicating that the Hunter Subdivision project has been pending since 2010 and there are concerns about the City's ability to process and approve this project during the planning period. The element should provide an analysis demonstrating the likelihood of these units being built during the planning period.

Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. In addition, the element could analyze the extent that existing uses may impede additional residential development. The element included a site-by-site description along with some general information about the characteristics for each site. While the element included an analysis of some sites existing uses, it did not provide an analysis for all sites. For example, Sites 1, 2, 3, 11, and 13 included information on the existing use but provided no analysis on the likelihood for redevelopment. For example, Site 1 and 2 stated that development will occur upon the removal of the existing uses and structures. However, the element did not include any information on the likelihood that this will occur during the planning period. Additionally, Site 6 includes two parcels with separate owners and states that one of the owners is interested in developing pursuant to Senate Bill 9, however provides no description or analysis about the likelihood that the second parcel will redevelop. Sites 7 and 9 do not include any analysis of the existing uses or information about the likelihood for redevelopment. Lastly, Sites 5, 6, 10, and 12 analysis is entirely dependent on property owner interest. The element should either provide additional information on these sites such as the nature of meetings with property owners, the likelihood that the owner will redevelop during the planning period or additional information that indicates the likelihood for redevelopment.

To facilitate a complete analysis, the element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the

sites identified. The element could also consider indicators such as age and condition of the existing structure expressed developer interest, low improvement to land value ratio, and other factors. Based on a complete analysis, the element may need to add or modify programs to further encourage and incentivize redevelopment of sites.

Lastly, HCD received a number of comments concerning sites identified in the inventory that have a low likelihood of redevelopment due to existing buildings in commercial districts and on privately-owned property. As noted above, the element should provide additional analysis and information demonstrating the likelihood of redevelopment on these sites.

Realistic Capacity: The element is generally assuming 75-80 percent of maximum allowable densities on most sites. However, 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 mentions realistic capacity assumptions were taken into account for sites selection but should demonstrate what specific criteria, 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.

The element also assumes that Site 5 will be developed for 50 lower-income units. However, this site allows a maximum allowable density of 26 units per acre and the site size is 1.8 acres equating to a total capacity of 46 units. While the site may have owner interest to develop beyond the maximum allowable densities, the element must either revise the capacity assumptions within the allowable densities or include a program to increase the sites allowable density.

The element also should analyze the likelihood that the identified units will be developed as noted in the inventory in zones that allow 100 percent nonresidential uses. This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/analysis-of-sites-and-zoning>.

Publicly-Owned Sites: The element must include additional discussion on each of the City-owned sites identified to accommodate the RHNA. Specifically, the analysis should provide support for residential capacity assumptions, existing uses and any known conditions that preclude development in the planning period and the potential schedule for development. If zoning does not currently allow residential uses at appropriate densities, then the element must include programs to rezone sites pursuant to Government Code section 65583.2, subdivisions (h) and (i). In addition, the housing element must 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.

Replacement Housing Requirements: If the sites inventory identifies sites with existing residential uses, it must include a program to provide for replacement. 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 Gov. Code section. 65915, subdivision (c)(3).

Infrastructure Availability: The element included a capacity analysis for water, sewer and dry utilities. The analysis noted that there are some deficiencies in the current infrastructure system and additional upgrades will be needed to meet current demand such as the water distribution system, wastewater collection system, and storm drainage system. The element must include a program committing to actions and a timeline to make sufficient infrastructure available to accommodate the RHNA. Additionally, while the element included an analysis of infrastructure capacity, the element must specifically indicate if total infrastructure capacity (existing and planned) is available to accommodate the RHNA.

Environmental Constraints: The element describes a few environmental conditions within the City and indicates that the City certified a FEIR with the 2040 General Plan Update that described environmental constraints and mitigation measures. However, the element must specifically describe any known environmental constraints or any other conditions that preclude development on identified sites within the planning period.

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

Zoning for a Variety of Housing Types:

- *Emergency Shelters* – The element states that emergency shelters are required to provide sufficient parking for employees and one space per two beds pursuant to AB 139 (Statutes of 2019). However, pursuant to Government Code section 65583, subdivision a)(4)(A), parking for emergency shelters should only be the number of spaces necessary for staff working in the shelter and no more than other uses in the same zones. The element should discuss compliance with this requirement or include a program, if necessary. Additionally, the element should describe any siting or spacing requirements imposed on emergency shelters. Lastly, the element must include an analysis of the suitability and capacity of the zone(s) identified to accommodate emergency shelters. Specifically, the analysis should demonstrate whether the I and SC zone have sufficient capacity to accommodate the identified housing need for emergency shelters. For example, identifying the number of parcels, typical parcels sizes, whether the sites are nonvacant, and the potential capacity for adaptive reuse. Lastly, in analyzing the

suitability of these zones, the element should address proximity to transportation and services and any conditions inappropriate for human habitability.

- *Transitional and Supportive Housing* - While the element indicates that the City permits supportive housing by-right in all residential zones, the element must specifically demonstrate compliance with AB 2162 (Statutes of 2018). Specifically, 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, if necessary.
 - *Accessory Dwelling Unit (ADU)* – The element notes that ADUs are allowed in most residential zones. However, ADUs must be permitted in all zones that allow for residential uses including the AP Zone, mixed-use and commercial zones. The element should analyze consistency with this requirement and include a program, if appropriate. Additionally, after a cursory review of the City’s ordinance, HCD discovered several areas which were not consistent with State ADU Law. This includes, but is not limited to, the definition of a cooking facility, definition of an efficiency kitchen, allowing both an ADU and JADU for conversions on a lot with an existing or proposed single-family dwelling, separate conveyance of an ADU or JADU, and restricting bedroom count. The element must include a program to update the City’s ADU ordinance in compliance with state law.
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 (e.g., multifamily rental housing, mobilehomes, transitional housing), as follows:

- *Zoning* – The element must include an analysis of all residential zones, especially those identified to accommodate a variety of housing types and the regional housing needs allocation (RHNA) i.e., mixed-use, central business, overlay zones, etc., As part of the analysis, the element should identify all applicable land use controls including development standards, allowable densities, zoning, and any other relevant requirements. The analysis should evaluate these requirements for impacts on achieving maximum densities, cost, feasibility and supply (number of units) of housing. Lastly, the element should identify and analyze any minimum unit size requirements.
- *Parking* – The element notes that mobile home units are required to provide two spaces per mobile home unit in addition to centralized parking and multifamily housing is required to provide 1.5 – 2 parking spaces per unit. The element should

analyze these requirements and their impacts on cost, supply, housing choice and affordability and include programs to address identified constraints.

Local Processing and Permit Procedures: The element briefly discusses the required permits for a typical single family, subdivision, and multifamily project. This is not a complete analysis and does not address the requirements. The element must describe and analyze the City's permit processing and approval procedures by zone and housing type (e.g., multifamily rental housing, mobilehomes, housing for agricultural employees, supportive housing). The analysis should consider processing and approval procedures and time for typical single-family and multifamily developments, including type of permit, level of review, approval findings and any discretionary approval procedures. The analysis must evaluate the processing and permit procedures' impacts as potential constraints on approval certainty, feasibility, and housing supply and affordability. For additional information and sample analysis, see the *Building Blocks* at <https://www.hcd.ca.gov/processing-permitting-procedures>.

Additionally, the element indicates that multifamily requires a conditional use permit (CUP) and design review, however the element also states that multifamily is allowed by right and subject only to "routine approvals" and design review. The element must clearly detail the approval process for multifamily housing by zone. For your information, subjecting multifamily housing to an exception process such as a CUP in zones where multifamily housing is already allowed is generally considered a constraint. As noted above, the element must clarify what type of discretionary process and identify and evaluate any approval findings or decision-making criteria for this requirement. The analysis should address impacts on housing cost, supply, timing and approval certainty. Based on a complete analysis, the element should include programs to address or remove the identified constraints.

Design Review: The element's analysis of the design review process states that every development including an individual single-family home and multifamily housing must go through design review and approvals from planning commission which can take an average of three months processing time. In addition, the various approval criteria include subjective language related to the compatibility of design with the neighborhood and surrounding areas, compatibility with historical character, and designs that promote harmonious transitions. Design review processes that have little to no guidance or clarity and requiring findings related to character are generally considered a constraint. The element must analyze this process and the approval criteria for potential constraints on approval certainty, feasibility, supply and affordability. Based on a complete analysis, the element may need to include or modify a program to address and remove or mitigate any identified constraints.

Local Ordinances: While the element included a discussion of the City's inclusionary requirement, it must specifically identify and analyze any other locally adopted ordinances such as short-term rental ordinances that directly impact the cost and supply of residential development.

On/Off-Site Improvements: While the element indicates on and off-site improvements are listed in St. Helena’s municipal code, it must specifically identify subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width) and analyze their impact as potential constraints on housing supply and cost. For additional information and a sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/constraints/codes-and-enforcement-on-offsite-improvement-standards.shtml>.

Fees: The element includes a hypothetical example of fees for single family and a multifamily project that focuses on detailing impact fees for each project type. However, a complete analysis should identify all fees and costs including permit processing and planning fees, development fees, exactions, and any other applicable fees and analyze as potential constraints on housing supply and affordability. For more information, please visit: <https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/fees-and-exactions>.

Building Codes and Enforcement: While the element states that the City has authority to deem any structure unsafe, it should specifically discuss the City’s code enforcement process (e.g., whether code enforcement activities are compliant-based or proactive).

Constraints on Housing for Persons with Disabilities:

- *Reasonable Accommodation* – The element identifies approval findings for granting a reasonable accommodation including finding related to impacts on surrounding uses – essentially a CUP finding. However, reasonable accommodation should be a unique exception process from a CUP, especially given its importance in addressing barriers to housing for persons with disabilities. The element should include a program to amend the Reasonable Accommodation Ordinance and remove constraints, namely the “potential impact on surrounding uses” approval finding. Additionally, the element should also indicate whether the City charges any fees to applicants filing reasonable accommodation requests.
- *Other Requirements* – The element must also include an analysis of zoning, development standards, building codes, and process and permit procedures as potential constraints on housing for persons with disabilities. Specifically, the analysis must describe any zoning code definitions of family and any spacing or concentration requirements for housing for persons with disabilities.
- *Residential Care Facilities of Seven or More* – The element states that these uses are permitted with a CUP in high-density residential zones. For your information, excluding these uses from residential zones and/or subjecting the uses to a CUP is generally considered a constraint and programs should be modified as appropriate with specific commitment to allow the use in residential zones with objectivity and certainty.
- *Residential Care Facilities of Six or Fewer* – The element indicates that group homes of six or fewer are excluded from some residential zones. For your

information, these uses must be allowed in any area zoned for residential use. The element should include or modify a program to address this requirement committing to allowing these uses in any zone that permits residential uses.

5. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... ..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).)*

Permit Times: The element must include an analysis of 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).)*

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

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

- *Ongoing Programs*: Numerous programs continue to indicate an "ongoing" implementation status. While this may be appropriate for some programs, programs

with quantified objectives or specific implementation actions must include completion or initiation dates resulting in beneficial impacts within the planning period. This includes but is not limited to Programs H-U, H-X, H-KK and H-P.

- *Timelines*: The element includes two programs with timelines for implementation towards the end of the planning period (Programs H-S and H-I). Given the importance of these programs and to achieve beneficial impact throughout the planning period, the element should revise these programs to be implemented earlier in the planning period.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B3, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Shortfall of Sites (Program H-A): The element notes that several sites do not currently permit residential uses or have appropriate densities and will need to be rezoned to accommodate the RHNA. While the element included Program H-A to rezone sites, the program should identify acreage, allowable densities, and anticipated units to be rezoned and must specifically commit to meet all requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). For example, the program must commit to permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.

Replacement Housing Requirements: The housing element must include a program to provide replacement housing. Absent a replacement housing program, these sites are not adequate sites to accommodate lower-income households. The replacement housing program must adhere to the same requirements as set forth in Government Code section 65915, subdivision (c)(3).

Sites Identified in Multiple Planning Periods: While the element includes Program H-A to maintain an inventory to comply with Government code section 65583.2 (c), this program must commit to zone and allow for the following:

- sites must meet the density requirements for housing for lower income households, and
- allow by-right approval for housing developments that include 20 percent or more of its units affordable to lower income households (Gov. Code, § 65583.2, subd. (c).).

Nonvacant Sites Reliance to Accommodate RHNA: As the element relies upon nonvacant sites to accommodate the regional housing need for lower-income households, it should include a program(s) to promote residential development of those sites. The program could commit to provide financial assistance, regulatory concessions, or incentives to encourage and facilitate new, or more intense, residential development on the sites. Examples of incentives include identifying and targeting specific financial resources and reducing appropriate development standards. For additional information, see the Building Blocks at <https://www.hcd.ca.gov/identify-adequate-sites>.

Publicly-Owned Sites: The element identified publicly-owned sites to accommodate a portion of the RHNA. The element should include a program with numerical objectives that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule to facilitate development of publicly- owned sites. Actions should include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing and financial assistance.

Senate Bill 9 Implementation: The element relies on the implementation and usage of Senate Bill 9 to accommodate a portion of the RHNA, promote a variety of housing types and choices, and implement affirmatively furthering fair housing requirements. While the element included program H-T to support lot splits, the element must include specific actions to implement and incentive the usage of SB 9. This includes but is not limited to establishing a compliant ordinance, development standards, incentives, and marketing and outreach to developers and property owners.

Program H-C – Water Sewer Priority: For your information, water and sewer service providers must establish specific procedures to grant priority water and sewer service to developments with units affordable to lower-income households. (Gov. Code, § 65589.7.) While the element commits to granting priority water and sewer to developments with units affordable to lower income households, local governments are also required to immediately deliver the housing element to water and sewer service providers. HCD recommends including a program, policy, or commitment to deliver the adopted housing element to water and sewer providers and include a cover memo describing the City’s housing element, including the City’s housing needs and regional housing need. For additional information and sample cover memo, see the Building Blocks at <https://www.hcd.ca.gov/priority-for-water-and-sewer>.

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

As noted in Findings B4 and B5, the element requires a complete analysis of potential governmental and non-governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, the element should be revised as follows:

Program H-B (Growth Management System): The element notes that the City implemented a growth management system which likely violates SB 330 (Housing Crisis Act, 2019, Gov. Code, § 66300). The element included a program to remove the growth management system, however included the timeline has “ongoing.” The element should include a specific implementation timeline for when this system will be removed and implementation should happen earlier in the planning period (e.g., one year).

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element requires a complete AFFH analysis. Depending upon the results of that analysis, the City may need to revise or add programs. Additionally, while the element did include programs to address fair housing issues and contributing factors, several programs will need to be revised with increased metrics, geographic targeting for place-based strategies, and implementation steps to facilitate meaningful change. Additionally, while the element included some programs for place-based strategies, these programs must include geographic targeting for the Southeast quadrant of the City, include actions that improve one’s quality of life related to housing, transportation, safety, education, recreation, infrastructure, etc., and quantified metrics that target beneficial impacts for people, households and neighborhoods (e.g., number of people or households assisted, number of housing units built, number of parks or infrastructure projects completed). HCD will follow-up under a separate cover with additional information.

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).)

While the element described various efforts to achieve public participation in the preparation of the housing element update, it should also describe how comments were considered and incorporated into the element.