

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

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December 17, 2021

Gregg McClain, Interim Planning Director
Planning and Community Development
City of Hawthorne
4455 W. 126th Street
Hawthorne, CA 90250

Dear Gregg McClain:

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

Thank you for submitting the City of Hawthorne's (City) draft housing element received for review on October 20, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a telephone conversation on December 14, 2021 with you and Perry Banner, your consultant.

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

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

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

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

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.

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

HCD appreciates you and Perry Banner's diligent efforts provided during the review. 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,

A handwritten signature in blue ink, appearing to read "Paul McDougall". The signature is stylized and somewhat cursive.

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY OF HAWTHORNE

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

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

A. Review and Revision

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

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

B. Housing Needs, Resources, and Constraints

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

The element includes the Assessment of Fair Housing (AFH) that was prepared in 2020; however, utilizes data from the 2015 Analysis of Impediments (AI). Where possible, updated data should be included to provide the affirmatively furthering fair housing (AFFH) analysis. In addition, the following information is necessary to address the requisite AFFH analysis requirement, including local contributing factors to the fair housing issues and develop strong programs and strategies to address the identified fair housing issues:

Fair Housing Enforcement and Outreach: The element must include the City's enforcement and outreach capacity which can consist of actions such as the ability to investigate complaints, obtain remedies, or the City's ability to engage in fair housing testing. Given the diversity of the City, the element should specify if outreach was conducted in different languages and made accessible to those with limited mobility options. Additionally, the element should describe any lawsuits,

enforcement actions, settlements, or judgments related to fair housing or civil rights. For additional information, please refer to the page 28 of the AFFH Guidance Memo.

Integration and Segregation: The element includes some data on integration and segregation (p. 104) at the regional and local level; however, the comparison of segregation and integration levels for all categories (race and ethnicity, familial status, income, and persons with disabilities) at the regional and local level must be complemented by analysis of patterns and trends, be complemented by local data and knowledge, other relevant factors and conclude with a summary of issues. For example, the City could provide local knowledge to explain the increase in dissimilarity between non-White and White communities in Hawthorne and identify any geographic concentrations of minorities in the City. To strengthen the analysis of familial status, the element could describe how the rate of single-parent and female-headed households compare to the region or county. For persons with disabilities, the element could provide local knowledge to explain why census tracts with higher proportions of people living with disabilities are primarily concentrated on the eastern side of the City (as shown in figure 6-8) which also seem to be a lower resource areas.

Racial/Ethnic Areas of Concentration of Poverty (R/ECAP): While the element includes information relative to R/ECAP, both the local and regional analyses must be complemented by additional local data, knowledge, and other relevant factors. In addition, the City should also provide and analyze existing patterns and trends as it relates to the region. The combination in the R/ECAP and areas of affluence analyses will help guide goals and actions to address fair housing issues.

Disparities in Access to Opportunity: The element provides some information (pp. 119-131) on the access to opportunity but must include analyses for each component of this section. A complete analysis should include the locally and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data. The element should also clarify Figure 6-16. The analysis should describe any disparities by protected characteristics, including the housing and community development needs of persons with disabilities, and geographic area and how that affects their ability to access employment, quality education, transit, and live in environmentally safe areas. Please refer to page 35 of the AFFH guidebook (link: <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>) for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to Hawthorne.

Disproportionate Housing Needs and Displacement Risk: While the element includes some data and analysis on overcrowded households, substandard housing conditions, and cost burdened households, it must also address the disproportionate housing needs of the homeless, analyze local and regional trends, patterns, and other local knowledge for all categories, and conclude with a summary of issues. Additionally, since overpayment for housing was identified as a significant issue in Hawthorne, the element should include a program to address cost burden, especially for lower-income households.

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

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

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies program(s) to encourage and promote affordable housing; however, most of these programs do not appear to facilitate any meaningful change nor address AFFH requirements. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. For example, Program 19 should describe how the City will work to transform RECAPs into areas of opportunity and how often will the City recruit residents of RECAPs to serve on boards. Program 20 (Economic Displacement Risk Analysis) should go beyond “considering” programs and commit to specific actions to address displacement risk in Hawthorne.

Programs must 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. Furthermore, the element must include metrics and milestones for targeting significant outcomes to overcome segregation and foster inclusive communities results. For more information, please see HCD’s guidance at <https://www.hcd.ca.gov/community-development/affh/index.shtm>.

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 Conditions: While the element includes an estimate of the number of units in need of rehabilitation and replacement, it also indicates some trends in neighborhoods but should include the actual data. Specifically, the element notes “...the City’s Planning Division has identified XX areas of the City which appear to have a significant amount of housing that is in need of major repair. These areas include: XX.” The element should complete this information to better formulate policies and programs.

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 RHNA of 1,734 housing units, of which 649 are for lower-income households. To address this need, the element relies on vacant and nonvacant sites, including sites in Specific Plan Areas and within the Mixed-Use Overlay area. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Realistic Capacity (Nonresidential Zones): For sites zoned for nonresidential uses, e.g., commercial and mixed-use zones, the element must describe how the estimated number of residential units for each site was determined. The estimate must account for land use controls such as allowing 100 percent nonresidential uses. To demonstrate the likelihood for residential development in nonresidential zones, the element could describe any performance standards mandating a specified portion of residential and any factors increasing the potential for residential development such as incentives for residential use, and residential development trends in the same nonresidential zoning districts.

Suitability of Nonvacant Sites: 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. For example, the element could provide details about the closed mall, the City's plans for the redevelopment of the site, and expected timing for buildout.

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, the housing element must demonstrate that the existing use is not an impediment to additional residential development in the planning period. This can be demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period. (Gov. Code, § 65583.2, subd. (g)(2).)

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 Gov. Code section. 65915, subdivision (c)(3). The housing element must be revised to include such analysis and a program, if necessary.

Accessory Dwelling Units (ADU): The element incorrectly calculates accessory dwelling unit (ADU) potential for the planning period by considering a rate of 28.7 ADUs per year based on the last three years' (2018-2020) production. While the element states 15 units were approved in 2018, 13 units in 2019, and 58 units in 2020 for an average of 28, HCD's record of the City's past production between 2018 to 2020, shows an average of 14 units per year. The element must reconcile the difference and provide additional supporting information for the assumption of 28.7 ADUs per year such as how community needs, and demand are likely to increase production and include programs that aggressively promote and incentivize ADU construction.

Zoning for a Variety of Housing Types:

- Transitional and Supportive Housing: The element describes transitional and supportive housing as requiring a conditional use permit (CUP) in a zone that permits single-family homes by right. Transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).) The element must describe and analyze the City's transitional and supportive housing standards and codes and demonstrate consistency with Section 65583(a)(5) or add or revise programs to comply with the statutory requirements.
- Employee Housing: 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.

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.

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). 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. The analysis should also describe past or current efforts to remove identified governmental constraints and the element should include programs to address or remove the identified constraints. The element should be revised as follows:

- The majority of the sites to accommodate the lower-income need are within the mixed-use overlay. The element must analyze the requirement that commercial development is required for projects within the Mixed-Use (MU) overlay as a potential constraint on the cost and supply of multifamily housing and analyze the suitability of this overlay to facilitate housing for lower-income households. To support this analysis, the element could provide examples of affordable housing developments developed within the overlay or include a program to allow 100 percent residential development for affordable housing.
- The minimum lot area for the MU zone is three acres, but the sites inventory does not identify any sites greater than three acres in this zone which means all sites would require consolidation to be developed. The element should analyze this lot acreage requirement as a constraint and add or revise programs as needed to address this.
- The element describes a height limit of 22 feet in the R-3 zone, which would not allow for three stories. The element should analyze this restriction as a constraint and add or revise programs as needed.
- The element should describe the development standards of the City's new housing overlay zone.

Parking Requirements: The element must identify and analyze the parking requirements (p. 60) two spaces plus one guest space for studio and one-bedroom apartments for its impact as a potential constraint on housing. Should the analysis determine the parking standards or permit procedures are a constraint on residential development, it must include a program to address or remove any identified constraints.

Fees and Exactions: The element must describe all required fees for single family and multifamily housing development, including impact fees, and 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.

Zoning and Fees Transparency: The element must clarify its compliance with new transparency requirements for posting all zoning and development standards for each

parcel on the jurisdiction's website pursuant to Government Code section 65940.1, subdivision (a)(1).

Permitting and Processing Procedures: The element indicates multifamily development in zones (R-3 and C-M) permitting multifamily development requires a CUP. The element must analyze the CUP process as a potential constraint on housing supply and affordability. The analysis should identify findings of approval for the CUP and their potential impact on development approval certainty, timing, and cost. The element must demonstrate this process is not a constraint or it must include a program to address and remove or mitigate the CUP requirement.

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

On/Off-Site Improvements: The element must 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 affordability.

Constraints on Housing for Persons with Disabilities: The element describes its plan to address residential care facilities (RCFs) for seven or more persons through Program 17 (p. 57). However, as proposed, the program could present a constraint to housing for persons with disabilities by only allowing in RCFs two zones and with a CUP. The element should evaluate these requirements as constraints and modify Program 17, as appropriate.

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.

C. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

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

- *General:* The element must evaluate all programs to provide discrete timing. While timing of "ongoing" may be appropriate for some programs, programs with quantified objectives or specific implementation actions must include completion dates (including month and year) resulting in beneficial impacts within the planning period.
- *Program 3 (Public Property Conversion to Housing)* should describe when the City will work with non-profits and public agencies to evaluate the feasibility of transferring surplus city-owned lands for development of affordable housing by the private sector.
- *Program 5 (Facilitate Affordable and Special Needs Housing Construction)* should describe how often the City will monitor existing affordable housing stock and how often it will monitor options for special needs groups.
- *Program 6 (Mixed-Use Development)* should indicate when the City will establish specific and objective criteria.
- *Program 8 (Density Bonus Implementation)* should describe when the City will review state law updates that impact density bonuses and modify local plans and programs.
- *Program 9 (Multi-Family Acquisition and Rehabilitation)* should describe how the City will support CHDOs.
- *Program 13 (Single-Family Residential Rehabilitation)* should describe how often the City will pursue funding.

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:

Rezone Program for Adequate Sites: As noted in Finding B3, the element includes Program 1 (Shortfall Rezone Program) to address a shortfall of sites, but the program does not meet statutory requirements. (Gov. Code, § 65583.2, subd. (h) and (i).) The rezone 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.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre;
- 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.

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.

Lot Consolidation/Small Sites: As the element relies on consolidated small sites to accommodate the RHNA for lower-income households, it should include a program(s) to facilitate lot consolidation and development of housing on small sites. For example, the program could commit to (1) granting density bonuses above state density bonus law (Gov. Code, § 65915.); (2) deferring fees specifically for consolidation; (3) expediting permit processing; (4) identifying and targeting specific financial resources; and (5) modifying development standards.

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).)*

While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable extremely low-income (ELI) households. Programs must be revised or added to the element to assist in the development of housing for ELI households. Program actions could include prioritizing some funding for housing developments affordable to ELI households and offering financial incentives or regulatory concessions to encourage the development of housing types, such as multifamily, single-room occupancy (SRO) units, to address the identified housing needs for ELI households.

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

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

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

5. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding B1, the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs. While the element includes Program 18 (Fair Housing Services) which describes the City's approach to providing fair housing services, it must also include actions that promote and AFFH opportunities. For example, the element could include a program committing to implement Government Code section 8899.50(b) which requires the City to administer its programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with its obligation to AFFH.

D. Public Participation

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

While the element includes a general summary of the public participation process (page 23), it must also demonstrate 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.

In addition, the element should indicate whether the draft element was made available to the public before submittal to HCD. When housing elements are submitted concurrently with the public comment period, stakeholders miss the opportunity to participate in the housing element process. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.

E. Consistency with General Plan

The Housing Element shall describe the means by which consistency will be achieved with other general plan elements and community goals. (Gov. Code, § 65583, subd. (c)(7).)

The housing element affects a locality's policies for growth and residential land uses. The goals, policies and objectives of an updated housing element may conflict with those of the land-use, circulation, open space elements as well as zoning and redevelopment plans. The general plan is required to be "internally consistent." As part of the housing element update, the element must describe how consistency was achieved and how it will be maintained during the planning period. For example, the element could include a program to conduct an internal consistency review of the general plan as part of the annual general plan implementation report required by Government Code section 65400. The annual report can also assist future updates of the housing element.