

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

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August 8, 2022

Rich Hillis, Director
San Francisco Planning Department
City and County of San Francisco
49 South Van Ness Avenue
San Francisco, CA 94103

Dear Rich Hillis:

RE: San Francisco's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City and County of San Francisco's (City) draft housing element received for review on May 10, 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 June 17, 2022 with you, Miriam Chion, James Pappas, Maia Small, Rich Hillis, Lisa Gluckstein, Malena Leon-Farrera, Audrey Pearson, Andrea Ruiz-Esquide, Reanna Tong, and Shelley Caltagirone. In addition, HCD considered comments from Kevin Burke, Christopher Elmendorf, Heidi Petersen, Forge Development Partners, San Francisco YIMBY, Greenbelt Alliance, YIMBY Law, David Broockman, Scott Pluta, Nanditha Ramachandran, Meghan Warner, Riley Avron, and Maggie Pace.

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.

HCD applauds San Francisco's several aspects of the approach to the housing element update. The element places a strong emphasis on acknowledging and repairing the harms of decades of inequitable and discriminatory land use and planning policies that resulted in exclusionary and disinvested communities. The City has proposed bold and meaningful actions to both reduce barriers to higher-opportunity neighborhoods while simultaneously reinvesting in historically underserved neighborhoods. For example, the element is focusing on creating new housing opportunities for lower- and moderate-income families in well-resourced communities to increase access to quality parks, schools, jobs, transportation, etc. Additionally, the element includes actions to reinvest in communities of color by providing high-quality neighborhood amenities and housing opportunities that will foster positive economic, social, and health outcomes.

This includes prioritizing local funds to create affordable housing opportunities; develop culturally responsive community amenities; and improve neighborhoods, schools, parks, and infrastructure. HCD appreciates San Francisco's leadership in affirmatively furthering fair housing (AFFH) and looks forward to continuing to work with the City in meeting all statutory requirements.

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 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). Please be aware, if the City and County fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial 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.

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 and County should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and a link to the element must be emailed 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, San Francisco 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 and County to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates the hard work and dedication the housing element team provided during the review. We are committed to assisting the City and County in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Sohab Mehmood, of our staff, at sohab.mehmood@hcd.ca.gov.

Sincerely,

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

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX CITY AND COUNTY OF SAN FRANCISCO

The following changes are necessary to bring the 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. 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).)*

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element must identify sites to accommodate the regional housing need allocation (RHNA) throughout the community in response to all components of the analysis of AFFH. This analysis should consider all income groups for the RHNA. To address this requirement, the element (p. F-19) lists the number of units in the development pipeline and non-site-specific means (e.g., accessory dwelling units (ADUs), SB 9, at-risk preservation) by income group and whether sites are in well-resourced areas. However, this listing and analysis should also include underutilized and vacant sites and candidate sites for rezoning. In addition, the analysis is limited to "well-resourced" or higher opportunity areas but should address all the components of the analysis of AFFH (e.g., segregation and integration, concentrated areas of poverty and affluence, and disproportionate housing need, including displacement risk). Finally, the analysis should evaluate the impact of the RHNA by income group on the socio-economic patterns on a locational basis (e.g., neighborhood, census tract, district), including addressing any isolation of the RHNA. Based on the outcomes of this analysis, the element should re-evaluate the appropriateness of targets (e.g., increase lower-income targets in well-resourced areas) and add or modify programs to better improve fair housing conditions, including equitable quality of life throughout the community (e.g., anti-displacement and place-based community revitalization strategies).

Strategies, Actions, Metrics, and Milestones: To facilitate meaningful change and achieve beneficial impact during the planning period, programs must have specific commitments, metrics or numerical targets, geographic targeting, and definitive timelines such as deadlines, dates, or benchmarks for implementation. While the element has included many meaningful and significant policies and actions that address

the identified fair housing issues, programs or actions should be modified with definitive timelines and metrics, as follows:

- *Timelines*: The element includes many programs with three general timelines: short (0-5 years), medium (6-15 years), and long (16 plus years). However, actions should have timelines more appropriate for an eight-year planning period, including earlier and within the planning period, as well as more specific to the intended actions and housing or people outcomes. For example, many of the identified policies and actions included implementation timelines range from 6 to 15 years. The element must be revised to include timelines that are within the eight-year planning period. Also, some actions have short-term timing (0-5 years), over halfway through the planning period. Instead, these actions should occur earlier in the planning period (1-2 years). Finally, some actions do not have timing that commits to how often an action will be taken and should be revised with specific commitment and timing to complete steps toward housing outcomes. For example, Policy 17, action b (Investment in Priority Equity Geographies) should commit to how often the City will prioritize investment and what steps with dates will be taken to prioritize investment toward outcomes.
- *Metrics*: The element must revise its fair housing policies and actions to include metrics or numerical targets toward significant and meaningful AFFH outcomes. Additionally, where appropriate, metrics should be targeting 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).

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

Progress in Meeting the RHNA: The element indicates 47,738 units, of which 11,996 units will be affordable to lower-income households, are pending approvals, approved, or under construction (p. F-8). To count these units as progress towards RHNA, the element must analyze and demonstrate the likelihood and availability of these units during the planning period. The element lists an estimated percentage of development capacity in the planning period, but as noted in the element (p. F-9), it must include analysis to support those assumptions or utilize different assumptions. For example, the element could discuss infrastructure schedules and commitments, outreach with project developers, timelines for final approvals, and the timing of any remaining steps prior to building permits. In addition, the element should only count net new units unless meeting statutory requirements pursuant to Government Code section 65583.1 (see below). Lastly, given the element's reliance on pipeline projects, the element must include programs with actions that commit to facilitating development and monitoring approvals of the projects (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, commitment to expedite approvals, etc.) with a commitment to alternative actions (e.g., rezoning) if assumptions are not realized.

Candidate Sites for Rezoning: The element identifies a current shortfall in accommodating the 6th cycle RHNA for lower- (16,766 units) and moderate-income households (8,535 units), including a 15-percent buffer. As a result, the element must identify and analyze the candidate sites for rezoning, including meeting all components of Government Code section 65583.2. The components generally include a parcel listing, analysis of capacity, size of parcels, and the extent existing uses impede additional development (redevelopment potential). The element may utilize a methodology similar to underutilized sites to meet requirements for calculating capacity and demonstrating redevelopment potential.

Sites Identified in Prior Planning Periods: Sites identified in prior planning periods shall not be deemed adequate to accommodate the housing needs for lower-income households unless a program, meeting statutory requirements, requires rezoning within specified time periods. The element should clarify if sites were identified in prior planning periods and if so, which sites and include a program if utilizing previously identified sites in the current planning period. The program rezoning sites must commit to appropriate densities as specified in statute and allow residential uses by-right for housing developments in which at least 20 percent of the units are affordable to lower income households. By-right is generally defined as permitting uses without discretionary action. Finally, rezoning must be complete within three years. However, if the element is not adopted and found in compliance within 120 days of the statutory deadline, rezoning must be complete in one year. For more information on program requirements, please see HCD's Housing Element Sites Inventory Guidebook at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

Suitability of Novacant Sites: The housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. The element must demonstrate existing uses are not an impediment to additional residential development (Gov. Code, § 65583.2, subd. (g)(2).). Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

In addition, if the sites inventory identifies sites with existing residential uses, it must identify whether the current residential uses 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.

Small Sites: Sites smaller than half an acre 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. For example, the element could discuss past trends such as examples of affordable housing projects on small sites and relate it to the sites inventory. The element must also address these requirements for candidate rezoning sites to accommodate the RHNA for lower-income households.

Adequate Sites Alternatives: The element is counting roughly 4,125 units under the alternative adequate sites (Gov. Code, § 65583.1, subd. (c)) through preservation, conversion, and rehabilitation (pipeline and projected), including HOPE SF and Homekey programs. Of the 4,125 units, 3,625 units will be affordable to lower-income households, and 500 units will be affordable to moderate-income households. To utilize this potential for converting existing units toward the RHNA, the element must demonstrate how these units will meet the requirements of Government Code section 65583.1, subdivision (c), including but not limited to identifying sources of committed assistance and various other requirements. For additional guidance, please see Building Blocks at [Adequate Sites Alternative | California Department of Housing and Community Development](#).

Senate Bill 9 (Statutes of 2021) Projections: The element mentions multiple challenges regarding the anticipated results of SB 9 given the unique circumstances of residential patterns in the City and County. Yet, the element assumes 1,500 units in the planning period that does not appear to be based on recent trends. For these reasons, the element should consider not utilizing these units toward the RHNA or significantly reducing assumptions in the planning period. If utilizing SB 9 toward the RHNA, the element must 1) include a site-specific inventory of sites where SB 9 projections are being applied; 2) include a nonvacant sites analysis demonstrating the likelihood of redevelopment and that the existing use will not constitute an impediment for additional residential use; and 3) include programs and policies that establish zoning, development standards, and incentives early in the planning period and monitor production and affordability and adjust as appropriate (e.g., additional rezoning).

Publicly-Owned Sites: The element must include additional discussion on publicly-owned sites identified to accommodate the RHNA. Specifically, the analysis should address general plan designations, allowable densities, 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).

Availability of Infrastructure: The element must discuss whether sufficient total water and sewer capacity (existing and planned) can accommodate the regional housing need and include programs if necessary.

In addition, 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.) Local governments are required to immediately deliver the housing element to water and sewer service providers. The element should discuss compliance with these requirements and, if necessary, add or modify programs to establish a written procedure by a date early in the planning period. For additional information and sample cover memo, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/other-requirements/priority-for-water-sewer.shtml>.

Environmental Constraints: The element must describe any known environmental constraints or other conditions that could preclude development on the identified sites (including candidate rezoning sites) during the planning period. (Gov. Code, § 65583.2, subd. (b).) For additional information and sample analysis, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#environmental>.

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

Zoning for a Variety of Housing Types:

- *Accessory Dwelling Unit (ADU):* HCD's records indicate that the City and County has not submitted its adopted ADU ordinance for review and compliance with State ADU Law. The City and County must submit its ADU ordinance at adu@hcd.ca.gov.
- *Emergency Shelters:* While the element stated that emergency shelters are defined as a residential use and are allowed in most zones, pursuant to Government Code section 65583, the element must clarify if at least one zone allows emergency shelters without discretionary action. Additionally, the element should discuss and evaluate any development standards (e.g., parking, spacing, etc.) as potential constraints. Lastly, the element should determine whether parking requirements comply with AB 139 (Chapter 335, Statutes of 2019), which limits parking requirements to employee parking and add or modify programs as appropriate.

- *Low Barrier Navigation Centers (LBNC):* Government Code section 65660 requires LBNC be a use by-right (without discretionary action) in areas zoned for mixed use and nonresidential zones permitting multifamily uses. The element should demonstrate compliance with this requirement or add or modify programs as appropriate.
 - *Transitional and Supportive Housing:* Transitional housing and supportive housing must be permitted as a residential use in all zones allowing residential uses and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).) The element must demonstrate compliance with Government Code section 65583, subdivision (a)(5), or add or revise programs as appropriate.
 - *Permanent Supportive Housing:* Supportive housing shall be a use by-right (without discretionary action) 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 or add or modify programs as appropriate.
 - *Employee Housing:* 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. The element must demonstrate zoning in compliance with the Employee Housing Act (Health and Safety Code, § 17000 et seq.) or add or modify programs as appropriate.
 - *Manufactured Housing:* Manufactured homes that are built on a permanent foundation must be allowed in the same manner and in the same zones as conventional or stick-built structures. Specifically, manufactured homes on a permanent structure should only be subject to the same development standards that a conventional single-family residential dwelling would be subject to. The element must demonstrate compliance with this requirement or add or modify programs as appropriate.
3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls (Heights): The element must identify and analyze the impact of all relevant land use controls as potential constraints on a variety of housing types. The analysis should analyze land use controls independently and cumulatively with other land use controls. Specifically, the element noted the height limits for moderate and high-density developments vary by zone (Attachment G, p. 15). The element should identify and analyze height limits as they relate to reaching allowable densities (without exception). The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty, and ability to achieve maximum densities and include programs to address identified constraints.

Fees and Exaction: The element includes some information on planning and impact fees, such as environmental impact report and Transportation Sustainability Fee. However, given in some cases that cumulative fees can well exceed \$60,000 per unit, the element should list all planning (e.g., rezones, conditional use permit (CUP), variance) and impact fees, evaluate the impacts on the cost of development and, if necessary, include programs to address identified constraints.

Local Processing and Permit Procedures: HCD has received several public comments and has active enforcement cases and complaints related to the local permit process that have indicated a complex, untimely, and cumbersome process with little certainty to applicants. There are also indications of potential violations of various state laws, including the Permit Streamlining Act, Housing Accountability Act, Housing Crisis Act, and State Density Bonus Law. As stated in HCD's February 1, 2022, Technical Assistance Letter, the element must 1) analyze potential and actual governmental constraints on housing development pursuant to State Housing Element Law (Gov. Code, § 65583, subd. (a)(5)), and 2) specifically address potential violations with state housing laws.

While the element includes some information about the permit process and processing time (Attachment G, pgs. 22-36), a complete analysis must evaluate the processing and entitlement procedures for potential constraints on housing supply, cost, timing, financial feasibility, approval certainty and ability to achieve maximum densities. Specifically, the element must describe the procedures for a typical single-family and multifamily development. As most projects require discretionary approvals, the analysis must describe the decision-making framework for discretionary approvals related to all permits and entitlements, including but not limited to building permits, design review, CUPs, lot splits/consolidations, variances, site plans, environmental review, etc. The analysis must include the approval bodies, the number of public hearings, the actual approval findings, and all relevant information. Examples of processes that could constrain development include the discretionary review application for building permits (p. G-22). The element indicates that a member of the public can request that a building permit that would normally be reviewed and approved at the staff level be evaluated by the planning commission, which could result in impacts to the cost of the project, timing, and certainty for approval. Based on the outcomes of a complete analysis, the element must add or modify programs as appropriate.

Compliance with State Housing Element Laws: The element must discuss how it currently implements and complies with state housing laws and include programs as appropriate. The element should specifically address processes related to SB 35 Streamlined Ministerial Approval Process (Gov. Code, § 65913.4), Housing Crisis Act (Gov. Code, § 66300), Housing Accountability Act (Gov. Code, § 65589.5), Permit Streamlining Act (Gov. Code, §§ 65941.1 and 65943), and CEQA timelines.

Locally Adopted Ordinances: The element must identify and analyze any locally adopted ordinances that impact the cost and supply of housing, e.g., short-term rentals, inclusionary, growth controls, Senate Bill 9, etc.

Additionally, through initial review of recent enforcement cases, HCD is aware of potential constraints associated with the inclusionary program in relationship to other state laws such as State Density Bonus Law (SDBL) (Gov. Code, § 65915) and SB 35 Streamlined Ministerial Approval Process (Gov. Code, § 65913.4). Specifically, while the element generally describes the local inclusionary housing program (pp.s. G-18 and G-46) and a brief discussion of its overall impact on project feasibility, it must also include additional information and analysis about how the inclusionary housing program is implemented in relationship to these other state laws. For example, the element should identify and analyze how affordable units provided through SDBL and/or SB 35 are accounted for in relation to the inclusionary requirement, how density bonus units are considered when applying the inclusionary requirement, and the availability of clear written implementation guidelines for establishing a project's on-site affordability requirement. Based on the information and analysis provided, the element must add or modify programs as appropriate.

On/Off-Site Improvements: While the element included some information on required improvements, including public-rights-of-way and general requirements imposed by other agencies related to fire, transit, and parks (p. G-33), it must identify and evaluate actual site improvement standards on typical projects for impacts on the cost of development.

Codes and Enforcement: The element describes adoption of building codes and includes some information on local amendments related to the Green Building Code (p. G-41); however, it must identify and analyze all local amendments for impacts on the cost and supply of housing.

Zoning, Development Standards, and Fees: The element must clarify its compliance with new transparency requirements for posting all zoning, development standards, and fees on the City and County's website and include programs if appropriate.

Constraints on Housing for Persons with Disabilities:

- *Reasonable Accommodation:* While the element briefly described the reasonable accommodation process, it must describe the written procedure and evaluate the process, including approval findings. Additionally, the element indicates two separate processes to request a reasonable accommodation and that one of

these processes requires the use of a standard variance process. However, reasonable accommodation should be a unique exception process from discretionary permits, especially given its importance in addressing barriers to housing for persons with disabilities. The element should evaluate these requirements as constraints and include programs as appropriate.

- *Definition of Family*: The element states the planning code includes a definition of family as a group of five unrelated individuals (p. G-61); however, the element also indicates zoning does not restrict occupancy of unrelated individuals in group homes, define family, or enforce a definition (p. G-63). The element must reconcile this discussion to be clear on the implementation of a family definition or include a program that clearly commits to address the constraint, if necessary.
- *Group Homes for Six or Fewer and Seven or More*: While the element included some general information on how group housing and residential care facilities (p. G-63) are allowed, it must specifically clarify whether group homes of six or fewer are treated as a single-family use and allowed in all zones allowing single-family uses. Additionally, the element must discuss how and where group homes of seven or more are permitted. For your information, zoning should simply implement a barrier-free definition of family instead of potentially subjecting persons with disabilities to special regulations such as the number of persons, population types, and licenses. The element should include specific analysis of these constraints for impacts on housing for persons with disabilities and include clear commitments to allow these uses with objectivity and certainty.

Governmental Constraint (General): The cumulative impact of governmental constraints can impact the feasibility of development as well as costs and supply. Given the complexity of the regulatory and political environment, the element should include an analysis of the combination of potential governmental constraints, including but not limited to land use controls, discretionary actions, permit and entitlement procedures, fees and exactions, and any other ordinances or requirements affecting development and add or modify programs as appropriate to address constraints.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... requests to develop housing at densities below those anticipated in the... and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584... (Gov. Code, § 65583, subd. (a)(6).)*

Approval Time and Requests Lesser Densities: The element must include an analysis of requests to develop housing at densities below those identified in the sites inventory, and the length of time between receiving approval for a housing development and submittal of an application for building permits. The analysis should address any hinderances on the jurisdiction's ability to accommodate RHNA by income category and include programs as appropriate.

5. *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).).*

While the element lists an inventory of at-risk units utilizing federal and state funding, the element must also include and analyze any deed-restricted affordable housing units using local governmental assistance such as density bonus or inclusionary program that are at-risk of converting to market-rate within the next ten years. In addition, while the element included an inventory of units at-risk of converting in the next ten years, it must estimate and analyze the cost of replacing versus preserving the units and identify qualified entities to assist with maintaining its affordability. For additional information, please see: [Assisted Housing Developments at Risk of Conversion | California Department of Housing and Community Development](#). For a list of qualified entities serving San Francisco and the broader region, please see: <https://www.hcd.ca.gov/policy-research/preserving-existing-affordable-housing.shtml>.

B. 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).)*

The element identifies three implementation timeframes: short (0-5 years), medium (6-15 years), and long term (15+ years). Programs must demonstrate that they will have a beneficial impact within the planning period. Beneficial impact, among other things, means specific commitment with definitive timelines such as deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. However, in many cases, program should be revised with specific commitment and definitive timing. Further, program timelines must be revised to reflect implementation during the 8-year planning period and where appropriate earlier in the planning period. For example, the “short” timeframe should be adjusted to 0-2 years and the “medium” and “long” timeframes should be replaced with timeframes of 3-5 and 6-8 years, respectively. The element may indicate aspirational and complex programs with timelines beyond the planning period. However, these programs should be ancillary and denoted in some manner.

In addition, the element includes many complex and challenging strategies that are essential to the City's approach in addressing its housing needs. As a result, the element should include a program to evaluate the effectiveness of these approaches and commit to making adjustments, as appropriate, to continue working toward the housing element's goals and objectives. Specifically, the element could include a program to conduct an in-depth mid-term evaluation of programs, including effectiveness, and commit to make adjustments within a specified time period. Topics could include AFFH, pipeline projects, nonvacant sites, rezoning, SB 9 sites, ADUs, and governmental constraints.

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 A2, 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 element 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: The element identifies a shortfall of sites to accommodate the RHNA for lower- and moderate-income households and includes Policy 20, Actions A-D to implement rezoning efforts. However, the element must revise programs to specifically commit to acreage, allowable densities, and anticipated units. In addition, to accommodate the housing needs of lower-income households, the program should specifically commit to rezoning pursuant to Government Code section 65583.2, subdivisions (h) and (i).

The rezone program must be revised to include all the provisions of Government Code section 65583.2, subdivisions (h) and (i), as follows:

- 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 to occupy 50 percent of the total floor area of a mixed-use project.

Sites Identified in Prior Planning Periods: As noted in Finding A2, if the element identified vacant sites in two of more consecutive planning periods' housing elements or nonvacant sites in a prior housing element, that are currently identified to accommodate housing for lower-income households, the element must include a program. The program must be implemented within the first three years of the planning period and commit to zoning that will 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)). Please also note, rezoning must be implemented within the first year of the planning period if the element is not adopted in compliance in a timely manner as described in Finding A2.

Replacement Program: As noted in Finding A2, 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)).

Publicly-Owned Sites: The element identified several publicly-owned sites to accommodate a portion of the RHNA. While the element included Policy 24, Action E and F committing to building public-private partnerships and prioritizing local resources, these actions should be revised with timelines that will occur during the planning period. Additionally, the element should include a schedule of actions to facilitate development and ensure compliance with the Surplus Land Act. Actions could include annual outreach with developers, rezoning and financial assistance, issuing requests for proposals, facilitating any subsequent entitlements, and numerical objectives by affordability.

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 Finding(s) A3 and A4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the element 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:

Compliance with State Housing Laws: The element must include a program to comply with all state housing laws. This program must include steps for implementing (e.g., develop processes, standard procedures, forms, etc.), definitive timelines, specific commitments, and quantified objectives, where appropriate.

Policy 25, Action A-C and E (Reduce Development Constraints...): The element included Policy 25 to reduce development constraints, including lengthy entitlement processes. Actions under this policy include establishing streamlined approvals for housing development that meet specific criteria, including specific housing types (small and multifamily developments), affordability requirements, and community benefits. The element indicates an implementation timeline of 0-15 years. In efforts to address the City's well documented lengthy permit process, the element should revise these timelines to complete these actions earlier in the planning period (e.g., 0-2 years). Additionally, the element could also include quantified objectives to measure program effectiveness throughout the planning period.

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 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 A1, the element must include a complete analysis of AFFH. The element must be revised to add goals and actions based on the outcomes of a complete analysis. Additionally, policies and actions must be revised to include definitive timelines during the planning period and quantifiable metrics to measure program effectiveness.

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

Policy 2, Action B-D, and H: While the element included policies and actions to preserve deed restricted units at-risk of converting to market rate, these actions must be revised to occur during the planning period. Additionally, actions must be revised with specific commitment to comply with noticing requirements and to coordinate and outreach with qualified entities to purchase properties and provide education and support to tenants.

C. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

The element must include quantified objectives estimating the number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period. This requirement could be addressed by utilizing a matrix like the one illustrated below:

| Income | New Construction | Rehabilitation | Conservation/ Preservation |
|-----------------|-------------------------|-----------------------|-----------------------------------|
| Extremely Low- | | | |
| Very Low- | | | |
| Low- | | | |
| Moderate- | | | |
| Above Moderate- | | | |
| TOTAL | | | |

D. Coastal Zone Analysis

Coastal localities shall document the number of low- and moderate-income units converted or demolished, and the number of replacement units provided. (Gov. Code, § 65588, subd. (d).)

The element does not meet the statutory requirements. To determine whether the affordable housing stock in the coastal zone is being protected and provided as required by Government Code section 65588, the element must be revised to include the following:

1. The number of new housing units approved for construction within the coastal zone since January 1982.
2. The number of housing units for persons and families of low- and moderate-income required to be provided in new housing developments either within the coastal zone or within three miles.
3. The number of existing residential dwelling units occupied by low- and moderate-income households either within the coastal zone or three miles of the coastal zone that have been authorized to be demolished or converted since January 1982.
4. The number of residential dwelling units for low- and moderate-income households that have been required for replacement.