

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

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October 12, 2021

Seimone Jurjis, Director  
Community Development Department  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

Dear Seimone Jurjis:

**RE: City of Newport Beach's 6<sup>th</sup> Cycle (2021-2029) Draft Housing Element**

Thank you for submitting the City of Newport Beach's (City) draft housing element received for review on August 13, 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 October 6, 2021 with you, Deputy Community Development Director Jim Campbell, Principal Planner Jaime Murillo, and consultant Dave Barquist of Kimley-Horn. In addition, HCD considered comments from the Campaign for Fair Housing Elements, the Kennedy Commission, YIMBY Law, and individuals such as Anne Paulson and Josh Albrektson, 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). For example, the site inventory must further demonstrate the suitability and availability of several sites in the planning period, various program actions must be revised to fulfill statutory requirements, and the Assessment of Fair Housing must be updated to meet the obligation to Affirmatively Further Fair Housing (AFFH). The enclosed Appendix describes these and other revisions needed to comply with State Housing Element Law.

The City's statutory deadline to adopt a housing element is October 15, 2021. 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 this statutory deadline, 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).

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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.

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:

[http://opr.ca.gov/docs/OPR\\_Appendix\\_C\\_final.pdf](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and  
[http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).

HCD is committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Colin Cross, of our staff, at [colin.cross@hcd.ca.gov](mailto:colin.cross@hcd.ca.gov).

Sincerely,



Paul McDougall  
Senior Program Manager

Enclosure

## APPENDIX CITY OF NEWPORT BEACH

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. Housing Needs, Resources, and Constraints**

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

The element includes some data and information regarding affirmatively furthering fair housing (AFFH) but it must still add data, local knowledge, analysis, and other relevant factors to address this statutory requirement, as follows:

Regional Patterns and Trends: For all categories of analysis (segregation and integration, racially and ethnically concentrated areas of poverty and affluence, access to opportunity, and disproportionate housing needs, including displacement), the element addresses some requirements to analyze local patterns and trends. However, the element must also analyze regional patterns and trends for each category and subcategory of analysis. A regional analysis should compare conditions at the local level to the rest of the region. This analysis could compare the locality at a county level or other subregional geography.

Segregation and Integration: The element analyzes segregation and integration on the basis of race at the local level. However, this component of the analysis should also address segregation and integration by disability, familial status, and income. The analysis must also conclude with a summary of fair housing issues.

Access to Opportunity: The element addresses some of the requirements for access to opportunity, discussing economic, environmental, and transportation opportunity. It should also address access to educational opportunity.

Disproportionate Housing Needs: Currently, the element provides data and limited analysis for cost burden and overcrowding. The analysis of disproportionate housing needs should also address substandard housing, homelessness, and displacement risk.

Local Data and Knowledge: In addition to the data sources relied on in the current draft, the element must support its analysis with local data and knowledge, including information obtained through community participation or consultation.

Site Inventory: The element contains an analysis of the site inventory that does not fully identify whether sites improve or exacerbate conditions or whether the sites are isolated by income group. 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 that will be taken to mitigate this (e.g. anti-displacement strategies).

Contributing Factors: The element describes contributing factors from the Orange County Analysis of Impediments (p. 3–60) but should also tailor contributing factors unique to the City. Contributing factors should be based on all the prior efforts and analyses (outreach, assessment of fair housing, and site inventory) and should be prioritized to demonstrate the most salient fair housing issues in Newport Beach. The analysis shall result in strategic approaches to inform and connect goals and actions to mitigate contributing factors to fair housing issues.

Strategies and Actions: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element includes Policy Action 4A (Affirmatively Furthering Fair Housing), which commits the City to reviewing discrimination complaints, assisting in dispute resolution, and referring complaints to the proper authority, in collaboration with local and regional organizations. This is not adequate to satisfy the requirement for specific and meaningful actions. Program actions should be proactive, facilitate meaningful change, and respond directly to the contributing factors to fair housing that were identified. Furthermore, the element must include metrics and milestones for evaluating progress on programs, actions, and fair housing results. The element must add and revise programs based on a complete analysis and drawn from the identified and prioritize contributing factors to fair housing issues.

2. *Include an analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected needs for all income levels, including extremely low-income households. (Gov. Code, § 65583, subd. (a)(1).)*

While the element quantifies the existing housing needs of extremely low-income (ELI) households, it must still quantify projected ELI housing needs. The projected housing need for ELI households can be calculated by using available census data to determine the number of very low-income households that qualify as ELI households or presume that 50 percent of very low-income households qualify as ELI households.

3. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment*

*during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

The City has a regional housing need allocation (RHNA) of 4,845 housing units, of which 2,386 are for lower-income households. To address this need, the element relies on vacant and nonvacant sites across six Focus Areas throughout the City. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Progress in Meeting the RHNA: The element indicates (pp. B–7-10) that five projects consisting of 120 affordable units and 1,471 above moderate-income units are in the pipeline, but it provides no information about these projects except their names. The City's RHNA may be reduced by the number of new units built since June 30, 2021; however, the element must demonstrate the affordability of these units to the various income groups based on actual sales price, rent level or other mechanisms ensuring affordability (e.g., deed restrictions). The element must also describe the approval status and basic features of these projects to demonstrate their anticipated availability in the planning period.

Realistic Capacity: The element provides various assumptions of buildout for sites included in the inventory's six Focus Areas, assuming close to the maximum yield on each site and then applying a percentage to the Focus Area as a whole (e.g., 18 percent for the Airport Area Environs Focus Area). It must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site may need to be adjusted based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

In addition, for sites where zoning allows 100 percent nonresidential uses, this analysis must adjust for the likelihood of nonresidential development. For example, the element could describe the underlying zoning, whether 100 percent nonresidential development is allowed in these zones, and any relevant programs or policies the City is undertaking to facilitate residential development in nonresidential zones.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. To address this requirement, the element describes in general the existing use of each nonvacant site (e.g., office building). This alone is not adequate or to demonstrate the potential for redevelopment in the planning period. The analysis should consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the City's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage

additional residential development on these sites. For example, the element could consider indicators such as age and condition of the existing structure, presence of expiring leases, expressed developer interest, low improvement to land value ratio, and other factors. The element should describe and support (through development trends) the thresholds used to identify sites for redevelopment.

In addition, specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Small and Large Sites: While the narrative claims that sites smaller than 0.5 acres and larger than 10 acres were excluded from consideration for lower-income RHNA, the parcel listing appears to include several such sites. The element must describe whether these parcels are expected to develop individually or consolidated with the other small parcels. For parcels anticipated to be consolidated, the element must demonstrate the potential for lot consolidation. For example, analysis describing the City's role or track record in facilitating small-lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for redevelopment, recent trends of lot consolidation, and information on the owners of each aggregated site. For parcels anticipated to develop individually, the element must describe existing and proposed policies or incentives the City will offer to facilitate development of small sites. This is important given the necessary economies of scale to facilitate development of housing affordable to lower-income households.

To demonstrate the viability of appropriate development in the Coyote Canyon and Banning Ranch Focus Areas, the element must include analysis demonstrating the feasibility of large parcel development of housing affordable to lower-income households. In Coyote Canyon, the primary site is 243.23 acres with 22 buildable acres, and Banning Ranch includes several hundred acres of land. The element must demonstrate the suitability and availability of these areas for residential development affordable to lower-income households, particularly considering that typical affordable developments range in size from 50 to 150 units. The analysis could describe strategies such as opportunities for specific-plan development and further subdivision or other methods to facilitate the development of housing affordable to lower-income households on large sites.

Banning Ranch: The element assumes 1,475 units in the Banning Ranch Focus Area, explaining without further detail that "the City understands that future opportunities may still exist for housing development on the Banning Ranch" (p. B-56). HCD understands this area might not be available for residential development in the planning period. The element must analyze potential environmental constraints and any other known conditions that may preclude or impact residential development during the planning



period. Based on the outcomes of this analysis, the element should adjust assumptions and add or modify programs as appropriate.

Accessory Dwelling Units (ADUs): The element assumes an average of 125 ADUs per year will be constructed during the planning period, for a total of 1,000 ADUs. The element's analysis and programs do not support this assumption. Based on HCD records and numbers reported in the element, the City is averaging about 5 ADU permits per year since 2018. To include a realistic estimate of the potential for ADUs, the element must reduce the number of ADUs assumed per year and include policies and programs that incentivize the production of ADUs. Depending on the analysis, the element must commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). Finally, if necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Sites with Zoning for a Variety of Housing Types:

- *Single Room Occupancy (SRO) Units:* The element does not demonstrate a zone(s) where SROs are an allowable use. The analysis should clarify the City's process for SROs and add or modify programs as appropriate.
  - *Accessory Dwelling Units (ADUs):* For your information, HCD's ADU team has identified several areas in which the City's ADU ordinance appears to be out of compliance with State ADU Law. HCD will reach out with findings and guidance under separate cover.
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. 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). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Land-Use Controls: The element must identify and analyze all relevant land-use controls as potential constraints on a variety of housing types, both independently and cumulatively with other land-use controls. The analysis should further address height

maximums in the Multiple Residential (RM) zone and the various Mixed-Use (MU) zones, especially as they relate to the Height Overlay and describe if the height overlay or heights allowing more than two stories will apply to the sites included in the inventory. Additionally, the element should analyze the requirement for two covered parking spaces per unit plus 0.5 spaces of guest parking for every dwelling in a multi-family development of four or more units. Programs to mitigate potential constraints should be added or modified as appropriate.

Design Review: The element must describe and analyze any design review guidelines and processes the City has, 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.

Constraints to Housing for Persons with Disabilities: While the element provides some details on residential care facilities and other group homes, the City did not provide an analysis of the impact on housing for lower-income households and persons with disabilities. The element details that residential care facilities serving six or fewer persons are permitted in all residential zones. However, residential care facilities serving seven or more persons require a conditional use permit (CUP). The element should analyze the process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty. For example, imposing standards such as compatibility with surrounding uses would be considered a constraint. Although local ordinances and policies are enacted to protect the health and safety of citizens and further the general welfare, it is useful to periodically reexamine local ordinances and policies to determine whether, under current conditions, they are accomplishing their intended purpose or constituting a barrier to the maintenance, improvement, or development of housing for all income levels. Such an examination may reveal that certain policies have a disproportionate or negative impact on the development of particular housing types or on housing developed for persons with disabilities. Ordinances, policies, or practices that have the effect of excluding protected populations such as persons with disabilities may also violate state and federal fair housing laws that prohibit any land-use requirements that discriminate (or have the effect of discriminating) against affordable housing.

City Charter Section 423: The element describes the background and process of City Charter Section 423, which subjects certain amendments to the City's general plan to voter approval. However, the analysis of Section 423's potential as a constraint to housing development is limited. A full analysis should demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters. In addition, the element should indicate if any of the potential rezones to accommodate the RHNA will be subject to voter approval and include a program that outlines the steps, timing for voter approval and alternative actions with dates if milestones are not met.



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).)*

The element must include 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 the jurisdiction's share of the regional housing need.

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

While the element quantifies the City's special needs populations, it must also analyze their special housing needs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (availability senior housing units, 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.

## **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).)*

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. For example, Policy Action 1J (ADU Amnesty Program) should be revised to include a quantified objective for the number of households expected to utilize the program.

Please note that several programs involve taking action to comply with state law, and as such should include timelines that ensure a beneficial impact by committing to compliance within the first year of the planning period. Programs with actions that require an accelerated timeframe include Policy Action 3B (SB 35 Streamlining) and Policy Action 7A (Supportive Housing / Low Barrier Navigation Centers).

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 A3, 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:

Zoning to Accommodate a Shortfall of Site for Lower: Pursuant to Government Code 65583.2, subdivisions (h) & (i), Policy Actions 1A–1F, which rezone sites to accommodate the City's shortfall in satisfying the RHNA, must commit to the following:

- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
  - allow 100 percent residential use, and
  - require residential use occupy 50 percent of the total floor area of a mixed-use project.

In addition, if the rezoning of sites is subject to a voter approval City Charter Section 423, the program must detail any necessary steps, timing for completion of those steps and alternative measures with dates if milestones are not met. Please be aware, if voter approval is required and subsequently rejected, the housing element may no longer comply with state law.

Sites Identified in Prior Planning Periods: The element includes Policy Action 1G (5<sup>th</sup> Cycle Housing Element Sites), which addresses the requirement for nonvacant

sites identified in a prior planning period to permit residential uses by-right for developments in which 20 percent of units are affordable to lower-income households. This program must also commit to zoning those sites to allow Newport Beach's default density of 30 du/ac, pursuant to Government Code 65583.2, subdivision(c) or at densities demonstrated to be appropriate for the development of housing for lower-income households. Additionally, if any vacant sites in the inventory are being used to accommodate the lower RHNA and have been identified in two prior planning periods, the program must ensure that those sites meet the same requirements.

ADU Monitoring: The element includes Policy Action 1I (ADU Monitoring Program), which commits the City to establishing an ADU monitoring program. This program should commit explicitly to monitoring ADU production by affordability, and to implementing additional actions if not meeting target numbers at affordability levels anticipated in the housing element. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months).

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) A4 and A5, 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.

4. *Promote AFFH 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 Assessment of Fair Housing, and Policy Action 4A (AFFH) does not satisfy the requirements for specific and meaningful program actions. Based on the outcomes of that analysis, the element must add or modify programs. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. For additional guidance on program requirements to AFFH, please see HCD's guidance at <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>.

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).)*

The element includes Policy Action 2C (Preservation of At-risk Units). The element identifies 19 units at-risk of converting to market-rate uses in the planning period. Therefore, the element must include a program(s) with specific and proactive actions to preserve the at-risk units such as developing a plan or strategy for quickly moving forward in the case units are noticed to convert to market-rate uses in the planning period, and ensure tenants receive proper notifications.

### **C. 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 profiles the strategies undertaken to achieve public participation, it must also describe how the City reached all economic segments of the population in conducting outreach related to its survey and workshops, particularly lower-income households; this should also consider language access. The element should also clarify whether and how any nongovernmental organizations and other parties were notified. 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.