



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: November 16, 2021
TO: Christine Daniel, City Manager
FROM: Charles S. Bryant, Community Development Director
SUBJECT: 2023-2031 Housing Element

RECOMMENDATION

Staff recommends that the City Council hear a presentation from staff and the Housing Element consultants, take public comment, and provide feedback.

BACKGROUND

Since 1969, California has required that all cities and counties adequately plan to meet the housing needs of everyone in the community. This is accomplished through the adoption of a Housing Element, which is a required component of a local government's General Plan. The General Plan is a long-term planning document that helps craft the vision of the City. The purpose of a Housing Element is to identify current and projected housing needs, and to set goals, policies, and programs to address those needs.

Unlike other elements of the General Plan, which may be updated at the discretion of each jurisdiction, Housing Elements are required to be updated on eight-year cycles and are subject to the review and approval of the California Housing and Community Development Department (HCD). The City's current Housing Element was adopted by the City Council in 2014 and covers the period from 2015 to 2023.

For this next cycle, an updated Housing Element covering the period from 2023 to 2031 must be adopted by January 31, 2023. The City has hired the firm PlaceWorks to prepare the updated Housing Element and a draft is currently underway.

DISCUSSION

Regional Housing Needs Allocation

The foundation of the Housing Element is the Regional Housing Needs Allocation (RHNA). The City's RHNA is based on a determination of the region's housing need issued by HCD (Regional Housing Needs Determination, or RHND). HCD released the RHND for the Association of Bay Area Governments (ABAG) planning area in June 2020; it determined that the ABAG region needs to provide capacity for 441,176 total new housing units. ABAG prepared and adopted a methodology, which, in turn, allocated those units to each member jurisdiction for the next planning cycle.

Under the ABAG RHNA methodology, the City of Emeryville must accommodate 1,815 housing units to meet its “fair share” of the State’s housing need, which includes 710 lower income units. State housing law does not require the City to construct the allocated units within the planning period but does require the Housing Element to demonstrate site development capacity to facilitate the construction of a variety of housing for all income levels consistent with the City’s RHNA.

Density is one of the most important factors that affect the feasibility of housing that is affordable to households with lower incomes. Higher density reduces the land cost for each housing unit, thereby reducing total development cost. Therefore, the California legislature has set “Default” densities that are presumed to be suitable for lower-income housing. For Emeryville, the default density is 20 housing units per acre. Since all of the residential areas in Emeryville allow at least 20 housing units per acre, the lower income RHNA can be accommodated throughout the city.

Table 1: Emeryville’s 2023-2031 Regional Housing Needs Allocation (RHNA)

Income category	Maximum Income, Two Person Household	Units needed	% of total
Very Low Income < 50% AMI*	< \$54,800	451	25%
Low Income 51 – 80% AMI	\$54,801 - \$87,700	259	14%
Moderate Income 81 – 120% AMI	\$87,701 - \$120,550	308	17%
Above Moderate Income 121% + AMI	> \$120,551	797	44%
TOTAL		1,815	100%
<i>*AMI = Area Median Income, Two-Person Household: \$100,500; Four-Person Household: \$125,600 Source: California Department of Housing and Community Development, State Income Limits for Alameda County, 2021; ABAG Final Regional Housing Needs Allocation 2023-2031</i>			

Housing Element Components

The components of the Housing Element include:

- Analysis of existing and projected housing needs
- Inventory of available land for housing

- Analysis of potential constraints on housing (e.g., permit processing procedures, fees)
- Assessment of Fair Housing
- Evaluation of previous housing element
- Goals, policies, and implementation programs

Opportunities for Public Input

- Housing Committee Meetings
 - Completed: April 7, 2021; July 7, 2021; and October 6, 2021
 - Upcoming: December 1, 2021; February 2, 2022; and April 6, 2022
- Stakeholder interviews – in process
- Project website, social media and housing notification email list
 - Contact for comments and questions: housingelement@emeryville.org
 - Surveys
- Two Community Workshops
 - Completed: June 29, 2021
 - Upcoming: January 2022
- Planning Commission and City Council Meetings
 - October 28, 2021 (Planning Commission Study Session) and November 16, 2021 (City Council Item)
 - Public Review Draft Release Hearings: April 28, 2022 (Planning Commission) and May 5, 2022 (City Council)
 - Adoption Hearings: October 27, 2022 (Planning Commission) and December 1, 2022 (City Council)

Housing Element Compliance

By law, a compliant Housing Element must be adopted by January 31, 2023, and requires approval by HCD. The purpose of HCD review is to ensure the Housing Element complies with Housing Element law, which includes accommodating the RHNA allocation.

In previous Housing Element cycles, the penalties for adopting a non-compliant Housing Element were limited to private-party lawsuits (usually brought by housing advocacy groups and other special interests) and the loss of state funding, including gas tax money and the ability to apply for grants. However, the suite of housing bills passed in 2019 included changes to Government Code section 65585, which added significant penalties for noncompliance.

New Laws Affecting Housing Element Update

In the last several years, the state has adopted several new procedural laws that place additional requirements on Housing Element updates, including:

SB 9: Housing Development Approvals, requires jurisdictions to ministerially approve up to two units on all lots in existing single-family zones and/or allow urban lot splits. Jurisdictions may not require development standards that prevent the construction of two units on either of the parcels resulting from an urban lot split that conforms with SB 9 criteria; however, SB 9 allows jurisdictions to prohibit more than two units on the resulting parcels, including ADUs, Junior ADUs, and primary dwelling units.

AB 215: Updates to Housing Element Timeline, requires a local government to make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, take at least 10 additional business days to consider and incorporate public comments into the draft revision before submitting it to HCD. It also requires HCD to review the draft and report its written findings to the city within 90 days of receiving the first draft submittal for each housing element revision, or within 60 days of its receipt for a subsequent draft amendment or adopted housing element. The January 31, 2023 deadline for housing element adoption does not change. This law was signed by the Governor on September 28, 2021. The schedule outlined below takes these new requirements into account.

AB 1397: Non-Vacant Sites, states that, if more than 50% of lower-income sites are non-vacant, the law assumes that the existing use will prevent redevelopment unless there is evidence to the contrary. In addition, sites smaller than 0.5 acres or larger than 10 acres are presumed inappropriate for lower-income housing unless there is a track record of similar development.

SB 166: No Net Loss Zoning states that if a project is approved on a housing element site with fewer units or a different income category than the RHNA, cities must either make a written finding that other housing element sites are adequate to meet the RHNA for lower- or moderate-income housing or, identify and make available within 180 days other sites zoned at a density suitable for lower- or moderate-income housing.

SB 35 and SB 330 are intended to reduce the time it takes to approve housing developments in California. SB 35 requires a streamlined ministerial approval process for projects including a minimum percentage of affordable units. The process requires that the proposed development meet objective standards and does not allow it to be subject to subjective judgement or discretion.

AB 686: Affirmatively Further Fair Housing creates new requirements that apply to all housing elements due for revision on or after January 1, 2021 to assess fair housing issues in the community by analyzing areas of opportunity and access to resources; to evaluate and address how particular sites available for development of housing will meet the needs of households at all income levels and will affirmatively further fair housing (AFFH); and to

include programs that foster an inclusive community, combat discrimination and displacement, and provide equitable access to resources.

Planning Commission Comments

At a study session on October 28, 2021, the Planning Commission received the same presentation on the Housing Element that the Council will receive on November 16. The Commission asked for clarity on how the document is used and suggested that programs incentivizing the construction of low-income units be included in the Housing Element. Specific suggestions for increasing production of low-income units included providing financing for the construction of Accessory Dwelling Units (ADUs) for low-income households, and permitting residential units to exceed the base density and floor area ratio (FAR) without requiring Planning Commission approval if the units are subject to an affordability agreement.

Next Steps

Staff will continue to keep the Council and the public informed as the process moves forward. The public is encouraged to join the mailing list on the City's Housing Element update webpage at <https://www.ci.emeryville.ca.us/1403/2023-2031-Housing-Element>.

Table 2: Schedule

	Project Kick-Off	March 2021
	Community Workshop #1	June 29, 2021
	Planning Commission and City Council Study Sessions	October and November 2021
	Community Workshop #2	January 2022
	Release Public Review Draft Housing Element	Spring 2022
	Planning Commission and City Council Hearings to present the Public Review Draft	April and May 2022
	Submit Draft to HCD (90-Days* Review)	May – July 2022
	Submit Draft to HCD (2nd review 60-Days Review) – if needed	August – September 2022
	Planning Commission and City Council Adoption Hearings	October and December 2022
	Submit Final Adopted Housing Element to HCD Review and Certification (Up to 60 Days*)	December 2022 – March 2023
*AB 215 – new timeframe for housing elements submitted to HCD after January 1, 2022		

FISCAL IMPACT

This report is for informational purposes. There is no fiscal impact.

STAFF COMMUNICATION WITH THE PUBLIC

As noted above, the Housing Committee discussed the Housing Element at its April 7, 2021, July 7, 2021, and October 6, 2021 meetings, a community workshop was held on June 29, 2021, and the Planning Commission held a study session on October 28, 2021. Stakeholder interviews and surveys have also been conducted, and there is a website for additional information.

PREPARED BY: Navarre Oaks, Associate Planner

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:



Christine Daniel, City Manager

ATTACHMENTS:

- Attachment 1 –Presentation Slides