



## AGENDA REPORT SUMMARY

**Meeting Date:** August 3, 2023

**Subject** Specialized Housing Regulations

**Prepared by:** Nick Zornes, Development Services Director

**Attachment(s):**

1. Draft Ordinance
2. Appendix A
3. Assembly Bill No. 101
4. Assembly Bill No. 101 – HCD Fact Sheet
5. Assembly Bill No. 101 – HCD AB 101 Checklist
6. Assembly Bill No. 2162
7. Assembly Bill No. 2162 – HCD Fact Sheet
8. Health & Safety Code – Section 17021.5
9. Health & Safety Code – Section 17021.6

**Initiated by:**

City of Los Altos adopted 6<sup>th</sup> Cycle Housing Element, Program 4.C, 4.D, 4.E, 4.F

**Fiscal Impact:**

No fiscal impacts are associated with the adoption of these implementing regulations.

**Environmental Review:**

This Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

**Summary:**

The draft ordinance incorporates regulations for Low Barrier Navigation Centers, Transitional and Supportive Housing, Employee/Farmworker Housing, and Reasonable Accommodations consistent with State law. The draft ordinance was developed to create a standalone chapter within the Los Altos Municipal Code for the proposed regulations, which will allow for easier access and understanding by internal and external stakeholders.

**Staff Recommendation:**

The Planning Commission provides recommendation to the City Council to introduce and adopt the Draft Ordinance as presented tonight.

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**Reviewed By:**

Development Services Director

NZ

City Attorney

JH

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**Background:**

On January 24, 2023, the Los Altos City Council adopted the City’s 6<sup>th</sup> Cycle Housing Element 2023-2031. As required by law, the adopted housing element has several housing programs contained within. The City of Los Altos identified specific programs in its housing element that will allow it to implement the stated policies and achieve the stated goals and objectives.

Programs must include specific action steps the City will take to implement its policies and achieve its goals and objectives. Programs must also include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, describe the city’s specific role in implementation, and (whenever possible) identify specific, measurable outcomes.

Programs 4.C, 4.D, 4.E, 4.F of the adopted 6<sup>th</sup> Cycle Housing Element were initially required to be implemented during the 5<sup>th</sup> Cycle Housing Element by development and integration of regulations in the Los Altos Municipal Code. The draft ordinance under consideration implementing Programs 4.C, 4.D, 4.E, 4.F is required to be adopted no later than December 31, 2023. Due to the various requirements and deliverables of the 6<sup>th</sup> Cycle Housing Element the draft ordinance was prepared early to help ensure that ample time is available to execute several other adopted programs.

**Analysis:**

The City’s adopted 6<sup>th</sup> Cycle Housing Element 2023-2031, included Program 4.C. The housing program requires the proposed ordinance amendments to *Allow Low Barrier Navigation Centers consistent with AB 101*. The draft ordinance included in this agenda packet effectively completes these deliverables as explicitly called out within the housing program.

***Program 4.C: Allow Low Barrier Navigation Centers consistent with AB 101.***

*The Zoning Code does not address low barrier navigation centers (LBNCs), defined as Housing First, low-barrier, service enriched shelters focused on moving people into permanent housing that provide temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing (Government Code §65660). State law requires LBNCs to be permitted by-right in areas zoned for mixed-use and nonresidential zones permitting multifamily uses provided they satisfying the provisions established by AB 101 (see Government Code §65662). This would allow LBNCs in the CD/R3, CN, CD, CRS, CT, and CRS-OAD districts. The City will amend its Zoning Code to explicitly allow LBNCs as provided by State law.*

***Responsible Body:*** Development Services Department, Planning Commission, City Council

***Funding Source:*** General Fund



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***Time Frame:*** December 2023

The City's adopted 6<sup>th</sup> Cycle Housing Element 2023-2031, included Program 4.D. The housing program requires the proposed ordinance amendments to *Allow transitional and supportive housing consistent with State law*. The draft ordinance included in this agenda packet effectively completes these deliverables as explicitly called out within the housing program.

***Program 4.D: Allow transitional and supportive housing consistent with State law.***

*Allow transitional and supportive housing by right in all zones which allow residential uses, subject only to those restrictions and standards that apply to other residential dwellings of the same type in the same zone, consistent with State law. Additionally, transitional, and supportive housing that qualifies under AB 2162 will be allowed by right in zones where multi-family and mixed uses are allowed, including nonresidential zones that allow multi-family uses, consistent with AB 2162 (Government Code §65651).*

***Responsible Body:*** Development Services Department, Planning Commission, City Council

***Funding Source:*** General Fund

***Time Frame:*** December 2023

The City's adopted 6<sup>th</sup> Cycle Housing Element 2023-2031, included Program 4.E. The housing program requires the proposed ordinance amendments to *Allow employee/farmworker housing consistent with State law*. The draft ordinance included in this agenda packet effectively completes these deliverables as explicitly called out within the housing program.

***Program 4.E: Allow employee/farmworker housing consistent with State law.***

*The City will amend the Zoning Code to allow employee housing consistent with Health and Safety Code §17021.5 and 17021.6.*

***Responsible Body:*** Development Services Department, Planning Commission, City Council

***Funding Source:*** General Fund

***Time Frame:*** December 2023

The City's adopted 6<sup>th</sup> Cycle Housing Element 2023-2031, included Program 4.F. The housing program requires the proposed ordinance amendments to *Reasonably accommodate disabled persons' housing needs*. The draft ordinance included in this agenda packet effectively completes these deliverables as explicitly called out within the housing program.



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***Program 4.F: Reasonably accommodate disabled persons' housing needs.***

*Both the federal Fair Housing Act and the California Fair Employment and Housing Act direct local governments to make reasonable accommodations (i.e., modifications or exceptions) in their zoning laws and other land use regulations when such accommodations may be necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. The Zoning Code does not currently contain procedures for reasonable accommodations. The City will adopt reasonable accommodation procedures compliant with State and federal law.*

***Responsible Body:*** *Development Services Department, Planning Commission, City Council*

***Funding Source:*** *General Fund*

***Time Frame:*** *Adopt an ordinance by December 2023; report to City Council on number of reasonable accommodations requests submitted and the status of each (i.e., approved, denied (and reason for denial), or under review), Annually.*

***Objective:*** *The City will adopt a reasonable accommodation ordinance and process request as submitted with the target of approving at least three reasonable accommodation requests by January 31, 2031.*

**Discussion:**

The actions included within the attached draft ordinance are requirements pursuant to the City's adopted 6<sup>th</sup> Cycle Housing Element. Once a jurisdiction takes final action by adopting its housing element this requires immediate action in order to remain compliant with State housing law. The City of Los Altos Housing Element contains **26** major action items or milestones that must be completed within the first 12-months post adoption. The draft ordinance will effectively accomplish the majority of **4 of the 26 items** or milestones to be achieved in the first 12-months.

Should the Los Altos Planning Commission not recommend approval of the draft ordinance the City will be vulnerable to penalties and consequences of housing element noncompliance. HCD is authorized to review any action or failure to act by a local government that determines is inconsistent with an adopted housing element or housing element law. This includes failure to implement program actions included in the housing element. HCD may revoke housing element compliance if the local government's actions do not comply with state law. Examples of penalties and consequence of housing element noncompliance:

- **General Plan Inadequacy:** the housing element is a mandatory element of the General Plan. When a jurisdiction's housing element is found to be out of compliance, its General Plan could be found inadequate, and therefore invalid. Local governments with an invalid General Plan can no longer make permitting decisions.



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- **Legal Suites and Attorney Fees:** local governments with noncompliant housing elements are vulnerable to litigation from housing rights' organization, developers, and HCD. If a jurisdiction faces a court action stemming from its lack of compliance and either loses or settles the case, it often must pay substantial attorney fees to the plaintiff's attorneys in addition to the fees paid by its own attorneys. Potential consequences of lawsuits include mandatory compliance within 120 days, suspension of local control on building matters, and court approval of housing developments.
- **Loss of Permitting Authority:** courts have authority to take local government residential and nonresidential permit authority to bring the jurisdiction's General Plan and housing element into substantial compliance with State law. The court may suspend the locality's authority to issue building permits or grant zoning changes, variances, or subdivision map approvals – giving local governments a strong incentive to bring its housing element into compliance.
- **Financial Penalties:** court-issued judgement directing the jurisdiction to bring its housing element into substantial compliance with state housing element law. If a jurisdiction's housing element continues to be found out of compliance, courts can multiply financial penalties by a factor of six.
- **Court Receivership:** courts may appoint an agent with all powers necessary to remedy identified housing element deficiencies and bring the jurisdiction's housing element into substantial compliance with housing element law.