



AGENDA REPORT SUMMARY

Meeting Date: January 4, 2024

Subject: Comprehensive Parking Code Amendment 1.0 - Housing Element Implementing Ordinance

Prepared by: Nick Zornes, Development Services Director

Reviewed by: Jolie Houston, City Attorney

Attachment(s):

1. Draft Ordinance
2. Appendix A – Chapter 14.74

Initiated by:

City of Los Altos adopted 6th Cycle Housing Element, Program 1.I, 3.A, and 3.M.

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 implementing Program 1.I: Incentivize Downtown Los Consolidation, Program 3.A: Prepare a Downtown Parking Plan and Update Citywide Parking Regulations, and Program 3.M: Modify Parking Requirements for Emergency Shelters Consistent with State law of the adopted Housing Element.

Staff Recommendation:

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

Background:

On January 24, 2023, the Los Altos City Council adopted the City's 6th 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



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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.

Program 1.I is prescribed under Goal 1 in the adopted Housing Element which is intended to promote new housing construction to meet Los Altos' Regional Housing Needs Allocation (RHNA). The proposed amendments contained in the draft ordinance help to encourage mixed-use development in designated zoning districts as required in Policy 1.2 of the adopted Housing Element.

Programs 3.A, and 3.M are prescribed under Goal 3 in the adopted Housing Element which is intended to remove constraints to the development of housing. The proposed amendments contained in the draft ordinance help to further Policy 3.1 promote housing through city regulation, and Policy 3.2 modify zoning code to assist in meeting housing needs.

The draft ordinance under consideration implementing Programs 1.I, Program 3.A, and Program 3.M is required to be adopted at various times within the planning cycle. Due to the various requirements and deliverables of the 6th Cycle Housing Element the draft ordinance was prepared early to help ensure that ample time is available to execute several other adopted programs. By providing additional time in amending each chapter of the draft ordinance the city hopes to provide additional buffer in creating the regulatory environment to allow for the approval and creation of housing units.

It is important to note that Program 1.I, and Program 3.A will require additional future action of the City of Los Altos, and future Zone Text Amendments will be prepared for consideration. Additional amendments to implement Program 1.I will be incentives beyond the confines of the City's Parking Ordinance, while Program 3.A will require additional amendments to the Parking Ordinance once completion of the Comprehensive Downtown Parking Plan has been completed with assistance from outside consultants; the Comprehensive Downtown Parking Plan is currently underway and began work in late 2023, the completion date of the Plan is anticipated for late 2024.

Analysis:

The City's adopted 6th Cycle Housing Element 2023-2031, included Program 31.I. The housing program requires the proposed ordinance amendments to *Incentivize downtown lot consolidation*. The draft ordinance included in this agenda packet begins to implement the multipronged deliverables called out within the housing program.

Program 1.I: Incentivize downtown lot consolidation.



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In certain portions of Downtown, particularly along Main Street and State Street, the presence of small lots, fragmented ownership pattern, and lack of ability to provide on-site parking may constrain future development. Considering other programs addressing governmental constraints (see programs under Goal 3), the City will evaluate and adopt (through the Zoning Code or by resolution, as appropriate) complementary incentives to further encourage lot consolidation in Downtown. This will include expedited application processing, reduction in application fees, reduction in permit fees, or other incentives. The City will promote the lot consolidation incentives on the City's website, through regular updates at the Planning Commission and City Council public meetings, and at the developers roundtable (see Program 2.C). Additionally, Policy 3.7 in the Community Design & Historic Resources Element of the General Plan will be modified for consistency with this Program.

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

Funding Source: *General Fund*

Time Frame: *Adoption of incentives and amendment of Community Design & Historic Resources Element by July 2026; promotion to occur annually thereafter.*

Objective: *Facilitate at least two Downtown lot consolidations by January 2031. If by January 2027, this objective is not on track to be met (i.e., 50 percent of objective), the City will offer additional and increased incentives no later than July 2027.*

The City's adopted 6th Cycle Housing Element 2023-2031, included Program 3.A. The housing program requires the proposed ordinance amendments to *Prepare a Downtown parking plan and update citywide parking requirements*. The draft ordinance included in this agenda packet effectively completes portions of these deliverables as explicitly called out within the housing program.

Program 3.A: Prepare a Downtown parking plan and update citywide parking requirements.

To address all parking constraints, the City will analyze and update parking requirements citywide and implement a Downtown parking plan. This effort will include the following:

- *Assess parking demand, requirements, and strategies in the Downtown and citywide.*
- *Identify approaches to address short and long-term parking needs considering innovative parking design and strategies that support efficient use of land.*
- *Reflect that the City will support consolidation of City-owned parking plazas.*



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- *Prepare a Downtown parking plan and modify parking requirements to reflect this plan and reflect ensuring that overflow parking does not spill over into adjacent residential only districts.*
- *Revise parking standards citywide for commercial (mixed-use) and multi-family residential zones to implement a sliding scale based on unit size (number of bedrooms). Multi-family parking ratios shall be reduced to be consistent with State Density Bonus Law (Government Code §65915(p)), with no more than the following required:*
 - *0-1 bedroom – one parking space*
 - *2-3 bedrooms – 1.5 parking spaces*
 - *4 or more bedrooms -2.5 parking spaces*
 - *Guest Parking – 0 spaces*

Lower ratios or no parking shall be required for qualifying projects pursuant to §65915(p).

- *Consistent with AB 2097, the City will update its parking regulations to remove minimum parking requirements on any residential, commercial, or other development projects within one half-mile of public transit (as defined in AB 2097) unless required findings are made as specified in State law. The City will map eligible properties consistent with AB 2097 and will apply current State law even before local amendments are adopted (AB 2097 is effective January 1, 2023).*
- *Amend the City's parking requirements citywide based on the assessment's findings. This will include reducing parking ratios (as noted above), eliminate guest parking requirements for multi-family housing; offering further reduced ratios for properties participating in a public parking district; establishing further reduced parking ratios for single-room occupancy units, senior housing, housing for persons with disabilities, deed-restricted affordable housing, etc. (e.g., 0.5 spaces per unit); providing more flexibility related to the underground parking requirement by allowing covered parking instead of requiring undergrounding; offering other alternatives to comply with parking requirements; and modifying the required parking design dimensions (e.g., parking stall and lane dimensions) so that less land area is required to be dedicated to parking while providing safe vehicle movement as approved by the City's Engineering Division.*

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

Funding Source: General Fund, Parking In-Lieu Fees, Public-Private Partnership

Time Frame: December 2024



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The City's adopted 6th Cycle Housing Element 2023-2031, included Program 3.M. The housing program requires the proposed ordinance amendments to *Modify parking requirements for emergency shelters 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 3.M: Modify parking requirements for emergency shelters consistent with State law.

The City will amend its Zoning Ordinance to only require parking necessary for emergency shelter staff consistent with Government Code §65583(a)(4)(A).

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

Funding Source: General Fund

Time Frame: December 2024

Discussion:

The actions included within the attached draft ordinance are requirements pursuant to the City's adopted 6th 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 draft ordinance will effectively accomplish multiple components of the required housing programs within the adopted housing element by fully implementing one of the three programs included as apart of the amendments presented, and partially two of the remaining programs presented.

Housing Element Noncompliance:

Should the Los Altos City Council vote not to proceed with the implementing actions discussed in this report 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



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could be found inadequate, and therefore invalid. Local governments with an invalid General Plan can no longer make permitting decisions.

- **Legal Suits 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.

Petition for Writ of Mandate – California Housing Defense Fund, Yes In My Back Yard v. City of Cupertino.

So that the City Council and public are well-informed the City of Los Altos has included this information with this agenda item so that all circumstances are understood as housing law is rapidly evolving.

Early this year Californians for Homeownership, California Housing Defense Fund, and YIMBY Law had filed 12 lawsuits in Contra Costa, Santa Clara, Marin, and San Mateo County Superior Courts with the intention to file more in the coming weeks. The cities and counties sued include Belvedere, Burlingame, Cupertino, Daly City, Fairfax, Martinez, Novato, Palo Alto, Pinole, Pleasant Hill, Richmond, and Santa Clara County. Each municipality has been sued by one or two of the non-profits.



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With the Bay Area’s 109 cities and counties at widely varied stages in the process of Housing Element adoption and compliance, these twelve lawsuits mark the first round of what will likely be many rounds of judicial review for noncompliance with state housing law in the Bay Area. The initial lawsuits focus on cities with a long history of exclusionary housing practices, cities that adopted housing elements unlawfully, and localities that have made little progress in developing their draft housing elements. The organizations will continue to file suits in the coming weeks, prioritizing cities with the most egregious violations in each organization’s judgment.

A Petition for Writ of Mandate in the State of California is used by superior courts, courts of appeal and the Supreme Court to command lower bodies (such as lower level of government agencies, in this case a city) to do or not do specific actions. In this case, a Writ of Mandate can result in the city being directed to adopt a compliant housing element or other associated actions to comply with State law. A Writ of Mandate could also be petitioned for and direct a city to specifically implement programs that were included in their adopted housing element.

Given the current and ongoing legal climate around housing element law it is vital for the City of Los Altos to expeditiously implement the adopted 6th Cycle Housing Element 2023-2031. As noted above the potential legal risks associated with housing element noncompliance could be further enforced by similar legal actions.

December 21, 2023 – HCD Letter of Inquiry

On December 21, 2023, the Development Services Director received written correspondence from the Department of Housing and Community Development (HCD) Proactive Enforcement Unit of HCD. The Letter of Inquiry was regarding the Rezone Requirements of the City of Los Altos, and the status of the City’s progress to complete such actions by January 31, 2024. As of November 28, 2023, the City of Los Altos has completed all necessary rezoning actions.

The Letter of Inquiry should serve as a cautionary warning to the City of Los Altos that all adopted programs must be implemented timely, and completed with strict adherence to the strong commitments contained within the adopted Housing Element.

Countywide Compliance Report:

Of the sixteen (16) jurisdictions in Santa Clara County at the time of this report only seven (7) jurisdictions are in compliance with Housing Element Law. As of September 5, 2023, the City of Los Altos was the sixth (6th) jurisdiction in the county to receive final concurrence from the Department of Housing and Community Development (HCD). The following table shows the status of all jurisdictions within Santa Clara County:



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Jurisdiction:	Compliance Status:	Date:
Campbell	IN	5/30/2023
Cupertino	OUT	12/15/2023
Gilroy	IN	8/21/2023
Los Altos	IN	9/5/2023
Los Altos Hills	IN	5/30/2023
Los Gatos	OUT	12/1/2023
Milpitas	IN	5/17/2023
Monte Sereno	OUT	9/22/2023
Morgan Hill	IN	11/29/2023
Mountain View	IN	5/26/2023
Palo Alto	OUT	8/3/2023
San Jose	IN REVIEW	11/30/2023
Santa Clara (City)	OUT	10/20/2023
Santa Clara (County)	OUT	12/18/2023
Saratoga	OUT	7/27/2023
Sunnyvale	IN REVIEW	11/15/2023