

# **Examining Affordable Housing Policy Impacts on Local Development Trends in California**

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## **Abstract**

This Professional Capstone assists Professors Moira O'Neill and Eric Biber in their Comprehensive Assessment of Land Use Entitlements Study (CALES) to answer questions about whether and how land use regulation shapes housing development patterns in California, with a particular focus on affordable housing development, in high-cost areas. The lack of affordable housing is one of California's most pressing planning issues. Since the 1970s, California's state housing framework, the Housing Element, has addressed housing shortage issues by requiring local governments to accommodate their fair share of regionally needed housing. However, these efforts have historically failed as 97% of local governments have never met their production requirements every housing cycle. Recently, the California Legislature passed two packages of bills, the 2017/2018 Housing Package, to address ongoing housing shortage and systematic issues of the Housing Element. Notably, this package aims to hold jurisdictions accountable for non-compliance and accelerate residential development, specifically affordable housing production. This Professional Capstone Project explores trends in changes to local law that regulates planning in response to these recent state legislative reforms. To date, the CALES team has completed research and analysis of land use regulation and collected approval related data in 20 California Cities and Counties. This Professional Capstone assists this process by adding to existing planning code summaries within CALES. It also examines how recent state legislation and local ordinances potentially support increasing the affordable housing supply. This capstone then provides analysis of local changes to planning and zoning ordinances between 2018-2021 in CALES jurisdictions, finding that some jurisdictions revised the following: (1) establishing new inclusionary zoning ordinances and/or strengthening existing affordable housing policy initiatives; (2) establishing new zoning districts encouraging infill development, enacting new development standards promoting compact development, and/or loosening existing regulatory measures; (3) establishing new development approval procedures and/or revising existing approval measures that may ease barriers to residential development.

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## I. Introduction

Housing is easily identified as one of California's biggest planning problems, specifically housing supply shortage and consistently high prices. While California needs to build 3.5 million housing units by 2025 to eliminate this supply gap, recent local government politics and housing production trends make these aspirations seem unattainable.<sup>1</sup> For example, from 1980 to 2010, California developers failed to produce half of the number of new homes necessary to prevent housing prices from increasing faster than the national average.<sup>2</sup>

It is no secret that California suffers from overpopulation. While the largest state by population, California also hosts the largest homeless population- approximately 1 in 4 homeless people nationwide are located in California. High demand to live in California and simultaneous low housing supply contribute to this crisis. From 1997 to 2017 alone, California's population increased by 10 million while only adding three million housing units- approximately 100,000 annually<sup>3</sup>. Geographical population growth trends only worsen these circumstances, as over 34 million of the 40 million of California's population live in four large metropolitan areas and the most affordable housing is the farthest away from large commercial centers.<sup>4</sup>

High rents and home prices have historically shaped California's landscape. From 1999 to 2006, California's average home price increased to more than half-million dollars and is currently 250% above the national average.<sup>5</sup> From 2008-2012, California's population-dense metropolitan areas with the highest housing prices did produce more multifamily housing than

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<sup>1</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 273.

<sup>2</sup> Taylor, "California's High Housing Costs - Causes and Consequences."

<sup>3</sup> Monkkonen, Lens, and Manville, "Built-out Cities?", 3.

<sup>4</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 23.

<sup>5</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 273.

other areas in California. Consequently, renters need to “make almost four times the state minimum wage to afford an average rent”.<sup>6</sup>

Accommodating population growth consistently stands at the forefront of state, local, and regional policy concerns in California. Because of this, some local governments are actively seeking out “infill” development solutions: high-density housing and mixed-use projects where low-intensity activity previously existed.<sup>7</sup> While many scholars agree these policy aims are essential, at the same time, opposition to new housing and increasing densities in cities is considered “one of the state’s major policy challenges of the 21st century” as interest groups deter many supply-focused solutions through differing political tactics.<sup>8</sup> For example, public opposition has led cities to zone for low-density single-family housing.

Since the 1970s, California’s state housing framework, the Housing Element, has aimed to address these housing shortage issues by assigning housing production requirements by region. Unfortunately, these efforts continually fail as compliance with these production requirements has been historically non-existent; 97 percent of California local governments consistently fail to meet housing unit goals every housing cycle, specifically those for low- and moderate-income segments.<sup>9</sup> For example, in 1988, only one in nine counties in the San Francisco Bay Area attained half of its production goals. As of 2018, these trends continued when only three percent, fifteen cities, were on track to produce their “fair share” of housing for this housing cycle.<sup>10</sup> Notably, the few cities that have met the fifth cycle requirements for moderate-income housing goals are still lagging behind those for low-income households.

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<sup>6</sup> Monkkonen, “Understanding and Challenging Opposition to Housing Construction in California’s Urban Areas.”

<sup>7</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 16.

<sup>8</sup> Monkkonen, “Understanding and Challenging Opposition to Housing Construction in California’s Urban Areas”, 20.

<sup>9</sup> Lewis, *California’s Housing Element Law*, 24.

<sup>10</sup> Collins and Johnson, “California Needs More Housing, but 97% of Cities and Counties Are Failing to Issue Enough RHNA Permits.”

Consequently, more than 400,000 affordable housing units are necessary to meet the fifth housing cycle goals.<sup>11</sup>

This Capstone project will explore changes to local planning processes in twenty California jurisdictions in light of new state legislation enacted in 2017 and 2018. While I broadly examine recent changes to land use law, I anchor my analysis in affordable housing policy trends. I will compare my findings between the jurisdictions to determine potential trends in affordable housing policy in response to state legislation. This document will proceed as follows. First, I provide background information pertaining to the following: local land use tools that guide residential development; the California Housing Element; trends in local government compliance; inclusionary zoning trends; and recent legislation that drives my analysis. Next, in my Literature Review, I will discuss methods commonly used to measure land use constraints on housing supply along with empirical findings on the effects of inclusionary zoning ordinances on housing production in California. Then, I will explain which methods I plan to use to conduct my analysis. Later, I discuss my findings related to completing the Capstone research and answering my research question.

## II. Capstone Project Scope/Research Question

### A. Capstone Project Scope

Professors Moira O’Neill and Eric Biber lead the Comprehensive Assessment of Land Use Entitlements Study (or CALES) to answer questions about whether and how land use regulation shapes housing development patterns, with a particular focus on affordable housing development, in high-cost areas.<sup>12</sup> To date, they have completed research and analysis of land

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<sup>11</sup> Rosenfeld, “New Data Underscores California’s Failure to Meet Low-Income Housing Production Goals - Dashboard Series #3.”

<sup>12</sup> CALES publications are referenced throughout this document. These include the following: [Developing the Ground Up, Sustainable Development]

use regulation and collected approval related data in the following California cities: Redwood City, Palo Alto, San Francisco, Oakland, Los Angeles, Long Beach, Santa Monica, Pasadena, Sacramento, Folsom, San Diego, Inglewood, Redondo Beach, Fresno, Mountain View. The dataset they generated covers approvals issued in 2014, 2015, 2016, 2017.

The first step in CALES research required the CALES team to complete planning code summaries for each of their study jurisdictions. A planning code summary gathers, analyzes, and then summarizes the relevant land use law applicable to residential development within CALES study jurisdictions. Specifically, each planning code summary consists of “local ordinances and planning code provisions most relevant to residential/mixed use development approvals, starting with the most macro planning tools (the General Plan) and then drilling down to the micro level (use and development controls).”<sup>13</sup> Development controls in each jurisdiction include permitted and restricted uses, height limitations within specific neighborhoods, maximum commercial and residential density and lot coverage, minimum parking requirements, exactions, and other requirements. Notably, these summaries also include local processes that may impact the affordable housing supply, such as inclusionary housing ordinances, rent stabilization

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O’Neill, Gualco-Nelson, and Biber, “Developing Policy from the Ground Up: Examining Entitlement in the Bay Area to Inform California’s Housing Policy Debates.”

Elemndorf, Biber, Monkkonen, and O’Neill, “Making It Work: Legal Foundations for Administrative Reform of California’s Housing Framework.”

Elemndorf, Biber, Monkkonen, and O’Neill, “Superintending Local Constraints on Housing Development: How California Can Do It Better.”

O’Neill, Moira and Gualco-Nelson, Giulia and Biber, Eric, Sustainable Communities or the Next Urban Renewal?”

O’Neill, Gualco-Nelson, and Biber, “Comparing Perceptions and Practice: Why Better Land Use Data Is Critical to Ground Truth Legal Reform | Turner Center.”

<sup>13</sup> O’Neill, Gualco-Nelson, and Biber, “Developing Policy from the Ground Up: Examining Entitlement in the Bay Area to Inform California’s Housing Policy Debates,” 39.



ordinances, anti-demolition ordinances, and streamlining initiatives. The CALES team is now augmenting the CALES approvals observation dataset with 2018 and 2019 data and needs to update each of the planning code summaries for current study jurisdictions.

The Professional Capstone added to the existing planning code summaries by researching and then summarizing relevant planning policy and law updates within twenty CALES study jurisdictions. The capstone focused on developments in local planning, policy, and law within each study jurisdiction enacted from January 1, 2018 to present day. The capstone also reviewed the changes in local planning, policy, and law to explore whether local changes to planning processes seem to respond recent state legislative reforms. Specifically, the Professional Capstone research involved first reviewing the existing planning code summaries (currently capturing law applicable to development approvals issued in any year between 2014-2017) within each jurisdiction. Next, this research involved locating and analyzing new state law and local ordinances enacted after January 1, 2018 that impact planning for and approving housing development. The client product from this capstone process provides suggested edits in each planning code summary to capture any relevant updates. Second, the capstone research analyzed whether local planning process changes are responsive to recently enacted state law.

#### **B. Research Question**

Do recently enacted local ordinances appear to respond to state law meant to improve housing potentially impacted efforts to increase affordable housing supply in twenty California jurisdictions? Are there notable trends of local development policy across jurisdictions? In answering this question, I will focus on the new affordable housing policies across the twenty jurisdictions which I will discuss further in my Methods section.

### III. Background/Literature Review

In order to describe my Capstone project, I will discuss relevant state law and local ordinances. In this Section, I will describe local land use tools that guide the entitlement process in California. Next, I will examine the California Housing Element and issues with local government compliance. Then, I will explore inclusionary zoning practices in California. Later, I will discuss the 2017 and 2018 state legislation.

#### A. Local Land Use Tools/Development Approval Processes

A baseline understanding of land use planning processes' hierarchy is necessary to understand California's state housing framework. Local governments review and approve housing development based on a hierarchical system of land use law.<sup>14</sup> This Section outlines the hierarchy of local land use tools then examines how these apply to development approval processes.

##### 1. Hierarchy of Local Land Use Tools

All jurisdictions in California use the same policy tools for development including a general plan, specific plans, zoning ordinances, and subdivision regulations.<sup>15</sup> Using these tools, California jurisdictions employ a hierarchical system of land use tools to review and approve housing developments. State law requires every jurisdiction to have a General Plan<sup>16</sup> at the top of

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<sup>14</sup> The following are referenced throughout this Literature Review:

O'Neill, Gualco-Nelson, and Biber, "Developing Policy from the Ground Up: Examining Entitlement in the Bay Area to Inform California's Housing Policy Debates."

Elemndorf, Biber, Monkkonen, and O'Neill, "Making It Work: Legal Foundations for Administrative Reform of California's Housing Framework."

Elemndorf, Biber, Monkkonen, and O'Neill, "Superintending Local Constraints on Housing Development: How California Can Do It Better."

O'Neill, Gualco-Nelson, and Biber, "Comparing Perceptions and Practice: Why Better Land Use Data Is Critical to Ground Truth Legal Reform | Turner Center."

<sup>15</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 107.

<sup>16</sup> CAL. GOV'T CODE § 65300.

the hierarchy considered the “constitution” for long-term development. Some jurisdictions additionally have Specific Plans to direct development in particular locations by codifying acceptable land uses and requiring review of proposed development.

Zoning ordinances are next within the hierarchy. Zoning ordinances include “maps and text when combined provide specificity as to the type of development (type and intensity of use and form) permissible within specific neighborhoods”.<sup>17</sup> Under state law, California cities are authorized to adopt zoning ordinances that divide a city into districts and apply various regulations to each district to further implement the General Plan.<sup>18</sup> Three categories of zoning include residential, commercial, and industrial. In California, single-family zoning has historically dominated these types of processes leading to suburbanization. Broadly, there are two types of zoning regulations, use and form, although modern zoning is typically complex. The form dimension determines the height or bulk of physical structures while use dimension restricts the type of development built in particular districts.<sup>19</sup> In addition to complying with land uses designated in the General Plan and any specific plan, a zoning ordinance must “serve to protect the public health, safety, and welfare”.<sup>20</sup>

## 2. Development Approval Processes/Controls

State law grants local governments authority to use the land use tools mentioned above to guide residential development. According to CALES literature,<sup>33</sup> two essential elements in regulating land use that impact housing development include base zoning (the underlying use

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<sup>17</sup> O’Neill, Gualco-Nelson, and Biber, “Developing Policy from the Ground Up: Examining Entitlement in the Bay Area to Inform California’s Housing Policy Debates”, 9.

<sup>18</sup> CAL. GOV’T CODE § 65800.

<sup>19</sup> Barclay and Gray, *California Land Use & Planning Law, 36th Edition*, 43.

<sup>20</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 136.

<sup>33</sup> refer to:

O’Neill, Gualco-Nelson, and Biber, “Sustainable Communities or the Next Urban Renewal?”;

O’Neill, Gualco-Nelson, and Biber, “Developing Policy from the Ground Up: Examining Entitlement in the Bay Area to Inform California’s Housing Policy Debates.”

and density restrictions in zoned areas described above) and discretionary processes. Because of this, land use tools may be categorized into four groups of various review processes. First, there are “by-right” process or objective ministerial review to approve development that conforms to the underlying zoning district’s use and density requirements. Ministerial approvals involve government agencies applying law to proposals without subjective judgment. A ministerial approval would exclude local government review of development requiring conditional use permits, planned unit development permits, variances, or a rezoning or general plan amendment. Ministerial review means that a development is not a “project” for purposes of CEQA and does not require environmental review.

Second, subjective discretionary review applies to projects complying with the zoning ordinance but must meet particular criteria through various types of permits. These permits include conditional use permits or specific plan permits. Third, there is also discretionary review that applies to projects not complying within the zoning ordinance. This form of review occurs when a developer seeks an exemption from the zoning ordinance, a variance, or requesting the city to zone the project site differently, rezoning, or revise the General Plan to allow the proposed project. Fourth, discretionary review that applies to projects complying with underlying base zoning district’s use and development controls, but imposing aesthetic controls. This review is subjective in nature and includes design review, architectural review, site development review, and historical preservation review/certificate of appropriateness. Notably, the California

Environmental Quality Act (CEQA)<sup>3435</sup> and the Subdivision Map Act<sup>3637</sup> are used by local governments for discretionary review of residential development.

## B. California Housing Framework

The Section breaks down the California Housing Framework into three components: the Housing Element, Regional Housing Assessment, and Housing Accountability Act.

### 1. The Housing Element Element of the General Plan

The Housing Element is vital to California's housing framework. The Housing Element was initially enacted in 1969 to require all cities in California to describe plans to meet housing needs in their local constitutions called general plans. All jurisdictions in California must incorporate eight essential elements to their general plans, including the Housing Element to ensure "decent housing and suitable living environment for every Californian".<sup>70</sup> Typically, a city's housing element is programmatic and has four features: assessment of local housing needs, an inventory of available sites for housing development, an analysis of constraints on housing developments, and a proposed set of programs to reduce these constraints and make additional sites available.<sup>71</sup> Specifically, the element constructs an assessment<sup>72</sup> of the city's existing and projected housing by identifying suitable and available land for residential development.<sup>73</sup>

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<sup>34</sup> CAL. GOV'T CODE § 65457.

<sup>35</sup> Through environmental review, local governments may deny residential developments that potentially cause substantial environmental damage. If the environmental impact report finds adverse consequences, the city can impose conditions to mitigate impacts. In these cases, government agencies will typically approve the project but require developers to implement mitigation measures. Significantly, residential development projects are exempt from CEQA requirements if consistent with a specific plan. However, because of its case-by-case procedure, CEQA's process tends to favor low-density developments over high-density developments, which runs counter to California's sustainable development goals.

<sup>36</sup> CAL. GOV'T CODE § 66410.

<sup>37</sup> Subdivision is the process of dividing land horizontally or vertically into two or more parcels for sale, lease, or financing.-Subdivision is always discretionary approval, required by state law.

<sup>70</sup> CAL. GOV'T CODE § 65580.

<sup>71</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 275

<sup>72</sup> CAL. GOV'T CODE § 65583.

<sup>73</sup> Barclay and Gray, *California Land Use & Planning Law, 36th Edition*, 14.

## 2. Regional Housing Assessment

In comparison to other states, California is unique because its housing framework is regionalist to protect general welfare over favoring specific localities.<sup>74</sup> In 1980, California State Legislature declared the availability of housing an issue of “vital statewide importance” and consequently adopted the fair share housing Housing Element.<sup>75</sup> California’s statewide framework is a three-part procedure: first, regional housing needs are estimated by population projections; second, the Councils of Governments allocate cities and counties in review; third, cities are required to update their local housing element to reflect regional housing needs.<sup>76</sup>

### *a. Calculation*

The process initiates when California’s Department of Housing and Community Development (HCD) calculates the Regional Housing Needs Assessment (RHNA). The RHNA determines the number of new housing units each region needs to build in the following eight years by four income categories: very low-income, low-income, moderate-income, and above-moderate-income.<sup>77</sup> In short, the RHNA determines the current and projected need for housing in each region of the state. In order to calculate RHNA, the HCD works with California’s Department of Finance to determine projected population growth along with current and projected economic and housing markets.<sup>78</sup> This process occurs every five to eight years in a “cycle” Currently, California is in its fifth housing element and RHNA update cycle.<sup>79</sup>

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<sup>74</sup> Lewis, *California’s Housing Element Law*, 88.

<sup>75</sup> Infranca, “The New State Zoning,” 842.

<sup>76</sup> Monkkonen, “Understanding and Challenging Opposition to Housing Construction in California’s Urban Areas.”, 16.

<sup>77</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 387, 274.

<sup>78</sup> Clare, “Because Housing Is What?”, 386.

<sup>79</sup> Rosenfeld, “New Data Underscores California’s Failure to Meet Low-Income Housing Production Goals - Dashboard Series #3.”

*b. Compliance Procedure*

Once the HCD determines the RHNA or “fair share” of housing units by regions, it assigns housing units to regional planning associations called the Council of Governments.<sup>80</sup> There are eighteen COGs in California divided by metropolitan regions. Notably, the three largest include: Association of Bay Area Governments, Southern California Association of Governments, and San Diego Association of Governments.<sup>81</sup> After the COGs receive the HCD’s RHNA, each COG prepares its assessment that considers the following: market demand for housing, employment opportunities, availability of suitable sites, availability of services, commuting patterns, type and tenure of housing need.<sup>82</sup> The COGs then distribute these among individual jurisdictions.

Once local governments receive their assigned housing production requirements, they must amend their housing elements to illustrate that the city has enough zoned land for housing at appropriate densities to accommodate its RHNA.<sup>83</sup> In these updates, local governments must analyze local housing needs, resources, and constraints to production to submit to HCD for approval. The housing inventory must list all parcels available for residential housing, including their size, current use, and zoning. Moreover, the inventory must analyze density to accommodate RHNA, market demand, and financial feasibility.<sup>84</sup> Notably, a city may substitute 25% of its RHNA inventory if it includes a program that provides some sort of affordable housing. In addition to housing inventory, cities must include a schedule of action, particularly a timeline for implementing housing policies and plans to rezone if necessary.

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<sup>80</sup> CAL. GOV’T CODE § 65584.01.

<sup>81</sup> Clare, “Because Housing Is What?”, 387.

<sup>82</sup> Lewis, *California’s Housing Element Law*, 17.

<sup>83</sup> Kautz and Varat, “Navigating Housing Development in the New Era”, 5.

<sup>84</sup> CAL. GOV’T CODE § 65583.2.

After this process is completed, local governments must submit their updated “housing elements” to state agencies for review, then revise local land use regulations if necessary to conform to the plan.<sup>85</sup> The updated housing element has four essential features: it must be updated every eight years; it must be responsive to the Regional Housing Need Assessment (RHNA); it must be programmatic; it is subject to state oversight. However, historically, the number of needed units has been seen as “goals, not mandated acts” so city governments have rarely been held accountable.<sup>86</sup> Because of this, local governments have historically not met housing unit goals, specifically those for low- and moderate-income segments.

### 3. The Housing Accountability Act

Enacted in 1982, the Housing Accountability Act (HAA)<sup>87</sup> encourages local government compliance with RHNA requirements. The HAA attempts to increase the approval and construction of new housing by preventing local governments from reducing housing development projects' density.<sup>88</sup> Before January 2018, the HAA had two essential components: first, “a housing project may usually not be denied or reduced in density if it conforms with all “objectives” standards”; second, “additional findings must be made to deny an affordable housing project”.<sup>89</sup> Moreover, the HAA enables developers to sue “unreasonably blocking, or reducing the density of, housing projects, either by onerous non codified additional requirements, or through unreasonable disapprovals of otherwise compliant projects”.<sup>90</sup> If a city is found guilty, the developer is granted a “builder’s remedy” to approve the project. However, this rarely happens as courts typically favor cities’ planning decisions over developers’ projects.

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<sup>85</sup> Elmendorf, “Beyond the Double Veto”, 102.

<sup>86</sup> Lewis, *California’s Housing Element Law*, 20.

<sup>87</sup> CAL. GOV’T CODE § 65589.5.

<sup>88</sup> Kautz and Varat, “Navigating Housing Development in the New Era”, 15.

<sup>89</sup> Kautz and Varat, “Navigating Housing Development in the New Era”, 15.

<sup>90</sup> Clare, “Because Housing Is What?”, 395.



Notably, the Capstone findings examine recent HAA amendments that impact residential development. As mentioned above, the HAA restricts local government discretion from denying a housing application if the proposed project complies with general plan, zoning, and design review standards. In 2017, California Renters Legal Advocacy and Education Fund sued the City of San Mateo for violating the Housing Accountability Act when the City denied application for a 10-unit apartment building due to not satisfying the City’s design guidelines for multifamily homes. However, the Court upheld the constitutionality of the HAA’s standard of judicial review against various challenges. Notably, the ruling affirms that the HAA requires cities to implement housing plans and enforce penalties against jurisdictions not complying. The ruling affirms that standards applied with subjective judgement are not “objective” and may be invoked only to condition housing.<sup>91</sup>

### C. Issue: Local Government Non-Compliance

As previously mentioned, California cities continually fail to meet their RHNA production goals. This Section will discuss previous literature that describes non-compliance causes. While there are many potential causes, I discuss a few examples found in planning and legal scholarship. These include four potential causes of local government non-compliance to RHNA requirements: community social status/exclusion, local land use characteristics, local government resources, and local politics/insufficient state law.

First, one potential reason cities fail to accommodate sufficient housing because of a “desire for social exclusion”.<sup>92</sup> Regarding residential development, local governments commonly witness the clashing interests of fierce interest groups. One common trend includes exclusive NIMBY, “not in my backyard” efforts, which often arise from fear of reduced property

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<sup>91</sup> refer to: Cal. Renters Legal Advocacy and Educ. Fund v. City of San Mateo

<sup>92</sup> Lewis, *California’s Housing Element Law*, 37.

values due to increased availability of affordable housing and associated changes in the neighborhood characteristics based on racial, ethnic, or socioeconomic reasons.

Another contributing factor listed above indicates local land use characteristics that prevent local governments from meeting their targets. Specifically, city governments may lack sufficient land resources to accommodate RHNA housing units. Indeed, this issue persists in inner-ring suburbs that have been “built out” and lack a significant amount of vacant land. Population density and conditions of current housing stock affect local land use characteristics. Consequently, these cities experience difficulty executing alternatives such as rezoning existing neighborhoods for higher density housing.<sup>93</sup> Some potential solutions include rezoning to accommodate housing. Specifically, high developed communities could “upzone” single-family areas for more apartments. However, difficulties arise in cities with already high density that have persistent traffic and public services problems.

Next, fiscal issues may prevent local governments from carrying out their housing requirements. Many officials state that the shortage of affordable housing production is due to high costs and insufficient state funds. Since the 1970s, increased competition for housing assistance has caused federal and state governments to rarely distribute subsidies. Therefore, cities face difficulty receiving subsidized housing funds to produce enough housing for low- and moderate-income households. Notably, units for very-low income households are very difficult to build without heavy subsidies.<sup>94</sup> To counter this problem, the HCD attempts to assist small cities in attaining compliance with requirements. It is noted that cities with a larger share of local property tax revenues have more fiscal resources, therefore more accommodating residential development. Moreover, previous research indicates that local governments have the resources

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<sup>93</sup> Lewis, *California's Housing Element Law*, 38.

<sup>94</sup> Lewis, *California's Housing Element Law*, 40.

necessary to execute housing elements since cities with larger populations are more likely than others to be compliant.

Finally, state and local political choices, specifically those related to local growth policies and development decisions, may affect non-compliance. Many scholars claim that the nature of local politics combined with inadequate state housing law enables non-compliance. Antigrowth politics are rampant throughout California cities, and local governments' broad authority over land use policies through discretionary review allows them to evade state mandates while creating systematic barriers to housing production. While the HCD reviews local housing elements, it fails to adequately enforce penalties when identifying "governmental constraints" on housing developments, defined as "follow-through" and "agency-authority" problems.<sup>95</sup> Since no universal standard of what constitutes a constraint on housing development exists, local governments fail to comply with these standards and face no consequences. For example, even if the HCD deemed a city's housing element noncompliant, state courts would typically favor the local government and not require a revision to the housing element draft.<sup>96</sup>

Because of this, some scholars call the Housing Element "an almost symbolic function".<sup>97</sup> Beyond the HCD's inadequate enforcement mechanisms, the RHNA process also enables local politics to reign through its "site-inventory problem" that arises when local governments fulfill their RHNA requirements regarding projected population and housing growth.<sup>98</sup> Local governments can artificially satisfy RHNA obligations by zoning for new housing but not actually producing the housing. Specifically, local governments use vacant sites

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<sup>95</sup> Elmendorf et al., "Making It Work", 24, 27.

<sup>96</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 277.

<sup>97</sup> Monkkonen, "Understanding and Challenging Opposition to Housing Construction in California's Urban Areas."

<sup>98</sup> Elmendorf et al., "Making It Work", 17.

to count towards zoned capacity, whether they are actually under development or advance the housing element's goals.

#### D. Inclusionary Zoning Ordinances in California

In light of recent legislation, local governments may amend their inclusionary zoning programs to prepare for upcoming housing cycles commencing in 2021. This Section will describe California inclusionary zoning, including relevant practices, historical background, relevant court rulings, and recent trends and legislation.

##### 1. Inclusionary Zoning Practices

Since the 1970s, California cities have enacted a zoning form known as Inclusionary Zoning or Inclusionary Housing Programs.<sup>99</sup> While inclusionary housing programs encompass various policies, they all adopt methods to encourage private developers to build or facilitate affordable housing.<sup>100</sup> Inclusionary programs require developers to set aside 10% to 15% of new market-rate housing units for low- or moderate-income households. Programs typically require new units to stay within the affordable price range from 30 to 55 years.<sup>101</sup> Alternatively, developers may pay in-lieu fees instead of producing units.<sup>102</sup> In California, 70% of inclusionary programs were adopted within the last 20 years and are primarily located in expensive, coastal communities.<sup>103</sup>

The two main policy tools that encourage affordable housing production in California include state density bonus law and local inclusionary ordinances.<sup>104</sup> The California Density Bonus Law<sup>105</sup> requires all jurisdictions in California to grant developers regulatory concessions

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<sup>99</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 70.

<sup>100</sup> Wiener and Barton, "The Underpinnings of Inclusionary Housing in California", 405.

<sup>101</sup> Wiener and Barton, "The Underpinnings of Inclusionary Housing in California", 415.

<sup>102</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 212.

<sup>103</sup> Wiener and Barton, "The Underpinnings of Inclusionary Housing in California", 411.

<sup>104</sup> Mawhorter and Reid, "Turner California Residential Land Use Survey", 20.

<sup>105</sup> CAL. GOV'T CODE § 65915.

or other incentives that voluntarily include affordable housing units in their projects. These incentives can include various measures, including expedited permit reviews, reduced fees, or lower parking requirements.<sup>106</sup> In addition to the state density bonus, some jurisdictions enact local density bonus ordinances or programs to encourage affordable housing production further. These policies include allowing developers to fee or donate land while others allow construction in a different location than the market-rate project. However, many others shy away from additional programs because they limit local discretion over development projects.

## 2. Historical Background- Combating Exclusionary Zoning

To understand inclusionary zoning policy in California, some background on exclusionary zoning is essential. In the 20th century, zoning ordinances in California served to guide growth and eliminate nuisances.<sup>107</sup> Local governments harnessed restrictive zoning ordinances to control land developed for residential or commercial use because of increasing opposition to growth. Consequently, leading up to the 1970s, down-zoning and exclusionary zoning dominated California land use practices. Down-zoning limits landowner's use of property, "which may invade constitutionally protected rights, either by restricting the use of property to uses less valuable than those previously permitted".<sup>108</sup> Down-zoning practices were more rare because of their limitations, significantly since large-scale projects may only condemn certain portions of needed properties each year.<sup>109</sup>

In contrast to down-zoning, exclusionary zoning practices limit construction of housing and have been historically more prominent. While in the early 1900s most zoning favored residential development over commercial or industrial uses, by the mid-1900s new zoning

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<sup>106</sup> Mawhorter and Reid, "Turner California Residential Land Use Survey", 20.

<sup>107</sup> Willemsen and Phillips, "Down-Zoning and Exclusionary Zoning in California Law", 103.

<sup>108</sup> Willemsen and Phillips, "Down-Zoning and Exclusionary Zoning in California Law", 103.

<sup>109</sup> Willemsen and Phillips, "Down-Zoning and Exclusionary Zoning in California Law", 111.

ordinances discouraged newcomers. Exclusionary practices included those “limiting, for example, the number of unrelated individuals per residence or size of particular lots”.<sup>110</sup> Because of this, exclusionary zoning typically affects people who are unable to afford detached, single family residences on large lots, and consequently “deny prospective immigrants the opportunity to live in the community”.<sup>111</sup> Two traditional concerns with exclusionary zoning include the following: the extent to which courts should defer judgment to the local legislative body and whether courts should uphold an ordinance when it has reasonable relationship to general welfare.<sup>112</sup>

One historic example of exclusionary zoning is in Silicon Valley in California from 1954 to 1975, when various suburbs-Palo Alto, Mountain View, Redwood City- adopted anti-development policies. Leading up to 1967, California state judiciary granted local governments authority over their preferred zoning, however, after 1967 California Supreme Court leaned toward the anti-development sentiment. During this period, new multifamily projects were increasingly difficult to build in this area.<sup>113</sup> In 1975, the first exclusionary zoning case reached state court in California led to the Livermore decision, in which the court adopted a regional welfare approach and subsequently entrusted local legislative bodies to determine whether exclusionary zoning is an issue.<sup>114</sup>

Despite this decision, trends towards enabling exclusionary practices halted a few years later. In 1979, California enacted the Density Bonus Law that required local governments to provide density bonuses to developers proposing qualifying mixed-income projects.

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<sup>110</sup> “Takings Clause — Affordable Housing — California Supreme Court Upholds Residential Inclusionary Zoning Ordinance. — California Building Industry Ass’n v. City of San Jose, 351 P.3d 974 (Cal. 2015)”, 1465.

<sup>111</sup> Willemsen and Phillips, “Down-Zoning and Exclusionary Zoning in California Law”, 122.

<sup>112</sup> Willemsen and Phillips, “Down-Zoning and Exclusionary Zoning in California Law”, 123.

<sup>113</sup> Ellickson, “The Zoning Strait-Jacket”, 33.

<sup>114</sup> Willemsen and Phillips, “Down-Zoning and Exclusionary Zoning in California Law”, 132.

Consequently, some cities adopted their own inclusionary zoning ordinances that countered ongoing exclusionary practices. Overall, while both inclusionary and exclusionary zoning regulate residency by limiting how property owners develop their land, inclusionary zoning has been historically defined as “good zoning that reflects the evolution of residential preferences over time”.<sup>115</sup>

### 3. Relevant Court Decisions

Since their inception, inclusionary zoning practices have been highly controversial and commonly contested by developers in California. In the 2000s, about 30% of California cities and counties enacted inclusionary zoning.<sup>116</sup> Since then, three significant court decisions have shaped inclusionary zoning trends in California. In 2001, one of the first key rulings upheld inclusionary zoning practices when an appeal court upheld the City of Napa ordinance that requires developers to make 10% of new units for moderate-income households. The court ruled the ordinance as reasonable for the local government to ensure the affordable housing supply.<sup>117</sup>

In 2009, an appeals court prohibited inclusionary zoning ordinances from applying to rental housing. In this case, the court prevented the City of Los Angeles from raising the inclusionary housing fee from \$700 to \$20,000 per unit, requiring a 350-units apartment complex developer to set aside 60 units for low-income households or pay \$6.7 million in-lieu fee.<sup>118</sup> The court reasoned that applying inclusionary policies to rental housing violated the Costa-Hawkins Rental Housing Act, which prohibits rent control on new development.<sup>119</sup> Because of this, many jurisdictions repealed their inclusionary rental housing requirements. The aftermath of the real

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<sup>115</sup> “Takings Clause — Affordable Housing ”, 1466.

<sup>116</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 211.

<sup>117</sup> Home Builders Association of Northern California v. City of Napa, 90 Cal. App 4th 188 (2001).

<sup>118</sup> Palmer/Sixth Street Properties, L.P. v. City of Los Angeles, 175 Cal. App. 4th 1396 (2009).

<sup>119</sup> Mawhorter, “Housing Policies in California Cities: Seeking Local Solutions to a Statewide Shortfall”, 20.

estate market crash in 2008 exacerbated these circumstances and led to local governments suspending or repealing existing programs.<sup>120</sup>

In 2015, the California Supreme Court upheld a local government’s ability to enact inclusionary policies on for-sale developments.<sup>121</sup> In 2010, the City of San Jose enacted an inclusionary zoning ordinance that required developers of twenty or more units to set aside 15% of units at an affordable price or fulfill one of four alternative compliance options.<sup>122</sup> Four ulterior ways to comply include: building affordable units off-site, paying an in-lieu fee based on median sales price of housing units affordable to moderate-income families, dedicating to the city land of equal value to the in-lieu fee, or acquiring and rehabilitating comparable number of affordable housing units.<sup>123</sup> The California Building Industry Association challenged the ordinance, claiming that inclusionary zoning was an unconstitutional “exaction” to mitigate the negative effects of market-rate housing on the production of affordable units because it required a “dedication” of property for public purposes of payment of in-lieu fees.<sup>124</sup>

Despite these claims, the California Supreme Court did not find the requirement constituted an “exaction”, because inclusionary zoning ordinances promote public goods through affordable housing.<sup>125</sup> Since the two objectives of the ordinance include increasing the community affordable housing supply and promoting economically diverse developments, the court determined these as “unquestionably constitutionally permitted purposes”.<sup>126</sup> The court held that inclusionary zoning ordinances are use restrictions and not takings.<sup>127</sup>

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<sup>120</sup> Wiener and Barton, “The Underpinnings of Inclusionary Housing in California”, 403.

<sup>121</sup> California Building Industry Association v. City of San Jose, 61 Cal. 4th 435 (2015).

<sup>122</sup> “Takings Clause — Affordable Housing”, 1461.

<sup>123</sup> Iglesias, 118.

<sup>124</sup> Iglesias, 117.

<sup>125</sup> “Takings Clause — Affordable Housing”, 1463.

<sup>126</sup> Iglesias, 118.

<sup>127</sup> “Takings Clause — Affordable Housing”, 1460.



The *San Jose* decision was “extremely important” for the future of inclusionary housing policies in California.<sup>128</sup> Instead of mitigation for loss of affordable housing, inclusionary housing policy was reasoned as a land-use policy or limitation, similar to ones that lower density to restrict property uses. Because of this, inclusionary programs placed on for-sale developments are defined as “constitutionally permissible strategies to produce affordable housing”, and do not require demonstration of nexus.<sup>129</sup>

#### 4. Recent Findings

Between August 2017 and October 2018, the Turner California Residential Land Use Survey collected data to examine how local policies affect California's housing production. Specifically, the survey gathered information on development approval processes, affordable housing policies, and rental regulations from various land use experts in 252 incorporated cities and 19 unincorporated jurisdictions. The survey responses represent 70 percent of the California population.

This survey documents statewide inclusionary policy trends from 2015 to 2017. According to this survey, 82% of California cities had density bonus ordinances, approximately 50% had inclusionary policy, while only 40% of those with inclusionary policy had completed three or more inclusionary projects in recent years. Of those that had local inclusionary policy, in 31% of the jurisdictions affordable housing production was required while in 19 % production was encouraged.<sup>130</sup> Significantly, over one third of jurisdictions with inclusionary policies did not have any new affordable housing projects in the years surveyed.<sup>131</sup>

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<sup>128</sup> Fulton and Shigley, *Guide to California Planning, 5th Edition*, 280.

<sup>129</sup> Iglesias, 118.

<sup>130</sup> Mawhorter and Reid, “Turner California Residential Land Use Survey”, 21.

<sup>131</sup> Mawhorter and Reid, “Turner California Residential Land Use Survey”, 22.

Overall, this survey's authors argue that their findings illustrate that density bonus and inclusionary ordinances have not resulted in significant new development.<sup>132</sup> Notably, more projects were produced under local inclusionary policies than under state density bonus law. Furthermore, the combination of density bonus provisions and inclusionary development policies may be necessary to incentivize new affordable development.

#### E. Recent Legislation/California Housing Reform

In 2017 and 2018 the California Legislature passed two packages of bills to address the ongoing housing shortage and systematic issues of the Housing Element. In 2017, the Legislature passed a fourteen-bill “Housing Package” to increase housing development and affordable housing stock.<sup>133</sup> Specifically, the package aims to meet the following purposes: provide critical funding to new affordable homes; accelerate development to increase housing supply; hold cities/counties accountable for addressing housing needs in communities; create opportunities for new affordable homes. In 2018, the Legislature passed three more bills to clarify the Housing Package and further amend the RHNA process to create accurate reporting mechanisms. This Section discusses most relevant legislation for this research by dividing bills into categories: strengthen non-compliance penalties; revise RHNA requirements; revise local government authority, strengthen the HCD authority; strengthen the HAA; and strengthen inclusionary zoning ordinances.

##### 1. Strengthen Non-Compliance Penalties

In 2017, California Senate Bill 35 made California the first West Coast Model state to hold local governments liable for failing to meet RHNA targets.<sup>134</sup> SB 35 establishes consequences for cities failing to comply with RHNA targets and inaccurately identifying parcels

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<sup>132</sup> Mawhorter and Reid, “Turner California Residential Land Use Survey”, 5.

<sup>133</sup> Kautz and Varat, “Navigating Housing Development in the New Era”, 4.

<sup>134</sup> Elmendorf, “Beyond the Double Veto”, 121.

in housing inventories. Moreover, SB 35 removes local discretionary control by streamlining development approval in cities that failed to meet RHNA requirements. If a city government fails HCD's review then it must permit as-of-right development of qualifying projects. In other words, projects would not be reviewed under subjective standards, only objective design standards. Furthermore, if a local government fails to comply with a project under the HAA it will be fined minimum \$10,000 per unit.<sup>135</sup>

## 2. Revise Regional Housing Assessment Need Report Requirements

Recent legislation revised various aspects of the Regional Housing Need Assessment and incorporated new requirements to the Housing Element Law, including site-inventory reform and clarifying rezoning bypasses. First, recent amendments to the Housing Element law have shifted the standards cities must comply with to “accommodate” the HDC’s RHNA. In 2017, SB 35 updated the inventory requirement to require cities to list every parcel’s suitability and specify which land is suitable for development. In 2018, other bills further affirm fair housing by adding transparency to the RHNA process and updating the RHNA to consider racial and economic equity factors. For example, SB 828 revised the previously population-based RHNAs to incorporate a “healthy housing market” standard. Furthermore, AB 686 requires cities to site low-income housing in high opportunity neighborhoods. At the same time, AB 1397 places new restrictions on parcels local governments can use to satisfy low-income RHNA targets, increasing pressure on cities with higher incomes to affirmatively further fair housing. Moreover, cities will have to justify using non-vacant sites with a stricter interpretation of “vacant”.<sup>136</sup>

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<sup>135</sup> Kautz and Varat, “Navigating Housing Development in the New Era”, 16.

<sup>136</sup> Kautz and Varat, “Navigating Housing Development in the New Era”, 7.

### 3. Revise Local Government Authority

Housing amendments halted local government authority over project-specific denials and density reductions by revising the process in which housing projects are eligible for streamlined approval. Specifically, SB 35 establishes a streamlined ministerial approval process for qualifying multifamily projects so cities cannot require CUP or discretionary approval for these projects. Furthermore, the bill prevents cities that have not built their “fair share” of housing from using subjective criteria to reject housing developments that comply with local zoning code.<sup>137</sup> Similarly, AB 2162 requires supportive housing to be “use by right” in zones for multifamily or mixed uses permitted.<sup>138</sup> Because of this, local governments will have reduced reliance on the CEQA process and will most likely need to revise objective standards, notably “converting objective standards into subjective standards”.<sup>139</sup> Furthermore, these amendments require that projects receiving density bonuses must be consistent with objective standards.<sup>140</sup>

### 4. Strengthen the Department of Housing and Community Development Authority

Recent legislation grants the HCD more authority, specifically review power, over the RHNA process. In 2017, the Housing Package endowed the HCD the power to establish “standards, forms, and definitions”<sup>141</sup> requiring local governments to provide an analysis of “inventories developable parcels, assesses their capacity to accommodate housing, and analyzes potential constraints to development”.<sup>142</sup> These new powers include the following: deem housing noncompliant unless “expected yield” of site inventory and associated programs equals or exceeds the local government's total share of RHNA; establish reporting requirements and performance standards to determine whether a local government has substantially constrained the

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<sup>137</sup> Clare, “Because Housing Is What?”, 376.

<sup>138</sup> Kautz and Varat, “Navigating Housing Development in the New Era”, 21.

<sup>139</sup> Kautz and Varat, “Navigating Housing Development in the New Era”, 22.

<sup>140</sup> Kautz and Varat, “Navigating Housing Development in the New Era”, 16.

<sup>141</sup> Elmendorf et al., “Making It Work”, 3.

<sup>142</sup> Monkkenen, “Understanding and Challenging Opposition to Housing Construction”, 16.

supply of housing in its territory; and reporting exemptions to induce poorly performing local governments to adopt strong prohousing reforms.<sup>143</sup> Additionally, AB 72 endows the HCD authority to report cities non-compliant with state law at any time to the Attorney General instead of only when housing elements are being updated.<sup>144</sup>

#### 5. Strengthen the Housing Accountability Act

Recent legislation revised the Housing Accountability so cities have less discretion to deny or reduce density of proposed housing projects.<sup>145</sup> Specifically, SB 167 and AB 678 require cities to provide detailed reasons for rejecting projects and prevent cities from failing to meet RHNA from disapproving or reducing housing development density.<sup>146</sup> In 2018, AB 3194 prohibited local governments from denying or reducing the density of a housing project.<sup>147</sup> They also prohibit local governments from using design review in a way that blocks development. Developers need to meet lower standards of substantial evidence to show a city unreasonably rejected their project. Furthermore, AB 870 increased the number of project applications and approvals included in annual reports.

#### 6. Strengthen Inclusionary Zoning Ordinances

Recent legislation encourages local governments to adopt inclusionary zoning policies. In the 2017 Housing Package, Assembly Bill 1505 authorizes cities and counties to adopt inclusionary housing ordinances that require residential developers to set aside a specified percentage of affordable housing units on-site or off-site.<sup>148</sup> Moreover, AB 1505 requires inclusionary policies to allow alternatives to building onsite affordable housing such as “paying

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<sup>143</sup> Elmendorf et al., “Making It Work”, 7.

<sup>144</sup> Clare, “Because Housing Is What?”, 402.

<sup>145</sup> Kautz and Varat, “Navigating Housing Development in the New Era”, 4.

<sup>146</sup> Clare, “Because Housing Is What?”, 400.

<sup>147</sup> Elmendorf et al., “Making It Work”, 37.

<sup>148</sup> “AB 1505 Revives Power of Cities and Counties to Impose Inclusionary Requirements on Rental Housing Developments.”

fees, donating land, or building affordable units offsite”.<sup>149</sup> Significantly, AB 1505 restored inclusionary housing in rental development, which was previously prohibited since 2009 in a court case that denied local governments authority to enact inclusionary measures.<sup>150</sup> Additionally, in 2018, Assembly Bill 2372 declares “intent to standardize local approaches to processing density bonus applications”.<sup>151</sup>

#### IV. Methods/Data Sources

This Section describes my approach to completing the Capstone research. My methodology encompasses review of existing planning code summaries, researching local ordinances and planning documents in the study jurisdictions, and analyzing whether the jurisdictions issued updates to planning and zoning designations, and/or generated new housing policies to increase affordable development.

##### A. Data Sources

The Capstone project will continue methods used by the Comprehensive Assessment of Land Use Entitlements Study (CALES) research team. In their CALES research, Professors Moira O’Neill and Eric Biber created planning and development ordinance summaries relevant to residential/mixed-use development approvals. Each summary includes planning and development controls: “restricted uses, height limitations within specific neighborhoods, maximum commercial and residential density and lot coverage, minimum parking requirements, exactions, and other dedication requirements”.<sup>152</sup> As previously mentioned, I replicated this part of the research to support updating each jurisdiction’s planning code summary to incorporate new state law and local ordinances that impact approvals issued after December 31, 2017.

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<sup>149</sup> Mawhorter and Reid, “Turner California Residential Land Use Survey”, 20.

<sup>150</sup> *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles*, 175 Cal. App. 4th 1396 (2009).

<sup>151</sup> Mawhorter and Reid, “Turner California Residential Land Use Survey”, 20.

<sup>152</sup> O’Neill, Gualco-Nelson, and Biber, “Developing Policy from the Ground Up: Examining Entitlement in the Bay Area to Inform California’s Housing Policy Debates”, 39.

Additionally, I completed a “Planning Code Summary Matrix” in excel to provide easier comparison between jurisdictions in Design Control, Substantive Zoning Standards, Application, Approvals/Appeals Process, and Fees for every jurisdiction.

Notably, these summaries include, where appropriate, local processes that increase the affordable housing supply or preserve existing affordable housing. These processes include: “inclusionary housing ordinances, local referenda to generate affordable housing supply, rent stabilization ordinances, anti-demolition ordinances, and neighborhood planning that taps into state-level streamlining initiatives.”<sup>153</sup> In my analysis, I explored trends in inclusionary housing processes across the jurisdictions. To do this, I will focus on the Affordable Housing tab in the Planning Code Summary matrix, specifically looking for changes in Incentive Programs such as Local Density Programs or Affordable Housing Approval Streamlining Provisions.

## B. Methods

This Section will describe my step-by-step process of executing this research in the following four phases: (1) collecting and organizing planning code summaries; (2) collecting and organizing recent ordinance changes and local housing policy documents in the 20 jurisdictions; (3) analyzing collected data and updating the existing planning code summaries/excel matrices that reflect changes to local laws; (4) conducting my own analysis and creating final deliverable.

### *Phase 1: Collect and Organize Existing CALES Data*

First, I downloaded and reviewed CALES materials relating to the 20 jurisdictions, including planning code summaries, planning code matrices, and approval charts. Then, I organized the materials by jurisdiction, creating a folder for each one. Additionally, I created a

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<sup>153</sup> O’Neill, Gualco-Nelson, and Biber, “Developing Policy from the Ground Up: Examining Entitlement in the Bay Area to Inform California’s Housing Policy Debates”, 39.

separate “Notes” document for each jurisdiction where I noted the last time each of these materials was updated to estimate the extent I would need to revise the existing documents.

*Phase 2: Collect and Review Relevant Local Ordinances 2018-2021*

After organizing the CALES materials, I collected and reviewed data regarding local ordinances. I completed this process in three phases: (1) Redwood City, Palo Alto, San Francisco, Mountain View; (2) Los Angeles, Long Beach, Santa Monica, Pasadena, Inglewood, Redondo Beach, Los Angeles County, San Diego County; (3) Sacramento, Folsom, San Diego, Redondo Beach, Fresno, Roseville, Placer County. To accomplish this, I reviewed each jurisdiction's municipal code, noting recent amendments to the zoning code or other sections that affect land use in a separate “Notes” document for each jurisdiction. Simultaneously, I collected corresponding ordinances 2018-2021 that impact CALES Materials on “2018-2021 Notes” document.

*Phase 3: Review Data and Revise Existing CALES Materials*

Once I organized the necessary information, I reviewed and revised each jurisdiction’s planning code summary document by checking the citations in the order presented. In addition to updating citations, I supplemented any missing information in existing documents, such as filling in information about General Plans, Specific Plans, and Zoning District Residential Development Standards. After this, I added additional findings to the summaries that affect approvals after December 31, 2017?. Then, I revised the Approval Charts documents in a similar manner, updating any changes to permit review/process and filling in any missing information. Finally, I used this information to either create or revise each jurisdiction’s planning matrix.

*Phase 4: Final Report and Accompanying Deliverables*

In conducting my own analysis, I combine my findings from my literature review materials, CALES data, and local law to examine whether any developments indicate trends



across jurisdictions. Comparing my ordinance analysis from my “2018-2021 Notes” to information from preceding ordinances, I write summaries of each jurisdiction’s recent changes in land use regulations and processes from 2018-2021. Then, I analyze the updated summaries to identify relevant residential development controls to determine which ordinances to include in my analysis. Then, I harness the tools from my literature review to analyze whether they reduce or increase barriers to residential development. I combine these findings into a 100+ page document called “2018-2021 City Notes Compilation”.

After this, to synthesize potential trends across jurisdictions, I construct a supplementary “Ordinance Roadmap” on excel that presents a visual representation of my findings. Using this roadmap, I categorize the ordinances by processes that impact residential development or affordable housing supply such as inclusionary housing initiatives, new development regulations, and new approval processes. From this, I construct a narrative of findings in local law that may arise due to state compliance, which I use to answer my question of whether it appears possible that local planning processes are responsive to recently enacted law.

#### **IV. Findings/Discussion**

This Section describes my findings during my Capstone research. First, I will describe my reactions and difficulties experienced during my data collection and analysis phases of my methodology. Then, I will discuss my findings that directly relate to answering my proposed research question, specifically those related to jurisdictions’ development regulations that may have been in response to the 2017/2018 Housing Package. Later, I will analyze these trends across jurisdictions and examine their implications on the affordable housing supply.

##### **A. Findings Related to Completing Research**

In this Section, I discuss my reactions to completing my Capstone Research and difficulties experienced during each step of my methodology. From January 2021 to March

2021, I completed Phases 1-4 of my Methods Section, which included data collection, organization, and analysis phases of Capstone Research.

*Phase 1: Collect and Organize Existing CALES Data*

In December 2020, I received access to the CALES Database via dropbox to initiate my data collection and organization process. This database contains planning code summaries as word documents that detail each jurisdiction's zoning and land use controls. These word documents varied in length, most between 20-60 pages, and generally contained similar information in sections including: State Law, Local Law, Area Plans, Zoning District Use and Design Controls/Development Standards, Applications/Approval Process, and Exactions. The State Law sections typically encompass locally encoded state law requirements from jurisdictions such as implementing a General Plan and the State Density Bonus. Local Law sections include ordinances that are not land use controls but affect affordable housing or other forms of residential development including some of the following: Inclusionary Housing, Rent Control, Just Cause Eviction, Restrictions on Demolition of Residential Buildings, and Parking Standards. Area Plans or Specific Plans sections provide detailed information on subsets of plans from the General Plan that guide land use and intensity and design of development. While Zoning District Development Standards Use and Design Control were either combined into one section or separated depending on the planning code document, this section(s) typically include all residential zoning districts with their development standards including minimum lot areas, set backs, maximum density, maximum floor area, and height limits. Applications/Approval Process section details different permits and review processes required for residential construction. The Exactions section describes various impact fees required by the jurisdiction.

In addition to word documents, approximately half of the jurisdictions had their own “Planning Code Matrix”, which provides similar information as the word documents but allows for easier quantitative comparison across jurisdictions. Each matrix is an excel workbook that contains spreadsheets of the following sections: General Plan, Specific Plans, Process, Development Use Standards, Exactions, Affordable Housing, and Sustainability. Each sheet provides the exact same formatting for every jurisdiction. For example, the “General Plan” sheet within a matrix requires “Yes” or “No” answers to whether a jurisdiction’s general plan prescribes uses, FAR, and dwelling units/acre in addition to dates of the most recent updates. The Specific Plan sheet inputs every area plan on the document summary by goal, area, year program was EIR certified, and specific procedures. The Process sheet lists the types of approvals, application procedures, and appeals procedure descriptions and code sections. Development Use Standards sheet lists typically the two most dense and least dense residential districts with their permitted uses, heights, density, setback, parking, bulk standards, open space, and ground floor commercial requirements. The Exactions sheet lists all impact fees with their descriptions and code sections. The Affordable Housing sheet requires “yes” or “no” on the following: whether an inclusionary housing ordinance and rent stabilization ordinances exist, on-site building requirement, off-site building requirement, and local codification of state density bonus law. Similarly, the Sustainability sheet requires “yes” or “no” and code section on whether a Transit-Oriented Development Program or Climate Change Adaptation exist and descriptions if they do.

Moreover, each jurisdiction has its own “Approval Chart”, which is a word document that elaborates on the “Applications/Approval Process” section of the word document code summary and “Process” of excel matrix. Similar to the excel matrices, these charts provide simple cross-jurisdiction analysis of application and review processes for different facets of

residential development. Specifically, this word document describes the types of permits required for different types of residential construction including some of the following: site review, pre-application meeting, variances, conditional use authorization, planned unit development, discretionary review, parcel map, final map, specific plans, and density bonus programs. In addition to the type of permit required, this document's chart lists a general description of when a certain permit is required, who grants the permit, and who is the appeal body codified in the jurisdiction's law. Some different formatting of charts included triggers/exceptions to the permit, the initial hearing body, and the appellate body.

In reviewing these materials, I noted that some had not been updated since they were created in 2016, while others had recently been updated by law students in 2019/2020. Because I was tasked to update the planning code documents to reflect changes that impact approvals in 2018 and 2019, I realized some of the editing would most likely include updated citations instead of wholesale revisions of the summaries. Furthermore, I noted that since these documents were created by different CALES team members and then updated by various law students, most of them lacked cohesive formatting and some focused on differing aspects of the jurisdictions' zoning codes. Notably, some of the documents omitted certain sections and replaced them for different titles. For example, some of the planning code summaries had separate sections called Affordable Housing while others had affordable housing measures incorporated into the Local Law section of the document. Some other examples include having a section called "Long-Range Planning" in lieu of "State Law" to describe General Plan requirements. Each of these sections summarize particular land use laws within a jurisdiction's municipal code that are accompanied by citations of where to find these laws so they are easy to track how they differed in

presentation on the planning code summary. Because of this, I decided after the revisions I would reformat the materials to appear more cohesive.

*Phase 2: Collect and Review Relevant Local Ordinances 2018-2021*

In Phase 2, I collected and organized the data necessary to revise the existing CALES Materials. Organization at this step was crucial, as I had to collect all information necessary for updating the CALES materials and for my own analysis. Organization at this step was crucial, as I had to keep all the links together for necessary citations. Overall, this phase was my most difficult due to the nature of extensively tacking down necessary information from each jurisdiction. While many of the jurisdictions have their Zoning Code posted on the Municipal Code library, others have their own websites or zoning codes posted, making the data collection process inconsistent. Within their Municipal Codes, some jurisdictions had separate Zoning Code sections while others had zoning controls embedded in their general jurisdiction code.

When reviewing municipal codes, I easily collected information from jurisdictions that linked relevant ordinances with the dates of zoning code amendments, while for others the corresponding ordinances were difficult to find. Jurisdictions listed their local laws and recent Ordinances on Municipal Code Library such as Mountain View, Palo Alto, Redwood City, Fresno, and Long Beach allowed for easy data collection and CALES material revision. Conversely, jurisdictions that do not publicly post all their ordinances or links to recent amendments to local laws were difficult to track. In order to find ordinances that were not linked, I had to extensively search in city meeting minutes or on a jurisdiction's website to find when exactly what revisions were made to the zoning code. When I did find corresponding ordinances, some of them I could not easily interpret as to what the ordinance amended to local law.

Although some ordinances did not explicitly list the changes, others included the deleted portions of text, which made tracking the changes easy.

*Phase 3: Review Data and Revise Existing CALES Materials*

In Phase 3, I revised all the existing CALES Materials where necessary. Since most of the Planning Code Summaries had been updated in 2018 and 2019, the majority revisions consist of citation updates and missing information from development standards in the residential districts. Some notable changes include the following: adding missing information from development standards in residential districts, adding missing Specific Plans, adding new impact fees, and adding revisions to various ordinances. During this process, updating some citations within certain sections within the planning code summaries required gathering information outside of a jurisdiction's municipal/zoning code. For example, since some sections that include "State Law" or "Long-Term Planning" require details on jurisdiction General Plans, I had to use information from the jurisdiction's website to find General Plan documents and subset documents such as the Land Use Element, Housing Element, and Safety Element. Similarly, I found Specific/Area Plans typically by existing citations on the word document or the same jurisdiction website. Notably, some jurisdictions have separate documents that list Impact Fees for the Exactions section and guidance for ADU development that I found typically in a jurisdiction's website.

Once the revisions were completed, I reformatted each summary to make the planning code word documents as cohesive as possible. As noted previously, some people formatting these documents arranged the sections in a different order, so I wanted to try to create similar documents to allow for easier use and cross referencing jurisdictions. I used the formatting from the original San Francisco/Palo Alto/Redwood City documents as a guide to have all the documents have essentially the same section headings and the same font. After revising the

planning code summaries, I updated and/or created the jurisdictions' corresponding approval charts and excel matrices. Approximately only half of the jurisdictions had existing excel matrices, so I had to create new workbooks for the jurisdictions that did not have them. I executed this task by consulting the information in the updated planning code word documents.

#### *Phase 4: Final Report and Accompanying Deliverables*

In Phase 4, I conducted my analysis from my findings and wrote my deliverables. During this phase, I realized I needed to gather additional data that included previous ordinances to illustrate changes in data of ordinances collected in Phase 2. During this phase, I experienced similar difficulties in situations where jurisdictions did not post preceding ordinances, and I had to track meeting minutes that discussed potential impacts revisions have on housing production.

#### **B. Findings Related to Answering Research Question**

I will analyze my findings from my Capstone Research to answer my proposed research:

*How have local ordinances and affordable housing policies changed since recent state*

*legislation to increase affordable housing supply in California cities? As discussed in my*

Methods Section, to find whether cities updated their laws to comply with state law, I examined and recorded changes in local laws to determine whether any trends match the Housing Package. This Section will discuss my findings related to development regulations and examine how these measures potentially impact housing production, which discusses two components: findings of trends across jurisdictions and findings from each jurisdiction. Within these subsections, I organize my findings into three categories: inclusionary housing policy, development regulations (besides inclusionary housing requirements), and approvals/appeals procedures.

##### **1. Trends Across Jurisdictions**

This Section synthesizes trends across jurisdictions and examines potential impacts new measures may have on housing production. My analysis in this section generally parallels legal and planning scholarship that indicate additional regulations tend to create more barriers to

housing production. However, it is essential to note that the impacts regulations have on housing production by jurisdiction may be subject to geographical constraints and market conditions and my assumptions made in my analysis may not broadly represent trends I noted in my Literature Review. This Section categorizes my Findings by trends found in three sections: (1) New/Revised Inclusionary Policy; (2) New/Revised Regulations; (3) New/Revised Approvals Procedures. While some of these new/revised tools create more barriers on single-family development to induce more multi-family projects, others have loosened restrictions that incentivize all forms of residential development.

*a. New/Revised Inclusionary Housing Policy*

From January 2018 to March 2021, various jurisdictions modified their inclusionary housing ordinances or adopted new affordable housing programs. As described in the Background Section, in the 2017/2018 Housing Package, AB 1505 and AB 2372 encourage jurisdictions to adopt inclusionary housing programs to increase affordable housing production. Notably, these measures allow for jurisdictions to enforce inclusionary policy on rental development projects when previously they were discouraged. Since the 2017/2018 Housing Package, eleven of the studied jurisdictions complied with statewide efforts by adopting inclusionary programs or strengthening existing initiatives. While these efforts are not entirely consistent across jurisdictions, there is some consistency in various housing amendments. Overall, new inclusionary requirements may create barriers to multi-family developments, but may induce more affordable housing units.

First, jurisdictions that previously did not have inclusionary policies established new affordable programs, including Redwood City, Long Beach, and Los Angeles County. Redwood City established citywide affordable obligations to rental and ownership developments that may be met via on-site units, off-site units, or land donation. Long Beach implemented requirements



that apply to only Downtown and Midtown Submart rental and ownership residential developments, which are fulfilled through on-site, in-lieu fees, or land donation. Moreover, Los Angeles County's new Inclusionary Ordinance places rental and ownership obligations on developers, which the amount of on-site or off-site requirements depends on the region in Los Angeles. While the percentage of requirements varied between these jurisdictions, overall the new obligations share similar obligations. Consequently, these new inclusionary requirements placed on developers may make multi-family developments more difficult to build in these jurisdictions.

Second, some jurisdictions also strengthened their existing inclusionary requirements. For example, San Jose lowered the applicable threshold that triggers affordable housing obligations while the City of San Diego eliminated exemptions from the Ordinance. Furthermore, other jurisdictions strengthened by increasing the requirement percentage for on-site and/or off-site obligations. For instance, Mountain View increased on-site ownership/rental unit requirement to 15% while Pasadena increased ownership/rental unit requirements to 20% of total units. In contrast, San Francisco and the City of San Diego initiated similar increases incrementally; San Francisco increases on-site requirements 0.5% each year until reaching 15% while the City of San Diego incrementally increases rental/ownership requirements from July 2020 to June 2024.

Third, jurisdictions attempted to induce more affordable housing production by increasing in-lieu fees in addition to on-site and off-site obligations. For instance, Mountain View increased the in-lieu fees to be greater than value of on-site units, San Diego increased in-lieu fees by over \$10 per square foot, and San Jose transitioned its in-lieu fee calculation from per-unit to per-square footage basis. These measures make paying an in-lieu fee instead of

constructing on-site or off-site units more expensive, thereby disincentivizing developers from choosing the in-lieu fee options. Alternatively, some jurisdictions cap the amount of developments eligible to pay in-lieu fee options such as Mountain View and Long Beach, while other jurisdictions such as Los Angeles County and Redwood City did not include in-lieu fee options. Because of this, developers may experience more difficulty in development projects that are subject to these requirements.

In contrast to the strengthened requirements above, some cities provided new inclusionary housing compliance options that may mitigate the negative effects of inclusionary requirements on housing production. For example, Mountain View's BMR Program and Long Beach's new program allow for developers to request alternative mitigation options to fulfill the affordable housing obligation. Moreover, the City of San Diego allows developers to satisfy requirements by rehabilitating existing dwelling units or hotel rooms for conversion into affordable housing units. Additionally, San Jose added new compliance options such as combination of on-site with in-lieu fee, option to dedicate SB35 entitled property, and option for partnership for clustered units. Similarly, San Francisco added another compliance measure to include a combination of the existing in-lieu fee and land dedication. Granting developers flexibility in how they fulfill affordable obligations reduces barriers established by requirements.

In addition to new or amended inclusionary ordinances, some jurisdictions incorporated other new affordable housing measures in response to State law. For example, many jurisdictions updated or codified new Density Bonus laws in response to 2020 State legislation requiring jurisdictions to increase incentives. Jurisdictions that codified this into their local laws include Pasadena, San Diego County, City of San Diego, and Santa Monica. While these initiatives are significant to note, this Findings section focuses primarily on inclusionary initiatives that seem

most likely implemented in response to the 2017/2018 Housing Package. Overall, jurisdictions that strengthen or include new inclusionary requirements may decrease market-rate housing production while incremental increase in affordable housing unit supply, while those providing new incentives for affordable housing production may experience less negative effects.

*b. New/Revised Development Regulations*

Jurisdictions enacted some consistent, new development standards that most likely promote infill/multi-family production, discourage certain forms of single-family development, and preserve existing dwelling units. It appears that certain jurisdictions have created more development standards. First, various jurisdictions established new Zoning Districts to encourage infill/transit-oriented development, thereby reducing barriers to multi-family developments. For example, Fresno created a Focused Infill District to increase maximum density requirements, which reduces barriers to multi-family developments. Moreover, Folsom, Sacramento, and the City of Los Angeles created Transit-Oriented Ordinances or Districts to encourage infill residential development near transit centers. Meanwhile, Long Beach created new residential zones where previously commercial areas existed. However, the City of Los Angeles established the Southeast and South Los Angeles Community Plan Overlay District, creating new residential development standards that may form barriers to single-family and multi-family developments.

Second, jurisdictions established new districts or regulatory standards that allow for smaller lots and more compact development to encourage developers to construct smaller, single-family developments. For example, Folsom is planning to create a new zone Residential Compact Development to allow for smaller lots and more compact development. Similarly, Pasadena amended development standards in CD Zoning Districts to allow for single room occupancy without conditional use permit and increased maximum size for single room occupancy uses to encourage smaller housing units to contribute to the affordable housing

supply. Moreover, Sacramento revised the design standards for single-unit and duplex dwellings to encourage smaller unit dwelling production.

Third, in contrast to the second finding, some jurisdictions established regulations to deter all forms of single-family developments. For instance, Redwood City's new regulations require single-family homes over a certain size to undergo discretionary review for Architectural Review Permit, most likely creating barriers to single-family housing production. Similarly, Santa Monica initially established an ordinance disallowing single-room occupancy uses to discourage this form of development then amended R-1 Single Unit District development standards to minimize the space used for these developments.

Fourth, jurisdictions such as the City of San Diego, San Francisco, and Long Beach also established regulations to preserve existing housing stock, thereby establishing barriers to all new forms of housing production. In the City of San Diego, developers are required to replace demolished units for all types of residential developments to protect existing units. Similarly, Long Beach established regulations that prevent housing developments from demolishing existing housing units unless they are replaced. In San Francisco, developers are required to obtain conditional use authorization for applications to demolish single-family residential buildings that are not considered affordable housing.

Fourth, certain jurisdictions have implemented or are considering enacting upzoning measures, which would reduce barriers to multi-family developments. Mountain View increased the maximum dwelling units per acre in the R-4 High Density Density Zone to encourage multi-family development, while Fresno's Infill Overlay District also increased maximum density to facilitate intensive development. Moreover, Placer County allows developments to be exempt from height limits through administrative approval, while Santa Monica is considering increasing

height limits. Currently, Fresno is in the process of updating its Zoning Code to allow for multi-family development with higher density in residential zones. Overall, new and potential regulations seem to encourage multi-family production by allowing more compact bulk standard and higher density developments in residential districts.

Fifth, parking requirements for residential developments were minimized. Reducing these requirements may reduce barriers to residential development as developers have less obligations to fulfill. San Francisco to eliminate all minimum off-street parking requirements while Pasadena reduced the minimum parking requirement in the Central Zoning District. Alternatively, Sacramento allows alternatives to standard parking requirements where developers may propose on-site alternatives to parking requirements.

Sixth, jurisdictions implemented new development impact fees to fund affordable housing or transportation. While the City of Los Angeles established an Affordable Housing Linkage fee for most commercial and residential development, San Jose similarly established Commercial Linkage fee that charges commercial developers to fund affordable housing. Palo Alto established a citywide Transportation Impact Fee that applies to all commercial and residential development. Moreover, San Francisco now requires all projects under the State Density Bonus Law to pay the Affordable Housing Impact Fee. Conversely, Fresno exempt development impact fees from residential projects in economically disadvantaged neighborhoods. While these impact fees do not directly impact housing productions, subjecting or exempting residential projects from these fees may influence development decisions.

*c. New/Revised Approval Procedures*

Jurisdictions revised existing or incorporated new approval and appeals processes for residential development. First, many jurisdictions increased the time limit for approvals of different permits. For instance, Placer County extended the timeframe for approving

administrative review permit, minor use permit, conditional use permit, and variances to six years instead of three. Oakland added a year extension to Planning Unit Development procedure to submit the final development plans after approval while Long Beach also added a year to end the expiration date for subdivision and entitlement approvals. Extending this approval time frame allows developers more time to initiate their process, which may ease barriers to development.

Second, Cities revised approval procedures to streamline certain projects by exempting them from discretionary review. For instance, 100% affordable housing developments are streamlined in San Jose, and in San Francisco HOME-SF Projects are exempt from discretionary approval by the Planning Commission. To comply with State Law, Santa Monica allows ministerial review of 100% affordable housing projects and Sacramento grants ministerial approval of infill housing projects. Interestingly, Sacramento attempted to additionally streamline residential developments by delegating responsibilities from Planning Commission to the Director Level. Granting the responsibilities relating to subdivision maps and tentative maps to the Zoning Administrator reduces the number of commission level hearings for private development by 40%, thereby reducing the entitlement processing time and application costs for projects in compatible zones meeting all development guidelines.

#### *d. Other Findings*

In addition to the findings above that impact residential development, I also noted revisions to zoning codes that are not necessary to answer my research question but may be significant for CALES Database. Moreover, these findings illustrate measures that jurisdictions have enacted to comply with other state legislation not related to the 2017/2018 Housing Package but are important to note for affordable housing production and access. Across the jurisdictions, notable patterns include: Accessory Dwelling Unit Ordinances, Rent Control/Tenant Protection Ordinances, and Hotel/Motel Conversion Ordinances.

As of January 1st, 2021 State ADU laws require cities and counties to develop plans to incentivize and promote ADU construction as an option for affordable housing. It appears that the jurisdictions analyzed amended their local laws to comply with the ADU state mandates. From 2018-2021, 16 jurisdictions adopted new ADU Ordinances or amended existing ADU ordinances to comply with ADU State law. For example, some of the jurisdictions implemented new ADU Ordinances such as Redondo Beach, Long Beach, Palo Alto, and City of San Diego. These Ordinances typically contain similar development/design controls for ADU and JADUs.

Furthermore, many jurisdictions codified the Tenant Protection Act of 2019 are enacted versions of rent and eviction control laws. To comply, some jurisdictions updated their local laws in 2019 and 2020. For example, Pasadena and San Francisco updated their Tenant Protection Ordinances while Oakland established Rent Control and Equitable Access to Low Income Housing Ordinance. Additionally, Long Beach, Mountain View, and Santa Monica established Tenant Relocation Assistance Ordinances to protect tenants at risk of displacement. Inglewood adopted Residential Rent Regulations and Just Cause Evictions Ordinances.

Additionally, some cities established ordinances relating to Hotel/Motel Conversions, in which these types of lodging places are transformed to residential uses. Because these measures may eventually allow for an increase in housing options, they are important to note. For example, Fresno and Pasadena enacted ordinances that allow for hotels or motels to convert to affordable housing. Alternatively, Long Beach added transitional housing as use to residential zones that could induce hotel/motel conversions. Conversely, Santa Monica implemented an Ordinance that prohibits hotel/motel conversions to preserve those forms of lodging.

## 2. Individual Jurisdiction Findings

This Section examines how jurisdictions have potentially responded to the Housing Package to increase housing production. These Findings include Ordinances to jurisdictions'

municipal or zoning codes that impact residential development production. Each jurisdiction has its own summary, and list of ordinances related to inclusionary housing policy, development regulations, and approval/appeals procedures. The jurisdictions are presented in alphabetical order.

*a. Folsom*

Overall, Folsom has implemented measures that appear to make multi-family projects or compact, single-family dwellings easier to build. Currently, Folsom is in the process of amending its zoning ordinance to revise existing development standards and implementing new regulations in its Zoning Code. As described below, allowing for higher density development in single-family zones and implementing a Transit Oriented Development Ordinance will most likely decrease production of single family but increase multi-family developments.

ii. New/Revised Development Regulations  
2019-2021 Zoning Code Update

For the first time in decades, the City is updating Folsom’s zoning code.<sup>156</sup> The process was initiated in April 2019 and is on track to finish in October 2021. From May 2019 to May 2021, the City is preparing the Zoning Articles for public hearings in August-September 2021. In January, October and November 2020, the Planning Commission held Citywide Zoning and Use Standards Workshops.<sup>157</sup><sup>158</sup><sup>159</sup> Notably, some proposed updates include: housing types in single family zones; developments with small-scale homeownership opportunities; development standards; new overlay zones; multi-family objective standards; and allowed uses.<sup>160</sup>

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<sup>156</sup> [https://www.folsom.ca.us/community/planning/zoning\\_code\\_update/default.asp](https://www.folsom.ca.us/community/planning/zoning_code_update/default.asp)

<sup>157</sup> <https://www.folsom.ca.us/civicax/filebank/blobdload.aspx?t=63058.21&BlobID=39729>

<sup>158</sup> <https://www.folsom.ca.us/civicax/filebank/blobdload.aspx?t=70845.72&BlobID=38009>

<sup>159</sup> <https://www.folsom.ca.us/civicax/filebank/blobdload.aspx?t=65135.39&BlobID=39908>

<sup>160</sup> <https://www.folsom.ca.us/civicax/filebank/blobdload.aspx?t=70845.72&BlobID=38009>



First, the Commission recommends allowing diverse housing types in areas closer to services and in pedestrian-friendly areas. To allow more diverse housing types, the Commission suggests including duplex, triplex, fourplex, and small courtyard apartment developments in single family zones. These additional housing types would be subject to existing development standards, density requirements, and height/setback standards. Second, the Commission suggests creating a new zone, the Residential Compact Development (R-C) zone to allow for smaller lots and more compact development. This Zone would retain single family height standards, reduce setback requirements, and allow greater lot coverage. Third, implement a Transit-Oriented Development overlay around the City's three light rail stations. These overlays could encourage mixed-use projects, prohibit auto-oriented uses, and mirror the existing Mixed-Use District Standards.

#### iv. Other Findings

##### Accessory Dwelling Unit Ordinance<sup>161</sup>

In August 2020, the City Council adopted the ADU Ordinance to comply with new State Law regulations pertaining to ADUs.<sup>162</sup> The Ordinance repealed and re-enacted Chapter 17.40 of the Folsom Municipal Code pertaining to ADUs. ADUs established before January 1, 2025 are not subject to owner-occupancy requirements.<sup>163</sup> ADUS that are not greater than 800 square feet and are not taller than 16 feet are subject to mandatory approval by the City.<sup>164</sup> JADUs that are not greater than 500 square feet are also subject to mandatory approval. Design Standards apply to ADUs larger than 800 square feet or taller than 16 feet.<sup>165</sup> ADUs 750 square feet or larger are subject to impact fees which are proportional to the square footage of the primary dwelling unit

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<sup>161</sup> Ord. No. 1306 (08/23/2020)

<sup>162</sup> <https://www.folsom.ca.us/civicax/filebank/blobdload.aspx?BlobID=39263>

<sup>163</sup> 17.105.140

<sup>164</sup> 17.105.040

<sup>165</sup> 17.105.150

floor area.<sup>166</sup> If the ADU is not greater than 800 square feet and not taller than 16 feet, the plan is ministerially reviewed and the Permit is granted. If the ADU is greater than 800 square feet, Planning Review is Required. If the ADU is taller than 16 feet, Design Review is Required. If the ADU meets Ordinance Standards then staff-level Design Review will either approve or deny the permit. If the permit is appealed, it will be reviewed by the Planning Commission.<sup>167</sup>

*b. Fresno*

In 2020, Fresno created a Focused Infill Overlay District and established the Economically Disadvantaged Neighborhood Act, which collectively these measures ease certain development regulations and obligations that will allow for easier production of multi-family families. Notably, the City created a Focused Infill Overlay District that allows for higher maximum density while the new act exempts developers from impact fees constructing in economically disadvantaged neighborhoods.

ii. New/Revised Development Regulations

Focused Infill (FI) Overlay District Ord. No. 2020-044 (10/15/2020)

In October 2020, the City created a Focused Infill (FI) Overlay District<sup>168</sup> to facilitate more intensive development of parcels with MX, CMS, or CR zoning and to support “transit use, housing production, and economic revitalization.”<sup>169</sup> The permitted uses and development standards are the same as the Base District with the exceptions of certain residential development. The maximum permitted density includes the following: NMX, CMS, and CR 48 du/ac; CMX 90 du/ac; RMX 135 du/ac.<sup>170</sup> Overall, this Ordinance seems to increase the

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<sup>166</sup> 17.105.140 (L)

<sup>167</sup> <https://www.folsom.ca.us/civicax/filebank/blobdload.aspx?blobid=39264>

<sup>168</sup> [https://library.municode.com/ca/fresno/ordinances/code\\_of\\_ordinances?nodeId=1047886](https://library.municode.com/ca/fresno/ordinances/code_of_ordinances?nodeId=1047886)

<sup>169</sup> 15-1614

<sup>170</sup> 15-1614 (c)(1)

maximum density currently allowed in those areas, which may allow for easier production of multi-family projects.

Exemption of Development Impact Fees Ord. No. 2020-051 (10/22/2020)

The City extended the Economically Disadvantaged Neighborhood Acts until 2022.<sup>171</sup> Under this act, development impact fees are exempt for certain projects in economically disadvantaged neighborhoods. This act may incentivize developers to construct more housing in these neighborhoods.

iv. Other Findings

Lodging-To-Dwelling Conversion Requirements Ord. No 2020-031 (09/01/2020)

In September 2020, the City council added Section 15-2737.5 Lodging-to-Dwelling Conversion requirements to allow existing hotels or motels to convert to residential uses.<sup>172</sup> An application for a Lodging-to-Dwelling Conversion requires a Conditional Use Permit and an assessment to CEQA. Conversions are allowed in any Base District and/or Overlay District where a hotel/motel constructed prior to January 1, 2020 exists.<sup>173</sup> The density limitations in the Base or Overlay Districts do not apply to the conversions.<sup>174</sup> Moreover, the Ordinance amended the Use Regulations for Mixed-Use Districts, Commercial Districts, Employment Districts, and Downtown Districts to allow for Lodging-to-Dwelling Conversions.<sup>175</sup>

*c. Inglewood*

Within the researched period, Inglewood did not implement any new regulations that will impact residential development. However, Inglewood established Rent Control Ordinances that I noted in my findings.

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<sup>171</sup> [https://library.municode.com/ca/fresno/ordinances/code\\_of\\_ordinances?nodeId=1048552](https://library.municode.com/ca/fresno/ordinances/code_of_ordinances?nodeId=1048552)

<sup>172</sup> [https://library.municode.com/ca/fresno/ordinances/code\\_of\\_ordinances?nodeId=1039471](https://library.municode.com/ca/fresno/ordinances/code_of_ordinances?nodeId=1039471)

<sup>173</sup> 15-2737.5 (B)

<sup>174</sup> 15-2737.5 (G)

<sup>175</sup> 15-1102, 15-1202, 15-1302

#### iv. Other Findings

##### Rent Control Ordinance Ord. No 19-07, 20-03 (03/05/2019) (11/12/2019)

In March 2019, the City adopted a temporary moratorium on certain residential rent increases.<sup>176</sup> For 45 days, the City prohibited rent increases more than 5%. This interim ordinance limits the reasons for termination of residential tenancy. A landlord cannot terminate a tenancy without just cause if the tenant has lived in the property for more than one year. Just cause evictions include the following: non-payment of rent; criminal activity; and/or illegal drug use. The following are exempt from the moratorium: government-owned housing units; housing units whose rents are controlled or subsidized by government agencies; accommodations in motels or hotels; units constructed after February 1, 1995; and commercial units. In November 2019, the City permanently established Just Cause Eviction Protections and Residential Rent Regulations in the Municipal Code.<sup>177</sup> Additionally, this Ordinance established a Rental Housing Board. Furthermore, the City Council added Below Market Rent Increases. If a landlord charges a tenant rent for a covered rental unit less than 80% of fair market rents the landlord may file an application with the Rental Housing Board to increase the rent by 5%. This is effective as of October 1, 2020.<sup>178</sup>

##### *d. Long Beach*

In 2020/2021, Long Beach expanded the timeframe for entitlement approvals, added new residential zoning districts, and enacted an inclusionary housing ordinance. While the new zones allow for residential development where it previously was not permitted, the new citywide inclusionary housing ordinance may deter developers from seeking out the districts. Because of this, it is likely that these new regulations create new barriers to residential development.

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<sup>176</sup> <http://www.qcode.us/codes/inglewood/revisions/19-07.pdf>

<sup>177</sup> <https://www.cityofinglewood.org/DocumentCenter/View/15100/Ordinance-20-03>

<sup>178</sup> 8-128

i. New/Revised Inclusionary Housing Policy

Prior to 2021, Long Beach did not have an inclusionary housing ordinance. Instead, the City’s code only had Chapter 21.63 Incentives for Affordable Housing, which codifies the State’s density bonus program. In February 2021, the City implemented its first Inclusionary Housing Program, adding Chapter 21.67.<sup>179</sup><sup>180</sup><sup>181</sup> Ordinance 21-0006 applies to all residential development with 10 units or more located in Downtown and Midtown Submart,<sup>182</sup> while developments with 9 or fewer units are exempt.<sup>183</sup> Developers of both residential rental and ownership units are required to provide on-site affordable units. The percentage of units required to set-aside depends on the application year listed below:

<b>On-Site Affordable Housing Requirements by Application Year</b>			
	2021	2022	2023+
Percentage of Ownership Residential Units to Moderate Income Households	4%	5%	10%
Percentage of Rental Units to Very-Low Income	5%	6%	11%

Developers are required to provide on-site affordable housing units for sale.<sup>184</sup> If the application is submitted during 2021, 4% of total ownership residential units are required for sale to moderate-income households. If the application is submitted in 2022, this requirement is 5% of the total ownership units. If the application is submitted in 2023 or beyond, 10% of the ownership units are required. Similarly, developers of rental projects must also provide on-site

<sup>179</sup> [Inclusionary Housing Ord. No. 21-0006 \(02/2/2021\)](#)

<sup>180</sup> 21.67

<sup>181</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=1066972](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=1066972)

<sup>182</sup> 21.67.030

<sup>183</sup> 21.67.040

<sup>184</sup> 21.67.050

affordable units. If the application is submitted during 2021, the developers must provide 5% of total rental units for very low-income households. If the application is submitted during 2022, the requirement increases to 6% of total rental units for very low-income households. If the application is submitted 2023 or beyond, 11% of the rental units must be available for rent to very low-income households. Significantly, all inclusionary units must remain affordable for the respective income group for 55 years.<sup>185</sup>

Alternatives to on-site units include land donation and in-lieu fees. Ownership and rental developments with 20 units or less may pay in-lieu fees, which are deposited into the City's newly established Housing Trust Fund.<sup>186</sup><sup>187</sup> Otherwise, a developer may dedicate land to the City or local nonprofit housing developer. Moreover, a developer may propose an alternative compliance method.

#### ii. New/Revised Development Regulations

##### New Zoning Districts and Regulations Ord. No. 20-0046 (12/08/2020)

To implement the 2019 Long Beach General Plan Land Use Element, the City revised its zoning code.<sup>188</sup> The revision in the zoning code creates new zoning districts in North Long Beach that were previously commercial areas. The Ordinance adds a new section called Uptown Planning Land Use and Neighborhood, UPLAN Zoning Code. Overall, this Ordinance allows for more residential development in new areas so production may increase. The Land Use Element identifies areas to rezone include Neighborhood Serving Corridor-Low (NSC-L), Neighborhood Serving Corridor-Moderate (NSC-M), and Community Commercial (CC). Because of this, the Ordinance creates six new zoning districts and provides new regulations: Residential Mixed-Use 3 (RMU3 and RMU3-A); Residential Mixed-Use 4 (RMU4 and RMU4-A); Mixed Use 1 (MU-1

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<sup>185</sup> 21.67.100

<sup>186</sup> 21.67.110

<sup>187</sup> 21.67.080

<sup>188</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=1058743](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=1058743)

and MU-1A); Mixed Use 2 (MU-2 and MU-2-A); Mixed Use 3 (MU-3 and MU-3-A); and Commercial 3 (C3 and C3-A).

Additionally, the Ordinance created Special use Incentives for A-series zones, specifically economic development and healthy communities incentives.<sup>189</sup> Six A-Series zones that include Residential Mixed-Use are residentially focused and permit higher density development where multifamily currently resides. These zones encourage dense, residential development where primarily commercial uses exist. Notably, climate mitigation and adaptation incentives are created for development projects that seek to reduce greenhouse gas emissions and lessen the impact of climate change stressors on the community. Some of these incentives include reduced parking on-site or off-site requirements up to 15%. Moreover, a study is planned to evaluate affordable housing production strategies and incentives within six months after adoptions of the A-series.<sup>190</sup>

Regulations to Prevent Reduction of Zoned Capacity of Housing Development Ord. No. 21-0007 (02/02/2021)

The City codified the state Housing Crisis Act of 2019 and created the No Net Loss Chapter of the zoning code.<sup>191</sup> The City cannot approve a housing development project that would reduce the zoned capacity for housing or that would result in demolition of existing housing units unless they are replaced.<sup>192</sup> Housing development projects that apply include the following<sup>193</sup>: new residential construction; a change of residential use to another use; a change in number of dwelling units; land division; legalization of existing unpermitted dwelling units; and demolition of an unpermitted dwelling unit.

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<sup>189</sup> 22.25

<sup>190</sup> 22.25.030

<sup>191</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=1066963](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=1066963)

<sup>192</sup> 21.11

<sup>193</sup> 21.11.030

iii. New/Revised Approval Procedures  
Extension of the Expiration Date for Subdivision and Entitlement Approvals Ord. No. 20-0023  
(06/16/2020)

In June 2020, the City revised the expiration date for subdivision and entitlement approvals.<sup>194</sup> Previously, all privileges authorized under subdivision and entitlement approvals terminate after two years if not initiated.<sup>195</sup> However, the City extended this time frame until three years.<sup>196</sup> Prior to the permit expiration, the Zoning Administrator may grant a one year extension. Extending this approval time frame allows developers more time to initiate their process, which may induce more residential development.

iv. Other Findings

Long Beach also incorporated new Urban Design Element, Transitional housing/Interim Motel/Hotel Conversion Ordinance, ADU and Tenant Protection laws into its local code that do not directly impact residential development but may guide certain forms of development. In 2019, the City adopted an update to the General Plan Land Use Element and incorporated a new Urban Design Element.<sup>197</sup> This update intends to guide growth and future development in Long Beach until 2040.

Accessory Dwelling Unit Ordinance<sup>198</sup>

In April 2019, the City revised portions of the Zoning Code for Accessory Dwelling Units.<sup>199</sup> ADUs are defined either as Limited ADU or Conforming ADU.<sup>200</sup> A Limited ADU is created within an existing floor area of the primary dwelling or an ancestry structure and does

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<sup>194</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=1028034](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=1028034)

<sup>195</sup> [https://library.municode.com/CA/Long\\_Beach/ordinances/municipal\\_code?nodeId=803702](https://library.municode.com/CA/Long_Beach/ordinances/municipal_code?nodeId=803702)

<sup>196</sup> 21.21.406.A

<sup>197</sup> <http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/advance/lueude/urban-design-element-final-adopted-december-2019>

<sup>198</sup> Ord. No. 19-0008 (04/23/2019)

<sup>199</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=954698](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=954698)

<sup>200</sup> 21.51.276. B



not expand the existing floor area. Conforming ADU either constructs new floor area to create or expand an ADU or is on a lot that is not in a single-family residential district. All ADUs are permitted only on single-family lot and cannot exceed the allowed density permitted for the lot.<sup>201</sup> ADU permits are reviewed ministerially, without discretionary review or hearing.<sup>202</sup> In the Coastal Zone, ADU applications less than 10% of the existing floor area are exempt from coastal permit requirements<sup>203</sup>, specifically required hearings.<sup>204</sup> ADU applications are approved by the Director of Development Services within 120 days.

### Tenant Protection/Relocation Assistance

In June 2019, the City established the Tenant Relocation Assistance Ordinance to protect tenants at risk of displacement due to increase in rent.<sup>205</sup><sup>206</sup> Landlords are required to provide relocation assistance if any the following occurs<sup>207</sup>: (1) if the rent increases by 10% or more in a 12-month period; (2) the tenant receives a notice to terminate tenancy due to rehabilitation of the unit; and/or (3) the tenant in good standing receives notice of non-renewal or notice to vacate. Under these circumstances, landlords are required to provide relocation assistance payments equal to two months of pay standards by number of bedrooms averaged across Long Beach zip codes.<sup>208</sup> The relocation payment should not exceed \$4,500. Landlords may be exempt from this Ordinance if the landlord plans to live in the unit or the landlord owns only one residential rental housing building that consists of four units.<sup>209</sup>

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<sup>201</sup> 21.51.276.C

<sup>202</sup> 21.51.276

<sup>203</sup> 21.25.903.C

<sup>204</sup> 21.25.904.B

<sup>205</sup> Tenant Relocation Assistance Ord. No. 19-0014 (06/11/2019)

<sup>206</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=962139](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=962139)

<sup>207</sup> 8.97.030.B

<sup>208</sup> 8.97.030

<sup>209</sup> 8.97.040

Moreover, in November/December 2019, to comply with the state’s Tenant Protection Act, the City temporarily prohibited no-fault notices and evictions until December 31, 2019.<sup>210211</sup> This applies to residential property built before January 1, 2005.<sup>212</sup> In December 2019, the City repealed Chapter 8.97 relating to Tenant Relocation Assistance.<sup>213</sup> In March 2020, In March 2020, the City added Chapter 8.99 relating to Just cause for Termination of Tenancies.<sup>214215</sup> A landlord cannot terminate a tenancy with a tenant that lawfully occupied the real property for 12 months without just cause.<sup>216</sup> The Ordinance provides what defines “just cause” and “no-fault cause”.

#### Transitional Housing/Interim Hotel/Motel Conversion

In July 2020, transitional housing was added as a permitted use in all of the Residential Zones.<sup>217218</sup> Transitional housing is temporary housing that facilitates movement of low income individuals to permanent housing.<sup>219</sup> Additionally, transitional housing is conditionally permitted in commercial zoning districts CCP, CCR, CCN, and CHW.<sup>220</sup> The Interim Motel/Hotel Conversion Ordinance allows for transient residential structures to be converted to temporary supportive or transitional housing for people experiencing homelessness.<sup>221</sup> Qualifying projects must use all the dwelling units in the structure for supportive housing and cannot expand the building floor area by more than 10%.<sup>222</sup> The Interim Motel/Hotel Housing Projects are subject

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<sup>210</sup> Tenant Protection Act Ord. No. 19-0029 (11/12/2019)

<sup>211</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=990345](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=990345)

<sup>212</sup> 8.98

<sup>213</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=995716](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=995716)

<sup>214</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=1016021](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=1016021)

<sup>215</sup> Just Cause for Termination of Tenancies Ord. No. 20-0007 (03/10/2020)

<sup>216</sup> 8.99.020

<sup>217</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=1031634](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=1031634)

<sup>218</sup> Adding Transitional Housing Use to Residential Zones Ord. No. 20-0026 (07/14/2020)

<sup>219</sup> 21.15.3095

<sup>220</sup> 21.32.130

<sup>221</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=1045470](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=1045470)

<sup>222</sup> 21.65.030

to applicable standards and zoning code requirements of the ordinance, specific plan, or other overlay regulations.<sup>223</sup> Moreover, this Ordinance created the Interim Motel/Hotel Conversion permit issued by the Department of Development Services Planning Bureau. The Interim Motel/Hotel Project is approved if the application meets zoning compliance and performance standards are met.<sup>224225</sup>

Micro-Unit Projects Ord. No. 20-0048 (12/10/2020)

In December 2020, a pilot program for Micro-Unit Projects was established to allow for micro-unit projects in the Downtown (PD-30) and Midtown (SP-1) areas.<sup>226</sup> A Micro-Unit Project is a development that consists of micro-units.<sup>227</sup> The Micro-Unit projects intend to provide more affordable housing near public transit systems.<sup>228</sup> Site Plan Review is required for micro-unit projects and may require a Conditional Use Permit.<sup>229</sup>

Unpermitted Dwelling Unit Amnesty Program Ord. No. 21-0002 (01/12/2021)

In January 2021, the City established an Unpermitted Dwelling Unit Amnesty Program to preserve existing dwellings and maintain them as income restricted affordable units.<sup>230</sup>

Unpermitted dwellings units are existing dwelling units that are not occupied and are located in otherwise legally permitted structures.<sup>231</sup> To be eligible for the amnesty program the units must be located in any zone except for IG and IP Industrial Zones and had been occupied for more than 30 days before December 31, 2016. <sup>232</sup>To comply with applicable development standards, existing dwelling units are not subject to the following: density limitations imposed by

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<sup>223</sup> 21.65.060

<sup>224</sup> 21.65.040

<sup>225</sup> Interim Motel/Hotel Conversion Ord. No. 20-0041 (10/06/2020)

<sup>226</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=1058745](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=1058745)

<sup>227</sup> 21.45.600.B

<sup>228</sup> 21.45.600

<sup>229</sup> 21.45.600.K.

<sup>230</sup> [https://library.municode.com/ca/long\\_beach/ordinances/municipal\\_code?nodeId=1064661](https://library.municode.com/ca/long_beach/ordinances/municipal_code?nodeId=1064661)

<sup>231</sup> 21.66.020.A

<sup>232</sup> 21.66.040

underlying zoning; off-street parking requirements; minimum setback requirements.<sup>233</sup> Site Plan Review is required for approval.

*e. City of Los Angeles*

From 2018-2020, the City of Los Angeles established new regulations that may create barriers to housing production. In addition to new regulatory measures, the City revised and adopted new neighborhood plans and is currently drafting a new Zoning Code that will transform development standards, use, and density of Zoning Districts. Additionally, the City incorporated new requirements to the Inclusionary Housing Ordinance including an Affordable Housing Linkage Fee and Measure JJJ.

*i. New/Revised Inclusionary Housing Policy  
Affordable Housing Linkage Fee Ordinance Ord. No. 185342 (02/17/2018)*

In February 2018 the City established an Affordable Housing Linkage fee. This Ordinance places a fee on certain new market-rate residential and commercial development to general local funding for affordable housing.<sup>234</sup> Notably, the following residential developments are exempt<sup>235</sup>: accessory dwelling units; single-family detached homes that is 1,500 square feet or less floor area expansion; for-sale or rental housing development containing affordable units where at least 40% are for moderate income, or at least 20% are low income, or at least 11% are very low income, or 8% are extremely low income households for at least 55 years. These new regulations may create new barriers to developing large single-family homes or multi-family projects.

Build Better LA (Measure JJJ) Ord. No. 186483 (01/28/2020)

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<sup>233</sup> 21.66.020

<sup>234</sup> [https://planning.lacity.org/ordinances/docs/AffordableHousingLinkageFeeOrdinance/17-0274\\_ORD\\_185342\\_1-18-17.pdf](https://planning.lacity.org/ordinances/docs/AffordableHousingLinkageFeeOrdinance/17-0274_ORD_185342_1-18-17.pdf)

<sup>235</sup> Sec. 19.18 B.2

On November 8, 2016 “Measure JJJ” was voted to establish affordable housing and labor standards for certain residential development projects seeking general plan amendments, zone or height district changes, or other planning approvals.<sup>236</sup> Additionally, the Measure requires certain development projects to provide affordable housing and to meet local resident Transitional Worker and Apprenticeship hiring requirements. This Ordinance creates the framework and authority to administer and enforce Measure JJJ’s labor standards.<sup>237</sup>

Build Better LA applies to projects with 10 or more residential units that request general plan amendment, or any zone change that results in increased residential floor area, density, or height.<sup>238</sup> Projects subject to Build Better LA must pay construction workers prevailing wage rate.<sup>239</sup> These labor standards are monitored and enforced by the Designated Administrative Agency (DDA). If projects are found violating these standards, developers will be penalized with various fines.<sup>240</sup> These regulations may negatively impact housing production.

ii. New/Revised Development Regulations  
Southeast and South Los Angeles Community Plan Overlay Districts Ord. No. 185925 and Ord. No. 185927 (12/29/2018)

In December 2018, the City established In December 2018, the City established Southeast Los Angeles Community Plan Implementation Overlay (CPIO) District, which replaces use restrictions along Central Avenue and creates supplemental development regulations to the Southeast LA Community Plan.<sup>241</sup> The District shares identical boundaries with the Southeast Los Angeles Community Plan.<sup>242</sup> This Overlay District creates District Subareas

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<sup>236</sup> [https://clkrep.lacity.org/onlinedocs/2016/16-0684\\_ORD\\_186483\\_01-28-2020.pdf](https://clkrep.lacity.org/onlinedocs/2016/16-0684_ORD_186483_01-28-2020.pdf)

<sup>237</sup> Sec. 182.00

<sup>238</sup> Sec. 182.02

<sup>239</sup> Sec. 182.03

<sup>240</sup> Sec. 182.07

<sup>241</sup> <https://planning.lacity.org/odocument/37efd286-0efc-4d9d-9cf9-6cc186b3e464/CPIO.pdf>

<sup>242</sup> [http://clkrep.lacity.org/onlinedocs/2017/17-1053\\_ORD\\_185925\\_12-29-2018.pdf](http://clkrep.lacity.org/onlinedocs/2017/17-1053_ORD_185925_12-29-2018.pdf)

referred to as the Corridors Subareas A, B, C, and D; TOD Subareas E, F, G; Industrial Subareas I, J, K, L; and Residential Subareas M (Legacy Single-Family Residential), N (Multi-family residential), O (Characters residential). Notably, the Residential Sub Areas are subject to a variety of development standards such as height, disposition, setbacks, design, and parking requirements.

In December 2018, the City established the South Los Angeles Community Plan Implementation Overlay (CPIO) District.<sup>243</sup> The District shares identical boundaries with the South Los Angeles Community Plan. Similar to the Southeast Los Angeles CPO, the overlay district has District Sub Areas-Corridors Subareas A, B, C, and D; TOD Subareas E, F, G; Industrial Subareas I, J, K, L; and Residential Subareas M (Legacy Single-Family Residential), N (Multi-family residential), O (Characters residential). These subareas are subject to the same development standards as the sub areas listed in the Southeast Los Angeles Community Overlay District. Previously specific residential development standards did not exist in either of these districts so these additional regulations will most likely create new barriers to development.

West Los Angeles Transportation and Improvement Mitigation Specific Plan Ord. No. 186108 & 186105 (06/28/2019)

In June 2019, the City amended the West Los Angeles Transportation and Improvement Mitigation Specific Plan.<sup>244</sup> This Specific Plan establishes a transportation mitigation program. The purpose of the program includes the following: improve mobility options within the plan area by providing accommodations for multiple modes of travel; produce fewer auto trips per capita; enhance mobility and connectivity along key transportation corridors; encourage walking

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<sup>243</sup> <https://planning.lacity.org/odocument/0e95b194-a2b7-4da2-8346-720f71f59e35/CPIO.pdf>

<sup>244</sup> [https://planning.lacity.org/odocument/1fcb412d-0cc8-41eb-99e5-03ad84311928/ords\\_186108\\_186105.pdf](https://planning.lacity.org/odocument/1fcb412d-0cc8-41eb-99e5-03ad84311928/ords_186108_186105.pdf)

and bicycling; establish the Transportation Impact Assessment Fee; encourage parking strategies. This revised plan seems to create additional barriers to low density residential development to encourage transit-oriented development.

Exposition Corridor Transit Neighborhood Plan Ord. No. 186402 (12/26/2019)

The City established the Exposition Corridor Transit Neighborhood Plan which includes portions of West Adams-Baldwin Hills-Leimert, Palms-Mar Vista-Del Rey, and West Los Angeles Community Plans.<sup>245</sup> The plan intends to encourage new residential, mixed-use, commercial, and industrial growth near transit stations to promote transit ridership on the Exposition Light Rail Line. The Ordinance establishes new development regulations that better support transit neighborhoods by allowing increased development intensity near stations, requiring design of new buildings to be pedestrian-oriented, and improving conditions of streets. Olympic Boulevard, Bundy Drive, Sepulveda Boulevard, National Boulevard, and Palms Boulevard are all key streets leading to stations centering this plan.

iii. New/Revised Approval Procedures  
Community Redevelopment Agency Code Amendment Ord. No 186325 (11/11/2019)

In November 2019, the City established new procedures for the implementation of unexpired Redevelopment Plans. This was initiated by the transfer of land use authority from the Community Redevelopment Agency to the City.<sup>246</sup> Previously, the Community Redevelopment Agency had land use authority over Redevelopment Plans. However, the City now has authority to review and approve of all Redevelopment Plan Amendments. The City is authorized to administer the remaining 21 unexpired Redevelopment Plans. This process was formally added as Section 11.13 to Los Angeles Municipal Code. Granting the City discretionary review of these plans may create additional regulatory barriers to residential development.

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<sup>245</sup> [http://clkrep.lacity.org/onlinedocs/2018/18-0437\\_ORD\\_186402\\_12-26-2019.pdf](http://clkrep.lacity.org/onlinedocs/2018/18-0437_ORD_186402_12-26-2019.pdf)

<sup>246</sup> [http://clkrep.lacity.org/onlinedocs/2013/13-1482-S3\\_ORD\\_186325\\_11-11-2019.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1482-S3_ORD_186325_11-11-2019.pdf)

CEQA Appeals Code Amendment Ord. No. 186338 (11/27/2019)

The City codified a process for appealing CEQA clearances made by decision-making bodies other than the City Council.<sup>247</sup> This Ordinance establishes new Section 11.5.13 of the Zoning Code that states when a decision maker other than the City Council certifies an EIR or determines a project exempt, the environmental clearance is appealable to City Council within 15 days of the project's approval. Previously, the Zoning Code did not explicitly allow for CEQA clearances to be appealed to the City Council. This allows for an easier process if necessary, which could aid residential development.

iv. Other Findings

Accessory Dwelling Unit Ordinance

In December 2019, the City amended portions of the ADU Ordinance to regulate the size and location of ADUs and comply with State law.<sup>248</sup><sup>249</sup> ADUs and JADUs must comply with all applicable standards in the underlying zone.<sup>250</sup> ADUs are not permitted in Very High Fire Hazard Severity Zones. There is no minimum lot size nor minimum square footage for either an attached or detached ADU. ADUs are required to have minimum 4 foot setbacks.<sup>251</sup> Detached ADUs floor area cannot exceed 1,200 square feet and their height be greater than two stories.<sup>252</sup> Attached ADUs may not exceed 50% of the existing primary dwelling floor area.<sup>253</sup> One parking space per ADU is required. However, no parking is required for an ADU that is<sup>254</sup>: located within ½ mile from public transit; located within one block of care share vehicle; located within a historically significant district; and part of the proposed or existing primary residence.

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<sup>247</sup> [http://clkrep.lacity.org/onlinedocs/2018/18-0066\\_ORD\\_186338\\_11-27-2019.pdf](http://clkrep.lacity.org/onlinedocs/2018/18-0066_ORD_186338_11-27-2019.pdf)

<sup>248</sup> [http://clkrep.lacity.org/onlinedocs/2016/16-1468\\_ORD\\_186481\\_12-19-2019.pdf](http://clkrep.lacity.org/onlinedocs/2016/16-1468_ORD_186481_12-19-2019.pdf)

<sup>249</sup> Accessory Dwelling Unit Ordinance Ord. No 186481 (12/19/2019)

<sup>250</sup> Section 12.22 33(c)

<sup>251</sup> Section 12.22 33(c)(8)

<sup>252</sup> Section 12.22 33(d)

<sup>253</sup> Section 12.22 33(e)

<sup>254</sup> Section 12.22 33(c)(12)



### Transitional Housing/Interim Motel/Hotel Conversion Ordinance

In April 2018, the City established a program to facilitate the interim use of motels and hotels as supportives or transitional housing for people experiencing homelessness or at risk of homelessness.<sup>255256</sup> Interim Motel Housing Projects are not subject to underlying zoning district standards including density limits and parking requirements.<sup>257</sup> In May 2018, the City established the Permanent Supportive Housing Ordinance to facilitate production of permanent supportive housing (PSH) for the homeless population.<sup>258259</sup> The Ordinance establishes new requirements, an administrative application process, and streamline production of permanent supportive housing units. Moreover, State density bonuses are available for qualified permanent supportive housing.

### Home-Sharing Ordinance Ord. No. 185931 (07/01/2019)

The City established a legal framework for home-sharing to mitigate the negative effects of short-term rentals and protect affordable housing.<sup>260</sup> The Ordinance prohibits a property owner from converting a housing unit into a short term rental that is not zoned or authorized for transient use. Home-sharing is considered an accessory use to a residential use where a Host's Primary Residence is used for a maximum of 120 calendar days for the purpose of providing short-term rentals.<sup>261</sup>

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<sup>255</sup>[https://planning.lacity.org/ordinances/docs/InterimMotelConversion/Adopted/17-1432\\_ORD\\_185489\\_04-20-2018.pdf](https://planning.lacity.org/ordinances/docs/InterimMotelConversion/Adopted/17-1432_ORD_185489_04-20-2018.pdf)

<sup>256</sup> Interim Motel Conversion Ordinance Ord. No 185489 (04/20/2018)

<sup>257</sup> Sec. 12.03

<sup>258</sup>[https://planning.lacity.org/ordinances/docs/PermanentSupportiveHousing/Adopted/17-1422\\_ORD\\_185492\\_05-28-2018.pdf](https://planning.lacity.org/ordinances/docs/PermanentSupportiveHousing/Adopted/17-1422_ORD_185492_05-28-2018.pdf)

<sup>259</sup> Permanent Supportive Housing Ordinance Ord. No. 185492 (05/28/2018)

<sup>260</sup> <https://planning.lacity.org/ordinances/docs/HomeSharing/adopted/Final%20Ordinance.pdf>

<sup>261</sup> 12.03

*f. Los Angeles County*

During the period studied, Los Angeles County implemented an Inclusionary Housing Program. Similar to other inclusionary programs, this Ordinance may have a negative impact on housing production by placing new development requirements on multi-family projects.

*i. New/Revised Inclusionary Housing Policy*

Prior to 2020, Los Angeles County did not have an inclusionary housing ordinance. In November 2020, the County established an inclusionary housing program.<sup>262</sup> The County added Chapter 22.121 Inclusionary Housing to the code to ensure the production of affordable units in new developments through set-aside requirements.<sup>263</sup><sup>264</sup> The program applies to all housing developments with at least five or more dwelling units with some submarket area exceptions.<sup>265</sup> Rental units must be affordable in perpetuity, while for-sale units must be sold to eligible buyers. Off-site units are available to fulfill the affordable requirements if they meet the following: they are within one-quarter of the principal project or within an area designated as highest, high, or moderate resource.<sup>266</sup> On-site units requirements for rental units are set aside for extremely low, very low, or lower income households while requirements for ownership units are provided for moderate or middle income households.

<b>On-Site Affordable Housing Requirements (15+ Units)</b>				
	<b>40% AMI or Less</b>	<b>65% AMI or Less</b>	<b>80% AMI or Less</b>	<b>135% AMI or Less</b>
Rental Projects	10%	15%	20%	-
Ownership	-	-	-	20%

<sup>262</sup> [https://library.municode.com/ca/los\\_angeles\\_county/ordinances/code\\_of\\_ordinances?nodeId=1052017](https://library.municode.com/ca/los_angeles_county/ordinances/code_of_ordinances?nodeId=1052017)

<sup>263</sup> 22.121.010

<sup>264</sup> Inclusionary Housing Program Ord. No. 2020-0064 (11/20/2020)

<sup>265</sup> 22.121.030

<sup>266</sup> 22.121.050.F.2.

Projects in Coastal South LA, South LA, East LA				
Ownership Projects in San Gabriel Valley	-	-	-	15%
Ownership Projects in Santa Clarita Valley, Antelope Valleys	-	-	-	5%

<b>On-Site Affordable Housing Requirements (15 or Less Units)</b>				
	<b>40% AMI or Less</b>	<b>65% AMI or Less</b>	<b>80% AMI or Less</b>	<b>135% AMI or Less</b>
Rental Projects	5%	7%	10%	-
Ownership Projects in Coastal South LA, South LA, East LA	-	-	20%	10%
Ownership Projects in San Gabriel Valley	-	-	-	7%
Ownership Projects in Santa Clarita Valley, Antelope Valleys	-	-	-	-

Additionally, the Ordinance adds middle income households to affordable housing.

Middle income household affordable housing cost is at least 28% of the gross income of the

household and does not exceed 35% times 130% of the area median income.<sup>267</sup> An annual middle income for a household that does not exceed 150% of the area median income. The Ordinance allows projects with middle income affordable set-aside units to be eligible for incentives.<sup>268</sup> These incentives include waiver or reduction of development standards.<sup>269</sup> Notably, these incentives are not the same as those provided in Density Bonus.

iv. Other Findings  
Accessory Dwelling Unit Ordinance<sup>270</sup>

In October 2020, Los Angeles County established new development standards and procedures for ADUs and JADUs in unincorporated areas of the County.<sup>271</sup> An ADU may be located on a single-family or multi-family lot, including mixed use development.<sup>272</sup> ADUs and JADUs are allowed in R-A, R-1, R-2, R-3, R-4, and R-5 residential zones<sup>273</sup> and C-H, C-1, C-2, C-3, C-M, C-MJ, C-R commercial zones<sup>274</sup>. Both are subject to Ministerial Site Plan Review.<sup>275</sup>

*g. Mountain View*

From 2019-2020, Mountain View amended the following: density standards in R-4 High Density Zone, inclusionary housing ordinance requirements, tenant protection ordinance, and the ADU ordinance. Notably, Mountain View imposed a variety of new measures that impact residential development. While the City increased the maximum density in certain zones, the new affordable production requirements create additional barriers to multi-family developments. The amendments describe below intend to increase the supply of affordable housing units by increasing the percentage of on-site affordable unit requirements and increasing the in-lieu fee

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<sup>267</sup> 22.14.010.A.2.

<sup>268</sup> 22.121.060

<sup>269</sup> 22.121.060.C

<sup>270</sup> Accessory Dwelling Unit Ordinance Ord. No. 2020-0059 (10/13/2020)

<sup>271</sup> [https://library.municode.com/ca/los\\_angeles\\_county/ordinances/code\\_of\\_ordinances?nodeId=1045229](https://library.municode.com/ca/los_angeles_county/ordinances/code_of_ordinances?nodeId=1045229)

<sup>272</sup> Sec. 22.14.010

<sup>273</sup> Sec. 22.18.030-C

<sup>274</sup> Sec. 22.20.030-C

<sup>275</sup> 22.18.060.A.3

rates. While these efforts do not seem to make multi-family developments easier or more difficult to build, they may impact the multi-family housing production as developers may be discouraged by these new requirements.

i. New/Revised Inclusionary Housing Policy  
Below-Market Rate Housing Program 36.40 (Ord. No. 12.19, § 1, 6/25/19.)

In 2018, the Mountain View City Council initiated a two-phase process to amend the City's Below Market Rate Program to strengthen the existing inclusionary ordinance.<sup>276</sup> Before 2018, Mountain View had not revised its Below Market Rate Program since its inception in 1991.<sup>277</sup> Located in Chapter 36 of the City Code, the Below Market Rate Program applied to all residential developments with the following: three or more ownership units, five or more rental units; six or more units both ownership and rental. All subject ownership projects must set-aside 10% of the units as "affordable" while all residential projects must set-aside 15% as "affordable". Alternatively, some residential developments may pay an in-lieu fee, including developments with 10 or more ownership homes priced more than \$400,000 and certain rental development projects may pay \$34.57 per net habitable square foot.

Phase I of the BMR Program implemented the following: increase the rental percentage requirement to 15% of total number of units; allow developers with nine or fewer units to pay an in-lieu fee; provide alternative mitigation options for developers to request to fulfill affordable housing obligation.<sup>278</sup> In 2019, the City Council implemented Phase II of the BMR Program amendments, creating "Major Changes".<sup>279</sup><sup>280</sup> Significantly, this phase increased the in-lieu fee amount to be greater than the value of developing units on-site. Those with seven or fewer units

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<sup>276</sup> <https://www.mountainview.gov/depts/comdev/preservation/bmrhousing/default.asp>

<sup>277</sup> <https://www.mountainview.gov/civicax/filebank/blobdload.aspx?blobid=2387>

<sup>278</sup> <https://www.mountainview.gov/civicax/filebank/blobdload.aspx?blobid=10763>

<sup>279</sup> <https://www.mercurynews.com/2019/06/20/mountain-view-adopts-one-of-bay-areas-strictest-affordable-housing-requirements-for-developers/>

<sup>280</sup> [https://library.municode.com/ca/mountain\\_view/ordinances/code\\_of\\_ordinances?nodeId=985638](https://library.municode.com/ca/mountain_view/ordinances/code_of_ordinances?nodeId=985638)

are eligible to pay an in-lieu fee. Additionally, this Phase increased the ownership percentage requirements and revised the weighted average income requirements for BMR units in ownership and rental projects.<sup>281</sup> Ownership projects besides Row Houses and Townhomes must set aside 15% of ownership units affordable to moderate income households. In ownership units that are not row houses or townhouses, affordable units must be for household incomes between 80-120% , at a minimum of two income levels for average 100% AMI. In rental developments, affordable rental units must be provided to low and moderate income households 50%-120% AMI and must be provided to a minimum of two income levels for a weighted average of 65% AMI.

Notably, Row Houses and Townhouses ownership projects are subject to different requirements than those listed above. In Rowhouses and Townhouses, ownership projects must meet 25% on-site requirement. In these 25% on-site requirements, 15% must be affordable to households with incomes between 80% and 120% AMI, and 10% affordable to households between 120% and 150% AMI. For all ownership and rental projects. Significantly, the BMR units must remain affordable “in perpetuity”.

ii. New/Revised Development Regulations  
R-4 High Density Zone Development Standards 36.12.10 (Ord. No. 4.19)

In 2019, the City amended the R-4 High Density zone intended for multi-family projects. Increasing the maximum dwelling units per acre in the High Density Zone will most likely make building easier for large, multi-family developments. In May 2019, the City Council amended the R-4 High-Density Zone development standards to accommodate a development project from

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<sup>281</sup><https://www.mountainview.gov/documents/BMR%20Phase%202%20Guidelines%20-%20FINAL%20CLEAN%20COPY.pdf>

Prometheus Real Estate Group.<sup>282</sup> The ordinance increased the maximum dwelling units per acre from 60 du/acre to 80 du/acre.

#### Transit Oriented Permit 36.04 (Ord. No. 22.19 § 2, 12/10/19.)

In December 2019, the City Council removed the Transit District and Transit-Oriented Development Permit from the City's code.<sup>283</sup> The City Council reasoned that the East Whisman Precise Plan encompasses the development standards and policies supported by the district and permit.<sup>284</sup>

#### iv. Other Findings

##### The Community Stabilization and Fair Rent Act 36.38.30 (Ord. No. 6.20 , § 1, 6/9/20)

In June 2020, the City Council amended the Tenant Relocation Assistance of the Community Stabilization and Fair Rent Act.<sup>285</sup><sup>286</sup> This ordinance requires the property owner to mitigate impact on residents displaced due to rental unit demolition or conversion. This assistance is provided per rental unit, not per tenant. The assistance includes the following: full refund of the tenant's security deposit; relocation advisory services; cash equivalent of three months' rent; and additional eight thousand dollars per rental unit for special circumstances.

##### Accessory Dwelling Unit Ordinance

In November 2020, the City Council amended various sections of Chapter 36 Zoning Code to comply with State Law regarding ADUs.<sup>287</sup><sup>288</sup> Previously, ADUs could only cover 30% of a rear yard of a single-family home and a 10-foot buffer must separate the ADU from the primary structure and the rear of the property.<sup>289</sup> Effective December 10, 2020, the City Council

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<sup>282</sup> [https://library.municode.com/ca/mountain\\_view/ordinances/code\\_of\\_ordinances?nodeId=957750](https://library.municode.com/ca/mountain_view/ordinances/code_of_ordinances?nodeId=957750)

<sup>283</sup> [https://library.municode.com/ca/mountain\\_view/ordinances/code\\_of\\_ordinances?nodeId=1043057](https://library.municode.com/ca/mountain_view/ordinances/code_of_ordinances?nodeId=1043057)

<sup>284</sup> Transit Oriented Permit 36.04 (Ord. No. 22.19 § 2, 12/10/19.)

<sup>285</sup> [https://library.municode.com/ca/mountain\\_view/ordinances/code\\_of\\_ordinances?nodeId=1025779](https://library.municode.com/ca/mountain_view/ordinances/code_of_ordinances?nodeId=1025779)

<sup>286</sup> The Community Stabilization and Fair Rent Act 36.38.30 (Ord. No. 6.20 , § 1, 6/9/20)

<sup>287</sup> [https://library.municode.com/ca/mountain\\_view/ordinances/code\\_of\\_ordinances?nodeId=1053548](https://library.municode.com/ca/mountain_view/ordinances/code_of_ordinances?nodeId=1053548)

<sup>288</sup> Accessory Dwelling Unit Regulations (Ord. No. 11.20)

<sup>289</sup> <https://mv-voice.com/news/2020/11/03/new-state-laws-force-mountain-view-to-loosen-rules-on-in-law-units>

adopted new zoning regulations to align with recent state laws pertaining to ADUs, JADUs, and multi-family ADUs.<sup>290</sup> ADUs and JADUs are permitted in all residential districts: R1, R2, R3, RMH, and R4.<sup>291</sup> On single-family residential sites, maximum one ADU and one JADU are permitted. On multi-family residential sites the following two forms are permitted: interior units up to 25% of the number of multi-family units in the building; and up to two detached units.<sup>292</sup>

*h. Oakland*

Oakland has not implemented many measures that would directly affect residential development. However, the City has amended some of the process in approval procedure that may grant developers more time and aid housing production.

iii. New/Revised Approval Procedures Amending Planning Code Regulations Ord. No. 13596 (06/02/2020)

In June 2020, the City amended various portions of the Planning Code Regulations.<sup>293</sup> In regard to residential development, the Ordinance amends the following: regulations to the appeals process; expiration of a variance; front setbacks on small lots in RM zones; consideration of design review and conditional use permit applications with subdivisions; and timeframe required to approve a final planned unit development. In RM Mixed Housing Residential Zone regulations implemented new property development standards. The City amended the Planned Unit Development Procedure. The submission of the final development plan will be within two years (instead of one) after the approval or modified approval or a preliminary development plan the application must file with the City Planning Department.<sup>294</sup>

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<sup>290</sup> <https://www.mountainview.gov/depts/comdev/planning/regulations/zoning/adu.asp>

<sup>291</sup> 36.10.05

<sup>292</sup> 36.12.80

<sup>293</sup> [https://library.municode.com/ca/oakland/ordinances/planning\\_code?nodeId=1031880](https://library.municode.com/ca/oakland/ordinances/planning_code?nodeId=1031880)

<sup>294</sup> 17.140.040



iv. Other Findings  
Tenant Protection/Rent Control<sup>295296297298299</sup>

In February 2019, the City placed an interim emergency ordinance to do the following: (1) temporarily eliminate the exemptions from rent control for owner-occupied duplexes and triplexes; (2) place a moratorium on rent increases above the annual CPI adjustment for owner-occupied duplexes and triplexes; (3) affirm the city’s prohibition on illegal evictions; and (4) affirm the city’s duty to publicize city policies establishing tenant rights. The Ordinance remained in effect for 180 days.<sup>300</sup>In March 2019, The Rent Adjustment Program was amended to remove substantial rehabilitation exemptions that were included in the Rent Adjustment Ordinance in the 1980’s permitting property owners to recover more rent revenue through vacancy decontrol thereby reducing the need for an exemption from rent control to incentivize improvement.<sup>301</sup> The substantially rehabilitated buildings exemption only applies to buildings where the rental property owner submitted an application before October 20, 2017.<sup>302</sup>

In June 2019, the Rent Adjustment Ordinance and Tenant Protection Ordinance were amended. The Rent Adjustment Ordinance was amended to eliminate exemptions for owner-occupied duplexes and triplexes and allow a limited rent increase for newly covered units. The Tenant Protection Ordinance was amended to eliminate exemptions for owner-occupied duplexes and triplexes. In July 2019, the City created Equitable Access to Low-Income (“EQUAL”) Housing Ordinance to increase access to housing for low-income tenants dependent on housing

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<sup>295</sup> Interim Emergency Ordinance Rent Control Ord. No. 13519 (02/14/2019)

<sup>296</sup> Amending Rent Adjustment Ordinance Ord. No. 13523 (03/21/2019)

<sup>297</sup> Amending Rent Adjustment and Tenant Protection Ordinances Ord. No. 13542 (06/04/2019)

<sup>298</sup> Increase Access to Housing for Low-Income Tenants Ord. No. 13559 (07/02/2019)

<sup>299</sup> Amending Residential Rent Adjustment and Evictions Ord. No. 13608 (07/14/2020)

<sup>300</sup> [https://library.municode.com/ca/oakland/ordinances/code\\_of\\_ordinances?nodeId=940778](https://library.municode.com/ca/oakland/ordinances/code_of_ordinances?nodeId=940778)

<sup>301</sup> [https://library.municode.com/ca/oakland/ordinances/code\\_of\\_ordinances?nodeId=951075](https://library.municode.com/ca/oakland/ordinances/code_of_ordinances?nodeId=951075)

<sup>302</sup> 8.22.030

assistance and to provide remedies for violations.<sup>303</sup><sup>304</sup> The Ordinance applies to all rental units except those described in O.M.C. 8.22.639(B)(2)-4.<sup>305</sup>

In July 2020, the City amended the Residential Rent Adjustment and Evictions Ordinance.<sup>306</sup> The Ordinance executes the following: (1) limit the maximum rent increase in any one year to conform to state law; (2) make failure to pay required relocation benefits an affirmative defense to eviction; (3) limit late fees; (4) prohibit unilaterally imposed changes to terms of tenancy; (5) add one-for-one replacement of roommates to definition of housing services; (6) prohibit eviction based on additional occupants if landlord unreasonable refused tenant's written request to add occupants; and (7) strengthen tenants' rights and enforcement of tenant's rights under the tenant protection ordinance.

*i. Palo Alto*

From 2019-2020, the City established a citywide Transportation Impact Fee and implemented the State ADU requirements. In regard to answering my research question, Palo Alto did not implement any significant measures that will impact residential development. However, the City requires certain residential developments to pay a Citywide Transportation Fee.

*ii. New/Revised Development Regulations*

Citywide Transportation Impact Fee Ordinance 16.59 (Ord. No. 5463)

In May 2019, the City Council suspended the existing area-specific transportation impact fees and established a Citywide Transportation Impact Fee.<sup>307</sup><sup>308</sup> In the City of Palo Alto Transportation Fee Nexus Study of April 2019 the City Council identifies transportation

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<sup>303</sup> [https://library.municode.com/ca/oakland/ordinances/code\\_of\\_ordinances?nodeId=969274](https://library.municode.com/ca/oakland/ordinances/code_of_ordinances?nodeId=969274)

<sup>304</sup> 8.22

<sup>305</sup> 8.22.930

<sup>306</sup> [https://library.municode.com/ca/oakland/ordinances/code\\_of\\_ordinances?nodeId=1037952](https://library.municode.com/ca/oakland/ordinances/code_of_ordinances?nodeId=1037952)

<sup>307</sup> <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=50709&BlobID=71901>

<sup>308</sup> Citywide Transportation Impact Fee Ordinance 16.59 (Ord. No. 5463)

improvements required to serve future land use development. All new development is subject to the fee<sup>309</sup>, except the following: city buildings or structures; public school buildings or structures; affordable units that exceed minimum BMR Program requirements; day care centers; accessory dwelling units; and junior accessory dwelling units.<sup>310</sup>

#### iv. Other Findings

##### Accessory Dwelling Unit and Junior Accessory Dwelling Unit Ordinance (Ord. No. 5507)

In October 2020, the City Council deleted Section 18.42.040 of the Zoning Code and amended 18.09 Accessory Dwelling Units and Junior Accessory Dwelling Units to comply with State Law.<sup>311</sup> This new chapter intends to accommodate ADU/JADU development in order to “provide for variety to the city’s housing stock and additional affordable housing opportunities”.<sup>312</sup> ADUs and JADUs are permitted in single-family and multi-family districts.<sup>313</sup> On a single-family dwelling lot, one ADU and one JADU are permitted.

##### *j. Pasadena*

In 2019/2020, Pasadena enacted inclusionary measures that may create barriers to multi-family housing development while revising development standards that may induce smaller housing units. Specifically, the City increased inclusionary requirements but eased use/development standards to allow for smaller housing units that could be used for affordable housing. These increases in on-site affordable units for rental and ownership development projects create barriers to multi-family projects. Moreover, the City amended development use/standards in CD-4 Zone by allowing for production of smaller housing units and streamlining their permitting process that may contribute to the affordable housing supply.

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<sup>309</sup> 16.59.030

<sup>310</sup> 16.59.040

<sup>311</sup> Accessory Dwelling Unit and Junior Accessory Dwelling Unit Ordinance (Ord. No. 5507)

<sup>312</sup> 18.09.010

<sup>313</sup> 18.09.020

Moreover, minimizing the parking requirements in the CD-4 Zone additionally encourages mixed-use development in this area.

i. New/Revised Inclusionary Housing Policy

Increase Minimum Inclusionary Housing Unit Requirement Ord. No. 7353 (11/04/2019)

In 2005, Pasadena established its Inclusionary Housing Program requirements. These requirements apply to all new residential projects except those with discretionary approvals, those exempt by State law, and those with redevelopment agreements.<sup>314</sup> The Ordinance requires all residential and mixed-use projects with 10 or more units to set aside 10% of the units. Alternatively, developers may satisfy these requirements by applying for off-site unit construction, paying an in-lieu that is deposited in the Inclusionary Housing Trust Fund, or donating land at the discretion of the City Manager.<sup>315</sup> All required inclusionary ownership units must remain affordable for 45 years while rental units must be reserved in perpetuity.<sup>316</sup>

In 2019, the City increased its inclusionary housing requirements and established an affordable housing concessions menu. In November 2019, the City revised its inclusionary housing ordinance for the first time since 2006. The City's Inclusionary Housing Ordinance was amended to raise unit requirements, eliminate trade down unit credit provisions, and establish an affordable housing concession menu.<sup>317</sup> Notably, the Ordinance raises inclusionary housing unit requirements from 15% to 20% for all residential and mixed-use projects with 10 or more units.

The on-site requirements for ownership and rental units were revised to include the following:

<b>On-Site Affordable Housing Requirements</b> <sup>318319</sup>
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<sup>314</sup> 17.42.020

<sup>315</sup> 17.42.050

<sup>316</sup> 17.42.070.C

<sup>317</sup> <https://www.cityofpasadena.net/public-notices/wp-content/uploads/sites/16/2019-11-04-ORDINANCE-7353.pdf>

<sup>318</sup> 17.42.040

<sup>319</sup> 17.42.040

	<b>Very-Low Income</b>	<b>Very Low or Low-Income</b>	<b>Very Low, Low Income, Moderate Income</b>
Rental Projects	5%	5%	10%
Ownership Projects	-	-	20%

Additionally, the Ordinance creates an Affordable Housing Concession Menu<sup>320</sup> eligible for developers of by-right projects seeking density bonus provisions. menu of concessions that are available to density bonus projects by-right. Eligible developers must comply with the minimum number of inclusionary units and are allowed to request two of the concessions on the menu. The concession menu<sup>321</sup> includes the following: (1) the maximum height may be increased up to 12 feet beyond applicable standards but now more than 60% of the proposed footprint; (2) the maximum allowable floor area ratio may be increased by up to 0.5 beyond the applicable standard; (3) side or rear setback requirements may be reduced up to 50% the applicable standards; (4) exemption from the loading space requirements; (5) the minimum number of off-street parking space requirements may be reduced up to 50% below the standards.

ii. New/Revised Development Regulations

Amending Development Standards in CD Zoning Districts Ord. No. 7360 (04/06/2020)

In 2020, the City adjusted development standards, specifically location and size regulations, in the Central District Zoning Districts to allow for single room occupancy without conditional use permit in CD zones and increase maximum unit size for single room occupancy uses to 375 square feet. In 2020, the City amended development standards in the CD Zoning Districts to permit single-room occupancy and increase the maximum unit size of single-room occupancy uses from 220 square feet to 375 square feet.<sup>322</sup> The City reasoned this Ordinance was

<sup>320</sup> 17.43.055

<sup>321</sup> 17.43.055

<sup>322</sup> <https://www.cityofpasadena.net/public-notices/wp-content/uploads/sites/16/2020-04-06-ORDINANCE-7360.pdf>

necessary to encourage the smaller housing units that “may become an important part of the City’s efforts to provide housing options that are affordable to a wide variety of households”. In addition to the amendments to the CD Zoning District above, the City also reduced the minimum parking requirements in the CD-4 Zoning District.<sup>323</sup> The City reasoned this was necessary to “provide a vibrant mixed-use environment that encompasses cultural and arts activities”.

#### iv. Other Findings

From 2018-2020, Pasadena also incorporated the new Conversion of Hotels/Motels to Affordable Housing Ordinance, Tenant Protection Act of 2019, and ADU Ordinance. These measures do not appear to have a direct impact on residential development but are important to consider for affordable housing.

#### Accessory Dwelling Unit Ord. No. 7321 (04/16/2018)<sup>324</sup>

In 2018, the City adopted an ADU Ordinance. On November 17, 2020 the City extended the ADU interim Ordinance No. 2019-0049 until July 31, 2021.<sup>325</sup> The Ordinance claims the need to extend the interim ordinance to “allow the City to refine its regulation of accessory dwelling units.”

#### Conversion of Hotels and Motels to Affordable Housing Ord. No. 7333 (10/15/2018)

In October 2018, the City added sections 17.50.075 and 17.61.055 to allow hotels and motels with 80 or fewer rooms to be converted to affordable housing.<sup>326</sup> Specifically, existing hotels or motels may be converted to supportive housing, transitional housing, single-room occupancy, multi-family housing, or rentals or ownership units to low or moderate income households.<sup>327</sup> Converted projects are not subject to height, setbacks, and lot coverage standards;

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<sup>323</sup><https://www.cityofpasadena.net/public-notice/wp-content/uploads/sites/16/2020-04-06-ORDINANCE-7361.pdf>

<sup>324</sup><https://www.cityofpasadena.net/public-notice/wp-content/uploads/sites/16/2018-04-16-ORDINANCE-7321.pdf>

<sup>325</sup> <https://www.qcode.us/codes/sacramento/revisions/2019-0049.pdf>

<sup>326</sup><https://www.cityofpasadena.net/public-notice/wp-content/uploads/sites/16/2018-10-15-ORDINANCE-7333.pdf>

<sup>327</sup> 17.50.075

the Ordinance waives land use restrictions to facilitate conversions. However, the resulting number of residential units after conversion must be less than 110% or less than the number of guest rooms in the existing hotel/motel.<sup>328</sup> Furthermore, the Ordinance creates a Hotel Conversion Permit, which is required to allow the conversions.<sup>329</sup> This permit is filed in the same manner as a Conditional Use Permit.<sup>330</sup> The Hotel Conversion Permits are reviewed by the Hearing Officer, who may grant a permit for the conversion or defer action and refer the application directly to the Board of Zoning Appeals. In approving the Hotel Conversion Permit, the review authority may impose conditions deemed reasonable.<sup>331</sup> The required parking for the converted developments are established by the review authority during this process.<sup>332</sup>

Amending Tenant Protection Act Ord. No. 7347 (06/10/2019) and Tenant Protection Act of 2019 Ord. No. 7352 (11/05/2019)

In June 2019, the Tenant Protection Act was broadened to apply to tenants displaced following a change in ownership.<sup>333</sup> The Tenant Protection Ordinance was adopted in 2004 and the City determined that expanding the Ordinance was necessary to protect displaced residents and accommodate for the rapidly rising rental market. Situations where tenants are displaced after 18 months following a change of ownership of a rental property, due to a large rent increase, a termination notice, or an eviction. Additionally, the relocation allowance increased to account for market rent increases for tenants with long term tenancies of more than 10 years. To comply with the State Tenant Protection Act of 2019, the City adopted this Ordinance to protect

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<sup>328</sup> 17.50.075 (D)

<sup>329</sup> 17.61.055

<sup>330</sup> 17.61.055 (C)

<sup>331</sup> 17.61.055 (G)

<sup>332</sup> 17.50.075 (L)

<sup>333</sup> <https://www.cityofpasadena.net/public-notices/wp-content/uploads/sites/16/2019-06-10-ORDINANCE-7347.pdf>

renters of “residential real property” from no-fault terminations and evictions and rent increases without just cause until December 31, 2019.<sup>334</sup>

*k. Placer County*

In 2019, the County loosened development regulations and revised its approval process. Height limit standards may be exempt through approval and the time limit for approving various permits extended, allowing for more time for developers. These amendments appear to create less barriers to residential development, allowing for all types of new production.

ii. New/Revised Development Regulations Amending the Zoning Ordinance Ord. No. 5960 (05/14/2019)

In May 2019, the County Board amended various sections of the Zoning Ordinance.<sup>335</sup> Notably, the Ordinance adds that height limit standards under the General Development Regulations may be exempt through administrative approval.<sup>336</sup>

iii. New/Revised Approval Procedures Amending the Zoning Ordinance Ord. No. 5960 (05/14/2019)

Additionally, the time limit for approving administrative review permit, minor use permit, conditional use permit or variance may now be extended up to six years instead of three.<sup>337</sup>

iv. Other Findings Accessory and Junior Accessory Dwelling Units Ord. No. 6001-B (01/14/2020), 6003-B (01/28/2020), 6022-B (06/09/2020).

To comply with state law related to permitting, regulating, and the calculation and collection of development impact fees for ADUs, the Board amended portions of Chapter 15

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<sup>334</sup><https://www.cityofpasadena.net/public-notice/wp-content/uploads/sites/16/2019-11-05-ORDINANCE-7352.pdf>

<sup>335</sup><https://www.placer.ca.gov/DocumentCenter/View/37353/2019-051419-Signed-Ordinance-5960-B-Item-6A-CDRA>

<sup>336</sup> 17.54.020

<sup>337</sup> 17.58.160



relating to ADUs.<sup>338</sup> ADU and JADUs that are deed-restricted for affordability are exempt from processing, plan check, inspection, and building permit fees.<sup>339</sup> These structures that are 750 square feet or more are charged proportionally to the primary dwelling unit, while those under 750 square feet are not subject to fees. The Board revised the fees sections of the County Code to include ADUs.<sup>340</sup> Accessory dwelling units are subject to sewer service fees.<sup>341</sup> Notably, JADUs and ADUs that do not require new or separate sewage connections from the primary dwelling are not subject to connection fees.<sup>342</sup>

In June 2020, the County’s permitted uses were revised to allow for ADUs and JADUs in commercial zoning districts.<sup>343</sup> Various definitions of ADUs and JADUs as “secondary dwellings” were revised to comply with state definitions under California Government Code Sections 65852.2 and 65852.2.<sup>344</sup> The Ordinance adds zoning clearances as required for ADUs in the following districts: C1, C2, CPD, and HS.<sup>345</sup> No more than one JADU and one detached are allowed per residential lot within a single-family dwelling. At most two detached ADUs are allowed per multi-family dwelling lot. Furthermore, the Ordinance revised General Development Requirements for ADUs and JADUs.<sup>346</sup> There are no required setbacks for ADUs or JADUs that are converted or constructed in the same location and same dimensions as existing structures. In all other cases, side and rear setbacks must be four feet. Moreover, new structures must be at least 16 feet minimum.

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<sup>338</sup><https://www.placer.ca.gov/DocumentCenter/View/42520/2020-011420-Signed-Ordinance-6001-B-Item-5A-1b-CDRA>

<sup>339</sup> 15.34.060

<sup>340</sup><https://www.placer.ca.gov/DocumentCenter/View/42581/2020-012820-Signed-Ordinance-6003-B-Item-2A-1>

<sup>341</sup> 13.12.240

<sup>342</sup> 13.12.270

<sup>343</sup><https://www.placer.ca.gov/DocumentCenter/View/46065/2020-060920-Signed-Ordinance-6022-B-Item->

<sup>344</sup> 17.56.200

<sup>345</sup> 17.06.050

<sup>346</sup> 17.56.200 (G)

*l. Redondo Beach*

Overall, Redondo Beach did not implement new measures that will directly impact residential development. From 2019-2021, the City adopted ADU Ordinance and Tenant Protection Act of 2019 to comply with state law.

iv. Other Findings

Accessory Dwelling Units in Residential Zones Ord. No. 3187-19 and 3188-19 (04/16/2019)

In April 2019, the City created an ADU ordinance to comply with State ADU laws.<sup>347</sup><sup>348</sup>

ADUs are permitted in single-family and multi-family residential zones.<sup>349</sup> In R-1 or R-1A zones, an ADU is permitted in 6,00 square feet or more in area. In R-2, R-3, R-3A, RMD, RH-1, RH-2, RH-3 zones, an ADU is permitted in 5,000 square feet or more in area.<sup>350</sup> In residential zones, all attached and detached ADUs must be at least 150 square feet.<sup>351</sup> The maximum area of detached ADUs is 600 square feet or 50% of the living area of the existing residence, whichever is less. The minimum setback between primary dwelling and ADU must be at least 5 feet.<sup>352</sup> All attached ADUs must comply with the underlying zone setbacks, height, stories, floor area ratio, outdoor living space, and other development regulations. All detached ADUS must comply with the height limits and setback requirements included in development standards for accessory structure in residential zones. There must be one parking space provided per ADU.

Accessory Dwelling Unit Ordinance Inland Ord. No. 3210-20 (01/12/2021)

In January 2021, the City amended the ADU ordinance to add JADUs and the issuance of building permits that pertain to ADUs and JADUs.<sup>353</sup> Both ADUs and JADUs are permitted uses on single-family or multi-family lots.<sup>354</sup> JADUs must be 500 square feet or less. Permit

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<sup>347</sup> <http://laserweb.redondo.org/weblink/0/doc/330127/Page1.aspx>

<sup>348</sup> <http://laserweb.redondo.org/weblink/0/doc/330129/Page1.aspx>

<sup>349</sup> 10-5.1506

<sup>350</sup> 10-5.1506 (b)

<sup>351</sup> 10-5.1506 (c)

<sup>352</sup> 10-5.1506 (c) (4)

<sup>353</sup> <https://qcode.us/codes/redondobeach/revisions/3210-20.pdf>

<sup>354</sup> 10-2.1506

applications for ADUs and JADUS are considered and approved ministerially without discretionary review or hearing.<sup>355</sup> If a single-family or multi-family dwelling exists on the lot, the Community Development Director and Chief Building Official act within 60 days after the compliant application. If the permit application for an ADU or JADU is submitted with a permit to create a new single-family dwelling lot, the applicant may forgo streamlining procedures if the permit is under combined review by the Community Development Director and Chief Building Official.

An existing residence may be converted to an ADU in conjunction with the development of a new primary dwelling unit. Additionally, an existing ADU or JADU may be enlarged as well.<sup>356</sup> However, conversion of an existing detached or detached structure and the expansion of a single-family unit beyond 150 feet do not meet standards for streamlining under California Government Section 65852.2(e) codified in 10-2.1506 (11)(b). The ADUs that do not meet the criteria for streamlining are subject to local development standards.<sup>357</sup> Under these standards, one ADU is allowed per lot. All ADUs except those within an existing living area or replacing an existing structure must have rear yard setbacks of at least four feet.

#### Temporarily Prohibit No Fault Evictions Ord. No. 3197-19 (12/12/2019)

In response to the state Tenant Protection Act of 2019, the City adopted an interim ordinance to temporarily prohibit no-fault evictions and rental rate limits on residential real property built prior to January 1, 2005.<sup>358</sup> Until December 31, 2019, the owner of a rental property could not terminate a tenancy without at-fault just cause.<sup>359</sup> Additionally, the Ordinance

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<sup>355</sup> 10-2.1506 (a)(1)

<sup>356</sup> 10-2.1506 (a)(5-6)

<sup>357</sup> 10-2.1506 (c)

<sup>358</sup> <http://laserweb.redondo.org/weblink/0/doc/332368/Page1.aspx>

<sup>359</sup> 4-36.03

prohibits an owner of a rental property to increase gross rental rate for a dwelling unit more than 5% plus the percentage change in the cost of living, or 10%, whichever is lower.<sup>360</sup>

*m. Redwood City*

From 2018-2020, Redwood City enacted measures that will impact various residential development projects. In 2018, the City established new inclusionary housing requirements, which will require most multi-family developments to provide on-site units, off-site units, or in-lieu fees for affordable housing. Consequently, these obligations create new, direct barriers to multi-family projects. In 2019, the City established new regulations for single-family developments, subjecting those meeting certain FAR or square footage to the Architectural Review Process. Requiring single-family dwellings to undergo discretionary review to the Planning Commission creates additional barriers to these projects.

*i. New/Revised Inclusionary Housing Policy*

Affordable Housing Ordinance Article 29 (Or. No. 1130-375)<sup>361</sup>

Previously, the City solely had an Affordable Housing Impact Fee Program adopted in 2015.<sup>362</sup> All residential and commercial developments were subject to the housing impact fee that is allocated into the City's Affordable Housing Fund to increase and preserve supply of affordable housing. Residential developments exempt from these fees included: 15% moderate income units in single-family, duplex, or townhouse developments; and 12.5% low income or 10% very low income condominium and apartment units. This impact fee program required the following fees for non-exempt residential development:<sup>363</sup>

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<sup>360</sup> 4-26.05

<sup>361</sup> <https://www.redwoodcity.org/departments/city-manager/housing-services/developers/affordable-housing-ordinance-and-impact-fees>

<sup>362</sup> <https://www.redwoodcity.org/departments/city-manager/housing-services/developers/affordable-housing-ordinance-and-impact-fees>

<sup>363</sup> <https://www.redwoodcity.org/home/showpublisheddocument/7220/635875027459100000>

<b>Type of Residential Unit</b>	<b>Fee per Square Foot of Net New Residential Floor Area</b>
Single-Family Detached Home	\$25
Townhomes, Duplex	\$25
Apartments and Condominiums	\$20

On June 25, 2018 the Redwood City Council established an inclusionary housing ordinance to comply with State Law AB 1505.<sup>364</sup> This Ordinance repealed the Affordable Housing Impact Fee Article 17 and implemented Requirements for Affordable Housing Article 29. All developments must pay the previously established housing impact fees<sup>365</sup>, except those with four or fewer dwelling units, those with 20 or more dwelling units, and nonresidential developments of 5,000 square feet or less. Notably, this Ordinance establishes on-site affordable housing requirements for residential developments with 20 or more dwelling units.

<b>On-Site Affordable Housing Requirements</b> <sup>366</sup>			
	<b>Very-Low Income</b>	<b>Low-Income</b>	<b>Moderate Income</b>
Rental Projects	5%	5%	10%
Ownership Projects	-	-	15%

Alternatively, developers may propose to fulfill these requirements through off-site affordable donations, donation of land for construction of affordable units, or purchase of existing units for conversion.<sup>367</sup> The affordable housing plan must be submitted before the first

<sup>364</sup> [https://librarystage.municode.com/ca/redwood\\_city/ordinances/zoning?nodeId=899146](https://librarystage.municode.com/ca/redwood_city/ordinances/zoning?nodeId=899146)

<sup>365</sup> <https://www.redwoodcity.org/home/showpublisheddocument?id=22602>

<sup>366</sup> 29.4

<sup>367</sup> 29.8

planning and permit application are completed.<sup>368</sup> The review authority may approve of on-site units if they (1) comply with the standards of Article 26 and (2) mitigate the impact of the project on the need for affordable housing.<sup>369</sup> Alternatively, the review authority may approve off-site affordable units if the proposal (1) shows a viable financing plan and (2) proposes a suitable location for affordable housing.<sup>370</sup>

ii. New/Revised Development Regulations

Architectural Review Permit (Ord. No. 1130-379)

In August 2019, the City Council revised its Architectural Permit Process for single-family homes by adding additional development regulations. Previously, the City has controlled discretionary review for single-family development but had never incorporated development regulations on FAR Standards. In 2018, the City considered incorporating new “Hard Cap Regulations” on FAR to induce construction of new two-story homes and second story additions.

Accordingly, the City added Article 48 the Floor Area Ratio for Single-Family homes as a requirement for the Architectural Review Permit. This Ordinance amended the design review process and created a Floor Area Ratio Ordinance for reviewing single-family home developments. While this Architectural Permit Process does not incorporate a “Hard Cap Regulations” on FAR standards, the ordinance establishes a “soft cap” on single-family dwellings that exceed 3,000 square feet or an FAR of 45%, whichever is greater.<sup>371</sup> The Planning Commission is now required to review Architectural Permit applications that exceed 3,000 square feet or 45% of FAR, whichever is greater.<sup>372</sup>

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<sup>368</sup> 29.7

<sup>369</sup> 29.7 (c)

<sup>370</sup> 29.7 (d)

<sup>371</sup> [https://librarystage.municode.com/ca/redwood\\_city/ordinances/zoning?nodeId=980695](https://librarystage.municode.com/ca/redwood_city/ordinances/zoning?nodeId=980695)

<sup>372</sup> 41.4 (B)(4)

All single-family homes are subject to this ordinance except the following: ground floor additions; new single family dwellings less than 5,000 square feet; and second story additions 100 square feet or less. Single-family dwellings that meet these standards must undergo a public hearing before the Planning Commission.<sup>373</sup> Requiring single-family developments to undergo discretionary review will most likely create barriers to these types of developments but may induce developers to create multi-family projects instead.

#### iv. Other Findings

##### Accessory Dwelling Ordinance (Ord. No. 1130-378)

From 2019-2020, Redwood City incorporated new ADU measures and incorporated minor changes to its Zoning Code. In August 2019, the City Council amended Zoning Ordinance Article 37 Accessory Dwelling Units to align with State Policy.<sup>374375</sup> Currently, ADUs are permitted on single-family dwelling lots in RH, R-1, R-2, R-3, R-4, and R-5 zoning districts.<sup>376</sup> The City Council is in the process of amending the Accessory Dwelling Unit Ordinance. In July, November, and December 2020, the City Council reviewed amendments but voted not to adopt the proposed ordinances. A City Council hearing is scheduled March 8, 2021 to review the Draft Ordinance, which The Draft Ordinance intends to incorporate more ADU regulations.<sup>377378</sup> To comply with State Law, the amendments include the following: allow ADUs in multi-family and mixed-use districts; allow 4 foot setbacks from the rear and side yard; allow JADUs up to 5000 square feet within a single-family home; allow 850 square feet one-bedroom ADUs and 1,000

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<sup>373</sup> Sec 48.4

<sup>374</sup> [https://librarystage.municode.com/ca/redwood\\_city/ordinances/zoning?nodeId=980693](https://librarystage.municode.com/ca/redwood_city/ordinances/zoning?nodeId=980693)

<sup>375</sup> Accessory Dwelling Ordinance (Ord. No. 1130-378)

<sup>376</sup> <https://www.redwoodcity.org/home/showdocument?id=7186>

<sup>377</sup> <https://www.redwoodcity.org/departments/community-development-department/planning-housing/planning-services/planning-codes-development-standards/accessory-dwelling-unit-ordinance>

<sup>378</sup>

<https://meetings.redwoodcity.org/AgendaOnline/Documents/ViewDocument/ATTACHMENT%20A%20%E2%80%93%20ADU%20ORDINANCE.pdf?meetingId=2144&documentType=Agenda&itemId=4867&publishId=7459&isSection=false>

square feet multi-bedroom ADUs. Additional local regulations are also considered in this Draft Ordinance, such as considering maximum heights for detached ADUs; exempt ADUs from lot coverage maximum requirements; allowing existing short-term rental ADUs registered prior to January 1, 2020; and exempting ADUs from FAR requirements.

#### Mixed-Use District (Ord. 1130-138)

In addition to ADU laws, the City council approved minor changes to the Zoning District. In January 2020, the City Council changed the name of the Mixed-Use Live/Work (MULW) Zoning District to the Mixed-Use Transitional District (MUT).<sup>379</sup> Despite the Zoning District title change, the design and development standards remained the same.<sup>380</sup> In Fall 2020, the City requested proposals for the preparation of the Housing Element Updated. The City is expecting a significant increase in RHNA for the 2022-2031 cycle that will require amendments.<sup>381</sup>

#### *n. Roseville*

Overall, Roseville did not incorporate new measures that will impact residential development. From 2018-2020, Roseville implemented a new ADU Ordinance.

#### iv. Other Findings

##### Accessory Dwelling Units Ord. 5974 (2018)

In 2018, the City repealed and replaced Chapter 19.60 Accessory Dwelling Units to codify Government Code Section 65852.2. ADUs are principally permitted in the commercial mixed use (CMU), single-family residential (R1), small lot residential (RS), two-family residential (R2), attached housing (R3), and residential mixed use (RMU) zoning districts.<sup>382</sup> ADUs are conditionally permitted in neighborhood commercial (NC), community commercial (CC), general commercial (GC), and highway commercial (HC) zoning districts. Only one ADU is allowed per lot. ADUs are allowed within existing spaces or within the living area of an

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<sup>379</sup> [https://librarystage.municode.com/ca/redwood\\_city/ordinances/zoning?nodeId=1003660](https://librarystage.municode.com/ca/redwood_city/ordinances/zoning?nodeId=1003660)

<sup>380</sup> Mixed-Use District (Ord. 1130-138)

<sup>381</sup> <https://www.redwoodcity.org/home/showpublisheddocument?id=22413>

<sup>382</sup> 19.60.050



existing primary dwelling unit.<sup>383</sup> No minimum setbacks are required for these ADUs, but the floor area cannot exceed 50% of the existing living area. The height must be within limits prescribed in Residential Zone General Development Standards. Moreover, these ADUs do not need to provide additional parking spaces.

Attached and detached ADUs proposed as new construction are subject to different development standards from those described above.<sup>384</sup> The lot must be at least 5,000 square feet, and cannot exceed the maximum coverage prescribed in Residential Zone General Development Standards. Side and rear setbacks of 5 feet minimum are required. Moreover, the total area floor space of an attached ADU must be less than 50% of the existing primary dwelling unit area, while the total area floorspace for a detached ADU must be 800 square feet or less. ADUs with one or more bedrooms must provide at least one off-street parking space, but for studio ADUs none are required.<sup>385</sup> ADUs that do not meet the development standards described above are required to obtain an Administrative Permit.<sup>386</sup> JADUs are not subject to the standards and are also required to obtain an administrative permit.

*o. Sacramento*

From 2018-2020, Sacramento revised existing regulations, enacted new development standards, and implemented new approvals processes that seek to induce infill, transit-oriented development while encouraging the production of smaller, single-family dwellings. Overall, these new measures appear to reduce the barriers to constructing dense, multi-family projects and compact, single-family dwellings. Additionally, Sacramento revised its Subdivision and Tentative Map Approval Process To reduce the number of private development projects heard by

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<sup>383</sup> 19.60.060

<sup>384</sup> 19.60.070

<sup>385</sup> 19.60.070 (H)

<sup>386</sup> 19.60.110

the Planning and Design Commission by 40%. Of the 40%  $\frac{2}{3}$  head public hearing at director level. Revitalization strategies include development regulations and entitlements procedures and streamline planning application and building process for all development types.

ii. New/Revised Development Regulations  
Transit-Oriented Development Ord. No. 2018-0055 (12/11/2018)

In December 2018, the City passed a citywide Transit-Oriented Development Ordinance.<sup>387</sup> The Ordinance intends to limit low-density auto-oriented uses near transit stations and encourage high-density housing and jobs near transit stations.<sup>388</sup> According to the Staff Report, the TOD Ordinance will “incentivize transit supportive uses near light rail stations and preserve transit areas for appropriate development opportunities”.<sup>389</sup> Within  $\frac{1}{4}$  of a mile from an existing or proposed light rail station the following uses are prohibited: auto-sales, auto-service, drive-through restaurant, gas stations, and warehouses. To increase transit ridership, the City created the following incentives: multi-unit projects with 25 or more units will have building review incentives;  $\frac{1}{4}$  of a light rail station no minimum required off-street parking;  $\frac{1}{2}$  mile of light rail station required off-street parking reduced by 50%. The Ordinance creates a Transit Overlay Zone that applies to properties within  $\frac{1}{2}$  mile of a light rail station and the property is zoned as C-2 and RMX. This process of establishing use restrictions creates barriers for commercial development while providing incentives for certain multi-family projects will induce more residential development.

Amending Transit-Oriented Development Ord. No. 2020-0006 (02/04/2020)

In February 2020, the City amended the TOD Ordinance from December 2018.<sup>390</sup> The Ordinance repealed the Transit Overlay Zone and created an Industrial and Transit-Area (M-T)

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<sup>387</sup> <http://www.qcode.us/codes/sacramento/revisions/2018-0055.pdf>

<sup>388</sup> <https://cal.streetsblog.org/2018/12/13/sacramento-city-council-passes-a-citywide-tod-ordinance/>

<sup>389</sup> [http://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=4307&meta\\_id=541649](http://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=4307&meta_id=541649) , 10.

<sup>390</sup> <http://qcode.us/codes/sacramento/revisions/2020-0006.pdf>

Zone. The M-T Zone allows commercial and industrial uses to continue operating near light rail stations that were historically zoned for those uses. Additionally, the zone intends to transition the community to bicycling and transit use. Lots within ¼ mile and ½ mile biking/driving/walking distance are subject to the ordinance.<sup>391</sup> The Ordinance removed the employee density requirement (one employee per 250 square feet) and the 0.4 FAR minimum requirement. Additionally, the Ordinance permits parking on top of structures and in front of existing buildings but not new buildings or additions.

#### Amending the Central City Special Planning District Ord. No. 2018-0013 (04/19/2018)

In April 2018, the City Council amended the Central City Special Planning District<sup>392</sup> to facilitate mixed-use and infill redevelopment in the area. The Ordinance deleted the following: the Building Conservation Overlay Zone 17.308; Midtown Commercial Overlay Zone 17.324; Neighborhood Corridor Overlay Zone 17.328; Urban Neighborhood Overlay Zone 17.344; the Central Business Special Planning District 17.408; and the R Street Corridor Special Planning District 17.444. Regulations from these districts were combined to create and supplement the Central City Special Planning District.<sup>393</sup> This process seems to combine regulatory measures and in doing so creates a more straightforward process for housing production.

#### Amending Alternatives to Parking Requirements Ord. No. 2019-0006 (03/05/2019)

In March 2019, the City also amended alternatives to standard parking requirements in Section 17.608.060.<sup>394</sup> Developers may propose on-site alternatives to off-street parking requirements, subject to approval by the planning director. The following alternatives may be substituted for required off-street parking spaces: (a) four additional bicycle parking spaces for

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<sup>391</sup> [https://sacramento.granicus.com/MapView.php?view\\_id=22&clip\\_id=4556&meta\\_id=575976](https://sacramento.granicus.com/MapView.php?view_id=22&clip_id=4556&meta_id=575976)

<sup>392</sup> <http://qcode.us/codes/sacramento/revisions/2018-0013.pdf>

<sup>393</sup> 17.444

<sup>394</sup> <https://www.qcode.us/codes/sacramento/revisions/2019-0006.pdf>

one on-site parking space; (b) one car sharing space for four on-site parking spaces; (c) one scooter/motorcycle space for one on-site parking space; (d) shared parking; (e) on-street parking; (f) shared bicycles; (g) transportation management plan. Providing developers alternatives to parking requirements may encourage residential development in areas where these requirements were difficult to fulfill.

Development Standards for Single-Unit Dwellings Ord. No. 2019-0022 (06/04/2019)

In June 2019, the City updated the design standards for single-unit and duplex dwellings.<sup>395</sup> In R-1 and R-2 zones, dwellings must have a minimum width and depth of 20 feet.<sup>396</sup> In R-1 and R-1B zones, each dwelling unit must have 150 square feet of private open space beyond the minimum required front-yard, rear-yard, and side-yard setbacks.<sup>397</sup> These standards appear to require less space than previously necessary, indicating the City is inducing smaller single-unit dwelling production.

iii. New/Revised Approval Procedures  
Amending Responsibilities for Actions on Subdivision Maps 17.808.500 Ord. No. 2020-2021 (05/12/2020)

In May 2020<sup>398</sup>, the Planning and Design Commission and the Zoning Administrator were granted responsibilities for actions related to subdivision maps to reduce the number of commission level hearings for projects that meet design and development standards by eliminating or lowering the level of public hearing for Site Plan and Review applications.<sup>399</sup> Two amendments to Title 17 Site and Design Review entitlements, eliminate the automatic

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<sup>395</sup> <https://www.qcode.us/codes/sacramento/revisions/2019-0022.pdf>

<sup>396</sup> 17.600.105 (G)

<sup>397</sup> 17.600.110 (C)

<sup>398</sup> <https://www.qcode.us/codes/sacramento/revisions/2020-0021.pdf>

<sup>399</sup> [https://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=4611&meta\\_id=583307](https://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=4611&meta_id=583307)

Commission level public hearing requirements, such that projects are exempt from approval by Planning Commission if they are: in development in any zone that is more than 65 feet; development project in industrial zone that exceeds 70 feet; a residential project of more than 150 dwelling units; a non residential or mixed-use project exceeding 125,000 square feet.<sup>400</sup> All deviations from development standards to Director level instead of 50% Director Level and 50% Commission Level.<sup>401</sup>

The Planning and Design Commission will make decisions on appeals of Director level decisions, some CUP's, and provide recommendations to City Council on legislative entitlements. The Planning and Design Commission is responsible for (1) making recommendations to the city council on approval for tentative maps and (2) hearing appeals of the zoning administrator.<sup>402</sup> Moreover, the Zoning Administrator is responsible for the following: (1) the approval, conditional approval, or denial of all tentative maps other than vesting maps; (2) the approval or denial of requests for extensions of time for tentative maps other than vesting tentative maps; (3) the approval, conditional approval, or denial of all post-tentative map design deviations; and (4) the approval, conditional approval, or denial of minor amendments of approved tentative maps.<sup>403</sup>

Amending Tentative Maps 17.828.090 Ord. No. 2020-2021 (05/12/2020)

Additionally, the Ordinance adds the procedural requirements for tentative maps other than vesting tentative maps.<sup>404</sup> Previously, the Zoning Administrator reviews tentative maps creating 1-4 parcels and the Commission hears maps creating 5+ parcels. However, in May 2020,

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<sup>400</sup> 17.808.130.A

<sup>401</sup> 17.808.10.B.

<sup>402</sup> 17.808.500 (1)

<sup>403</sup> 17.808.500 (2)

<sup>404</sup> <https://www.qcode.us/codes/sacramento/revisions/2020-0021.pdf>

the City delegates all tentative maps to the Director level, where the Zoning Administrator approves all tentative maps.<sup>405</sup> The Ordinance aims to streamline the development review process that comply with design guidelines and development standards.<sup>406</sup> The Ordinance reduces total entitlement processing time and application costs for projects that are compatible zones and meet all development and design guidelines. The following are amendments: eliminate automatic triggers for Commission level projects and allowing deviations heard at the Director level for the Site Plan and Design Review process and allowing all tentative maps to be heard at the Director level. The ordinance delegates approval authority for some entitlements away from the Planning and Design Commission and toward the Director Level (Zoning Administrator, Design Director, Preservation Director).

First, there is a public hearing before the zoning administrator within a reasonable period of time following the subdivision review committee. Next, the zoning administrator may approve or conditionally approve a tentative map by adopting a resolution or deny the approval of the proposed tentative map. Then, the tentative map may be approved or conditionally approved by the zoning administrator or may be denied. The proposed map be denied for the following reasons: (1) the proposed map is inconsistent with the general plan/specific plan/code provisions; (2) the site is not physically suitable for the development; (3) the site is not physically suitable for the proposed development density; (4) the design or the proposed improvements will cause substantial environmental damage; (5) the design will cause public health problems; (6) the design will conflict with easements; and (7) the resulting parcels are too small to sustain their agricultural use.<sup>407</sup>

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<sup>405</sup> 17.828.090

<sup>406</sup> [http://sacramento.granicus.com/ViewPublisher.php?view\\_id=22](http://sacramento.granicus.com/ViewPublisher.php?view_id=22)

<sup>407</sup> 17.828.090 (D) (1-7)

## Ministerial Approval of Infill Housing Projects Adds 17.860 Ord. No 2020-0031 (07/28/2020)

On July 28, 2020 the City adopted the Ministerial Approval of Infill Housing Ordinance in response to SB 35 and SB 33 to comply with California Government Code 65913.4.<sup>408</sup> The Ordinance adds City Code Section 17.860. The ordinance and Resolution Number 2020-0242 provided Citywide Infill Housing Design Standards, which are based on the City’s multi-unit dwelling design guidelines.<sup>409</sup> The City defines the infill requirements as “a site that has been previously developed, or development on a vacant site, where at least 75% of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with existing uses”. The intended benefits of this ordinance include the following: expediting the planning approval process to less than 90 days for most multi-unit housing projects; reducing development risk by clarifying the approval process; and constructing housing faster by approving housing projects more quickly than the discretionary review process.<sup>410</sup>

### iv. Other Findings

#### Accessory Dwelling Unit Ordinance

In March 2019, the City revised the development and design standards of ADUs.<sup>411</sup><sup>412</sup> The Ordinance requires that ADUs do not exceed a maximum area of 1,200 square feet. The primary dwelling Unit and ADU must have a minimum 4 feet distance. The lot’s height, lot coverage, and setback requirements apply to the ADU with the following exceptions: (a) no setback is required for an ADU converted to a secondary unit; (b) no interior or rear yard setback is required for ADUs height of 10 feet or less and is located more than 60 feet from the

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<sup>408</sup> 17.860.010

<sup>409</sup> <https://www.cityofsacramento.org/Community-Development/Planning/Urban-Design/Design-Review/Design-Guidelines>

<sup>410</sup> <https://www.cityofsacramento.org/Community-Development/Planning/Major-Projects/Ministerial-Housing>

<sup>411</sup> <https://www.qcode.us/codes/sacramento/revisions/2019-0006.pdf>

<sup>412</sup> Amending Secondary Dwelling Unit Standards Ord. No. 2019-0006 (03/05/2019)

front property line; (c) no interior or rear setback is required for the ground floor of a multistory ADU more than 60 feet from the property line; (d) an ADU less than 60 feet from the front property line must have a minimum rear setback of 5 feet, side-yard setback 5 feet unless the zoning designation is less.<sup>413</sup> The Design Standards of ADUs must conform to design regulations applicable to the lot.<sup>414</sup>

On December 10, 2019 the City adopted an interim ADU ordinance to comply with the state and afford the City time to consider the regulations of ADUs.<sup>415</sup><sup>416</sup> This Ordinance adds accessory dwelling units to permitted uses in the following zones: OS, RE, R-1, R-1A, R-1B, R-2, R-2A, R-2B, R-3, R-3A, R-4, R-4A, R-5, RMX, RO, OB, OB-2, OB-3, SC, C-1, C-2, C-3, C-4, M-1, M-1(S), M-2, M-2(S), and MRD. On single-unit, duplex, or multi-dwelling lots, at most two accessory dwelling units are allowed.<sup>417</sup> Additionally, an ADU is not included in the density of a lot and cannot be sold from the primary residence.

Amending Site Plan and Design Review 17.808.130 Ord. No. 2020-2021 (05/12/2020)

In May 2020, the City council added development projects relating to landmarks to the site plan and design review. Site and design review is required for development projects involving: (1) altering or adding construction on the site of a landmark; (2) demolition or relocation of a landmark; and (3) relocation of a building or structure to a vacant lot in a historic district.

*p. City of San Diego*

The City of San Diego strengthened its inclusionary housing ordinance by increasing the affordable housing unit requirements, which may create barriers to multi-family housing

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<sup>413</sup> 17.228.105 (C)

<sup>414</sup> 17.228.105 (D)

<sup>415</sup> [https://sacramento.granicus.com/MetaViewer.php?view\\_id=22&clip\\_id=4771&meta\\_id=606537](https://sacramento.granicus.com/MetaViewer.php?view_id=22&clip_id=4771&meta_id=606537)

<sup>416</sup> Interim Accessory Dwelling Unit Ordinance Ord. No. 2019-0049 (12/10/2019)

<sup>417</sup> 17.228.105



production. However, the City also added new incentives to constructing on-site affordable units to fulfill the obligations, which may counteract the new inclusionary requirements. Moreover, new development regulations were enacted to protect existing dwelling units by requiring developers to replace demolished units. Overall, these new measures seem to preserve existing housing stock while making new residential developments harder to build.

i. New/Revised Inclusionary Housing Policy

In 2020, the City of San Diego amended the Inclusionary Housing Ordinance, creating more regulations for developers. In 2003, the City adopted its first Inclusionary Housing Ordinance.<sup>418</sup> The requirements from this Ordinance applied to all residential development except projects related in North City Future Urbanizing Area<sup>419</sup> or residential development that meet the following criteria: sold to a person who does not own other real property and will reside in the unit; unit is sold to households less than 150% AMI; and units that have two or more bedrooms. On-site requirements include that at least 10% of total dwelling units must be affordable in rental or ownership development projects.<sup>420</sup> Alternatively, developers may provide affordable units off-site within the same community planning area or outside the area with a variance. In-lieu fees are also optional for developers. In 2006 and 2011, the City amended portions of the Ordinance to clarify different sections. Notably, the 10% rental affordable units on-site must be up to 65% AMI while the 10% ownership units set side must be up to 100% AMI with an in-lieu fee of \$12.73 per square foot. Moreover, the existing program was amended to include inclusionary affordable housing obligations for Condominium Conversions.<sup>421422</sup>

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<sup>418</sup> [https://docs.sandiego.gov/council\\_reso\\_ordinance/rao2003/O-19189.pdf](https://docs.sandiego.gov/council_reso_ordinance/rao2003/O-19189.pdf)

<sup>419</sup> 142.1303

<sup>420</sup> 142.1306

<sup>421</sup> <https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art02Division13.pdf>

<sup>422</sup>

[http://www.sdhc.org/uploadedFiles/Real\\_Estate/Compliance\\_Monitoring/Inclusionary%20Housing\\_Ch14Art02Division13.pdf](http://www.sdhc.org/uploadedFiles/Real_Estate/Compliance_Monitoring/Inclusionary%20Housing_Ch14Art02Division13.pdf)

In January 2020, the City amended the Inclusionary Housing Ordinance to comply with State law AB 1505 and the Regional Housing Needs Allocation.<sup>423</sup> The inclusionary affordable housing regulations apply to all residential development of 10 or more units and all condominium conversion development of two or more dwelling units.<sup>424</sup> The amendment eliminates exemptions from the Ordinance previously established in 2003.<sup>425</sup> Specifically, exemptions related to various residential developments and condominium conversions were deleted. Development Impact Fees are not required for inclusionary dwelling units if the applicant satisfies all the inclusionary dwelling unit requirements the same as the market-rate dwelling units.<sup>426</sup>

New affordable housing requirements are being implemented incrementally from July 1, 2020 until June 30, 2024.<sup>427</sup> After June 2024, all residential development must include inclusionary dwelling units. For rental developments, at least 10% of the total units must be for very low income or low income households.<sup>428</sup> Rental units must remain affordable for at least 55 years.<sup>429</sup> For-sale residential developments, at least 10% of total units must be affordable to median income households or at least 15% of total units must be affordable to moderate income.<sup>430</sup> Alternatively, an Inclusionary In Lieu Fee is also available.<sup>431</sup> The fee is \$25 per square foot of the net building area of unrestricted market rate residential development. The fees collected are deposited into the Affordable Housing Fund.<sup>432</sup> Additionally, developers may satisfy

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<sup>423</sup> [https://docs.sandiego.gov/council\\_reso\\_ordinance/rao2020/O-21167.pdf](https://docs.sandiego.gov/council_reso_ordinance/rao2020/O-21167.pdf)

<sup>424</sup> 142.1302

<sup>425</sup> 142.1303

<sup>426</sup> 142.0640

<sup>427</sup> 142.1304

<sup>428</sup> 142.1304(a)

<sup>429</sup> 142.1304(f)

<sup>430</sup> 142.1304(b)

<sup>431</sup> 142.1306

<sup>432</sup> 142.1306(d)

these requirements by rehabilitating existing dwelling units or hotel rooms for conversion into inclusionary dwelling units for very low income or low income households.<sup>433</sup>

In 2020, the City also added new incentives for constructing affordable housing, specifically Incentives for On-Site Inclusionary Dwelling Units. If an applicant provided all inclusionary dwelling units then the inclusionary dwelling units are exempt from Development Impact Fees.<sup>434</sup> Developers may now receive an increase in the maximum permitted floor area ratio in land use plans that use floor area ratio rather than dwelling units per acre or per square foot.<sup>435</sup> Additionally, developments providing 100% of pre-density bonus dwelling affordable units or developments within transit priority areas are allowed five incentives. Additionally, developments providing 100% of pre-density bonus dwelling affordable units or developments within transit priority areas are allowed five incentives.<sup>436</sup> Developers may now receive an increase in the maximum permitted floor area ratio in land use plans that use floor area ratio rather than dwelling units per acre or per square foot.<sup>437</sup> Additionally, developments providing 100% of pre-density bonus dwelling affordable units or developments within transit priority areas are allowed five incentives. Additionally, developments providing 100% of pre-density bonus dwelling affordable units or developments within transit priority areas are allowed five incentives.<sup>438</sup><sup>439</sup>

ii. New/Revised Development Regulations  
Dwelling Unit Protection Regulations

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<sup>433</sup> 142.1307

<sup>434</sup> 142.1309

<sup>435</sup> 143.0740 (b)(4)

<sup>436</sup> 143.0740 (e)

<sup>437</sup> 143.0740 (b)(4)

<sup>438</sup> 143.0740 (e)

<sup>439</sup> Incentives in Exchange for Affordable Housing Units Ord. No. 21254 (10/03/2020)

\_\_\_\_\_ In October 2020, the City incorporated a Section relating to Dwelling Unit Protection Regulations.<sup>440</sup><sup>441</sup> These regulations intend to protect existing dwelling units by requiring developers to replace demolished units. These regulations apply to single dwelling unit developments, multi dwelling unit developments, mixed-use developments, and transitional housing facilities between January 1, 2020 to December 31, 2024.<sup>442</sup> Protected rental dwelling units must be replaced by affordable units for at least 55 years.<sup>443</sup> All for-sale replacement protected dwelling units must be for very low income or low income households and must be occupied by the initial owner at all times until the resale of the protected dwelling unit takes place.<sup>444</sup>

#### iv. Other Findings

The City updated its Housing Element and incorporated ADU Ordinance and Dwelling Unit Protection Ordinance. In 2020, the City updated the Housing Element.<sup>445</sup> The 2021-2019 Housing Element intends to identify and analyze the city's housing needs, establish reasonable goals, objectives and policies. The Housing Element Update contains six goals: (1) facilitate the construction of quality housing; (2) improve the existing housing stock; (3) provide new affordable housing; (4) enhance quality of life; (5) exemplify sustainable development and growth; (6) publicize housing needs and resources.<sup>446</sup> Furthermore, to comply with State law, the updates includes standards and plans for improvement of housing, identification of adequate developable sites for housing, and a program of actions for the City.

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<sup>440</sup> 143.1201

<sup>441</sup> [Dwelling Unit Protection Regulations Ord. No. 21254 \(10/03/2020\)](#)

<sup>442</sup> 143.1203

<sup>443</sup> 143.1212(c)(4)

<sup>444</sup> 143.1212 (c)(5)

<sup>445</sup> [https://www.sandiego.gov/sites/default/files/he\\_final\\_screen\\_view\\_0.pdf](https://www.sandiego.gov/sites/default/files/he_final_screen_view_0.pdf)

<sup>446</sup> [https://www.sandiego.gov/sites/default/files/addendum\\_to\\_the\\_general\\_plan\\_peir\\_for\\_the\\_housing\\_element\\_update\\_2021-2029.pdf](https://www.sandiego.gov/sites/default/files/addendum_to_the_general_plan_peir_for_the_housing_element_update_2021-2029.pdf)

## Accessory Dwelling Unit Ordinance

In October 2020, the City replaced the “Companion Units, Junior Units, and Movable Tiny Houses” Section with “Accessory Dwelling Units and Junior Accessory Dwelling Units”.<sup>447</sup><sup>448</sup> ADUs are permitted in all zones allowing residential uses and JADUs are permitted in all single dwelling unit zones.<sup>449</sup> One single dwelling unit lot, one ADA and one JADU are permitted.<sup>450</sup> There is no minimum lot size for an ADU or JADU. Moreover, neither is subject to density limitations for the lots. Within a multiple dwelling structure, the number of ADUs are limited to 25% of the total number of existing dwelling units in the structure.<sup>451</sup> On a lot containing a multiple dwelling unit structure, two detached ADUs are permitted.<sup>452</sup> An ADU with gross floor area of 800 square feet is permitted with an existing or proposed primary dwelling unit regardless of maximum lot coverage, maximum FAR, and minimum open space requirements.<sup>453</sup> JADUs are permitted minimum 150 square feet and maximum 500 square feet.<sup>454</sup> ADUs and JADUs are exempt from Development Impact Fees.<sup>455</sup> There is an affordable housing bonus of one additional ADU for every ADU on the lot side aside from very low income, low income, and moderate income households for at least 15 years.<sup>456</sup> Outside a transit priority area, one bonus ADU is permitted. Within a transit priority area, there is no limit on the number of bonus ADUs.

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<sup>447</sup> [https://docs.sandiego.gov/council\\_reso\\_ordinance/rao2020/O-21254.tif.pdf](https://docs.sandiego.gov/council_reso_ordinance/rao2020/O-21254.tif.pdf)

<sup>448</sup> Accessory Dwelling Units and Junior Accessory Dwelling Units Ord. No. 21254 (10/03/2020)

<sup>449</sup> 141.0302

<sup>450</sup> 141.0302(a)

<sup>451</sup> 141.0302(b)(2)(i)

<sup>452</sup> 141.0302(b)(2)(C)(ii)

<sup>453</sup> 141.0302(b)(2)(D)

<sup>454</sup> 141.0302(c)(2)(B)

<sup>455</sup> 142.0640(b)(1)

<sup>456</sup> 141.0302(b)(2)(G)

*q. San Diego County*

San Diego County did not incorporate new measures that will impact residential development. However, the County did amend portions of its Zoning Code<sup>457</sup> to comply with State ADU and Density Bonus laws.

i. New/Revised Inclusionary Housing Policy  
Density Bonus Program/Affordable Housing Program

In February 2019, the Ordinance amended the Density Bonus Program/Affordable Housing Program to implement requirements under California Government Code Section 65915.<sup>458</sup> A housing development is eligible for density bonus if at least one of the following conditions are met: (1) at least 5% of the total units are for very low-income households; (2) at least 10% total units are reserved for lower income households; (3) the project is a senior citizen development; (4) at least 10% of total units are in common interest development; (5) at least 10% of total units are for very low income to foster youth; (6) 100% are reserved at affordable rent.<sup>459</sup> Beyond meeting income and age requirements, an eligible development may include: land donation of at least one acre of land for very low income housing; conversion of apartments to affordable condominiums; child care facilities; and senior citizen housing. Developments that are eligible for an Affordable Housing Permit may qualify for one or more of the following incentives<sup>460</sup>: reduction or deviation in site development standards or architectural design requirements; approval of mixed-use zoning with housing projects if uses will reduce the cost of the housing development; other regulatory incentives proposed by applicant.

iv. Other Findings  
Accessory Dwelling Unit Ordinance

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<sup>457</sup> Amending the Zoning Ordinance Ord. No 10592 (02/27/2019)

<sup>458</sup> 6350-6399

<sup>459</sup> 6355

<sup>460</sup> 6365

In January 2019, the County Board amended the county code and added 65.112 to the Administrative Code to waive development impact and permit fees for ADUs.<sup>461</sup><sup>462</sup> The fees for new construction layout test and onsite water system permits are waived for proposed ADUs located on lots with an existing single family dwelling when public sewer is not available.<sup>463</sup> In February 2019, the Board updated various sections of the Zoning Ordinance.<sup>464</sup> Notably, the Ordinance incorporates ADU Regulations under Residential and Agricultural Use Types.<sup>465</sup> ADUs are allowed for residential, agriculture, and special purposes. Lots ADUs are located on must be at least 20,000 square feet or larger. The structure must be at least 400 square feet and cannot exceed 1,200 square feet. Furthermore, one parking space per bedroom or unit is required. ADUs must be less than 500 square feet and must reside within existing single-family dwellings. JADUs may not be located on a lot where another ADU or JADU exists on the lot.<sup>466</sup>

*r. San Francisco*

Within the studied period, San Francisco strengthened inclusionary housing requirements, implemented new development standards for dwelling unit demolition, exempted HOME-SF projects from discretionary review, minimized parking requirements regulations, and expedited the review process for commercial spaces that preserve dwelling units. Overall, these new measures do not seem to create significant barriers to residential development. Conversely, they seem to encourage preservation and creation of affordable housing.

**i. New/Revised Inclusionary Housing Policy  
Affordable Housing Requirement and Fee in Divisadero**

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<sup>461</sup> Note- the link for this ordinance was not working.

<sup>462</sup> Waiver of Development Impact and Permit Fees for ADUs Ord. No. 10590 (01/30/2019)

<sup>463</sup> 65.112

<sup>464</sup> <http://www.amlegal.com/pdffiles/SanDiegoCo/ord10592.pdf>

<sup>465</sup> Section 9. Section 6156.x. of the Zoning Ordinance

<sup>466</sup> Section 6156.x.II.

Since 2002, San Francisco’s Inclusionary Housing Program has required new residential projects to pay an Affordable Housing Fee or meet the requirement through on-site or off-site units. Previously, the general Inclusionary Affordable Housing Program applied to Divisadero Street NCT and Fillmore Street NCT <sup>467</sup> Development projects with 10 or units are subject to the program. The obligation requirements included paying an affordable housing fee equivalent to requirement of providing 30% affordable units or providing on-site units consisting of 23% units as affordable: 6% for households up to 55% AMI; 8% for households up to 120% AMI; and 9% for households up to 140% AMI. Alternatively, developers could provide off-site housing equal to 30% of all units as affordable. The fee is determined by the off-site percentage of the number of units. Housing development projects between 10 and 25 units must be 20% while those more than 25 units must be 33%.<sup>468</sup>

<b>On-Site Affordable Housing Alternative</b>			
	<b>Low-Income</b>	<b>Moderate-Income</b>	<b>Middle-Income</b>
Rental Projects 10-25 Units (12%)	12%	-	-
Rental Projects 25+ Units (18%)	10%	4%	4%
Ownership Projects 10-25 Units (12%)	12%	-	-
Ownership Projects 25+ Units (20%)	10%	5%	5%

<b>Off-Site Affordable Housing Alternative</b>
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<sup>467</sup> <https://sfgov.legistar.com/View.ashx?M=F&ID=6828600&GUID=032C32DA-026C-4D35-9877-034391CAFEE4>

<sup>468</sup> Sec. 415.5



	<b>Low-Income</b>	<b>Moderate-Income</b>	<b>Middle-Income</b>
Rental Projects 10-25 Units (30%)	30%	-	-
Rental Projects 25+ Units (18%)	18%	6%	6%
Ownership Projects 10-25 Units (20%)	20%	-	-
Ownership Projects 25+ Units (33%)	18%	8%	7%

In July 2017, a study determined the feasibility of higher on-site inclusionary affordable housing requirements in neighborhoods that received 20% or greater increase in developable residential floor area or 35% or greater increase in residential density after January 2015. The results from this study are used to provide more precise requirements from certain districts. For example, the study notes that Divisadero Street NCT is feasible for on-site affordable units ranging 20 to 22% rental projects or 23% ownership projects. Because of this, all development projects in this neighborhood submitting applications after October 1, 2018 are subject to the new affordable requirements. As of January 2019, the developers must pay additional affordable housing or payment of fee for certain sites that obtained higher residential development as a result from the Divisadero Street Neighborhood Commercial Transit District.<sup>469</sup><sup>470</sup> Development projects with 10 or more dwelling units are subject to the Inclusionary Affordable Housing Program, and are required to pay an affordable housing fee equivalent to 33% of the units if they are ownership units or 30% of the units if the project is a rental project.<sup>471</sup> Notably on-site

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<sup>469</sup> <https://sfgov.legistar.com/View.ashx?M=F&ID=6828600&GUID=032C32DA-026C-4D35-9877-034391CAFEE4>

<sup>470</sup> 428.1-428.5

<sup>471</sup> 428.3

ownership requirements of 23% as affordable: 12% low-income; 5.5% moderate income; and 5.5% middle-income. On-site rental requirements of 20% units: 12% low-income; 4% moderate-income; 4% middle-income. Alternatively projects 10 or more units may provide off-site compliance which 33% ownership units and 20% rental units.

In addition to new neighborhood-specific requirements, revisions to the ordinance apply citywide. Starting January 2018, the percentage of units required for on-site projects between 10-24 units started to increase 0.5% each year until the requirement reached 15%. For all development projects with 25 or more ownership or rental units the on-site will increase 1% annually for two years. Starting January 2020, on-site rental and ownership units with 25 more units increase 0.5% annually for moderate and middle income households until reaching 26% for ownership and 24% for rental units. In October 2019, the City amended portions of the Job Housing Linkage Fee and Inclusionary Housing Ordinance.<sup>472</sup> Compliance to inclusionary housing requirements were amended to allow for land dedication in addition to the existing in-lieu fee with the approval of the Director of MOHCD.<sup>473</sup> Moreover, the Ordinance incorporates phasing increases to the fee.

#### Expiration of Temporary Inclusionary Housing Requirements Ord. No. 290-18 (01/06/2019)

In October 2018 (Effective January 2019), the City amended the Planning Code to modify the date which projects that are eligible for temporary inclusionary housing requirements must obtain a building or site permit.<sup>474</sup> If a project is approved on or before December 7, 2018, the project does not need a building permit or site permit for construction of affordable housing units within 18 months of the project's approval.

#### Inclusionary Housing Fee for State Density Bonus Projects Ord. No. 070-19 (06/18/2019)

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<sup>472</sup><https://sfgov.legistar.com/View.ashx?M=F&ID=7906097&GUID=2B7711BE-AA1B-4B5A-A8D9-26BC6564ED31>

<sup>473</sup> Sec. 413.7

<sup>474</sup> <https://sfbos.org/sites/default/files/o0290-18.pdf>

As of June 2019, the City determined that all projects using the State Density Bonus law are required to pay an inclusionary fee on any additional units or square footage allowed by state law.<sup>475</sup> Previously, those projects that submitted a complete Environmental Evaluation Application before January 12, 2016 were exempt from the inclusionary fee. The Ordinance applies to the Affordable Housing Fee to ensure that new permanently affordable housing is located in all City's neighborhoods. The City reasons that this Ordinance could increase the supply of affordable housing and is supported by the 2016 Residential Affordable Housing Nexus Analysis.

Jobs Housing Linkage Fee and Inclusionary Housing Ord. No. 251-19 (10/29/2019)

In October 2019, the City amended portions of the Job Housing Linkage Fee and Inclusionary Housing Ordinance.<sup>476</sup> Compliance to inclusionary housing requirements were amended to allow land dedication in addition to the existing in-lieu fee with the approval of the Director of MOHCD.<sup>477</sup> Additional options for inclusionary housing obligations may aid development.

ii. New/Revised Development Regulations  
Off-Street Parking Requirements Ord. No. 311018 (01/20/2019)

As of January 2019, minimum off-street parking requirements were eliminated Citywide.<sup>478</sup> Since the 1970s, the City has reduced and streamlined minimum parking requirements Citywide to reduce traffic congestion. Recent ADU, Transportation Demand Management, and HOME-SF ordinances all permit exemptions from minimum parking

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<sup>475</sup><https://sfgov.legistar.com/View.ashx?M=F&ID=7179258&GUID=048D6E6C-DC85-4F82-8D46-9940FEA541D6>

<sup>476</sup><https://sfgov.legistar.com/View.ashx?M=F&ID=7906097&GUID=2B7711BE-AA1B-4B5A-A8D9-26BC6564ED31>

<sup>477</sup> Sec. 413.7

<sup>478</sup><https://sfgov.legistar.com/View.ashx?M=F&ID=6950192&GUID=EB1A5961-EEB1-4F4D-8863-90C0466ACDA2>

requirements. The City reasoned that eliminating minimum parking requirements in all zoning districts will further the objective in the General Plan's Transportation Element.

Conditional Use Authorizations for Demonstrably Unaffordable Housing Ord. No. 81-20 (05/04/2020)

As of February 11, 2020 the City requires conditional use authorization for applications to demolish a single-family residential building on a site zoned as RH-1 (Residential, Housing District, One Family) or RH-1 (D) (Residential, Housing District, One Family-Detached) when the building is demonstrably not affordable or financially accessible housing.<sup>479</sup> This encompasses housing that has a value greater than 80% than the combined land and structure values of single-family homes in the City.<sup>480</sup> This process creates additional barriers to residential development by not allowing demolition.

iii. New/Revised Approval Procedures

100% Affordable Housing and Educator Housing Streamlining Program Ord. No. 289-19 (01/19/2020)

In January 2020, the City amended the Planning Code to require at least half of residential units in Educator Housing projects to have two or more bedrooms and eliminated the requirement that the projects have minimum three-bedroom units.<sup>481</sup> Previously, the minimum was 30% of the total units of 2-bedroom units.

Reauthorization and Extension of Fee Waiver - Legalization of Unauthorized Dwelling Units Ord. No. 92-20 (06/04/2020)

In June 2020, the Planning and Building Codes were amended to reauthorize the waiver of fees related to granting legal status to existing dwelling units constructed required permits and extending the waiver through December 31, 2024.<sup>482</sup> The Ordinance amended the Department of

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<sup>479</sup><https://sfgov.legistar.com/View.ashx?M=F&ID=8574989&GUID=26580BA1-BA6A-48AB-99C7-335B2A7F703B>

<sup>480</sup> Sec. 317.(c)

<sup>481</sup><https://sfgov.legistar.com/View.ashx?M=F&ID=7977063&GUID=A5C7DE0C-E4A6-4C07-90FE-53F6CE0DE6E0>

<sup>482</sup><https://sfgov.legistar.com/View.ashx?M=F&ID=8638814&GUID=3C47B955-C81A-4F55-902D-8B5101EA591F>

Building Inspection report to the Mayor to include the following: If there was a tenant in the unauthorized unit at the time the applicant submitted the application for a permit to legalize the unit and if there was a tenant in unauthorized unit in the five years prior to submitting the permit application to legalize the unit.<sup>483</sup> This initiative most likely preserves existing housing thereby slowing residential development.

#### HOME-SF Project Authorization Ord. No. 015-19 (03/10/2019)

The City extended the application deadline for projects eligible for HOME-SF temporary provisions and determined that HOME-SF Projects are exempt from discretionary approval by the Planning Commission.<sup>484</sup> <sup>485</sup> Previously, these projects were subject to controls until normal residential development procedures. Specifically, the discretionary reviews these projects are exempt from include conditional use authorization or any other discretionary approval process. Moreover, this Ordinance adds “Development Application” to definitions to include an application for building permit, site permit, Conditional Use, Variance, Large Project Authorization, HOME-SF Project authorization. Previously, HOME-SF Project Authorization applications were defined as “Environmental Evaluation Application”.

#### Conditional Use Review and Approval Process Ord. No. 139-20 (07/27/2020)

In July 2020, the City amended the Planning Code to expedite the Conditional Use authorization and approval process and reduce the application fee for certain uses of commercial space.<sup>486</sup> Certain uses in commercial space eligible for priority processing include some of the following<sup>487</sup>: exclusively non-residential uses; limited to changes of use; and does not involve the removal of any Dwelling Units. In this process, the Planning Commission holds expedited

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<sup>483</sup> Sec. 302

<sup>484</sup> Sec. 328

<sup>485</sup> <https://sfgov.legistar.com/View.ashx?M=F&ID=7032704&GUID=3925EFB4-D3D8-41A1-840C-212ABDE5B3A9>

<sup>486</sup> <https://sfgov.legistar.com/View.ashx?M=F&ID=8755268&GUID=977C72E8-6A4F-4895-A727-C80A29E9FF69>

<sup>487</sup> Sec. 303.2

commission hearings, in which applications are heard and determined within 90 days without compromising review times of other applications. The commission is granted a one-time extension of at most 60 days for an eligible application. An application that meets the requirements may pay a reduced application fee 50% less otherwise applicable fee. Previously, this form of expedited review did not exist, but appears to preserve residential uses in commercial spaces.

#### iv. Other Findings

##### Accessory Dwelling Units in New Construction Ord. No. 116-19 (07/28/2019)

In July 2019, the City authorized the addition of an ADU in construction of a new single-family home or multi-family building.<sup>488</sup> ADUs are allowed on lots zoned for single family or multifamily use and contain an existing or *proposed* single-family dwelling.<sup>489</sup> When an ADU involves expansion of an existing primary dwelling or new structure on the same lot, the total floor area of the ADU must be 1,2000 square feet or less.<sup>490</sup> Particularly, this Ordinance clarifies the ministerial approval process and creates an expedited Board of Appeals process for ADUs in single-family homes. The Ordinance adds to the Zoning Code that requests for discretionary review are not accepted under permit application review and approval for ADUs.

##### Establishing 12 Named Neighborhood Commercial Districts Ord. No. (01/31/2020)

As of January 2020, twelve new neighborhood commercial districts were established in the Planning Code.<sup>491</sup> These neighborhood districts (NCD) include the following: Inner Balboa Street, Outer Balboa Street, Bayview, Cortland Avenue, Geary Boulevard, Mission Bernal, San

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<sup>488</sup><https://sfgov.legistar.com/View.ashx?M=F&ID=7514250&GUID=B1D5A724-BC8F-4790-A6C5-651D26E9DE26>

<sup>489</sup> Sec. 207(c)(4)(B)(ii)

<sup>490</sup> Sec. 207(6)(B)(xii)

<sup>491</sup><https://sfgov.legistar.com/LegislationDetail.aspx?ID=4280973&GUID=33B5C949-479C-4526-BDA9-C5C4E4ECF39A&Options=ID%7CText%7C&Search=191260>

Bruno Avenue, Cole Valley, Lakeside Village, Lower Haight Street, Lower Polk Street, and Inner Taraval.

Residential Occupancy Ord. No. 78-20 (04/27/2020)

In April 2020, the City amended various portions of the Rent Ordinance.<sup>492</sup> The Ordinance added “Intermediate Length Occupancy” as a Residential Use characteristic to encourage the use of Dwelling Units for long-term occupancy.<sup>493</sup> This applies to Dwelling Units leased more than 30 days but less than one year. At most 1,000 Intermediate Length Occupancy units are allowed throughout the City. This category was added to all districts with residential uses. Additionally, the Ordinance adds more Tenant Protections to prevent landlords of rent-controlled units from prohibiting long-term tenancies.<sup>494</sup>

*s. San Jose*

In 2021, San Jose enacted more requirements for its inclusionary housing program. These new requirements will most likely create additional barriers to residential development by forcing more obligations upon developers.

i. New/Revised Inclusionary Housing Policy  
Amending the Inclusionary Housing Ordinance No. 28689 (02/23/2021)

In 2010, San Jose adopted its Inclusionary Housing Ordinance, Chapter 5.08 of the City’s Code.<sup>495</sup> All ownership and rental development projects with 20 or more units are subject to inclusionary requirements. There were several options for developers to comply: providing 15% of units on-site; providing the equivalent 20% of total units in the project off-site; paying an in-lieu fee. Moreover, a developer could propose an alternative compliance option. As of 2017, San

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<sup>492</sup><https://sfgov.legistar.com/View.ashx?M=F&ID=8561347&GUID=B4CEC743-DBCA-4DF6-A478-4F0DEB412A37>

<sup>493</sup> Sec. 202.10

<sup>494</sup> Sec. 37.9F

<sup>495</sup><https://www.sanjoseca.gov/your-government/departments/housing/developers/inclusionary-ordinance-housing-impact-fee>

Jose implemented two affordable housing programs: an Inclusionary Housing Ordinance Program that applies to the requirements above and an Affordable Housing Impact Fee program that applies to rental residential projects with 3-19 units and ownership projects with 19 or less units. In October 2017, San Jose adopted an additional Small Project Inclusionary Ordinance that incorporated requirements for both ownership and rental projects between 3-19 units.

In 2021, the City Council adopted eight amendments to the Inclusionary Housing Ordinance.<sup>496</sup> First, the minimum threshold for the Ordinance is lowered from 20 units to 10 units or more<sup>497</sup>, and the fee was set at half the rate that would otherwise apply for developments with less than 20 units and provide at least 90% maximum density allowed by the General Plan.<sup>498</sup> Second, on-site and off-site inclusionary rental units are revised to meet the following<sup>499</sup>: On-Site: 5% of 100% AMI, 5% at 60% of AMI, and 5% at 50% AMI; or 10% at 30% AMI, For Off-Site: 5% at 80% of AMI, 5% at 60% of AMI, and 10% of 50% AMI. Third, the in-lieu fee is restructured from a per-unit to a per-square-footage basis; rental fee is \$43 per square foot and for-sale housing at \$25 per square foot.<sup>500</sup>

<b>Affordable Housing Unit Requirements</b>			
	<b>On-Site (15%)</b>	<b>Off-Site (20%)</b>	<b>In-Lieu Fee</b>
<b>Rental Projects</b>	5% at 100 AMI, 5% at 60% AMI, 5% at 50% AMI; OR 10% at 30% AMI	5% at 80% AMI, 5% at 60% AMI, 10% at 50% AMI	Strong Market: \$43/ft <sup>2</sup> , Moderate Market: \$18.70/ft <sup>2</sup>
<b>Ownership Projects</b>	Purchasers must be at or below 120% AMI	Purchasers must be at or below 110% AMI	\$25 per square foot

<sup>496</sup><https://www.sanjoseca.gov/your-government/departments/housing/developers/inclusionary-ordinance-housing-impact-fee>

<sup>497</sup> 5.08.250

<sup>498</sup> 5.08.520

<sup>499</sup> 5.08.500

<sup>500</sup> 5.08.520



Fourth, new compliance options are added to encourage affordable housing production: (1) mixed-use compliance option (on-site rental with adjusted in-lieu fee combination); (2) option to Purchase real property; (3) option to dedicate SB35 entitled property; and (4) option for partnership for clustered units.<sup>501</sup> Fifth, the period of affordability extends to 99 years with voluntary demolition after 55 years, and relocation benefits for residents of inclusionary units.<sup>502</sup> Sixth, streamlining is allowed for 100% affordable housing developments and allowing 100% affordable developments funding and restricted by the City to be exempt from the Ordinance.<sup>503</sup> Seventh, establish a transition process for existing residential developments.<sup>504</sup> Eighth, allow marketing of inclusionary units to a subpopulation that is smaller than the general public, so long as the marketing is nondiscriminatory, affirmatively further fair housing, and provides an anti-displacement policy.<sup>505</sup>

#### ii. New/Revised Development Regulations

##### Commercial Linkage Fee (09/01/2020)

On September 1, 2020 the City Council adopted a commercial linkage fee.<sup>506</sup> The fee charges office developers to fund affordable housing. Projects more than 100,000 square feet must pay either \$12 per square foot if paid upon the certificate of occupancy or \$15 per square foot if paid in phases. Projects less than 100,000 square feet, the first 40,000 square feet have \$0 fee with the remaining \$3 per square foot.

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<sup>501</sup> 5.08.580

<sup>502</sup> 5.08.600

<sup>503</sup> 5.08.620

<sup>504</sup> 5.08.740

<sup>505</sup> 5.08.610.B.5.

<sup>506</sup> <https://www.sanjoseca.gov/your-government/departments-offices/housing/developers/developer-fees-charges/commercial-linkage-fee>

#### iv. Other Findings

##### Accessory Dwelling Unit Ordinance

On December 17, 2019 the City updated the zoning code to align with new state laws relating to ADUs.<sup>507508</sup> ADUs are allowed in single-family residence zones R-1, R-2, and R-M. Notably, they are allowed on any lot with an existing single dwelling unit, regardless of zoning. Moreover, ADUs are permitted on duplex lots and multifamily properties.

##### *t. Santa Monica*

From 2019-2020, Santa Monica revised development standards, approval process of Tier 3 Housing projects, and inclusionary housing requirements in an attempt to encourage multi-family, affordable housing production for various levels of income. The City removed extremely low income from the affordable housing options and tightened restrictions on single-room occupancy to allow for more housing production. Overall, these measures appear to reduce barriers to creating large-multi family affordable projects by streamlining the process for these types of developments.

##### *i. New/Revised Inclusionary Housing Policy*

Previously, Santa Monica adopted its Affordable Housing Production Program, Chapter 9.64 in the City's municipal code. The requirements apply to all multi-family developments with two or more units.<sup>509</sup> Multi-family projects with four or more units may provide on-site or off-site affordable units while all other projects may pay an affordable housing fee or acquire land for affordable housing.<sup>510</sup> In June 2013, the City revised affordable housing categories and expanded the program's income categories to include extremely low income, or that does not

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<sup>507</sup><https://www.sanjoseca.gov/business/development-services-permit-center/accessory-dwelling-units-adus/secondary-unit-ordinance-updates>

<sup>508</sup> Accessory Dwelling Unit Ordinance Ord. No 13608 (12/17/2019)

<sup>509</sup> 9.64.030

<sup>510</sup> 9.64.040

exceed 30% of the AMI.<sup>511</sup> Since this amendment, more than 30% of all affordable units have been approved for the extremely low income category and in 2018, 84% approved were in this category. Because of this, fewer affordable units are produced in very low, low, and moderate income categories and fewer affordable units are produced overall. In July 2017, the City conducted a feasibility study and required Downtown Community plan to establish 20% requirements for total affordable housing contribution.<sup>512</sup>

Removing Extremely Low-Income Affordable Housing Category Ord. No 2605 (04/09/2019)

In December 2018, the City Council conducted a housing policy study session to discuss options for increasing housing production. In April 2019, the City removed the extremely low income affordable housing category as an option for satisfying affordable housing production requirements to ensure there are various affordable income levels and encourage production of affordable housing.<sup>513</sup> Although this was initially temporarily suspended for a feasibility study, the City has extended the elimination of the extremely low-income category as an option for satisfying affordable housing production obligations until February 28, 2022 to preserve the City's ability to produce affordable housing at other income levels.<sup>514</sup> Additionally, the Ordinance exempt 100% affordable housing projects owned by nonprofit housing providers from tax credit regulations.<sup>515</sup> Those exempt from the requirements include 100% affordable housing projects. This revises the previous exemption that allows 100% affordable housing projects to comply with regulations adopted by California Tax Credit Allocation Committee rather than Affordable Housing Production Program requirements.<sup>516</sup>

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<sup>511</sup> Ord. No. 2429 (CCS)

<sup>512</sup> <https://publicdocs.smgov.net/WebLink/DocView.aspx?id=2370527&dbid=0&repo=SMGOV&cr=1>

<sup>513</sup> Removing Extremely Low-Income Affordable Housing Category Ord. No 2605 (04/09/2019)

<sup>514</sup> <https://publicdocs.smgov.net/WebLink/edoc/2424332/O2654.pdf?dbid=0&repo=SMGOV>

<sup>515</sup> <http://santamonicacityca.iqm2.com/Citizens/FileOpen.aspx?Type=12&ID=1191&Inline=True>

<sup>516</sup> <https://publicdocs.smgov.net/WebLink/DocView.aspx?id=2370527&dbid=0&repo=SMGOV&cr=1>

State Density Bonuses for 100% Affordable Housing Projects and Incentives No. 2649

(09/08/2020)

In September 2020, the City amended the Affordable Housing Production Program, specifically replacing the Eligibility Section for density bonuses.<sup>517</sup><sup>518</sup> A housing development project is eligible for a density bonus and additional incentives, concessions, waivers, and/or reductions of development standards.<sup>519</sup> Development projects eligible for bonuses include at least one of the following: (a) 10% of total units of the housing development for lower income households; (b) 5% of total units of housing development for very low income households; (c) senior citizen housing; (d) 10% of total units of a common interest development; (e) 10% for transitional foster youth; 20% for lower income students; (g) 100% of total units for lower income households.<sup>520</sup>

State Density Bonuses for 100% Affordable Housing Projects and Incentives No. 2649

(09/08/2020)

An eligible applicant for incentives or concessions may receive the following: (1) incentive or concession for projects that include 10% of total units for lower income households, at least 5% for very low income households, or at least 10% for moderate income; (2) two incentives or concessions for projects that include at least 20% of total units for lower income households, 10% for very low income households, or 20% for moderate income; (3) three incentives or concessions for projects that include 30% total units for lower income households, 15% for very lower income households, at least 30% for moderate income; (4) four incentives or concessions if the project is within ½ mile of major transit stop, application will receive height

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<sup>517</sup> 9.22.020

<sup>518</sup> State Density Bonuses for 100% Affordable Housing Projects and Incentives No. 2649 (09/08/2020)

<sup>519</sup> 9.22.040

<sup>520</sup> 9.22.040.A.1

increase up to 3 additional stories.<sup>521</sup> Moreover, a requested incentive or concession may include the following: up to 15% deviation from one side setback requirement; up to 10% increase in first floor parcel coverage; up to 15% deviation from rear setback requirements.

ii. New/Revised Development Regulations  
Interim Prohibiting Single-Room Occupancy Ord. No. 2604 (03/26/2019)

In March 2019, the City temporarily prohibited single room occupancy uses that are not 100% affordable housing projects or other forms of specialized housing such as emergency shelter, transitional housing, and supportive housing.<sup>522</sup> The Ordinance prohibits single-room occupancy in all Zoning Districts except 100% Affordable Housing Projects. This Ordinance expired June 22, 2019.

Single Room Occupancy Housing Uses Ord. No. 2610 (05/28/2019)

Since the Interim Zoning Ordinance 2609 expired June 2019, the City amended the zoning ordinance to allow for single room occupancy structures.<sup>523</sup> Single Room Occupancy structures are allowed to accommodate up to 2 people, must be at least 150 square feet, and must be at least 13 feet in width.<sup>524</sup> Single-Room Occupancy Housing was added to Residential Classifications, and is defined as “multi-unit residential buildings containing housing units.. Occupied by no more than two persons.”<sup>525</sup> These measures appear to encourage multi-family units instead of single-room occupancy most likely to encourage housing stock eligible to house multi people.

R-1 (Single-Unit Residential District) Development Standards Ord. No. 2628 (1/28/2020)

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<sup>521</sup> 9.22.060

<sup>522</sup> <http://www.qcode.us/codes/santamonica/revisions/2604CCS.pdf>

<sup>523</sup> <https://publicdocs.smgov.net/WebLink/edoc/2373955/O-2610.pdf?dbid=0&repo=SMGOV>

<sup>524</sup> 9.31.330

<sup>525</sup> 9.51.020

In January 2020, the City amended portions of the zoning code to clarify R-1 Development Standards.<sup>526</sup> These amendments include the following: (i) the maximum coverage for existing structure with additions cannot be more than 55%; (ii) parcel coverage is the sum of the ground floor parcel coverage and second story parcel coverage; (iii) parcel coverage limitations for existing structures with additions on parcels less than 5,000 square feet should be 2,750 square feet, with no more than 1,375 square feet allowed on the second story.

Establishing Project Requirements for Tier 3 Housing Projects Greater Than 90,000 Square Feet Ord. No. 2648 (09/08/2020)

In September 2020, the City established project requirements for Tier 3 Housing Projects greater than 90,000 square feet in the City's Downtown District.<sup>527</sup> In the City's Downtown Community Plan, adopted in 2017, housing projects are subject to three application review procedures: Administrative Approvals, Development Review Permits, and Development Agreements based on Tier level and the amount of square footage in a project. This Ordinance establishes Tier 3 Housing projects in the Downtown Community Plan that exceed 90,000 square feet to be processed by Development Review Permit. This process appears to stimulate housing production for larger housing projects and streamlining the project approval process.

iii. New/Revised Approval Procedures  
Increase Thresholds for Review of 100% Affordable Housing Projects Ord. No. 2633 (03/10/2020)

In March 2020, the City increased thresholds for review of 100% affordable housing to comply with the Housing Accountability Act.<sup>528</sup> The Ordinance amends portions of the Land Use and Circulation Element of the City Plan, specifically the Bergamot Area Plan and the Downtown Community Plan to increase the thresholds for ministerial review of 100% affordable

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<sup>526</sup> <https://www.qcode.us/codes/santamonica/revisions/2633CCS.pdf>

<sup>527</sup> <http://www.qcode.us/codes/santamonica/revisions/2648CCS.pdf>

<sup>528</sup> <https://www.qcode.us/codes/santamonica/revisions/2633CCS.pdf>

housing projects and housing projects subject to the HAA. Administrative Approval does not require discretionary review and applies to the following<sup>529</sup>: developments more than 1,000 square feet that allow new construction or additions to existing buildings in Residential and Nonresidential Districts; 100% Affordable Housing Projects; or any project that meets the definition of “housing development project” under the HAA. Additionally, the Development Review Permit Section was amended to exempt 100% affordable housing projects or projects that meet the HAA from the requirements.<sup>530</sup>

#### iv. Other Findings

##### Tenant Relocation Assistance and Tenant Protection Ord. No. 2585 (08/28/2018)

In August 2018, the City adopted Tenant Relocation Assistance and Protection Ordinance.<sup>531</sup> Landlords are required to provide relocation assistance fee for any of the following reasons: landlord seeks to withdraw all rental housing units from the rental market; landlord seeks to recover possession; landlord seeks to demolish the rental unit.<sup>532</sup> In lieu of the fee, landlords may physically relocate the displaced tenant into a comparable replacement housing unit.<sup>533</sup>

##### Prohibit Conversion of Hotel/Motel to Condominium Project Ord. No. 2606 (04/09/2019)

In April 2019, the City Council amended various portions of the zoning ordinance.<sup>534</sup> To preserve the City’s supply of hotel and motel uses, the Ordinance prohibits hotels or motels conversion to a condominium project or cooperative apartment.<sup>535</sup>

##### Accessory Dwelling Unit Ordinance

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<sup>529</sup> 9.39.020

<sup>530</sup> 9.40.020

<sup>531</sup> <https://publicdocs.smgov.net/WebLink/0/edoc/2362805/O-2585%20-%20signed.pdf>

<sup>532</sup> 4.36.020

<sup>533</sup> 4.36.080

<sup>534</sup> <http://qcode.us/codes/santamonica/revisions/2606CCS.pdf>

<sup>535</sup> 9.24.040

In November 2019, the City amended Accessory Dwelling Unit development standards.<sup>536537</sup> ADUs are permitted on lots that are 4,000 square feet or more in any Single-Unit Dwelling District.<sup>538</sup> On lots 6,000 square feet or less, ADUs must be 650 square feet or less.<sup>539</sup> Lots greater than 6,000 square feet ADUs are permitted 850 square feet. ADUs are allowed to be constructed from converting or demolishing an existing structure or existing floor area of the main dwelling.<sup>540</sup> Attached ADUs to the primary dwelling must comply with development standards of the primary dwelling.

In September 2020, the City amended the ADU and JADU Ordinance.<sup>541542</sup> If ADUs and JADUs meet required development standards, the development is by right and only a building permit is required.<sup>543</sup> On a single-unit dwelling lot, one ADU or one JADU may be constructed.<sup>544</sup> On a lot with multi-unit dwellings, one or more ADUs may be permitted- one ADU by being converted from existing multi-unit dwelling footprint or up to 2 detached ADUs may be established on the parcel. ADUs and JADUs are exempt from floor area and parcel coverage.<sup>545</sup> Side and rear setbacks are required to be 4 feet for an ADU or JADU. Either structure may be expanded up to 150 square feet. Attached ADUs and JADUs must comply with height limitations for the primary dwelling unit while detached ADU cannot exceed two stories or 24 feet.<sup>546</sup>

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<sup>536</sup> <http://www.qcode.us/codes/santamonica/revisions/2624CCS.pdf>

<sup>537</sup> Accessory Dwelling Unit Ord. No 2624 (11/12/2019)

<sup>538</sup> 9.31.300.C

<sup>539</sup> 9.31.300

<sup>540</sup> 9.31.300.E

<sup>541</sup> <http://www.qcode.us/codes/santamonica/revisions/2649CCS.pdf>

<sup>542</sup> ADU and JADU Ord. No. 2649 (09/08/2020)

<sup>543</sup> 9.31.025.E

<sup>544</sup> 9.31.025.E.1.

<sup>545</sup> 9.22.040.K

<sup>546</sup> 9.22.040.M



Additionally, the City amended the zoning districts to incorporate ADUs and JADUs into permitted uses. ADUs and JADUs are permitted uses in Multi-Unit Residential Districts R2, R3, and R4. Moreover, the Ordinance adds these to permitted uses to Ocean Park Neighborhood Districts<sup>547</sup> - OP1, OPD, OP2, OP4- and Downtown Districts- LT, NV, BC, TA, OT, and WT.<sup>548</sup> Furthermore, they were added to the OceanFront District (OF)<sup>549</sup> and Commercial and Mixed-Use Corridor Districts- MUBL, MUB, GC, and NC.<sup>550</sup>

## V. Conclusion

In sum, local findings indicate that trends of regulations across jurisdictions are still variable. Despite general inconsistencies, many of the studied jurisdictions appear to have directly or indirectly responded to recent state law calling for stimulating housing production and increasing the affordable housing supply. While some jurisdictions responded directly to the 2017/2018 Housing Package by revising their inclusionary housing policies and streamlining 100% affordable housing developments, there is no guarantee these efforts will actually increase the affordable housing supply if these new obligations deter developers. In contrast, other jurisdictions potentially adopted an indirect approach to stimulating housing production by revising development regulations, including reducing regulatory barriers to multi-family development through upzoning and easing review procedures for certain entitlements or infill developments. Jurisdictions adopting the latter measures of reducing regulations may witness an eventual increase in the housing supply, potentially providing more affordable housing.

Overall, these identified trends and their assumed impacts on the housing production are subject to geographical constraints and market conditions within each jurisdiction. Notably, the

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<sup>547</sup> 9.09.020

<sup>548</sup> 9.10.040

<sup>549</sup> 9.14.020

<sup>550</sup> 9.11.020

findings in this research are further limited by not comparing predicted trends to actual trends in housing production. Because of this, future research should track housing supply numbers by jurisdiction to further examine the predicted correlations between regulatory measures and housing production. Moreover, revisiting these findings by comparing them to housing production at the end of the next Housing Cycle may clarify which changes in local amendments induce development by identifying which jurisdictions, if any, fulfilled their RHNA requirements. Furthermore, tracking the production of accessory dwelling units and their impact on jurisdictions meeting their RHNA requirements could provide intriguing future research for affordable housing supply. As of now, there appears to be no universal approach to affordable housing production in California.

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