



ROCKLIN CITY COUNCIL SPECIAL

City Council Special Meeting

City Hall - Council Chambers
3970 Rocklin Rd. Rocklin, CA 95677
Website: www.rocklin.ca.us

March 5, 2024

Joint City Council & Planning Commission Meeting Special Session 6:00 p.m.

GREG JANDA, *Mayor*
JILL GAYALDO, *Vice Mayor*
DAVID BASS, *Council Member*
KEN BROADWAY, *Council Member*
BILL HALLDIN, *Council Member*

TWIANA ARMSTRONG, *Chair*
MICHAEL BARRON, *Vice Chair*
GREGG MCKENZIE, *Commissioner*
JARED THOMAS, *Commissioner*
ROBERTO CORTEZ, *Commissioner*

HOW TO PARTICIPATE

The City of Rocklin welcomes your interest and involvement in the City's legislative process. The City Council has established a procedure for addressing the Council. Persons wishing to address the City Council are asked to voluntarily complete and submit a speaker identification sheet to the City Clerk. Speaker identification sheets are available near the entrance of the Council Chambers. For items listed on the agenda, any person may address the City Council at the time the item is considered. Speakers are requested to restrict their comments to the item as it appears on the agenda and stay within the required five minute time limit. The Brown Act does not permit the City Council to take action on items brought up as public comment.

WRITINGS RECEIVED AFTER AGENDA POSTING

Any writing or documents related to an agenda item for this meeting provided to the City Council will be made available for public inspection at City Hall, 3970 Rocklin Road, Rocklin, during normal business hours.

AMERICANS WITH DISABILITIES ACT

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AUDIO/VISUAL PRESENTATIONS

If making a presentation regarding an agenda item, all audio/visual materials must be submitted to the City Clerk or Secretary at least 72 hours in advance. The City is not responsible for the compatibility or operation of non-city devices or the functionality of non-city presentations.

POSTING OF AGENDA

In accordance with Government Code Section 54954.2(a) this agenda was posted on the City's bulletin

AGENDA

MEETING INSTRUCTIONS

The public may listen to audio or view the meeting via live stream at <https://www.rocklin.ca.us/agendas-minutes>. For those that do not plan on attending in person, but wish to make a public comment during the meeting, public comments will be accepted in email form until 3:00 p.m. on the meeting day. Public comments should be submitted to the City Clerk at PublicComments@rocklin.ca.us. Emailed public comments will be distributed to City Council and treated as a public record.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

1. DISCUSSION ITEMS

1A. [Housing Workshop](#)

Recommendation: Receive a presentation from staff regarding the City's progress in meeting the goals established in the 6th Cycle Housing Element (2021-2029), income restricted housing, and options for consideration.

ADJOURNMENT



City Council Special Staff Report

Subject: Housing Workshop

Date: March 5, 2024

Submitted By: David Mohlenbrok, Director of Community Development
Bret Finning, Planning Services Manager
Anna Leanza, Principal Planner

Department: Community Development

Recommendation:

Receive a presentation from staff regarding the City's progress in meeting the goals established in the 6th Cycle Housing Element (2021-2029), income restricted housing, and options for consideration.

Background:

The staff report for this item is included as Attachment 1 in order to maintain the integrity of the formatting.

ATTACHMENTS:

1. [Staff Report](#)
2. [Attachment A - 2022-2023 Notable Housing Legislation](#)
3. [Attachment B - Housing Element Goals and Policies](#)



City Council Staff Report

Subject: Housing Workshop – City Council and Planning Commission Joint Meeting

Date: March 5, 2024

Submitted By: David Mohlenbrok, Director of Community Development
Bret Finning, Planning Services Manager
Anna Leanza, Principal Planner

Department: Community Development

Recommendation:

Receive a presentation from staff regarding the City's progress in meeting the goals established in the 6th Cycle Housing Element (2021-2029), income restricted housing, and options for consideration.

No actions will be taken by City Council or Planning Commission during this workshop. Rather, Councilmembers, Commissioners, and the public may ask questions to be answered either during the workshop (if possible) or at future meetings/hearings. Although not required to, Councilmembers and Commissioners may elect to provide input to staff to gather more information regarding items discussed in the workshop.

Background:

In the last several years, California has experienced an unprecedented housing shortage. Even though the State's population growth has been slowly declining as of late, it is projected that 180,000 new housing units need to be built each year to meet the existing demand. Overcrowding and homelessness have become a problem in most jurisdictions, and the United States Census estimates that 47 percent of renters and 31 percent of homeowners are rent/mortgage burdened, meaning they are paying 30 percent or more of household income on housing costs. Statewide, housing production must increase to meet the demand and the California Legislature has passed and the Governor has signed numerous bills to encourage and support this increase. Attachment A is a summary of the most impactful legislation enacted in recent years.

Article 10.6 of the California Government Code requires each California jurisdiction to periodically reevaluate its goals and policies regarding housing, in the form of an updated Housing Element of the General Plan. The City of Rocklin's Housing Element, adopted for the 2021-2029 planning period, is the City's plan to address Rocklin's local housing needs.

The Housing Element Goals and Policies (Attachment B) details the City’s plan to further housing production and comply with State regulations.

Housing Element Progress:

The City’s Housing Element for the 2021-2029 planning period was adopted August 24, 2021, and is intended to identify and analyze existing and projected housing needs within the City, and prepare goals, policies, programs, and quantified objectives to further the development, improvement, and preservation of housing.

Regional Housing Needs Allocation (RHNA)

In addition to mandating goals and policies to facilitate housing construction, the State Department of Housing and Community Development (HCD) requires that each jurisdiction provide General Plan land use designated and zoned properties sufficient to accommodate their fair share of anticipated regional housing increases. To do this, HCD determines current and future housing needs for each area in their Regional Housing Needs Plan, which projects the anticipated growth of a region for each planning cycle. This data is then used to generate an estimated number of housing units that the region will need to construct to accommodate the expected growth and then provides that number to the regional planning agency (in Rocklin and the surrounding area this is the Sacramento Area Council of Governments (SACOG)). The regional planning agency then uses an approved methodology to divide the new housing unit requirement amongst its member jurisdictions, allocating some percentage of the total to each jurisdiction in the region, which is known as the Regional Housing Needs Allocation (RHNA).

Table 1 summarizes Rocklin’s RHNA obligation for the 2021-2029 planning period. The total number of units required is further segregated into different income categories.

Table 1. Rocklin Housing Needs for 2021-2029

Income Category (% of County AMI)	Number of Units	Percent
Extremely Low (30% or less) *	955	17%
Very Low (31 to 50%)	956	17%
Low (51 to 80%)	1,151	20%
Moderate (81 to 120%)	771	14%
Above Moderate (Over 120%)	1,828	32%
Total	5,661	100%
<i>Source: Final Regional Housing Needs Plan (RHNP), SACOG, 2020.</i> Note: * The City has a RHNP allocation of 1,911 very low-income units (inclusive of extremely low-income units). Pursuant to State Law (AB 2634), the City must project the number of extremely low-income housing needs based on Census income distribution or assume 50% of the very low-income units as extremely low. Using the 50% assumption method, the City's RHNP allocation of 1,911 very low-income units may be split into 955 extremely low- and 956 very low-income units. However, for purposes of identifying adequate sites for the RHNP allocation, State law does not mandate the separate accounting for the extremely low-income category.		

To meet their RHNA obligations, each jurisdiction is required to identify parcels with land use and zoning designations that would require minimum development densities adequate to accommodate housing at various income levels. Generally higher density is equated to greater affordability, although this is not always the case. It is a common misconception that a jurisdiction is required to construct deed-restricted affordable housing to meet RHNA income requirements. RHNA actually only requires that enough parcels are designated at a density that lends itself to smaller, more compact development that is considered to be more affordable by design. In other words, designating land for higher density does not necessarily result in the production of deed-restricted affordable housing, nor does identifying a parcel as a RHNA site guarantee affordability. For example, it is common to see higher density multi-family developments consisting of costly market rate units. Deed restricted affordable units are typically created through a combination of the appropriate density designations, special financing, and recording of applicable legal documents. Typically, construction of affordable units is accomplished through a mix of financial incentives (typically provided by local or State Government) and concessions to reduce development standards such as parking requirements, and memorialized with deed restrictions as part of a legally binding agreement with the local jurisdiction, known as an affordability covenant.

Once a site has been identified for inclusion on the RHNA list of available sites, and has appropriate land use and zoning designations (if necessary, via processing of General Plan Amendments and Rezones), it will remain on the available sites list until a project is approved on the site or the land use designation is changed to no longer be compliant. Properties are removed from the available sites list as soon as entitlements or building permits (if no entitlement is necessary) are approved and must be replaced if surplus inventory of available sites does not exist. The number of housing units the City is required to provide remains unchanged unless and until a building permit has been finalized, at which point that number of units is removed from the City's total obligation. Units targeted to lower income levels must be deed restricted to reduce the total obligation in those categories.

It is not unusual for jurisdictions to lose some designated RHNA sites throughout the eight-year Housing Element planning period; however, per Senate Bill 166 (No Net Loss Law), a jurisdiction must identify alternative sites to maintain the density required for RHNA. Since adoption of the 2021-2029 Housing Element, Rocklin has lost five sites from the identified RHNA sites inventory in the Housing Element (Table 2) to development entitlements. In all cases this was due to the approval of applications for development entitlements consistent with the site's pre-existing General Plan and Zoning designations. In those situations, the applications could not, by State law, be denied solely on the basis that the property had been listed as a RHNA site. The Community Development Department's Planning Division has recently entered into contracts with two consulting firms whom staff is actively working with to complete the rezones and general plan amendments for the remaining RHNA sites identified in the Housing Element. It is staff's goal and expectation to bring some, if not all, of the RHNA land use and zone changes forward to the Planning Commission and City Council for action later this calendar year. Staff anticipates bringing forward new sites to replace those that have been lost, and to potentially create a surplus.

Table 2. RHNA Sites Lost to Development Entitlements Since 2021

2021-2029 Housing Element Site Number	Acreage	Approved Project
9	6.42	Lonetree Apartments – Phase I
10	5.16	Lonetree Apartments – Phase I
13 (partial)	3.81	Tractor Supply
18	6.56	Lonetree Apartments – Phase II
25	12.5	West Oaks Apartments
Total Acreage Lost	34.45	

Housing Development

Overall, housing production continues in the City, but has slowed relative to previous years. As of December 31, 2023, two years into the eight-year planning cycle, 738 single-family residential units, 31 Accessory Dwelling Units (ADUs), and 194 multi-family units have been constructed. Of the constructed units, five single-family units were income restricted. Terracina Apartments on University Avenue, a 100 percent affordable multi-family project consisting of 288 units, is under construction and will likely be completed this year. Notably, the construction of ADUs, 31 in the first two years of the Housing cycle, is on track to significantly surpass the HCD approved projection of 40 ADUs for the entire eight-year planning period. Although it is unknown at this time if the ADUs will be rented or used for family members, ADUs are generally more affordable than traditional single-family homes or market rate multi-family units, and will potentially help fulfill the City's RHNA requirements for lower income categories.

For the year 2023, a total of 145 single-family residential building permits, including ten ADUs (for a total of 155 single-family units) and ten multi-family permits (for a total of 56 multi-family units) were issued permits. By comparison, 559 residential building permits (192 single-family residential including, 16 ADUs, and 351 multi-family residential units) were issued in 2022. The slowing of permit activity may be due a number of factors including the increased price of land, high interest rates, the high cost of building supplies and labor, and lingering supply chain interruptions. Market rate developers continue to express to elected officials and staff that it is difficult to incorporate any affordable housing into their projects due to the lending industry and many of the other factors described above.

Income Restricted Housing:

In addition to being encouraged by the State, production of income restricted housing (also referred to as “affordable” or “workforce” housing) is critical to every community to ensure that those at the lower end of the income scale can afford to live and work in that jurisdiction. Because affordability is based on a region's Area Median Income (AMI), affordability often varies greatly from one jurisdiction to the next. For instance, the AMI in Placer and El Dorado Counties for a family of four is \$113,900, whereas the AMI for Sutter and Yuba Counties is \$83,800. With the median sale price of a home in Rocklin at \$659,000 as of January 2024, it is easy to understand why many families cannot afford to buy a home in Rocklin, and if they can afford a home, why they may be spending a disproportionate share of their income on housing as noted earlier in this staff report. Many families in Placer County do not earn the median income of \$113,900. To illustrate this, staff researched starting wages for several public sector careers in and around Rocklin:

- A Rocklin Unified School District teacher makes a starting salary of between \$58,182 and \$61,992;
- A City of Rocklin Firefighter starting salary is \$82,629;
- A Deputy Sheriff II for Placer County starts at \$79,705;
- A Library Services Manager starts at \$88,524.

This small sample serves to illustrate that many of what are considered to be “good” jobs in the region do not pay wages equal to the AMI. Moreover, the sample list does not include many other jobs critical to maintaining a healthy local economy that often pay only minimum wage or slightly greater. Daycare workers, construction workers and landscapers, hair stylists, personal trainers, service industry workers (baristas, servers, cooks, etc.), retail industry workers (cashiers, delivery drivers, grocery store associates, etc.), and many government workers do not earn pay close to the AMI. Additionally, seniors, individuals with disabilities, single parent households, farmworkers, and others often have difficulty finding adequate housing affordable to their income level. Finding housing that is affordable to these individuals and families is difficult at best. Table 3 illustrates the income limits for extremely low-, very low-, low-, and moderate-income households. The lack of housing affordable to these income groups often results in these employees living well outside of the area, which leads to longer commutes, greater traffic congestion, and increased air pollution. Working in an area outside of where you live can also result in a lack of connection to a community. Providing a diversity of housing options that are affordable to all income groups ensures that all members of a community can thrive.

Table 3. Placer County Income Limits for an AMI of \$113,900

	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household	6-Person Household
Extremely Low Income (0-30% AMI)	\$22,550	\$25,750	\$28,950	\$32,150	\$35,140	\$40,280
Very Low Income (31-50% AMI)	\$37,550	\$42,900	\$48,250	\$53,600	\$57,900	\$62,200
Low Income (51-80% AMI)	\$60,050	\$68,800	\$77,200	\$85,750	\$92,650	\$99,500
Moderate Income (81-120% AMI)	\$95,700	\$109,350	\$123,050	\$136,700	\$147,650	\$158,550

Source: Department of Housing and Community Development 2023 State Income Limits, 2023

As mentioned earlier in this report, State law requires that each jurisdiction identify and appropriately designate properties to provide development potential sufficient to construct the number of housing units affordable to each household income to meet our RHNA requirements, but does not require the provision of income restricted units. For all practical purposes, the only way to ensure housing for those that make less than 80% of AMI is through some kind of legal restriction or covenant on the project. To ensure that Rocklin has a healthy and well-balanced housing stock that provides the opportunity for all who want to live in the Rocklin community, staff recommends exploring options to encourage or require

income restricted units. The construction of these types of housing units will also help the City meet RHNA obligations.

Options to Consider:

Local jurisdictions have used several strategies to increase the production of affordable housing, from offering incentives to adopting ordinances requiring a percentage of new units in a project to be set aside for lower-income households. Below, for the City Council's and Planning Commission's consideration, are several strategies for encouraging the provision of affordable housing that may be appropriate for Rocklin. Commissioners and Councilmembers may want to request that staff research and provide additional information as to the potential positives and negatives of each at subsequent meetings.

Pre-Approved ADU Plans

In recent years, State lawmakers have simplified the process to construct ADUs. To further increase ADU production, jurisdictions may choose to offer ADU building plans that have been pre-approved to ensure consistency with the California Building Code and local design and development standards. Offering pre-approved ADU plans, possibly at no or low cost, can dramatically decrease the expense and review times traditionally associated with preparing plans and submitting them for building permit review and approval, thereby encouraging the construction of more ADUs. California legislators have identified the creation of ADUs as a valuable strategy for increasing the State's housing stock and approved Assembly Bill 1332 in 2023. In addition to requiring expedient building permit review and approval of ADU plans, the bill requires all jurisdictions to make pre-approved ADU plans available to interested community members by January 1, 2025.

Affordable Housing Requirement

Consider adding new language or strengthening existing language in Housing Element Goals 2 and 3 and their related Policies (see Attachment B for existing language) to require housing developers to produce or assist in the production of affordable housing. In some places, the General Plan goals and their related policies use the word "encourage" for a number of actions related to the production of affordable housing. Changing some or all of those to "require" could make it easier for the City to enforce the provision of more affordable housing units. Although incorporating affordable units into market rate projects can be difficult as discussed earlier, without requirements or incentives for the development community to produce workforce housing it is likely that few, if any, units will be constructed voluntarily.

In-Lieu Fee Program

Many jurisdictions across the state, from smaller towns like St. Helena and Woodland to large cities like Berkeley and West Hollywood, have adopted an in-lieu fee program as a tool to create affordable housing. Placer County has adopted an in-lieu fee program available for new developments of between eight and 100 units. Developers of these projects have the option to pay the affordable housing fee in-lieu of construction of affordable units. Developments with fewer than eight units are exempt, and developments of more than 100 are required to dedicate ten percent of the total units to lower income households. Generally, paying in-lieu fees is a less desirable alternative to actually constructing the units in terms of producing affordable units, but requiring developers to pay towards the construction of affordable units enables a jurisdiction to create an affordable housing fund to build new units, restore existing units, or to offer a financial incentive for affordable housing developers. The

one-time payment is often met with less resistance than requiring the developer to build and maintain affordable units. Developers may opt to pay fees instead of constructing the units, which offers more flexibility to the developers but generally results in fewer affordable units overall.

Inclusionary Housing Ordinance

Some jurisdictions across the state, including Placer County, City of Folsom, City of Davis, City of Woodland, San Francisco, and Los Angeles, have adopted inclusionary housing ordinances. Although a more ambitious strategy than an in-lieu fee program, an inclusionary housing ordinance has the potential to guarantee the construction of affordable housing. Unlike an in-lieu fee program, inclusionary housing requires developers to construct the affordable units concurrent with market rate units. Inclusionary housing ordinances are generally opposed by the building industry as undermining the fiscal viability of a project, but may ultimately result in more affordable units.

This completes the staff report. At the workshop, staff will provide an overview presentation on the items covered in this staff report, receive public comment, and support the City Council and Planning Commission in their discussion of the issues.

NOTABLE CHANGES TO STATE HOUSING LAWS 2022-2023

Notable 2023 Housing Bills

Streamlining

SB 423 – Extension and Expansion of Streamlined Ministerial Approval Law for Affordable Projects Consistent with Objective Zoning Rules. SB 423 significantly expands, and extends the "sunset date" of, the streamlined ministerial approval law originally created by SB 35 of 2017 (SB 35). Holland & Knight has substantial experience advising both 100 percent affordable developers and mixed-income developers entitling projects on the basis of this law and litigating cases under SB 35.

SB 35 provides a CEQA-exempt, time-limited ministerial approval process (90-180 days, depending upon whether the project has more or less than 150 units), for residential and mixed-use projects in the majority of California jurisdictions that are not making sufficient progress toward the regional need for housing. To qualify for this ministerial process, projects must comply with a locality's "objective" standards, meet a long list of qualifying criteria designed to capture "infill" sites, commit to paying "prevailing wage" (typically union) rates for construction labor, and meet significant affordable requirements (either 10 percent, 20 percent or 50 percent of units at Below Market Rate (BMR) rents, depending upon a project's location and the local jurisdiction's progress toward meeting its Regional Housing Needs Allocation (RHNA)).

In addition to extending the sunset date of this law from to 2026 to 2036, SB 423 expands the statute in several ways, including:

- **Reduction in Labor Requirements.** The law previously applied a very costly "skilled and trained workforce" labor requirement to many projects. Now, the "skilled and trained workforce" has been removed except for projects that are more than 85 feet in height – and even then, only if a prime contractor receives at least three bids for construction work that can meet the "skilled and trained workforce" requirement. Prevailing wage remains required except for projects of 10 or fewer units, and projects of more than 50 units are newly required to ensure contractors provide specified apprenticeship training and healthcare expenditures to workers.
- **Coastal Zone.** SB 35 previously did not apply in the coastal zone. As amended, the law will apply to areas of the coastal zone that are zoned for multifamily housing, unless the area is not subject to a certified local coastal program or a certified land use plan, is vulnerable to 5 feet of sea level rise, or is within 100 feet of a wetland or on prime agricultural land. Applicability in the coastal zone does not go into effect until Jan. 1, 2025.
- **Housing Element Noncompliance.** Previously, the only criteria that determined whether a jurisdiction was subject to streamlining is the number of housing permits the jurisdiction had issued relative to its RHNA. After SB 423, a jurisdiction's failure to achieve an HCD-certified housing element will also make the jurisdiction subject

NOTABLE CHANGES TO STATE HOUSING LAWS 2022-2023

to SB 35 streamlining – creating yet another negative consequence for failure to adopt a legally compliant housing plan.

- **Flexibility for 100 Percent BMR Projects.** Affordable housing projects have often found that the specific income targets required by state laws such as SB 35 do not match up well with the income levels required by various federal, state or local funding programs. To meet this concern, 100 percent BMR projects can qualify for streamlining as long as they charge a rent that is consistent with the maximum rent levels stipulated by the public program providing financing for the development.
- **Hearing Required in Certain Areas.** A public hearing must be provided if the development is proposed in a census tract designated as either a moderate resource area, low resource area or an area of high segregation and poverty by the California Tax Credit Allocation Committee (CTCAC) and HCD.

SB 4 – By-Right Approval for Affordable Housing on Land Owned by Religious Organizations and Higher Education Institutions. SB 4 creates a "by right," CEQA-exempt, time-limited (90-180 day) approval process closely modeled on SB 35 of 2017 and AB 2011 of 2022 for affordable housing projects (including qualifying ground-floor commercial, childcare center and community center uses) on land owned by religious organizations and higher education institutions. Such a project can be entitled to approval even if the project is inconsistent with applicable local general plan and zoning requirements. Instead, a project is entitled to a height of one story above applicable local requirements and to specified minimum residential densities of between 10-40 dwelling units per acre, depending upon the project's location.

To qualify for this process:

- the development must be on land owned on or before Jan. 1, 2024, by an institution of higher education or a religious institution
- the developer must be a local entity; a nonprofit corporation, as specified; a developer that contracts with a nonprofit corporation, as specified; or a developer that the religious or educational institution has contracted with before to construct housing or other improvements
- the housing must be deed-restricted housing affordable to lower-income households, except that up to 20 percent of the units may be for moderate-income households and 5 percent may be for staff of the educational or religious institution
- projects of more than 10 units that are not a public work must ensure construction workers are paid "prevailing wage," unless otherwise provided in a bona fide collective bargaining agreement; projects of more than 50 units are required to ensure contractors provide specified apprenticeship training and healthcare expenditures to workers

NOTABLE CHANGES TO STATE HOUSING LAWS 2022-2023

- the project site must meet a long list of qualifying criteria – similar to those in SB 35 and AB 2011 – designed to capture "infill" project locations that avoid environmentally sensitive areas and avoid demolition of existing housing

The law sunsets on Jan. 1, 2036.

SB 684 – Ministerial Approval of Up to 10-Unit Housing Projects on Small Sites. In an effort to meet the need for "missing-middle" housing types that are not inherently expensive to build, SB 684 requires CEQA-exempt ministerial approval for up to 10 units of housing on qualifying multifamily infill sites of no more than 5 acres. Under the law:

- Local governments must ministerially approve, without discretionary review or a hearing, a parcel map or a tentative and final map for a housing development project that will result in 10 or fewer parcels and 10 or fewer units, if the lot is no larger than 5 acres, and meets numerous other qualifying criteria, most designed to capture "infill" sites with water and sewer supply that are not environmentally sensitive and avoid demolishing existing housing.
- Housing development projects on qualifying sites are exempt from needing to comply with any minimum requirement on the size, width, depth or dimensions of an individual parcel other than a 600-foot minimum parcel size. Qualifying projects are also exempt from the requirement to form a homeowners' association, except as required by the Davis-Sterling Common Interest Development Act.
- A local government must also approve, on a ministerial basis, an application for a housing development project on a lot subdivided by this law and then issue a building permit also on a ministerial basis. A locality may not apply any standards that would preclude development at densities deemed naturally suitable to lower-income household (10-30 units per acre, depending upon the jurisdiction), and the locality is further limited from applying certain setback, parking, floor area and other limitations as specified in the statute.

The primary operative provisions of the law do not take effect until July 1, 2024.

AB 1490 – Adaptive Reuse for Affordable Housing. AB 1490 makes "adaptive reuse" – retrofitting and repurposing of an existing building to create new residential units – an "allowable use" for qualifying 100 percent affordable housing projects, even if such a use conflicts with local plans, zoning ordinances or regulations. To qualify, an adaptive reuse project must meet criteria, including:

- the development must be entirely within the existing envelope of a residential building or a commercial building that currently allows temporary dwelling or occupancy (i.e., a hotel or motel)
- all units (other than managers' units) must be dedicated to lower-income households, with at least 50 percent dedicated to very-lower-income households; home prices can be set at an "affordable cost" pursuant to existing California

NOTABLE CHANGES TO STATE HOUSING LAWS 2022-2023

Health and Safety Code definitions or at an affordable rent consistent with rent limits established by the CTCAC

- the site must be 75 percent surrounded by urban uses or within one-half mile of a rail, bus rapid transit or ferry station, or the intersection of two bus routes with a frequency of service interval of 15 minutes or less during peak periods; further, the development cannot be on a site or adjoining a site where more than one-third of square footage is devoted to industrial uses

The law allows jurisdictions to impose objective design standards to the extent consistent with the law, as long as those restrictions do not limit maximum density or require additional parking or open space or require curing any preexisting deficit or conflict with existing standards. Local governments must determine whether a project meets its design guidelines and the requirements of the law within 60 or 90 days, depending upon whether the project has more or less than 150 units. Failure to meet these deadlines results in the project being "deemed" to comply. The law also requires jurisdictions to include affordable adaptive reuse as an eligible project for affordable housing funding.

CEQA

AB 1633 – CEQA Reform for Infill Housing. AB 1633 was inspired by the San Francisco Board of Supervisors' vote to uphold a CEQA appeal of a proposed 495-unit infill development project. The legislation is the most direct reform in recent years aiming to crack down on excessive CEQA review practices that are weaponized against residential development.

Rather than amending CEQA directly, AB 1633 operates by defining two new violations of the Housing Accountability Act (HAA), which can expose jurisdictions to litigation and vulnerability to pay attorneys' fees and penalties. First, under AB 1633, it is now an HAA violation to refuse to make a CEQA exemption determination when dealing with an AB 1633-protected project that is entitled to a CEQA exemption. This addition is designed to prevent local governments from insisting on full CEQA analysis when a project is entitled to bypass CEQA. AB 1633 also creates a 90-day notice procedure, whereby applicants who believe they are entitled to CEQA exemptions may protest when local governments proceed with CEQA review. If there is substantial evidence that the project is entitled to a CEQA exemption, then the agency has 90 days to make an exemption determination. Failure to do so constitutes an HAA violation.

Second, it is now an HAA violation for a local government to hold a meeting at which an Environmental Impact Report (EIR) or similar CEQA document is considered, but decline to approve that document, if there is substantial evidence to support EIR certification and the project is protected by AB 1633. This addition directly addresses the San Francisco development project situation, wherein the Board of Supervisors indicated they were seeking to disapprove the project but avoided liability by technically only rejecting certification of the project's EIR.

NOTABLE CHANGES TO STATE HOUSING LAWS 2022-2023

AB 1633 does not apply statewide. Instead, it applies to project sites that are within an urbanized area and that meet one of four requirements:

1. It is within one-half mile of a high-quality transit corridor or a major transit stop.
2. It is located in a very low vehicle travel area.
3. It is "proximal" to six or more amenities (bus stations or ferry terminals, grocery stores, parks, community centers, pharmacies, clinics or hospitals, libraries or schools).
4. It is adjoined on three sides by parcels with urban uses (or 75 percent if not a four-sided site).

Further, the project must be at least 15 units per acre. High and very high fire hazard severity zones are excluded, and sites must also meet SB 35 criteria designed to capture "infill" project locations. Beyond this, however, there are no requirements to "use" AB 1633 (e.g., no labor or BMR housing requirements). The law also provides cities with some protection against having to pay CEQA petitioners' attorneys' fees if the petitioner sues the city for approving project subject to AB 1633.

AB 1307 – Residential Noise Impacts. AB 1307 is a direct reaction to the University of California, Berkeley "students are pollution" case, holding that an EIR for UC-Berkeley's 2036-37 long-range development plan – and specifically the university's immediate plan to build student housing on the site of "People's Park" – failed to assess potential noise impacts from loud student parties in residential neighborhoods near the campus. The case has been appealed to the California Supreme Court, which granted review. In the meantime, AB 1307 specifies that, for residential projects, noise generated by occupants and their guests is not a significant effect on the environment. The law's author notes that the law will reestablish existing precedent that minor noise nuisances such as from human voices will be addressed through local nuisance ordinances and not via CEQA. As such, CEQA cannot be used to consider "people as pollution."

Less broadly applicable, AB 1307 also provides that an EIR prepared for a project proposed by a higher education institution shall not be required to study off-site alternatives if 1) the residential or mixed-use housing project is located on a site that is no more than 5 acres and is substantially surrounded by urban uses and 2) the residential mixed-use project has already been evaluated in the EIR for the most recent long-range development plan for the applicable campus. As an "urgency statute," the law took effect when signed into law on Sept. 7, 2023.

AB 1449 – Affordable Housing Exemption. AB 1449 adds a new exemption not only for the entitlement of qualifying affordable housing but also for the actions leading up to and following project approval, including general plan amendments and rezonings, the lease or sale of property and financing decisions. The fact that the exemption also applies to the actions leading up to a project helps address the line of cases addressing when an

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action becomes a “project” under CEQA, holding that a lead agency's actions that commit an agency to a project require CEQA review.

Such projects must be 100 percent low-income housing projects (except for managers' units), meet prevailing wage and other labor standards identified in AB 2011, be located in an infill location and meet a range of criteria intended to ensure the site has access to transit or other amenities. The qualifying criteria include a slightly more permissible definition of "infill" than other statutes (requiring a site to be surrounded by urban uses on three sides rather than 75 percent). It is also notable that the site location criteria can be met either by one-half mile proximity to a high-quality transit corridor or a major transit stop or location in very low vehicle travel area (which is intended to capture areas that do not have access to transit but otherwise have lower vehicle miles traveled averages than surrounding areas). Another new option for meeting the location criteria has been added for projects that are within one mile (or two miles for a parcel in a rural area) of six or more designated amenities (e.g., a grocery store, public park, community center, pharmacy, library or school). This CEQA exemption sunsets on Jan. 1, 2033.

SB 406 – Financial Assistance Exemption. An existing CEQA exemption exempts HCD and the California Housing Finance Agency (CalHFA) actions providing financial assistance or insurance for affordable housing projects. SB 406 expands the exemption to a local agency not acting as the lead agency as long as the project receiving funding will be reviewed pursuant to CEQA by another public agency. Similar to AB 1449, this exemption avoids any need for a public agency providing funding to conduct CEQA review as such CEQA review will separately be conducted by the lead agency.

SB 91 – Motel Conversion Exemption. SB 91 extends indefinitely the CEQA exemption for projects that convert motels, hotels, residential hotels or hostels to supportive or transitional housing that was otherwise set to expire in January 2025. In addition, SB 91 extends CEQA streamlining provisions for "environmental leadership transit projects" located within the County of Los Angeles that meet certain specified requirements.

AB 356 – Dilapidated Building Refurbishment Act. This law extends the sunset date from 2024 until 2029 on an existing provision that waives consideration of aesthetic impacts under CEQA for projects that refurbish, convert, repurpose or replace an existing building and meet certain criteria. The author stated that the purpose is to encourage beautification projects in disadvantaged communities.

Density, Land Use and Planning

AB 1287 – Additional Density Bonuses for Very-Low or Moderate Income Units. This year's State Density Bonus Law amendments provide benefits to projects that provide additional very-low or moderate income units. AB 1287 requires that a project maximize the production of very-low, low or moderate units, as allowed by the current State Density Bonus Law (i.e., 15 percent very-low, 24 percent low or 44 percent moderate, which must be for-sale units) before utilizing the bonuses in AB 1287. Where these maximums are met, additional bonuses can be stacked on top of the prior maximum bonus. As an

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example, if a project includes 25 percent very-low income units, it can now achieve an 88.75 percent bonus by coupling the prior maximum bonus of 50 percent with an additional 38.75 percent bonus awarded by AB 1287. Additionally, a project that includes 59 percent moderate for-sale units can achieve a 100 percent bonus by coupling the prior maximum bonus of 50 percent with an additional 50 percent bonus granted by AB 1287.

Other amendments include:

- **Concessions and Incentives:** The above-described projects that exceed the prior maximum bonus tiers are now eligible for four incentives or concessions. The number of incentives or concessions for 100 percent affordable projects located within one-half mile of a major transit stop or within a low vehicle travel area in a designated area has also been increased from four to five.
- **Documentation:** The obligation for an applicant to provide reasonable documentation in connection with a request for incentives or concessions or development standard waivers has been eliminated.
- **Maximum Density:** AB 1287 removes language stating that for purposes of determining a project's base density, the greater density prevails if the density allowed under the zoning ordinance is "inconsistent" with a general or specific plan or specific plan. After this removal, the law now provides that the base density for the State Density Bonus Law is the greatest number of units allowed under the zoning ordinance, specific plan or land use element of the general plan – with no specific requirement that the zoning must necessarily be "inconsistent" for this to apply.
- **Nonprofit Corporation Eligibility:** AB 1287 provides additional specification of criteria for nonprofit corporations that may purchase affordable for-sale units.

SB 747 and AB 480 – Amendments to Scale Back the Surplus Land Act (SLA). The SLA significantly limits the ability of local governments to dispose of surplus property for the purpose of affordable housing development without first proceeding with a noticing process. SB 747 and AB 480 are intended to significantly roll back amendments to the SLA that were adopted in 2019 via AB 1486 and were broadly reported to result in bureaucratic delays. Some of the notable amendments include:

- **Leases:** Clarifies that a lease less than 15 years or a lease for property on which no development or demolition will occur is exempt
- **Small Size:** Increases the "small size" exemption for sites up to one-half acre that are not contiguous to land owned by a state or local agency used for open space or affordable housing purposes
- **Affordable Housing:** Eliminates the obligation to conduct competitive bidding for qualifying affordable housing projects

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- **Third-Party Intermediary:** Allows an agency to transfer property to a third-party intermediary for a receiving agency's use
- **Valid Legal Restrictions:** Provides additional clarifications on the types of valid legal restrictions that may qualify for an exemption
- **Transportation System:** Allows agencies whose mission is to supply the public with a transportation system to transfer property for the sole purpose of investment or generation of revenue

There are still other exemptions that apply to other unique scenarios such as California public-use airports and community land trusts.

The new amendments also identify activities that may be conducted prior to the obligation to issue a notice of availability under the SLA such as issuing a request for proposals in certain instances. Most scenarios are tied to specific exemptions and again require careful review.

Finally, a penalty for noncompliance with the SLA will now be based on the final sales price of the land or the fair market value of the land at the time of the sale, whichever is greater. Since land may be sold at less than fair market value, this provision tying the penalty to fair market value could increase the penalty amount in the event of a violation.

AB 821 – Local Agency Obligation to Resolve General Plan and Zoning Conflicts. AB 821 provides that if a local agency receives a development application for a project that is consistent with the general plan but not the zoning, the agency must either: 1) amend the zoning ordinance within 180 days from the receipt of the development application or 2) process the application based on the general plan standards and ignore inconsistent zoning standards. AB 821 further provides a legal remedy for challenging an agency that does not comply. This provision does not apply to housing projects subject to the HAA, since the HAA already provides a mechanism requiring approval of a project that is consistent with the general plan that is inconsistent with the zoning. This law is intended to address the numerous instances in which agencies adopt general plan updates but corresponding zoning amendments never materialize.

AB 529 – Building Code Updates for Adaptive Reuse Projects. AB 529 was one of the few laws to address the obvious need in the post-COVID-19 era to facilitate conversion of office (or other use) buildings to residential. Rather than address entitlement processing of such projects, AB 529 made minor changes to existing law. First, AB 529 adds facilitation of the conversion projects (including the adoption of reuse ordinances) to the list of examples of pro-housing policies that HCD may consider in awarding grants to local governments. AB 529 also requires HCD to convene a working group with various state agencies to identify challenges and opportunities that may help support conversion projects. HCD must issue a report by Dec. 31, 2025, of its findings and thereafter research and consider proposing amendments for adoption by the

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California Building Standards Commission adaptive reuse building standards in within each agency's respective authority for the next code adoption cycles in 2025 and 2026.

ADUs

AB 1033 – ADUs Sold Separately as Condos. State ADU law has historically allowed local agencies to prohibit the separate sale or conveyances of ADUs from the primary dwelling. The sole exception to that rule has been that qualified nonprofits can sell or convey an ADU separately from the primary residence to a qualified low-income buyer, through the establishment of a tenancy in common. The original intent behind this regime was to support ADUs' role in adding rental unit stock throughout the state as opposed to being a viable source of homeownership. AB 1033 now authorizes (but does not require) local agencies to adopt local ordinances allowing ADUs to be conveyed as condominiums separately from the primary dwelling. Condominium projects approved under this legislation will remain subject to the Subdivision Map Act and Davis-Stirling Common Interest Development Act.

AB 976 – Owner-Occupancy Requirements Prohibited Beyond 2025. Current state ADU law prohibits local agencies from imposing "owner-occupancy" conditions on ADUs permitted between Jan. 1, 2020, and Jan. 1, 2025. AB 976 extends the prohibition indefinitely, meaning local agencies cannot impose owner-occupancy conditions on ADU projects permitted after Jan. 1, 2025. Local agencies are still required to impose owner-occupancy requirements on Junior ADUs (JADU), which are defined as units that are no more than 500 square feet, contained entirely within a single-family residence and equipped with separate or shared sanitation facilities.

AB 1332 – Streamlined (30-Day) Review of Preapproved ADU Plans. Even prior to the enactment of AB 1332, local agencies were required to approve or deny a complete ADU application within 60 days (including approvals and sign-offs from all interagency departments, special districts and utilities). AB 1332 creates an even more streamlined approval process for locally "preapproved" ADU designs. By Jan. 1, 2025, local agencies must develop a program for the preapproval of ADU plans whereby the local agency accepts ADU plan submissions for preapproval. Once an ADU plan is approved, local agencies are required to either approve or deny an ADU application utilizing a preapproved ADU plan within 30 days. The bill also specifies that local agencies must maintain a website page with preapproved ADU plans and the contact information of companies offering preapproved ADU plans. Lastly, AB 1332 specifies that ADU plans approved by the local agency or "other agencies within the state" (i.e., HCD) can be admitted into the local preapproval program.

Enforcement

AB 434 – Expanded HCD Enforcement Authority. AB 434 significantly expands the scope of HCD's enforcement authority over state housing laws. AB 72 of 2017 granted HCD express enforcement authority with respect to four statutes: the HAA, State Density Bonus Law, fair housing law and the "no net loss" requirements for replacing housing

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element sites that are not developed as projected. Subsequent legislation broadened HCD's enforcement authority to cover nine additional statutes, including 2017's SB 35, 2019's SB 330 and 2022's AB 2011.

AB 434 brings 13 more areas of law into HCD's enforcement authority, including five statutes adopted this year. Now, the following state housing laws are enforceable by HCD: several provisions streamlining approvals for ADUs, along with a provision allowing certain ADUs to be sold separately from the primary residence; several requirements of 2021's SB 9, concerning ministerial processing of lot splits in single-family residential zones; 2022's SB 6, which allows residential development in certain commercial zones; the so-called "five hearing rule" applicable to code-compliant residential projects; this year's SB 684, requiring ministerial approval of certain small multifamily infill projects; this year's SB 4, concerning ministerial approval of affordable housing on religious sites; and this year's AB 1218, addressing replacement of demolished housing units.

Separately, AB 434 shortens the timeline for HCD to review housing elements that have already been adopted from 90 to 60 days.

AB 1485 – Attorney General Right to Intervene in Housing Enforcement Suits. Prior to AB 1485, in order to intervene in housing-related litigation brought by third parties, the California Department of Justice was required to petition the court for permission to participate in the litigation. This process was both time-consuming and uncertain. AB 1485 now gives both the attorney general and HCD an unconditional statutory right to intervene in cases concerning the enforcement of housing laws.

Anti-Displacement and Affordable Housing

SB 439 – Motion to Strike Lawsuit Challenging Affordable Housing. SB 439 creates a new procedural option for defending against litigation challenging 100 percent affordable housing projects, modeled on California's "anti-SLAPP" law that protects defendants from lawsuits designed to chill political participation and free speech. SB 439 creates a new "special motion to strike" any portions of a pleading that challenge the approval or permitting of a 100 percent affordable project. If the plaintiff challenging the project does not establish a probability of prevailing in the litigation, the party filing the special motion to strike is entitled to recover their attorney's fees and costs.

AB 1218 – Revisions to Requirements for Replacement Units and Relocation Benefits Applicable to Demolition of Protected Housing. This law creates a new article within the Government Code for replacement housing and relocation benefit requirements that were previously contained within the Housing Crisis Act of 2019. The revised provisions expand replacement requirements to nonresidential developments. Development projects that demolish vacant or occupied protected units or that are located on sites where protected units were demolished in the last five years will be required to replace all protected units that currently exist or were demolished after January 2020. Only industrial projects in zones that prohibit residential uses, which demolish residential units that are nonconforming uses, are exempt from the law's replacement requirement.

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Nonresidential projects may satisfy the replacement requirement by contracting with a third party to develop the units, which may be located offsite within the jurisdiction of the project.

The law's amendments include a number of clarifications that aim to address confusion arising from implementation of the Housing Crisis Act of 2019's replacement unit and relocation benefit requirements. In particular, the law clarifies that notice of construction must be given six months in advance and that relocation benefits provided by private developers must be equivalent to those provided by public entities. Other amendments define the terms "housing development project" and "very low income households" through cross-references to existing definitions in the Government Code and Health and Safety Code.

AB 911 – Notification and Ownership Requirements for Modifications to Recorded Covenants Restricting Development of Affordable Housing. Two years ago, AB 721 authorized owners of qualifying affordable housing developments to remove restrictive covenants that limit residential development. AB 911 amends AB 721 to clarify notice requirements and ownership qualifications for modifications and to specify timelines for lawsuits challenging modifications.

As amended by AB 911, the law requires a county to notify a property owner who has submitted a restrictive covenant modification request of the county counsel's determination regarding the modification request. This notification then allows (but does not require) the owner to inform interested parties – such as a party with an interest in the covenant that is being redacted – that the county has approved the removal of the covenant. If such notice is provided, it triggers a 35-day statute of limitations for any party receiving such notice to file a suit to challenge the removal of the covenant.

AB 911 confirms that any record title owner of the property, any beneficial owner of a property or any person with site control (such a right to acquire the property under an option agreement, purchase and sale agreement, or similar agreement) may request that the county redact a covenant. However, an owner may not actually *record* a modification document until they close escrow and receive title.

Parking

AB 1308 (Assembly Member Sharon Quirk-Silva) – No Increased Minimum Parking Requirements on Single-Family Home Renovations. AB 1308 prohibits public agencies from increasing minimum parking requirements applicable to single-family residences as a condition of approval for projects remodeling, renovating or adding to a single-family residence, as long as the project does not cause the residence to exceed applicable zoning regulations (e.g., floor area ratio, lot coverage and height). The Legislature declared the prohibition necessary because the imposition of minimum

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parking standards "can increase the cost of housing, limit the number of available units" and "lead to an oversupply of parking spaces."

AB 894 (Assembly Member Laura Friedman) – Shared Parking. Local agencies generally establish parking standards for various land uses or properties in their zoning ordinances. AB 894 mandates local agencies allow shared parking plans if applicable parking is "underutilized" and the entities proposing shared parking provide an agreement meeting certain criteria and an explanation of the benefits of the proposal. Parking is "underutilized" if at least 20 percent of parking spaces in a development are vacant during the time that the parking will be shared. For projects receiving public funding after June 30, 2024, local agencies and developers must analyze the possibility of shared parking, but local agencies may not "compel private parties to enter into a shared parking agreement." Local agencies must count shared parking spaces identified in a shared parking agreement toward local parking requirements for existing or proposed uses and development if the parking meets certain locational requirements. Shared parking agreements that include a parking analysis based on specified "peer-reviewed methodologies" and that ensure long-term parking or include provisions for periodic review by the local agency must be approved. Approval of shared parking agreements that do not include this analysis is discretionary. Local agencies may not condition approval on the remedying of existing parking deficits nor "withhold approval" because the shared plan will reduce the parking included in the originally proposed use. Provisions of AB 894 may not reduce parking spaces needed to meet accessibility or electric vehicle requirements.

Notable 2022 Housing Bills

Streamlining

AB 2011 and SB 6 – Housing Development on Commercially Zoned Sites. The centerpiece of this year's housing production legislation are two different laws that aim to advance residential development on sites currently zoned and planned for commercial and retail use. Particularly notable is Assembly Bill (AB) 2011, which provides a streamlined ministerial approval pathway, comparable to Senate Bill (SB) 35 of 2017, for qualifying multifamily projects on commercial zoned land that pay prevailing wages and meet specified affordable housing targets.

AB 2234 – Timelines for Post-Entitlement Permits. Recent housing laws such as the Housing Crisis Act of 2019 (also known as SB 330) have given new teeth to the Permit Streamlining Act (PSA), a law that establishes timelines for local governments to determine the completeness of a permit application, and a timeline to act on the application once it is complete. If a local agency fails to meet the deadlines, the application can be "deemed complete," and under certain circumstances, the permit can even become "deemed approved." However, the PSA only applies to discretionary approvals such as conditional use permits or tentative subdivision maps (approvals commonly referred

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to as "entitlements," which are typically issued by Planning Commissions or City Councils). The PSA's timelines do not apply to ministerial acts, such as building and grading permits that developers must seek from building department staff, often long after entitlement approvals issue. As a result, there are usually no clear timelines governing the post-entitlement permit process, and the process of actually beginning construction on an approved project can become bogged down in indefinite review or delay even after all discretionary entitlements have issued.

To address this, AB 2234 borrows familiar aspects of the PSA process and applies those standards to defined "post-entitlement housing development permits" such as building permits, demolition permits and permits for minor or standard excavation, grading or off-site improvements. Specifically:

- Public agencies must publish formal application checklists for post-entitlement housing development permits, as well as examples of complete applications for specific types of housing developments.
- Local agencies must respond within 15 business days after an agency receives an application by identifying any specific information from the published checklist that was missing from the application, or else the application becomes "deemed complete."
- Local agencies must complete their review of any complete application within 30 business days (for developments with 25 homes or fewer) or 60 days (for developments with more than 25 homes). Exceptions to this timing requirement only apply if the application requires review by an outside agency or if the local government makes formal findings that the application permit might have a "significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions" in effect at the time the application was deemed complete.
- Most critically, AB 2234 provides that a local agency's failure to comply with the specified timelines is a violation of the Housing Accountability Act (HAA), exposing the local agency to the attorney's fees, mandamus relief and potential fines provided by the HAA.

AB 2295 – Educational Employee Housing. This law addresses the dire need for teacher housing. It will allow a qualifying rental housing development project to be an "allowable use," entitled to certain exemptions from applicable local regulations, if the development is located on real property owned by an "educational agency" (a school district or county office of education). A qualifying development must comply with most "objective" zoning, subdivision and design review standards, but is entitled to be exempt from any use, density and height limitations that would preclude a residential development of at least 35 feet in height, and a minimum density ranging from 10 to 30 dwelling units per acre depending upon whether the jurisdiction is metropolitan, suburban or

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unincorporated. A qualifying development is also exempt from various requirements regarding the disposal of surplus land. To qualify:

- Units must be offered for rent with priority given first to employees of the educational agency, then for employees of adjacent educational agencies, and next for public employees of other local agencies.
- A majority of the units must be Below Market Rate units affordable to lower- or moderate-income households, and at least 30 percent of the units must be affordable to lower-income households.
- The project must have at least 10 housing units, be located on an infill site adjacent to a property that permits residential uses as a principally permitted use, and meet other specific criteria.

The law does not take effect until Jan. 1, 2024, and the bill would require the Department of Housing and Community Development (HCD) to provide a specified notice to the planning agency of each county and city on or before Jan. 31, 2023. The law sunsets Jan. 1, 2033.

SB 886 – CEQA Exemption for Qualifying University Housing Development Projects. SB 886, intended to provide a CEQA exemption for university student and faculty housing, received significant attention and support from the many Californians who were dismayed to see CEQA litigation used to bar the University of California, Berkeley from making admissions offers to new students. By the end of the legislative process, however, the same Legislature that acted to rescue UC-Berkeley from CEQA litigation had laden SB 886's simple CEQA exemption with numerous qualifying conditions. Under SB 886, a student housing project or a faculty and staff housing project carried out by a public university on real property owned by the public university can qualify for a CEQA exemption, but only if it meets numerous criteria including:

- Construction workers are paid prevailing wages and, in most cases, participate in "skilled and trained workforce" apprentice programs.
- The project is consistent with the university or college's Long Range Development Plan or Master Plan for which an Environmental Impact Report (EIR) has previously been certified.
- The project achieves no net additional emission of greenhouse gases, as verified by an independent third-party evaluation.
- Each building within the development is Leadership in Energy and Environmental Design (LEED) platinum certified.
- Construction impacts are "fully mitigated consistent with applicable law."

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- The site cannot be designated as farmland, wetlands, for conservation or habitat, or a very high fire hazard severity zone, and cannot be in flood zones, hazardous waste sites or earthquake fault zones unless certain additional criteria apply.
- The project will not demolish any housing that has been occupied by tenants in the past 10 years or take place on any site where housing was occupied by tenants within the past 10 years.
- The project must include a transportation demand management program.
- No more than 33 percent of the square footage be used for dining, academic or student support spaces, and have a maximum of 2,000 units or 4,000 beds.
- Projects must be located within a half-mile of a major transit stop, a half-mile of the campus boundary or have 15 percent lower per capita Vehicle Miles Traveled (VMT).

AB 2668 – SB 35 "Cleanup." AB 2668 makes a series of technical and clarifying changes to SB 35 of 2017, a law that provides for streamlined ministerial approval of qualifying housing and mixed-use projects that conform to objective zoning requirements, pay prevailing wages and meet minimum affordable housing requirements. Specifically, AB 2668 revises SB 35 to:

- Make explicit that a local government is required to approve a development if it determines that the development is consistent with SB 35's criteria (a proposition that has always been implicit in the law, since SB 35 creates a "ministerial" duty for a city to grant a permit, as confirmed in case law).
- Confirms that the minimum percentage of total units that a development must dedicate for lower-income housing is calculated before calculating any density bonus. SB 35 projects are entitled to use the State Density Bonus Law (discussed below).
- Provides opportunities to use SB 35 on a hazardous waste site, if the local agency has otherwise determined that the site is suitable for residential use or residential mixed uses or the site is an underground storage tank site and has received a uniform closure letter based on criteria established by the State Water Resources Control Board, as specified.
- Confirms that a city cannot find a project inconsistent with applicable standards on the grounds that application materials were not included, as long as the application contains substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.
- Confirms that although SB 35 has a process to allow additional "design review" or "public oversight" over the ministerial application, a locality still must provide written documentation of any applicable standards with which the project conflicts

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within the applicable deadline calculated from application submittal (60 days for projects with 150 or fewer homes; 90 days for projects with more than 150 homes).

Density

AB 2334 – State Density Bonus Law Amendments – Defining "Base Density"; Concessions in Very Low Vehicle Travel Areas. The State Density Bonus Law allows developers to increase density, access concessions to reduce development costs, waive development standards and reduce parking in exchange for providing affordable housing. It is amended nearly every year in an effort to unlock more housing production potential. This year, AB 2334 updates the definition of maximum allowable residential density for the purpose of determining the "base density" to which bonus density may be added. Specifically, AB 2334 provides that if the density under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan or specific plan, the greater shall prevail. The law also dictates a method for determining the "base density" in terms of units in the many local jurisdictions where the general plan, specific plan or zoning does not provide dwelling unit per acre standard for density. This method involves estimating the realistic development capacity of the site based on applicable "form-based" objective development standards, such as floor area ratio, site coverage and height limits, and then translating that development capacity into a specific number of units, to which the bonus density is then added. An applicant may now provide a base density study and the local agency "shall" accept it, provided that it includes all applicable objective standards.

AB 2334 also makes 100 percent affordable housing projects that are located in a very low vehicle travel area in a designated county eligible for four incentives or concessions, unlimited density bonuses as well as an automatic height increase of up to three stories or 33 feet. These benefits were previously only available to 100 percent affordable housing projects within a half-mile of a major transit stop. A "very low vehicle travel area" is defined as an urbanized areas where the existing residential development generates VMT per capita that is below 85 percent of regional or city VMT per capita.

The law makes other changes applicable to facilitate affordable housing financing by aligning maximum rent levels as determined by the California Tax Credit Allocation Committee and provides that as part of an equity-sharing agreement a local government may defer to the recapture provisions of a public funding source.

Finally, the law changes the resident age requirement for a specified development to receive an elimination of parking minimums from the current 62 years of age or older to instead be 55 years or older.

AB 1551 – State Density Bonus Law Benefits for Mixed-Use Projects. AB 2551 reenacts a law that previously sunset on Jan. 1, 2022, that provided State Density Bonus Law benefits for commercial projects that include affordable housing. After going into effect on Jan. 1, 2023, the new law will continue until Jan. 1, 2028. In order to qualify, a commercial developer must partner with a housing developer or provide housing that

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contains 30 percent low income units or 15 percent very low-income units. The housing must be on the site of the commercial development or on a site that is within the boundaries of the local government, in close proximity to public amenities including schools and employment center and be within a half-mile of a major transit stop. If eligible, the commercial development may be granted the following incentives, including but not limited to:

- up to a 20 percent increase in maximum allowable intensity in the General Plan
- up to a 20 percent increase in maximum allowable floor area ratio
- up to a 20 percent increase in maximum height requirements
- use of a limited use/limited applicable elevator for upper floor accessibility; an exception to a zoning ordinance or other land use regulation

AB 682 – State Density Bonus Law Benefits for Shared Housing or Co-Living Buildings. AB 682 aims to ease roadblocks facing co-living housing projects by creating a new category of "shared housing" projects eligible for benefits under the State Density Bonus Law. A shared-housing building is defined as a residential or mixed-use structure with five or more housing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by its tenants. A shared-housing building qualifies for State Density Bonus Law benefits if it contains 10 percent lower-income units; 5 percent very low-income units; or is a senior housing development. The law prohibits jurisdictions from requiring any minimum unit size requirements or minimum bedroom requirements for an eligible shared-housing building project.

Parking Reform and Other Cost Reductions

AB 2097 – No Parking Minimums within Half-Mile of Public Transit. This law prohibits public agencies from imposing minimum parking requirements on residential, commercial or other development projects located within a half-mile of public transit. Public agencies may only impose parking minimums on such projects if the agency can make certain written findings that the inability to impose parking requirements would have substantial negative impacts on 1) a jurisdiction's ability to meet its regional housing needs for low- and very low-income households; 2) a jurisdiction's ability to meet special housing needs for the elderly or persons with disabilities; 3) existing residential or commercial parking facilities located within a half-mile of the housing development project. While project opponents typically argue that a "lack of adequate parking" negatively impacts the surrounding community, AB 2097 requires such findings to be supported by a preponderance of the evidence and such determination and findings must be made within 30 days of receiving a complete project application. Additionally, the foregoing exception does not apply to (meaning that a jurisdiction cannot deny a parking reduction for) housing development projects, including but not limited to residential-only and mixed-use projects, if 1) a minimum of 20 percent of the units are dedicated to very low-, low- or moderate-income households, students, the elderly or persons with disabilities; 2) the development

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contains 20 residential units or less; or 3) the development is subject to other parking reductions provided by law.

AB 2536 – Connection Fees and Capacity Charges. This law requires agencies to evaluate the amount of a new fee or capacity charge prior to levying it. The evaluation must include evidence to support that the fee or capacity charge does not exceed the estimated reasonable cost of providing service. All information constituting the evaluation must be made publicly available at least 14 days prior to hearing on the new fees or capacity charge.

Accessory Dwelling Units (ADUs) and Increased Bedroom Counts

AB 2221 – ADU Law "Cleanup." AB 2221 contains clean-up language and clarifications to reduce permitting hurdles for ADU applicants, including:

- Existing law requires local agencies to "act on" an ADU application within 60 days of issuing a "completeness determination," and if not, an ADU application is deemed approved as a matter of law. However, some local agencies have used internal intermediary "actions" (e.g., inter-departmental referrals, issuing design comments) to bypass the 60-day deadline. AB 2221 eliminates that practice by expressly requiring agencies to "approve or deny" an ADU application within 60 days of the completeness determination.
- Agencies that deny an ADU application must now provide a full set of comments to the applicant with a list of items that are deficient and a description of how the application can be remedied.
- Clarifies that the construction of an ADU does not trigger a change in "Group R" occupancy of the residential building (thereby requiring stricter building code standards), unless the agency makes specific findings that the ADU would create an adverse impact on health and safety.
- Expands the definition of "permitting agency" to include any entity involved in the review of an ADU permit, rather than simply the agency responsible for issuing the permit. This change makes clear that other agency departments, as well as special districts (water, sanitary) are subject to the 60-day deadline following a completeness determination.
- Clarifies that the construction of an ADU (attached or detached) cannot trigger a requirement to install fire sprinklers in an existing multifamily dwelling.
- Finally, AB 2221 adds front setbacks to the list of objective development standards that local agencies are precluded from imposing if they would prevent construction of an ADU that is 800 square feet or smaller and adheres to 4 feet of rear and side yard setbacks and revised height limits. Front setbacks remain inapplicable to the "state exempt" class of ADUs found in Subdivision (e) of the state law.

NOTABLE CHANGES TO STATE HOUSING LAWS 2022-2023

SB 897 – Increased Height Limits for ADUs; Detached ADUs at Proposed Multifamily Projects. SB 897 increases the minimum height limits that local governments may impose on ADUs. Specifically, SB 897 provides minimum height limits of 16 feet (for detached ADUs on same lot with an existing or proposed single-family or multifamily dwelling); 18 feet (for detached ADUs located on lot that is within a half-mile of a major transit stop, or detached ADUs on lot with an existing or proposed multistory, multifamily dwelling); or 25 feet or base zone height, whatever is lower (for attached ADUs). The law introduces the potential for two-story ADUs if certain conditions are met, but ensures local agencies are not required to permit three-story ADUs. Lastly, SB 897 now clarifies that two detached ADUs may be constructed (and qualify for building permit ministerial review under Subdivision (e)) on lots with *proposed* multifamily dwellings. This change will allow developers to include two detached ADUs in their design and planning processes for new multifamily residential projects.

AB 916 – Maximizing Bedroom Counts within Existing Units. AB 916 prevents local agencies from requiring a public hearing as a condition for proposals to reconfigure existing space within a dwelling unit to increase bedroom count. AB 916 applies to applications that seek to add no more than two additional bedrooms in an existing dwelling in a residential zone. The law does not prohibit agencies from holding public hearings for proposals that would increase the number of *units*, provided such proposals are not subject to other state laws that mandate ministerial review (e.g., ADUs, SB 9).

Surplus Property

SB 561, AB 2233, and AB 2592 – Codification and Expansion of Surplus Lands Executive Order. In 2019, Gov. Newsom issued an executive order (EO) prioritizing the use of surplus state-owned land for affordable housing. Specifically, the EO required the Department of General Services (DGS) to determine what state-owned land is not needed by the state, and to work with the HCD to designate surplus land suitable for affordable housing development. This year's law further implement the EO.

- SB 561 and AB 2233 collectively codify this executive order, requiring DGS to develop a plan with HCD to update screening tools to identify surplus state-owned property by June 1, 2023, to develop criteria to evaluate the suitability of state-owned parcels to be used for affordable housing by Sept. 1, 2023, to conduct a comprehensive survey of state-owned land by July 1, 2024, to update the digitized inventory surplus state-owned by Jan. 1, 2024, and every four years thereafter, and to report its progress annually to the Legislature.
- AB 2592, meanwhile, focuses on state-owned buildings, and specifically requires DGS to prepare and report to the Legislature a streamlined plan to transition underutilized multistory state-owned buildings into "all types of housing."

Housing Elements

NOTABLE CHANGES TO STATE HOUSING LAWS 2022-2023

AB 2094 and AB 2653 – Greater Requirements for Annual Reports on Housing Progress. Existing law requires that local governments provide annual reports to the state that detail their progress in meeting their regional housing needs assessment (RHNA) targets. AB 2094 and AB 2653 each provide greater specificity with respect to the information that these annual reports must contain:

- AB 2094 requires that the annual report specifically detail the local government's progress in meeting RHNA targets for the "extremely low income" category.
- AB 2653 requires that the annual report additionally provide: the number of new housing units built, the number of housing units demolished, information specifying rental versus for-sale housing and details regarding approved projects that benefit from AB 2011 or the State Density Bonus Law. AB 2653 also authorizes HCD to require corrections to the annual report, and to reject non-compliant portions of the report.

AB 2339 – Planning for Emergency Shelters and Clarifying Housing Element Law. AB 2339 makes two changes to housing element law. First, existing law requires local governments to plan for emergency shelters in their housing elements. AB 2339 provides that the sites identified for emergency shelters must be in residential areas or are otherwise suitable, thus prohibiting local governments from situating shelters in industrial zones or other areas disconnected from services. The law also seeks to ease constraints on the development of emergency shelters by requiring that any development standards applied to emergency shelters be "objective."

Second, AB 2339 also clarifies the application of the "No Net Loss" law. Under existing law, each local government must maintain a sufficient supply of adequate sites in its housing element throughout the entirety of the planning period. At the same time, local governments that fail to zone for their full RHNA share are required to rezone for the outstanding "carryover portion" within the first year of the new housing element planning period. Although existing law plainly requires local governments to consider this carryover portion when calculating the amount of housing to plan for in the next cycle, it is unclear whether they must also maintain adequate inventory for the carryover portion under the No Net Loss law. AB 2339 resolves this ambiguity by clarifying that local governments must account for the carryover portion when determining the amount of inventory required by the No Net Loss law.

This 2021–2029 Housing Plan builds upon the City’s experience in implementing the previous Housing Element. Existing housing programs were evaluated for progress, continued appropriateness and modified, as necessary, for the new planning period. New housing programs have been added to respond to new issues and concerns, changing needs, and updated laws. This evaluation of existing housing programs is presented in Section 7-7.

GOALS AND POLICIES

The following Housing Element goals and policies have been developed in response to the community’s identified housing needs.

HOUSING CONSERVATION

The City conducted a focused housing condition survey in the Old Town/Central Rocklin area in early 2002. This area is the oldest neighborhood in Rocklin and was determined to have the greatest repair/rehabilitation needs. Most housing units were found to be structurally sound; only 13% of residential structures were in need of minor to significant repairs to ensure structural integrity. Nearly one-fifth (19%) of homes were in need of minor roof repairs and 18% had minor maintenance issues. Other housing conservation needs of the City include existing affordable housing stock and rental units at-risk of converting to market-rents or condominiums, and the Housing Choice Voucher Program.

Based on consultations in 2020 with the City’s Housing staff, Building Division and Code Enforcement Division, the City has received very few requests for low interest loans for home repairs and minimal complaints regarding nuisance housing conditions since 2008, further supporting that the City’s housing stock is generally in good condition.

Goal 1 Maintain and improve the quality of existing housing and residential neighborhoods in Rocklin.

- Policy 1.1** Promote increased awareness of the importance of property maintenance to long-term housing quality and engage the community to preserve neighborhoods.
- Policy 1.2** Seek, through code enforcement, the private rehabilitation of substandard dwelling units and provide financial assistance, when available, to owners of dwelling units occupied by lower-income households. In applying this policy, the City shall seek to avoid the displacement of lower-income households.
- Policy 1.3** Provide assistance to inspect and identify code violations in residential structures.
- Policy 1.4** Require the abatement or demolition of substandard housing that is not economically feasible to repair.
- Policy 1.5** Work with for-profit developers and non-profit housing corporations to identify existing affordable housing and develop strategies to maintain its affordability.

- Policy 1.6** Continue to pursue available sources of funding for maintaining and expanding the supply of affordable housing for lower and moderate-income households, including extremely low-income households.
- Policy 1.7** Preserve the existing stock of affordable housing, including (but not limited to) mobile homes and apartments, through City regulations as well as financial and other forms of assistance.
- Policy 1.8** Support the Roseville's and Placer County's Housing Authority in the provision of Section 8 Housing Choice Voucher rental assistance to very low- and extremely low-income households.

HOUSING PRODUCTION

The City of Rocklin encourages the production of a diversity of housing types to meet the needs of all segments of the community. Housing diversity is important to ensure that all households, regardless of age, income level, and household type, have the opportunity to find housing suited to their need and lifestyle. New construction is a major source of housing for prospective homeowners and renters but generally requires public sector support for the creation of units affordable to lower income households, including extremely low-income households. The following goals and policies support the expansion of housing opportunities in Rocklin.

Goal 2 Facilitate the provision of a range of housing types to meet the diverse needs of the community.

- Policy 2.1** Provide quality housing opportunities for current and future residents with a diverse range of income levels.
- Policy 2.2** Provide expanded housing opportunities for the community's workforce.
- Policy 2.3** Encourage both the private and public sectors to produce or assist in the production of housing, with particular emphasis on housing affordable to lower income households, including extremely low-income households, as well as housing suitable for seniors, large families, female-headed households, the homeless, and persons with disabilities.
- Policy 2.4** Encourage the provision of housing affordable to extremely low-income households when reviewing proposals for new affordable housing developments.
- Policy 2.5** Facilitate the provision of second units as a means of providing affordable rental housing opportunities in existing neighborhoods.
- Policy 2.6** Encourage diversity of unit size and number of bedrooms within housing developments to expand lower cost rental opportunities for large families.

- Policy 2.7** Allow housing developments with at least 20 percent affordable housing by-right on lower-income housing sites that have been counted in previous housing element cycles, consistent with AB 1397.

PROVISION OF ADEQUATE HOUSING SITES

A key element in satisfying the housing needs of all segments of the community is the provision of adequate sites for housing of all types, sizes, and prices. The City's General Plan and Zoning Ordinance determine where housing may locate, thereby affecting the supply of land available for residential development.

Goal 3 Provide adequate housing sites through appropriate land use and zoning designations to accommodate the City's share of the regional housing needs.

- Policy 3.1** Identify vacant parcels and provide to interested developers in conjunction with information on available development incentives.
- Policy 3.2** Ensure new residential projects are developed at densities consistent with the density ranges established for each residential district in the Land Use Element.
- Policy 3.3** Facilitate the development of multifamily housing on vacant parcels designated for medium-high and high-density residential uses.
- Policy 3.4:** Continue to work with developers requesting General Plan Amendments converting nonresidential designation to residential uses or from a higher density residential category to a lower density residential category to incorporate affordable housing as a component of the overall development. As an objective, target up to ten percent of the units as affordable, depending on the level of affordability or other amenities provided. Pursue the inclusion of extremely low-income units whenever possible in the negotiated target number of affordable units.

REMOVAL OF GOVERNMENTAL CONSTRAINTS

State law requires that housing elements address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing. The City will continue to monitor its development process and zoning regulations to identify and remove constraints to the development of housing affordable to lower- and moderate-income households, including housing for families, seniors, and persons with special needs.

Goal 4 Mitigate or remove potential governmental constraints to housing production and affordability.

- Policy 4.1** Provide regulatory and/or financial incentives, where appropriate, to offset or reduce the costs of affordable housing development, including density bonuses and flexibility in site development standards.

- Policy 4.2** Periodically review City regulations, ordinances, departmental processing procedures, and residential fees related to rehabilitation and/or construction to assess their impact on housing costs, and revise as appropriate.

REGIONAL COORDINATION

The City seeks to take an active role in cooperating with neighboring jurisdictions in Placer County to resolve housing problems and issues facing Rocklin that are primarily regional in nature. Homelessness and limited supply of and funding for affordable housing are examples of major housing issues that should be addressed at the local as well as regional level.

Goal 5 Coordinate and cooperate with surrounding jurisdictions to address regional housing issues, including the supply of affordable housing and homelessness.

- Policy 5.1** Coordinate with surrounding jurisdictions in the provision of housing assistance and related services to lower and moderate-income households, homeless persons, and other persons with special needs.

- Policy 5.2** In conjunction with surrounding jurisdictions, actively pursue State, Federal, and other funding sources for affordable housing activities.

EQUAL HOUSING OPPORTUNITY

The City seeks to promote housing opportunities for all persons in Rocklin, regardless of race, religion, sex, family size, marital status, ancestry, national origin, color, age, physical or mental disability, sexual orientation, or source of income. In order to make adequate provision for the housing needs of all segments of the community, the City must also ensure equal and fair housing opportunities are available to all residents.

Goal 6 Promote equal opportunity for all residents to reside in the housing of their choice.

- Policy 6.1** Support the enforcement of fair housing laws prohibiting arbitrary discrimination in the building, financing, selling or renting of housing on the basis of race, color, ancestry, national origin, gender, religion, marital status, family status, physical or mental disability, or other arbitrary factors.

- Policy 6.2** Support organizations that offer fair housing and mediation services to Rocklin residents.

- Policy 6.3** Promote housing that meets the special needs of the homeless, seniors, large families, and persons with disabilities.