

1. LEGAL REQUIREMENTS



What is a Housing Element?

The Housing Element is one of eight required elements of the General Plan, along with land use, circulation, open space, conservation, safety, noise and environmental justice. It is essentially the Town's plan for addressing local housing needs.

What's in our Housing Element?

Key components of the Housing Element include:

- Inventory of available sites for housing in Fairfax
- A projection of the number of housing units that could realistically be accommodated on each site in view of past trends and local conditions
- An assessment of local housing needs, potential constraints to housing production, and fair housing issues - which means any factors that impede access to housing for disadvantaged groups like the disabled, the elderly, or racial or linguistic minorities.
- A program of actions to address identified needs, constraints and fair housing issues.

Why Update the Housing Element?

By law, each city or town in California must update its Housing Element every eight years to plan for the next 8-year cycle and account for changing demographics and market conditions. Jurisdictions that fail to adopt a certified Housing Element may be subject to penalties and fines.

How Much Housing Does Fairfax Need to Plan for?

Under State law, each city and county in California must plan to accommodate its share of the regional housing need - called the Regional Housing Needs Allocation (RHNA) - for the coming 8-year planning period. The State determines the estimated need for new housing in each region of California, based on population projections and other factors including rates of vacancy, overcrowding, and cost-burden. The various regional planning agencies then allocate a target to each city or town within their jurisdiction, considering factors such as access to jobs, good schools, and healthy environmental conditions. RHNA is split into four categories representing different levels of affordability, based on median income level in the county.



Fairfax Regional Housing Needs Assessment, 2023-2031

| Income Level | AMI | Needed Units | Percent of Needed Units |
|-----------------------|---------|--------------|-------------------------|
| Very-Low-Income | 0-50% | 149 | 30.4% |
| Low-Income | 51-80% | 86 | 17.6% |
| Moderate-Income | 81-120% | 71 | 14.5% |
| Above-Moderate Income | >120% | 184 | 37.5% |
| Total | | 490 | 100.0% |

What Happens if the Town Does Not Adopt a Housing Element or if the Housing Element Does Not Comply with State Law?

The penalties for non-compliance have increased in scope and severity over the past few legislative cycles, and they currently include:

- Limited access to State funding, including transportation funding for local roadway maintenance and capital improvement projects.
- Court imposed fines of up to \$600,000 per month. The statute also allows the state to collect these fines by withholding state funding due to the Town.
- Lawsuits: When community's housing element is found to be out of compliance, its General Plan is at risk of being deemed inadequate and therefore invalid, opening the possibility for lawsuits.

Consequences of Lawsuits

- Court mandated compliance - Courts can issue an order that a community bring its Housing Element into compliance. In extreme cases, State law allows a court to appoint an agent with all powers necessary to bring the Town's Housing Element into compliance with State law.
- Court suspension of local control on building matters, freezing the community's ability to issue building permits, zoning changes, etc.
- Court approval of housing developments on behalf of the community Attorney fees associated with the lawsuit
- Over the past 20 years, cities and counties throughout the Bay Area (including Corte Madera, Pittsburg, Pleasanton, Alameda, Benicia, Fremont, Rohnert Park, Menlo Park, Napa County, and Santa Rosa) have faced legal challenges to the adequacy of their housing elements. In virtually every case, the city settled by amending their housing element and/or zoning ordinance to accommodate more housing and paid the plaintiffs' attorneys fees. Each of these cases were filed prior to the most recent amendments to the state housing law which make it exceedingly more difficult for cities to win such cases.

**If you have comments or questions,
email Housing@townoffairfax.org**

2. OVERVIEW OF THE FAIRFAX HOUSING SITES INVENTORY



A core component of the Housing Element is the inventory of sites available for housing, shown on the map at right and summarized on the table below. The inventory is accompanied by a series of implementing programs representing actions the Town will take to facilitate development of the sites on the inventory. Key programs are highlighted to the right of the map.

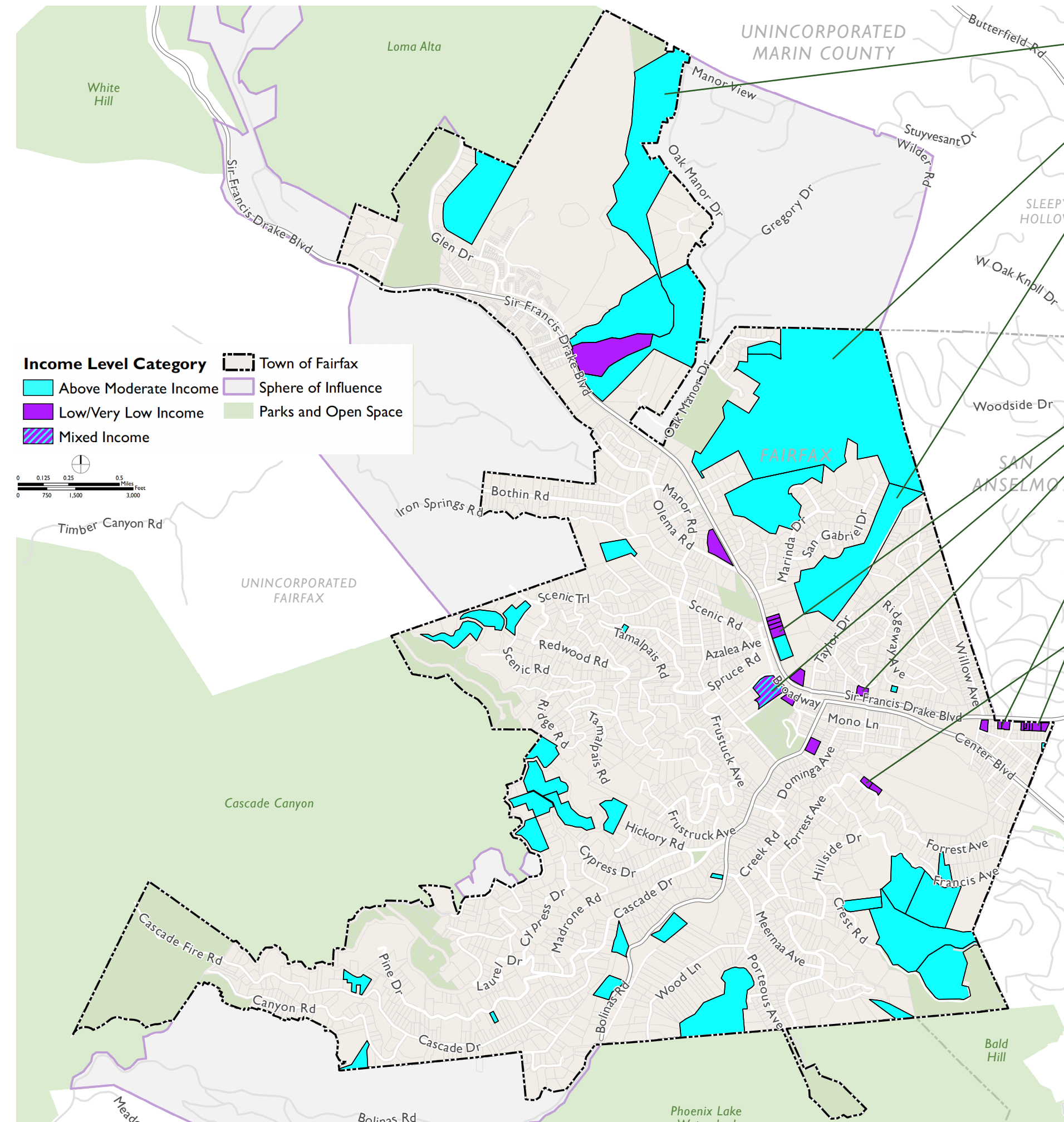
Amid the ongoing housing crisis in California, Fairfax is required by law to plan for at least 490 new homes by 2031, including 235 that would be affordable to households making less than 80 percent of the Marin County Area Median Income (AMI).

| | Total Units | Low / Very Low (<80% AMI) | Moderate (80-120% AMI) | Above Moderate (>120% AMI) |
|--------------------------------|-------------|---------------------------|------------------------|----------------------------|
| Vacant Single-Family Sites | 60 | | | 60 |
| “Pipeline” Projects | | | | |
| School Street Plaza | 175 | 35 | | 140 |
| Fairfax Market | 8 | | | 8 |
| Various Single Family | 11 | | | 11 |
| Town-Owned Sites | 10 | 10 | | |
| Underutilized Commercial Sites | 159 | 129 | 30 | |
| ADU/JADU Projection | 160 | 129 | 48 | |
| Total | 583 | 270 | 78 | 235 |
| RHNA | 490 | 235 | 71 | 184 |
| Buffer | 93 | 35 | 7 | 51 |

The Draft Sites Inventory shows capacity for a total of **583** new homes, including:

- **71** new single-family homes on vacant residential lots
- **160** new ADUs and JADUs
- **352** multi-family homes in locations with good access to transit and services per State law

Sites Available for Housing



Implementing Programs

Clustered Hillside Residential Development (Program 2-D): There are a number of large hillside properties that might accommodate a clustered housing development on relatively flatter portions of the sites, including both attached and detached single-family dwellings and accessory dwelling units. Through this program, the Town will develop and adopt standards to permit clustered housing on the sites while preserving large areas of open space and protecting ridgelines.

Workforce Housing Overlay (Program 2-A): Applicable to certain properties in the Town Center and along Sir Francis Drake, this overlay would allow property owners to develop with commercial uses as under current zoning but would also provide the option to develop with multi-family housing.

Workforce Housing on Town-Owned Sites (Program 1-C): Two adjacent Town-owned properties have been identified as potential sites for housing to meet the needs of restaurant employees, service workers, teachers, public servants and others who work in Fairfax and earn less than 80 percent of the area median income. Through this program, the Town would partner with a non-profit developer to build 10 units. Because the sites are Town-owned, the Town can control all aspects of the project, including timing, design, and other factors.

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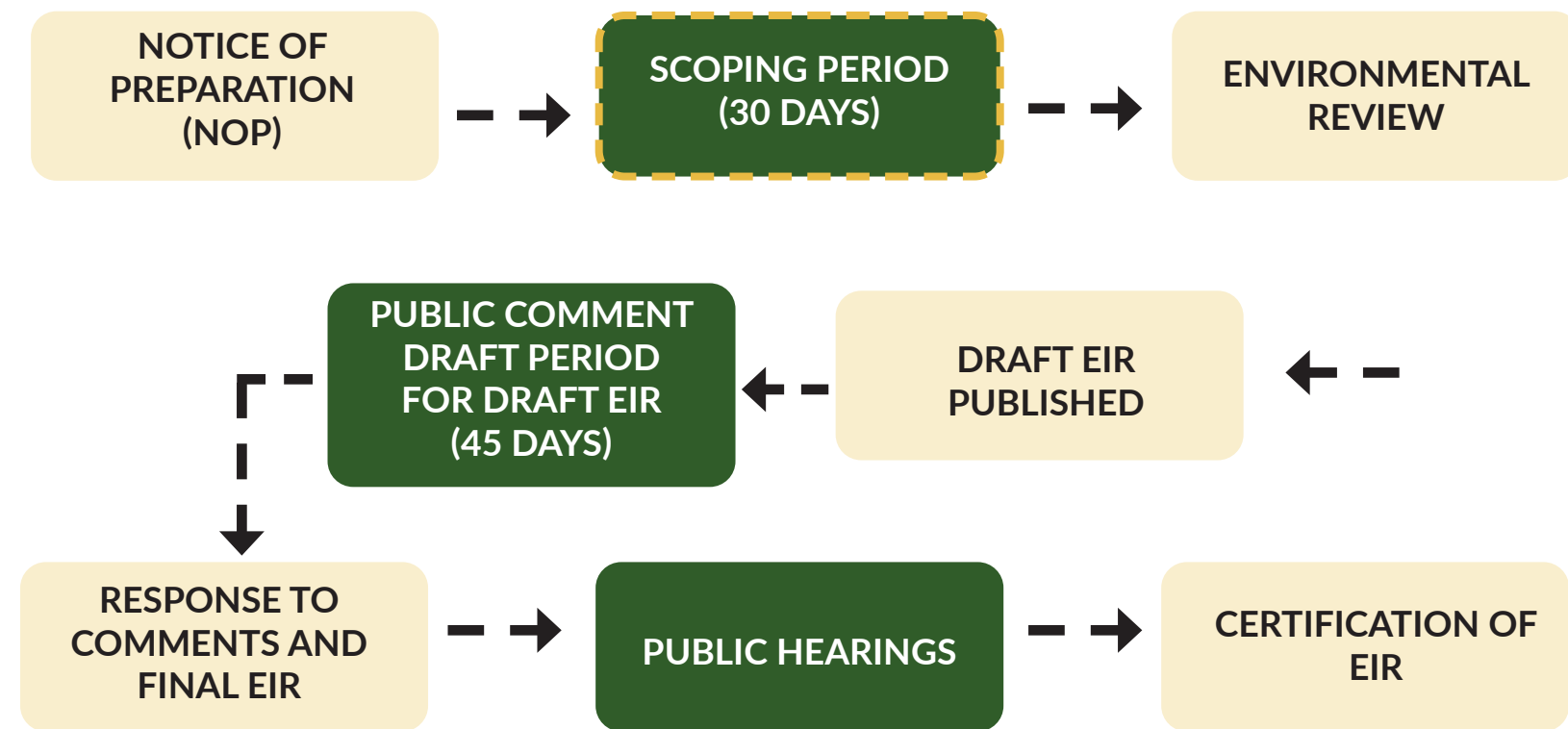
3. ENVIRONMENTAL IMPACT REPORT (EIR)



The Town of Fairfax will prepare a programmatic EIR for the Fairfax Housing Element Update, consistent with the requirement of the California Environmental Quality Act (CEQA). The EIR will provide a programmatic environmental assessment of the potential consequences of implementing the Housing Element, identify significant environmental impacts, and recommend feasible measures to mitigate those impacts. The Town released a Notice of Preparation (NOP) for the EIR in August 2022, but since that time the sites inventory and capacity projections have been revised to the NOP has been re-released.

EIR PROCESS FLOW

● = Opportunity for public input
 □ = Where we are now



Consistent with the State CEQA Guidelines, the following environmental resource categories will be analyzed:

- Aesthetics
- Agriculture and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

Key Issues to be Studied in EIR

Air Quality The project could result in an increase in operational air emissions through new vehicle trips generated by additional housing. Emissions increases will be evaluated against Bay Area Air Quality Management District thresholds to determine significance.

Biological Resources The potential presence of sensitive biological resources within the Town will be reviewed as a basis to determine whether new development on one or more of the housing opportunity sites may have potential to affect such resources.

Geology and Soils Given the steep terrain in much of Fairfax, there is potential for landslides, particularly in wet weather months. Hillside areas in Fairfax have experienced landslides in the past. The development of housing in or adjacent to areas of geologic hazard could potentially result in significant impacts.

Transportation Vehicle Miles Travelled (VMT) forecasts will be developed for the Project to determine if Project VMT exceeds significance thresholds based on State guidance.

Water Supply The project is likely to result in a net increase in water demand. The EIR will quantify the projected change in demand and evaluate whether sufficient water supply may be available to meet that demand.

Wastewater The project is likely to result in a net increase in wastewater generation and may have potential to require new wastewater conveyance facilities, the construction of which may have environmental impacts.

Wildfire Almost all land within the Town limit is classified as a High Fire Hazard Severity Zone. Given the extent of wildfire hazard in and adjacent to Fairfax, this section of the EIR will address whether the project would substantially impair emergency response and evacuation or exacerbate fire risk.



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