

# I Introduction

## Purpose and Objectives

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All California cities, towns, and counties are required to have a Housing Element included in their General Plan which establishes housing objectives, policies, and programs in response to community housing conditions and needs. This Housing Element has been prepared to respond to current and near-term future housing needs in the Town of Fairfax and provide a framework for the community's longer-term approach to addressing its housing needs.

The Housing Element contains goals, updated information and strategic directions (policies and implementing actions) that the Town is committed to undertaking. Housing affordability in Marin County and in the Bay Area is a critical issue. In recent decades, housing costs have skyrocketed out of proportion to many people's ability to pay, driven by increasing construction costs, steep property values, high demand for housing, and a shortfall in new housing production. As a result, long term residents and young people who grew up in Fairfax are being priced out of the local housing market. Similarly, people who work in Fairfax are often forced to live and commute by car from further away, where housing is more affordable. This contributes to congestion on local roadways, air pollution, and greenhouse gas emissions. High housing costs have become a significant obstacle to hiring teachers, first responders, and others essential to the community.

This Housing Element touches many aspects of community life. It builds upon the goals, policies and implemented programs contained in the Town's 2015-2023 Housing Element and other Town policies and practices to address housing needs in the community. The overall focus of the Housing Element is to address local housing needs in compliance with State law while also seeking to retain Fairfax's village-like quality, with distinct neighborhoods, and large areas of surrounding visible open space.

The following are some of the specific purposes of the Housing Element update:

1. Increase and diversify the range of housing options available in Fairfax;
2. Address housing affordability by addressing regulatory, process, and market factors that limit housing production and preservation in Fairfax;
3. Promote suitable and affordable housing for special needs populations, including housing for lower income households, large families, single parent households, the disabled, older adults, and people experiencing homelessness;
4. Foster equal housing opportunity for all residents of Fairfax, regardless of race, religion, sex, sexual orientation or identification, marital status, ancestry, national origin, color, or ability;
5. Monitor the effectiveness of housing programs to ensure that they respond to housing needs; and
6. Ensure compliance with State housing law(s).

## Legal Requirements

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State law requires each city, town and county in California to adopt a General Plan containing at least seven elements, including a Housing Element. Regulations regarding Housing Elements are found in the California Government Code sections 65580-65589. Although the Housing Element must follow State law, it is by its nature a local document. The focus of the Fairfax Housing Element is on the needs and desires of Fairfax residents and workers as they relate to housing in the community. Within these parameters, the intent of the Element is also to comply with State law requirements.

Unlike the other mandatory General Plan elements, the Housing Element requires periodic updating and is subject to detailed statutory requirements and mandatory review by the State of California Department of Housing and Community Development — HCD. According to State law, the Housing Element must:

- Provide goals, policies, quantified objectives, and scheduled programs to preserve, improve and develop housing.
- Identify and analyze existing and projected housing needs for all economic segments of the community.
- Identify adequate sites that will be zoned and available within the Housing Element planning period — between 2023 and 2031 — to meet the City’s share of regional housing needs at all income levels.
- Be submitted to HCD to determine if HCD “certifies” that the Housing Element is in compliance with State law.

State law establishes detailed content requirements for Housing Elements and establishes a regional “fair share” approach to distributing housing needs throughout all communities in the Bay Area. The law recognizes that in order for the private sector and non-profit housing sponsors to address housing needs and demand, local governments must adopt land use plans and implementing regulations that provide opportunities for, and do not unduly constrain, housing development.

### **REGIONAL HOUSING NEEDS ALLOCATION (RHNA)**

Fairfax’s Housing Element was last updated in 2015 to plan for the years 2015-2023. This Housing Element update reflects the Regional Housing Needs Assessment (RHNA) as determined by the Association of Bay Area Governments (ABAG) for the Sixth Cycle Housing Element update, covering the years 2023-2031. The RHNA is a State-mandated process intended to ensure every city, town, and county plans for enough housing production to accommodate future growth. The State of California Housing and Community Development Department (HCD) assigns each region of the state an overall RHNA allocation. For the nine-county Bay Area region, ABAG then distributes a “fair share” portion of that allocation to each local jurisdiction. Each city and county must then identify adequate sites with a realistic capacity for development sufficient to meet this RHNA.

For the 2023-2031 period, Fairfax must identify sites sufficient to accommodate 490 new housing units between 2023 and 2031, with a specific number of units designated as affordable to each income category, as shown in Table 1-1. The RHNA does not specifically break down the need for extremely-low-income households. As provided by State law, the housing needs of extremely-low-income households, or those making less than 30 percent of area median income (AMI), is estimated as 50 percent of the very-low-income housing need. More detail on the RHNA allocation process is described in Chapter 3 as well as in Appendix C.

**Table I-1: Fairfax Regional Housing Needs Assessment, 2023-2031**

| <i>Income Level</i>   | <i>AMI</i> | <i>Needed Units</i> | <i>Percent of Needed Units</i> |
|-----------------------|------------|---------------------|--------------------------------|
| 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%                          |
| <b>Total</b>          |            | <b>490</b>          | <b>100.0%</b>                  |

*Source: HCD State Income Limits, 2021; Town of Fairfax, 2022; Dyett & Bhatia, 2022*

## HOUSING ELEMENT LAW: STATE CHANGES

Various amendments have been made to Housing Element law since adoption of the 2015-23 Housing Element, especially since 2017. Some of the key changes for 6th cycle RHNA and Housing Element update include:

- Assembly Bill (AB) 72 (2017) provides additional authority to State HCD to scrutinize housing elements and enforce housing element noncompliance and other violations of state housing laws.
- AB 879 (2017) and AB 1397 (2017) require additional analysis and justification of sites listed on a local government's housing sites inventory, additional explanation of the realistic capacity of those listed sites, and further scrutiny of governmental and nongovernmental constraints that limit the production of housing.
- AB 686 (2018) requires local governments to Affirmatively Further Fair Housing (AFFH) by including in revised housing elements (1) an assessment of fair housing; (2) equitable distribution of housing to meet the needs of households at all income levels and dismantle segregated living patterns with integrated and balanced living patterns; (3) policies and programs that address fair housing barriers and promote fair housing patterns; and (4) a comprehensive, collaborative, accessible, inclusive, and equity-driven public engagement approach.
- AB 215 (2021) extends the housing element compliance review process by requiring local governments to make draft housing elements available for public review prior to submittal to State HCD rather than conducting concurrent review. The draft must be made publicly available for at least 30 days, and the local government must consider and incorporate public comment for at least 10 business days, before sending the draft to State HCD. AB 215 also increased State HCD's review period of the first draft element submittal from 60 to 90 days and within 60 days of its receipt for a subsequent draft amendment or adoption. However, the January 31, 2023, statutory deadline remains the same, even as these new requirements have significantly added to the time a city needs to complete the overall housing element update process.
- AB 1398 (2021) revises the consequences for local governments that do not meet the deadline for housing element adoption. Local governments must complete rezoning no later than one year from the statutory deadline for adoption of the housing element if that jurisdiction fails to adopt a housing element that State HCD has found to be in substantial compliance with state law within 120 days of the statutory deadline. The Town retains the three-year rezoning period if the housing element is adopted within 120 days of the statutory deadline.
- AB 1304 (2021) clarifies that a public agency has a mandatory duty to comply with existing Housing Element Affirmatively Furthering Fair Housing (AFFH) requirements. AB 1304 revises the items to be included in AFFH analysis and requires that analysis to be done in a specified

manner. In addition, the housing inventory must analyze the relationship of the sites identified in the inventory to the city's duty to affirmatively further fair housing.

The contents of this Housing Element comply with these amendments and all other requirements of Housing Element law.

## ENVIRONMENTAL REVIEW

An Environmental Impact Report (EIR) ~~will has been~~ prepared to identify and mitigate any significant adverse environmental effects that could result from implementation of the 2023-31 Town of Fairfax Housing Element. Consistent with the requirements of the California Environmental Quality Act (CEQA), a Notice of Preparation of an EIR ~~is being was~~ circulated in parallel with the Public Review Draft Housing Element to invite comments from public agencies and interested community members as to the scope and content of issues and alternatives that should be considered in the EIR. A public review Draft EIR ~~will be was~~ released in ~~Summer-September~~ 2023 for the legally-mandated 45-day public review period and a Final EIR responding to comments is being circulated in parallel with the Revised Draft Housing Element ahead of adoption hearings before the Planning Commission and Town Council in late 2023.

## Process for Updating the Housing Element

The 2023-31 Housing Element is a comprehensive update to the Housing Element of the General Plan, undertaken to accommodate the Town's share of the regional housing need and address new State law. Amid the ongoing housing shortage in California, Fairfax is required by law to plan for 490 new housing units over the next 8 years. As a community with relatively few vacant lots, steep topography, and significant areas of flood, wildfire, landslide, and liquefaction risk, accommodating new housing will require a thoughtful approach that integrates new homes to serve local needs while preserving Fairfax's village-like quality, with distinct neighborhoods, and large areas of surrounding visible open space.

## COMMUNITY INVOLVEMENT

Community outreach is essential to the Housing Element process. The Town of Fairfax aimed to create an inclusive, transparent, and proactive approach for broad participation, employing digital strategies during the COVID-19 pandemic. This public participation effort also includes formal consultation, pursuant to Government Code §65352.3, with representatives from nine Native American tribes that are present and active in the Marin County. Meetings with community stakeholders, including the Marin Wildfire Prevention Authority, Fairfax Age-Friendly Task Force, Town of Fairfax's Affordable Housing and Open Space Committees, Town of Fairfax Planning Commission, Chamber of Commerce, Center for Volunteer and Nonprofit Leadership, and local schools were also prioritized to identify their input. A summary of these engagement activities is described below:

- **Virtual/In-Person Community Workshops and Open House Meetings** – The Town held three community workshops, one in-person event, one virtual event via Zoom video conferencing, and one hybrid open house event to facilitate attendance by a wide variety of community members at key points of the process. The workshops offered background context to the project, including legal requirements, potential opportunity sites, and an introduction to online tools for engagement. Participants were encouraged to ask questions during the workshop and provide input on their housing needs. Community feedback informed decisions for the sites inventory and draft text, with the objective of ensuring the resulting documents are representative of the values and priorities of the community.

- Community Workshop #1: held on November 20, 2021, this event served to introduce the Housing Element Update project to 40 community members, specifically on how equity is factored into the process and what sites the inventory may include. The event included an interactive activity with a tool called Plan Fairfax Housing, where participants view the various sites under consideration, choose which sites community members would like to see future housing built, and visualize what housing in Fairfax could look like. Input from this event informed the development of the sites inventory for the Housing Element Update.
- **Community Workshop #2** – held on September 10, 2022, this in-person event served to engage the community and better understand how to respond to those wanting to live in Fairfax and to the housing needs of tenants, especially those at risk of displacement. The event featured an overview of the Housing Element update process, including background information on legal requirements and local conditions. There were breakout sessions, which included two group discussions respectively about racial equity and housing. Input from this event informed the development of the sites inventory and key strategies and programs for the Housing Element Update. Neutral facilitators were used for this in-person event.
- **Hybrid Community Open House** – held on April 19, 2023 during the public review period, this event introduced community members to the Draft Housing Element. Community members circulated to view display boards highlighting the sites map, inventory, environmental constraints, legal considerations, and key implementing programs. The same information was also made available digitally for those who participated via zoom. A presentation was made and there was time for questions, answers, and public comment on the draft. A summary of comments received at the meeting and a description of how the comments have been reflected in this Draft is included in Appendix F.
- **Townwide Mailer** – The Town sent postcards to every household in Fairfax to help to raise awareness of the project and the process and keep community members informed of status and key dates. The mailer announced the dates and times of the second Community Workshop held on September 10, 2022.
- **Digital Engagement** – To expand meaningful, robust, and inclusive community outreach efforts, the Town of Fairfax partnered with *Bang the Table*, providers of a digital community engagement platform. Using the *Bang the Table* platform, the Town developed a week-by-week interactive engagement plan that offered flexible options to community members to share their ideas and opinions at every stage of the Housing Element update. Residents had the option to sign up for regular 1-5p dates or register to have full access to the interactive platform functions, such as mapping exercises, “virtual post-it notes,” photo-sharing, surveys, Q&A, and forums.

Engagement tools were located on a dedicated website for the Housing Element update. In addition, the website provided background information on key concepts, milestone tasks, and housed relevant documents to provide updated information on progress to the community. Webpages were offered in a Spanish translation. Content from the webpage has since been migrated to the Town’s website.

- **Promotion Tools** – At various points of the process, the Town employed additional outreach materials through paper and digital promotion. Strategies used to reach a broad audience across the community included press releases in the *Marin Independent Journal*, Town Newsletter, and on the Town Facebook page, in addition to street banners, paper inserts in water bills, and bulletin board notices and business cards at the Town Hall, Post Office, the Fairfax Library, Good Earth Natural Foods and Fairfax Market. In addition, the Town increased visibility of the Housing

Element update by holding an information booth at the local Fairfax Farmer's Market and provided a survey to attendees related to housing needs.

- **Affordable Housing Committee** – Several years ago, the Town Council established the Affordable Housing Committee to help address the need for sound policymaking in affordable housing through discussions of issues among members of the community with professional experience in the area affordable housing. This Committee met five times in 2021, on January 7, May 6, July 13, September 8, and November 9, to discuss the various components of the Housing Element Update. Topics include “Missing Middle” housing approach, ensuring compliance with AB 686 (Affirmatively Furthering Fair Housing), site analysis and inventory, and outreach and engagement.
- **Town Council Housing Element Subcommittee** – The Council formed a subcommittee of two of its members to work with Town staff and the Housing Element consultants to review key draft documents and approaches of the Housing Element during its development.
- **Decision-Maker Review** – A series of study sessions before the Town Council were held as the components of the Housing Element were developed and refined, to provide additional opportunity for public input and decision-maker review. The Draft Housing Element will be released for a 30-day public review period by the end of March 2023. Upon the close of the public review period, the Draft Housing Element and public comments received will be present to the Town Council. Following review of the Draft by the California Department of Housing and Community Development (HCD), public hearings will be scheduled for review and adoption of the Housing Element.

## Organization of the Housing Element

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The Housing Element is an integrated part of the General Plan, published under separate cover. It is an eight-year plan that is updated more frequently than other General Plan elements to ensure its relevancy and accuracy. The Housing Element consists of the following major components organized as described below:

- **Chapter 1 – Introduction:** An introduction to the purpose of the document and the legal requirements for a Housing Element, together with an overview of the community and the community involvement process.
- **Chapter 2 – Community Profile:** Documents population characteristics, housing characteristics, and current development trends to inform the current housing state of Fairfax and to identify community needs.
- **Chapter 3 – Adequate Sites for Housing:** An inventory of adequate sites suitable for construction of new housing sufficient to meet needs at all economic levels.
- **Chapter 4 – Housing Action Plan:** Articulates housing goals, policies, and programs to address the Town's identified housing needs, including those of special needs groups and the findings of an analysis of fair housing issues in the community. This Housing Element identifies a foundational framework of five overarching goals to comprehensively address the housing needs of Fairfax residents and workers.
- Appendices

- **Appendix A – Sites Inventory:** Summarizes the Town’s ability to accommodate the RHNA on available land, and the selection of sites in light of Affirmatively Furthering Fair Housing (AFFH) requirements.
- **Appendix B – Housing Needs Assessment:** Presents community demographic information, including both population and household data, to identify Fairfax’s housing needs.
- **Appendix C – Constraints Analysis:** Includes an analysis of constraints to housing production and maintenance in Fairfax. Constraints include potential market, governmental, and environmental limitations to meeting the Town’s identified housing needs. In addition, an assessment of impediments to fair housing is included, with a fuller analysis of actions needed to affirmatively further fair housing included in a separate appendix.
- **Appendix D – Accomplishments of the 2015-2023 Fairfax Housing Element:** Summarizes the Town’s achievements in implementing goals, policies, and actions under the previous Housing Element.
- **Appendix E – Fair Housing Assessment:** Identifies fair housing issues and solutions to meet Fairfax’s AFFH mandate.
- **Appendix F – Public Outreach Materials:** Includes meeting materials, community comment letters, and outreach summaries.
- **Appendix G – Reference Multifamily Projects in Marin County:** A survey of recently constructed or approved multifamily housing projects in Marin County to inform capacity projections for housing production in Fairfax over the planning period.

## General Plan Consistency

State law requires that the General Plan and all of its elements comprise an integrated, internally consistent, and compatible statement of policies. The Town of Fairfax 2010-2030 General Plan was adopted in 2012 and revised in 2015 for consistency with the Housing Element, which was certified and adopted in the same year. The 2010-2030 General Plan identifies the following overarching objectives and key actions:

- Establish a public process to create a new Town Center Plan;
- Preserve the historic nature, visual aesthetic, and vibrant business community of the downtown area while incorporating residential uses, to reduce automobile use and encourage public transit and bicycle and pedestrian transportation modes;
- Catalog and preserve open space areas in and around the Town;
- Adopt a Climate Action Plan and create a new Town committee to reduce greenhouse gas emissions by the Town and its residents;
- Achieve zero waste generation by 2025;
- Develop design and construction guidelines by the Town Department of Planning and Building Services.

The 2023-31 Housing Element is broadly consistent with the overarching objectives of the 2010-30 General Plan; however, some amendments to the Land Use, Town Center, and Safety Elements will be needed to maintain consistency. These amendments are planned as part of Phase 2 of the project, which is anticipated to be completed in the spring of 2024. Zoning amendments needed for implementation of the 2023-31

Housing Element are proceeding in parallel with finalization of the Housing Element and are scheduled for adoption hearings before the Town Council in January 2024. Following is a discussion of general plan consistency and a summary of General Plan amendments that will be implemented as part of Phase 2.

The Land Use Element is organized around nine goals that seek to preserve and enhance open space and natural resources; minimize impacts from wildfire; preserve Fairfax's human-centered scale and sense of community; and promote diversity through affordable housing opportunities primarily along transit corridors. The 2023-31 Housing Element includes numerous programs that seek to integrate and promote multifamily and workforce housing along Sir Francis Drake Boulevard, the Town's primary transit route. Specifically, Program 2-A involves the creation of a new Workforce Housing Overlay to provide property owners in the CL, CH, and CC zones which occur primarily along Sir Francis Drake with the option to redevelop their land with housing or mixed use projects should they elect to do so. Additionally, Programs 1-D and 1-E involve zoning amendments to facilitate the development of shopkeeper housing and live-work units in these commercial zones that cater to the needs of entrepreneurs and artisans in Fairfax. Through Program 3-E, which was implemented in 2023, the Town adopted inclusionary zoning requirements and a commercial linkage fee, which will help ensure that development projects of three units or more involves the construction of affordable housing units or the payment of in lieu fees that can be used for that purpose. In total, approximately 63 percent of the capacity of the inventory would be located along Sir Francis Drake Boulevard and in the Town Center area, resulting in a compact, walkable development pattern that supports communitywide goals for vibrant downtown businesses, human-centered scale, reduced automobile use, and increased use of active transportation and transit.

The remainder of the inventory facilitates construction of single-family housing and ADU/JADUs on properties already zoned for residential development, albeit with provisions that would seek to preserve and enhance open space and natural resources. Program 2-D in the 2023-31 Housing Element involves amending zoning regulations to permit low impact clustered residential development on large residentially zoned sites with adequate access, utility services, and topography that might accommodate it. These amendments would not increase the density permitted in the base zoning, rather they would allow for clustering of the housing on relatively flatter portions of the sites while preserving the majority of the site area as open space. Clustered development would focus roadway and utility infrastructure within smaller areas of the sites, minimizing potential environmental impacts, reducing development costs, and facilitating production of market rate housing as needed to meet the Town's RHNA obligations. The amendments would also involve standards to protect viewsheds and ridgelines, require water-efficient landscaping, and require building techniques and materials to mitigate the risk of loss and damage due to wildfire. As such, the Housing Element is consistent with objectives for open space and natural resource preservation, wildfire risk mitigation, and GHG emissions reduction contained in the Land Use, Open Space, and Safety Elements. While the 2023-31 Housing Element is consistent with the key objectives of the Land Use Element as described above, there are some programs in the Land Use Element related to housing which have been completed or which direct zoning changes that were intended for implementation of the Fifth Cycle Housing Element but have now been superseded. These programs will be removed as part of Phase 2 of the project, scheduled for the spring of 2024.

The Town Center Element, originally adopted in 2003, presents a framework to guide urban design, circulation improvements, and open space in an area that extends from the eastern end of town along Sir Francis Drake to Olema, encompassing downtown Fairfax. As described above, the 2023-31 Housing Element is consistent with objectives for walkability, pedestrian orientation, and thriving local businesses. Additionally, Program 1-A in the Housing Element calls for the adoption of a Town Center Plan echoing Goal TC-3 from the Town Center Element; however, certain policies in the Town Center Element which restrict building heights to two stories are not consistent with the 2023-31 Housing Element and will be amended as part of Phase 2. These include policies 2.1-1 and 2.1-2 in the Town Center Element.



In 2012, the Town adopted a Local hazard Mitigation Plan (LHMP), which implements the Federal Emergency Management Agency's (FEMA) Mitigation Planning regulations (44 CFR 201), the federal Disaster Mitigation Act of 2000, and the Floodplain Management Plan requirements of FEMA's Community Rating System (CRS). The Town is required to have a FEMA-approved hazard mitigation plan to be eligible for disaster recovery assistance and mitigation funding. The LHMP was updated in 2017 and approved by the California Office of Emergency Services (CAL-OES) and FEMA. In parallel with the 2023-31 Housing Element Update, the Town has initiated an update to the Safety Element of the Ross General Plan, which is anticipated for adoption in the spring of 2024. The updated Safety Element will incorporate new data, information, and maps related to flood, wildfire, landslide, and seismic hazards, as well as the findings of a regional emergency evacuation capacity analysis being conducted by the Marin Wildfire Prevention Authority (MWPA) in view of housing sites identified by Ross and other Central Marin County jurisdictions as part of their 2023-31 Housing Element Updates.

This 2023-31 Housing Element builds upon the Town's current, adopted General Plan and is consistent with its goals, policies, and implementation actions. Through implementation of Programs 5-A and 5-B in this Housing Element, the Town will continue to review the General Plan and Housing Element annually for internal consistency as amendments are proposed and adopted.