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***Memorandum***

**City Council/Planning Commission
Staff Report**

**Date: \_\_\_\_\_\_\_\_\_, 2021**

This staff memo is an introduction to the upcoming 2023-2031 Housing Element Update for the city/town of \_\_\_\_. The memo provides background information on state requirements as well our local process and timeline. Every eight years, every city, town and county must update the Housing Element of their General Plan and have it certified by the California Department of Housing and Community Development (HCD).

**Background**

At its core a Housing Element is an opportunity for a community conversation about how to address local housing challenges and find solutions. The Housing Element addresses a range of housing issues such as affordability, design, housing types, density and location, and establishes goals, policies and programs to address existing and projected housing needs. The Housing Element must be internally consistent with other parts of the General Plan and is critical to having a legally adequate General Plan.

State law does not require that jurisdictions *build* or *finance* new housing, but they must *plan* for it. It is in the community’s Housing Element that local governments make decisions about where safe, accessible, and diverse housing could be developed to offer a mix of housing opportunities for a variety of household incomes. The Housing Element must identify how the city will meet its share of the region’s housing need, called the Regional Housing Needs Allocation, or RHNA.

**Key Components of a Housing Element**

The Housing Element typically includes:

1. **Housing Needs Assessment**: Examine demographic, employment and housing trends and conditions and identify existing and projected housing needs of the community, with attention paid to special housing needs (e.g., large families, persons with disabilities).
2. **Evaluation of Past Performance**: Review the prior Housing Element to measure progress in implementing policies and programs.
3. **Housing Sites Inventory**: Identify locations of available sites for housing development or redevelopment to ensure there is enough land zoned for housing to meet the future need at all income levels.
4. **Community Engagement**: Implement a robust community engagement program, reaching out to all economic segments of the community plus traditionally underrepresented groups.
5. **Constraints Analysis**: Analyze and recommend remedies for existing and potential governmental and nongovernmental barriers to housing development.
6. **Policies and Programs**: Establish policies and programs to be carried out during the 2023-2031 planning period to fulfill the identified housing needs.

**Penalties for Noncompliance**

Jurisdictions face a number of consequences for not having a certified Housing Element. Under legislation enacted in recent years, if a city does not comply with State housing law, it can be sued – by individuals, developers, third parties or the State. In addition to facing significant fines, a court may limit local land use decision-making authority until the jurisdiction brings its Housing Element into compliance. Additionally, local governments may lose the right to deny certain projects.

Conversely, an HCD-certified housing element makes cities eligible for numerous sources of funding, such as Local Housing Allocations, Affordable Housing and Sustainable Communities Grants, SB 1 Planning Grants, CalHOME Program Grants, Infill Infrastructure Grants, Pro-Housing Design funding, Local Housing Trust Funds, Regional Transportation Funds (such as MTC’s OneBayArea Grants).

**Regional Housing Needs Allocation (RHNA) Process**

Every city in California receives a target number of homes to plan for at various income levels. This is called the Regional Housing Needs Allocation (RHNA).

Conceptually, RHNA starts with the Regional Housing Needs Determination (RHND) provided by HCD, which is the total number of housing units the San Francisco Bay Area needs over the eight-year period, by income group. The Association of Bay Area Governments (ABAG) is tasked with developing the methodology to allocate a portion of housing needs to each city, town, and county in the region. After considering public comments, the ABAG Executive Board approved the draft RHNA methodology in January 2021.

The State HCD reviewed the draft RHNA methodology to ensure it furthers state required objectives, and in May 2021 ABAG adopted a final methodology and draft allocations for every local government in the Bay Area. ABAG is currently considering appeals which were filed by the deadline and will issue the final allocations by the end of 2021.

The draft RHNA allocations for the City/Town of \_\_\_\_\_\_ are as follows:

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| **2023-2031 Draft RHNA Allocation** |
| **City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_-** |
| Income Level |  |
| VERY LOW INCOME (<50% of Area Median Income)  |  |
| LOW INCOME(50-80% of Area Median Income)  |  |
| MODERATE INCOME (80-120% of Area Median Income)  |  |
| ABOVE MODERATE INCOME(>120% of Area Median Income  |  |
| **TOTAL ALLOCATION** |  |

The City/Town of \_\_\_\_\_\_\_\_\_\_\_ did/did not appeal the draft RHNA allocation. [INSERT DESCRIPTION OF BASIS OF APPEAL, IF ANY.]

**New Requirements for this Housing Element Update**

Recent legislation resulted in the following key changes for this 6th cycle of RHNA and Housing Element updates:

* **Higher allocations -** There is a higher total regional housing need. HCD’s identification of the region’s total housing needs has changed to account for unmet existing need, rather than only projected housing need. HCD now must consider overcrowded households, cost burdened households (those paying more than 30% of their income for housing), and a target vacancy rate for a healthy housing market (with a minimum of 5%).
* **Affirmatively Furthering Fair Housing (AFFH) -** Local Housing Elements must affirmatively further fair housing. According to HCD, achieving this objective includes preventing segregation and poverty concentration as well as increasing access to areas of opportunity. HCD has mapped Opportunity Areas and has developed guidance for jurisdictions about how to address affirmatively furthering fair housing in Housing Elements.
* **Limits on Sites -** Identifying Housing Element sites for affordable units will be more challenging. There are new limits on the extent to which jurisdictions can reuse sites included in previous Housing Elements and increased scrutiny of small, large, and non-vacant sites when these sites are proposed to accommodate units for very low- and low-income households.
* **Safety and Environmental Justice Element -** State law requires that the Safety Element of the General Plan be updated concurrently with the Housing Element. The Safety Element must address new wildfire, evacuation routes, and climate adaptation and resilience requirements in an integrated manner. When two or more general plan elements are updated, jurisdictions with disadvantaged communities must address Environmental Justice, either in a stand-alone element or as a cross-cutting topic across multiple elements.

**New Resources Available This Cycle**

Additional resources are available to jurisdictions this cycle. In 2020, the State provided funding to the ABAG to assist local jurisdictions in adopting compliant Housing Elements. Among the resources ABAG has made available are a Housing Element Site Selection “HESS” Toolthatidentifies potential sites in all Bay Area cities and counties for Housing Element site inventories. Housing Element Data Packetscompiled by ABAG staff contain over 60 data points related to each jurisdiction’s Housing Element.

Additionally, ABAG has identified funding to support Bay Area **Planning Collaboratives** to spark a culture of innovation via peer-to-peer learning, sharing of best practices and lessons learned. Localities in each county can pool resources to hire consultants, share research, and jointly produce templates for staff reports, graphics, and presentations. ABAG also will sponsor **Peer Cohorts** for jurisdictions sharing similar planning challenges, such as agricultural towns that need to plan for farm labor housing, or areas facing high risk of wildfire or sea-level rise.

ABAG has also suballocated $\_\_\_\_\_ of Regional Early Action Planning (REAP) grant funds to the City/Town of \_\_\_\_\_. These funds will be used for [INSERT DESCRIPTION].

For more information about ABAG’s Regional Housing Technical Assistance Program visit: <https://abag.ca.gov/our-work/housing/housing-technical-assistance-program>

**Draft Housing Element Timeline for City of \_\_\_\_\_\_\_\_**

An updated Housing Element is required to be reviewed by HCD and adopted by the City Council by January 2023. It is preferable to complete any required rezonings before or concurrent with the Housing Element update. If the rezone is not in place at the time of adoption, there are a number of limits on sites. This includes 1) lower income housing sites with some affordable units must be entitled to by right approval and 2) cities cannot use small sites.

The attached timeline lays out the process for updating *[city’s]* Housing Element.

[See <https://abag.ca.gov/sites/default/files/documents/2021-04/Hsg%20Element%20Timeline.xlsx> for a sample timeline from ABAG]

**Next Steps**

Staff has been working as part of a county collaborative to share resources and coordinate work. We propose to start our Housing Element in (\_date\_). We have attached an engagement plan to provide opportunities for public engagement, including working with you and your staffs to schedule appropriate workshops or other activities.