

Equitable Zoning Referral: Frequently Asked Questions

Where can I learn more about this?

- The resolution passed unanimously by Berkeley City Council to undo exclusionary zoning can be found [here](#).
- An overview of the proposed community process and zoning recommendations up for consideration is detailed [here](#).
- For background on zoning history, listen to KQED's podcast about Berkeley's zoning reform efforts [here](#). UC Berkeley's Othering and Belonging Institute also reviews zoning reform efforts in the Bay Area [here](#). The New York Times also recently wrote about how this is a shift for Berkeley [here](#). [Berkeleyside](#), [the San Francisco Chronicle](#), [the Economist](#), and many other news organizations have discussed these efforts as well.

Why is zoning reform being considered now across the Bay Area?

In 2021, the Association of Bay Area Governments (ABAG) passed a draft of the region's new Regional Housing Needs Allocations (RHNA), which identify the amount of housing each jurisdiction must provide to accommodate future needs. In order to comply with state law, Berkeley needs to zone for ~9,000 units and update the City's Housing Element. As a result, it is critically important to pursue equitable zoning throughout Berkeley in order to fulfill Berkeley's RHNA numbers. The ABAG report, which outlines the RHNA methodology and allocations is [here](#).

At a time of national discourse about race and equity, this is also an opportunity to address inequities in Berkeley's own zoning code, as highlighted by [UC's Belonging and Othering Institute](#). Local zoning reform can have the biggest impact on addressing issues that are important to our community such as homelessness, affordable housing, climate change, and traffic.

What is a Housing Element?

A Housing Element is required by state law and provides an analysis of a community's housing needs for all income levels, and strategies to respond to provide for those housing needs. You can learn about Berkeley's last Housing Element (for 2015-2023) [here](#).

What about community input?

We want extensive community input and have asked for a 18 month process. As required by state law, city staff, along with professional consultants, *already* MUST undertake an extensive community process to ensure that the Housing Element reflects our community values. Since Council has to adopt the new Housing Element update by

December of 2022, authors Droste, Arreguín, Kesarwani, and Taplin **seek to allow for additional months** of community engagement due to the new large state-mandated housing unit allocations. By starting the conversation now, **we are actually allowing more public input** and community process. Most cities will begin these conversations in the Fall. In 2019, City Council began discussions on missing middle housing and unanimously agreed to study how we can allow for more missing middle housing in our community.

During the Housing Element update, staff and professional consultants will consult with the broader community in various forums. The Planning Commission will engage with the public with input from the commissions working on issues around the environment, housing, homelessness, disability, equity, and health. Local neighborhood, environmental, student, housing, and climate organizations along with the Berkeley Rent Stabilization Board, housing providers, sensitive communities, and a broad cross-section of residents will be consulted as well.

What is missing middle housing?

1. A range of clustered or multi-unit housing types often similar in size, scale, and design to single-family homes.
2. Housing types that are naturally affordable and less expensive than most housing options available within Berkeley.

Missing middle housing generally has small- to medium-sized footprints and are often two stories or less, allowing them to blend into the existing neighborhood while still encouraging greater socioeconomic diversity. Most types of missing middle housing are currently prohibited in areas zoned R1, R1A, and R2.

Is it a “sweeping and radical” change to consider updating our zoning codes in formerly R-1 Single Family Residential areas?

Not at all. Currently, state law already allows for three units on most residentially-zoned parcels—a main home, an accessory dwelling unit (ADU), and a junior accessory dwelling unit (JADU). David Garcia, housing policy director for UC Berkeley’s Turner Center for Housing Innovation even has said that potential changes to currently single family zoned areas are so incremental that [“It's going to take 10, 20 years for anyone to really notice that there are duplexes and triplexes in neighborhoods that didn't used to have them before.”](#) Not only that, we must consider various ways in which our community can zone for 6,000 more housing units in order to comply with state law.

Sacramento legislators are currently pursuing an additional change to allow an additional division of a home totaling four units on one lot (JADU, ADU, duplex). The

League of California Cities also recommends allowing smaller missing middle housing in their [Blueprint for More Housing](#) listing ‘allowing up to fourplexes in single family zones’ as a near-term action to take. Oakland, Sacramento, San Francisco, and many other cities are examining this as a strategy to address their housing needs.

This proposal does **not** mean that anyone is barred from purchasing or living in a single family home. In fact, many people currently live in single family homes in areas that are zoned for multiple units and don’t even realize it.

Will this mandate four units everywhere?

Not necessarily. *Currently*, most people don’t know that three units are already allowed on most residential parcels because of state laws permitting accessory dwelling units and junior accessory dwelling units. For example, duplexing a house is not currently permitted in R-1. Although an owner can build an ADU and/or a JADU, it is not the same as a duplex because a JADU is not recognized as a separate dwelling. We seek to allow additional zoning flexibility on eligible properties that comply with basic safety, building scale, and other standards.

What about out-of-scale homes in residential neighborhoods?

Missing middle housing is fundamentally about built form and appropriate scale using form-based codes, which focuses on building facade and exterior in relation to its public space. This referral requests that the Planning Commission consider form-based zoning so we can address concerns with scale and bulk. The intent of missing middle housing is **not** to promote out-of-scale homes in residential neighborhoods, nor has it ever been. This referral seeks to allow modest density that blends in with its surroundings.

What about public safety?

The City *always* considers safety parameters when undergoing zoning revisions. Public safety is our primary concern and is already currently embedded in our regulations that govern *any* zoning changes, including a ‘[Disaster Preparedness and Safety](#)’ element within Berkeley’s General Plan which was further updated with an appendix on [Local Hazard Mitigation](#).

Furthermore, several statewide resources –[Fire Hazard Planning Technical Advisory](#) and [Cal Fire’s Land Use Planning Program](#), assist the city in planning efforts to properly mitigate fire hazards in wildland-urban interface, as well as other potential disasters. Potential housing constraints and hazards are also routinely considered and planned for during [Berkeley’s Housing Element](#) discussion. Additionally, Housing Element updates and major zoning revisions are subject to California’s Environmental Quality Act

(CEQA). CEQA analysis takes into account the environmental impact of proposed projects on a variety of factors, including wildfire, water quality, air quality, and hazards.

We understand that our current regulations which already govern zoning changes and building standards may not be readily known, but please know we take fire safety and climate change very seriously. This proposal is an important step we can take to combat climate change and global warming. That is why we have environmental organizations and even a Nobel prize winner in climate research supporting this proposal.

Nevertheless, this proposal also includes two very explicit clauses to address concerns regarding fire safety:

- “That the development is not located in areas that would contribute to increased life loss or injury based on objective geological, seismic, or wildland-urban interface fire safety standards.”
- “That the development is not located in areas with substandard emergency vehicular access, inadequate water pressure, or that are exceptionally vulnerable to severe damage or destruction from fire and earthquake hazards based on objective geological, seismic, or wildland-urban interface fire safety standards.”

There should be **objective** standards in which to assess dangers in our community.

Will this legislation increase displacement?

According to anti-displacement experts, **this proposal could help stop displacement.** Nationally recognized anti-displacement expert professor Karen Chapple from UC Berkeley’s Urban Displacement Project strongly supports this legislation. See her letter regarding efforts to end exclusionary zoning [here](#).

This proposal has garnered support from affordable housing advocates because current zoning regulations prohibit affordable housing in almost half the city. A [displacement risk analysis from Portland](#) showed that a similar zoning reform proposal could reduce displacement of low-income renters up to 28%.

What does zoning reform have to do with housing costs?

Everything! The nonpartisan Legislative Analyst's Office [wrote extensively](#) about why California has high housing costs because of restrictive zoning policies. The McKinsey Global Institute wrote about it [here](#). There is overwhelming evidence that ties zoning with high housing costs. Even the Obama administration cited it in their [toolkit](#).

Is it really a more affordable option?

Yes! *Our existing zoning bars the creation of affordable housing in the majority of Berkeley. We want to change that.* Additionally, according to the U.S. Census American Community Survey, newly built missing middle housing like duplexes, triplexes, and fourplexes more often houses middle and lower income families in Berkeley, while single-family homes, no matter what year built, are exclusively higher income.

Median household income, Berkeley & Albany, by building age & type					
	Pre-1950	1950-1969	1970-1989	1990-2004	2005-
Single-family detached	148,590	139,295	107,081	131,004	148,835
Single-family attached	84,903	126,930	96,233	167,025	134,460
2-4 units	79,012	63,973	53,335	45,403	48,691
5-19 units	46,037	41,104	39,811	42,243	27,950
20+ units	25,628	42,319	41,387	23,585	40,518

Source: American Community Survey, 2014-18, Public Use Microdata Set, US Census.

One home within missing middle housing forms is less expensive than comparable single family homes, leading to greater accessibility to those earning median, middle, or lower incomes. The median price of a single family home in Berkeley is \$1.4 million, which is out of reach for the majority of working people.

We also want to maximize opportunities for the development and preservation of Below Market Rate (BMR) units in a manner which is financially feasible. Considerations may include, but is not limited to density bonuses, Affordable Housing Trust Fund fees, overlays, zoning or streamlining incentives. Additionally, the equitable residential zoning recommendations permits other affordability models, like social housing, land trusts, or cooperatives, in many areas where it is currently barred.

I don't care about density but I hate ugly buildings. What about design?

We care about design too. We highly recommend you read this [oped](#). It talks about form based codes, which we have asked the Planning Commission to consider.

There are so many beautiful examples of missing middle housing that are subtle and not highrise apartments. This has always been the aim of this legislation and we ask our Planning Commission to consider this and revisions to connect with the existing look of our neighborhoods.

With any zoning changes, it is important to consider scale and adopt thoughtful development standards in the zoning code in order to manage maximum building

height, building spacing, open space, and privacy, such as through form-based codes. Adaptive reuse and contextual addition should be incentivized.

Additionally, any development that is located within a historic district should be sensitive to surrounding historic resources and not demolish or damage a structure or place that is included in the State Historic Resources Inventory or National Register of Historic Places, or is legally designated or listed as a city or county landmark or historic property.

What about tenants?

We incorporated strong tenant protections written by the Mayor, including

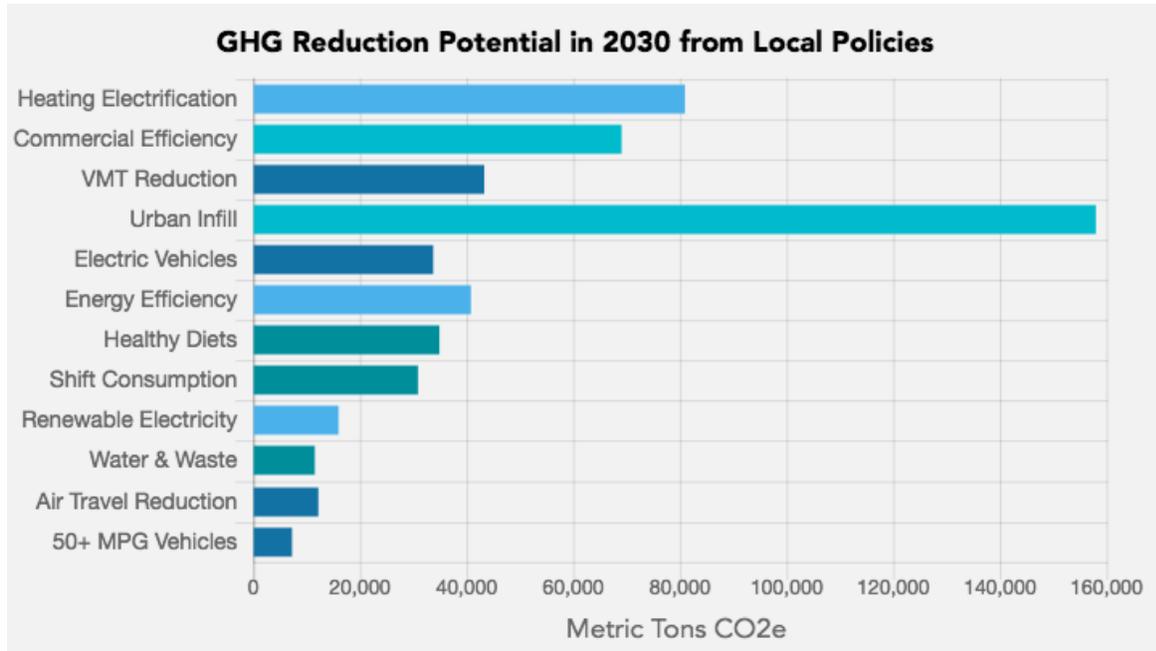
- disallowing demolitions of affordable housing
- right to return and relocation benefits for sitting tenants
- special prohibitions for properties with verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years

The referral also requests that prior to adoption of zoning or municipal code changes pursuant to this item, a displacement risk analysis be conducted.

What does this have to do with climate change?

Urban sprawl and massive commutes and traffic are contributing to climate change. . By allowing people to live in the communities in which they work, we are helping to prevent climate change and reducing traffic. It's one of the most important things we can do. In 2018, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a comprehensive consumption-based perspective. The [most impactful local policy](#) to potentially reduce greenhouse gas consumption by 2030 is urban infill. Dan Kammen, a Nobel Prize Winner for his work as part of the Intergovernmental Panel on Climate Change, supports the legislation we are putting forward. We have broad support of pedestrian advocates and environmental

organizations as well.



Will this legislation increase speculation and demolition?

We have requested standards to preserve historic fabric and character of public street elevations and home facades. We are also committed to making sure speculation doesn't occur and growing evidence tells us that it is unlikely. For example, some people have expressed that single family homes will be bought, torn down, and a fourplex will be built in its place. Several builders have indicated that the margins of creating missing middle housing are actually quite thin and the bureaucratic obstacles are large. Even though we believe it's unlikely, we are committed to creating parameters so that predatory purchasing is addressed and have asked the Planning Commission consider this issue.

We are asking our Planning Commission to explore how these concerns around speculation and demolition can be addressed.

What does zoning have to do with high housing costs?

Everything. The nine-county Bay Area region is facing an extreme shortage of homes.

- The Bay Area has a massive [job-housing imbalance](#). Only one home is added for every 3.5 jobs created in the Bay Area region.
- California [ranks 49th in the United States](#) for housing units per capita – only Utah creates fewer homes.

- Governor Gavin Newsom has called for a “Marshall Plan for affordable housing” and has pledged to create millions of more homes in California to tackle the state’s affordability and homelessness crisis.

As our population grows without enough housing, home prices increase. In Berkeley, the median sale price of a home is [\\$1.4 million](#)—an increase of 56% over the median sale price in December 2015 of \$895,000.

These skyrocketing housing costs put extreme pressure on low-, moderate- and middle-income households, as they are forced to spend an increasing percentage share of their income on housing (leaving less for other necessities like food and medicine), live in overcrowded conditions, or endure super-commutes of 90 minutes or more in order to make ends meet.

What does zoning have to do with homelessness?

In order to act in accordance with [best practices research](#) on alleviating homelessness and help homeless individuals get housed, the City needs to create more homes. [Tighter housing markets are associated with higher rates of homelessness](#), indicating that the creation of additional housing for all income levels is key to mitigating the crisis.

In Berkeley’s very own [1,000 Person Plan to Address Homelessness](#) recommends that Council prioritizes “implementing changes to Berkeley’s Land Use, Zoning, Development Review Requirements for new housing with an eye toward alleviating homelessness.”

What does racial and economic exclusion have to do with zoning?

The connection between exclusionary zoning and racial and economic exclusion [has been well-established](#). In 2020, KQED wrote about Berkeley’s Elmwood neighborhood specifically and the [racist history of single family zoning](#) that impacted the area.

Berkeley City Council unanimously adopted a [Resolution to Eliminate Exclusionary Zoning](#). The background section of the resolution cites several studies examining this issue.

Why is exclusionary zoning getting so much press recently?

While there is extensive academic literature correlating land use restrictions with housing costs, the racial and economic exclusionary elements of land use controls entered prominently into national discourse in 2020.

During the 2020 Presidential campaign under the guise of “protect[ing] America’s suburbs,” Celebrity Apprentice host and former President Donald Trump and his Housing and Urban Development Secretary Ben Carson [expressed a concern](#) that removing exclusionary zoning laws would prevent single family home ownership and “destroy suburbs” despite the fact that these reforms don’t bar single family home construction. Furthermore, exclusionary zoning practices were amplified with Trump’s termination of the 2015 Obama-era Fair Housing rule which outlawed discrimination in housing. In doing so, Trump fearmongered by saying that Democrats wanted to “eliminate single-family zoning, bringing who knows who into your suburbs, so your communities will be unsafe and your housing values will go down.”

On the other hand, Democratic Presidential candidates embraced zoning reform, most notably Elizabeth Warren and Cory Booker. President Biden has also indicated that he plans to [invest \\$300 million](#) in local housing policy grants to give communities the planning support they need to eliminate exclusionary zoning. We hope that one day Berkeley will also be able to benefit from these grants to promote fair housing practices.