

RESOLUTION NO. 027-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLINGAME TO AMEND THE 2023-2031 CITY OF BURLINGAME HOUSING ELEMENT, IN COMPLIANCE WITH STATE HOUSING ELEMENT LAW; CEQA DETERMINATION: ADDENDUM TO GENERAL PLAN ENVIRONMENTAL IMPACT REPORT ADOPTED DECEMBER 18, 2023

WHEREAS, the California Legislature has found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives” (Gov. Code Section 65589.5.); and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the City of Burlingame (the City) adopt a housing element for the eight-year period 2023-2031 to accommodate the regional housing need allocation (RHNA) assigned to the City by the Association of Bay Area Governments of 3,257 housing units, comprised of 863 units affordable to very-low income households, 497 units affordable to low-income households, 529 units affordable to moderate-income households, and 1,368 units affordable to above moderate-income households; and

WHEREAS, to comply with State Housing Element Law, the City has prepared a 2023-2031 Housing Element (the “Housing Element”) in compliance with State Housing Element Law and has identified sites that can accommodate housing units meeting the City’s RHNA; and

WHEREAS, on November 15, 2023 the City received a letter from the State of California Department of Housing and Community Development (HCD) stating that the draft Housing Element, along with revisions, meets the statutory requirements and that the Housing Element will substantially comply with Housing Element Law when it is adopted, submitted to, and approved by HCD, in accordance with Government Code Section 65585; and

WHEREAS, based on HCD’s November 15, 2023 correspondence, on December 18, 2023, the City Council conducted a duly and properly noticed public hearing to take public testimony and consider the proposed Housing Element, reviewed the Housing element and all pertinent maps, documents and exhibits, including HCD’s findings, the City’s response to HCD’s findings, the staff report and all attachments, and oral and written public comments, and subsequently adopted Resolution No. 154-2023, which amended the General Plan to repeal the 2015-2023 Housing Element and adopt the 2023-2031 Housing Element; and

WHEREAS, at the same December 18, 2023 hearing, in its consideration of the Housing Element, the City Council considered an Addendum to the General Plan Environmental Impact Report (EIR) finding that based upon the evidence submitted and as demonstrated by the analysis included in the Addendum, none of the conditions described in Section 15162 and 15163 of the State CEQA Guidelines calling for the preparation of a subsequent or supplemental Environmental Impact Report have occurred, and therefore adopted the Addendum, also pursuant to Resolution No. 154-2023; and

WHEREAS, subsequent to City Council adoption, City staff submitted the adopted Housing Element to HCD for final approval; and

WHEREAS, in a letter of February 23, 2024, HCD staff has requested that Implementation Program H(A-6) be revised as follows:

Program H(A-6): Use-By-Right Permitting for Sites Identified in Last Planning Cycle

Use-by-right approval of housing projects with at least 20 percent of units affordable to lower-income households is required on 1) nonvacant sites previously identified in the 5th cycle housing element, and 2) vacant sites previously identified for both the 5th and 4th cycle housing elements pursuant to AB 1397 (2017). The City's sites subject to this provision are already zoned at the specific density set forth in the statute (i.e., default density of at least 20 units per acre) and rezoning of these sites is not required.

Upon adoption of the Housing Element and in compliance with state law, the City shall ensure sites identified for housing in the Suitable Sites Inventory in the 4th and 5th cycles allow use-by-right approval for housing developments pursuant to Government Code §65583.2(i) when 20 percent or more of the units are affordable to lower income households.

“Use-by-right” means that the City review is ministerial and therefore the project must not require a conditional use permit or other discretionary review or approval that would constitute a “project” as defined in CEQA. A local ordinance can provide that “use-by-right” does not exempt the use from design review, consistent with the Municipal Code mandate for design review, but the design review must be objective in accordance with Government Code §65589.5 (f).

and the City Council wishes to amend the Housing Element accordingly; and

WHEREAS, on March 4, 2023, the City Council conducted a duly and properly noticed public hearing to consider this Resolution regarding the proposed amendment to the Housing Element.

NOW, THEREFORE, BE IT RESOLVED, based on substantial evidence in the record:

1. The foregoing recitals are true and correct and are incorporated by reference into this action.
2. In its adoption of the Housing Element as amended, the City Council considered the Addendum to the General Plan EIR and found that based upon the evidence submitted and as demonstrated by the analysis included in the Addendum, none of the conditions described in Section 15162 and 15163 of the State CEQA Guidelines calling for the preparation of a subsequent or supplemental Environmental Impact Report have occurred, and therefore adopted the Addendum pursuant to Resolution No. 154-2023, and finds that based on the evidence submitted, none of the conditions described in Sections 15162 and 15163 of the State CEQA Guidelines calling for the preparation of a subsequent or supplemental Environmental Impact Report have occurred, and therefore no additional CEQA review is required as a result of the amendment to the Housing Element.

3. The City Council makes the following findings:

- a. The amendment is internally consistent with all other provisions of the General Plan.

The Housing Element as amended is consistent with the General Plan and General Plan goals, policies, and implementation programs, which specify providing housing opportunities for all income ranges. The Housing Element maintains the land uses and residential densities provided in the General Plan Community Character (Land Use) Element.

- b. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City of Burlingame.

The proposed amendment provides further clarification and detail to an implementation program, but does not represent a material change to Housing Element or its potential environmental impact. On the basis of the Final Environmental Impact Report (FEIR) certified by the Burlingame City Council on January 7, 2019, pursuant to Resolution No. 005-2019, the Environmental Impact Report (EIR) Addendum dated November, 2023 and the documents submitted and reviewed, and comments received and addressed by this commission, the City Council previously found that there is no substantial evidence that the Housing Element will have a significant effect on the environment beyond those that were previously evaluated in the certified FEIR for the 2040 General Plan.

4. The Housing Element substantially complies with State Housing Element Law, as provided in Government Code Section 65580 et seq.

5. Based on substantial evidence in the record, due to rapidly expanding demand for residential land in the region and the underutilized nature of the sites identified in the sites inventory, the existing uses on the non-vacant sites identified in the site inventory to accommodate the RHNA are likely to be discontinued during the planning period and therefore do not constitute an impediment to residential development on the sites during the period covered by the housing element.
6. As required by Government Code Section 65585(e), the City Council has considered the findings made by the Department of Housing and Community Development included in the Department's letter to the City dated May 18, 2023, and, consistent with Government Code Section 65585(f), the City Council has changed the Housing Element in response to the findings of the Department to substantially comply with the requirements of State Housing Element Law.
7. The 2023-2031 Burlingame Housing Element is hereby amended, as shown in this Resolution and incorporated herein.
8. This Resolution shall become effective upon adoption of the City Council.
9. The Community Development Director or designee is hereby directed to file all necessary material with the Department of Housing and Community Development for the Department to find that the Housing Element is in conformance with State Housing Element Law and is further directed and authorized to make all non-substantive changes to the Housing Element to make it internally consistent or to address any non-substantive changes or amendments requested by the Department to achieve certification.
10. The Community Development Director or designee is hereby directed to distribute copies of the Housing Element in the manner provided in Government Code Sections 65357 and 65589.7



Donna Colson, Mayor

I, Meaghan Hassel-Shearer, City Clerk of the City of Burlingame, certify that the foregoing resolution was introduced at a regular meeting of the City Council held on the 4th day of March, 2024, and was adopted thereafter by the following vote:

AYES: COUNCIL MEMBERS: BEACH, BROWNRIGG, COLSON, ORTIZ, STEVENSON
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE



Meaghan Hassel-Shearer, City Clerk