



Jesse Arreguín  
City Councilmember, District 4

CONSENT CALENDAR  
May 26, 2015

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Referral to City Manager: Amendments to Berkeley Housing Element 2015-2023

RECOMMENDATION:

Refer to the City Manager the attached amendments to the 2015-2023 Berkeley Housing Element for review and to include in a future update to the Housing Element.

BACKGROUND:

On April 28, 2015 the City Council voted unanimously to adopt the 2015-2023 Housing Element. However, Planning staff has stated that subsequent amendments will likely be made to the Housing Element this year to reflect policy changes (i.e. local Density Bonus and changes in the Affordable Housing Mitigation Fee) and staff can consider additional amendments and include them in the next set of revisions, if they are referred by the City Council to the City Manager.

During Planning Commission public hearings on the draft Housing Element, numerous comments were made orally and in writing suggesting amendments to address critical housing issues including: impact of Short Term Rentals on the rental housing stock; the demolition of rent-controlled units; legalizing unpermitted accessory units; setting the Affordable Housing Fee at an appropriate level to generate additional revenue to the Housing Trust Fund; strengthening the Rental Housing Safety Program; creating family-friendly housing and additional student housing; and adopting anti-displacement policies.

Quoting the February 18, 2015 staff report to the Planning Commission (emphasis **bolded**):

*“The Housing Element is a State-mandated policy document that identifies existing policies, programs, **and opportunities for improvement in housing production and availability at all levels of affordability.**”*

*The Housing Element is a policy level document, not a regulatory one (i.e. it does not include ordinances). As such, it is not intended to bind the City to a particular set of rules governing or protecting certain rights. **The Housing Element opens opportunities to improve on existing programs, expand to new programs, and***

***allow for legislative change that supports the policy goals of the City. It is the basis from which regulatory ideas, new programs, and discussions come.”***

Our community is facing an affordable housing crisis. Rents and home prices continue to skyrocket and there are a number of challenges we face in the area of housing. Since the Housing Element is the main housing policy document for the city, and “*it opens opportunities to improve on existing programs, expand to new programs, and allow for legislative change that supports the policy goals of the City*” it is important that the document reflect the existing challenges our community faces in preserving and expanding housing at all income levels and for all populations, and include policies to preserve, improve and expand our supply of housing, with particular emphasis on low-income populations.

Failure to amend our Housing Element to reflect these realities and to propose policy solutions is a missed opportunity.

**FINANCIAL IMPLICATIONS:**

Minimal; staff time involved with reviewing the proposed amendments and developing policy language to include in a future update to the Housing Element.

**CONTACT PERSON:**

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**Attachments:**

1. Proposed amendments to 2015-2023 Housing Element
2. Original language of sections of Housing Element proposed to be amended

## Proposed Amendments to 2015-2023 Berkeley Housing Element

### 1- Introduction , Section B "Regulatory Framework"

Add the following "Required Component" as a key protection for vulnerable populations, especially limited income, disabled, and senior populations.

11. Ensure rent control and/or other tenant protections for all tenants, including vulnerable populations.

### Page 81-82, 5 - Objectives, Policies and Actions

#### A. Objectives

1. All Berkeley residents should have access to decent housing at a range of prices and rents in pleasant neighborhoods that meet standards of quality. Berkeley residents should have access to quality housing at a range of prices and rents. Housing is least affordable for people at the lowest income levels, and City resources should focus on this area of need.

2. ~~Maintenance of Existing Housing~~ Housing Maintenance, Improvement and Demolition Control

Existing Housing should be maintained, and improved, and fully utilized. Enforce code requirements to ensure that existing housing meets health and safety standards. Enforce existing laws to ensure that existing units are not illegally removed from the housing market. Preserve rent-controlled units from demolition unless existing tenants are protected and each demolished unit is mitigated by replacement with a permanently affordable units, or through payment of in-lieu fees. Improvements that will prepare buildings for a major seismic event should be encouraged.

5. Relationships with Other Institutions

The University of California and other institutions should take responsibility for the housing demand they generate which creates additional pressure on the private housing market in Berkeley. By doing so, they would help avoid causing or increasing housing problems for other Berkeley residents. The City should continue working with the Berkeley Housing Authority and the University of California to address affordable housing needs.

6. Fair and Accessible Housing

~~The City should continue to enforce fair housing laws and encourage housing that is universally accessible.~~ Fair and accessible housing is the law. All residents should have equal access to housing opportunities, to necessary accommodations in their housing, to adequate financing and insurance, and to purchase, sell, rent, and lease property. The City should also encourage housing that is universally accessible.

7. Public Participation

Berkeley should continue to improve the role of neighborhood residents and community organizations in housing and community development decision-making. This includes thorough and timely notification to all interested parties.

## **B. Policies and Actions**

Page 82, H-1 Extremely Low, Very Low, Low and Moderate Income Housing  
Increase the number of housing units affordable to Berkeley residents with lower income levels. *(Also see Land Use Policies LU-18 and LU-25)*

Actions:

- A. Continue to support and implement programs to encourage below-market-rate housing with incentives for affordable housing development including, but not limited to, density bonuses (under state law and local density bonuses), fee deferrals, property tax waivers, and below-market-rate development loans.
  
- E. Maintain and publicize a consolidated list of below-market-rate units within the City to serve as a resource for lower-income households. Consider contracting with a qualified non-profit agency to receive and screen applicants for below-market-rate units and maintain a waiting list of eligible households for non-profit developers to select prospective tenants from.
  
- F. Establish a schedule of periodic inspections of inclusionary units to ensure they meet health and safety codes, and monitoring of eligibility of tenant households. Consider establishing an annual monitoring fee to address the costs of monitoring and inspections of below-market-rate units.
  
- G. Allow increases in density in specific areas of the city solely to promote the production of below market rate housing.

Page 83, Policy H-2 Funding Sources

Aggressively search out, advocate for, and develop additional sources of funds for permanently affordable housing, including housing for people with extremely low incomes and special needs. *(Also see Land Use Policy LU-28)*

- C. Continue to charge housing mitigation fees applicable to residential projects and update periodically as the housing market shifts. Housing mitigation fees should be priced so as to effectively mitigate the needs created by new market rate development, and also indexed to building costs or CPI Rent Index. In addition, the on-site affordable housing requirement should be reviewed to determine whether to increase the required percentage of units to reflect market conditions.

Page 84, Policy H-5 Rent Stabilization

Protect tenants from large rent increases, arbitrary evictions, hardship from eviction, and the loss of their homes.

Actions:

- A. Support the Rent Stabilization Program and enforcement of the Rent Stabilization and Eviction for Good Cause Ordinance in order to protect tenants from large rent increases and loss of their homes.

B. Continue to oppose measures that weaken the City's autonomy to stabilize rents and support the repeal of the vacancy decontrols of the 1995 Costa-Hawkins Rental Housing Act. ~~measures that increase the City's autonomy to stabilize rents.~~

C. Support state legislation consistent with the original language of the Ellis Act promoting rental housing conservation.

## 2. Maintenance of Existing Housing

Policy H-9 Code Requirements and the Rental Housing Safety Program

Enforce code requirements to ensure that existing housing meets health and safety standards.

Actions:

- A. Continue to provide information and outreach to property owners and tenants regarding applicable regulations.
- B. Continue and improve the City's program of periodic inspection of rental units for health and safety code compliance, including cyclical inspections of units or prioritizing inspections for units that have a history of complaints of code violations.
- C. Consider improvements to the Rental Housing Safety Program including permitting anonymous code enforcement complaints, and requiring property owners to submit their completed Schedule A Checklist to the city to verify compliance with mandatory inspection requirements.

## New Policy H-12 Short Term Rentals

Establish policies to prevent the conversion of tenant-occupied rental units into short term rentals.

- A. Require Short Term Rentals to pay the city's Transient Occupancy Tax.

## Policy H-13 Second Units

Encourage and facilitate addition of second and small "in-law" units on properties with single-family homes, but not in areas with limited parking and vehicular access or that are especially vulnerable to natural disaster. (Also see Disaster Preparedness and Safety Policy S-16)

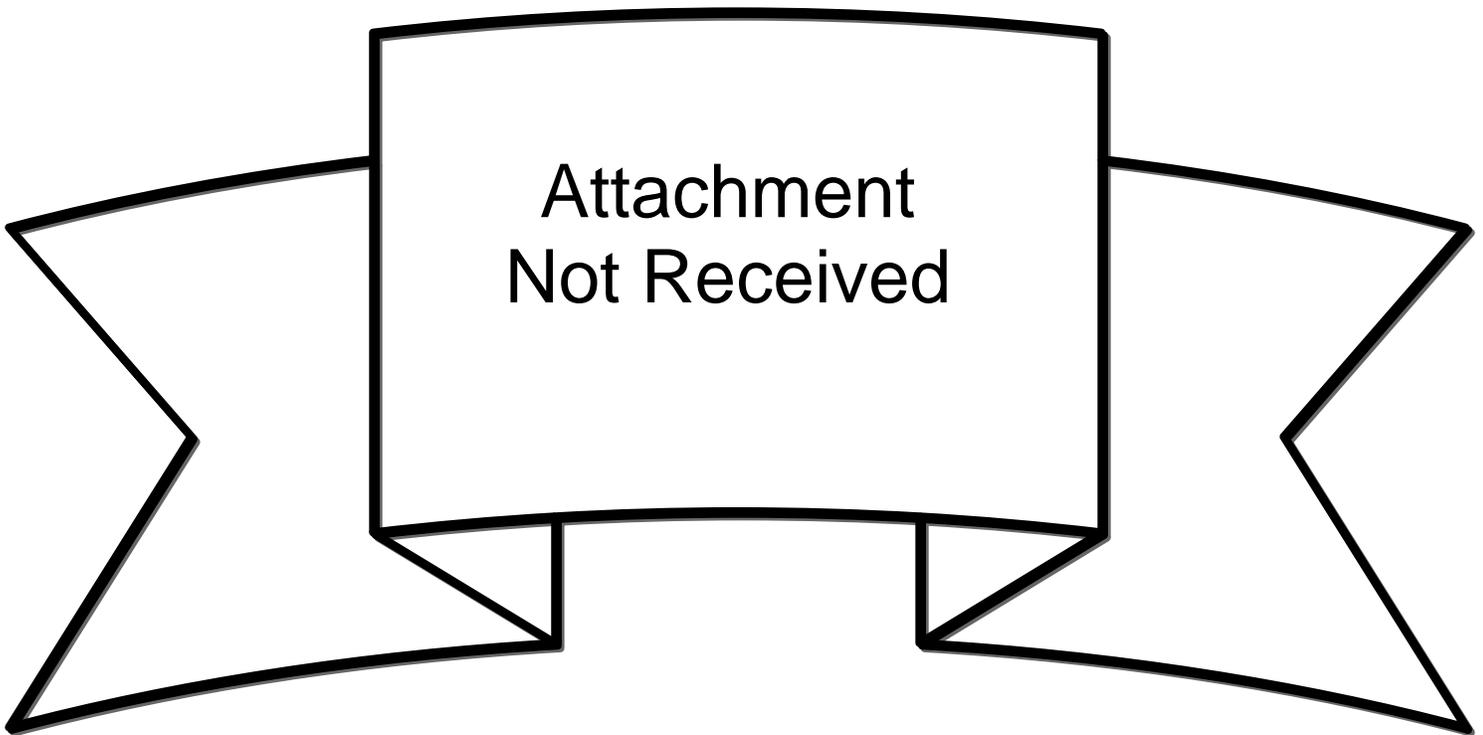
Actions:

- C. Consider establishing policies to legalize existing unpermitted accessory dwelling units, to ensure that existing units meet health and safety requirements, and tenants are covered under existing rent and eviction controls.

## Policy H-14 Demolition

Discourage the demolition of housing units unless the structure is hazardous or repair is infeasible, or the project will replace the units demolished with permanently affordable units on a one-for-one basis, or through payment of in-lieu fees. In addition, existing tenants should be protected including the right-of-first refusal of new units at the

property at the rent previously paid and covered by rent and eviction protections. Insure that the replacement project will result in the same or larger number of housing units in conformance with existing zoning regulations.



Attachment 2 to this report has not been received from the submitting office.

**City Clerk Department**  
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Berkeley, CA 94704  
(510) 981-6900

**The City of Berkeley, City Council's Web site:**  
<http://www.cityofberkeley.info/citycouncil/>

