



# TOWN OF PORTOLA VALLEY

7:00 PM – Special Meeting of the Town Council  
Wednesday, June 23, 2021

**THIS SPECIAL MEETING IS BEING HELD VIA  
VIDEOCONFERENCE ONLY**

## SPECIAL MEETING AGENDA

**Remote Meeting Covid-19 Advisory:** On March 17, 2020, the Governor of California issued Executive Order N-29-20, suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings telephonically or by other electronic means. Pursuant to the statewide Shelter-In-Place Order issued by the Governor in Executive Order N-33-20 on March 19, 2020, and the CDC's social distancing guidelines which discourage large public gatherings, Portola Valley Town Council meetings are being conducted electronically. The meeting is not available for in-person attendance. Members of the public may attend the meeting by video or phone linked in this agenda.

**Remote Public Comments:** Meeting participants are encouraged to submit public comments in writing in advance of the meeting. Please send an email to [jdennis@portolavalley.net](mailto:jdennis@portolavalley.net) by 5:00 PM on the day of the meeting. All received questions and comments will be read by the Mayor and addressed at the meeting and included in the public record. Additionally, the Town Council will take questions using the Q&A button for those who attend the meeting online or on the App.

Finally, if you call in, and you did not send in questions and comments ahead of time, you can press \*9 on your phone to "raise your hand" and \*6 to mute/unmute yourself. The town council will call on people to speak by the phone number that is calling in.

We encourage anyone who has the ability to join the meeting online to do so. You will have access to any presentations that will be shown on your screen and can easily ask questions using the "raise your hand" feature when the Chair calls for them.

**Below are instructions on how to join and participate in a Zoom meeting.**

**To access the meeting by computer**

<https://zoom.us/j/96024135268?pwd=MW12RVZPMGcrZjhBQ1BVUmNITDczQT09>

**Webinar ID:**

960 2413 5268

**Passcode:**

235493

**To access the meeting by phone:**

Dial 1-669-900-6833 or

1-888-788-0099 (toll-free)

*Mute/Unmute – Press \*6 / Raise Hand – Press \*9*

**7:00 PM - CALL TO ORDER AND ROLL CALL**

Councilmember Aalfs, Councilmember Wernikoff, Councilmember Richards, Vice Mayor Hughes, and Mayor Derwin

**ORAL COMMUNICATIONS**

Persons wishing to address the Town Council on any subject may do so now. Please note, however, that the Council is not able to undertake extended discussion or action tonight on items, not on the agenda.

*Speakers' time is limited to three minutes.*

1. **Recognition of C/CAG Executive Director Sandy Wong on her Retirement (4)**

**CONSENT AGENDA**

The following items are voted on at once by the body, unless a member of the body requests an item be considered separately. Members of the public are permitted to comment on any item on the consent calendar before the body votes on the consent agenda.

2. **Approval of Minutes** – Action and Detailed Summary for June 9, 2021 (5)
3. **Approval of Warrant List** – June 23, 2021 (24)
4. **Recommendation by Planning and Building Director** – New Job Description for Senior Technician and (30)  
Revision to Planning Technician I/II Job Description
5. **Recommendation by Town Manager** – Planning Commission and ASCC Appointments to the Housing (46)  
Element Committee
6. **Recommendation by Public Works Director** – Contract Extension for Engineering and Plan Check Services (65)  
with Nolte Associations, Inc., doing business as NV5 Inc.
7. **Recommendation by Town Manager** – Reauthorization of the Town Treasurer as the Authority for (69)  
Management of the Town's Investment Programs
8. **Recommendation by Town Manager** – Road Maintenance District Budget Items (76)
9. **Appointment by Mayor** – Member to the Geologic Safety Committee (77)

**REGULAR AGENDA**

**PUBLIC HEARINGS**

10. **Public Hearing - Adoption of the 2021-22 Fiscal Year Budget and Appropriations Limit (78)**
  - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Adopting the Operating and Capital Budgets for Fiscal Year 2021-22 (Resolution No. \_\_)
  - (b) Adoption of a Resolution of the Town of Portola Valley Determining and Establishing the Appropriations Limit for Fiscal Year 2021-22 (Resolution No. \_\_)
11. **Public Hearing - Recommendation by Planning and Building Director and Town Attorney – First Reading (88) of Ordinance Amending Section 18.36.04 [Accessory Uses] of Chapter 18.36 relating to Accessory Dwelling Units (ADU's)**
  - (a) First Reading of Title, Waive Further Reading, and Introduce an Ordinance of the Town Council of the Town of Portola Valley Amending Section 18.36.040 [Accessory Uses] of Chapter 18.36 [Uses Permitted in all Districts] of Title 18 [Zoning] of the Portola Valley Municipal Code and a Finding the Action is Exempt Under the California Environmental Quality Act (CEQA) (Ordinance No. \_\_)
12. **Recommendation by Town Manager and Town Attorney** – Update and Discussion on the Final Draft (124)  
2023-31 Regional Housing Needs Allocation
13. **Recommendation by Town Attorney** – First Reading of Ordinance adding Chapter 8.36 (Fireworks) to Title 8 (181)  
(Health and Safety) banning Fireworks in Town and Setting Administrative Fines
  - (a) First Reading of Title, Waive Further Reading, and Introduce an Ordinance of the Town Council of the Town of Portola Valley Amending the Portola Valley Municipal Code by Adding Chapter 8.36 (Fireworks) to Title 8 (Health and Safety) (Ordinance No. \_\_)
14. **Colleagues Memo** – Consideration of 6:00 PM Start Time for Town Council Meetings (188)
15. **COUNCIL LIAISON COMMITTEE AND REGIONAL AGENCIES REPORTS (189)**  
Oral reports arising out of liaison appointments to both in-town and regional committees and initiatives. *There are no written materials and the Town Council does not take action under this agenda item.*
16. **TOWN MANAGER REPORT (190)**

**WRITTEN COMMUNICATIONS**

17. **Town Council Digest** – June 10, 2021 (191)
18. **Town Council Digest** – June 17, 2021 (197)

## **ADJOURNMENT**

### **ASSISTANCE FOR PEOPLE WITH DISABILITIES**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Town Clerk at (650) 851-1700. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

### **AVAILABILITY OF INFORMATION**

Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Portola Valley Library located adjacent to Town Hall. In accordance with SB343, Town Council agenda materials released less than 72 hours prior to the meeting, are available to the public at Town Hall, 765 Portola Road, Portola Valley, CA 94028.

### **SUBMITTAL OF AGENDA ITEMS**

The deadline for submittal of agenda items is 12:00 Noon WEDNESDAY of the week prior to the meeting. By law no action can be taken on matters not listed on the printed agenda unless the Town Council determines that emergency action is required.

Non-emergency matters brought up by the public under Communications may be referred to the administrative staff for appropriate action.

### **PUBLIC HEARINGS**

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge any proposed action(s) in court, you may be limited to raising only issues you or someone else raised at the Public Hearing(s) described in this agenda, or in written correspondence delivered to the Town Council at, or prior to, the Public Hearing(s).

There are no written materials for this agenda item





# TOWN OF PORTOLA VALLEY

7:00 PM – Special Meeting of the Town Council  
Wednesday, May 26, 2021

**THIS SPECIAL MEETING WAS HELD VIA  
VIDEOCONFERENCE ONLY**

## ACTION MINUTES WEDNESDAY, JUNE 9, 2021, 7:00 P.M.

Remote Meeting Covid-19 Advisory: On March 17, 2020, the Governor of California issued Executive Order N-29-20, suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings telephonically or by other electronic means. Pursuant to the statewide Shelter-In-Place Order issued by the Governor in Executive Order N-33-20 on March 19, 2020, and the CDC's social distancing guidelines that discourage large public gatherings, Portola Valley Town Council meetings are conducted electronically via ZOOM.

### Convene Special Meeting

Mayor Derwin called the meeting to order at 7:00P.M.

### Roll Call

Present: Councilmembers Aalfs, Wernikoff, Richards, Vice Mayor Hughes and Mayor Derwin

### Open Communications

The following members of the public addressed the Town Council:

- Bob Turcott

### Consent Agenda

1. Approval of Minutes – Action and Detailed Summary for May 26, 2021
2. Approval of Warrant List – June 9, 2021
3. Recommendation by Public Works Director – Purchase of Used Replacement Trucks for Town Maintenance [*removed from the Consent Agenda*]
4. Recommendation by the Finance Director – 2021-'22 Woodside Highlands and Wayside II Road Maintenance District Tax Assessments
  - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Authorizing the San Mateo County Controller to Apply the Special Tax for the Woodside Highlands Road Maintenance District to the 2021-2022 Tax Roll and to Collect the Tax at the same time as General County Taxes (Resolution No. 2854-2021)

(b) Adoption of a Resolution of the Town Council of the Town of Portola Valley Authorizing the San Mateo County Controller to Apply the Special Tax for the Wayside II Road Maintenance District to the 2021-2022 Tax Roll and to Collect the Tax at the same time as General County Taxes (Resolution No. 2855-2021)

5. Recommendation by Council Subcommittee – Appointment of Members to the Equity Committee
6. Recommendation by Council Subcommittee – Appointment of Members to the Housing Element [*removed from the Consent Agenda*]

The following members of the public commented on the consent agenda:

- Rita Comes

Councilmember Richards pulled Items 3 and 6 from the consent agenda.

### **Motion**

Vice Mayor Hughes moved to approve Consent Agenda Items 1, 2, 4, and 5. Seconded by Councilmember Wernikoff; the motion carried, 5-0, by roll call vote.

### **Item 3**

Councilmember Richards suggested the Town put down a \$100 refundable deposit on a new electric Ford 150. Councilmember Aalfs agreed. Vice Mayor Hughes said he had looked into this, and they won't be available until around 2022. Mr. Young will research this and make a \$100 deposit if and when it is possible to do so.

### **Item 3 Motion**

Councilmember Richards moved to approve Consent Agenda Item 3, with this modification. Seconded by Vice Mayor Hughes; the motion carried, 5-0, by roll call vote.

### **Item 6**

Councilmember Richards suggested adding Sue Crane and Helen Wolter as additional members of the Housing Element committee, followed by discussion among the Councilmembers regarding this proposal.

### **Item 6 Motion**

Councilmember Richards moved to expand the Housing Element Update Committee to include nine members of the public in addition to the ASCC, Planning Commission and Equity Committee representatives, and specifically to include Sue Crane and Helen Wolter. Seconded by Vice Mayor Hughes. The motion carried, 3-2, by roll call vote, with Councilmember Aalfs and Councilmember Wernikoff voting no.

## **Regular Agenda**

### **7. Presentation – Request for Endorsement of Energy Innovation and Carbon Dividend Act.**

Presentation by Lanier Poland, Kiran Garewal and Sophia Chung on the Act and request that the Town Council endorse the Act. Town Manager Dennis will put this on the agenda for action at an upcoming meeting.

### **8. Recommendation by Town Manager and Finance Director – Review Proposed Budget for FY 2021-2022 and set Public Hearing.**

Cindy Rodas, Finance Director, presented the proposed budget for FY 2021-2022, followed by discussion among Councilmembers, Town Manager Dennis, Town Attorney Silver, Financial Analyst, Jim Sako, Public Works Director, and Howard Young, Public Works Director.

### **9. Council Liaison Committee and Regional Agencies Report**

All five Council members provided reports on the last two week's regional meetings, local committee meetings, subcommittee meetings, and other items of note.

### **12. Town Manager Report**

The Town Manager provided his regular report.

## **Written Communications**

The Council reviewed written communications for the body over the last two weeks.

## **Adjournment**

The meeting was adjourned at 9:30 P.M.

**PORTOLA VALLEY TOWN COUNCIL SPECIAL MEETING NO. xxx, June 9, 2021**

**CALL TO ORDER AND ROLL CALL**

Mayor Derwin called the Town Council’s Special Teleconference-only meeting to order at 7:00 p.m. Town Manager Dennis called the roll.

Present: Councilmembers Jeff Aalfs, John Richards, and Sarah Wernikoff; Vice Mayor Hughes; Mayor Maryann Derwin.

Absent: Sharon Hanlon, Town Clerk

Others: Jeremy Dennis, Town Manager  
 Cindy Rodas, Finance Director  
 Jim Sako, Financial Analyst  
 Laura Russell, Planning and Building Director  
 Howard Young, Public Works Director  
 Cara Silver, Town Attorney

Attendees: Bob Turcott  
 David Cardinal  
 Betsy Morgenthaler  
 Rita Comes  
 Kristi Corley  
 Judith Murphy

**ORAL COMMUNICATIONS**

Bob Turcott said he is a very enthusiastic member of the “trust but verify” school, especially when consequences are high, and complexity increases the likelihood of error. Both are true for the RHNA number. Adding 253 units would represent an increase of approximately ten percent in population. It would force compromises to public safety, including increased construction in high fire hazard zones and neglecting modern standards for structure separation. It would also further strain already tenuous evacuation capacity. He said he indicated in his June 3<sup>rd</sup> letter to the Town Council, in response to the concerns expressed by Councilmembers Hughes and Richards about the substantial wildfire hazards faced, that ABAG Executive Director McMillan indicated that high and very high fire hazard severity zones are excluded from consideration in the RHNA methodology. Cal Fire maps that depict high fire hazard severity zones in Portola Valley show that approximately half of the land area falls into this designation. As determined by Cal Fire, approximately two-thirds of Portola Valley is either in a high or very high fire hazard severity zone. Intending to exclude these areas, as Executive Director McMillan’s letter indicates, but failing to do so would leave Portola Valley with an inappropriately high RHNA allocation. Since his June 3<sup>rd</sup> letter, he has attempted to verify the RHNA calculation. Progress has been slow, but what he has learned so far is concerning. As he outlined in the letter sent to Town Council today, according to an ABAG planner he spoke with, they did not exclude the high fire hazard severity zones from Portola Valley, which raises a number of questions. Mr. Turcott asked, do planners who implement the RHNA methodology have a different understanding of what that methodology is compared to the ABAG Executive Director? Does ABAG truly believe that high fire hazard severity zones and state responsibility areas are not safe for development, but zones with the same fire hazard severity in local responsibility areas are safe for development? Is our RHNA number what it should be? The Town Council should clarify these questions and the others raised in his letter to ensure that the RHNA number is appropriate.

**CONSENT AGENDA**

- (1) **Approval of Minutes** – Action and Detailed Summary for May 26, 2021

- (2) **Approval of Warrant List** – June 9, 2021
- (3) **Recommendation by Public Works Director** – Purchase of Used Replacement Trucks for Town Maintenance [*Removed from Consent Agenda*]
- (4) **Recommendation by Finance Director**– 2021-2022 Woodside Highlands and Wayside II Road Maintenance District Tax Assessments
  - (a) Adoption of a Resolution of the Town Council of the Town of Portola Valley Authoring the San Mateo County Controller to Apply the Special Tax for the Woodside Highlands Road Maintenance District to the 2021-2022 Tax Roll and to Collect the Tax at the same time as General County Taxes (Resolution No. 2854-2021)
  - (b) Adoption of a Resolution of the Town Council of the Town of Portola Valley Authorizing the San Mateo County Controller to Apply the Special Tax for the Wayside II Road Maintenance District to the 2021-2022 Tax Roll and to Collect the Tax at the same time as General County Taxes (Resolution No. 2855-2021)
- (5) **Recommendation by Council Subcommittee**– Appointment of Members to the Equity Committee
- (6) **Recommendation by Council Subcommittee** – Appointment of Member to the Housing Element [*Removed from Consent Agenda*]

Mayor Derwin invited comments from the public on the Consent Agenda.

Rita Comes pointed out that Town Manager Dennis was erroneously shown as absent on the Action Minutes as well the Summary Minutes. She notified Town Manager Dennis and Town Clerk Hanlon.

Vice Mayor Hughes moved to approve Consent Agenda Items 1, 2, 4, and 5. Seconded by Councilmember Wernikoff; the motion carried, 5-0, by roll call vote.

- (3) **Recommendation by Public Works Director** – Purchase of Used Replacement Trucks for Town Maintenance

Councilmember Richards suggested that the Town put down a \$100 refundable deposit on a new electric Ford 150 which is supposed to be available next year. Councilmember Aalfs agreed. Vice Mayor Hughes said he looked this up, and they won't be available until around 2022. Mr. Young said they are looking at hybrid and electric as part of their environmental program, but those items aren't readily available yet. He will research this, and if there is a deposit that can be made, will put a \$100 deposit down. He said with electric and hybrid right now, as well as the chip situation due to COVID-19 and manufacturing issues, it's not known when those things will be available.

Councilmember Richards moved to approve Consent Agenda Item 3, with this modification. Seconded by Vice Mayor Hughes; the motion carried, 5-0, by roll call vote.

- (6) **Recommendation by Council Subcommittee** – Appointment of Member to the Housing Element

Councilmember Richards thanked the Subcommittee for selecting members for this committee, noting that it is not easy. He said they were able to adjust the committee size to accommodate all applicants. However, he is concerned about the demographics of the proposed Housing Committee and wanted to hear discussion among the Council on this matter. He felt that adding a couple additional members to broaden the geographic representation would be beneficial. He also would like to shift to nine members. He said would like to consider a member from the Brookside area, his neighborhood, and the neighborhood his parents used to affectionately refer to as the slum side of Portola Valley, and also, possibly from the Sequoias, which represents a significant portion of the town's population and also a different type of housing than the single-family unit. Expansion to nine members would be similar to what

was done for the Equity Committee. He feels it is good to get as much diversity as possible. His recommendation was to consider Sue Crane and Helen Wolter for the two additional positions.

Councilmember Aalfs said they discussed almost that exact option and for various reasons preferred the group of seven. He understood the point regarding geographic representation. They intend to do study sessions with the Affiliated Housing Partners, including the Sequoias. They do have one member from The Priory who lives on campus and is part of their Affiliated Housing program. There are a couple other community members who are participating in local Affiliated Housing efforts, and they want to be involved in discussions as well. He said they have a plan for reaching out to Affiliated Housing, but they will have to do separate outreach for low income and very low-income groups. He agreed with Councilmember Richards' point, but also pointed out that logistics issues do multiply as groups get bigger. He said they did wrestle with this quite a bit but were happy with the group they picked.

Councilmember Wernikoff added that they had an amazing group of applicants, and they were thinking they would have liaisons to the committee – people who live or are associated with an Affiliated Housing or groups that are considering building affordable housing. There were several that applied that did not make it into the committee, and they thought this would be a way to expand. She talked to a couple of them about it already, including Sue Crane, who was enthusiastic about participating in that way. They also were thinking that Helen Wolter could participate as a liaison, given her association with Josh Becker's office. Councilmember Aalfs added he talked with Helen about this today, and she had several good ideas along those lines. He thinks there would be a way to work with her in a separate capacity.

Vice Mayor Hughes said he was considering the full makeup of the Committee, given that the Planning Commissioners and ASCC representatives are also residents, just as the rest of the Committee members are. Councilmember Richards said the committees do always get quite large, so he thought two more wouldn't make a big difference. His thinking regarding Ms. Crane was that having a representative from an important demographic in town, would likely get people from the Sequoias to pay attention and actually come to the meetings. He said Ms. Wolter is in a lower income group and represents a demographic that may not get much, if any, representation in town. Councilmember Aalfs agreed but said Ms. Wolter's working in Josh Becker's office was a concern for him. Mayor Derwin mentioned examples in other communities where this situation has occurred without a problem. She also observed that all the people on the list are married, and that single people in Portola Valley are not a preferred group and may feel shunned, as she did when she became single in 2006. She is personally uncomfortable with a group composed of all married people. Secondly, one of the complaints she got was, of the seven people selected, at least four are members of the private club to which Councilmember Aalfs and Councilmember Wernikoff belong. While not illegal, she feels this it is not a preferable look.

Councilmember Wernikoff said in the interviewing they were not asking about marital status or socioeconomic background. She knew a handful of the people applying, and she wasn't vetting based on this. She was totally unaware of Helen's background. Councilmember Aalfs said they were trying to select a range of initial positions on housing in general, including a few who have advocated for housing in other settings, one or more that are somewhat skeptical of the whole housing program, and several that were more neutral, but open-minded. His thinking was they were well-known in the community, could work well together, and people he trusts to come with a reasoned approach. The underlying goal of meeting the RHNA numbers and allocations is something that all agree on already, and to do that safely and with as much consideration of town values as possible. He said they were balancing on multiple axes, and it was complicated. Mayor Derwin said the proposal would help balance the group more, because talking about equity means diversity is needed in public bodies. She said she would personally feel much better if those two people could be added to round out the group.

Vice Mayor Hughes asked Ms. Silver if it is wise in these situations to consciously avoid asking people their marital status and where they live and such things. He asked if she had guidance or advice on these types of questions since state law specifically says they should go out of their way to ensure equity. Ms. Silvers' opinion was that the Housing Element is a different situation from previous Housing Elements in that there is a new requirement to affirmatively further fair housing. The State is going to be looking at the opportunities that the Town provides for a range of demographics to live in town, and it will be an area of

substantive scrutiny. The State also has some new requirements regarding outreach to under-represented groups. It now requires that the Town conduct housing development public hearings on weekends, evenings, during the day, a range of times to allow people who work different schedules to attend. It also requires that the Town provide written materials in translated manner and provide interpreters. There isn't a requirement regarding particular diversity on the committee itself, but it is certainly something people are talking about in general, a recognition that diverse committees do provide a great resource to the community in dealing with such issues. On the other hand, she said it is difficult to get diversity in certain places, like Portola Valley. The candidate list was not a typical type of diversity that would be expected in terms of racial and cultural diversity.

Mayor Derwin invited public comments on this item.

Betsy Morgenthaler said the Council asked for committee volunteers. She had heard it mentioned that two members of one household have volunteered, both very capable, yet may stand out in this situation as less diverse than any other two members and wondered if, in fairness, this should be considered. Mayor Derwin said her understanding was that the ASCC members were asked who would like to volunteer for the committee. Al Sill raised his hand. The Planning Commission was asked, and Nicholas Targ and Ann Commissioner Sill raised their hands, and that is how this happened. Ms. Silver added that both Sills wanted to volunteer because they both had to recuse themselves on the Stanford project and would not be able to help with that project. Ms. Morgenthaler said she thought there was a backup alternative on the ASCC, though it wasn't explored in detail. She thinks there is an opportunity to attract a different demographic group by interviewing the other person who was willing on the ASCC.

Mayor Derwin invited further comments from the public.

David Cardinal said he is in awe of people willing to serve on the committee. He said he would be delighted to have Sue Crane serve on any committee she wants to, because she has contributed so much to the town. He hoped there would be representation from people who are open to thinking about the town as more than what it might be now, stating it is easy to draw up the gates and make the town an enclave, keeping people out. There are many reasons to do that, but the town has a lot of offers. He hopes that whatever kind of diversity it is, it's open to experimenting in types of housing or lower income residents and letting more people in. Councilmember Wernikoff agreed that Ms. Crane is a treasure and incredible asset to the Town. She has talked with Ms. Crane extensively, and they definitely want her to participate, but it came down to numbers. They thought there was an avenue for her to participate as a liaison, and she was comfortable with that. She is also participating on a very time-consuming committee within the Sequoias related to their General Plan. She is planning to represent the Housing Element issue within that committee.

Mayor Derwin invited further questions or comments from the public. Hearing none, she brought it back to the Council.

Mayor Derwin asked if anyone had a problem with having both of the Sills serving on the committee or if it would be better to have just one of them would serve, and someone else be added. Vice Mayor Hughes said if there was somebody else on either of the two commissions who would be willing to take the spot it would probably be better, adding however, that the Sills are not always on the same page about every issue. He assumed the suggestions from the two committees that have been forwarded to the Council will need to be formally appointed by the Council. He suggested finding out who the alternates were and figuring something out from that.

Councilmember Wernikoff pointed out that if the goal is to add socioeconomic diversity or marital status, they should go back and get that information from others that were rejected. Mayor Derwin responded that they know who is married and who is not, and as far as socioeconomic status, this is somewhat evident from where they live. She also said the individual is advocating for also brings other benefits. She has environmental experience. She understands land use and understands housing. She lives in a different part of town and could live in affordable housing, given her income, and she is not married. Mayor Derwin said she thought Ms. Crane is a pretty easy choice, representing the Sequoias, and that



these two would diversify the group. Councilmember Wernikoff asked what the process was when there is disagreement. Councilmember Aalfs and Mayor Derwin said the Council votes. Councilmember Wernikoff said she wonders if the others who were also declined didn't get a fair shake in the process, by putting two people ahead of them.

Mayor Derwin said that, geographically, there were only three people who did not live in Westridge or Alpine Hills or belong to the Alpine Club. Those were Helen Wolter, Deb Smith, and Sue Crane. She said that Deb Smith is not a resident and lives in Los Trancos Hills. She would be representing Ladera Church, but they thought that was a little bit of a stretch. Councilmember Aalfs said he definitely wants her to be involved as a liaison when discussions begin in on the Housing Element. Vice Mayor Hughes said when the committee was formed, he specifically asked whether they wanted non-residents on the committee, and this was turned down, so when the committee was formed, they specifically chose not to include non-residents.

Councilmember Richards moved to expand the Housing Element Update Committee to include nine members of the public in addition to the ASCC, Planning Commission and Equity Committee representatives, and specifically to include Sue Crane and Helen Wolter. Seconded by Vice Mayor Hughes.

Councilmember Aalfs said the points were well-taken. He and Councilmember Wernikoff spent a lot of time hashing this out and were happy with the seven they chose. Vice Mayor Hughes said he tends to agree with Councilmember Richards that two extra members on a committee that's already so large will not present an insurmountable logistical hurdle, and there's no huge reason not to adding a bit more diversity.

The motion carried, 3-2, by roll call vote, with Councilmember Aalfs and Councilmember Wernikoff voting no.

Vice Mayor Hughes remarked that he is very appreciative of the work done by Councilmember Aalfs and Councilmember Wernikoff, as he has been through the process with a much smaller pool of candidates and knows how much work it is and how hard to whittle the list down. He commended them on narrowing the list down in the first place. Councilmember Richards agreed with these remarks. Councilmember Wernikoff said she hasn't been through this before, and it seems like the criteria shifted after the interviews. She was not informed they were to be vetting for these types of things, and they were looking for people who brought different experiences, different gender, different ages as much as possible. She felt they had done the best job they could, given the information they had. She thought they were also looking for people that came to the table wanting to work together and treated each other respectfully, and this was very important to her as well. Mayor Derwin expressed that her view is a bit different because she works regionally so much and knows that equity and diversity is so important right now, and optics are so important. She sees the decision as merely improving the work the subcommittee did.

Town Manager Dennis advised there was a public commentor present.

Kristi Corley wondered, going forward, how the voting process in the committee is organized when decisions are made, if there is a voting process. Town Manager Dennis said with the Brown Act, any action by the committee would be up for a vote. Sometimes a straw poll, but if there is a recommendation to the Planning Commission or Council, there will be votes. In this case, eight votes will be needed to bring forward any recommendation.

## **REGULAR AGENDA**

### **(7) Presentation – Request for Endorsement of Energy Innovation and Carbon Dividend Act**

Vice Mayor Hughes introduced Lanier Poland, who works with Silicon Valley North Chapter of the Citizen's Climate Lobby. She and a few friends have been working to get support for various measures,



most recently this one that is currently in Congress. Vice Mayor Hughes has known Lanier all her life, as she lives nearby and is his daughter's age. He heard her presentation and invited her to share it with the Council.

Ms. Poland was accompanied by teammates, Kiran Garewal from Palo Alto and Sophia Chung from San Ramon. Lanier has lived on Wayside Road her entire life. She joined CCL as a climate activist about a year-and-a-half ago. They are currently advocating for the Energy Innovation and Carbon Dividend Act, which is a bill already in Congress. Mr. Garewal began by discussing the bill, HR-2307, which was introduced by Rep. Ted Deutch of Florida. It is currently in joint committees. The bill is a carbon pricing bill which places a fee on fossil fuels at the source, \$15 per ton of carbon dioxide emissions or the equivalent. It would rise by \$10 each year, although this could change depending on emission levels. Products made with fossil fuels would become more expensive, thereby shifting the public toward buying cleaner products. This would apply to cities, to people, to companies. The revenue would be divided by household based on the number of adults and children and returned equally to each household. Thus, high-polluting households would pay more in fees than what they get back at the end of the month. The majority of households would come out ahead, paying less via fees than what they get back every month as a dividend.

Mr. Garewal said the third part of the bill is a carbon border adjustment, which is a tariff on imported goods and a refund to exported goods to offset the price of the fee, to discourage manufacturers from moving overseas to make their products and ship them here. The bill would be expected to reduce greenhouse gas emissions to net zero by 2050, because each year the price gets higher and if emission reduction goals are not attained, it rises even faster. It is also financially responsible because the dividend payments are covered by the fee. The plan is economically equitable since certain high-income households tend to produce the lion's share of greenhouse gas emissions even though they may not be affected by the pollution as much. Approximately the lower two-thirds of households, by income, would come out ahead because they receive more back in the dividend than what they pay out. Finally, the bill is politically feasible, and there is support for it from many parts of the political spectrum. If it is passed, it will be likely to stay in effect. The executive action, Clean Power Plan, was repealed. Things such as this are easy to repeal if they are very heavily regulation based. The team feels that people will want to keep the program in place because of the dividend coming back every month, similar to Social Security, which has stayed in effect because of the checks people get each month. It is not related to the budget so it could most likely be passed through the Senate with 50 votes.

Ms. Chung explained that the Act currently has the formal support of 59 representatives. She pointed out that Congresswomen Anna Eshoo is an original co-sponsor of the bill, and Congresswoman Jackie Spear has agreed to co-sponsor. The policy also has support from Olympic Gold Medalist Jessie Diggins, former U.S. State and Treasury Secretary, George Schultz, and renown climate scientist, James Hansen.

Ms. Poland said they are asking the Town Council or Mayor Derwin to endorse the Energy Innovation and Carbon Dividend Act and that everyone watching is able to learn more about the bill. As a side note, it is often written about in *The Almanac*, the local newspaper. She has put one resource in the chat and will be putting a few more in soon.

Mayor Derwin invited questions from the Council. Hearing none, she stated there can be no action taken tonight. The Council can decide to put action on an agenda in a coming meeting. She asked how the bill would affect an individual if it passed. Lanier commented if a person does not fly often and drives a renewable energy car, they would be spending a reasonable amount of money on carbon products every month and would probably break even with the amount of money received back every month with the dividend. Most likely, it would not affect most people that much, but would likely benefit those from lower income families, because they would be getting more money back than they spent on carbon each month. For someone not conscious about their carbon footprint, someone with a large house, with heating on continually, frequent trips by air, driving a car with high fuel use for long distances would probably be spending more money on carbon than they are getting back each month and hopefully will start making wiser choices about how to spend their money on carbon.

Councilmember Aalfs added, from the electric power grid perspective, this would have a huge impact, especially in the part of the country that are heavily reliant on coal. Coal is actually already economically uncompetitive with solar and wind in much of the country. This would tip that scale even further and faster. Peninsula Clean Energy would have beneficial impacts, but it would be a significant landscape-changer in the entire electricity industry in California. Ms. Poland said it would shift the economy safely from fossil fuels to renewable energy without hurting anyone in the process. Councilmember Aalfs felt it will hurt certain stakeholders who have been fighting it for years. Mayor Derwin said Anna Eshoo is a co-sponsor of the bill and Jackie Speier is in the process of sponsoring it. Vice Mayor Hughes asked what the impact of the Town's support for this be, given that it's a federal bill in Congress and our representatives are already supporting it. He wondered if there were many towns and cities that are providing endorsements for this, and how useful it will be in building momentum in elsewhere in the country. Mr. Garewal answered that there are a number of cities that have endorsed the bill. He showed a list which includes San Jose and San Mateo County. Secondly, these representatives can always do more. Jackie Speier is just signing on. Anna Eshoo has been a strong supporter and co-sponsor of the bill, but it is not necessarily one of her biggest talking points, given that she has a re-election coming up with an opponent. He said if there is growing local support for the bill it will encourage elected officials at federal levels to make this a priority and spread the word among colleagues, et cetera. The more support it gains from cities and towns within representatives' jurisdiction, the more support they will give to the bill overall.

Mayor Derwin invited comments or questions from the public.

Judith Murphy asked about the monthly checks, if they are coming back to every potential stakeholder, will it have enormous overhead that will blunt the effectiveness of the transfer back? Mr. Garewal said the percent is set in the bill in terms of how much of the revenue can be put toward administrative expenses. It would be like the stimulus checks sent out by the Treasury so not necessarily going to be a physical check, but a direct deposit. Sophie offered those costs will not exceed two percent of revenues.

Mayor Derwin invited further public comments. Hearing none, she brought it back to the Council, to put this on an agenda and discuss support of the bill. Councilmember Aalfs Councilmember Richards and Vice Mayor Hughes advocated for this. Councilmember Wernikoff agreed.

Town Manager Dennis asked if there is a final date when a letter from the Council is required. Lanier said definitely not. The bill has been in Congress for a while, so no rush. Town Manager Dennis said he will have this put on a future going forward. Mayor Derwin thanked the three presenters for their activism, their passion, hard work and belief in attacking climate change.

**(8) Recommendation by Town Manager and Finance Director – Review Proposed Budget for FY 2021-22 and set Public Hearing**

Town Manager Dennis introduced Brandi de Garreaux, Assistant to Town Manager; Laura Russell, Planning and Building Director; Howard Young, Public Works Director; and Jim Sako, Financial Analyst.

Cindy Rodas, Finance Director, presented the proposed budget for FY 2021-2022. The first item was revenues and expenditures. The Town is overall in a good position with revenue in 2021-2022 higher than anticipated expenditures, ensuring a balanced budget. Staff has evaluated planned projects in the five-year capital improvement program and Council priorities and has determined that these projects are reasonable and closely aligned to the volume of work staff anticipates and can realistically complete during the fiscal year. She said they do have a strong relationship to the Council priorities. The delta between operational revenue and expenditures, is seen as continuing to shrink. There is a modest list of capital improvement projects that directly reflect town staff capacity. She presented a summary of all funds including both sources and requirements of all funds within the budget. Total transfers out of the general fund amount to \$1,024, 380, and total dollars allocated to capital and fixed assets of \$1.4 million. Due to the net operating surplus of \$83, 288, the net impact of fund balance will be \$941,092 rather than the full transfer out amount of \$1,024,380. An interfund transfer necessary to ensure Gas Tax Fund 206 is not in the negative. The transfer is used to support operational programs in the Public Works Department.

There are not enough special revenue funds out of gas tax to support that, so it would need additional support from the general fund. The total revenue amount of \$6.1 million versus the total requirements of \$6,060,700 was pointed out.

Regarding revenues, they have evaluated the property tax growth and increased it to 5.2 percent. The previous budget growth was listed at 5.0 percent, so this is an additional increase. They have taken a conservative approach. Many cities are going to 6.0 and above with their growth. Staff is taking a conservative approach, as taken in previous years, partly due to unknowns related the VLF shortfall. They wanted to make sure they budgeted appropriately. There are also slight increases in sales and use tax. In Other Revenues they are anticipating a slight increase. Franchise Fees and UUTs are reflecting some changes, less use which is, in turn, less revenue related to cable. They have also done some modest budgeting for the return of Recreation classes and a few private events in the new fiscal year which were not budgeted for the current fiscal year due to COVID. Revenues by type were presented graphically. Property tax is the largest contributor to the general fund, followed by charges for services. Revenue generated by the General Fund supports expenditures across all departments. There will be a minimal or reduced general fund support for the proposed budget within the Planning Department due to three grants that the Town will be receiving. This will be used to offset costs related to consultant work and staff time on the housing element.

Related to expenditures, there will be some increases in employee services and benefits, including two positions that will be fully funded. In current fiscal year, the position for a Senior Planner was defunded, so this was added back to the budget this year. The finance analyst was partially funded, and the position was filled on a temporary basis. There are also some increases with the 4.3 percent COLA and other adjustments. There was no COLA included in the current year budget, as they monitored the impact of COVID on revenues and expenditures. Software costs have been flat in comparison to the increases seen over the years. There are increases in other areas, specifically, public safety. Expenditures by type was illustrated graphically. General fund proposed expenditures are higher than the previous budget by approximately \$400,000, with factors including increases in public safety, specifically, increases to the Sheriff and dispatch contracts and increases to fire services. The budget units fall under services and supplies, which makes up 43 percent of the total general fund expenditures, the largest of the Town's expenditures. She noted, as with a majority of municipalities, the highest expense category is employee services and benefits. For Portola Valley, employee services and benefits make up a total of 38 percent of total expenditures. The proposed budget does include increased costs in salaries over the current fiscal year budget by about 12 percent.

Ms. Rodas presented the Capital Improvement Plan. The Town's CIP consists of four specific divisions. Division 710 identifies roads and right-of-way. Division 720 is for Parks and Fields maintenance. Division 725, Open Space; and Division 730 for Facilities and Buildings. This also includes fixed assets, projects related to equipment and/or IT and software. In Division 710, she identified item number eight, the rapid flashing beacon project, is for pre-design only, and will be covered by special revenue funds, Measure W. There will also be special revenue funds towards item number six, 2021-22 street resurfacing project. In Division 720, item number one, Town Center skateboard ramp replacement, includes contingency and other items as well. In Division 725, Open Space, many items are recommendations from the Conservation Committee. There are also recommendations by the Conservation Committee under the Facilities and Buildings Division. There is continued support for the Spring Down and Vernal Pond vegetation management at \$50,000, as well as Frog Pond Open Space support. Division 730 includes some additions to insulation within fixed assets, The Buckeye Room TV and installation, the schoolhouse video system, the Zoom hybrid meeting integration, and also an EnerGov upgrade to a cloud-based system. Many of these would help modernize the current processes and add efficiency. There are also some additions to Community Hall and insulation for cabinet locks, as well as a project at the Cal Water site to install the antenna and equipment for ham radio. Again, there are some items recommended by Conservation for some improvements at the Town Center, as well as item number six, to upgrade safety within Town Hall and make sure there are specific barriers and plexiglass inside Town Hall to ensure safety and social distancing.

Ms. Rodas next discussed issues to monitor and consider in the longer-term. An ongoing question is related to revenue and if it will continue to be able to support operational needs. There will be some issues related to the VLF shortfall. They are not sure what the impact of that will be or if the state will be able to backfill the funds that were to be allocated to specific cities related to the discussion on the relationship between excess ERAF and VLF. There are also some changes to the consumption of services related to franchise fee and UUT. They are starting to see reductions in revenue, mostly related to telecommunications. Another issue is increased wildfire support. For the upcoming year, the fire mitigation program is growing to a six-person crew, compared to five currently, plus the fire engineer. Also, a continuing topic is facility needs for the Town Center. There are items within the building that need to be upgraded or repaired. One specifically would be the boiler. Some improvement there is needed. Furthermore, with the American Rescue Plan, the Town has an allotment of about \$859,000 specifically for revenue loss or previous expenditures related to COVID. These funds will be accepted as revenue. There are specific eligible uses for the funds. They must be tied to direct COVID expenditures or any type of revenue loss experienced during the pandemic. A few of the items listed in the CIP may be eligible expenditures under the American Rescue Plan, such as some items within software and also some not-for-profit contributions that are normally included in the annual budget. They will continue to present more information as it is released from the government.

Another issue to monitor and consider for the longer term is staffing. Staff continues to see increased need for resources and support and anticipate additional requests for staffing over the next few years, with some likely opportunities with Public Works and the Administration Departments.

Mr. Rodas said the next steps for the budget include continued discussion on the American Rescue Plan as more information unfolds. There will be a budget revision in September, which will be an opportunity to present more accurate, up-to-date information following the year-end close, which will have actualized numbers to present and a better estimate reflecting any changes. They plan on setting up quarterly budget monitoring meetings beginning in October to be held with the Finance Committee as they bring more meetings to their agenda.

Mayor Derwin invited questions of Ms. Rodas.

Vice Mayor Hughes said in going through the budget in the OpenGov link in the packet, he was trying to find where UUT shows up under sources. Ms. Rodas said it is under non-departmental, charges for services. Vice Mayor Hughes thought it would be useful to break it out separately because of the changes approved by voters a few years ago that allows turning the UUT up and down. If looking for extra revenue, or if needing to reduce revenues, having that as a separate top-level item in the chart would be very useful. He wondered, for the approximately \$860,000 expected from the federal government, how much might be left over to spend on other things. Town Manager Dennis said the ballpark would be approximately in the range of \$300,000. It may go higher depending on whether a few of the items in capital projects can be done. For instance, \$61,000 related to improvements to the schoolhouse for hybrid meetings. He said part of it is also relate to how lost revenue is determined. He would certainly classify revenue that wasn't collected relating to the Planning and Building Department because of being closed for three months. There is still some conversation to have with the Town Attorney and others on whether that makes a case, but that would have created a big jump relating to lost revenue. Otherwise, there would be a little bit of lost revenue in sales tax and rentals, et cetera.

Councilmember Aalfs asked Ms. Rodas if the ERAF VLF shortfall last time was around \$250,000. Ms. Rodas said the VLF shortfall is much more significant. They are looking to possibly have it backfilled by this date. It was included in the budget, so it is very likely that it will be, but there is more information to come soon. Town Manager Dennis added that the amount related to ERAF was budgeted very conservatively because it's a volatile resource, coming in much higher than estimated in the last few years. Ms. Rodas will find last year's number, but she reiterated it could be more than last year.

Councilmember Wernikoff thanked Ms. Rodas and said the process has been very helpful and good for the Finance Committee and her learning curve. She was happy to see in this version of OpenGov that you can click at the department level and see the year-over-year information that she has been looking

for, to be able to see two solid years of actuals. She had a question about the budget process and calendar, understanding the next steps and the difference between the final budget adoption at the next meeting and what will be the September revision. Ms. Rodas said the current proposal is to-date for the current fiscal year. Year-end close numbers will be available at the September meeting, plus any revenues or expenditures that come through. Town Manager Dennis said that the plan should actually be called Final Proposed Budget Adoption. Councilmember Wernikoff said she was getting tripped up on the wording and thought the only thing that should be called final is the September version. Town Manager Dennis agreed with this. She said being committed to get a five-year forecast in the fall will be a huge progression. She asked where to find investment revenue. Ms. Rodas replied it is under the Non-Departmental section, under the category of Use of Money and Property.

Councilmember Wernikoff agreed with Councilmember Aalfs' comment about breaking out the UUT. She said the Finance Subcommittee is breaking things out as they can. She appreciated seeing where fire was broken out and said it looks like the spending there is increasing 150 percent, essentially. Regarding fire expenditures, she was looking for actual numbers and was curious what was not spent, notwithstanding everything was wacky because of COVID. She questioned what was adopted versus actual in terms of Woodside Fire Protection District. Town Manager Dennis said it is a function of some additional work that hasn't been charged to the Town, that they haven't been billed for. Secondly, they budgeted assuming that they would have five members of the Vegetative Management group from Woodside Fire available immediately, and they were not available immediately. They were using Town staff for a period of time in summer and fall before they were fully staffed at five. The work happened. The expenditure occurred within the Town staff.

Councilmember Wernikoff asked about the reserves. She said the commentary in the transmittal memo mentioned the reserves. The Finance Committee had talked about outlining that a little bit more discreetly in the budget documents to educate people who have questions about it. She would like to see this and, if possible, to be able to see year-over-year trends. She feels it is helpful to the public to see it in a document in black and white. Town Manager Dennis said this was a simple omission and he will have it in the June 23<sup>rd</sup> version. This is more descriptive language related to what the fund activity summary is discussing and then there's also one of the financial policies related to the minimum amount that they have, like a rainy day fund type of assignment.

Councilmember Wernikoff said she knows staff has been working at trying to get through backlogs while the overall volume of work is going up, particularly in Planning. She asked if staff feels they have adequate funding to support the Town priorities. If they had more funding, do they have a wish list ready to go of what they would need? From what she has heard, she feels they should be thinking about that, and also ways to increase revenue in order to meet those needs. Town Manager Dennis encouraged people to read the transmittal memo where there is discussion of this. He said there is a good sense of what the next set of potential staffing expenditures would be. One is related to Public Works Department, some sort of mid-level support for Mr. Young. Also, there are some administrative things they are looking at as well. In the short term, Planning and Building Director Russell, with the Council's direction and support, has a plan in place that includes bringing on some additional resources and moving folks around. The big addition is the senior planner position that they hope will reduce some of the backlogs. Part of the issue is also that they don't really understand yet what COVID has done. In the medium-term, should there be a housing element that incorporates additional planned units in town that create more day-to-day machinations within the Planning and Building Department as well? They understand this as a need at some point, so over the next year, they would like to bring those ideas forward.

Town Manager Dennis said their budgets are fairly tight and fairly slim. There is not a lot of fluff in the operational budgets. He thinks there are opportunities to take a closer look at any one area if that's the Council's direction, in order to support future expenditures. He thinks it is important for the Council start to consider other revenue sources. First would be to look at UUT as a potential source. There may be other expenditures that this budget simply can't support, particularly in fire. Wildfire Preparedness Committee is likely to come forward with another suite of proposals/recommendations that, under the current budget, would be eating into the reserves on an operational basis. Part of the five-year plan is to start to build out those assumptions and understand the impacts, to have a conversation with both the Finance Committee



and the Council to start planning more appropriately for what that could look like. He thinks they have a good sense of where they want to go next, specifically as it relates to proposals for the Council regarding staffing to support those areas. They want to see, over the summer and into the fall, if there are big changes in interactions with staff and the services.

Councilmember Wernikoff said her point of view is that forecasting is great. Especially with the Housing Element, they know there will be bigger projects coming down the pike. She cautioned not to wait until things are in crisis to start figuring out a plan. Rather, plan ahead and figure out how to get the revenue to staff appropriately in order to keep things moving efficiently and not have burnout. Town Manager Dennis said there was serious consideration in the draft budget to potentially bring forward additional positions, but they decided to see how things would go. The transmittal memo described some of the increases they have seen. Some of these may change as people start to go back out post COVID. The Public Records Act requests present a substantial amount of staff time, but if that changes then they can deploy current staff accordingly. Councilmember Wernikoff suggested perhaps having a check-in at some point, to assess and plan accordingly. Town Manager Dennis said there are two check-ins planned, one on the budget and one called Roll Forward which is future Council meeting agendas. There is a check-in for the Planning Department in the summer as far as how things are going. They do expect no later than January 1<sup>st</sup> coming back to the Council regarding position issues, and having some suggestions then as they further develop their thinking.

Councilmember Richards said he has already spent a lot of time asking questions. He said he appreciates the increased accessibility for the budget and thinks it gets better and better every year. Some of the items talked about is future accessibility in terms of improved software functionality and ease of use. Town Manager Dennis shared Councilmember Richards' written question regarding Public Safety Property Tax (Prop 172). He said there are a couple areas where the 1920 data is not what they know it to be. It's a relationship to the fact that there were two systems they were operating at the same time. Some of those needs to be cleaned up, such as restricted funds related to gas tax. Also, there was a comment that this is the first year that they are transferring data from the financial system into the budget and reporting system. The actual is actual. There was no proposed this year. He doesn't know that this is the right way to go, but they thought since the system works this way, they will try it. It is an open question at the staff level, but they would take any direction from the Council if there were a preference on how to do something in the future. He said that is an area where things seem a little low. It probably is a little low, because there might be a posting issue. They may not have received a check or a bill, or may not have done the work yet, et cetera. Another column could be added showing Actual Budget and Projected if that is useful. Councilmember Richards said he feels pretty comfortable with where they are at right now.

Town Manager Dennis said he was the one responsible for calling the Capital Improvement Program modest. He amended this to say it is modest from the perspective of the number of projects, but it is not modest from the perspective of the expenditure they are proposing. Tying it back to the transmittal memo and the discussions that the Council has had with staff, one of the things they were trying to do with the budget is not overload staff with a number of projects that they can't complete. There's an analysis that he's been doing over the past couple years that they probably were trying to do too much, which is why some of the actuals for some years, the expenditures, were not always where they wanted to be. This is the first real attempt to realign that. Part of that is through the narrative experience of putting staff in the right places, but also making sure they don't have too many projects that they can't manage. They want to be as realistic as possible with their 16 people but are not going to accomplish what a staff of 30 or 50 or 100 can do.

Mayor Derwin asked what the Employee Wellness Program is. Town Manager Dennis said it's not much right now, but this is not a reflection of its importance. The opportunity to give staff resources, to be proud of where they work, and ensure that they are able to do the job is critically important. The classic sort of wellness program, which he thinks is outdated is, "Here's your membership to the gym." It's gotten much more expansive than that. There are other opportunities to support staff such as mental health help, support for those with families, etc. He said it has been fits and starts in trying to develop it and is taking on a much higher import after what they just experienced with COVID. Mayor Derwin observed that would be supported by Dr. Scott Morrow in his address today. She asked, in Section 3, Capital Projects,

Department 700, Project List, Division 725, Open Space. Items 1 and 3 refer to Blue Herron Pond and Vernal Pond, which are the same, so they could both be called Blue Herron Pond. In 4 and 6, there is reference to Frog Pond Open Space and Road Remnant. Town Manager said these are different. One refers to the existing Frog Pond Open Space and one of them refers to the Road Remnant.

Mayor Derwin invited comments from the public.

Rita Comes commented that last year when businesses did not have to pay their rent, she wondered if the Town had properties in which businesses did not have to pay their rent. She also commented, with the American Rescue Plan, one thing that is covered is an investment in people to improve public safety. She said it's been suggested that the Town hire a public safety officer as right now several people, including Town Manager Dennis, have a part of that job, but perhaps now while staff is overwhelmed with their own responsibilities, some of the funds could be earmarked for such a position. The position could possibly pay for itself by applying for grants that employees currently don't have time to work on right now, for fire safety and other things. Town Manager Dennis clarified that the Town does not rent any of its facilities for long-term use.

Betsy Morgenthaler had a question about the discussion on the reserves. At the May 5<sup>th</sup> Finance Committee meeting, a review of Town financial policies was discussed. One was a policy established in July 2011 recommending the reserve be set at 60 percent, and she realized that there has been a substantial shortfall. She was not able to attend the meeting on June 1<sup>st</sup>, because the meeting wasn't posted on the calendar and didn't show up on the website until it was too late to plan to be there. Regarding the reserves, she said the proposal for this year seems to be just over six percent, which is less than one month of reserves. Natural disasters have not lessened since 2011, and she wished to hear a discussion about this. She was concerned that the Open Space Acquisition Fund could be targeted and spent down. She said that Town Manager Dennis did request that, given the tight budget that Council consider the UUT. She said, according to Ann Wengert, as of November 30<sup>th</sup> the Town had spent down very healthy reserves in the prior three years. She said she hates the thought of targeting a sitting fund that can be drained as quickly as the reserves were. She advised looking more closely at spending and not just more sources of revenue and do so with more public input. Town Manager Dennis responded that he was having a bit of trouble following the six percent Ms. Morgenthaler referred to. The requirement in the financial policy, general fund minimum fund balance, is that they need to have 60 of the adopted budget general fund expenditures available for the purposes of emergency use. That's everything in the general fund, including the assignments, which they have met every year.

Judith Murphy said she was there to speak for the Conservation Committee. She shared a photo that was taken of the Spring Down Open Space. The Committee didn't give a presentation to the Council this year, but in previous years Mr. Young has produced a separate table of the Conservation requests, and they have prioritized them. Their requests, now in the new format, are divided between the CIP and maintenance. She wanted to give context for the Conservation Committee requests. Five years ago, the Council directed the Committee to do a comprehensive survey of the Town-owned properties. Three years ago, the Council funded a three-year plan at Spring Down which changed it from an overgrown, weedy lot to a more park-like setting as shown in the picture. Although it was a slow start, with a learning curve, this year all went quite smoothly. She said the backbone was Public Works, the staff and their contracted people weeding and mowing, supplemented by volunteers, including local Scouts. The lovely space is now being used more, with walkers on the circular path, more frequent people pushing strollers, joggers, et cetera. She described coming upon a father homeschooling his kids in the deep canopy of the willow one day. She said, aside from expensive tree work to be done, their requested budget now is primarily for a level of maintenance to allow the property to continue to be the beautiful asset that it has become for the community.

Ms. Murphy continued that Town Center has benefitted from additional yearly expenditures the last couple of years. Several planting beds have been renovated in the area between the old schoolhouse and the Spring Down tennis court road was cleared of overgrowth and invasives. This year they've requested renovation of remaining overgrown beds along the creek, especially, and increased protection for the majestic heritage oak that has poles holding part of it up, as recommended by an arborist. This

has been on their requests for several years and not funded. In Triangle Park, the budgeted funds allowed clearing of overgrowth and dead brush and the liberating of crowded oaks while preserving the seclusion from the roads. The area needs no improvement funding this year, but they anticipate suggesting a clean out every three to five years. Frog Pond Open Space has not received any additional funding. It was a lower priority, especially when things were tight last year, and was left off the approved budget. This year's Public Works budget includes a catch-up for things to do for Frog Pond Open Space itself. Many thousands of dollars of work have been done by volunteers. They are a dwindling crew, and the job is far larger than they can hope to accomplish, so work requested in the past has been included in this year's budget, including a consultation with a pond biologist to help them formulate a master plan for the pond itself from the various suggestions that have been made over the last couple years. Ms. Murphy said that Frog Pond Park – the Road Remnant – has only a single budget item, for mechanical mowing of the open area after the wildflowers have gone to seed. Volunteers have been selectively weeding and seeding in there, so they're off to a running start and plan to organize volunteers to do more thinning in there. The pledges that were made when supporting the area was being debated will be called in as soon as the Town finalizes the structure for doing so. They were pleased to see their request included in the staff suggested budget, and they urge the Council to fully fund Public Works as spelled out in the budget document.

Town Manager Dennis clarified that Ms. Murphy had requested of him and the Mayor some additional time to speak.

Kristi Corley asked where the legislative analyst is in the budget and when they would be hired. She also suggested that, when they used acronyms such as UUT, COLA, ERAF, VLF, writing them out would be helpful. She was in particular curious about what the VLF number is. She also asked if there are actuals financially in regard to the five-year plan for fire. Town Manager Dennis addressed her questions. Regarding the legislative analyst, he had mentioned the Town utilize the services of a professional team in Sacramento to provide some information about budget and state bills. He said there are lobbying firms – which would not be used for lobbying purposes – that he has contacted and is finalizing some potential proposals to bring to Council at very modest cost. Regarding acronyms, he said they do forget and will do better in that regard. On the five-year plan, he anticipates including this year five years of additional work in the right-of-way to complete what they've started at the current expenditure rate, that is \$1 million. He doesn't know if every year would require approximately \$190,000 to do that, but feels it is a good starting place. Ms. Rodas clarified the VLF (vehicle license fee) total shortfall, the substantial amount for countywide, is estimated to be \$96 million. The Town's portion of the shortfall is much closer to the \$250,000. The actual shortfall amount for Portola Valley is \$261,405. She explained the other acronyms, ERAF (Education Revenue Augmentation Fund); and COLA (cost of living adjustment); UUT (utility users tax). Mayor Derwin suggested providing a key to frequently used acronyms in the future.

Betsy Morgenthaler said Town Manager Dennis had asked where she got the six percent for the reserves and wanted to point out that it was on the first page of where the link to OpenGov took her to the proposed budget requirements, all funds. There is a pie chart at the top, and a brown triangle that says "Reserves, six percent." Underneath, it spells out \$642,408, 6.18 percent. There is a link to "Revenues and Expenses by Government Fund," where the bottom line under expenditures reads "Reserves by Fund," which also says \$642,408. This is where she got the 75 percent coming out of the Open Space Acquisitions" UUT fund. Town Manager Dennis explained this is accounting. They use the terms reserves and fund balance as it relates to requirements and sources to bring the budget up to a balance. In previous years, typically running an operating surplus, they would show, for example, \$100 on the revenue and \$75 on the expenditure side. They are now balancing the budget, so use, depending on the category, whether it's requirements or sources, those terms, including reserves.

Mr. Sako further explained that Ms. Morgenthaler is looking at the appropriated fund balance and reserves, so it's the amount that they have to budget to balance the budget. If somebody wants to get a true idea of what the Town's fund balance and reserves are, they should look at a document in the budget called "Fund Activity Summary." This would show that there is well over 60 percent. He said Town Manager Dennis gave a good explanation – if revenues are \$100 and expenditures are \$75, you have a reserve of \$25. On the flip side, if your expenditures are more than your revenues, then your appropriate



fund balance to balance the revenue side. Councilmember Wernikoff said she thought that what Town Manager Dennis had said that they will have this fully explained. Vice Mayor Hughes said this is actually different than the discussion they were having in the subcommittee on how to describe reserves. The reserves that Ms. Morgenthaler is talking about on the fund sheet is a different use of the same word. When they talk about reserves and the reserve policy and 60 percent, that essentially means that we don't our bank balance to fall below 60 percent our projected expenditures for the year. This is different than the concept of reserves in accounting, which is transferring money amongst the funds to make everything balance out. Councilmember Wernikoff thought Betsy was talking about the former and misunderstood the meaning of the reserves in the pie chart. Town Manager Dennis said this is an opportunity to do further education.

Mayor Derwin said this will come back to the Council in two weeks, June 23<sup>rd</sup>, for a public hearing and action from the Council. Tonight's presentation was for reviewing, making comments, asking questions, listening to the community. Town Manager Dennis said so far there has been feedback from Councilmembers to improve the product. There is some cleanup to do in '19-'20 and a few of the revenue streams. He thinks an area of input from the Council that would be very helpful is the modest amount of revenue contributing from the general fund towards a variety of capital projects, some of which may be able to be covered under the ARP (American Rescue Plan) but certainly not everything. He said Conservation has been very patient with them, so they wanted to ensure that the Council's direction was fully realized here, so they are very happy to have that in there. Otherwise, he feels the budget in some ways has been developed to be appropriated in a post-COVID world, trying to come out of it and trying to allocate staff in the appropriate places, recognizing some very major projects that the staff has to accomplish in the next year that will take up a considerable amount of time.

Mayor Derwin invited further questions or comments. Hearing none, she reminded that they would see this again in two weeks and will not add any more to staff's plate. She and Town Manager Dennis thanked the staff and individuals involved for their work on the budget. The transmittal letter was very informative. Town Manager Dennis acknowledged that Councilmember Wernikoff helped him get to a place to have much more information than they have historically had in there. Her guidance and suggestions were a good start.

(9) **COUNCIL LIAISON COMMITTEE AND REGIONAL AGENCIES REPORTS**

Councilmember Wernikoff has been busy with the Finance Subcommittee work on the budget. She addressed a previous comment regarding scheduling, and advocates that they get these calendared in advance as much as possible on annual basis similar to how most other committees work, so they are working with the Finance Committee to agree to that. She and Councilmember Aalfs spent a day doing interviews for the Housing Element committee and spent a lot of time carefully thinking through the panel. Regarding Portola Valley School District, she mentioned comments received from the Superintendent about the rollout of construction starting next week. Those interested can find the notes on that in the last Town newsletter and probably also on PV Forum. Lastly, she made a request for the Town meetings to start a little earlier, perhaps at 6:00 instead of at 7:00. Mayor Derwin said they will talk about an earlier start time next Monday.

Vice Mayor Hughes had a BPTS meeting, in which there was discussion of parking. He said there was nothing crazy in the Sheriff's Department update. He reported that the Corte Madera School encroachment permit has been issued now for the construction project. The Planning Commission did another round of discussion on the update to the ADU ordinance for compliance with changes in state law. There were a couple language issues that still needed to be cleared up, but it should be moving forward. The Planning Commission chose Commissioners Targ and Kopf-Sill for the Housing Committee, but this may change as discussed earlier. The Finance Committee covered budget as the main issue, as covered by Councilmember Wernikoff.

Councilmember Aalfs said last week was the Airport Roundtable. The big development at the meeting was they formed a subcommittee that will explore the addition of Palo Alto as a member of the Roundtable, which has been under discussion for about 20 years. There were some objections, but a

solid majority supported this in the end. Palo Alto is a stakeholder in the San Francisco Airport. He is on the subcommittee, and they will start looking at criteria for new members, which he believes will support the addition of Palo Alto. He reported that Parks and Recreation met two nights ago. They had discussion on the dog park proposal which has made its way through to a few committees and will probably eventually come to the Council. There are different opinions, but they will probably have to come to a decision as Council. They are working on formalizing the reservation policy for the tennis and pickleball courts. There is currently a Google Doc that people who are signed up for these can use. They would like to make it more formal and secure. OpenGov may have some tools for this. They discussed user fees for the fields and the courts. There has never been a fee for using the courts, but they are considering a nominal fee, and the user fees for the fields. There is a disparity between what certain groups pay. Adult leagues pay for every hour on the fields, probably two to three times what Little League players pay. They would like to revisit the whole fee structure there and decide on priorities in terms of what fees should be pegged to, and basically come up with a revision to make sure all the field fees are consistent, making sure the field fees and court fees make sense relative to each other, considering what it takes to maintain a court versus maintaining the fields. He said Nature and Science meets tomorrow and they have another seminar tomorrow night at 7:30, Predicting Earthquakes. Robert Bleier from Portola Valley will talk about earthquake prediction to within seconds.

Mayor Derwin attended the first in-person Council of Cities meeting since February of 2020, which was both in-person and virtual, giving her insight into how hideous it is going to be. They were in a big room, approximately half in person and half on the big screen. She said it hard to do, although it was 21 people voting, so the Town's meetings will be easier. Still, it was challenging. The City Selection Committee voted on members to the Executive Board of ABAG. Both incumbents were re-appointed. Carlos Romero from East Palo Alto and Giselle Hale from Redwood City. They also voted on alternate members for ABAG, Richa Awasthi and Sam Hindi from Foster City. They voted on the LAFCo board member and re-appointed Harvey Rarback from Half Moon Bay. The program featured discussion on work they have done, including Belmont Parks and Open Space Master Plan. They were invited to a hike at another location.

On June 1<sup>st</sup> she had a phone call with Susan Cordone from Cal Water, Conservation Coordinator. She handles conservation for a large territory. They talked about the rebates Cal Water has right now for residential and commercial things, such a sprinkler nozzle you can get a rebate for. She talked about a Smart Landscape Tune-up program, open now, which residents can take part in. A contractor works with the customer, turns on system, reviews everything, and makes recommendations. The contractor may fix small things, but basically the resident must hire someone else to do the work. Cal Water will have some type of turf replacement program, probably rolling out in July. They still have Conservation Kits. They have a Cal Water H2O Challenge for the schools, and other things. Mayor Derwin will be at the Sustainability Committee meeting in July and hopes she can promote within the community all the things Cal Water is doing.

Mayor Derwin said she was part of the Wildfire event, which was in the series of League of Women Voters webinars sponsored by OneShoreline which is the Flood and Sea-level Rise Resiliency District. This event had Len Materman, CEO of FSLR; Dawn, Cal Water Supervisor; Jonathon Cox from Cal Fire; herself; and Nick Calderon, County Parks; Kellyx from RCD was in the Q&A; Denise Enya and Town Manager Dennis were also in the Q&A. She thought it was a good event, with many questions, and about 120 participants.

#### (10) **TOWN MANAGER REPORT**

Town Manager Dennis mentioned an item he is planning to bring forward to the Wildfire Preparedness Committee. He has been speaking to providers of wildfire mitigation assessment services. Some are offered through insurance companies, some are independent. They come out and do an assessment of your home on home hardening and defensible space. They usually have a product they're trying to sell around vents or gutter barriers or a few other things that they can do. He is starting to talk to them about the potential opportunity for the Town to look at a "group buy" of a certain number of these assessments for residents that would be discounted or no-fee. It's not something these groups have considered before,

so it may be an area of leadership related to wildfire. He wanted to mention it to Council as a way to support mitigation measures in the town.

**WRITTEN COMMUNICATIONS**

(11) **Town Council Digest** – May 27, 2021

(12) **Town Council Digest** – June 3, 2021

**ADJOURNMENT** [9:30 *p.m.*]

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Mayor

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Town Clerk

Check Register

Check Number	Vendor Number	Vendor Name	Check Amount	Check Date	BW	Check Type
Checks for Cash Account: 910-11012-000						
55789	21	ALMANAC	788.00	06/23/21		
55790	41	AT&T	286.50	06/23/21		
55791	80	CALPERS	53,049.97	06/23/21		
55792	110	CITY OF FOSTER CITY	510.00	06/23/21		
55793	144	DARCI REIMUND	1,000.00	06/23/21		
55794	176	EXCEL LD	18.96	06/23/21		
55795	193	GO NATIVE INC	10,965.00	06/23/21		
55796	218	ICMA	13,108.94	06/23/21		
55797	275	KRUPKA CONSULTING	2,250.00	06/23/21		
55798	295	LYNX TECHNOLOGIES INC	250.00	06/23/21		
55799	332	N.C.E.	9,340.70	06/23/21		
55800	334	NOLTE ASSOCIATES INC	11,288.19	06/23/21		
55801	343	OPENGOV INC.	825.00	06/23/21		
55802	354	PATRICK BURRELL	5,000.00	06/23/21		
55803	367	PG&E	574.95	06/23/21		
55804	375	PLATINUM FACILITY SERVICES	1,260.00	06/23/21		
55805	403	RON RAMIES AUTOMOTIVE INC.	1,913.27	06/23/21		
55806	411	SAN MATEO LAWNMOWER	285.54	06/23/21		
55807	412	SAN MATEO SHERIFF	314,335.00	06/23/21		
55808	420	SCOTT MITIC	2,969.72	06/23/21		
55809	428	SHARP BUSINESS SYSTEMS	16.86	06/23/21		
55810	448	STATE COMP INSURANCE FUND	4,326.99	06/23/21		
55811	482	TURF & INDUSTRIAL EQUIPMENT CO	1,289.69	06/23/21		
55812	489	VERIZON WIRELESS	504.88	06/23/21		
55813	505	WOODSIDE FIRE PROTECTION DISTR	9,058.94	06/23/21		
55814	632	ROMERO CONSTRUCTION	1,000.00	06/23/21		
55815	642	CYBERTARY.COM	2,098.52	06/23/21		
55816	670	THE CHUARD-RANSOM REVOCABLE TR	10,000.00	06/23/21		
55817	671	SHILAJEET BANERJE	1,000.00	06/23/21		
55818	672	ZETERRE LANDSCAPE ARCHITECTURE	541.11	06/23/21		
55819	673	MUNICIPAL RESOURCE GROUP, LLC	4,000.00	06/23/21		
Check totals:			463,856.73			
ACH totals:						
EFTPS totals:						
Wire transfer totals:						
Payment Manager totals:						
GRAND TOTALS			463,856.73			

Check totals:	463,856.73
ACH totals:	
EFTPS totals:	
Wire transfer totals:	
Payment Manager totals:	
<b>GRAND TOTALS</b>	<b>463,856.73</b>

Check Date	Check Number	Special Information	Net Check Amount	Total Invoices Paid	Invoice Number
Vendor: 06/23/21	21 55789	ALMANAC May Publishing	788.00	788.00	72839
Vendor:	41 55790	AT&T May Statement May Statement May Statement	286.50	45.89 194.96 45.65	000016566306 000016566307 000016566308
Vendor: 55791	80	CALPERS April Retirement - CLASSIC April Retirement - PEPPRA June Unfunded Liability May Retirement - CLASSIC May Retirement - PEPPRA	53,049.97	16,141.43 6,928.08 6,687.55 16,278.23 7,014.68	100000016367584 100000016367602 100000016443718 100000016400903 100000016400919
Vendor: 55792	110	CITY OF FOSTER CITY CalOpps Job Posting - Senior Planner	510.00	510.00	14171
Vendor: 55793	144	DARCI REIMUND Refund Deposit, 30 Granada	1,000.00	1,000.00	BLDR0037-2019
Vendor: 55794	176	EXCEL LD May Telephone LD Service	18.96	18.96	1187964927
Vendor: 55795	193	GO NATIVE INC PV Town Center Maintenance - April/May	10,965.00	10,965.00	3525
Vendor: 55796	218	ICMA Defer Comp, Q1_21	13,108.94	13,108.94	Q1_21
Vendor: 55797	275	KRUPKA CONSULTING Consulting - Woodside Priory Traffic/Parking Assessment Consulting Svcs, Woodside Priory Traffic/Parking Assessment	2,250.00	1,500.00 750.00	1281 1276
Vendor: 55798	295	LYNX TECHNOLOGIES INC May Maintenance	250.00	250.00	9359
Vendor: 55799	332	N.C.E. 2020 Street Resurfacing Project, Through 05/14/21	9,340.70	9,340.70	424245510
Vendor: 55800	334	NOLTE ASSOCIATES INC March Applicant Charges & PW Support	11,288.19	11,288.19	MAR_2021
Vendor: 343		OPENGOV INC.			

Check Date	Check Number	Special Information	Net Check Amount	Total Invoices Paid	Invoice Number
06/23/21	55801	Contractor License Verification, 02/08/21 - 02/07/22	825.00	825.00	INV00004027
Vendor:	354	PATRICK BURRELL			
	55802	Refund Deposit, 40 Sioux	5,000.00	5,000.00	BLDR0180-2018
Vendor:	367	PG&E			
	55803	May Statements	574.95	574.95	MAY-2021
Vendor:	375	PLATINUM FACILITY SERVICES			
	55804	Town Hall & Library Deep Cleaning	1,260.00	1,260.00	41481
Vendor:	403	RON RAMIES AUTOMOTIVE INC.			
	55805	Ford Smog & Part Repair/Replace Ford - Smog, Oil Change, Air Filter, Inspection May Fuel Statement	1,913.27	837.42 449.21 626.64	68012 67996 G20210531--5
Vendor:	411	SAN MATEO LAWNMOWER			
	55806	Pole Saw Repair	285.54	285.54	212274
Vendor:	412	SAN MATEO SHERIFF			
	55807	FY20-21, Q4 Law Enforcement	314,335.00	314,335.00	PS-INV103763
Vendor:	420	SCOTT MITIC			
	55808	Refund Deposit, 308 Canyon	2,969.72	2,969.72	BLDR0138-2019
Vendor:	428	SHARP BUSINESS SYSTEMS			
	55809	May Copies	16.86	16.86	9003327469
Vendor:	448	STATE COMP INSURANCE FUND			
	55810	March - May '21 Premium	4,326.99	4,326.99	269118-MAR-MAY2
Vendor:	482	TURF & INDUSTRIAL EQUIPMENT CO			
	55811	Tractor Repair & Maintenance	1,289.69	1,289.69	R028872
Vendor:	489	VERIZON WIRELESS			
	55812	April Cellular May Cellular	504.88	125.74 379.14	9878430683 9880576143
Vendor:	505	WOODSIDE FIRE PROTECTION DISTR			
	55813	CERPP Coordinator, April - June 2021	9,058.94	9,058.94	127_PV
Vendor:	632	ROMERO CONSTRUCTION			
	55814	Refund Deposit, 9 Hawk View	1,000.00	1,000.00	BLDR0210-2018

Check Date	Check Number	Special Information	Net Check Amount	Total Invoices Paid	Invoice Number
Vendor: 55815	642	May Transcription Svcs CYBERTARY.COM	2,098.52	2,098.52	4354
Vendor: 55816	670	Refund Deposit, 345 Golden Oak THE CHUARD-RANSOM REVOCABLE TR	10,000.00	10,000.00	BLDR0304-2017
Vendor: 55817	671	Refund Deposit, 14 Hawk View SHILAJEET BANERJE	1,000.00	1,000.00	BLDR0073-2016
Vendor: 55818	672	Refund Deposit, 30 Zapata ZETERRE LANDSCAPE ARCHITECTURE	541.11	541.11	PLN_SITE0005-20
Vendor: 55819	673	Evaluation of Town Manager MUNICIPAL RESOURCE GROUP, LLC	4,000.00	4,000.00	03-21-157
Check Date Totals			463,856.73		
Grand Total			463,856.73		



**TOWN OF PORTOLA VALLEY**  
Warrant Disbursement Journal  
June 23, 2021

Claims totaling \$463,856.73 having been duly examined by me and found to be correct are hereby approved and verified by me as due bills against the Town of Portola Valley.

Date \_\_\_\_\_

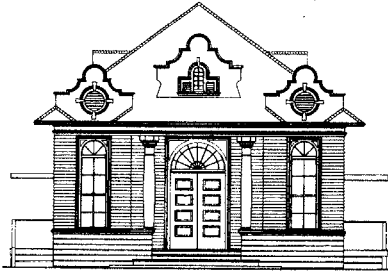
\_\_\_\_\_  
Jeremy Dennis, Treasurer

Motion having been duly made and seconded, the above claims are hereby approved and allowed for payment.

Signed and sealed this (Date) \_\_\_\_\_

\_\_\_\_\_  
Sharon Hanlon, Town Clerk


\_\_\_\_\_  
Mayor



# TOWN OF PORTOLA VALLEY

## STAFF REPORT

**TO:** Mayor and Members of the Town Council

**FROM:** Laura Russell, Planning & Building Director 

**DATE:** June 23, 2021

**RE:** Review and Approval of New Job Description for Senior Technician and Revision to Planning Technician I/II Job Description

### RECOMMENDATION

Staff recommends that the Town Council approve the new job description for Senior Development Review Technician (Attachment 1) and amended the job description and title for Development Review Technician I/II (Attachment 2).

### BACKGROUND AND DISCUSSION

The proposed FY2021-2022 budget includes the promotion of the Town's Planning Technician II to a senior level technician position. This promotion reflects the performance of the individual over the last three years, existing duties that rise above the level of Planning Technician II, and forward looking needs of the Planning and Building Department. While many communities have a technician level three or senior position, the Town does not. The proposed job description would establish this new position while the separate budget process would fund the cost of the promotion.

The proposed job descriptions establish the new name for this classification as Development Review Technician, rather than Planning Technician. This change reflects the range of duties the technicians have across Planning, Building and Public Works. The existing job description for Planning Technician I/II (Attachment 3) has also been updated to reflect the change in name for the classification and reflect current best practices and responsibilities.

The Senior Development Review Technician position is differentiated Development Review Technician I/II by a higher level of responsibility and oversight. The responsibilities that are unique to the Senior Technician include the following:

- Guide the public through the building permit application process from inception to completion.
- Identify problems and recommend changes to planning and building policies.

- Identify problems in the technical permitting process; may develop, recommend, and implement approved permit system changes to make the process more efficient and effective.
- Oversee pre-construction meeting process and Temporary Certificate of Occupancy process.
- Act as administrator for permit tracking software and train staff and consultants on its use.
- Process applications, write reports, make recommendations on, and approve applications for Staff Discretionary Review
- Perform complex plan reviews for conformance with planning requirements on behalf of the Planning Division when a planning permit is not required; process and approve complex staff level site development permits.
- Assist Planning and Building Director with tracking permit volumes and cost recovery including the preparation of regular reports and analysis of data.

The three Development Review Technician positions now reflect a progression with appropriate duties and qualifications. Both job descriptions describe current responsibilities while allowing appropriate flexibility for the future. The job descriptions for Assistant, Associate, and Senior Planner were updated in 2019; all of the technician and planner job descriptions now follow the same approach and have a relationship between them.

#### **FISCAL IMPACT**

The promotion for existing staff to a senior level position is included in the proposed FY2021-2022. There are no fiscal impacts associated with the revision to the job descriptions for the technician series.

#### **ATTACHMENT**

1. Draft Senior Development Review Technician Job Description
2. Draft Development Review Technician I/II Job Description
3. Current Planning Technician I/II Job Description

**TOWN OF PORTOLA VALLEY**  
**Senior Development Review Technician**

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

**SUMMARY DESCRIPTION**

Provides lead direction and work coordination for technical and administrative work in development review services including Planning, Building, and Public Works; assists the public at the counter, on the phone, over email, and other communications methods; provides technical information related to the application for and issuance of permit applications; accepts plans, calculates fees, routes and processes applications; and performs related work as required.

**SUPERVISION RECEIVED AND EXERCISED**

Receives supervision from the Planning and Building Director. May exercise technical and functional supervision over technical or administrative staff.

**DISTINGUISHING CHARACTERISTICS**

This is the advanced journey, lead worker level in the Development Review Technician series. Incumbents provide work coordination and training for other Development Review Technicians, as well as perform the full range of technical building and planning support duties. They are required to possess thorough knowledge of the requirements, processes, and procedures of the Planning and Building Department and working knowledge of the Public Works Department. This position is distinguished from other classes within the series by the level of responsibility assumed, complexity of duties assigned, and independence of action taken. Incumbents are expected to provide more comprehensive support to the Planning and Building Department and may be assigned work coordination and lead responsibilities.

**REPRESENTATIVE DUTIES**

*The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.*

- Perform a variety of customer service and technical duties in support of the Town's Planning, Building, and Public Works permit processing operations.
- Guide the public through the building permit application process from inception to completion.
- Identify problems and recommend changes to planning and building policies.
- Identify problems in the technical permitting process; may develop, recommend, and implement approved permit system changes to make the process more efficient and effective.
- Conduct office research and may do field investigations and prepare related reports and analysis.
- Oversee pre-construction meeting process and Temporary Certificate of Occupancy process.
- Act as administrator for permit tracking software and train staff and consultants on its use.
- Process applications, write reports, make recommendations on, and approve applications for Staff Discretionary Review; approve minor permits such as fences, zoning permits, and horse keeping permits.

Town of Portola Valley  
Development Review Technician I / II Job Specification  
Draft 6-23-21

- Perform complex plan reviews for conformance with planning requirements on behalf of the Planning Division when a planning permit is not required; process and approve complex staff level site development permits.
- Assist Planning and Building Director with tracking permit volumes and cost recovery including the preparation of regular reports and analysis of data.
- Provide customer service at the front counter, by phone, email, virtual meeting, and other communications methods; demonstrate a willingness to be attentive, understanding, responsive, fair, courteous and actively maintain a positive customer service environment.
- Within guidelines, interpret and explain policies and regulations accurately and tactfully.
- Perform full range of Development Review Technician permit processing activities including receipt of application materials, routing, tracking, calculation of fees, monitoring and permit issuance.
- Schedule inspections for building, planning, and public works; maintain an inspection log.
- Oversee deposit accounts for applications; review and approve payments to consultants; track expenses to ensure sufficient funds are on deposit; request additional funds to cover expenses; authorize refunds.
- Coordinate with staff or consultants conducting code enforcement activities; respond to less complex code enforcement issues.
- Perform technical duties in support of the Planning Commission, Architectural and Site Control Commission, and other related committees including, but not limited to, preparation of agendas, meeting notices, packet preparation, web posting, room set-up, and finalization of minutes and resolutions.
- Contribute to preparation of informational handouts for the general public regarding the Town's codes and policies.
- Create maps and gather geographic data utilizing the Town's Geographic Information System.
- Type, proofread and word process a variety of correspondence, letters, forms, minutes and documents from rough drafts and verbal instruction; compile data and prepare various reports.
- Assist in a variety of department operations and perform special assignments as assigned.
- Respond to emergency situations as required.
- Build and maintain positive working relationships with co-workers, consultants, other Town employees, and the public using principles of good customer service.
- Perform related duties as assigned.

## **QUALIFICATIONS**

*The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.*

### **Knowledge of:**

- Details of local development review, permitting and the Town's process.
- Proper use of English for business and report writing; proper use of spelling, punctuation and grammar
- Office administrative practices and procedures.
- Customer service principles.
- Modern office procedures, methods, and computer equipment and software.

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Development Review Technician I / II Job Specification  
Draft 6-23-21

**Ability to:**

- Organize work and establish priorities; coordinate work with other employees, consultants, and outside agencies.
- Explain the Town's Municipal Code, General Plan, and other policies and procedures.
- Understand complex construction plans, maps, and materials.
- Respond to and resolve difficult and sensitive development related inquiries and complaints.
- Participate in the development of website content, informational handouts and other communications materials.
- Make sound, independent decisions within established policy and procedural guidelines.
- Convey ideas and information clearly and concisely in simple staff reports and memos; organize information in written formats and draw valid conclusions.
- Apply concepts of construction, architecture, landscaping, and grading as they relate to permit processing in the Town.
- Conduct inspections to determine and evaluate site conditions.
- Maintain accurate records of work performed.
- Research, compile, analyze, interpret and prepare a variety of reports.
- Research files regarding prior actions, decisions, and development activities; analyze and/or summarize the findings.
- Make accurate mathematical calculations and complete financial record keeping and reporting.
- Effectively respond to requests for information from staff and the public.
- Give and follow oral and written instructions.
- Communicate clearly and concisely, both orally and in writing.
- Establish and maintain cooperative-working relationships with those contacted in the course of work.
- Operate modern office equipment (e.g., computers, copy machines, etc.).
- Type or enter data on a computer at a speed necessary for successful job performance.
- Maintain accurate records and files.

**Education and Experience Guidelines** - *Any combination of education and experience that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:*

**Education:** A Bachelor's degree from an accredited college or university with major course work in land-use planning, real estate, construction management or a related field.

**Licenses or Certificates:** Possession of, or ability to obtain, a valid California Driver's License; Individuals that do not meet this requirement due to a disability will be reviewed on a case-by-case basis. ICS 100, 200, and 700 certification. ICC Permit Technician Certificate desired but not required.

**Experience:** Three years of increasingly responsible experience performing technical development review activities similar to that of a Development Review Technician II with the Town of Portola Valley.

Town of Portola Valley  
Development Review Technician I / II Job Specification  
Draft 6-23-21

**FLSA STATUS**

This classification is non-exempt from the Fair Labor Standards Act (FLSA).

**PHYSICAL DEMANDS AND WORKING ENVIRONMENT**

*The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.*

**Environment:** Standard office setting. CONTINUOUS work indoors in close proximity to co-workers and members of the public; OCCASIONAL work outdoors and in varying temperatures. Work schedule is either a standard 40-hour work week during core business hours (8:00 am to 5:00 pm) or a 9/80 schedule. For the 9/80 schedule employees are required to work nine hours (for example from 7:30 a.m. to 5:30 p.m.) for eight work days, eight hours on a ninth work day, with the tenth day off (alternate Fridays off). Work from home and/or flexible schedule may be allowed at the Discretion of the Planning and Building Director in compliance with the Town's adopted policy. Work schedule may include after-hours meetings and occasional weekend meetings/events. Work environment is both formal and informal, team oriented, having variable tasks, pace, and pressure. Work is performed indoors in office and in meeting rooms, occasional assignments outside and field visits in hilly terrain.

**Physical:** Primary functions require sufficient physical ability to work in an office setting and operate office equipment. CONTINUOUS sitting and upward and downward flexion of neck; fine finger dexterity; light to moderate finger pressure to manipulate keyboard, equipment controls, and office equipment; pinch grasp to manipulate writing utensils. FREQUENT side-to-side turning of neck, walking, standing, bending, stooping, pushing/pulling, and twisting at waist; moderate wrist torque to twist equipment knobs and dials; lifting objects weighing up to 20 lbs. OCCASIONAL squatting, kneeling, and reaching above and at shoulder height; moderate grasp to manipulate reference books and manuals.

**Vision:** See in the normal visual range with or without correction; vision sufficient to read computer screens and printed documents and to operate equipment.

**Hearing:** Hear in the normal audio range with or without correction.

**EMERGENCY DISASTER SERVICE**

All Town employees are designated Disaster Service Workers through state and local law (California Government Code Section 3100-3109). Employment with the Town requires the affirmation of a loyalty oath to this effect. Employees are required to complete all Disaster Service Worker-related training as assigned, and to return to work as ordered in the event of an emergency.

**TOWN OF PORTOLA VALLEY**  
**Development Review Technician I / II**

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

**SUMMARY DESCRIPTION**

Performs responsible technical and administrative work in development review services including Planning, Building, and Public Works; assists the public at the counter, on the phone, over email, and other communications methods; provides technical information related to the application for and issuance of permit applications; accepts plans, calculates fees, routes and processes applications; and performs related work as required.

**SUPERVISION RECEIVED AND EXERCISED**

Receives supervision from the Planning and Building Director. May receive functional or technical direction from the Senior Planner or Senior Development Review Technician. Exercises no supervision of staff.

**DISTINGUISHING CHARACTERISTICS**

Development Review Technician I - This is the entry level class in the Development Review Technician series. Positions in this class typically have little or no directly related work experience and work under immediate supervision while learning job tasks. The Development Review Technician I class is distinguished from the II level by the performance of less than the full range of duties assigned to the II level. Incumbents work under immediate supervision while learning job tasks, progressing to general supervision as procedures and processes of assigned area of responsibility are learned.

Development Review Technician II - This is the journey level class in the Development Review Technician series and is distinguished from the I level by the ability to perform the full range of duties assigned with only occasional instruction or assistance as unusual or unique situations arise. Positions in this class are flexibly staffed and are normally filled by advancement from the I level.

**REPRESENTATIVE DUTIES**

*The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.*

- Perform a variety of customer service and technical duties in support of the Town's Planning, Building, and Public Works permit processing operations.
- Provide customer service at the front counter, by phone, email, virtual meeting, and other communications methods; demonstrate a willingness to be attentive, understanding, responsive, fair, courteous and actively maintain a positive customer service environment.
- Within guidelines, interpret and explain policies and regulations accurately and tactfully.
- Receive appropriate application plans and materials; route plans to appropriate departments, consultants, and agencies; log, monitor and track reviews; and issue permits.



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- Perform preliminary review of permit applications, review application materials with applicant to ensure comprehensive and accurate documents, identify any document gaps and provide information to the customer on what is needed to complete the application.
- Calculate, receive and process fees for permits and other payments as required.
- Schedule inspections for building, planning, and public works; maintain an inspection log.
- Oversee deposit accounts for applications; review and approve payments to consultants; track expenses to ensure sufficient funds are on deposit; request additional funds to cover expenses; authorize refunds.
- Perform routine plan reviews for conformance with planning requirements on behalf of the Planning Division when a planning permit is not required; process and approve routine staff level site development permits.
- Review and approve minor permits such as fences, zoning permits and horse keeping permits.
- Coordinate with staff or consultants conducting code enforcement activities; respond to less complex code enforcement issues.
- Conduct field investigations as necessary to ensure conformance with regulations and conditions.
- Use appropriate equipment and technology such as multi-line phone, permit tracking software, electronic plan review software and Geographic Information System.
- Perform technical duties in support of the Planning Commission, Architectural and Site Control Commission, and other related committees including, but not limited to, preparation of agendas, meeting notices, packet preparation, web posting, room set-up, and finalization of minutes and resolutions.
- Contribute to preparation of informational handouts for the general public regarding the Town's codes and policies.
- Create maps and gather geographic data utilizing the Town's Geographic Information System.
- Type, proofread and word process a variety of correspondence, letters, forms, minutes and documents from rough drafts and verbal instruction; compile data and prepare various reports.
- Assist in a variety of department operations and perform special assignments as assigned.
- Respond to emergency situations as required.
- Builds and maintains positive working relationships with co-workers, consultants, other Town employees, and the public using principles of good customer service.
- Perform related duties as assigned.

## QUALIFICATIONS

*The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.*

### Knowledge of:

- Concepts of local development review and permitting.
- Proper use of English for business and report writing; proper use of spelling, punctuation and grammar
- Office administrative practices and procedures.
- Customer service principles.
- Modern office procedures, methods, and computer equipment and software.

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**Ability to:**

Development Review Technician I

- Learn and apply concepts of construction, architecture, landscaping, and grading as they relate to permit processing in the Town.
- Learn Town policies and procedures and consistently implement them.
- Learn to read and understand architectural and civil plans, maps, and specifications to ensure accuracy.
- Conduct inspections to determine and evaluate site conditions.
- Maintain accurate records of work performed.
- Research, compile, analyze, interpret and prepare a variety of reports.
- Prepare correspondence and memoranda.
- Make accurate mathematical calculations and complete financial record keeping and reporting.
- Effectively respond to requests for information from staff and the public.
- Understand and follow oral and written instructions.
- Communicate clearly and concisely, both orally and in writing.
- Establish and maintain cooperative-working relationships with those contacted in the course of work.
- Operate modern office equipment (e.g., computers, copy machines, etc.).
- Type or enter data on a computer at a speed necessary for successful job performance.
- Maintain accurate records and files.

Development Review Technician II (in addition to above)

- Explain the Town's Municipal Code, General Plan, and other policies and procedures.
- Understand complex construction plans, maps, and materials.
- Respond to and assist in the resolution of difficult and sensitive development related inquiries and complaints.
- Participate in the development of website content, informational handouts and other communications materials.
- Make sound, independent decisions within established policy and procedural guidelines.
- Organize and prioritize multiple tasks in an effective and timely manner.

**Education and Experience Guidelines** - *Any combination of education and experience that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:*

**Education:** A Bachelor's degree from an accredited college or university with major course work in land-use planning, real estate, construction management or a related field.

**Licenses or Certificates:** Possession of, or ability to obtain, a valid California Driver's License; Individuals that do not meet this requirement due to a disability will be reviewed on a case-by-

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case basis. ICS 100, 200, and 700 certification. ICC Permit Technician Certificate desired but not required.

### **Experience**

Development Review Technician I – Internship, construction, office, or customer service experience is desirable.

Development Review Technician II – Two years of increasingly responsible experience performing technical development review activities similar to that of a Development Review Technician I with the Town of Portola Valley.

### **FLSA STATUS**

This classification is non-exempt from the Fair Labor Standards Act (FLSA).

### **PHYSICAL DEMANDS AND WORKING ENVIRONMENT**

*The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.*

**Environment:** Standard office setting. CONTINUOUS work indoors in close proximity to co-workers and members of the public; OCCASIONAL work outdoors and in varying temperatures. Work schedule is either a standard 40-hour work week during core business hours (8:00 am to 5:00 pm) or a 9/80 schedule. For the 9/80 schedule employees are required to work nine hours (for example from 7:30 a.m. to 5:30 p.m.) for eight work days, eight hours on a ninth work day, with the tenth day off (alternate Fridays off). Work from home and/or flexible schedule may be allowed at the Discretion of the Planning and Building Director in compliance with the Town's adopted policy. Work schedule may include after-hours meetings and occasional weekend meetings/events. Work environment is both formal and informal, team oriented, having variable tasks, pace, and pressure. Work is performed indoors in office and in meeting rooms, occasional assignments outside and field visits in hilly terrain.

**Physical:** Primary functions require sufficient physical ability to work in an office setting and operate office equipment. CONTINUOUS sitting and upward and downward flexion of neck; fine finger dexterity; light to moderate finger pressure to manipulate keyboard, equipment controls, and office equipment; pinch grasp to manipulate writing utensils. FREQUENT side-to-side turning of neck, walking, standing, bending, stooping, pushing/pulling, and twisting at waist; moderate wrist torque to twist equipment knobs and dials; lifting objects weighing up to 20 lbs. OCCASIONAL squatting, kneeling, and reaching above and at shoulder height; moderate grasp to manipulate reference books and manuals.

**Vision:** See in the normal visual range with or without correction; vision sufficient to read computer screens and printed documents and to operate equipment.

**Hearing:** Hear in the normal audio range with or without correction.

### **EMERGENCY DISASTER SERVICE**

All Town employees are designated Disaster Service Workers through state and local law (California Government Code Section 3100-3109). Employment with the Town requires the

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affirmation of a loyalty oath to this effect. Employees are required to complete all Disaster Service Worker-related training as assigned, and to return to work as ordered in the event of an emergency.

TOWN OF PORTOLA VALLEY  
PLANNING TECHNICIAN I  
PLANNING TECHNICIAN II

*Classification specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.*

DEFINITION

To perform responsible technical and administrative work in land use areas including Planning, Building, and Public Works; to provide customer service related to land use and permitting process; and to receive, review, route, and process various plans and permits, and perform zoning plan review.

DISTINGUISHING CHARACTERISTICS

Planning Technician I - This is the entry level class in the Planning Technician series. Positions in this class typically have little or no directly related work experience and work under immediate supervision while learning job tasks. The Planning Technician I class is distinguished from the II level by the performance of less than the full range of duties assigned to the II level. Incumbents work under immediate supervision while learning job tasks, progressing to general supervision as procedures and processes of assigned area of responsibility are learned.

Planning Technician II - This is the journey level class in the Planning Technician series and is distinguished from the I level by the ability to perform the full range of duties assigned with only occasional instruction or assistance as unusual or unique situations arise. Positions in this class are flexibly staffed and are normally filled by advancement from the I level.

SUPERVISION RECEIVED AND EXERCISED

Planning Technician I: Receives immediate supervision from the Planning Manager.

Planning Technician II: Receives general supervision from the Planning Manager.

EXAMPLES OF ESSENTIAL DUTIES – Duties may include, but are not limited to, the following:

- Provide information and direction to the public related to planning, building, and permit process via telephone, e-mail, and front counter.
- Perform minor plan checks; review, log-in, and coordinate routing of various plans and permits ensuring follow-up design review items are submitted.
- Perform duties of staff liaison to the Architectural and Site Control Commission including, but not limited to, preparation of agendas, staff reports, hearing

notifications and follow-up on action items; perform plan reviews for zoning and conditions as set forth by the ASCC; coordinate review and routing of plans and permits; ensure all required documents and all ASCC follow-up items are submitted and complete; prepare all permit issuance documents and letters; coordinate pre-construction meetings.

- Provide front counter assistance to residents, general public, vendors, contractors, architects or other professionals or office visitors and provide information within area of assignment; respond to requests for information and distribute appropriate forms, manuals, pamphlets or documents; accept applications and documents.
- Calculate, receive and process fees for permits, documents, and other payments as required.
- Serve as Planning Department representative for building permit pre-construction meetings; explain planning approval conditions and regulations.
- Monitor Town's computer network system and data backup procedures; serve as liaison between staff and computer consultants.
- Oversee Construction Traffic Road Impact Fee accounts; track Construction Traffic Road Impact Fee on spreadsheet; calculate and distribute fees according to impact on individual streets; provide reports as requested.
- Oversee Fund 96 deposit accounts; review and approve payments to consultants; track expenditures to ensure sufficient funds are on deposit; request additional funds to cover expenses; authorize refunds.
- Serve as green building contact for the Town; represent Town at County Green Building Committee meetings; write quarterly green topic articles for the Town's website and assist public, architects, etc. with green building inquiries and education.
- Respond to the less complex code enforcement issues such as those pertaining to construction hours and construction staging.
- Conduct project inspections to ensure conformance with conditions and ordinances.
- Oversee the Town's Construction and Demolition Debris ordinance, including debris calculations, account management, and recycling compliance.
- Update and maintain a variety of planning related databases.
- Create and plot maps and gather geographic data utilizing the Town's Geographic Information System.
- Answer multi-line telephone and route calls to appropriate personnel; provide information on departmental and Town policies and procedures as required.
- Type, proofread and word process a variety of correspondence, letters, forms, minutes and documents from rough drafts, verbal instruction; compile data and prepare various reports.
- Perform basic research, data gathering and basic analysis for written reports for staff and the public.
- Develop and maintain filing systems and records; modify systems as appropriate.
- Build and maintain positive working relationships with co-workers, other Town employees and the public using principles of good customer service.

### EXAMPLES OF MARGINAL DUTIES:

- Assist in a variety of department operations and perform special assignments as assigned.
- Respond to emergency situations as required.
- Attend and participate in-group meetings; stay abreast of new developments within assigned area of responsibility.
- Perform related duties as assigned.

### MINIMUM QUALIFICATIONS

#### Planning Technician I

##### Knowledge of:

- Principles and practices of land use permitting. Proper use of English for business and report writing; proper use of spelling, punctuation and grammar
- Modern office procedures, methods, and computer equipment.
- Office administrative practices and procedures
- Customer service principles.

##### Ability to:

- Learn, interpret, apply, and explain basic local, state, and federal regulations and standards related to land use.
- Read and understand general construction plans, maps, and specifications to ensure accuracy.
- Perform responsible administrative work involving the use of independent judgment.
- Correctly interpret, apply and enforce Town policies and procedures.
- Research, compile, analyze, interpret and prepare a variety of reports.
- Prepare correspondence and memoranda.
- Make accurate mathematical calculations.
- Effectively respond to requests and inquiries from staff and the general public.
- Understand and follow oral and written instructions.
- Work independently with limited supervision.
- Communicate clearly and concisely, both orally and written.
- Establish and maintain cooperative-working relationships with those contacted in the course of work.
- Maintain physical condition appropriate to the performance of assigned duties and responsibilities.
- Operate modern office equipment (e.g., computers, copy machines, faxes, etc.).



- Type or enter data on a computer at a speed necessary for successful job performance.
- Maintain accurate records and files.
- Prioritize work, perform multiple tasks simultaneously and meet deadlines.

### Experience and Training

Any combination of experience and training that would provide the required knowledge and abilities is qualifying. A typical way to obtain the required knowledge and abilities would be:

Experience: One year of increasingly responsible experience in planning, zoning, land subdivision, and/or construction concepts.

Training: Graduation from an accredited college or university with a Bachelor's degree in planning or related field.

License or Certificate: Possession of, or ability to obtain, valid California driver's license. Individuals who do not meet this requirement due to a disability will be reviewed on a case-by-case basis. ICBO Permit Technician Certificate desired but not required.

### Planning Technician II

In addition to the qualifications for the Planning Technician I:

#### Knowledge of:

- Municipal Code, Town's General Plan, and pertinent local, state, and federal laws, codes, and regulations.
- Principles of basic blueprint and map reading.
- Principles and procedures of financial record keeping and reporting.
- Modern office procedures, methods, and computer equipment including Geographic Information System.

#### Ability to:

- Know and understand all aspects of job.
- Interpret, apply, and explain advanced regulations and standards related to land use.
- Understand complex construction plans, maps, and specifications.
- Respond to and assist in the resolution of difficult and sensitive development related inquiries and complaints.

Experience and Training: Any combination of experience and training that would provide the required knowledge and abilities is qualifying. A typical way to obtain the required knowledge and abilities would be:

Experience: Two years of increasingly responsible experience performing technical planning duties similar to that of a Planning Technician I with the Town of Portola Valley.

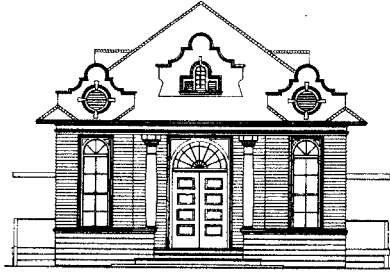
Training: Graduation from an accredited college or university with a Bachelor's degree in planning or related field.

License or Certificate: Possession of, or ability to obtain, valid California driver's license. Individuals who do not meet this requirement due to a disability will be reviewed on a case-by-case basis. ICBO Permit Technician Certificate desired but not required.

#### WORKING CONDITIONS

Environmental Conditions: Office environment; exposure to computer screens; public contact.

Physical Conditions: Essential functions may require maintaining physical condition necessary for walking, standing or sitting for prolonged periods of time; lifting and carrying weight up to 10 pounds; reaching; extensive use of computer keyboard; near visual acuity for composing reports using a computer.



# TOWN OF PORTOLA VALLEY

## STAFF REPORT

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**TO:** Mayor and Members of the Town Council

**FROM:** Jeremy Dennis, Town Manager

**DATE:** June 23, 2021

**RE:** ASCC/Planning Commission Members of the Housing Element Committee

### **RECOMMENDATION**

Staff recommends that the Town Council approve Architectural Site Control Commission (ASCC) and Planning Commission members to the Housing Element Committee.

### **BACKGROUND**

On April 28, 2021, the Town Council approved a plan to create a Housing Element Committee (“Committee”) to support the sixth update to the Housing Element (Attachment 1). Included in the membership of the Committee are two members of the Planning Commission, and one member of the ASCC.

Both bodies made their selections at meetings in May/June:

Planning Commission: Nicholas Targ and Anne-Kopf Sill  
ASCC: Al Sill

At your meeting on June 9, the Council requested that the commissions consider changes to these appointments as two members are married.

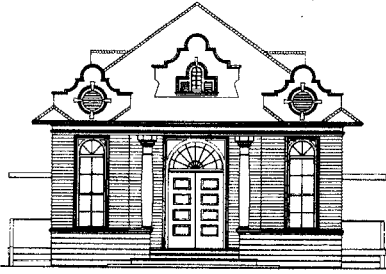
### **DISCUSSION**

Both commissions reviewed their appointments during their June meetings, and reaffirmed their initial choices, as there were no other available volunteers, many members have other official commitments, and Nicholas, Anne and Al reiterated their desire to serve.

Staff recommends that these three commission members be appointed to the Committee.

### **ATTACHMENT**


1. April 28, 2021 Staff Report, Housing Element Process/Committee



# TOWN OF PORTOLA VALLEY

## STAFF REPORT

**TO:** Mayor and Members of the Town Council

**FROM:** Laura Russell, Planning & Building Director  
Jeremy Dennis, Town Manager 

**DATE:** April 28, 2021

**RE:** Housing Element Update Discussion – Work Program, Community Engagement Strategy, Appoint Council Subcommittee

### RECOMMENDATION

Staff recommends that the Town Council receive a staff report and public comments, provide direction on the proposed work program and community engagement strategy, and appoint a Council Subcommittee.

### BACKGROUND

The Housing Element is part of Portola Valley's General Plan and identifies policies and programs to meet the housing needs of the Town's current and future residents. (Attachment 1 includes Frequently Asked Questions about Housing Elements.) The Housing Element update includes several major components:

1. **Housing Needs Assessment:** Analyze demographic and housing trends and conditions.
2. **Constraints Analysis:** Analyze and address existing and potential governmental and nongovernmental constraints to the development of housing.
3. **Evaluation of Past Performance:** Assess progress in implementing the policies and programs from the prior Housing Element.
4. **Housing Sites Inventory:** Identify housing sites available for development or redevelopment, ensuring that there is sufficient capacity to address the Regional Housing Needs Allocation.
5. **Policies and Programs:** Establish policies and programs to address the identified housing needs.
6. **Community Outreach and Engagement:** Conduct a thorough program of community engagement, with a particular focus on outreach to traditionally underrepresented groups.

State law (Government Code Sections 65580-65589.8) requires that every city/town and county in California adopt a Housing Element approximately every eight years. Portola Valley's current Housing Element covers the planning period from 2014-2022 and was

adopted in 2015. The new Housing Element will cover 2023-2031<sup>1</sup>. In addition, the State Department of Housing and Community Development (HCD) reviews and certifies that each jurisdiction's Housing Element meets all the requirements of the law. The approval and certification process takes several months.

Every jurisdiction in California receives a target number of homes to plan for. This is called the Regional Housing Needs Allocation or RHNA (pronounced 'ree-nuh'). Cities/towns do not need to build the housing, but do need to put in place the proper zoning and address constraints so the private sector can build the housing. The RHNA is broken down by income category. Portola Valley's income specific estimated RHNA is:

<b>Income Level</b>	<b>Number of Units</b>
Very Low Income (<50% of Area Median Income)	73
Low Income (80% of Area Median Income)	42
Moderate Income (80-120% of Area Median Income)	39
Above Moderate Income (>120% of Area Median Income)	99
<b>Total</b>	<b>253</b>

The current RHNA Allocations remain illustrative and will not be finalized until late 2021 after review by HCD and implementation of the ABAG appeals process. The Town Council most recently discussed the RHNA allocation on February 10, 2021; additional information about that process is available in the [staff report](#).

This Housing Element update is expected to be more difficult than previous cycles for several reasons. Portola Valley's RHNA is significantly higher than last cycle, 253 compared to 64, although the Town's annual Housing Element update to the State is expected to show approximately 100 completed net new units by the end of the current housing cycle. Also, because of changes in state law, it will be harder to identify sites that can count towards meeting the RHNA. In 2018, California adopted new requirements for jurisdictions to Affirmatively Further Fair Housing (AFFH). While it has long been illegal for cities/towns to discriminate based on race or certain other categories, the AFFH rules go further and require that towns actively work to dismantle the legacy of segregation and to create equal housing opportunities.

Recent state legislation (SB 379, SB 1035, SB1241) has placed new requirements on how and when local jurisdictions need to update the Safety Element. This chapter of the General Plan must be updated on an eight-year cycle like the Housing Element. Town Council will discuss the update to the Safety Element in more detail at an upcoming meeting, tentatively scheduled for July.

### **PROPOSED WORK PROGRAM**

On October 14, 2020, the Town Council authorized the Town to enter into an agreement to collaborate on the Housing Element Update process with all the other jurisdictions in the

<sup>1</sup> Some stakeholders use the start date of 2022, because some of the modeling starts in this year. Because Portola Valley's Housing Element will likely not be adopted until 2023, this report uses the later date.

County through 21 Elements. The majority of the work associated with updating the Housing Element itself will be completed through 21 Elements, in collaboration with Planning staff. The October 14, 2020 staff report (Attachment 2) outlines the specific work that 21 Elements will complete on behalf of the Town.

The RHNA process has tentatively assigned 253 units to Portola Valley, a significant increase over the last housing element cycle allocation of 64 units. Traditionally, the Town has satisfied its RHNA primarily with Accessory Dwelling Units (ADUs), previously called second units, and a few units of Affiliated Housing. ADUs will continue to be an important approach to meet the RHNA targets. If past trends continue, it would be reasonable to assume there will be 90-100 ADUs produced in the 2023-2031 timeframe. The Town will need to plan for about 150-160 additional units beyond ADUs. With this increase compared to previous cycles, a host of land use strategies should be considered. This will be a significant undertaking, requiring a focused plan to complete the work by the State deadline and incorporate community feedback.

Staff recommends formation of a Town Council Subcommittee to guide the process. Those members would direct staff in the development of the details of the plan, be directly involved by serving on the Ad-Hoc Committee described below, and coordinate with staff to ensure the entire effort stays on schedule for timely completion.

Staff recommends hiring one consultant (or a consultant team with a lead consultant) to assist with these efforts. A request for proposals would be developed by staff in consultation with the Council Subcommittee. The contract would return to the full Council for approval.

This remainder of this section outlines the effort staff anticipates in order to complete the Housing Element update and associated work.

#### Housing Element

21 Elements will perform the majority of the work, in coordination with staff, for the Housing Element itself. (See Attachment 2 for a detailed list of tasks 21 Element will complete.) However, staff recommends an augmentation of the 21 Element services to ensure a high level of community outreach and work product. Staff proposes that a consultant be hired to assist with tasks such as preparing for meetings of the Ad-Hoc Committee (described below), writing or editing sections of the document, graphics, mapping, and other tasks not completed by 21 Elements. The budget estimate for this work is \$20,000.

#### Other General Plan Amendments

State law requires that all elements of general plans be consistent. The consultant would review all Elements of the current General Plan and propose changes for review through the Town's community engagement process. Staff anticipates that changes will likely be necessary to the Land Use Element and General Plan Map. The budget estimate for this work is \$7,000. As mentioned above, the Safety Element will also be updated during the same time period and will be considered separately at an upcoming meeting.

### Zoning Code Amendments

As previously discussed, the Town will likely need to implement new strategies to meet the RHNA target. Identifying Housing Element sites for affordable units will be more challenging than in the past. 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. The strategies developed through the process will need to be translated into code language for implementation.

In the last few years, State law has changed the requirements for zoning code amendments that are associated with housing elements. In past housing element cycles, it was common for jurisdictions to adopt a housing element with a “program” that required that city/town to adopt zoning code amendments after the housing element was approved. As a result, the zoning code amendment process followed the housing element process. State law now discourages that practice by requiring prescriptive regulations if the zoning is adopted after the housing element.

As a result, the Town Council may wish to pursue any necessary zoning code amendments with the Housing Element to preserve more local control over the type and intensity of code amendments. The remainder of this report assumes that approach. The budget estimate for the zoning code related work is \$25,000.

### Environmental Review

General plan and zoning code amendments require review under the California Environmental Quality Act (CEQA). Planning staff would work with the consultant and Town Attorney to determine the type of CEQA review that would be most appropriate. The budget estimate for this work is \$165,000.

## **COMMUNITY ENGAGEMENT STRATEGY**

### Ad-Hoc Committee

Staff recommends formation of an ad-hoc committee to conduct detailed discussion and develop recommendations for the Housing Element Update. Staff suggests that this same committee would advise on the associated zoning code and Land Use Element revisions that may be necessary.

As a starting point for Council consideration, staff suggests the following key elements of this proposed committee:

- The aforementioned Council Subcommittee would establish roles and responsibilities of the Committee, using adopted Town policies as a guide.
- The Committee’s charge would be development of a Housing Element that complies with State law and will be certified, while maintaining Town values.
- Meetings would be held monthly at a set time. Additional meetings or variation in the schedule may be necessary.
- Agendas would be structured to facilitate completion of the Housing Element on the timeline required by the State.



- The Council Subcommittee and staff would discuss whether it would be helpful to have a subcommittee structure.
- Composition of the committee could include 13 members as follows:
  - Two Town Council Members (same as the Council Subcommittee)
  - Two Planning Commission Members, appointed by the body
  - One ASCC Member, appointed by the body
  - One Member of the newly-formed Race/Equity Committee
  - Seven members of the community
  - Members must be residents of Town. They may own or rent their residence.
- Members of the public would be welcome to attend.
- The meeting format and speaker policy would be established by the Council Subcommittee in consultation with staff.
- Agenda materials would be developed by staff in consultation with the Council Subcommittee.

For selection of members for this committee, staff suggests the following:

- The Council Subcommittee would review the applications (and narrow them down if a large quantity is received), conduct interviews, and make recommendations to the full Council on appointments.
- Selection criteria should be established that provides a diversity of viewpoints. The Council may wish to consider the following:
  - Residency in different neighborhoods of the community
  - Residents that have lived in the community for a long time and residents that are newer
  - A diversity of ages, gender identity and backgrounds
  - Connection to the business community
  - Connection to a profession related to home development and/or sales (such as architect, developer, or real estate broker)

The Ad-Hoc Committee would be assisted by a technical advisory group to provide professional feedback. Fire Marshal Don Bullard, Public Works Director Howard Young, and Town Attorney Cara Silver would be invited to participate in this capacity.

#### Direct Input from Town Council and Planning Commission

Staff proposes direct check-ins with the Council and Planning Commission (perhaps a joint meeting), so the Ad-Hoc Committee has the benefit of the feedback from these two bodies. These meetings would likely be scheduled at the beginning of the process for general direction, when there are key draft policies to review, and when there is a complete draft of the Housing Element.

#### Community-Wide Outreach

Community participation is key to the development and adoption of the updated Housing Element. There will be web-based outreach opportunities provided by 21 Elements that the Town can use to collect feedback from residents on an on-going basis throughout the process. Additionally, Town-wide community meetings could be held at key points in the process, similar to the Council and Planning Commission check-ins. For example, meetings

could be scheduled at the beginning for general feedback, when there are key draft policies, and when there is a complete draft of the Housing Element.

Committee Input

To draw on the rich experience of the Town’s committees, staff proposes at least three check-ins with the Committees during the process, following the same approach as above for Council/Commission and community feedback. One approach would be to form a committee of committees (similar to the Subdivision Committee required for projects with subdivisions). One or two members of each committee could be invited to meet together to hear updates and provide feedback at the same three milestones: the beginning of the process, when there are key draft policies, and when there is a complete draft of the Housing Element.

Communications

21 Elements has developed the [Let's Talk Housing](#) website to assist all jurisdictions with their outreach. It contains general information about the process and provides an opportunity for the Town to have its own information posted there. The site will have tools such as surveys, mapping, and a place to provide comments. 21 Elements is also providing handouts, sample text and other materials to assist cities/towns with outreach.

Town staff expects to post monthly web updates and distribute Town News at key milestones in the process. The eNotice system already has a topic for housing that will be used to notify residents of all meetings and major milestones.

**TIMELINE**

A timeline is presented below with the general tasks and overview of community engagement. The full draft Housing Element will need to be submitted to HCD in approximately September 2022. They will provide comments then the Town will revise and consider the final version in late 2022.

<b>3<sup>rd</sup> Quarter 2021</b>	<b>4<sup>th</sup> Quarter 2021</b>	<b>1<sup>st</sup> Quarter 2022</b>	<b>2<sup>nd</sup> Quarter 2022</b>	<b>3<sup>rd</sup> Quarter 2022</b>	<b>4<sup>th</sup> Quarter 2022</b>
Initial Development of Strategies	Key policies identified	Work on sections of HE and zoning	Complete draft of HE developed	Review complete draft of HE and zoning	Revise and approve final HE, zoning, and CEQA
Ad-Hoc Committee meets regularly	Ad-Hoc Committee meets regularly	Ad-Hoc Committee meets regularly	Ad-Hoc Committee meets regularly	Ad-Hoc Committee meets regularly	Ad-Hoc Committee meets as needed
Community wide meeting	Community wide meeting		Community wide meeting		
Council and Planning Commission check ins	Council and Planning Commission check ins			Council and Planning Commission Review	Planning Commission review and Council approval

**BUDGET AND STAFF RESOURCES**

As discussed above in the Proposed Work Program section, staff proposes to issue a request for proposals for a consultant to assist with the Housing Element update and associated tasks. Staff has estimated the cost of the work, but it may not be possible to secure the work for this budget. All jurisdictions in the Bay Area are on the same schedule to update their Housing Elements and many consultants do not have capacity to take on additional work. It may be necessary to use a consultant that is located out of the area or pay a higher price to secure the needed services. Staff will work with the Council Subcommittee on these issues as needed and return to the full Council if significant changes in the budget are necessary.

Staff has applied for and received three grants through the State that are all intended to increase the production of housing units in the state. Those grant funds are described below.

Estimated Expenses

\$48,500	21 Elements contract amount. Primary work to update the Housing Element. Previously approved by Council.
\$20,000	Housing Element support, including outreach, meeting preparation, mapping, and technical work
\$7,000	Update to Land Use Element and General Plan Map to be consistent with Housing Element
\$25,000	Zoning Code amendments to be consistent with Housing Element
\$165,000	CEQA review for Housing Element and Zoning Code amendments
\$5,000	Additional transcription services for Ad-Hoc Committee meetings
<b>\$270,500</b>	<b>Total</b>

Grant Funding

\$148,700	SB2
\$65,000	LEAP
\$20,000	REAP
<b>\$233,700</b>	<b>Total</b>

Estimated expenses are \$270,500 and grant funding is \$233,700, leaving a \$36,800 cost to the Town.

Timely completion of the work program will require significant staff resources. The development of a housing element is a major undertaking for any community, but in particular for a small staffed-municipality, with nearly half the total Town staff participating in this update. Staff recommends the following staff roles and responsibilities:

- The Planning & Building Director would oversee the overall process and lead communication with 21 Elements and the Town consultant.
- The Town Manager would provide coordination with the Council Subcommittee, set direction, oversee communications with the community, and participate directly with key meetings at decision points.

- The Town Attorney would provide legal oversight and advice.
- The Town will recruit for a Senior Planner, a position that has been left vacant during the pandemic.<sup>2</sup> The new Senior Planner would manage the day-to-day details with oversight by the Planning & Building Director.
- The Assistant Planner would provide support on specific tasks as needed.
- The Planning Technician would publish packet materials and provide support for the Ad-Hoc Committee meetings.
- The Communications & Community Engagement Analyst would assist with communications, web updates, and Town News.

### **CONSEQUENCES OF NON-CERTIFICATION**

The potential consequences for failing to adopt a compliant Housing Element are severe. Litigation may be brought by any interested party (Gov. Code 65587(b)) or the office of the Attorney General (Gov. Code 65585). If a court finds that the jurisdiction's Housing Element is inadequate, it must include one or more of the following remedies in its order:

- Suspension of the jurisdiction's authority to issue building permits or related permits prior to the issuance of such permits for housing projects;
- Suspension of the jurisdiction's authority to grant zoning changes, variances, and map approvals;
- Mandated approval of residential housing projects. (Gov. Code 65755).

In other words, until the jurisdiction adopts a compliant Housing Element, a court is empowered – and to some extent, required – to halt all development activity in the town other than permits for housing projects that would be consistent with a compliant Housing Element. In addition, recent legislation expanded the authority of the office of the Attorney General to enforce housing element law. In suits brought by the office of the Attorney General, a court is required to impose fines on jurisdictions that consistently refuse to adopt a compliant Housing Element. The fines range from a minimum of \$10,000 per month, up to \$600,000 per month. If a jurisdiction has not adopted a compliant Housing Element within 18 months following a court order, the court may appoint a receiver to take all governmental actions necessary to bring the jurisdiction's Housing Element into compliance. (Gov. Code 65585).

Additionally, certain state funding programs are tied to having a compliant housing element. These include SB 1 (Sustainable Community Planning Grants) and SB 2 (Planning Grants and Permanent Local Housing Allocation, etc.).

Finally, late submittal of a housing element can result in a jurisdiction being required to submit a four-year update to their housing element.

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<sup>2</sup> On May 12, 2021, Town Council will discuss the overall staffing plan for the Planning & Building Department to inform the budget process.

### **FISCAL IMPACT**

The estimated cost to complete the Housing Element Update and associated work is \$270,500 and grant funding is \$233,700, leaving a \$36,800 cost to the Town.

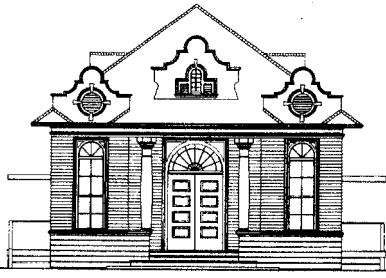
### **CONCLUSION**

Staff is asking for direction on the following topics:

- Formation of Town Council Subcommittee and appointment of two members
- Is this the right overall approach for the Housing Element update and associated work?
- Is the community engagement strategy appropriate in general?
- Is the Ad-Hoc Committee composition appropriate? What about the selection criteria?
- Any other feedback or direction

### **ATTACHMENTS**

1. Frequently Asked Questions about Housing Elements
2. 21 Elements Scope of Work – October 14, 2020 Staff Report



# TOWN OF PORTOLA VALLEY

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## HOUSING ELEMENT FREQUENTLY ASKED QUESTIONS

Updated February 4, 2021

### 1. What is the Housing Element?

Answer: The Housing Element is one of the mandatory elements that must be included in a Town's General Plan. The Housing Element provides goals, policies, and actions that help the Town plan for the housing needs for all segments of the Town's population. Housing Element law mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. The Housing Element is required to be updated every eight years and must be approved by the State Department of Housing and Community Development. For more information about the State's role in the crafting of the housing element, explore the California Department of Housing and Community Development's page on housing elements.

### 2. What are the items that the Housing Element covers?

Answer: The Housing Element must include:

- An analysis of *current* housing needs, taking into account issues such as the number of people living in substandard or overcrowded housing, people with special housing needs, and people at risk of losing their affordable housing.
- An analysis of *projected* housing needs, including the Town's responsibility to zone for a certain amount of income-specific housing.
- An inventory of potential building sites where housing development is allowed and supported by infrastructure and the environment.
- An analysis of government controls on housing development.
- Identification of programs, policies and objectives that the Town will adopt to encourage the development of housing for different income and special needs groups, ensure equal housing opportunity, and preserve and improve the existing housing stock.

### **3. Who prepares and certifies the Town's Housing Element?**

Answer: The Housing Element is prepared by Town of Portola Valley staff and associated consultants, reviewed and recommended by the Planning Commission, and finally adopted by the Town Council. The Housing Element must then be certified by the California Department of Housing and Community Development (HCD). This certification creates a presumption that the Element complies with State law.

### **4. How much housing do we need to plan?**

Answer: State law requires each city and county plan for their "fair share" of the region's housing needs. The fair share is determined by each region's Council of Government. In the San Francisco Bay Area, the Association of Bay Area Governments (ABAG) determines the region's fair share through a process known as the Regional Housing Needs Allocations (RHNA).

For the current Housing Element, ABAG determined that Portola Valley's RHNA number is 64 units for the years 2014-2022. This means that Portola Valley was required to plan, through its zoning, to permit at least 64 sites. ABAG will release RHNA numbers for the next cycle (2023-2031) at the end of this year, but a current estimate for Portola Valley is 253 units. The Town is required to demonstrate capacity for the requisite units through an adequate amount of land zoned for particular housing types. If the Town does not identify enough sites, this shortfall will be carried forward to future planning cycles. The Town is not required to build the units itself; however, it is important to note that if enough units are not built, the Town may be forced to approve future projects that may not otherwise have been allowed.

### **5. How is a Town's/City's RHNA determined?**

Answer: This is a complex process that begins with the State of California. The State prepares projections about expected population growth in the state and then allocates a portion of the total state population growth to each region. Regional planning organizations in turn distribute the regional allocation among local jurisdictions. For the Bay Area, the regional planning agency is the Association of Bay Area Governments (ABAG). There are five primary objectives in allocating the residences to local jurisdictions: increasing housing supply and mix of types of housing; promoting infill development, efficient development, and GHG reduction; improving relationship between jobs and housing; balancing existing disproportionate concentration of income categories; and affirmatively fostering fair housing. ABAG uses a formula with weighted criteria to accomplish these objectives and allocate the housing units. Recently, ABAG has also focused on influencing growth patterns to minimize green house gas emissions as is mandated by the State. For more information on the ABAG RHNA process, you can to their webpage at <http://www.abag.ca.gov/planning/housingneeds>.



## 6. What is AFFH and how does it relate to the Housing Element?

Answer: AFFH stands for Affirmatively Furthering Fair Housing. As of January 1, 2021, California law requires public agencies to administer their programs in a manner that actively seeks to achieve fair housing. One such program is the Housing Element. Pursuant to AFFH law, the Town has a legal obligation to take meaningful acts in addition to combating discrimination that 1) overcome patterns of segregation and 2) foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. To this end, all Housing Element revisions adopted after January 1, 2021 must include the following:

- A summary of fair housing issues in the jurisdiction,
- Analysis of data on segregation patterns,
- Assessment of contributing factors,
- Identification of fair housing goals and actions, including encouraging new affordable housing in opportunity areas, and
- Consideration of location in sites inventories and rezoning programs.

## 7. What does it mean to have a non-compliant Housing Element?

Answer: A Housing Element is considered out of compliance with State law if one of the following applies:

1. It has not been revised and updated by the statutory deadline, or
2. Its contents do not substantially comply with the statutory requirements. If a Housing Element is certified, there is a presumption that it is adequate, and a plaintiff must present an argument showing that it is in fact inadequate.

Over the years, California has steadily increased the penalties for not having a legally compliant Housing Element, and this trend is expected to continue.

## 8. What happens if a jurisdiction does not adopt a Housing Element or the Element does not comply with State law?

Answer:

1. **Limited access to State Funding.** Cities with a certified Housing Element may have preference for housing and infrastructure funds, whereas non-compliant cities may be ineligible for certain programs. For example, both the California Infrastructure and Economic Development Bank (CIEDB) and the Bay Area's Metropolitan Transportation Commission (MTC) award funds based on competitions that take into consideration the approval status of a community's Housing Element.

2. **Judicial action.** Where a city has been flagged as “non-compliant,” the Attorney’s General’s office is required to seek a court order to gain compliance. Initial fines can range from \$10,000 to \$100,000 per month, and may be doubled or even sextupled over time. If necessary, the court may appoint a receiver to take over from the city.
3. **Lawsuits.** Developers and advocates have the right to sue jurisdictions if their Housing Element is not compliant with State Law. Recent Bay Area cities that were successfully sued include Menlo Park, Corte Madera, Pittsburg, Pleasanton, Alameda, Benicia, Fremont, Rohnert Park, Berkeley, Napa County, and Santa Rosa. According to a memo from the Santa Barbara County Council, there has never been a city that has successfully argued that they do not need to comply with Housing Element law (July 2007, Housing Element Law: Mandates and Risks of Defiance). There are several potential consequences of being sued, including:
  - a. **Mandatory compliance** – The court may order the community to bring the Element into compliance.
  - b. **Suspension of local control on building matters** – The court may suspend the locality’s authority to issue building permits or grant zoning changes, variances or subdivision map approvals.
  - c. **Court approval of housing developments** – The court may step in and approve housing projects, including large projects that may not be wanted by the local community.
  - d. **Fees** – If a jurisdiction faces a court action stemming from its lack of compliance and either loses or settles the case, it often must pay substantial attorney fees to the plaintiff’s attorneys in addition to the fees paid to its own attorneys. These fees can easily exceed \$100,000.
4. **Carryover of unfilled housing allocation.** The City would be required to carryover to the next housing element planning period any unfilled Regional Housing Need Allocation (RHNA) if the City fails to identify or make available adequate sites to accommodate its RHNA assignment. Therefore, in addition to identifying sites for the new period’s RHNA, the City would also be required within the first year of the new planning period to zone adequate sites to accommodate the RHNA from the prior planning period that was not provided.

## 9. What else must be updated along with the Housing Element?

Answer: State law requires the Town’s Safety Element to be updated at the same time as the Housing Element. Part of the Town’s General Plan, the Safety Element includes a set of goals, policies, and objectives based on an assessment of the potential impacts from natural hazards like climate change and fire. In addition, the Town’s Land Use Element may need to be updated to reflect any re-zoning that may be required in order to meet State mandates.



# TOWN OF PORTOLA VALLEY

## STAFF REPORT

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**TO:** Mayor and Members of the Town Council

**FROM:** Laura Russell, Planning & Building Director

**DATE:** October 14, 2020

**RE:** Collaboration Agreement for Preparation of Housing Element

### **RECOMMENDATION**

Staff recommends that the Town Council enter into a Collaboration Agreement, substantially in the form presented, to partner with 21 Elements and other cities/towns in San Mateo County to prepare the Town's next Housing Element.

### **BACKGROUND**

Under California law every jurisdiction in the State is required to update the Housing Element of its General Plan every eight years and have it certified by the California Department of Housing and Community Development (HCD). The deadline for the current cycle of updates in the Bay Area is January 2023, with the adopted plan covering the years 2023-2031.

21 Elements is an ongoing collaboration between the 21 jurisdictions of San Mateo County to collectively address our region's housing needs through shared learning, collaboration and coordinated action. The effort has been underway for over a decade and has been recognized statewide as a best practice for housing planning and policy. Since its inception, 21 Elements has provided technical assistance, group facilitation, communications and shared resources in addition to engaging with HCD, the region and other partners.

In the previous cycle of housing element updates, covering the 2014 – 2022 period, 21 Elements provided a set of optional support services for member jurisdictions, helping ensure that all jurisdictions' elements were certified by HCD. A similar approach is being offered for this cycle, as outlined in this report.

### **DISCUSSION**

The proposed services, like 21 Elements overall, strive to achieve cost efficiencies through shared work effort as well as greater effectiveness through shared learning and

coordinated action, while continuing to ensure tailored housing policies and plans for each jurisdiction.

The tasks have been designed to help participating jurisdictions effectively and efficiently update their Housing Element to meet State law requirements within the State-mandated schedule. The services are structured around those requirements to achieve five overarching goals:

- **Goal 1 — Build-Upon Past Accomplishments.** As with previous RHNA cycles, provide baseline data on housing needs and barriers and best practices (model policies, programs, and implementing tools) tailored to San Mateo County. In addition, create easy-to-use materials for facilitating effective community dialogue on housing challenges and opportunities, and build upon recent collaboration efforts on ADUs, the affordable housing nexus study and related work.
- **Goal 2 — Achieve High Quality Housing Elements While Saving Money, Time and Resources.** The services are designed to save money by minimizing duplication of effort, including collaboration on early analysis of available sites and potential strategies for expanding site inventories as well as shared work around countywide analyses, data templates and model practices. These services make it easier to complete key tasks while improving the quality of outcomes.
- **Goal 3 — Continue the Constructive Working Relationship with HCD.** Feedback from previous update cycles underscored that collaboration with HCD was extremely helpful in achieving housing element certification. HCD also reports that early collaboration facilitated their review and made for higher quality housing elements in San Mateo County.
- **Goal 4 — Enable Jurisdictions to Meet the January 2023 Deadline.** Recognizing that the increased RHNA targets combined with increased scrutiny related to the site inventory will make this update cycle particularly challenging, the proposed services focus on getting an early start to the sites analysis so that the update and implementation of needed rezoning and other regulatory changes can be completed in a timely manner.
- **Goal 5 — Tailor a Range of Choices to Best Fit Jurisdiction Needs.** As in the previous round of updates, each jurisdiction can choose the packages of service that best fit their needs while leveraging the benefits of ongoing collaboration.

### 21 Elements Service Packages

There are four service packages being offered, as outlined below. Staff is recommending opting in for all services including the Base, Getting Started, Foundations, and Full Packages. The total cost of these services is \$48,500, which is reimbursable through the Local Early Action Planning (LEAP) Grant from the State.

- **BASE Package - General Support for RHNA 6 and Housing Element Updates**  
These services support cross-jurisdictional learning, coordination, collaboration and problem-solving for the duration of the housing element process through regular meetings, countywide analyses, best practice research, and shared data and communications tools. These services cover the period from August 2020 through

January 2023. The cost is \$2,500 per jurisdiction, with an additional \$8,500 per jurisdiction covered through the existing 21 Elements contract.

Core tasks for this package include:

- 1 Facilitate sharing and collaboration, including special work sessions and regular meetings
- 2 Focused research and dialogue on issues of special concern, including strategies to affirmatively further fair housing
- 3 Provide educational materials and outreach support
- 4 Engage with HCD on overall process, tours, and technical assistance
- 5 Develop countywide analyses with jurisdiction-level data for housing needs, etc.
- 6 Create templates and best practice tools, including support for property owner surveys
- 7 Conduct ADU affordability survey
- 8 Educate Sacramento lawmakers about jurisdiction experience

➤ **GETTING STARTED Package – Site Inventories and Strategies**

These services will help participating jurisdictions conduct an early assessment of potential strategies for creating additional housing capacity, taking into account anticipated need allocations and recent changes in state laws that affect site eligibility. The outcome will be early identification of the most viable strategies to ensure adequate sites so that rezoning and other actions can be completed in conjunction with the update process. This work began in late September and will conclude in the first quarter of 2021. The cost for our participation in this package is \$9,000 with an additional \$4,000 covered through the existing 21 Elements contract.

Core tasks for this package include:

- 1 Prepare jurisdiction-specific site inventory baselines (based on current inventory of zoned and planned sites) and compare to anticipated RHNA need numbers.
- 2 Engage an economic analysis firm to conduct development feasibility analyses based on defined site inventory gaps to identify market-supportive capacity increases that could be achieved through alternative planning and policy strategies (including rezoning and other regulatory changes).
- 3 Evaluate and summarize fiscal impacts of each strategy alternative.
- 4 Study market absorption rates for missing middle housing.
- 5 Review analysis methodology and results with HCD.
- 6 Identify the most promising site capacity strategies for each jurisdiction to meet RHNA needs and help ensure that rezoning and other actions can be completed in conjunction with the update process.

➤ **FOUNDATIONS Package – Housing Needs and Constraints; Focused Support**

These services will support participating jurisdictions with foundational work toward updating the housing element: evaluate the existing element in relation to recent state law requirements; develop the key sections of the housing element; and refining their work program and schedule related to community engagement, rezoning and other

actions, as needed, to achieve a certified element. This work will start in Fall 2020 and run through June 2021. The cost for our participation in this package is \$7,000, with an additional \$4,000 covered through the existing 21 Elements contract.

Core tasks for this package include:

- 1 Work with jurisdiction staff to evaluate existing Housing Element and define update needs.
- 2 Prepare jurisdiction-specific Housing Needs Analysis and Background text, drawing on countywide and local data.
- 3 Prepare jurisdiction-specific Governmental and Non-Governmental Constraints Analysis sections in collaboration with jurisdiction staff.
- 4 Develop jurisdiction-specific scope and schedule for completing the housing element update, including needed regulatory changes.
- 5 Facilitate informal consultation with HCD on jurisdiction-specific issues.
- 6 Provide tailored educational and outreach materials regarding local housing needs and opportunities.

➤ **FULL Package – Housing Element Development, Review and Approval**

These services will help participating jurisdictions develop their complete housing element draft; provide support for needed regulatory changes as well as continued public engagement; and help facilitate timely review by HCD in order to achieve final adoption by January 2023. This work will start in June 2021 and run through January 2023. The cost for our participation in this package is \$30,000 with an additional \$15,000 covered by the existing 21 Elements contract.

Core tasks for this package include:

- 1 Assist with Housing Element goals, policies, programs and quantified objectives to respond to local housing needs and meet state requirements.
- 2 Present at a community workshop, Planning Commission session and City Council meeting on local housing needs, key opportunities, and proposed policy strategies (assumes 60 hours of outreach support).
- 3 Assist with rezoning, General Plan and other land use changes (assumes 60 hours of support; can be reallocated to other tasks if not needed).
- 4 Continue to facilitate consultation and review with HCD.
- 5 Provide support on special issues analyses and CEQA documentation.
- 6 Work with staff to prepare Draft and Final Housing Elements and attend public hearings.

Contracting

Consistent with the overall contract structure for 21 Elements, the city will sign a Collaboration Agreement with the San Mateo County Department of Housing (“DOH”). Concurrently with execution of the Collaboration Agreement, DOH will execute an agreement with Baird + Driskell for the provision of these services. The Collaboration Agreement is attached. Payment will be made to the County, which will then serve as master payee and contract manager. This practice is consistent with what was done in the previous housing element update cycle. To facilitate reimbursement from the State to each

## Collaboration Agreement – Housing Element

participating jurisdiction, Baird + Driskell will provide invoices to DOH, by jurisdiction, to meet State grant requirements. On a quarterly basis, DOH will provide participating jurisdictions a summary of the previous quarter's payment disbursements, invoices received, and any relevant backup documentation.

**Recommendation**

Staff recommends that the Town contract with the County for the Full Package at \$48,500, with five bi-annual payments of \$9,700 over the contract term.

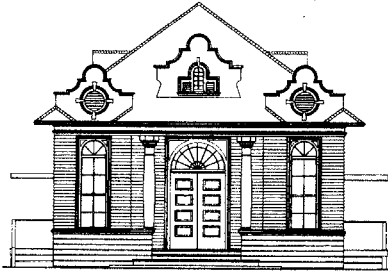
**FISCAL IMPACT**

The Town applied for a Local Early Action Planning (LEAP) Grant that will provide reimbursement for all the Housing Element preparation activities included in the Collaboration Agreement. The Town will need to make payments to the County on a bi-annual basis and will be reimbursed through the State grant program.

**ATTACHMENT**

1. Collaboration Agreement






# TOWN OF PORTOLA VALLEY

## STAFF REPORT

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**TO:** Mayor and Members of the Town Council

**FROM:** Howard Young, Public Works Director 

**DATE:** June 23, 2021

**RE:** Contract extension for engineering and plan check services with Nolte Associates, Inc, doing business as NV5, Inc.

### RECOMMENDATION

Staff recommends that the Town Council extend the consulting contract with Nolte Associates, Inc. (doing business as NV5, Inc.) for engineering and plan check services for two years.

### BACKGROUND

As a small municipality, the Town depends on various contractors to provide consulting services for many activities, including engineering, plan check, geotechnical, and building inspection services. The Town contracts with the consultants who provide these services.

### DISCUSSION

Staff is satisfied with the service provided by NV5 and they have maintained a long-term plan checker with knowledge of the Town. Retaining NV5 will provide continuity of service in engineering and plan check services. This is especially important during post COVID, while the Town and businesses are exploring new ways of communicating and doing business. For the upcoming fiscal year 2021-22, NV5 is proposing a 2% increase to their current hourly rates and a correction to the Land Surveyor Crew rates. This is 0.5% lower than originally requested. For the 2<sup>nd</sup> year 2022-23, the rate sheet indicates a 2.5% increase to their hourly rates.

### FISCAL IMPACT

The plan checking and applicant related charges are pass through charges. For in-house services in FY 2021-22, the costs are accommodated within the FY 2021-22 budget.

### ATTACHMENT

1. Nolte/NV5 contract extension

**THIRD AMENDMENT TO AGREEMENT  
BETWEEN THE TOWN OF PORTOLA VALLEY AND NOLTE ASSOCIATES, INC.**

This Amendment 3 (“Amendment”) is made as of July 1, 2021, with respect to the Agreement (“Agreement”) by and between the Town of Portola Valley (“Town”) and Nolte Associates, Inc. dba NV5, Inc. (“Consultant”).

**RECITALS**

A. The Town and Consultant entered into the Agreement for engineering services on July 24, 2013.

B. The parties entered into Amendment No. 1 on June 22, 2016 and Amendment No. 2 on July 1, 2019

C. The Town and Consultant desire to modify the Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants, the Town and Consultant do hereby agree as follows:

1. Term. Section 5 of the Agreement is hereby amended to read as follows:  
TERM. This Agreement shall remain in effect until June 30, 2023 or until terminated in accordance with Section 17.

2. Compensation. The compensation for services identified in Exhibit C of the Agreement is replaced in its entirety with the new fee schedule attached hereto and incorporated herein.

3. Agreement. Other than the amendments set forth herein, no other provisions of the Agreement are amended and all other provisions of the Agreement are in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this Amendment 3 as of the date set forth above.

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TOWN OF PORTOLA VALLEY:

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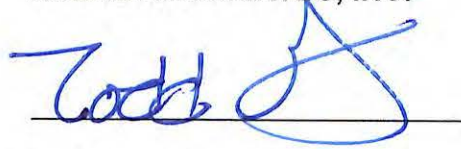
Maryann Derwin, Mayor

ATTEST:

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Town Clerk

NOLTE ASSOCIATES, INC.

A handwritten signature in blue ink, appearing to read "Todd J. Nolte", is written over a horizontal line.

Authorized Representative

CHIEF OPERATING OFFICER

# NV5, INC.

## Northern California

### 2021 Town of Portola Valley Charge Rates Schedule\*

**Office:**

**Technical Services**

Engineering Aide/Planning Aide.....	\$94.00/hour
Project Assistant .....	\$109.00/hour
Project Administrator .....	\$134.00/hour
CADD Technician I.....	\$128.00/hour
CADD Technician II.....	\$142.00/hour
CADD Technician III.....	\$159.00/hour
Senior CADD Technician/Designer .....	\$168.00/hour
Design Supervisor .....	\$199.00/hour

**Professional**

Junior Engineer/Planner/Surveyor .....	\$138.00/hour
Assistant Engineer/Planner/Surveyor .....	\$159.00/hour
Associate Engineer/Planner/Surveyor .....	\$186.00/hour
Senior Engineer/Planner/Surveyor.....	\$204.00/hour
Manager .....	\$222.00/hour
Structural Engineer.....	\$245.00/hour
Associate .....	\$226.00/hour
Principal.....	\$245.00/hour

**Field:**

**Construction Management**

Junior Field Engineer .....	\$138.00/hour
Inspector.....	\$136.00/hour
Assistant Field Engineer .....	\$150.00/hour
Associate Field Engineer .....	\$174.00/hour
Senior Field Engineer.....	\$202.00/hour
Construction Manager .....	\$217.00/hour

**Surveying**

1-Person Survey Crew (GPS) (Robotic) .....	\$208.00/hour
1-Person Survey Crew.....	\$162.00/hour
2-Person Survey Crew.....	\$261.00/hour
3-Person Survey Crew.....	\$370.00/hour

**Expenses:**

Plotting and In-house Reproduction .....	1.15 x Cost
Subsistence.....	1.15 x Cost
Other Expenses –	
Including Subconsultants & Purchased Services through Subcontracts .....	1.15 x Cost
Mileage - Outside local area.....	Per accepted IRS rate

\*Rates are effective through June 30, 2022. If contract assignment extends beyond that date, an escalation factor of 2.5% per contract anniversary year (July 1) will be added to the above rates. Litigation support will be billed at \$400.00 per hour. Rates based on “Prevailing Wage” (PW) for Construction Management and Surveying will be determined by Project and County per California law.



# TOWN OF PORTOLA VALLEY STAFF REPORT

**TO:** Mayor and Members of the Town Council

**FROM:** Jeremy Dennis, Town Manager

**DATE:** June 23, 2021

A handwritten signature in black ink, appearing to read 'Jeremy Dennis', is placed to the right of the 'DATE' field.

**RE:** Reauthorization of the Town Treasurer as the Authority for Management of the Town's Investment Programs

## **RECOMMENDATION**

Staff recommends that the Town Council reauthorize the Town Treasurer as the Authority for Management of the Town's Investment Programs.

## **BACKGROUND**

Per California Government Code Section 53607 (Attachment 1), a legislative body of a municipality may delegate, for a one-year period, the authority to manage investment programs to that body's treasurer.

The Town's Municipal Code, Section 2.08.020, authorizes the Town Manager to serve as the Town Treasurer (Attachment 2).

## **DISCUSSION**

The California Government Code only authorizes such delegation of duties for a one-year period. Staff recommends reappointing, per Portola Valley Municipal Code, the Town Manager to continue to manage investment programs for the next calendar year. Per the Town's Investment Policy (Attachment 3), day-to-day operations shall be delegated to the Finance Director; the Town Manager will continue to consult with the Finance Committee on present and future investments.

## **FISCAL IMPACT**

None.

## **ATTACHMENTS**

1. California Government Code section 53607
2. Portola Valley Code section 2.08.020
3. Town of Portola Valley Investment Policy

**State of California****GOVERNMENT****CODE****Section 53607**

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53607. The authority of the legislative body to invest or to reinvest funds of a local agency, or to sell or exchange securities so purchased, may be delegated for a one-year period by the legislative body to the treasurer of the local agency, who shall thereafter assume full responsibility for those transactions until the delegation of authority is revoked or expires, and shall make a monthly report of those transactions to the legislative body. Subject to review, the legislative body may renew the delegation of authority pursuant to this section each year.

(Amended by Stats. 1996, Ch. 749, Sec. 6. Effective January 1, 1997.)

2.08.020 - Town treasurer.

The town manager shall serve as the town treasurer. The town treasurer shall maintain the accounts of the town in accordance with the approved final budget and accepted municipal accounting procedures and shall perform such other duties as set forth in the general laws of the state.

(Ord. 2015-406 §§ 3, 4, 2015)





# Town of Portola Valley Investment Policy

Originally Adopted: December 10, 2003

Revised: November 8, 2017

Revised: November 28, 2018

Revised: August 14, 2019

## 1.0 MISSION STATEMENT

It is the policy of the Town of Portola Valley to invest public funds in a manner which will provide the maximum security with best investment returns, while meeting the daily cash flow demands of the entity. The Town's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

## 2.0 SCOPE

This investment policy applies to all financial assets of the Town of Portola Valley. These funds are audited annually and accounted for in the Financial Statements. This policy is applicable, but not limited to all funds listed below:

- General Fund
- Special Revenue
- Restricted Funds
- Trust Funds

Any other Town Funds or funds held for the exclusive benefit of the Town of Portola Valley and under the direction of Town of Portola Valley officials.

**2.1 Pooling of Funds** Except for cash in certain restricted funds, the Town will consolidate cash balances from all funds to maximize investment earnings. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

## 3.0 OBJECTIVES

In order of priority, the primary objectives of the investment activities shall be:

- 3.1 Safety** Safety of the principal is the foremost objective of the investment program. Investments of the Town shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
- 3.2 Liquidity** The investment portfolio will remain sufficiently liquid to enable the Town of Portola Valley to meet all operating requirements that might be reasonably anticipated.
- 3.3 Return or Yield** The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and

the cash flow characteristics of the portfolio. Return on investment is of secondary importance compared to the safety and liquidity objectives described above.

#### **4.0 STANDARDS OF CARE**

- 4.1 Prudence** Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence and discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. The standard of prudence to be used shall be the “prudent investor” standard (California Government Code 53600.3) and shall be applied in the context of managing an overall portfolio.

Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s risk or market price changes, provided deviations from expectation are reported in a timely fashion and appropriate action is taken to control adverse developments.

- 4.2 Delegation of Authority** Authority to manage the investment program is derived from California Government Code (CGC) 53600/1, et seq. Management responsibility for the investment program is hereby delegated to the Treasurer. Daily management responsibility of the program may be delegated to the Finance Director, who shall establish procedures and operate the investment program consistent with this investment policy.

Procedures may include, but not be limited to, references to: safekeeping, wire transfer agreements, collateral/depository agreements and banking services contracts, as appropriate. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Treasurer.

- 4.3 Ethics and Conflict of Interest** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any large personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions

with the same individual with whom business is conducted on behalf of the Town.

- 4.4 **Internal Control** Separation of functions between the Treasurer, Finance Director, and Finance Committee is designed to provide an ongoing internal review to prevent the potential for converting assets or concealing transactions.

Investment decisions are made by the Treasurer and executed by the Finance Director. All wire transfers initiated by the Finance Director must be reconfirmed by the appropriate financial institution to the Accounting Technician and approved by the Treasurer. Timely bank reconciliation is conducted to ensure proper handling of all transactions

The investment portfolio and all related transactions are reviewed and balanced to appropriate general ledger accounts by the Finance Director and Accounting Technician on a monthly basis. Internal controls will be documented by staff.

## 5.0 **AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS**

The Treasurer may select any financial institution/broker/dealer selected by credit worthiness that is authorized to provide investment services in the State of California. For broker/dealers of government securities and other investments, the Treasurer shall select only broker/dealers who are licensed and in good standing with the California Department of Securities, the Securities and Exchange Commission and the FINRA Financial Industry Regulatory Authority.

## 6.0 **AUTHORIZED INVESTMENTS**

- 6.1 **Investment Types** The Town of Portola Valley is empowered by CGC 53601 et seq. to invest in the following:
- Local Agency Investment Fund (LAIF), a special fund of the State Treasury in which local agencies are allowed to pool their funds for investment purposes up to a maximum -allowed by the State. LAIF will have its own investment policy that will differ from the Town.
  - United States Government Agency Bonds.
  - United States Treasury Bills, Notes and Bonds.
  - Mutual funds or exchange traded funds investing over 80% of assets in either:
    - 1) short to medium term corporate bonds holding an average credit rating of "A" or better not to exceed 30% of surplus funds, or
    - 2) short to medium term Federal Agency or U.S. Government sponsored enterprise obligations.
  - Pools and other investment structures incorporating investments permitted in CGC 53601 and 53635, such as Local Government Investment Pools sponsored by Counties and Joint Powers Authorities.

These entities may have their own investment policy that will differ from that of the Town.

- Negotiable Certificates of Deposit issued by federally or state chartered banks or associations. No more than 30% of surplus funds can be invested in certificates of deposit.

Investment in derivatives of the above instruments shall require authorization by the Town Council. Any concentrated equity or bond holding (including any private note held by the Town), however obtained, must be sold and converted into approved investments as quickly as practicable, considering market liquidity and trading restrictions on such securities.

- 6.2 Collateralization** All certificates of deposit must be collateralized by U.S. Treasury obligations held by a third party with whom the Town has a current written custodial agreement. The Treasurer may waive this requirement up to the amount already insured by federal or state deposit insurance (FDIC).

## **7.0 APPROVAL AND REVISION**

The Investment Policy shall be adopted by resolution of the Town of Portola Valley. The Policy will be reviewed as part of the annual budget process with any amendments to be approved by the Council.

There are no written materials for Road Maintenance District Budget Items

**Form Name:** Committee Application  
**Date & Time:** 06/17/2021 1:24 PM  
**Response #:** 136  
**Submitter ID:** 5851  
**IP address:**  
**Time to complete:** 10 min. , 48 sec.

**Survey Details**

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**Committee applications are submitted to Portola Valley's Town Clerk, Sharon Hanlon. Please feel free to forward a letter of interest or resume with your application as well. Sharon can be reached at (650) 851-1700 ex210, or you may email her at [shanlon@portolavalley.net](mailto:shanlon@portolavalley.net).**

**Name of committee which I am interested in serving on (please note that only committees currently seeking volunteers are listed):**

(o) Geologic Safety

**Applicant Information**

**Full Name** Patricia Alison McCrory  
**Email Address**  
**Street Address** Crescent Avenue  
**City/Zip** Portola Valley, CA 94028  
**Number of years in Portola Valley** 60+  
**Cell Phone**  
**Home Phone**  
**Other Phone**  
**Emergency Preparedness** Not answered

**Preferred Phone Contact Number**

(o) Cell

**Please state why you have an interest in this committee, and state any background or experience you may have that may be useful in your service to this committee.**

Growing up in Portola Valley, I've always been fascinated by its location straddling the San Andreas fault. That fascination led to a career in earthquake science at the US Geological Survey, focused on elucidating the controls on earthquake patterns & behavior for both the San Andreas fault system and the Cascadia subduction system. I have a BSc in Earth Sciences from UC Santa Cruz and a PhD in Geology from Stanford University. In addition to earthquake hazards, Portola Valley must contend with other geologic hazards such as landslides and stream erosion. With my background I feel confident that I could contribute meaningfully to the Geologic Safety Committee, and in turn, to the residents of Portola Valley.

**Do you have any personal or financial interest that could be perceived by others as a conflict of interest relative to your service on the committee? If so, please describe.**

No.



## TOWN OF PORTOLA VALLEY STAFF REPORT

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**TO:** Mayor and Members of the Town Council

**FROM:** Jeremy Dennis, Town Manager  
Cindy Rodas, Finance Director

**DATE:** June 23, 2021

**RE:** Final Proposed FY 2021-22 Budget and Appropriations Limit

### **RECOMMENDATION**

Staff recommends that the Town Council adopt Final Proposed Budget for FY 2021-22 and adopt the attached Resolution, determining and establishing the Town's FY 2020-21 Appropriations Limit.

Below is a list of minor edits and/or additions to the Proposed FY 2021-22 Budget as presented to the public and Town Council at its meeting held on June 9, 2021. The changes reflect input and feedback from members of council and the public.

- Update title from Proposed FY 2021-22 Budget to Final Proposed FY 2021-22
- Updates to Sources and Requirements Pie Charts for All Funds and General Fund to incorporate prior year actuals with proposed budget.
- Add Appendix - Section IV to the budget book, including Glossary of Budget Terms, Reserves/Fund Balance FAQ's, General Fund Minimum Fund Balance Policy and Investment Policy
- Corrections to FY 2018-19 & FY 2019-20 Actuals: allocate interest revenue in its appropriate departments/funds, from Non-departmental (610) to; Public Safety/COPS (210), Open Space (725), Gas Tax (710), Measure A (710) and update corresponding tables.
- Corrections to FY 2019 Actuals: allocate intergovernmental revenue (Measure A and Measure W) to its appropriate departments/divisions, from Public Works (510) to CIP: Roads & ROW Division (710) and update corresponding tables.

### **LINK TO PROPOSED BUDGET:**

<https://stories.opengov.com/portolavalleyca/published/mMJmMRUC>





# TOWN OF PORTOLA VALLEY

## STAFF REPORT

**TO:** Mayor and Members of the Town Council

**FROM:** Jeremy Dennis, Town Manager  
Cindy Rodas, Finance Director

**DATE:** June 23, 2021

**RE:** FY 2021-22 Appropriations Limit

### RECOMMENDATION

Staff recommends that the Town Council adopt the attached Resolution, determining and establishing the Town's FY 2021-22 Appropriations Limit.

### BACKGROUND

California Law requires each public agency to calculate and adopt its Appropriations Limit for each fiscal year. This requirement stems from the 1978 passage by the voter of Proposition 4, with subsequent modification in 1990 by the passage of Proposition 111. The Appropriation Limit creates a restriction on the amount of revenue that can be appropriated in any fiscal year. The Limit is based upon actual appropriations during 1977-1978, adjusted each year for inflation and population growth. Not all revenues are restricted by the Limit, only those that are referred to as "proceeds of taxes." Additionally, certain types of appropriations do not count against the Limit including the cost of voter-approved debt, court and Federal mandates, and qualified capital outlay.

In order to determine whether an agency is within its Limit for any given fiscal year, the agency must determine its anticipated revenues that qualify as proceeds of taxes. The allowed cost exclusions are then deducted from the total proceeds of taxes. The resulting number is the appropriations subject to the Limit for the fiscal year. This is compared with the actual adopted Limit in order to determine an agency's position over or under the Limit.

An agency may not appropriate any proceeds of taxes received in excess of its Limit. An excess may be carried forward for one year. If an excess still exists at the end of the second year, it must be returned to the taxpayers through tax reductions or rebates. Alternatively, a majority of the local voters may approve an "override" to increase the Limit for a four-year period. Very few agencies have reached or exceeded their Appropriations Limit. Those agencies that do have usually experienced a significant increase in tax base through new and extensive

development, which would outstrip increases in inflation or population.

**DISCUSSION**

The Town's Appropriation Limit for 2021-22 is \$3,976,856. The amount subject to limitations is \$3,756,144 which is \$220,712 below the limit. Contributing factors include that Portola Valley is a high property tax community, and that the assessed valuation is consistently greater than the factor which increase the Gann Limit (Consumer Price index and population growth).

**FISCAL IMPACT**

None. The Gann Limit analysis is a technical and legal requirement.

**ATTACHMENT**

1. Resolution Determining and Establishing the Appropriations Limit for FY 2021-22 with Exhibit A of Worksheets Calculating Limit

RESOLUTION No. \_\_\_\_\_-2021

**A RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF PORTOLA VALLEY  
DETERMINING AND ESTABLISHING THE  
APPROPRIATIONS LIMIT FOR FISCAL YEAR 2021-22**

**WHEREAS**, the calculation of the Appropriations Limit for the Fiscal Year 2021-22 has been completed; and

**WHEREAS**, the manner of calculating said Limit is set forth in Exhibit A attached hereto;

**WHEREAS**, the City Council has reviewed and considered the Appropriations Limit calculation.

**NOW, THEREFORE**, be it resolved that the Town Council of the Town of Portola Valley Appropriations Limit for Fiscal Year 2021-22 is determined to be \$3,976,856.

**PASSED AND ADOPTED** this 23<sup>rd</sup> day of June, 2021.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

	<u>Subject to Limit</u>	<u>Not Subject to Limit</u>
<b><u>Proceeds of Taxes</u></b>		
Property Taxes	\$ 3,319,815	
Sales & Use Tax	235,000	
Business License Tax	125,000	
Real Property Transfer Tax	150,000	
Utility Users' Tax - General	762,990	
HOPTR	9,100	
<b><u>Proceeds of Taxes for Capital Outlay</u></b>		
Utility Users Tax - Open Space		\$ 337,497
Measure A Sales Tax		298,935
Public Safety COPS Grant		145,000
Public Safety Sales Tax 172		15,000
<b><u>User Fees</u></b>		
Building Permits/Plan Checks/Inspections		\$ 600,000
Zoning and Planning Permits		-
Construction & Demolition Fees		19,000
Horsekeeping Permits		2,000
State Pass Through Fees		7,874
Planning Fees for Staff Review		146,304
Consulting Fees - charges to applicant		475,000
Park & Recreation Revenue		141,328
Town Center Revenue		-
SDP/EP/CUP/Building Review		56,000
Franchise Fees		362,675
<b><u>Other Revenues</u></b>		
Measure M		\$ 76,975
State Gas Tax		124,732
Road Maintenance Rehabilitation Account (RMRA)		91,059
Measure W		132,860
Various Filing Fees		38,800
Inspection Fees		-
Town Library Maintenance Reimb		11,176
Miscellaneous		25,756
Fines & Forfeitures		8,500
Miscellaneous Contributions		102,083
Town Library Maintenance Reimb		-
Misc Taxes		5,256
Misc Grants		251,600
Subtotal (for Worksheet #3)	\$ 4,601,905	\$ 3,475,410
Interest Earning (from Worksheet #4)	<u>160,008</u>	<u>\$ 199,387</u>
Total Revenue (for Worksheet #4)	\$ 4,761,913	\$ 3,674,797

	<u>Amount</u>	<u>Source</u>
A. Non-interest subject tax proceeds:	\$ 4,601,905	Worksheet #2
B. Minus exclusions:	1,005,769	Worksheet #7
C. Net invested taxes:	3,596,136	(A - B)
D. Total non-interest revenue:	8,077,315	Worksheet #2
E. Tax proceeds as percent of budget:	44.52%	(C / D)
F. Interest earnings:	359,395	Budget
G. Amount of interest earned from taxes:	160,008	(E * F)
H. Amount of interest earned from non-taxes:	199,387	(F - G)

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I. Take the result of steps G and H, copy to Worksheet #2

Year	Previous Year Limit	Adjustment Factor	Current Year Limit
1979-80	441,943.00	1.1199	494,931.97
1980-81	494,931.97	1.1053	547,048.30
1981-82	547,048.30	1.0567	578,065.94
1982-83	578,065.94	1.0736	620,611.59
1983-84	620,611.59	1.0261	636,809.56
1984-85	636,809.56	1.067	679,475.80
1985-86	679,475.80	1.0445	709,712.47
1986-87	709,712.47	1.0504	745,481.98
1987-88	745,481.98	1.0557	787,005.32
1988-89	787,005.32	1.0542	829,661.01
1989-90	829,661.01	1.0704	888,069.15
1990-91	888,069.15	1.0552	937,090.56
1991-92	937,090.56	1.0571	990,598.44
1992-93	990,598.44	1.0183	1,008,726.39
1993-94	1,008,726.39	1.0448	1,053,917.33
1994-95	1,053,917.33	1.0259	1,081,213.79
1995-96	1,081,213.79	1.0672	1,153,871.36
1996-97	1,153,871.36	1.0561	1,218,603.54
1997-98 <sup>1</sup>	1,218,603.54	1.058	1,641,871.54
1998-99	1,641,871.54	1.0565	1,734,637.29
1999-00	1,734,637.29	1.0544	1,829,001.56
2000-01	1,829,001.56	1.0573	1,933,803.35
2001-02	1,933,803.35	1.0977	2,122,735.94
2002-03	2,122,735.94	1.0164	2,157,548.87
2003-04	2,157,548.87	1.0139	2,187,538.79
2004-05	2,187,538.79	1.0423	2,280,073.87
2005-06	2,280,073.87	1.0591	2,414,885.52
2006-07	2,414,885.52	1.0472	2,528,841.75
2007-08	2,528,841.75	1.0561	2,670,719.58
2008-09	2,670,719.58	1.056	2,820,666.68
2009-10	2,820,666.68	1.0183	2,872,496.82
2010-11 <sup>2</sup>	2,872,496.81	0.9861	3,287,799.44
2011-12	3,287,799.44	1.0343	3,366,837.32
2012-13	3,366,837.32	1.0479	3,499,954.04
2013-14 <sup>3</sup>	3,499,954.04	1.0627	2,862,302.79
2014-15	2,862,302.79	1.0094	2,889,208.44
2015-16	2,889,208.44	1.0486	3,029,623.97
2016-17	3,029,623.97	1.0644	3,224,731.75
2017-18	3,224,731.75	1.0378	3,362,449.00
2018-19	3,362,449.00	1.0419	3,503,335.61
2019-20	3,503,335.61	1.0414	3,648,401.03
2020-21	3,648,401.03	1.0396	3,792,812.26
2020-21	3,792,812.26	1.0485	3,976,856.24

<sup>1</sup> Appropriation limit for 1997-98 includes an added on Utility Users' Tax of \$352,398 to temporarily increase the Appropriation Limit with voter approval.

<sup>2</sup> Appropriation limit for 2010-11 includes impact of deducting 1997-98 Utility Users' Tax budgeted revenues and adding the 2010-11 Utility Users' Taxes budgeted revenues. Subsequent years will deduct prior year and add current year budgeted utility users' tax revenues.

<sup>3</sup> Corrections to proceeds of taxes that are subject to limit disallowed need for UUT adjustment in the 2013-14 calculation of appropriations limit. See Worksheet #6 for fiscal year 2013-14 calculation.

	<u>Amount</u>
Qualified Capital: 2021-22 Street Resurfacing Project	\$ 96,929
Qualified Capital: 2021-22 Street Resurfacing Project - Alt 1 Only	51,000
Qualified Capital: 2022-23 Street Resurfacing Project	60,000
Qualified Capital: Resurface Project Inspection and Testing	60,000
Qualified Capital: OBAG2 Resurfacing Project	40,000
Qualified Capital: Speed Survey for Radar Enforcement	25,000
Qualified Capital: Trails Rehabilitation	20,000
Qualified Capital: Pedestrian Safety Study	35,000
Qualified Capital: Storm Drain Repairs	15,000
Qualified Capital: Replace Skateboard Ramp - Town Center	10,000
Qualified Capital: Renovate Granite Walkway - Rossotti Field	15,000
Qualified Capital: TC DG Backstop and DG Path near Tennis Ct	30,000
Qualified Capital: Springdown/Vernal Pond vegetation management	50,000
Qualified Capital: Springdown Blue Heron Pond Webcam	2,000
Qualified Capital: Springdown Oak Tree Trimming	10,000
Qualified Capital: Frog Pond Open Space	45,000
Qualified Capital: Town Center Maintenance	3,500
Qualified Capital: Open Space Support	5,500
Qualified Capital: Road Remnant Basic Fire Maintenance	7,000
Qualified Capital: Biologist Services Conservation Request	5,000
Qualified Capital: Rekey Community Hall & Install Locks	5,000
Qualified Capital: Radio Antenna Installation - CalWater Station	57,000
Qualified Capital: Landscape Improvements and beds 8 & 21	10,000
Qualified Capital: TC Oakgrove Fence and Bench	8,000
Qualified Capital: Improve Planting Bed along Tennis Court	4,000
Qualified Capital: Town Center Covid-19 Plexiglass Protection	10,000
Federally Mandated Appropriations*	\$ 142,771
Obama Care Employer Mandate	183,069
	<hr/>
	\$ 1,005,769
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\*Appropriations to Mandatory Spending Programs are funded either by permanent



A.	FISCAL YEAR 2020-2021 LIMIT		\$3,792,812.26
B.	ADJUSTMENT FACTORS		
	1. Population	99.1700 %	
	2. Per Capita Income	<u>105.7300 %</u>	
	Total Adjustment Factor (1 x 2)	104.8524 %	
C.	ANNUAL ADJUSTMENT	\$ 184,043.98	
D.	OTHER ADJUSTMENTS		
	1. Lost Responsibility	-	
	2. Transfer to Private	-	
	3. Transfer to Fees	-	
	4. Assumed Responsibility	-	
	5. CY Utility Users' Tax	-	
E.	TOTAL ADJUSTMENTS	\$ 184,043.98	
F.	FISCAL YEAR 2021-22 LIMIT (A + E)		<u><u>\$3,976,856.24</u></u>

\* Corrections to proceeds of taxes that are subject to limit disallow need for UUT adjustment in the 2013-14 and future years' calculations of appropriations limit.

	<u>Amount</u>	Source
A. Subject proceeds of taxes	\$ 4,761,913	Worksheet #2
B. Exclusions	1,005,769	Worksheet #7
C. Appropriations subject to limitation	3,756,144	(A - B)
D. Current year limit (2021-22)	3,976,856	Worksheet #6
E. Over/(under) limit	(220,712)	(C - D)



## TOWN OF PORTOLA VALLEY STAFF REPORT

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**TO:** Mayor and Members of the Town Council

**FROM:** Laura C. Russell, Planning and Building Director  
Cara E. Silver, Town Attorney

**DATE:** June 23, 2021

**RE:** Adoption of Accessory Dwelling Unit Ordinance Updates Required by State Law

### RECOMMENDATION

The Planning Commission and Staff recommend that the Town Council introduce and waive the first reading of the attached Accessory Dwelling Unit ordinance update (Attachment 1). A resolution containing the Planning Commission's recommendation is included as Attachment 2.

### BACKGROUND

Historically, the Town of Portola Valley has had a permissive accessory dwelling unit (ADU) ordinance to accommodate the large parcel sizes in Town. Over the years, the Town has addressed the creation of ADUs several times in response to Town Council priorities and State law changes. The Town's latest update occurred on March 27, 2019, when the Town Council adopted the current ADU ordinance. The 2019 update significantly increased the size of permissible ADUs, expanded their permitted use to all zoning districts and established a "by right" process for certain ADU categories. The Town heavily relies on ADUs to satisfy its affordable housing requirements under State law.

#### 2020 State Law Updates

The State legislature has focused on ADUs as a way to provide affordable housing for more people. To further reduce barriers to ADU construction, the State adopted a series of bills, AB-881, AB-68, SB-13, AB-670, and AB-671, that went into effect on January 1, 2020. The most notable changes are:

- The number of ADUs that must be allowed per single-family lot was increased from 1 ADU to 1 ADU and 1 Junior Accessory Dwelling Unit (JADU)<sup>1</sup>. Under previous law, towns could decide whether or not to permit JADU's.
- Jurisdictions are prohibited from establishing a maximum ADU size less than 850 square feet, or 1000 square feet if the ADU has more than 1 bedroom.

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<sup>1</sup> A JADU is a portion of an existing single family home (typically a bedroom) that has been converted to a separate living unit.

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- Towns are required to approve three categories of ADUs (referred to as “state exemption ADUs”):
    - *New Construction*: an ADU of up to 800 square feet, 16 feet in height, and 4 foot rear and side setbacks regardless of local development standards
    - *Conversions*: an ADU or JADU may be created by converting existing space within an existing single-family building or accessory structure.
    - *Multi-family ADUs*: Two detached ADUs may be permitted on lots containing a multi-family building.
  - Side and rear yard setbacks of 4 feet for ADUs
  - If a covered garage, carport or covered parking structure is converted into an ADU, replacement parking cannot be required.
  - If an existing structure is removed and rebuilt as an ADU, the setback is preserved.
  - ADUs may be added to multi-family dwellings.
  - Owner-occupancy requirements are exempted for ADUs approved between January 1, 2020 and January 1, 2025.
  - Impact fees are prohibited for ADUs smaller than 750 square feet and limited for ADUs 750 square feet and larger.
  - The maximum ministerial approval period for ADUs and JADUs is shortened from 120 days to 60 days.
  - There is now a 5 year grace period for an unpermitted ADU to comply with relevant codes, except where it is a matter of health and safety.

Many of the above changes relate to relaxed parking and setback requirements as they tend to be the primary barriers to ADU construction. The relaxed parking requirements will likely not have much impact in Portola Valley in areas where lots can generally accommodate necessary parking. The relaxed setback requirements, however, could have impacts and staff is recommending an approach to address some of those impacts.

These state law changes are currently in effect and take precedence over any contradictory language in the existing ordinance. Despite this, staff feels it is important to update the ordinance to accurately reflect current state law in the interest of transparency, in light of the Town’s longstanding interest in facilitating the creation of ADUs and JADUs, and to enforce local regulations tailored to the Town’s existing character and topography.

### Planning Commission Hearings

The Planning Commission conducted three hearings on April 14, May 19, and June 2, 2021, to review the recent State law changes and to provide feedback on staff’s approach to implementing these changes. The Commission also appointed a sub-committee of Commissioners Hasko and Targ to meet with the Town Attorney to further review the fire safety and geologic exception and to review specific ordinance language. The Commission also heard from residents regarding these changes. The recommendations made by the Planning Commission after hearing from residents fell into several major categories:

- (1) Wildfire safety and Hazard exception: Add additional restrictions in areas containing only one ingress and egress route along streets less than 18 feet in width.
- (2) Setbacks: Use a “carrot and stick” approach to encourage compliance with Town’s existing setbacks. Require fire safety checklist for any ADU seeking to encroach into the local setbacks.
- (3) Require consultation with Trails and Paths Committee or designee when ADUs are built within 4 feet of a public trail.

- (4) Clarify that setbacks are measured from edge of adjacent easement encumbering property.
- (5) Pre-submittals: Require third party agency (i.e. West Bay Sanitation District, County Health and Woodside Fire Protection District sign off as a part of the application process). Also require applicants to notice adjacent property owners as part of application process;
- (6) Director's Authority: Delete Director's use of interpretive authority but acknowledge Director's authority to implement administrative guidelines.
- (7) Recommendation for a three year sunset provision.

The Planning Commission's recommendations are further described below in relationship to each of the proposed ordinance changes. The ordinance included as Attachment 1 has also been updated to reflect these changes.

## **DISCUSSION**

The proposed updates are discussed below by topic. Each discussion topic discusses the regulations in the current Portola Valley Zoning Code (which was updated in 2019) as well as the changes proposed by the Planning Commission and staff to implement state law. Recommendations 8 and 10 are proposed by staff to address past implementation issues.

## **RECOMMENDED CODE CHANGES**

### **1) Regulations Addressing new State law mandate permitting 4' ADU setbacks**

Current Code. ADUs are required to meet the setbacks of the underlying parcel. Standard rear setbacks range from 20-25' and standard side setbacks range from 10-25'.

Proposal. As discussed above, the most significant State law change relates to setbacks. State law now requires cities to allow 4' side and rear yard setbacks for ADUs. If there are legitimate health and safety reasons that make 4' setbacks infeasible, the Town may enforce alternative setbacks provided it can make justifying health and safety findings. The Commission recommended staff come up with additional "carrots and sticks" to incentivize compliance with underlying zoning setbacks and disincentivize state law setbacks. The Commission suggested additional incentives and disincentives which have been incorporated into the ordinance language. The ordinance now contains the following incentives/disincentives:

- ADUs which do not comply with local setbacks and instead utilize State law setbacks will be limited to size prescribed by State law, i.e. 850 square feet for units up to one bedroom and 1,000 for units containing two or more bedrooms. Additional size allowances will not be granted to ADUs which do not honor the underlying zoning setbacks.
- ADUs which do not comply with local setbacks will also be limited to 16 feet vertical and maximum height.
- On the other hand, ADUs that comply with zoning setback requirements will be permitted additional size up to 1200 square feet for parcels less than 3.5 acres and 1500 for parcels of 2.5 acres or more and height of 18 feet vertical and 24 maximum height. These limits are capped at the AMFA for the parcel. (These standards reflect the current regulations.)
- In addition to these incentives, protections have been added for ADUs that do not comply with the local setbacks. The major safeguard added by the Planning Commission was the requirement that such ADUs complete a Fire Safety Checklist (see further discussion

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below on fire safety). Other safeguards include mandatory landscape screening and prohibitions on exterior lighting, prohibition of egress windows and doors in local setbacks, and windows/skylights above 9 feet high on sides located in the local setbacks. There is also a prohibition on improvements such as patios, decks, pools, saunas, fire pits and similar structures that could contribute to increased noise and light close to property lines. Finally, basements are not permitted for ADUs not meeting local setbacks.

- ADUs located in restricted areas (which correspond roughly to the CalFire-designated Very High Fire Severity zone) are subject to additional restrictions (see below item #3 related to fire safety).

## **2) Codification of “State Exemption” ADUs**

Current Code. ADUs must comply with the Adjusted Maximum Floor Area (AMFA), height, setback, impervious surface and similar development standards of the base zoning district.

Proposal. The three specific types of ADUs required by State law, regardless of the otherwise applicable development standards, are now incorporated into the ordinance:

- *New construction:* Town must permit construction of one ADU up to 800 square feet, 16 feet in height, and 4’ side and rear setbacks to exceed the floor area and impervious surface limits otherwise in place.
- *Conversion:* State law now allows an ADU or JADU to be created by converting existing space within an existing single-family building or accessory structure.
- *Multi-family:* Less relevant to Portola Valley, State law also permits two detached ADUs on lots containing a multi-family building.

While still subject to regulations like building codes and health and safety laws, a properly completed application for such an ADU is subject to ministerial review only, and with a very strict timeline as discussed above. The provisions pertaining to size, height, and setbacks appear elsewhere in the code, but the State Exemption ADUs are specifically called out to be transparent to reflect the fact that these ADUs are expressly permitted by the State.

## **3) Additional exceptions for fire safety and geologic and ground movement concerns**

Current Code. The existing ordinance prohibits ADUs on parcels smaller than one acre whose direct vehicular access is from a road or cul-de-sac which (1) has a single point of ingress/egress and (2) has a width of less than eighteen feet. (We sometimes refer to this as the ADU-restricted area which roughly corresponds with the Very High Fire Hazard Severity Zone.) This provision, the product of much discussion and consultation with the Fire Marshal during the last ADU Ordinance update, was a practical reflection of the fire safety concerns and necessity for adequate emergency vehicle access and evacuation routes unique to these areas.

Proposal. This issue was heavily discussed at the three Planning Commission meetings. Ultimately, the Planning Commission recommended a multi-prong response to fire safety issues consisting of the following:

1. Absolute prohibition of ADU’s on parcels less than 1 acre in the ADU-restricted area. (Maintain current requirement.)
2. Adherence to the local setbacks for ADUs on parcels 1 acre or greater in the ADU-restricted area.

3. Any ADU proposing to encroach into local setbacks must comply with Town of Portola Valley Fire Safety Checklist. This checklist will be jointly developed by the Planning and Building Director and Woodside Fire Protection Fire District Fire Marshal and approved by Town Council resolution. The Fire Chief and Fire Marshal have been consulted and agree with this approach.
4. To further encourage compliance with local setbacks, rather than the 4 foot State-authorized setback, the Planning Commission developed a “carrot and stick” approach to guide development away from existing structures and provide larger fire breaks throughout Town.

While state law does not expressly address this issue, staff believes it is possible to require larger setbacks and impose additional regulations in these areas to protect health and safety. Additional findings have been added to the ordinance to support the expansion of this exception.

As for the geologic safety exception, this exception provides that ADU creation may be limited where there are material topographic, geologic, and ground movement concerns. The Town has created two maps that identify areas of significant geologic and ground movement risk. ADUs and JADUs sited in these high-risk areas would be subject to the Town’s policies for development rather than State law. The process would typically require discretionary review by the Planning Commission and processing timelines that exceed 60 days.

Resolution 2746-2017 was adopted to prevent development—specifically structures, roads, water tanks, and utilities—on ground that is deemed unstable as a result of major areas of active and recent landslides and/or the San Andreas Fault System. The Resolution adopts certain geologic maps. These maps indicate the known geologic conditions of land throughout the Town. Based on these conditions, and explained further below, all land falls into 4 possible categories: “Y”, “Y\*”, “N\*”, “N”.

The Resolution expressly applies to all new development and is used to guide “all decisions of the Town Staff... where geologic concerns are relevant.” Development of an ADU would certainly fall under this Resolution, in the same way that ADUs must conform to building and other safety codes.

In practice, the Resolution functions as follows: When a development of an ADU is proposed, the maps will be consulted to determine the underlying geologic characteristics of the site. As per Table 1, whether an ADU may be developed on a particular site will depend on which of the following four categories the site is located:

- “Y”: The development is on ground believed to be free from geologic concerns and development may proceed.
- “Y\*”: A report from the Town Geologist may be required prior to approval from the Town.
- “N\*”: There is cause for substantial geologic concern, therefore applications for development shall be referred to the Planning Commission for action.
- “N”: Land in this category is not suitable for development.

Based on the above categories, staff is now proposing the exception be broken into two parts. ADUs proposed on parcels designated as “N” will be prohibited. On the other hand, ADUs proposed on parcels designated as Y\* or N\* may be permitted if they comply with the Resolution



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and receive appropriate geologic review. ADUs located in “Y” areas will not be affected by the exception.

#### **4) Add language to allow for Junior Accessory Dwelling Units (JADUs)**

Current Code. JADUs are defined as a portion of a single family home that is separately leased to a tenant. Traditionally, this space has a kitchenette, rather than a full kitchen, and is most typically a bedroom. A JADU may have its own bathroom or may share with the main building. The code does not expressly permit JADUs.

Proposal. The concept of the JADU has expanded over time. Now that state law allows for one ADU and one JADU per single family parcel, references to “JADUs” have been added where necessary to clarify the provisions in the ordinance that apply to JADUs in addition to ADUs. The Planning Commission recommended adding a kitchen requirement so JADUs could be counted towards the Town’s Regional Housing Needs Allocation (RHNA).

#### **5) Clarifying ministerial review**

Current Code. The current code sets forth that the Town Council desires to encourage the creation of ADUs to help meet its housing needs and goals. Recent state law changes underscore the importance of ministerial review in order to reduce barriers to ADU and JADU creation.

Proposal. Amendments in several areas endeavor to increase the clarity of what requires ministerial review. Ministerial review is addressed in the following sections:

- 1. B. 1. a. “Encourage the development of ADUs and JADUs through a ministerial approval process” has been added to emphasize compliance with State law. While this does not reflect a policy change, it seeks to clarify the town’s intent for residents who might be unfamiliar with this code.
- 1. B. 4. b. “State Exemption ADU” provision added to clearly describe the minimum ADU allowed through ministerial review. This section sets forth what is allowed by right in terms of new construction, conversions, and multi-family ADUs consistent with the new State legislation.
- 1. B. 5. a “Types of Review- Ministerial Review.” Ministerial review was already established in this section but the categories of such review have been updated consistent with State law.
- 1. B. 6. a. “Assignment of Review Responsibilities- Ministerial Review.” The existing code lists type of review in order from most discretionary down to ministerial. In order to reflect the town’s encouragement of applications that are subject to ministerial review, the order has been reversed. Ministerial review is set forth first, followed by staff discretionary review, and lastly ASCC review.

#### **6) Timing for ministerial review**

Current Code. The current code states that an application for ministerial review of an ADU shall be decided within 120 days of having been received. Language was added to clarify that consistent with State law an application for an ADU or JADU may not be deemed complete until

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a permit has been granted on the main building that serves as the basis for the ADU or JADU application.

Proposal. The state has shortened the town's allowed response time from 120 to 60 days. Applications that are not decided within 60 days are deemed approved. The proposed amendment reflects this change in timing and clarifies that the time clock starts upon receipt of a completed application. To remove possible confusion where a new main building is being proposed at the same time, the amendment clarifies that the application for an ADU or JADU shall be considered complete once the permit for the main building has been granted. This provision mirrors language in state law and prevents the unintended consequence of an ADU or JADU having to be approved, as a result of the 60 day time limit, before the related main building has been approved. The Commission suggested requiring applicants to obtain third party review approval prior to submitting an application. Staff researched this issue and determined the County Environmental Health, and the Woodside Fire Protection District typically currently review ADU applications. As review departments and processes may change over time, staff recommends that the application itself be amended to reflect this pre-approval process, rather than the ordinance.

The ordinance was also amended to require the applicant to notify all adjacent neighbors of their application before filing. Generally, the Town does not provide notice of ministerial permits as it can create the misperception that residents can appeal the decision or provide comments in a discretionary process. In this case the Commission thought it would be helpful for the applicant to provide notice at the front end of the project to allow for some neighbor to neighbor dialogue before the application was filed.

## **7) Revise and add definitions**

Current Code. The current code defines terms that are particularly relevant to the ordinance.

Proposal. As described below, state law changes have rendered some of the definitions out of date and introduced terms that are not currently defined:

- 1. B. 2. a. "Accessory Dwelling Unit." This definition has been updated to mirror the state law definition. It clarifies that the ADU shall be "located on a lot with a proposed or existing primary residence" and "on the same parcel as the single-family or multi-family dwelling." It also clarifies that the definition of "ADU" includes efficiency units and manufactured homes, as set forth in state law.
- 1. B. 2. e. "Efficiency Kitchen." This definition has been added in response to the local requirement that JADUs contain an efficiency kitchen, which is discussed in detail below.
- 1. B. 2. h. "Junior Accessory Dwelling Unit." The definition of JADU has been expanded to mirror the updated state law definition. State law permits jurisdictions to make their own determination on whether a JADU should be required to have an efficiency kitchen, separate entrance, and/or an owner occupancy requirement. This issue is discussed in more detail below.
- 1. B. 2. k. "Multi-Family Structure." This section has been added to the definitions as it is relevant to ADU law and was not previously contained in the code. This definition comes from State law and is limited to the ADU section of the Town's Code.

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## **8) Parking requirements**

**Current Code.** At present, the code is not instructive on the issue of replacement parking when a garage, carport, or other covered parking structure is demolished to create an ADU.

**Proposal.** A provision has been added to make it clear that replacement parking is not required when a garage, carport, or other covered parking structure is demolished or converted in conjunction with the construction of an ADU. This comports with state law, which prohibits the town from requiring replacement parking in such circumstances.

## **9) Authorization for Planning and Building Director to make interpretations, rules, and regulations**

**Current Code.** The current code is silent with respect to how minor interpretations, rules, and regulations shall be made with respect to this ordinance.

**Proposal.** No ordinance can predict every possible scenario, and staff is regularly tasked with making minor interpretations, rules, and regulations pursuant to this code. In addition, state law, particularly in rapidly-evolving areas like ADU creation, continues to involve details that may not have been apparent at the time the law went into effect. For these reasons, a provision has been added to clarify that the director of planning has the limited authority to adopt guidelines and to update or amend permit application requirements, forms, or checklists that are necessary or useful in complying with state law and/or other town ordinances.

**Planning Commission Feedback.** This particular issue caused some concern with the Commission. The original staff proposal allowed the Director to issue interpretations and the Commission had reluctance. Staff instead proposed to delegate authority to the Director to implement guidelines and that was acceptable to the Commission. It is important to note that some commissioners expressed an overall philosophical opposition to granting this type of authority to staff and felt it was more appropriately vested with the Commission. From staff's perspective day to day operations require senior staff to fill in Code gaps and that responsibility is already incorporated into the Planning Director's job description (Attachment 3). This is a fairly common provision in other cities.

## **10) Floor area calculations- basements under ADUs**

**Current Code.** After much deliberation, the Planning Commission previously recommended that basements under ADUs not count towards AMFA, consistent with basements under main buildings. The intent was to not penalize ADUs projects and make the Code more consistent. The Code does not require the basement to have internal access, such as a staircase, to the upper floor ADU.

Staff has observed a potential consequence of that policy. As an example, applicants can propose a 1,200 square foot ADU at ground level with a complete basement under the ADU that has access via a staircase to the outside. The result is that the applicant can have 1,200 square foot of basement that can be used for living area without counting towards AMFA or the ADU floor area limit. Additionally, an applicant may propose a State Exemption ADU of 800 square feet that exceeds the AMFA and include a full basement under it that also does not count.

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Proposal. Language has been added saying that Basements located under an ADU that do not have internal access to the ADU are discouraged and shall be counted towards AMFA calculations.

#### **11) Owner occupancy requirements**

Current Code. The existing ordinance states that either an ADU or the main building must be owner occupied. The other unit may be rented.

Proposal. Pursuant to new state law, the town may not enforce owner occupancy requirements on an ADU approved between January 1, 2020 and January 1, 2025. The state's intention is to remove a possible barrier to ADU creation by allowing an owner to rent both units while living elsewhere. Owner occupancy requirements for ADUs created outside of this time period are still valid and enforceable. The code has been narrowly amended to remove owner occupancy requirements for the minimum amount of time dictated by state law.

Where a parcel has both a JADU and an ADU, the town may require the owner to occupy either the JADU or the main building. This amendment chooses to leave that owner occupancy requirement in place based on the Planning Commission's past preference for owner occupancy requirements, although it is also possible to remove this requirement for JADUs, as it has been removed for ADUs.

#### **12) Consultation with Trails Committee**

Planning Commission Proposal. The Planning Commission expressed concerns about the potential impact of ADUs located in close proximity to trails under the State required setbacks. The Commission recommended that ADUs proposed within the local setback in proximity to a trail consult with the Trails and Paths Committee to determine whether there is an alternate site location. Staff appreciates the concern about impacts to trails but is concerned about the additional time associated with processing and the ability to meet the 60 day review timeframe. The consultation would have to take place between the applicant and a designated member of the Trails Committee within a relatively short period of time through a newly created process. This type of consultation is not typically associated with ministerial reviews. There would also be additional staff resources necessary to apply this recommendation, as the process would have to be conducted more like a discretionary project with more oversight and management and less like a ministerial project.

#### **13) ADUs not compatible with the architectural style of the main building.**

Current Code. Prior to the 2019 local changes, the ASCC reviewed ADUs which were not compatible with the architectural style of the main building. In the 2019 local amendments, this review authority was transferred to staff.

Proposal. Staff has found this provision difficult to implement and has concerns that over time it could deter the construction of pre-approved designs or pre-fabricated ADUs, a concept encouraged by the County and the Town Council. Additionally, this criteria could be construed as subjective and thus no longer permitted under State law. The subcommittee requested staff to discuss this issue with the ASCC Chair (Dave Ross) and propose an alternative objective

criterion. Chair Ross stated in his experience there were multiple situations in Town where this compatibility standard did not serve the Town. These circumstances include:

- a. homes where the accessory buildings were intentionally of a different style (i.e. farmhouse with a barn-style accessory building);
- b. homes not having a distinct architectural style;
- c. homes having an architectural style not suitable to the Town or their surroundings;
- d. ADUs built in neighborhoods having an eclectic mix of architectural styles; and
- e. homes that were being renovated in conjunction with the ADU which would then be non-compatible.

He also mentioned that a substantial number of ADUs are only visible to the main property owner and in those situations the ASCC was split on whether to regulate design at all. Given these circumstances, the Chair recommended, in lieu of regulating compatibility with the main building, the Town could require a “color palette found in the local natural environment.” The Commission concurred with this recommendation.

**14) Three year sunset provision.** The Commission recommended the new changes to the ADU ordinance sunset. This recommendation was a split vote. Staff does not support this sunset provision as it could impact the Town’s ability to count ADUs towards its Regional Housing Needs Assessment (RHNA) in the upcoming housing element. Further, it unnecessarily runs the risk of causing a reversion to state law (with no local supplemental regulations) in the event a new ordinance is not timely adopted. Finally, the Council always has the ability to modify its ordinances to account for new laws or circumstances and the Town has historically exercised this authority prudently. At the Planning Commission’s recommendation the ordinance includes the three-year sunset, and staff recommends the full Council discuss.

## **NEXT STEPS**

State law now requires the Town to submit their Accessory Dwelling Unit Ordinances to the State Housing and Community Development Department (HCD) for approval.

Staff will develop new checklists and forms to assist applicants in successful applications. Taken together, the proposed Code amendments represent a number of new requirements that will require careful implementation. Staff anticipates an increase in pre-application consultation time and processing time to ensure compliance. Both State law and Council priorities place a high value on timely processing of ADU applications. Staff will monitor the volume and available resources and report back to Council as part of the larger discussion on staff resources.

## **ENVIRONMENTAL REVIEW**

Under Public Resources Code Section 21080.17, CEQA does not apply to the town’s adoption of an ordinance to implement the provisions of Section 65852.2 of the Government Code (the state ADU law). The ordinance implements Government Code Section 65852.2 in a manner that is consistent with the requirements of state law. As such, the adoption of the ordinance is exempt from CEQA.

## **ATTACHMENTS**

1. Draft Ordinance updating the Town’s Accessory Dwelling Unit Ordinance
2. Planning Commission Resolution Recommending Updated Accessory Dwelling Unit Ordinance to Town Council
3. Planning Director’s Job Description

## ORDINANCE NO. 2021 – \_\_\_\_\_

**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF  
PORTOLA VALLEY AMENDING SECTION 18.36.040 [ACCESSORY USES]  
OF CHAPTER 18.36 [USES PERMITTED IN ALL DISTRICTS] OF TITLE 18  
[ZONING] OF THE PORTOLA VALLEY MUNICIPAL CODE**

**WHEREAS**, the State of California recognizes the potential for Accessory Dwelling Units (ADU) as a housing strategy, and has passed several laws to lower the local regulatory barriers to construction; and

**WHEREAS**, in Portola Valley ADUs can provide additional affordable housing opportunities in order to satisfy the Town's Regional Housing Needs Assessment while maintaining the rural character of the Town and not increasing fire risk; and

**WHEREAS**, on May 9, 2018 the Town Council of the Town of Portola Valley did adopt an ordinance amending Title 18 [Zoning] to comply with the requirements of State law; and

**WHEREAS**, on March 27, 2019 the Town Council of the Town of Portola Valley further updated its ADU ordinance to comply with additional requirements of State law; and

**WHEREAS**, effective January 1, 2020, the State adopted further amendments to Sections 65852.2 and 65852.22 of the Government Code requiring towns to further reduce potential barriers to Accessory Dwelling Unit and Junior Accessory Dwelling Unit creation; and

**WHEREAS**, in many respects the Town's 2019 update goes beyond the current state law requirements. However, the recent round of legislative changes requires some further updating; and

**WHEREAS**, Section 65852.2 of the Government Code further enables local governments to go beyond the minimum requirements of said statute to encourage ADUs; and

**WHEREAS**, the Town Council desires to further encourage the creation of Accessory Dwelling Units to help meet its housing needs and goals; and

**WHEREAS**, in recent years, wildfires have become an increasing threat to both life and property in California. This threat is highest in areas such as Portola Valley where urban areas abut wooded and wildland areas. Portola Valley shares California's increasing concern of wildfire due to the increase in both the number and severity of wildfires. This concern has been heightened by Portola Valley's proximity to the recent CZU August Lightning Complex in San Mateo and Santa Cruz Counties, which



destroyed 925 residences, damaged 90 residences and threatened more than 3,800 other structures.

**WHEREAS**, Cal Fire has issued state-wide maps showing Fire Hazard Severity Zones. The maps rate areas in State Responsibility Areas (SRA's) and Local Responsibility Areas (LRA's). The vast area west of Skyline Blvd. that borders Portola Valley is designated as SRA. In lieu of adopting the state maps for the LRA's, the Town commissioned a report, FUEL HAZARD ASSESSMENT STUDY, by Moritz Arboricultural Consulting in 2008. The report identified much of the town as having high and very high fuel hazards. To further protect against local fire risk, the Town has exceeded the state requirement by extending Chapter 7A of the California Building Code to apply to all new construction throughout town limits; and

**WHEREAS**, a Fire Hazards Map, which designates areas subject to significant fire hazards, has been prepared for the Town by Moritz Arboricultural Consulting. The map shows eleven vegetation associations and assigns a rating of potential fire behavior to each association. The ratings and general descriptions of associations are as follows: "highest" (h+) includes a shrub type (chaparral) and three forest types (fire-prone oak woodland, mixed evergreen forest, and fire-prone urban forest) "high" (h) includes two forest types (fire-prone urban forest and redwood forest) and one scrub type (coastal scrub) "moderate" (m) includes urban savanna and grassland "low" (l) includes mowed grass and vineyard; and

**WHEREAS**, most of the developed parts of the town, that is the area east of the valley floor, are classified as an urban forest and therefore classified as "high" risk. Several steep wooded canyons and steep slopes in this area are classified as fire prone oak woodland and therefore classified as the "highest" risk. These canyons are generally the steep back portions of lots where homes, often with wood roofs, are located higher on the properties. Large undeveloped portions of the western hillsides are classified as "highest" risk and "high" risk. It is impractical to undertake extensive removal and trimming of vegetation in these extensive areas. The boundaries of these areas are of greatest concern where they adjoin developed parts of the town. Also, some developed portions of the western hillsides are classified as fire-prone urban forest and therefore classified as "highest" risk; and

**WHEREAS**, the Moritz map and report address the fire hazard presented by different vegetation types. The comprehensive fire hazard, however, is further complicated by other factors: 1. Water Supply. 2. Accessibility. The factor of "accessibility" is measured in terms of travel time from a fire station to a potential fire location. It is a measure of the time and degree of roadway access including driveways, in which the responding fire apparatus can navigate to arrive at the incident and start extinguishment or other operations. 3. Land Slope. Land slope influences fire safety in two ways. First, fire spreads up steep slopes far faster than it does on level land. Secondly, the slope of the land determines how easy it is to move firefighters and equipment to the scene of the fire or other emergencies. 4. Flammability of Structures. The ignition of fires in buildings is conditioned by the building materials that have been

used. Concern is not only with respect to a particular building but also to the strong likelihood that fire brands can travel between buildings and thereby contribute to the spread of a fire; and

**WHEREAS**, the Town's Safety Element concludes the following from analysis of fire hazards in Portola Valley:

1. While the eastern portion of Portola Valley has been developed with adequate roads and has good water supply systems, there are significant fire hazards in canyon areas as well as in heavily vegetated areas. More aggressive programs are needed to address these concerns. Fortunately, these areas can be reached quickly by fire fighting equipment, and firefighters are normally able to subdue fires in these areas quite rapidly.

2. The western hillsides of Portola Valley, which are steep, have few roads, lack an adequate water supply and have dense vegetation are relatively hazardous when judged from a fire safety point of view. These areas cannot be reached quickly by fire fighters, and when reached, fire fighters may have substantial difficulty in fighting the fire because of an inadequate road system, dependence on hand carried equipment, and lack of water. These lands are clearly the most hazardous in the planning area.

3. The large number of homes built in the town with wood siding and wood shingle roofs pose a fire threat because of their relatively easy ignition.

The Town will update its Safety Element in 2021-2022, but these general conclusions are still operative; and

**WHEREAS**, ADUs on parcels that have direct vehicular access from a road or cul-de-sac which (1) has a single point of ingress/egress and (2) has a width of less than eighteen feet are more likely to have evacuation challenges in the case of a wildland fire and/or other natural disaster. Further ADUs built within four feet of the adjacent property are less able to form a fire block with the adjacent property; and

**WHEREAS**, there are major areas of active and recent landslides in the community as well as the presence of the San Andreas Fault System, a fault system considered active and potentially dangerous. Landslides and the San Andreas Fault System can and have destroyed structures including buildings, roads and other improvements both within the Town and nearby areas. Such failures pose a threat to persons and property by potentially resulting in the following:

1. Injury or death to occupants of a structure.
2. Failures of electrical and gas facilities in a structure resulting in fires that can endanger occupants as well as surrounding properties.
3. Damage to public and private infrastructure, including water lines, sewer lines, gas lines and communication lines resulting in costs to responsible agencies.
4. Demands on fire, police, medical and other emergency personnel thus incurring costs to the public.
5. Physical damage to natural drainage courses and storm drains resulting in adverse impacts on surrounding properties.



6. Physical impact on adjoining properties by encroachment of landslide material and structures.
7. Concurrent damage to structures in the event of an earthquake thereby causing an overload on emergency service capabilities; and

**WHEREAS**, on April 14, May 19 and June 2, 2021, the Planning Commission held a public hearing to review the proposed ordinance regarding Accessory Dwelling Units at which all interested persons had the opportunity to appear; and

**WHEREAS**, on June 23, 2021, the Town Council held a public hearing, and after considering the entire record of proceedings, including but not limited to, the staff report and all written and oral comments received and the Planning Commission recommendation, the Town Council voted to approve the ordinance.

**NOW, THEREFORE**, the Town Council of the Town of Portola Valley does **ORDAIN** as follows:

1. AMENDMENT TO CODE. Section 18.36.040 [Accessory Uses] of Chapter 18.36 [Uses Permitted in All Districts] of Title 18 [Zoning] of the Portola Valley Municipal Code is hereby amended to read as follows:

- A. An accessory use is a related minor use which is either (a) necessary to the operation or enjoyment of a lawful principal use or conditional use, or (b) appropriate, incidental and subordinate to any such use. No use in any district shall be permitted as an accessory use which is not qualified as hereinabove set forth, or which constitutes in effect a conversion of a principal use to one not permitted in that district. This section shall apply to new construction and replacement fixtures. In addition to other uses meeting the qualifications set forth in this section, and subject to the limitations set forth in this title, the following accessory uses are permitted in all districts when located on the same parcel as the principal use:
  1. The installation and operation of necessary facilities and equipment in connection with such schools and other institutions as are permitted in the respective district;
  2. Recreation, refreshment and service buildings in public parks;
  3. Required off-street parking spaces and required off-street loading spaces as regulated by this title;
  4. Fences and walls subject to the height and area regulations of this title;
  5. Hedges, trees, shrubs and other ornamental planting;
  6. Horticulture;
  7. Electric and communication service lines provided that all such lines are placed underground except where exempted in accordance with the procedure set forth in subsection B of Section 18.36.010;
  8. Outdoor Illumination [See Ordinance No. 2018-424, adopted on August 8, 2018, for full text].
  9. Septic tanks and drain fields;

10. Antennas designed to receive television or microwave signals transmitted from satellite or terrestrial stations. Antennas with diameters exceeding four feet are subject to review by the architectural and site control commission as provided for by paragraph 6 of subsection A of Section 18.64.010.
11. Tennis courts and paddle tennis courts, provided the sum of the maximum depth of cut and maximum height of fill for such facilities shall not exceed the following:

Parcel Area	Combined Cut & Fill Feet
1.0 ac. or less	8
1.2 ac.	9
1.4 ac.	10
1.6 ac.	11
1.8 ac. or more	12

B. Accessory Dwelling Units: and Junior Accessory Dwelling Units

1. Purpose. The purpose of this section is to define accessory dwelling units (ADUs) and Junior Accessory Dwelling Units (JADUs), and describe their development standards, review required, and additional regulations. ~~Accessory dwelling units~~ ADUs and JADUs are allowed in certain situations in order to help achieve the town's goals which include but are not limited to:
- a. Encourage the development of ADUs and JADUs through a ministerial approval process;
  - ~~ab.~~ Create new housing units while respecting the existing character of the town;
  - ~~bc.~~ Provide housing that responds to residents' changing needs, household sizes, and increasing housing costs, and provide accessible housing for seniors and persons with disabilities;
  - ~~cd.~~ Offer environmentally friendly housing choices with less average space per person and smaller associated carbon footprints; and
  - ~~de.~~ Promote provision of affordable housing for people who work in town.
2. Definitions. The following definitions shall govern this section.
- a. Accessory Dwelling Unit, or ADU. An attached or detached residential dwelling unit ~~which that~~ provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing

primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the main building to which it is accessory. An accessory dwelling unit also includes:

i. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

ii. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

iii. Internal ADU. Created by converting existing or proposed interior space of a single-family or multi-family structure, such as bedrooms, attached garages, basements or attics, or a combination thereof. Converted space can also be within an existing accessory structure ~~or detached from the main building.~~

iv. External ADU. A unit which requires new construction, either attached to or detached from the main building.

1. Attached ADU. A unit which is attached to or part of the main building. Attached ADUs include new construction which is attached to the existing building, and a mix of new construction and converted space.

2. Detached ADUs. A separate building, independent from the main building, built using new construction.

b. Adjusted Maximum Floor Area, or AMFA. The maximum allowed floor area for a residential parcel, calculated by the town using the parcel's size, slope, mapped ground movement potential, and mapped flooding potential.

c. Director. Planning and building director, also referred to as the town planner.

d. Discretionary Review. Review of a project against the General Plan, municipal code, and Design Guidelines. The reviewing body exercises judgment in applying policies to a specific project in context and determining whether the required findings for approval can be made. The reviewing body considers public comment and may impose conditions of approval on the project.

i. Staff Discretionary Review. A review process wherein the planning and building director shall review certain accessory dwelling unit applications in coordination with one member of the architecture and site control commission (ASCC).

- ii. Architectural and Site Control Commission, or ASCC. A review process wherein the full ASCC reviews projects at a public meeting.
- e. Efficiency Kitchen. A space containing a sink with a maximum waste line diameter of 1.5 inches, a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- ef. Existing Interior Space. For the purposes of internal ADU creation, existing interior space shall be within a building which was permitted by the town and passed its final building inspection ~~at least one year prior to any application for an ADU.~~
- fg. Guest House. A building separate from the main residence which includes a bedroom and may include a bathroom, but does not include a kitchen.
- gh. Junior Accessory Dwelling Unit or JADU. A unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A JADU shall include an efficiency kitchen and may include separate sanitation facilities. A JADU shall have a separate external entrance from the main building. Junior accessory dwelling units do not constitute ADUs under this code.
- hi. Main Building. This term is defined in Chapter 18.04 (definitions). For the purposes of this section, it describes ~~the~~ the building to which an ADU is accessory. Main buildings can have a residential or non-residential use, as permitted by this title. This section interchangeably uses the term “primary residence” and “primary dwelling” to refer to residential main buildings.
- ij. Ministerial Review. A review process which is objective in nature and involves no personal judgment. The reviewing body confirms that all requirements are satisfied before approving a project, and may not consider public comment or impose conditions of approval.
- k. Multifamily structure. For the purpose of this section only, a structure with two or more attached dwelling units on a single lot is considered a multifamily structure. A supportive housing project consisting of two or more units is considered a multifamily structure provided the majority of the units have their own kitchen facility. The following are not multifamily structures for the purposes of this section:
  - 1. Multiple detached single-unit dwellings on the same lot;
  - 2. A single family dwelling containing a JADU or an interior ADU;
  - 3. A single family dwelling with (i) a JADU or an interior ADU and (ii) an exterior ADU, either attached or detached.

4. A single family dwelling with more than one ADU.

- jl. Second Address. An address issued by the planning and building department for a permitted accessory dwelling unit on a parcel that has an existing unit with a different address.
  - km. Second Unit. See accessory dwelling unit.
3. Applicability. ADUs and JADUs~~Accessory dwelling units~~ shall be permitted on all parcels in all zoning districts, where a main building is in existence or is proposed concurrently.
- a. Fire safety ~~Exception~~exception.
    - i. Prohibition. ADUs are prohibited on parcels smaller than one acre whose direct vehicular access is from a road or cul-de-sac which (1) has a single point of ingress/egress and (2) has a width of less than eighteen feet.
    - ii. Ingress/egress restriction. ADUs on parcels which are one acre or larger and whose direct vehicular access is from a road or cul-de-sac, which (1) has a single point of ingress/egress and (2) has a width of less than eighteen feet, shall comply with the setback requirements of the underlying zoning district, regardless of ADU size.
    - iii. Additional restrictions. Any proposed external ADU, which does not comply with the underlying zoning or local setbacks governing the parcel, shall comply with and submit with the ADU application a completed Town of Portola Valley Fire Safety Checklist adopted by resolution of the Town Council. The checklist shall contain requirements for ADU construction methods and materials, defensible space and vegetation management. Such checklist requirements shall be additive to other applicable building and safety requirements.
  - b. Geologic safety exception.
    - i. Prohibition. ADUs are prohibited where construction is not permitted under Resolution No. 2746-2017 (or successive resolution or ordinance) (“Geologic Regulations”) which governs construction on or near earthquake faults and traces and areas subject to active downslope movement as shown on the town’s Geologic and Ground Movement Potential maps as updated from time to time.
    - ii. Additional restrictions. ADUs located in areas Y\* and N\* shall comply with the Town’s Geologic Regulations.

4. Development Standards. All existing development restrictions in the base zoning district shall apply, except as modified by this section. These requirements include but are not limited to coverage, open space, bulk, density, floor area and adjusted maximum floor area, impervious surface, height, setbacks, parking, site development, and outdoor lighting requirements.

a. Number.

- i. One ADU and one JADU shall be permitted on all parcels smaller than 3.5 acres in size.
- ii. Two ADUs shall be permitted on parcels 3.5 acres or larger in size as follows: one ADU must be detached from the main building and one ADU must be internal. A JADU shall be permitted in lieu of an internal ADU. When two ADUs are present, the external ADU shall be limited to twelve hundred square feet.

b. State Exemption ADU. As mandated by State law, any parcel zoned residential or mixed-use permitting residential shall be permitted to build one of the following applicable ADUs. The following ADUs shall be subject to ministerial review and are not subject to the town's lot coverage, AMFA, setback, height, or size standards. However, the safety exceptions in Section 3a and 3b above shall apply.

- i. New construction. One detached ADU of up to 800 square feet, 16 feet in height, and with 4 feet side and rear yard setbacks is allowed on residential lots containing one existing or proposed single-family dwelling.
- ii. Conversions/Interior units. One ADU or one JADU is permitted per lot within the existing or proposed space of a single-family dwelling or an existing accessory structure that contains exterior access and setbacks sufficient for fire and safety.

iii. Multi-family ADUs. Applicant can select one of two options:

Option 1: Conversion. Up to twenty-five percent of the existing multifamily dwelling units in a multifamily structure may convert any non-livable space to an ADU. Non-livable space includes storage rooms, boiler rooms, or parking. Under this option, at least one ADU shall be permitted regardless of the number of multifamily units. Thus, for a three unit multifamily structure, one ADU may be developed through conversion of non-livable space.

Option 2: Alternatively, up to two detached ADUs may be constructed on a lot that has an existing or proposed multifamily structure, and shall be subject to a height limit of 16 feet and side and rear yard setbacks of 4 feet.

~~bc.~~ Floor Area ~~Maximums-Limits~~

- i. Floor Area. The minimum size of an ADU or JADU shall be defined by the California Building Code. The maximum size ~~of an ADU~~ shall be:
  1. Eight hundred and fifty square feet for external ADUs with up to one bedroom or one thousand square feet for external ADUs with more than one bedroom where the proposed ADU does not comply with the setbacks of the base zoning district and special setbacks applicable to the parcel.
  - ~~42.~~ Twelve hundred square feet for external ADUs where the proposed ADU complies with the setbacks of the base zoning district and special setbacks applicable to the parcel, on parcels smaller than 3.5 acres in size.
  - ~~23.~~ Fifteen hundred square feet for external ADUs where the proposed ADU complies with the setbacks of the base zoning district and special setbacks applicable to the parcel on parcels 3.5 acres or larger in size. If such parcel also contains an interior ADU, the maximum floor area limit of the external ADU shall not exceed twelve hundred square feet.
  - ~~34.~~ Seventeen hundred square feet for internal ADUs on all parcel sizes.
  5. Five hundred square feet for JADUs on all parcel sizes.

ii. Percentage. An external ADU shall be additionally limited to fifty percent of the floor area of the existing or concurrently proposed main building, except as necessary to enable an ADU up to eight hundred and fifty square feet for external ADUs with up to one bedroom or one thousand square feet for external ADUs with more than one bedroom.

iii. Adjusted Maximum Floor Area (AMFA) and Floor Area Ratio. ADU and JADU floor area shall be limited to the maximums described at subsections ~~4.bc.i.2-5 and 4.b.ii.~~ or the floor area allowed by the base zoning district, whichever is more restrictive.

~~ed.~~ Floor Area—Calculations.



- i. Basements. Space which meets the definition of a basement (Section 18.04.065), whether under a main residence or an ADU, shall not be included in AMFA calculations. However, floor area maximums at Section 18.36.040.B.4.~~b.i-c and ii.~~, and review authority at Section 18.36.040.B.6 shall both apply to basement floor area ~~which-that~~ is part of an ADU. Basements located under an ADU that do not have internal access to the ADU are discouraged and shall be counted towards AMFA calculations.
  - ii. Covered parking provided for ADUs shall be included in site AMFA calculations.~~Parking provided for ADUs shall not be included in floor area calculations.~~
- ~~de.~~ Height. The maximum height for any type of ADU shall be:
- i. Sixteen feet vertical height and sixteen feet maximum height for an external ADU subject to ministerial review where the setbacks are less than those of the base zoning district.
  - ii. Eighteen feet vertical height and twenty-four feet maximum height and shall be subject to ministerial review where the setbacks comply with those of the base zoning district.~~Height limitations for an ADU shall be those of the base zoning district.~~ This includes daylight planes, where applicable.
  - iii. ADUs taller~~More~~ than eighteen feet vertical height or twenty-four feet maximum height, where allowed by the base zoning district, and shall be subject to staff discretionary review.
- ~~ef.~~ Parking and Driveways.
- i. Parking Requirement. JADUs and Internal-internal ADUs shall not require any dedicated parking spaces. External ADUs shall require one dedicated parking space, as follows:
    1. ADU parking may be located in a covered or uncovered space, in tandem with other parking, and/or in setbacks.
    2. Parking space design shall conform to Section 18.60.020, parking, dimensions and access.
    3. On parcels of one acre or larger where an ADU of twelve hundred square feet or less is proposed, ADU parking is not required to be dedicated. The ADU parking space may be shared, or overlap with, one guest parking space, provided the property is compliant with the current parking requirements in this title.
    4. When a garage, carport or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an



ADU, the parking spaces for the main unit do not need to be replaced.

ii. ~~Covered Parking Conversion. When covered parking which is required by this code is demolished in conjunction with the construction of an ADU or converted to an ADU, the required parking spaces must be provided elsewhere on site. The replacement parking may be covered or uncovered, in tandem, or in mechanical lifts.~~

iii. ~~Driveways. All driveways shall conform to Section 15.12.300, except the ASCC may grant an exception to the requirement that properties only have one entrance from the road and approve a second driveway when it is able to make the following findings:~~

1. It is not feasible for the ADU to be served by the same driveway that serves the main building, taking into consideration the cost, topography and natural landscape, among other things.
2. Providing a separate driveway for the ADU will result in less impervious surface for the property than would extending the existing driveway.
3. It is shown that the proposed driveway:
  - a. Does not exit onto a scenic corridor or cross a trail, as mapped by the town; and
  - b. Provides for safe movements for all users, as determined by the public works director.

~~fg.~~ Materials.

i. Exterior materials shall be in a natural color palette reflective of the local environment.

~~h.i.~~ Color reflectivity values shall not exceed forty percent, except that trim colors and roofs shall not exceed fifty percent reflectivity.

~~gh.~~ Landscaping. Landscape plantings shall be selected from the town's list of approved native plants and shall adhere to the town's landscaping guidelines, as described in the design guidelines.

~~hj.~~ Lighting. All lighting shall comply with Section 18.36.040.A.8, outdoor lighting.

~~ij.~~ Setbacks.

i. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, ~~and a setback of five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is~~

~~constructed above a garage.~~ This shall apply to both conforming and legal non-conforming garages. Non-conforming garages may not be expanded unless otherwise permitted by this section or state law.

ii. Internal ADUs shall have sufficient side and rear setbacks for fire safety.

iii. A setback of four feet from the side and rear lot lines shall be required for an external ADU of up to eight hundred and fifty square feet with up to one bedroom or one thousand square feet with more than one bedroom.

iv. Any ADU in excess of eight hundred and fifty square feet with up to one bedroom or one thousand square feet with more than one bedroom shall comply with the setbacks of the base zoning district.

v. Regardless of the setbacks permitted by this sub-section, all ADUs must comply with applicable health and safety setback requirements governing specific parcels, including but not limited to setbacks required for fire safety, emergency vehicle access, geology, seismic, creek, topography, and other similar public health and safety considerations.

vi. ~~vi.~~ ADUs that do not comply with the setbacks of the base zoning district or applicable parcel setbacks, whether through new construction or by conversion of an existing structure, are subject to the following restrictions: 1) on sides of the structure within the required setback(s) facing the rear or side property line there may be no exterior lighting, no egress windows or doors, and no portion of the windows and/or skylights shall be above 9' in height 2) windows in required setbacks must consist of obscured glass to promote privacy between neighbors; 3) the ADU may not have a second driveway; 4) the ADU may not have any associated improvements/amenities such as a patio, deck, pool, fire pit, trellis, or sauna; 5) no basement shall be permitted; 6) fire safe landscape screening must be planted and maintained to minimize the visual impact to the neighbors.

vii. For the purposes of this section, if any of the property boundaries are within or adjacent to an open space, road, trail, utility or similar easement running the length or width of the property boundary, the setback shall be measured from the edge of the easement located on the property.

jk. Second Address. ADUs may be assigned a separate address at the property owner's request, with the exception that any ADU with an

approved second driveway shall always be assigned a second address. Applicants requesting an address shall submit an application as part of the building permit submittal. The planning and building director, in consultation with Woodside Fire Protection District, shall review and approve applications.

- k. Utilities. When visible from the public right-of-way, utilities installed to serve an ADU shall be grouped with any existing infrastructure for the main building and screened to the extent feasible, as determined by the planning and building director. In determining feasibility, the planning and building director may consider cost, topography, and the natural landscape.
  - i. Utility Undergrounding. Utilities shall be required to be placed underground, as described in Section 18.36.010.B, with the following exceptions for ADUs:
    1. An internal ADU and any associated electrical service increases shall not trigger undergrounding of utilities.
    2. A detached ADU shall always underground utilities between the main house and the ADU, when connecting from the main house.
  - ii. Any other instance of new construction for an external ADU shall require undergrounding as stipulated in Section 18.36.010.B relating to utility undergrounding, with the exception that an applicant may apply to the ASCC for relief from these requirements, as well as the undergrounding requirement for detached ADUs at subsection 4.k.i.2, and if the ASCC thereafter finds that undergrounding is not feasible or practicable, or that there is no reasonable alternative location for the related equipment, such undergrounding requirement shall not apply. Significant financial costs, topography, and natural landscape may be included in this consideration.
- l. Building Codes. ADUs must comply with applicable building code requirements, including fire sprinkler requirements, unless a modification or waiver of the fire sprinkler requirement is approved by the fire marshal. An ADU created by the conversion of existing interior space shall not be required to provide fire sprinklers if sprinklers are not required for the main residence.
- n. Public Trails Safety. On properties containing or abutting public trails or public trail easements, before siting an ADU that does not comply with the setbacks of the base zoning district (where there may be increased fire risk), the applicant shall notify and consult with the Portola Valley Trails and Paths Committee or designee.

## 5. Types of Review.

- a. Ministerial Review. Ministerial review shall be completed by the planning and building director or her/his qualified designee under the building permit review process. No public hearings or noticing are required as part of this review; however, the applicant shall provide notice to all adjacent neighbors as part of the application process on a form approved by the Director of Planning. An ADU or JADU application which qualifies for ministerial review shall be acted upon within sixty one hundred twenty days of the date the town receives a completed application. An ADU or JADU application made pursuant to an application for a main building may be delayed until a decision is made on the permit application to create the new main building application being accepted by the town.
  - b. Discretionary Review.
    - i. Discretionary review shall be conducted by one of the following review bodies:
      1. The planning and building director shall complete staff discretionary review in consultation with an ASCC member. The director may refer items directly to the ASCC when in her/his opinion the public interest would be better served by having the ASCC conduct the review.
      2. ~~Architectural and Site Control Commission~~ (ASCC) review is a discretionary review completed by the full ASCC at a noticed meeting.
    - ii. Findings for Approval. The review body must be able to make all of the following findings in order to approve an ADU subject to discretionary review:
      1. The structure is designed so as to minimize disturbance to the natural terrain;
      2. Existing vegetation is preserved to the maximum extent possible;
      3. The structure is designed and located to allow adequate light and air for itself and its neighbors;
      4. Landscaping, screening and fencing preserve privacy and mitigate adverse effects on neighboring properties;
      5. Entrances, exits and internal circulation shall be sited to promote traffic safety and ease and convenience of movement;

6. Night lighting is located and fixtures chosen to promote public safety but minimize effects on adjoining properties;
  7. Planting and site design mitigate the problems of drainage and soil erosion;
  8. Materials and colors are compatible with the rural setting of the town and the surrounding landscape and structures;
  9. Proposed grading minimizes the apparent disturbance to the natural terrain;
  10. The project is consistent with the Portola Valley Design Guidelines;
  11. The physical position, massing, and architectural design of the ADU reflect that it is accessory in nature and holds a subservient position to the main building;
  12. The design of the ADU and its ingress/egress reflect their physical positions on the property, such that units on or adjacent to setbacks are designed to minimize impacts toward adjacent properties.
- iii. Notice. Minimum noticing for ADUs requiring discretionary review shall include:
1. Noticing to adjacent neighbors by the applicant, as required by the planning and building director in a form consistent with application materials published to the town website.
  2. Noticing as described by Section 18.64.085, ASCC - notification.
- c. An ADU application which is dependent on a septic tank and drain field shall be referred to and require approval of the county health officer in accordance with town policies.
- d. An ADU application which requires soil movement greater than fifty cubic yards or other work requiring a site development permit under Section 15.12.070 shall be referred to the town geologist, the town engineer, and any other review bodies necessary as determined by the planning and building director.
6. Assignment of Review Responsibilities.
- a. Ministerial Review. State exemption ADUs authorized under Section 18.36.040.B.4.b above and ADUs which do not have any of the conditions listed in subsection 18.36.040.B.6.b -d, below, shall be subject to

~~ministerial review. All projects subject to ministerial review shall comply with all code requirements. ASCC Review. ADUs which include any of the following shall be subject to ASCC review:~~

- ~~i. A separate driveway for the ADU.~~
  - ~~ii. Location in a non-residential zone.~~
  - ~~iii. Location on a property with historic resources, as identified in the historic resources element of the general plan, as provided for in Section 18.31, H-R (Historic Resources) Combining District Regulations.~~
- b. Staff Discretionary Review. ADUs which do not have any of the conditions listed in subsection 18.36.040.B.6.a., ~~below ASCC review~~, and which include any of the following shall be subject to staff discretionary review: However, any State Authorized ADU defined in Section 18.36.040 B.4.b shall not be subject to discretionary review.
- i. An internal ADU larger than twelve hundred square feet or fifty percent of the existing building, whichever is less;
  - ~~ii. An ADU on a property adjacent to a scenic corridor;~~
  - ~~iii. An ADU with a different architectural style than the main house or building;~~
  - iv. An ADU taller than eighteen feet in vertical height or twenty-four feet in maximum height;
  - ~~iiiiv. An ADU with a light well larger than the minimum building code requirement;~~
  - ~~iv. An attached ADU which causes the main residence to exceed eighty-five percent of the adjusted maximum floor area (AMFA), except where the proposed ADU is up to eight hundred and fifty square feet for external ADUs with up to one bedroom or one thousand square feet for external ADUs with more than one bedroom.;~~
- c. ASCC Review. ADUs which include any of the following shall be subject to ASCC Review. However, any State Authorized ADU defined in Section 18.36.040 B.4.b shall not be subject to discretionary review.
- ~~i. A separate driveway for the ADU.~~
  - ~~ii. Location in a non-residential zone.~~
  - ~~iii. Location on a property with historic resources, as identified in the historic resources element of the general plan, as provided for in Section 18.31, H-R (Historic Resources) Combining District Regulations. Ministerial Review. ADUs which do not have any of the conditions listed in subsection 18.36.040.B.6.a., ASCC review, or~~

- ~~18.36.040.B.6.b., staff discretionary review, shall be subject to ministerial review. All projects subject to ministerial review shall comply with all code requirements. Additionally, internal ADUs shall:~~
- ~~i. Include sufficient side and rear setbacks for fire safety;~~
  - ~~ii. Occupy existing internal space, as defined by this section.~~

d. Geological Hazards. ADUs subject to Section 18.36.040(3)(b) (geologic safety exception) shall be subject to discretionary review consistent with Resolution No. 2746-2017, as may be amended from time to time.

7. Additional Restrictions. In addition to the development standards described in this section, all ADUs and JADUs shall be subject to the following restrictions:
  - a. Sold Separately. ADUs and JADUs shall not be sold separately from the main dwelling.
  - b. Owner Occupancy. Where there is an ADU, Either either the ADU or the main building must be owner occupied. The other unit may be rented. ADUs approved between January 1, 2020 and December 24, 2024 are excepted from this requirement. Where there is a JADU, either the JADU or the main building must be owner occupied.
  - c. Rental Restrictions. On properties where an ADU or JADU is present, any rentals of the ADU, JADU, or main building shall be for a term of thirty days or more.
8. Administration.
  - a. Appeals. A decision by the planning and building director or ASCC on an ADU may be appealed, if the appeal is filed within fifteen days of the decision.
    - i. A decision made by the planning and building director is appealable to the ASCC.
    - ii. A decision made by the ASCC is appealable to the planning commission.
  - b. ImplementationApplication Administration. The town council authorizes the planning and building director to establish permit application requirements, forms, and checklists that the director finds necessary or useful for processing any applications governed by this ~~chapter~~Chapter and to adopt administrative guidelines to assist in the implementation of this Chapter.

2. CONSISTENCY WITH GENERAL PLAN. This ordinance is found to be consistent with the General Plan of Portola Valley.

3. ENVIRONMENTAL REVIEW. Under Public Resources Code Section 21080.17, CEQA does not apply to the town's adoption of an ordinance to implement the provisions of Section 65852.2 of the Government Code (the state ADU law). The ordinance implements Government Code Section 65852.2 in a manner that is consistent with the requirements of state law. As such, the adoption of the ordinance is exempt from CEQA.

4. CONSISTENCY WITH STATE LAW. This ordinance is intended to be consistent with State law regulating accessory dwelling units and to the extent there is any inconsistency with such State law requirements, State law shall control.

5. SEVERABILITY. If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.



6. EFFECTIVE DATE; POSTING. This ordinance shall become effective 30 days after the date of its adoption and shall be posted within the Town in three public places.

6-7. SUNSET PROVISION. This ordinance shall sunset three years following its effective date.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

RECUSED:

ATTEST:

\_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

\_\_\_\_\_  
Town Attorney

## ATTACHMENT #2

RESOLUTION NO. 2021 – 03

**RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF  
PORTOLA VALLEY RECOMMENDING APPROVAL OF AN  
ORDINANCE AMENDING TITLE 18 [ZONING] OF THE PORTOLA  
VALLEY MUNICIPAL CODE**

**WHEREAS**, the State of California recognizes the potential for Accessory Dwelling Units (ADU) as a housing strategy, and has passed several laws to lower the local regulatory barriers to construction; and

**WHEREAS**, in Portola Valley ADUs can provide additional affordable housing opportunities in order to satisfy the Town's Regional Housing Needs Assessment while maintaining the rural character of the Town and not increasing fire risk; and

**WHEREAS**, on May 9, 2018 the Town Council of the Town of Portola Valley did adopt an ordinance amending Title 18 [Zoning] to comply with the requirements of State law; and

**WHEREAS**, on March 27, 2019 the Town Council of the Town of Portola Valley further updated its ADU ordinance to comply with additional requirements of State law; and

**WHEREAS**, effective January 1, 2020, the State adopted further amendments to Sections 65852.2 and 65852.22 of the Government Code requiring towns to further reduce potential barriers to Accessory Dwelling Unit and Junior Accessory Dwelling Unit creation; and

**WHEREAS**, in many respects the Town's 2019 update goes beyond the current state law requirements. However, the recent legislative changes require further modification to the Town's ADU ordinance; and

**WHEREAS**, the Planning Commission desires to implement the January 1, 2020 changes while addressing local conditions relating to wildfire, geologic and seismic risk and facilitating safe and efficient evacuation routes in case of such risk; and

**WHEREAS**, on May 10, May 19 and June 2, 2021, the Planning Commission held a public hearing to review the proposed ordinance regarding Accessory Dwelling Units at which all interested persons had the opportunity to appear.

**NOW, THEREFORE**, be it resolved that the Planning Commission of the Town of Portola Valley does hereby recommend that the Town Council:

1. Approve the proposed ordinance as set forth in Exhibit A.
2. Direct the planning and building director in consultation with the Woodside Fire Protection District to develop the Fire Safety checklist referenced in the attached ordinance. The checklist should be forwarded in the form of a resolution to the Planning Commission for review and Town Council for approval by resolution within 45 days of the Town Council's adoption of the ordinance.

**NOW, THEREFORE**, be it resolved that the Planning Commission of the Town of Portola Valley does hereby also note that the vote recommended to the Town Council that the proposed ordinance sunset in three years. The sunset provision was adopted on a split vote with Chair Taylor, Commissioners Hasko and Targ voting in favor of the sunset clause and Commissioners Goulden and Vice Chair Kopf-Sill voting against. In all other respects the Planning Commission's recommendations were unanimous.

PASSED AND ADOPTED at the regular meeting of the Planning Commission of the Town of Portola Valley on June 2, 2021.

By: Craig S Taylor  
Craig Taylor, Chair

ATTEST:

Laura Russell  
Laura Russell, Planning and Building Director

**TOWN OF PORTOLA VALLEY  
PLANNING AND BUILDING  
DIRECTOR**

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

**SUMMARY DESCRIPTION**

Under general direction of the Town Manager, serves as a Department Head level part of the management team and performs a variety of leadership, supervisory, administrative and technical work in the Planning Department, including overseeing the design review and planning process and other activities related to the physical development of the Town. Direct and indirect supervision over professional, technical and office personnel. The Planning Director may be designated the Town Planner by the Town Manager.

**REPRESENTATIVE DUTIES**

*The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.*

- Provide exceptional customer service; enable staff to perform assigned responsibilities; plan, organize, monitor, supervise, coordinate and participate in the Town's development process and code compliance.
- Provide staff support to the Planning Commission including oversight and coordination of the meeting agenda process and preparation of the meeting minutes.
- Provide staff support to the Architecture & Site Control Commission (ASCC) including oversight and coordination of the meeting agenda process and preparation of the meeting minutes.
- Respond to questions on key land use planning matters in a timely manner prioritizing those questions from the Town Manager, Town Council, Planning Commission, or ASCC.
- Work closely with the Public Works Director on all projects where there are both planning and public works issues involved.
- Attend pre-application meetings, as needed; oversee the review of development and building permit applications for completeness, consistency with zoning requirements and architectural/site development standards including, but not limited to, project applications, building permits, site development, subdivision, conditional use permits and variance applications; oversee the evaluation of alternatives and conformance with Town policies, ordinances, the General Plan and state and federal laws; prepare and present staff reports to the Architectural Site and Control Commission, Planning Commission and Town Council regarding such applications.
- Confer with and provide oral and written information to property owners, contractors, developers, architects, engineers and the general public regarding conformance with

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Specifications Adopted January 10, 2018

standards, plans, specifications and codes; explain codes, requirements and procedures and evaluate alternatives.

- ✓ Oversee, motivate and evaluate personnel; provide or coordinate staff training, schedule staff, assign and monitor support tasks.
- ✓ Mentor and develop in-house staff to provide for succession planning.
- ✓ Meet regularly with assigned personnel to review status of assignments, help where needed and address issues.
- ✓ Communicate staff and consultant assignments and responsibilities clearly and in a manner that they are mutually understood to avoid duplicative effort and ensure efficient use of limited resources.
- ✓ Negotiate, coordinate and manage professional contracts.
- ✓ Resolve complex and sensitive customer issues.
- ✓ Respond to code violations; conduct code compliance and enforcement activities.
- ✓ Develop and implement studies, reports, recommendations, programs and services that are responsive to the community.
- ✓ Prepare and evaluate environmental assessment studies and documents;
- ✓ Provide technical information on codes, processes and guidelines to property owners, contractors, architects, engineers, other Town staff and the general public.
- ✓ Develop and recommend amendments and revisions to the General Plan, Municipal Code, and permitting/project approval process.
- ✓ Ensure the preparation of budgets and the effective use of budgeted funds.
- ✓ Oversee all functions of the department including: applications, fee and fine assessment and collection, plan review, design review approvals and permit issuance, inspection, occupancy and building issues.
- ✓ Analyze, interpret and explain codes, laws and departmental policies and procedures.
- ✓ Assure uniform interpretation of, consistent enforcement of, and compliance with codes.
- ✓ Represent the Town on intergovernmental committees, at regional meetings and conferences.
- ✓ Other duties as assigned.

## QUALIFICATIONS

*The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.*

Incumbent should have excellent leadership, teambuilding, and communication and interpersonal skills; have a proven ability to effectively solve problems and communicate verbally and in writing, a thorough knowledge of zoning laws and comprehensive plans; extensive knowledge of planning programs and processes; a working knowledge of computer programs; and an ability to establish and maintain effective working relationships.

**Education and Experience Guidelines** - *Any combination of education and experience that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:*

**Education/Training:** A Bachelor's degree from an accredited college or university with major course work in land-use planning, urban planning, landscape architecture or a closely related field. A Master's degree is highly desirable.

**Experience:** Five (5) years progressively responsible experience in municipal planning with at least two (2) years in a supervisory capacity or any equivalent combination of education and experience, additional education substituting on a year-for-year basis for the required experience.

**Licenses or Certificates:** Possession of, or ability to obtain, valid California Driver's License; ICS 100, 200, and 700 certification; AB1234 certification. AICP certification is highly desirable.

## FLSA STATUS

This classification is exempt from the Fair Labor Standards Act (FLSA) as an administrative employee whose primary duty is to the performance of office or non-manual work directly related to the management or general business operations of the Town. The incumbent will exercise discretion and independent judgment with respect to matters of significance. The incumbent will supervise at least two FTE personnel and will be exempt from the FLSA as an executive employee.

## **PHYSICAL DEMANDS AND WORKING ENVIRONMENT**

*The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.*

**Environment:** Standard office setting. CONTINUOUS work indoors in close proximity to co-workers and members of the public. Work schedule is standard business hours (currently 37.5 hours per week and may be amended or prorated) and frequent after-hours meetings. Work environment is both formal and informal, team oriented, having variable tasks, pace, and pressure. Work is performed indoors in office and in meeting rooms, occasional assignments outside and field visits in hilly terrain.

**Physical:** Primary functions require sufficient physical ability to work in an office setting and operate office equipment. CONTINUOUS sitting and upward and downward flexion of neck; fine finger dexterity; light to moderate finger pressure to manipulate keyboard, equipment controls, and office equipment; pinch grasp to manipulate writing utensils. FREQUENT side-to-side turning of neck, walking, standing, bending, stooping, pushing/pulling, and twisting at waist; moderate wrist torque to twist equipment knobs and dials; lifting objects weighing up to 20 lbs. OCCASIONAL squatting, kneeling, and reaching above and at shoulder height; moderate grasp to manipulate reference books and manuals.

**Vision:** See in the normal visual range with or without correction; vision sufficient to read computer screens and printed documents and to operate equipment.

**Hearing:** Hear in the normal audio range with or without correction.



# TOWN OF PORTOLA VALLEY

## STAFF REPORT

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**TO:** Mayor and Members of the Town Council

**FROM:** Jeremy Dennis, Town Manager  
Cara Silver, Town Attorney

**DATE:** June 23, 2021

**RE:** Update and Discussion on the Final Draft 2023-31 Regional Housing Needs Allocation

### RECOMMENDATION

Staff recommends that the Town Council discuss the final draft of the Regional Housing Needs Allocation (RHNA) for the period of 2023-2031 and provide direction to staff on what actions, if any, should be taken relative to this allocation.

### EXECUTIVE SUMMARY

To assure housing needs for people of all income levels, the state requires local governments to publicly share plans to accommodate housing growth through the Regional Housing Needs Allocation (RHNA) process. The RHNA is administered through the State Housing and Community Development (HCD) and local communities of government, known as COGs. HCD assigns an overall number of housing units to each regional COG and then the COGs allocate those units to each local jurisdiction. Portola Valley is part of the bay area regional COG known as the Association of Bay Area Governments (ABAG). Each jurisdiction must prepare a Housing Element to plan for the development of their RHNA over an eight-year period<sup>1</sup>. The next eight-year period is 2023 to 2031, and thus Portola Valley has been preparing and planning for the coming RHNA requirements.

On May 20, 2021, ABAG adopted the Final RHNA Methodology and Draft Allocations. Portola Valley's allocation was 253 units. Following the draft allocation, individual jurisdictions and HCD are given a time period to appeal. If any of the appeals are granted, the appealed units are then re-allocated to the remaining jurisdictions in proportion to their draft allocations. The permissible bases for filing an appeal are outlined in Government Code section 65584.05 and include: ABAG's failure to adequately consider information about local planning factors, errors in the application of its Final RHNA Methodology, or significant and unforeseen changed circumstances in the city that merit a revision<sup>2</sup>. Whether to appeal the RHNA allocation is ultimately a policy decision for the Council.

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<sup>1</sup> <https://abag.ca.gov/our-work/housing/rhna-regional-housing-needs-allocation>

<sup>2</sup> Government Code Section 65584.05(b).



**BACKGROUND**

The California Department of Housing and Community Development (HCD) plays the critical role of determining the total number of new homes local governments must plan for over an eight-year cycle. HCD assigns each region in the State housing unit allocations and then it is up to each region to allocate these units to the individual local governments. This process is implemented through the State Housing Element law. Local agencies are not required to build the units, but instead must show, to the State's satisfaction, that the town's zoning policies allow for development. Through a series of recent legislation, the State is putting increasing pressure on local agencies to relax their zoning regulations to accommodate more housing. Thus, the State has recently adopted programs to incentivize towns to comply with Housing Element law. The State is beginning to exercise its enforcement authority against towns who take actions to evade their housing obligations. Staff expects this trend to continue.

The RHNA Process

For the 2023-2031 cycle, the HCD has designated 441,176 housing units to the Bay Area. This number is officially known as the Regional Housing Needs Determination (RHND). The four income categories included in the RHND are:

- Very Low Income: 0-50% of Area Median Income
- Low Income: 50-80% of Area Median Income
- Moderate Income: 80-120% of Area Median Income
- Above Moderate Income: 120% or more of Area Median Income

The Regional Housing Needs Allocation (RHNA) process identifies the total number of housing units, separated into these four affordability levels, that every local government in the Bay Area must plan to accommodate for the period from 2023 to 2031.

The ABAG Regional Planning Committee and Executive Board approved the Proposed RHNA Methodology in October 2020, and HCD approved it on April 12, 2021. Using the approved methodology, the Town of Portola Valley is expected to receive a RHNA of 253 housing units to plan for in the current eight-year Housing Element update. The affordability breakdown of the units is:

<b>Income Level</b>	<b>Number of Units</b>
Very Low Income (<50% of Area Median Income)	73
Low Income (50-80% of Area Median Income)	42
Moderate Income (80-120% of Area Median Income)	39
Above Moderate Income (>120% of Area Median Income)	99
<b>Total</b>	<b>253</b>

For more detailed information on the RHNA allocation process, see Attachment 1 (ABAG FAQ's) and Attachment 2 (Town of Portola Valley FAQs.)

New Requirements for 2023-2031 RHNA

Recent legislation will result in the following key changes for this 6<sup>th</sup> RHNA cycle:

- *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%).

- *RHNA and local Housing Elements must affirmatively further fair housing.* For the 2023-2031 RHNA, recent legislation added a new objective that requires the RHNA plan to “affirmatively further fair housing.” According to State law, this means:

*“Taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.”<sup>3</sup>*

According to HCD, achieving this objective includes preventing segregation and poverty concentration as well as increasing access to areas of opportunity. Portola Valley is classified as an opportunity area by HCD.

- *There will be greater HCD oversight of RHNA.* ABAG and subregions must now submit the draft allocation methodology to HCD for review and comment. HCD can also appeal a jurisdiction’s draft allocation.<sup>4</sup>

- *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.

### The RHNA Appeal Process

Cities and counties are permitted to appeal their assigned RHNA numbers. The grounds to file an appeal are limited to three grounds set forth in State statute Government Code Section 65584.05:

A. 65584.05(b)(1): The council of governments failed to adequately consider the information regarding the factors listed in subdivision (e) of section 65584.04.<sup>5</sup>

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<sup>3</sup> Government Code Section 65584(e).

<sup>4</sup> In the Southern California Association of Governments (SCAG) allocation that preceded the ABAG process, HCD took an active role in commenting on the viability of all appeals. (See discussion below.)

<sup>5</sup> These factors include: 1. Existing and projected jobs and housing relationship, particularly low-wage jobs and affordable housing; 2. Lack of capacity for sewer or water service due to decisions outside a jurisdiction’s control; 3. The availability of land suitable for urban development; 4. Lands protected from urban development under existing federal or state programs; 5. County policies to preserve prime agricultural land; 6. The distribution of household growth assumed for regional transportation plans and opportunities to maximize use of public transportation and existing transportation infrastructure; 9. The

- B. 65584.05(b)(2): The council of governments failed to determine the share of the regional housing need in a manner that furthers the intent of the objectives listed in subdivision (d) of section 65584.<sup>6</sup>
- C. 65584.05(b)(3): A significant unforeseen change in circumstances occurred in the local jurisdiction that merits a revision of the information submitted pursuant to subdivision (e) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdiction where the change in circumstances has occurred.

Section 65584.05 also provides that any appeal:

1. Be based upon comparable data available for all affected jurisdictions and accepted planning methodology;
2. Supported by adequate documentation;
3. Include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of section 65584;
4. Shall be consistent with and not to the detriment to the development pattern in an applicable sustainable communities' strategy.

The deadline for a jurisdiction or HCD to file an RHNA appeal is July 9, 2021. ABAG will then notify jurisdictions, HCD, and interested parties about appeals submitted and post information on its website. On August 30, 2021, there is a deadline for all comments on the appeals, and all relevant jurisdictions, HCD and interested parties will again be notified by ABAG about the comments received. The public appeal hearings will occur in September or October 2021, and ABAG will notify jurisdictions, HCD, and interested parties at least 21 days prior to hearing. In September and/or October 2021 ABAG ratifies written final determination on each appeal and issues Final RHNA Allocations. The ABAG Executive Board will conduct a public hearing to adopt the Final RHNA Plan in November or December 2021<sup>7</sup>.

Based on the previous cycle, statutory changes, and results from the current cycle's recent appeals in Southern California, the following arguments are *not* likely to result in a change to the RHNA:

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percentage of existing households paying more than 30 percent and more than 50 percent of their income in rent 10. The rate of overcrowding; 13. The housing needs of individuals and families experiencing homelessness 14. The loss of units during a state of emergency that have yet to be rebuilt or replaced at the time of the analysis; and 15. The region's greenhouse gas emissions targets provided by the State Air Resources Board.

<sup>6</sup> These objectives include: 1. Increase housing supply and mix of housing types, with the goal of improving housing affordability and equity in all cities and counties within the region; 2. Promote infill development and socioeconomic equity; protect environmental and agricultural resources; encourage efficient development patterns; and achieve greenhouse gas reduction targets; 3. Improve intra-regional jobs-to-housing relationship, including the balance between low wage jobs and affordable housing units for low-wage workers in each jurisdiction; 4. Balance disproportionate household income distributions (more high-income allocation to lower-income areas, and vice-versa); and 5. Affirmatively further fair housing.

<sup>7</sup> <https://abag.ca.gov/our-work/housing/rhna-regional-housing-needs-allocation/2023-2031-rhna-appeals-process>

- 1) A city is built out or has no room for housing/ The RHNA numbers are unrealistically large/ Meeting the RHNA would mean a change in the character of the jurisdiction
- 2) A city does not have the resources to build affordable housing
- 3) There are small technical mistakes in Plan Bay Area
- 4) Parts of the methodology were not well thought out
- 5) Covid changed the need for housing

#### November 2020 Action by Town Council

In November 2020, the Town of Portola Valley sent a letter to ABAG urging it to consider and account for the unique challenges in Portola Valley, specifically relative fire safety and infrastructure. This letter acted as a “soft appeal” and was written in the hope that ABAG staff and representatives might visit Portola Valley to view the town’s characteristics and potentially reconsider the RHNA. However, the soft appeal was denied by ABAG in a January 2021 return letter. This letter found that ABAG “staff believes that the Draft RHNA Methodology effectively incorporates both hazard risk and potential development constraints” and encouraged the town to look into grant funding and housing technical assistance put forth by the state to help implement Plan Bay Area 2050. The Town’s letter and ABAG’s responses are Attachments 3 and 4.

#### **DISCUSSION**

Adding additional housing units in Portola Valley raises significant policy issues. On the one hand, both State law and Town policy recognize the current housing crisis. For years bay area housing demand has outpaced housing supply making housing more expensive, pushing development further away from jobs and increasing vehicle miles traveled. Some of the consequences of this housing crisis and development pattern include racially and economically segregated communities, erosion of environmental and agricultural land, difficulties in recruiting and retaining workforce and overcrowded and rent-burdened households. The Town Council has historically supported the provision of affordable housing to address many of these concerns.

On the other hand, Portola Valley is located in an area subject to extreme wildland fire risk. In 2008, a portion of Portola Valley was designated by CalFire as a Very High Fire Severity zone, though this designation was ultimately not adopted by the Town Council. Instead, the Town Council commissioned its own fire risk report which also indicated that significant portions of the Town are susceptible to wildland fires. The town’s fire risk has been a longstanding community concern. Some of the town’s older housing stock is not fire safe, many of the town’s private roads are narrow and there is only one ingress/egress route in some areas of town. The town has long recognized that unchecked development under these circumstances poses additional risk. Finally, the town was founded on the principle of preserving the existing rural character and many of the town’s land use policies enforce this policy.

The current eight-year allocation of 253 units is the town’s highest RHNA to date. When the draft number was initially published the Town Council expressed concerns about fire danger areas, specifically focused on unsafe evacuation routes in certain building sites, that may not be addressed in the RHNA numbers. It further expressed concerns about the ability of the existing infrastructure to service the housing. Additionally, the Covid-19 pandemic and recession are significant and unforeseen changes in circumstances that have occurred since the RHNA determination.

### Experience in Southern California

In Southern California, 52 cities filed appeals. Two cities withdrew their appeals after being filed. Four cities filed appeals of both their allocation as well as a neighboring cities' allocation. Of the 50 total appeals, the Southern California Association of Governments (SCAG) only sustained 2 appeals. Both sustained appeals were based on technical corrections resulting in a relatively small reduction to the affected agencies.

Generally, HCD supported SCAG's strict interpretation of the appeals criteria. The state offered comments on several points in a letter to SCAG. They wrote:

*“Several (jurisdictions) cite the lack of land suitable for development as a basis for the appeal...(however) even communities that view themselves as built out must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land...”*

*Several appeals state that the Regional Housing Needs Determination (RHND) HCD provided to the SCAG region is too large...The comment period of this has closed and Government Code section 65584.05 (d) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation....*

*With regard to appeals submitted related to Government Code section 65584.05(b)(2), that SCAG failed to determine the RHNA in a manner that furthers the statutory objectives, it should be noted that HCD reviewed SCAG's draft allocation methodology and found that the draft RHNA allocation methodology furthered the statutory objectives described in Government Code section 65584...*

*Several appeals (argue) that the COVID-19 pandemic represents a significant and unforeseen change in circumstances that will affect future population and job growth. Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing.”<sup>8</sup>*

### SCAG Appeals Based on Fire Safety Issues

Several cities in Southern California appealed their RHNA on the grounds that it did not adequately take into account portions of the city in high fire hazard area. For example, Rancho Santa Margarita argued:<sup>9</sup>

*“SCAG failed to consider physical constraints, lack of underutilized land and limited opportunities for infill development and increased residential densities in the City. Specifically, the City states that 71% of the land within the city is open space and 67% of the land within the city is in a high fire hazard area which is not suitable for additional development and residential dwelling units already occupy 66% of the remaining suitable land area.”*

<sup>8</sup> <https://scag.ca.gov/sites/main/files/file-attachments/hcd-all121020.pdf?1607715079>

<sup>9</sup> <https://scag.ca.gov/sites/main/files/file-attachments/rhna-ab021621fullagn.pdf?1613065742> (pg. 1099)

SCAG did not grant any of these appeals. In response to the Rancho Santa Margarita appeal SCAG staff reasoned:

*“While the jurisdiction has indicated it cannot accommodate units in the indicated open space and high fire risk areas, no evidence has been provided that the jurisdiction cannot accommodate its RHNA Allocation in other areas. The presence of protected open space alone does not reduce housing need nor does it preclude a jurisdiction from accommodating its housing need elsewhere. The Wildfire Hazards Area map provided also indicates the urbanized core of Rancho Santa Margarita is not designated as a high fire risk zone. Rancho Santa Margarita has not provided evidence that it cannot plan for its assigned Draft RHNA Allocation in the urbanized core. For these reasons, SCAG staff does not recommend a reduction to the jurisdiction’s RHNA Allocation based on this factor.”*

This reasoning was ultimately adopted by the SCAG Board. Based on the prior rulings from SCAG, it is likely ABAG would require the Town to present evidence that the RHNA could not be otherwise accommodated in areas not located in the very high or high fire hazard areas.<sup>10</sup>

#### SCAG Appeals Based on Pandemic

Several southern California cities raised the pandemic on appeal, though SCAG declined to entertain appeals on these grounds. SCAG reasoned that impacts from COVID-19 are not unique to any single SCAG jurisdiction; the pandemic had not resulted in a decrease in demand for housing or housing need, or a slowdown in major construction and that the forecast was multi-year.

For example, The City of Chino requested a reduction of its RHNA allocation on the grounds that there was a “change of circumstance”, arguing<sup>11</sup>:

*“The COVID-19 pandemic has resulted in potentially significant unknown changes in circumstances to the development of housing throughout California. Creating more housing, likely at higher densities for affordable housing, may present a challenge due to needs for social distancing and other concerns related to disease spread. The nature of work and the types of jobs available may also have long-ranging impacts on housing allocation and transportation infrastructure in the region.”*

In response to this argument from the City of Chino, SCAG staff reasoned:

*“The COVID-19 pandemic has produced many impacts throughout the SCAG region. However, it has not resulted in a slowdown in major construction nor has it resulted in a decrease in demand for housing or housing need. Southern California home prices continue to increase (+2.6 percent from August to September 2020) led by Los Angeles (+10.4 percent) and Ventura (+6.2 percent) counties. Demand for housing as quantified by the RHNA allocation is reflective of need that covers an eight-year period and is not impacted by immediate near-term circumstances.”*

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<sup>10</sup> Cal Fire maps both Very High and High fire areas within cities and unincorporated county areas. The high fire maps have no legal import in cities in that there is no process for reviewing or appealing these maps and the maps only appear as drafts in the early stage of the mapping process. In state responsibility areas, Cal Fire does in fact produce final high fire maps. See

<sup>11</sup> <https://scag.ca.gov/sites/main/files/file-attachments/rhna-abph010621fullagn.pdf?1609379165>



SCAG additionally reasoned:

*“Moreover, impacts from COVID-19 are not unique to any individual jurisdiction in the SCAG region, and no evidence has been provided in the appeal to indicate that housing need within the City of Chino is disproportionately impacted relative to the rest of the SCAG region”*

#### Discussion of Successful RHNA Appeals

SCAG partially approved the appeal filed by the County of Riverside<sup>12</sup>. The County of Riverside requested an unspecified reduction of its RHNA allocation of 40,768 residential units based on the following seven issues:

1. Application of the adopted Final RHNA Methodology for the 6th Cycle RHNA (2021 – 2029)
2. Sewer or water infrastructure constraints for additional development
3. Availability of land for urban development or conversion to residential use
4. Lands protected from urban development under existing federal or state programs
5. High housing cost burdens
6. The region’s greenhouse gas emissions targets
7. Changed circumstances

SCAG denied all appeal grounds, with the exception of the first ground. SCAG reduced the County of Riverside’s draft RHNA allocation by 215 units to account for a technical error in including some land area outside the County’s land use jurisdiction. The county argued in its appeal that:

*“The previous versions of draft RHNA documents included data from the March Joint Powers Authority (JPA) with the data from the County. The County writes that March JPA is its own land use authority with its own General Plan. The appeal states that if the County was allocated any units belonging to March JPA, the RHNA methodology was applied inappropriately and that SCAG failed to determine the County’s share of RHNA allocation correctly.”*

SCAG responded to this statement by finding:

*“Given that the County does not receive credit for March JPA residential activity yet the projected growth for the March JPA was included in the County’s projected housing need, SCAG staff recommends that the County’s projected housing need, and thus its draft RHNA allocation, be reduced by 215 units to ensure that the application of the RHNA methodology was fairly applied to the County. This is consistent with the application SCAG used for the inclusion of Tribal Land growth in the adopted RHNA methodology. The recommended reduction also meets the objectives of Government Code 65584(d) as it would be compliant with the adopted final RHNA methodology, which was found by HCD to further those objectives.”*

SCAG did not find any of the other issues raised by the County of Riverside to be grounds for additional reduction to the RHNA allocation.

SCAG also reportedly granted the appeal of Pico Rivera based on floodplain issues. The SCAG ruling is not currently accessible. According to the city’s appeal, the United States Army Corps determined that there are several potential failure methods (PFMs) that would result in the city being

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<sup>12</sup> <https://scag.ca.gov/sites/main/files/file-attachments/rhna-ab021621fullagn.pdf?1613065742> (pg. 1569)

inundated with anywhere from 8-20+ feet of water, which would result in a high likelihood of loss of life for residents within the City. Instead of increasing housing production within the inundation area, Pico Rivera asserted it would be better to concentrate development along evacuation corridors. In making its case to SCAG, Pico Rivera inventoried all zoning areas in town and offered evidence of the specific level of development it could accommodate given the inundation constraint.<sup>13</sup>

#### Fire Safety Initiatives Currently Being Pursued by the Town

CalFire is in the process of updating its fire maps and it is very likely the new maps will encompass more land area than the maps released in 2008-9. It is also possible CalFire will release the maps in the middle of the Housing/Safety Element update process. Despite this imperfect set of circumstances, the Town is moving forward with a series of wildfire safety initiatives and programs. A high-level list of those programs is contained in Attachment 5.

#### **FISCAL IMPACT**

There is no fiscal impact associated with receiving an update and discussing the Final Draft 2023-31 Regional Housing Needs Allocation.

Overall costs (including resources impacts) of an appeal will be discussed if the council decided to go forward with one.

#### **ATTACHMENTS**

- Attachment 1: ABAG RHNA Process FAQ's.
- Attachment 2: Town of Portola Valley Housing Element FAQ's
- Attachment 3: Town of Portola Valley's letter objecting to draft RHNA allocation
- Attachment 4: ABAG's response to Portola Valley's objection to draft RHNA allocation
- Attachment 5: Town Wildfire Safety Initiatives
- Attachment 6: Town Attorney Memo regarding fire hazard severity zones

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<sup>13</sup> <https://scag.ca.gov/sites/main/files/file-attachments/picorivera012321.pdf?1611549054>



## Frequently Asked Questions about RHNA

### Topics:

- Regional Housing Needs Allocation (RHNA) Overview
- Regional Housing Needs Determination (RHND) from HCD
- RHNA Methodology
- ABAG Housing Methodology Committee
- Connections between RHNA and Plan Bay Area 2050
- RHNA Subregions
- RHNA and Local Jurisdictions

## REGIONAL HOUSING NEEDS ALLOCATION (RHNA) OVERVIEW

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### What is RHNA?

Local housing is enshrined in state law as a matter of “vital statewide importance” and, since 1969, the State of California has required that all local governments (cities, towns and counties, also known as local jurisdictions) adequately plan to meet the housing needs of everyone in our communities. To meet this requirement, each city or county must develop a Housing Element as part of its General Plan (the local government’s long-range blueprint for growth) that shows how it will meet its community’s housing needs. There are many laws that govern this process, and collectively they are known as [Housing Element Law](#).

The Regional Housing Need Allocation (RHNA) process is the part of Housing Element Law used to determine how many new homes, and the affordability of those homes, each local government must plan for in its Housing Element. This process is repeated every eight years, and for this cycle the Bay Area is planning for the period from 2023 to 2031.

### How does RHNA assist in addressing the Bay Area’s housing crisis?

The Bay Area’s housing affordability crisis is decades in the making. State law is designed to match housing supply with demand—particularly for affordable homes. Each new RHNA cycle presents new requirements to address dynamic housing markets, which in recent years have seen demand dramatically outstrip supply across all affordability levels.

RHNA provides a local government with a minimum number of new homes across all income levels for which it must plan in its Housing Element. The Housing Element must include sites zoned for enough capacity to meet the RHNA goals as well as policies and strategies to expand housing choices and increase housing affordability.

## Who is responsible for RHNA?

Responsibility for completing RHNA is shared among state, regional, and local governments:

- The **role of the State** is to identify the total number of homes for which each region in California must plan in order to meet the housing needs of people across the full spectrum of income levels, from housing for very low-income households all the way to market rate housing. This is developed by the [California Department of Housing and Community Development \(HCD\)](#) and is known as the Regional Housing Need Determination (RHND).
- The **role of the region** is to allocate a share of the RHND to each local government in the region. As the Council of Governments (COG) for the nine-county Bay Area, the Association of Bay Area Governments (ABAG) is responsible for developing the methodology for sharing the RHND among all cities, towns, and counties in the region. ABAG does this in conjunction with a committee of elected officials, city and county staff, and stakeholders called [the Housing Methodology Committee \(HMC\)](#).
- The **role of local governments** is to participate in the development of the allocation methodology and to update their Housing Elements and local zoning to show how they will accommodate their share of the RHND, following the adoption of the RHNA methodology.

## What are the steps in the RHNA process?



Conceptually, RHNA starts with the Regional Housing Needs Determination provided by HCD, which is the total number of housing units the Bay Area needs, by income group. The heart of ABAG's work on RHNA is developing the methodology to allocate a portion of housing needs to each city, town, and county in the region. ABAG has convened a [Housing Methodology Committee](#) made up of local elected officials and staff and stakeholders to advise staff on the proposed methodology that ABAG will release for public comment in fall 2020. Following that milestone, ABAG will then develop a draft methodology to send to HCD for its review in early 2021.

After ABAG adopts the final methodology in spring 2021, it is used to develop a draft allocation for every local government in the Bay Area. A local government or HCD can appeal any local government's allocation. After ABAG takes action on the appeals, it will issue the final allocation by the end of 2021. Local governments must update Housing Elements by January 2023, including identifying sites that are zoned with enough capacity to meet the RHNA allocation. ABAG's role in the RHNA process ends once it has allocated a share of the Regional Housing Needs Determination (RHND) to each local government in the Bay Area; HCD reviews and approves local Housing Elements.

### What's the timeline for completing RHNA?

The RHNA process is currently underway and will be complete by the end of 2021. Local governments will then have until January 2023 to update their Housing Elements. The proposed timing for the key milestones in the RHNA process is shown below:

<b>ABAG 2023-2031 RHNA and Plan Bay Area 2050 Key Milestones</b>	<b>Proposed Deadline</b>
Housing Methodology Committee kick-off	October 2019
Subregions form	February 2020
HCD Regional Housing Needs Determination	June 2020
Proposed RHNA methodology, draft subregion shares	Fall 2020
Final subregion shares	December 2020
Draft RHNA methodology to HCD for review	Winter 2021
Final RHNA methodology, draft allocation	Spring 2021
RHNA appeals	Summer 2021
Final RHNA allocation	End of 2021
Housing Element due date	January 2023

### This is the 6th cycle for RHNA. What's different this time?

Recent legislation will result in the following key changes for this RHNA cycle:

- It is expected there will be 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%).

- RHNA and 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](#). As required by Housing Element Law, ABAG has surveyed local governments to understand [fair housing issues, strategies, and actions across the region](#).
- There will be greater HCD oversight of RHNA. ABAG and subregions must now submit the draft allocation methodology to HCD for review and comment. HCD can also appeal a jurisdiction's draft allocation.
- 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.

### **How can I be more involved in the RHNA process?**

Public participation is encouraged throughout the RHNA process especially at public meetings and during official public comment periods following the release of discussion documents and board decisions. Visit the ABAG website to:

- Learn about the [Housing Methodology Committee](#)
- View [upcoming meetings](#)
- Sign up for the [RHNA mailing list](#)

### **Is ABAG's prior RHNA available to review?**

Yes, you can find more information about the [2015-2023 RHNA](#) on the ABAG website. You can also view documents from the [2007-2014 RHNA](#) and [1999-2006 RHNA](#).

## **REGIONAL HOUSING NEEDS DETERMINATION (RHND) FROM HCD**

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### **What is the Regional Housing Needs Determination?**

The California Department of Housing and Community Development (HCD) identifies the total number of homes for which each region in California must plan in order to meet the housing needs of people at all income levels. The total number of housing units from HCD is separated into four income categories that cover everything from housing for very low-income households all the way to market rate housing. ABAG is responsible for developing a methodology to allocate a portion of this housing need to every local government in the Bay Area.

The four income categories included in the RHND are:

- Very Low Income: 0-50% of Area Median Income
- Low Income: 50-80% of Area Median Income
- Moderate Income: 80-120% of Area Median Income
- Above Moderate Income: 120% or more of Area Median Income

### **What will the actual RHND and RHNA numbers look like this cycle?**

In a [letter dated June 9, 2020](#), the California Department of Housing and Community Development (HCD) provided ABAG with the Regional Housing Needs Determination (RHND) for use in this cycle of RHNA in the Bay Area.

### ***Regional Housing Needs Determination from HCD: San Francisco Bay Area***

<b>Income Category</b>	<b>Percent</b>	<b>Housing Unit Need</b>
Very Low	25.9%	114,442
Low	14.9%	65,892
Moderate	16.5%	72,712
Above Moderate	42.6%	188,130
<b>Total</b>	<b>100%</b>	<b>441,176</b>

The methodology which will determine each local government's share of the overall regional housing needs is currently being developed and is slated for release in fall 2020.

### **How did HCD develop the RHND?**

HCD is responsible for determining the number of housing units for which each region must plan, known as the Regional Housing Needs Determination (RHND). The RHND is based on a population forecast for the region from the California Department of Finance (DOF) and the application of specific adjustments to determine the total amount of housing needs for the region.

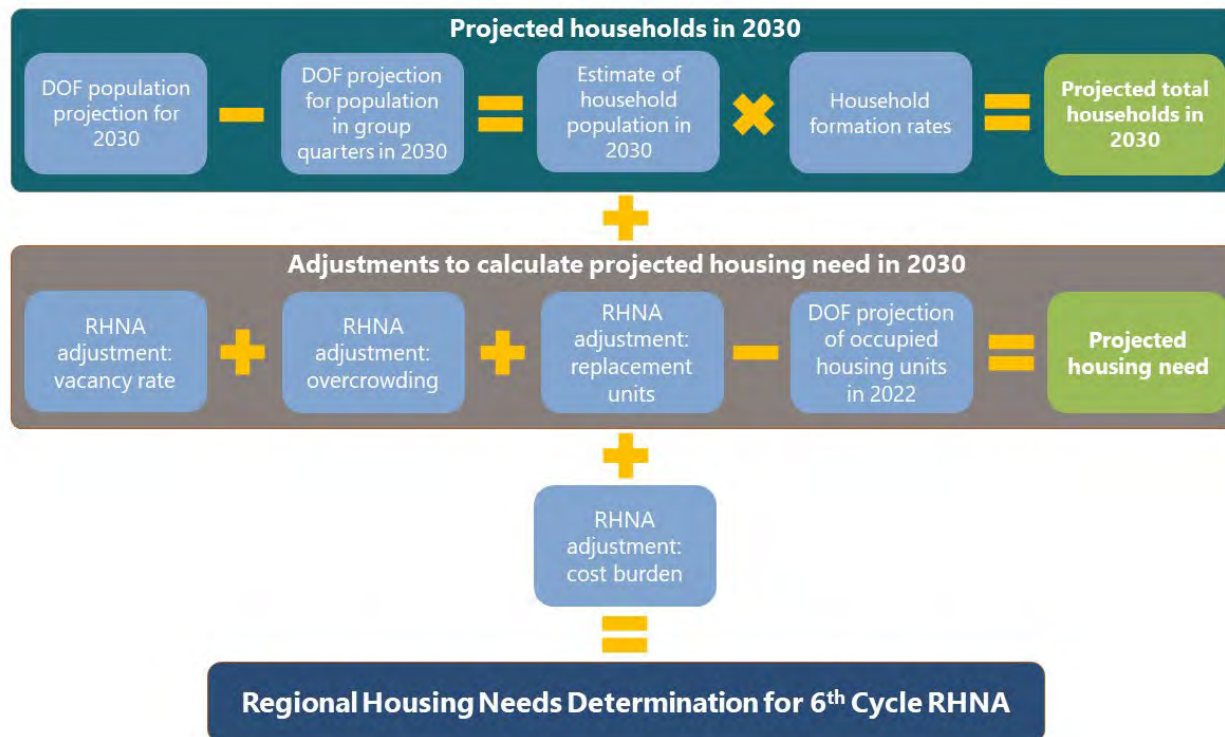
The adjustments are a result of recent legislation that sought to incorporate an estimate of existing housing need by applying factors related to:

- A target vacancy rate for a healthy housing market (defined as no less than 5 percent),
- The rate of overcrowding, which is defined as having more than one person per room in each room in a dwelling.
- The share of cost burdened households, which is defined as households paying more than 30% of household income on housing costs.

The RHNA process only considers the needs of the population in households who are housed in the regular housing market, and excludes the population living in group quarters, which are non-household dwellings, such as jails, nursing homes, dorms, and military barracks. HCD uses the age cohorts of the forecasted population to understand the rates at which people are expected to form households, which can vary for people at different stages of life. This results in

the estimate of the total number of households that will need a housing unit in 2030 (which is the end date of the projection period for the Bay Area’s RHNA cycle).

### HCD Process for Identifying Regional Housing Needs Determination (RHND)



The total number of projected households is then adjusted using the factors related to vacancy rate, overcrowding, and an estimate of the need for replacement housing for units that were demolished or lost. This results in a forecast of the number of housing units that will be needed to house all households in the region in 2031. The number of existing occupied housing units is subtracted from the total number of housing units needed, which results in the number of additional housing units necessary to meet the housing need. The final step is an adjustment related to cost-burdened households, which results in the RHND for the region.

## RHNA METHODOLOGY

### What is the RHNA methodology?

At its core, RHNA is about connecting regional housing needs with the local planning process and ensuring local Housing Elements work together to address regional housing challenges. Working with the [Housing Methodology Committee](#), ABAG develops a methodology, or formula, that shares responsibility for accommodating the Bay Area’s Regional Housing Needs Determination (RHND) by quantifying the number of housing units, separated into four income categories, that will be assigned to each city, town, and county to incorporate into its Housing Element.

The four income categories included in the RHND are:

- Very Low Income: 0-50% of Area Median Income
- Low Income: 50-80% of Area Median Income
- Moderate Income: 80-120% of Area Median Income
- Above Moderate Income: 120% or more of Area Median Income

The allocation formula is made up of factors that use data for each jurisdiction in the region to determine each jurisdiction's share of the total housing need. The allocation formula assigns units based on relative relationships between jurisdictions within the region. For example, if there is a factor to allocate units based on access to jobs, then a jurisdiction with many jobs will be allocated more units and a jurisdiction with fewer jobs will be allocated fewer units.

### **What are the objectives and factors that must be considered in the RHNA methodology?**

The RHNA objectives provide the guiding framework for how ABAG must develop the methodology. ABAG is required to demonstrate how its methodology furthers each of the objectives. The RHNA factors include a longer list of considerations that must be incorporated into the methodology to the extent that sufficient data is available.

Summary of RHNA objectives [from [Government Code §65584\(d\)](#)]:

1. Increase housing supply and mix of housing types, with the goal of improving housing affordability and equity in all cities and counties within the region.
2. Promote infill development and socioeconomic equity; protect environmental and agricultural resources; encourage efficient development patterns; and achieve greenhouse gas reduction targets.
3. Improve intra-regional jobs-to-housing relationship, including the balance between low-wage jobs and affordable housing units for low-wage workers in each jurisdiction.
4. Balance disproportionate household income distributions (more high-income allocation to lower-income areas, and vice-versa)
5. Affirmatively further fair housing

Summary of RHNA factors [from [Government Code §65584.04\(d\)](#)]:

1. Existing and projected jobs and housing relationship, particularly low-wage jobs and affordable housing
2. Lack of capacity for sewer or water service due to decisions outside a jurisdiction's control
3. The availability of land suitable for urban development
4. Lands protected from urban development under existing federal or state programs
5. County policies to preserve prime agricultural land



6. The distribution of household growth assumed for regional transportation plans and opportunities to maximize use of public transportation and existing transportation infrastructure
7. Agreements between a county and cities in a county to direct growth toward incorporated areas of the county
8. The loss of units in assisted housing developments as a result of expiring affordability contracts.
9. The percentage of existing households paying more than 30 percent and more than 50 percent of their income in rent
10. The rate of overcrowding
11. The housing needs of farmworkers
12. The housing needs generated by the presence of a university within the jurisdiction
13. The housing needs of individuals and families experiencing homelessness
14. The loss of units during a state of emergency that have yet to be rebuilt or replaced at the time of the analysis
15. The region's greenhouse gas emissions targets provided by the State Air Resources Board

### **What does it mean to “affirmatively further fair housing”?**

For the 2023-2031 RHNA, recent legislation added a new objective that requires the RHNA plan to “affirmatively further fair housing.” According to [Government Code Section 65584\(e\)](#), this means:

“Taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.”

In addition to this requirement for promoting fair housing as an outcome for RHNA, statutes required ABAG to collect information about [fair housing issues, strategies, and actions](#) in its survey of local jurisdictions about data to inform the development of the RHNA allocation methodology.



Lastly, a local jurisdiction's Housing Element must also affirmatively further fair housing and include a program that establishes goals and actions to do so. HCD has developed guidance for jurisdictions about [how to address affirmatively furthering fair housing in Housing Elements](#).

**Does RHNA dictate how local governments meet their communities' housing needs or where new housing goes within a given city or town?**

It is important to note the primary role of the RHNA methodology is to encourage a pattern of housing growth for the Bay Area. The final result of the RHNA process is the allocation of housing units by income category to each jurisdiction. It is in the local Housing Element that decisions about where future housing units could be located and the policies and strategies for addressing a community's specific housing needs are made. Local governments will include strategies related to issues such as addressing homelessness, meeting the needs of specific populations, affirmatively furthering fair housing, or minimizing displacement when they develop their Housing Elements. Although the RHNA methodology may include factors that conceptually assign housing to a particular geography, such as near a transit stop or in proximity to jobs, the resulting allocation from ABAG goes to the jurisdiction as a whole. It is up to local governments to use their Housing Elements to select the specific sites that will be zoned for housing.

The following table distinguishes between the narrow scope of RHNA and the broader requirements for jurisdictions' Housing Elements:

RHNA	LOCAL HOUSING ELEMENTS
Determines how many new homes each local jurisdiction must plan for in its Housing Element.	Includes goals, policies, quantified objectives, financial resources, and constraints for the preservation, improvement, and development of housing for all income levels.
Housing allocation is for an entire jurisdiction – housing is not allocated to specific sites or geographies within a jurisdiction.	Identifies sites for housing and provides an inventory of land suitable and available for residential development, including vacant sites and sites having potential for redevelopment.
A jurisdiction's housing allocation is divided across four income groups: very low-, low-, moderate-, and above moderate-income.	Analyzes special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter.
Beyond allocation of housing units by income group, does not address housing needs of specific population groups nor include policy recommendations for addressing those needs.	Must demonstrate local efforts to remove governmental and nongovernmental constraints that hinder locality from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.
	Analyzes existing affordable units at risk of converting to market-rate due to expiring subsidies or affordability contracts.
	Assesses existing fair housing issues and strategies for affirmatively furthering fair housing.

## ABAG HOUSING METHODOLOGY COMMITTEE

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### What is the Housing Methodology Committee?

For the past several RHNA cycles, ABAG has convened an ad-hoc [Housing Methodology Committee \(HMC\)](#) to advise ABAG staff on the RHNA allocation methodology. The HMC for the 6<sup>th</sup> Cycle was convened in October 2019. The HMC is comprised of local elected officials and staff from every county in the Bay Area as well as stakeholder representatives selected by ABAG staff from a diverse applicant pool:

- 9 local government elected officials (one from each Bay Area county)
- 12 local government housing or planning staff (at least one from every county)
- 16 regional stakeholders representing diverse perspectives, from equity and open space to public health and public transit
- 1 partner from state government

View the HMC roster at [https://abag.ca.gov/sites/default/files/hmc\\_roster\\_06\\_16\\_2020\\_0.pdf](https://abag.ca.gov/sites/default/files/hmc_roster_06_16_2020_0.pdf).

### Why is the Housing Methodology Committee important?

ABAG's Housing Methodology Committee approach stands out compared to most other large Councils of Governments, going beyond the legal requirements by convening a forum where local elected officials, local government staff, stakeholder representatives, and the public can talk about the process together to inform the housing methodology.

The Housing Methodology Committee and its large stakeholder network is a key part of ABAG's approach to creating the RHNA allocation methodology. Through the HMC, ABAG staff seek to facilitate dialogue and information-sharing among local government representatives and stakeholders from across the Bay Area with crucial expertise to enable coordinated action to address the Bay Area's housing crisis. As ABAG strives to advance equity and affirmatively further fair housing, the agency seeks to ensure that a breadth of voices is included in the methodology process.

## CONNECTIONS BETWEEN RHNA AND PLAN BAY AREA 2050

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### How are RHNA and Plan Bay Area 2050 related?

[Plan Bay Area 2050](#) is the Bay Area's next long-range regional plan for transportation, housing, the economy, and the environment, focused on resilient and equitable strategies for the next 30 years. Anticipated to be adopted in fall 2021, Plan Bay Area 2050 will establish a blueprint for future growth and infrastructure. Plan Bay Area 2050 must meet or exceed a wide range of federal and state requirements, including a per-capita greenhouse gas reduction target of 19 percent by 2035. Upon adoption by MTC and ABAG, it will serve as the Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) for the San Francisco Bay Area.

By law, the RHNA Plan is required to be consistent with the development pattern from Plan Bay Area 2050. These two planning processes seek to address the Bay Area’s housing needs over different time horizons: Plan Bay Area 2050 has a planning horizon of 2050, while the 6<sup>th</sup> cycle of RHNA addresses the need to address short-term housing needs, from 2023 to 2031. To achieve the required consistency, both the overall housing growth for the region, as well as housing growth on a more localized level, must be greater in the long-range plan than over the eight-year RHNA cycle.

### **Is Plan Bay Area 2050 used as part of the RHNA process?**

In past RHNA cycles, ABAG used its long-range housing, population, and job forecast as an input into the RHNA methodology. However, this approach is not required by Housing Element Law. For the 6<sup>th</sup> cycle of RHNA, the [Housing Methodology Committee \(HMC\)](#) is still considering whether or not to incorporate data from the Plan Bay Area 2050 Blueprint into the RHNA methodology. Some of the options the HMC has discussed are:

1. Using the forecasted development pattern from the Blueprint as a baseline input into the RHNA methodology
2. Using a hybrid approach that uses the forecasted development pattern from the Blueprint along with additional factors to represent policy goals that are underrepresented in the Blueprint to direct RHNA allocations
3. Not using forecasted data from the Blueprint, but include factors that align with the policies and strategies in the Blueprint to direct RHNA allocations.

HMC members expressed interest and some concerns in considering use of the Plan in the methodology. While the strategies integrated into the Draft Blueprint were adopted in February 2020, the Draft Blueprint forecasted outcomes were released in July 2020. The HMC continued to consider the potential role of the Blueprint, if any, in achieving consistency with Plan Bay Area 2050 in summer 2020. If the Blueprint is not directly integrated, the HMC may need to adjust factors and weights to achieve consistency under Option 3 above.

## **RHNA SUBREGIONS**

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### **What is a subregion?**

Housing Element Law allows two or more jurisdictions to form a “subregion” to conduct a parallel RHNA process to allocate the subregion’s housing need among its members. The subregion process allows for greater collaboration among jurisdictions, potentially enabling RHNA allocations that are more tailored to the local context as well as greater coordination of local housing policy implementation. A subregion is responsible for conducting its own RHNA process that meets all of the statutory requirements related to process and outcomes, including developing its own RHNA methodology, allocating a share of need to each member jurisdiction,

and conducting its own appeals process. The subregion's final allocation must meet the same requirements as the regional allocation: it must further the statutory objectives, have considered the statutory factors, and be consistent with the development pattern of the SCS.

### **What subregions have formed for the 6<sup>th</sup> Cycle of RHNA in the Bay Area?**

ABAG has received notification of formation of two subregions:

1. **Napa County:** includes City of American Canyon, City of Napa, Town of Yountville, and the County of Napa (*does not include City of Calistoga or City of St. Helena*)
2. **Solano County:** includes City of Benicia, City of Dixon, City of Fairfield, City of Rio Vista, City of Suisun City, City of Vacaville, City of Vallejo, and County of Solano

### **Can a jurisdiction withdraw from a subregion?**

Consistent with ABAG's approach for previous RHNA cycles, a jurisdiction may withdraw from a subregion without causing the dissolution of the entire subregion. If a jurisdiction withdraws from the subregion, the subregion's share of housing needs will be reduced by the number of units the withdrawing jurisdiction would receive from the most current version of ABAG's methodology available at the time when the jurisdiction decides to withdraw. The withdrawing member will then become part of the region's RHNA process, and it would receive its allocation based on the methodology adopted by ABAG.

## **RHNA AND LOCAL JURISDICTIONS**

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### **How are local jurisdictions involved in RHNA? Do they help create the housing methodology?**

Elected officials and staff from each county are on the [Housing Methodology Committee \(HMC\)](#) to represent the jurisdictions in that county. The HMC will make recommendations about the allocation methodology to the [ABAG Regional Planning Committee \(RPC\)](#), and the RPC will make recommendations to the [ABAG Executive Board](#), which will take action at key points in the RHNA process. Local governments will have the opportunity to comment on the proposed and draft methodology, both in written comments and at public meetings. There will also be an opportunity for local governments to file appeals on the draft allocations.

### **How does RHNA impact local jurisdictions' general plans? What is a Housing Element?**

California's [Housing Element Law](#) states that "designating and maintaining a supply of land and adequate sites suitable, feasible, and available for the development of housing sufficient to meet the locality's housing need for all income levels is essential to achieving the state's housing goals." Once a city, town or county receives its RHNA allocation, it must then update the Housing Element of its general plan and zoning to demonstrate how it will accommodate all of the units assigned for each income category. General plans serve as a local government's blueprint for how the city, town or county will grow and develop. There are seven elements that

all jurisdictions are required to include in the General Plan: land use, transportation, conservation, noise, open space, safety, and housing.

### **What agency is responsible for the certification of Housing Elements?**

ABAG's role in the RHNA process ends once it has allocated a share of the Regional Housing Needs Determination (RHND) to each local government in the Bay Area. The [California Department of Housing and Community Development](#) (HCD) reviews and approves Housing Elements and is responsible for all other aspects of [enforcing Housing Element Law](#).

### **Is there any funding and technical assistance available to assist local jurisdictions in creating their Housing Elements?**

In the 2019-20 Budget Act, Governor Gavin Newsom allocated \$250 million for all regions, cities, and counties to do their part by prioritizing planning activities that accelerate housing production to meet identified needs of every community. With this allocation, HCD established the [Local Early Action Planning Grant Program \(LEAP\)](#) with approximately \$25.6 million expected to come to cities and counties in the Bay Area and the [Regional Early Action Planning Grant Program \(REAP\)](#) with \$23.9 million expected to come to ABAG. The LEAP program augments HCD's [SB2 Planning Grants](#) which have provided approximately \$24 million in funding to localities in the Bay Area. ABAG is currently designing its REAP program to provide in-depth technical assistance to localities.

### **Some individuals in the Bay Area view their jurisdictions as "built out." How might communities with little to no vacant land meet their respective housing allocations?**

Large and small communities throughout the Bay Area have successfully identified under-utilized, infill sites for housing development. In past RHNA cycles, numerous Bay Area communities were able to meet their housing allocation exclusively through the identification of infill sites to provide for future housing needs. Encouraging the development of Accessory Dwelling Units (ADUs) is another strategy many Bay Area communities have used to add more housing choices for residents.

### **Will my jurisdiction be penalized if we do not plan for enough housing?**

State [Housing Element Law](#) requires that jurisdictions plan for all types of housing based on the allocations they receive from the RHNA process. The state requires this planning, in the form of having a compliant housing element, and submitting housing element annual progress reports, as a threshold or points-related requirement for certain funding programs (SB 1 Sustainable Community Planning Grants, SB 2 Planning Grants and Permanent Local Housing Allocation, etc.). Late submittal of a housing element can result in a jurisdiction being required to submit a four-year update to their housing element.

HCD [may refer jurisdictions to the Attorney General](#) if they do not have a compliant housing element, fail to comply with their HCD-approved housing element, or violate housing element

law, the housing accountability act, density bonus law, no net loss law, or land use discrimination law. The consequences of those cases brought by the Attorney General are up to the courts, but can include financial penalties.

In addition, as the housing element is one of the required components of the general plan, a jurisdiction without a compliant housing element, may risk legal challenges to their general plan from interested parties outside of HCD.

Local governments must also implement their commitments from the housing element, and the statute has several consequences for the lack of implementation. For example, failure to rezone in a timely manner may impact a local government's land use authority and result in a carryover of RHNA to the next cycle. Failure to implement programs can also influence future housing element updates and requirements, such as program timing. HCD may investigate any action or lack of action in the housing element.

### **Will my jurisdiction be penalized if we do not build enough housing?**

For [jurisdictions that did not issue permits for enough housing](#) to keep pace consistent with RHNA building goals, a developer can elect to use a ministerial process to get project approval for residential projects that meet certain conditions. This, in effect, makes it easier to build housing in places that are not on target to meet their building goals.

## **GLOSSARY OF ACRONYMS**

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ABAG - Association of Bay Area Governments

AMI – Area Median Income

DOF - California Department of Finance

HCD - California Department of Housing and Community Development

HMC - Housing Methodology Committee

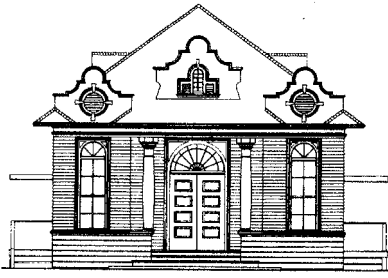
MTC - Metropolitan Transportation Commission

RHNA - Regional Housing Need Allocation

RHND - Regional Housing Need Determination

RTP/SCS - Regional Transportation Plan/Sustainable Communities Strategy

TCAC - California Tax Credit Allocation Committee



# TOWN OF PORTOLA VALLEY

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## HOUSING ELEMENT FREQUENTLY ASKED QUESTIONS

Updated February 4, 2021

### 1. What is the Housing Element?

Answer: The Housing Element is one of the mandatory elements that must be included in a Town's General Plan. The Housing Element provides goals, policies, and actions that help the Town plan for the housing needs for all segments of the Town's population. Housing Element law mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. The Housing Element is required to be updated every eight years and must be approved by the State Department of Housing and Community Development. For more information about the State's role in the crafting of the housing element, explore the California Department of Housing and Community Development's page on housing elements.

### 2. What are the items that the Housing Element covers?

Answer: The Housing Element must include:

- An analysis of *current* housing needs, taking into account issues such as the number of people living in substandard or overcrowded housing, people with special housing needs, and people at risk of losing their affordable housing.
- An analysis of *projected* housing needs, including the Town's responsibility to zone for a certain amount of income-specific housing.
- An inventory of potential building sites where housing development is allowed and supported by infrastructure and the environment.
- An analysis of government controls on housing development.
- Identification of programs, policies and objectives that the Town will adopt to encourage the development of housing for different income and special needs groups, ensure equal housing opportunity, and preserve and improve the existing housing stock.



### **3. Who prepares and certifies the Town's Housing Element?**

Answer: The Housing Element is prepared by Town of Portola Valley staff and associated consultants, reviewed and recommended by the Planning Commission, and finally adopted by the Town Council. The Housing Element must then be certified by the California Department of Housing and Community Development (HCD). This certification creates a presumption that the Element complies with State law.

### **4. How much housing do we need to plan?**

Answer: State law requires each city and county plan for their "fair share" of the region's housing needs. The fair share is determined by each region's Council of Government. In the San Francisco Bay Area, the Association of Bay Area Governments (ABAG) determines the region's fair share through a process known as the Regional Housing Needs Allocations (RHNA).

For the current Housing Element, ABAG determined that Portola Valley's RHNA number is 64 units for the years 2014-2022. This means that Portola Valley was required to plan, through its zoning, to permit at least 64 sites. ABAG will release RHNA numbers for the next cycle (2023-2031) at the end of this year, but a current estimate for Portola Valley is 253 units. The Town is required to demonstrate capacity for the requisite units through an adequate amount of land zoned for particular housing types. If the Town does not identify enough sites, this shortfall will be carried forward to future planning cycles. The Town is not required to build the units itself; however, it is important to note that if enough units are not built, the Town may be forced to approve future projects that may not otherwise have been allowed.

### **5. How is a Town's/City's RHNA determined?**

Answer: This is a complex process that begins with the State of California. The State prepares projections about expected population growth in the state and then allocates a portion of the total state population growth to each region. Regional planning organizations in turn distribute the regional allocation among local jurisdictions. For the Bay Area, the regional planning agency is the Association of Bay Area Governments (ABAG). There are five primary objectives in allocating the residences to local jurisdictions: increasing housing supply and mix of types of housing; promoting infill development, efficient development, and GHG reduction; improving relationship between jobs and housing; balancing existing disproportionate concentration of income categories; and affirmatively fostering fair housing. ABAG uses a formula with weighted criteria to accomplish these objectives and allocate the housing units. Recently, ABAG has also focused on influencing growth patterns to minimize green house gas emissions as is mandated by the State. For more information on the ABAG RHNA process, you can to their webpage at <http://www.abag.ca.gov/planning/housingneeds>.

## **6. What is AFFH and how does it relate to the Housing Element?**

Answer: AFFH stands for Affirmatively Furthering Fair Housing. As of January 1, 2021, California law requires public agencies to administer their programs in a manner that actively seeks to achieve fair housing. One such program is the Housing Element. Pursuant to AFFH law, the Town has a legal obligation to take meaningful acts in addition to combating discrimination that 1) overcome patterns of segregation and 2) foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. To this end, all Housing Element revisions adopted after January 1, 2021 must include the following:

- A summary of fair housing issues in the jurisdiction,
- Analysis of data on segregation patterns,
- Assessment of contributing factors,
- Identification of fair housing goals and actions, including encouraging new affordable housing in opportunity areas, and
- Consideration of location in sites inventories and rezoning programs.

## **7. What does it mean to have a non-compliant Housing Element?**

Answer: A Housing Element is considered out of compliance with State law if one of the following applies:

1. It has not been revised and updated by the statutory deadline, or
2. Its contents do not substantially comply with the statutory requirements. If a Housing Element is certified, there is a presumption that it is adequate, and a plaintiff must present an argument showing that it is in fact inadequate.

Over the years, California has steadily increased the penalties for not having a legally compliant Housing Element, and this trend is expected to continue.

## **8. What happens if a jurisdiction does not adopt a Housing Element or the Element does not comply with State law?**

Answer:

1. **Limited access to State Funding.** Cities with a certified Housing Element may have preference for housing and infrastructure funds, whereas non-compliant cities may be ineligible for certain programs. For example, both the California Infrastructure and Economic Development Bank (CIEDB) and the Bay Area's Metropolitan Transportation Commission (MTC) award funds based on competitions that take into consideration the approval status of a community's Housing Element.

2. **Judicial action.** Where a city has been flagged as “non-compliant,” the Attorney’s General’s office is required to seek a court order to gain compliance. Initial fines can range from \$10,000 to \$100,000 per month, and may be doubled or even sextupled over time. If necessary, the court may appoint a receiver to take over from the city.
3. **Lawsuits.** Developers and advocates have the right to sue jurisdictions if their Housing Element is not compliant with State Law. Recent Bay Area cities that were successfully sued include Menlo Park, Corte Madera, Pittsburg, Pleasanton, Alameda, Benicia, Fremont, Rohnert Park, Berkeley, Napa County, and Santa Rosa. According to a memo from the Santa Barbara County Council, there has never been a city that has successfully argued that they do not need to comply with Housing Element law (July 2007, Housing Element Law: Mandates and Risks of Defiance). There are several potential consequences of being sued, including:
  - a. **Mandatory compliance** – The court may order the community to bring the Element into compliance.
  - b. **Suspension of local control on building matters** – The court may suspend the locality’s authority to issue building permits or grant zoning changes, variances or subdivision map approvals.
  - c. **Court approval of housing developments** – The court may step in and approve housing projects, including large projects that may not be wanted by the local community.
  - d. **Fees** – If a jurisdiction faces a court action stemming from its lack of compliance and either loses or settles the case, it often must pay substantial attorney fees to the plaintiff’s attorneys in addition to the fees paid to its own attorneys. These fees can easily exceed \$100,000.
4. **Carryover of unfilled housing allocation.** The City would be required to carryover to the next housing element planning period any unfilled Regional Housing Need Allocation (RHNA) if the City fails to identify or make available adequate sites to accommodate its RHNA assignment. Therefore, in addition to identifying sites for the new period’s RHNA, the City would also be required within the first year of the new planning period to zone adequate sites to accommodate the RHNA from the prior planning period that was not provided.

## 9. What else must be updated along with the Housing Element?

Answer: State law requires the Town’s Safety Element to be updated at the same time as the Housing Element. Part of the Town’s General Plan, the Safety Element includes a set of goals, policies, and objectives based on an assessment of the potential impacts from natural hazards like climate change and fire. In addition, the Town’s Land Use Element may need to be updated to reflect any re-zoning that may be required in order to meet State mandates.

# TOWN of PORTOLA VALLEY

Town Hall: 765 Portola Road, Portola Valley, CA 94028 Tel: (650) 851-1700 Fax: (650) 851-4677

November 20, 2020

Association of Bay Area Governments - Metropolitan Transportation Commission  
375 Beale St, Suite 800  
San Francisco, CA 94105

Re: Proposed RHNA Methodology and Subregional Shares

To Whom It May Concern-

Thank you for the opportunity to comment on the draft Regional Housing Needs Allocation (RHNA) methodology. The Town Council, after discussions at our November 11 meeting, tasked a subcommittee to draft a letter commenting on the draft methodology for the upcoming Regional Housing Needs Allocation (RHNA) process. The comments below reflect the Council's collective thoughts on the matter.

In 2016, the Portola Valley Town Council adopted a Housing Strategic Plan that has served as the foundation for a substantial and (so-far) successful effort to increase the Town's housing stock. This plan recognizes that three Portola Valley populations face particular housing challenges: seniors who wish to stay in the community they call home have few options to downsize; those who have grown up in Portola Valley but have no option to move back (save move in with their parents); and the workforce that commutes to town to support the community.

This plan has resulted in the following successes:

- Formal identification of Town property suited for potential future development
- Rapid expansion of ADU opportunities (many implemented before State legislation) and an education program that has prompted the construction of new ADUs (including an ADU open house)
- Engagement with large landowners on opportunities on their property for housing (with one active application for a development project and the potential for additional in the coming years)
- Addition of new partners in the Town's affiliated housing program, which allows for housing development beyond single-family resident development; these partners are considering future options



- Multiple public meetings providing the Town Council opportunity to hear from residents on their preferences for future housing options

These efforts (particularly those related to ADUs) have resulted in the Town exceeding its current RHNA numbers a full three years before the end of this cycle's Housing Element. The Council intends to fully implement the Housing Strategic Plan, and more broadly to continue finding ways to create new housing opportunities. This comes with the commitment of planning for future housing under the upcoming Housing Element cycle.

As the Town begins its formal process to adopt a new Housing Element, we also recognize two challenges that we wish to share with you that you may want to consider as you finalize the methodology.

### 1. Public Safety

As the realities of a changing climate have become more obvious, the Town has applied considerable resources to mitigate the impact of future wildfires. While the Town has always understood that wildfire is a reality, the devastating fires in northern California since 2017, and our recent experience with the CZU Lightning Complex fires, has further emphasized the need to do everything we can to ensure the safety of residents and visitors alike.

To that end, the Town is spending hundreds of thousands of dollars on a large-scale (but first round) vegetation management program on Town-owned property (focused on the right-of-way currently), and has empowered an ad hoc committee to recommend initiatives and programs to harden homes, improve communications and evacuations, and identify and remove high-fire prone vegetation Town-wide.

As you know, CalFire is amending the state fire maps. While a portion of Portola Valley is included in the "very high fire danger" designation, it is highly probable that additional Portola valley lands may be included in the amended map.

Regardless of these mitigation efforts, given the nature of the community and its lands and the inability to construct new roads to address evacuation expansion opportunities, the Town will remain highly susceptible to wildfires. We welcome an engagement with ABAG-MTC on the sensibleness of significant numbers of new homes in high-fire danger areas.

## 2. Infrastructure

There are two elements to the Town's infrastructure comments:

### a. Physical –

As touched on in the public safety comments, the Town's infrastructure was developed and constructed to support a primarily single-family residential community on large lots. This includes just two primary roads in and out of Town. Right-of-way for future road expansion does not exist along most portions of these two roads (or, in the case of Arastradero Road, a secondary access road to Town, are not under the Town's jurisdiction).

A privately held company, and a special district provide water and sewer services. Fire services are supported by a special district. It is unclear that much development would be pursued, or be economically feasible, without the costly construction/provision of these services in advance of a project, which would make the goals underpinning the methodology difficult to achieve in Portola Valley without substantial capital outlay.

### b. Staffing -

It has been nearly a generation since the Town managed a major, multi-unit housing development project. The Town's Planning and Building Department is currently managing a proposal from Stanford University for 27 single-family residences for Stanford faculty and 12 affordable multifamily housing units. This proposal required the addition of a contract planner and other associated support.

Should the draft methodology be implemented (with its accompanying RHNA), it could be the equivalent of Stanford Wedge-sized project every year for the length of the next Housing Element cycle, on top of continuation of the pace of all the housing unit production that the town will achieve in the current cycle. As the smallest staffed city in San Mateo County (and the lowest levels of revenue collection and expenditure), it is improbable that there would be an ability to hire enough staff to ensure a transparent and equitable entitlement process for any future applicants.

## Conclusions

As discussed in this letter, the Town of Portola Valley has taken its commitment to providing adequate housing to the populations it serves seriously, and expects to do so in the next Housing Element cycle. In many ways, we see the work completed so far as a blueprint for other similar communities who wish to be serious about considering housing in a different light.

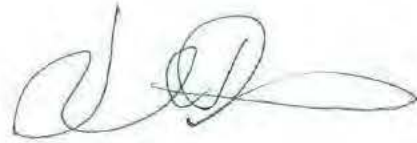
Nonetheless, we do believe that there are unique challenges in Portola Valley that should be considered and included as part of any adopted methodology.

We welcome a visit by ABAG staff and representatives to Portola Valley so these unique characteristics can be viewed first-hand, and we would be happy to design a safe way to accommodate such a visit.

Sincerely,



Craig Hughes  
Councilmember



John Richards  
Councilmember

cc: Portola Valley Town Council  
Planning Commission  
Woodside Fire Protection District





ASSOCIATION  
OF BAY AREA  
GOVERNMENTS

Page 156  
Bay Area Metro Center  
375 Beale Street, Suite 700  
San Francisco, CA 94105  
415.820.7900  
www.abag.ca.gov

*Jesse Arreguin, President*  
Mayor, City of Berkeley

January 19, 2021

*Belia Ramos, Vice President*  
Supervisor, Napa County

*David Rabbit*  
*Immediate Past President*  
Supervisor, Sonoma County

*Karen Mitchoff*  
*Chair, Regional*  
*Planning Committee*  
Supervisor, Contra Costa County

*Vacant*  
*Chair, Legislation Committee*

*Karen Mitchoff*  
*Chair, Finance Committee*  
Supervisor, Contra Costa County

Councilmember Craig Hughes and Councilmember John Richards  
Town of Portola Valley  
765 Portola Road  
Portola Valley, CA 94028

RE: Comments on Proposed Regional Housing Needs Allocation (RHNA) Methodology

Dear Councilmember Hughes and Councilmember Richards:

Thank you for your comment letter on the Proposed RHNA Methodology as well as Portola Valley's ongoing engagement in the RHNA process to-date. After reviewing feedback from the public comment period, ABAG released the Draft RHNA Methodology on December 18, 2020. The Draft Methodology uses the same baseline allocation, factors, and weights as the Proposed Methodology. However, the 2050 Households baseline in the Draft Methodology has been updated to include data from the Plan Bay Area 2050 Final Blueprint, while the Proposed Methodology used data from the Draft Blueprint.

Whereas the Plan Bay Area 2050 Draft Blueprint featured 25 strategies that influenced the location of future growth, the Final Blueprint features 35 revised strategies adopted by the ABAG Executive Board and Metropolitan Transportation Commission in fall 2020. These strategies shift the regional growth pattern, with generally small to moderate impacts on RHNA allocations. Integration of the Plan Bay Area 2050 Final Blueprint baseline data addresses many of the issues raised in the public comment period, including additional reductions to the region's greenhouse gas emissions. More information on the Draft RHNA Methodology is available in this document on ABAG's website:  
[https://abag.ca.gov/sites/default/files/abag\\_draft\\_rhna\\_methodology\\_release\\_december2020.pdf](https://abag.ca.gov/sites/default/files/abag_draft_rhna_methodology_release_december2020.pdf)

ABAG acknowledges the Town's comments about natural hazard risk and infrastructure constraints to housing development, and staff believes that the Draft RHNA Methodology effectively incorporates both hazard risk and potential development constraints. ABAG-MTC staff worked with local governments to gather information about local plans, zoning, physical characteristics and potential development opportunities and constraints. This information was used as an input into the Plan Bay Area 2050 Blueprint, which is used as the baseline allocation in the Draft RHNA Methodology. Including the Blueprint in the RHNA methodology also addresses concerns about natural hazards, as Plan Bay Area 2050 restricts growth outside Urban Growth Boundaries and does not allow for Growth Geographies to overlap with the worst fire hazard severity zones. The Blueprint Growth Geographies not only exclude CAL FIRE designated "Very High" fire severity areas, but they also exclude "High" fire severity areas in unincorporated communities as well as county-designated wildland-urban interface (WUI) areas where applicable. Communities can also choose to take these risks into consideration with where and how they site future development, either



limiting growth in areas of higher hazard or by increasing building standards to address the hazard.

ABAG realizes that planning for a substantially larger RHNA than previous cycles is a daunting task that all jurisdictions in the region are grappling with. Fortunately, over 12 million dollars in grant funding is available to assist local jurisdictions with implementing Plan Bay Area 2050 and RHNA. All jurisdictions can access Housing Element grants through the Regional Early Action Planning (REAP) program via non-competitive and competitive processes. Additionally, Priority Development Area (PDA) Planning and Technical Assistance grants are available via competitive process for jurisdictions with locally nominated PDAs. More information on grant funding and housing technical assistance is available on ABAG's website:

<https://abag.ca.gov/housing-technical-assistance-program>

We encourage you to remain engaged both in the RHNA process and in the Plan Bay Area 2050 process, which will continue through late 2021. The ABAG Executive Board is slated to take action on the Draft RHNA Methodology at the January 21, 2021 meeting. After a Draft RHNA Methodology is adopted by the Executive Board, ABAG will submit the methodology to the Department of Housing and Community Development for review and then use the state agency's feedback to develop a final methodology and draft RHNA allocation in spring 2021. Release of the draft allocation will be followed by an appeals period starting in the summer of 2021, with the final RHNA allocation assigned to each of the Bay Area's local governments in late 2021.

Thank you again for your feedback and participation in this process.

Sincerely,



Therese W. McMillan  
Executive Director

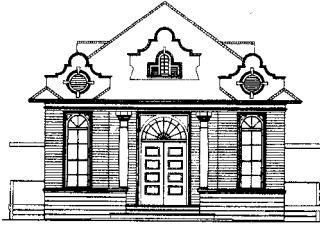
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Box\RHNA\Post-HMC work\RHNA Public Comments\Responses to comments\Local jurisdictions\Therese McMillan Review\196\_Portola\_valley.docx

**TOWN OF PORTOLA VALLEY**  
**Summary of Current, Short Term and Medium Term**  
**Wildfire Safety and Mitigation Programs**

- **Adoption of Title 7A Building Regulations:** In 2008/09, the Town adopted the Wildland Urban Interface (WUI) building standards for all new building construction taking place townwide.
- **Home Hardening Ordinance:** In process of drafting a home hardening ordinance that will apply to all new buildings and some alterations, for review this summer
- **Additional Home Hardening/Defensible Space Requirements for ADUs Allowed Under State Law in the Local Setback:** To be reviewed by the Town Council this summer
- **Vegetative Management Plans:** Performing ongoing right of way fire mitigation vegetative management. See map of location status–  
<https://www.portolavalley.net/home/showpublisheddocument/14515/637557215422170000>
- **Wildfire Preparedness Committee:** On April 10, 2019, the Town Council created the ad hoc Wildfire Preparedness Committee to address outstanding wildfire resiliency issues. Its charter, adopted in May 2019, states the following:
  - “Given the inherent risk of wildfire in Portola Valley and the changing character of wildfires due to climate change, the Ad Hoc Committee on Wildfire Preparedness shall advise the Town Council, on a limited duration basis, on ways to reduce wildfire danger, and increase resident resiliency in a wildfire emergency.”
  - See <https://www.portolavalley.net/town-government/town-committees/ad-hoc-wildfire-preparedness-committee>
- **Wildfire Preparedness Committee’s (WPC) Recommendations:** On December 11, 2019, the Town Council adopted the short term and medium term recommendations of the WPC:  
<https://www.portolavalley.net/home/showpublisheddocument/13821/637329968221800000>.
  - See WPC Quarterly Report for implementation status:  
<https://www.portolavalley.net/home/showpublisheddocument/14519/637557216005600000>.
  - The WPC’s second round proposals are found here:  
<https://www.portolavalley.net/home/showpublisheddocument/14521/637557216521870000>
- **Hazard Mitigation Plan/Map:** Updating Town Hazard Mitigation Plan/Map through cooperative effort with County of San Mateo and other cities.
- **Safety Element of General Plan:** Updating the Town’s current Safety Element will begin this summer.

- **Evacuation Planning:** The Town maintains an evacuation webpage here: <https://www.portolavalley.net/community/for-residents/prepare-for-wildfires>. The Town has published an RFP for a consultant to prepare evacuation modeling based on a series of scenarios.
- **General Wildfire Preparedness:** The Town maintains a general emergency preparedness webpage with links to CalFire wildfire emergency preparedness here: <https://www.portolavalley.net/for-residents/emergency-preparedness-information>
  - The Town also provides emergency alerts through a variety of platforms.
- **WPV Ready:** The Town collaborates with the Woodside Fire Protection District to train volunteers to provide Emergency Preparedness information, education and resources to the towns of Woodside and Portola Valley, and un-incorporated areas of San Mateo County including Emerald Hills, Ladera, Los Trancos, Skyline, and Vista Verde. Their goal is to reach every individual and neighborhood in the district, and help them become prepared for emergencies like wildland fires and earthquakes.
- **Memorandum of Understanding with Headwaters Economics Community Planning and Assistance for Wildfire program (CPAW):** The Town is participating in an MOU between Headwaters Economics, Inc., Woodside Fire Protection District of San Mateo County, the County of San Mateo and the Town of Woodside to analyze various wildfire resiliency planning scenarios.
- **Ongoing Grant Requests and Support**



# MEMORANDUM

## TOWN OF PORTOLA VALLEY

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**TO:** Mayor and Members of Town Council

**FROM:** Cara Silver, Town Attorney

**DATE:** June 17, 2021

**RE:** Clarification re Very High and High Fire Severity Zones

### Introduction

There has been some recent confusion regarding the distinction between “very high” and “high” fire severity zones and whether such zones exist in Portola Valley. This memorandum clarifies these issues.

### Distinction between “Very High” and “High” Fire Severity Zones

- The California Department of Forestry and Fire Protection (known as Cal Fire) is charged with publishing wildland fire hazard maps for State Responsibility Areas (known as SRA’s) and cities referred to as Local Responsibility Areas or (LRA’s).<sup>1</sup>
- All of the State Responsibility Area is in a Fire Hazard Severity Zone. SRA lands are either ranked as Moderate, High or Very High Fire Hazard Severity Zones.
- For LRA’s (i.e. cities) Cal Fire publishes “Very High” and “High” fire maps. The “High” maps are only released in draft form, are not vetted by cities and have no legal impact.
  - Thus, for cities, there is no local vetting of “High” Fire zones and no procedure for contesting or adopting them. The maps that show “high fire” areas within cities are only draft maps, not final.
- Fire hazard<sup>2</sup> zones are based on factors such as fuel (material that can burn), slope and fire weather.
- Properties located in LRAs classified as “Very High” are subject to higher building code standards (known as Chapter 7A<sup>3</sup>); mandatory real estate disclosures and mandatory vegetation clearance under State law.<sup>4</sup>
- Attachment A shows Cal Fire’s formally adopted “Very High” map for Portola Valley.

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<sup>1</sup> State responsibility area is a legal term defining the area where the State has financial responsibility for wildland fire protection. Local responsibility areas are areas where cities have financial responsibility for fire protection. Public Resources Code Section 4125.

<sup>2</sup> Fire “hazard” is a measure of how a fire will behave, based on the physical conditions. But the risk, or how much damage a fire can do to homes, depends on the built environment.

<sup>3</sup> The Town Council has expanded Chapter 7A to all properties in Town.

<sup>4</sup> Government Code Section 51182.

- Attachment B shows Cal Fire's Draft "High Fire" map for Portola Valley. This map was never formally adopted by the Cal Fire Board.

#### History on Portola Valley's Very High Fire Map process

- The 2008 draft Cal Fire map showed no "Very High" fire zones in Portola Valley. On April 23, 2008, the Town Council unanimously accepted the draft map showing no "Very High" fire areas in Town.
- Subsequently, the Woodside Fire Protection District (Fire District) contested the Cal Fire map and created its own map and submitted it to Cal Fire. The Fire District map contained 4 Very High fire areas (Westridge Hills, Alpine Hills, Ranch and majority of western hillside).
- CalFire accepted Woodside Fire's map and re-issued its draft map in May 2008 showing four "Very High" fire areas.
- The Town retained a professional fire consultant Ray Moritz of Moritz Arboricultural Consulting to survey the entire town and prepare a fuel hazard assessment study. The Moritz survey utilized eleven categories of fuel assessment, ranging from "very high" to "low." In October 2008 Moritz prepared a map showing the vegetative fuel hazard for the entire town broken down into eleven categories. This is known as the Moritz map and it is included as Attachment C.
- The Town working with Moritz, the Fire District and the Chief of Cal Fire reviewed the May 2008 map and collectively agreed to some modifications. These modifications reduced the overall area of the "Very High" fire zone.
- On November 23, 2008, Cal Fire re-issued its map (third revision) and it showed only the northern quadrant of Town as "Very High". Per meeting minutes, Cal Fire, Town staff, Woodside Fire District and Moritz were all in agreement on this final revision.
- In February 2009, the Town Attorney and Town Manager recommended the Council adopt the "Very High" fire map agreed to by everyone. Residents contested this staff recommendation and the Council ultimately decided to take no action on the designation. The Council reasoned that action was unnecessary because they had already adopted Building Code 7A town-wide and they believed the Moritz Map was more accurate than the modified Cal Fire map.
- Cal Fire uses a model to classify the zones. The latest set of maps was developed in 2007-2010. These maps did not take into account wind patterns, a substantial factor in the November 2018 Camp Fire and in the North Bay during the October 2017 fires. The new model is expected to account for severe wind and dry weather into account.
- Cal Fire was expected to release new draft maps to test in winter 2019/2020 that took new risk factors into account. So far, these maps have not been made public.

Attachment D is the February 25, 2009 Town Council staff report summarizing the above mapping history.

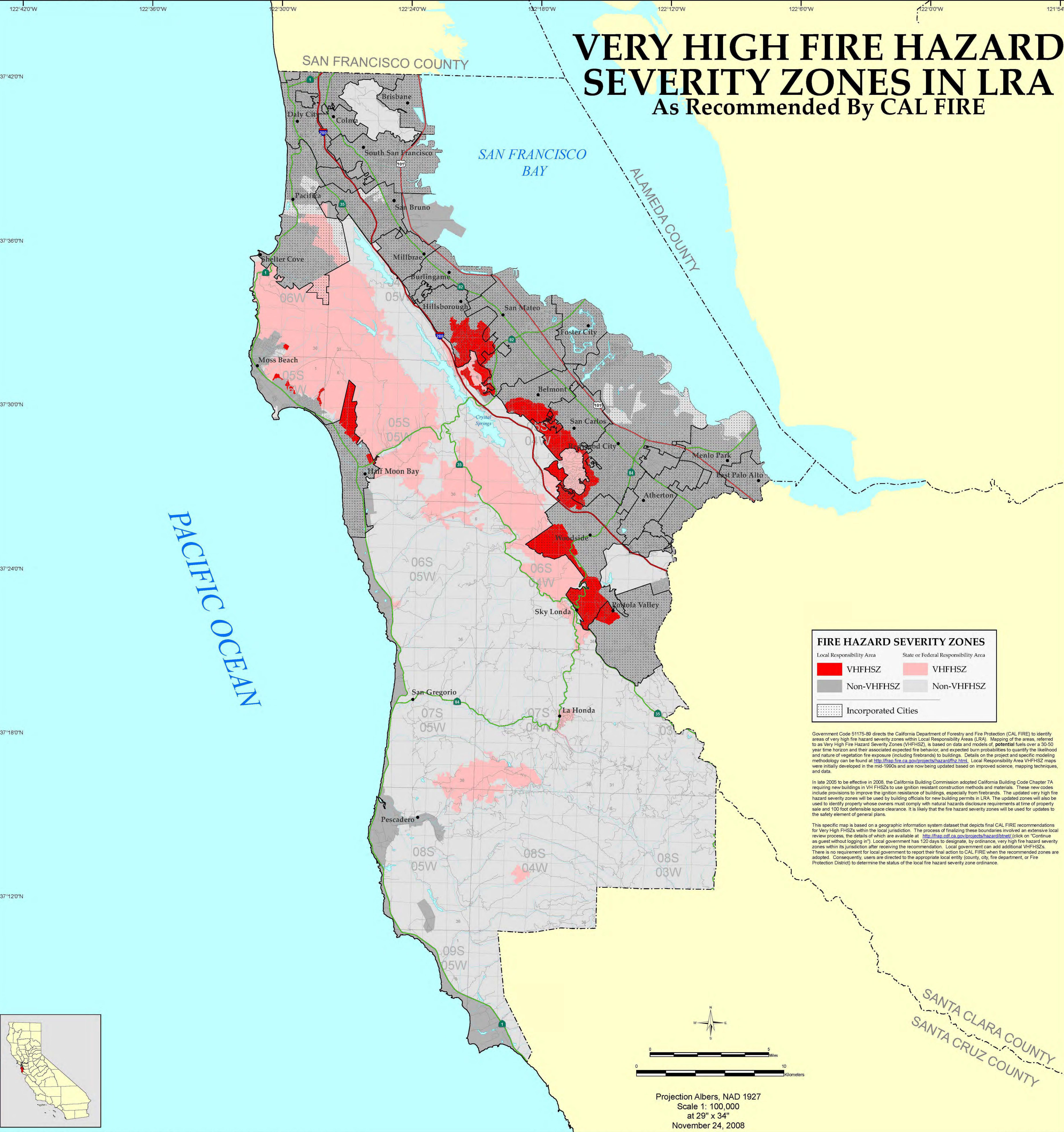
#### Attachments

- A: "Very High" Fire Hazard Severity Map
- B: "High" Fire Hazard Severity Map
- C: October 2008 Moritz Map
- D: February 25, 2009 Town Council Staff Report



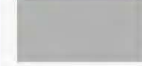
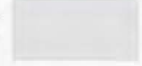



# SAN MATEO COUNTY

## VERY HIGH FIRE HAZARD SEVERITY ZONES IN LRA As Recommended By CAL FIRE



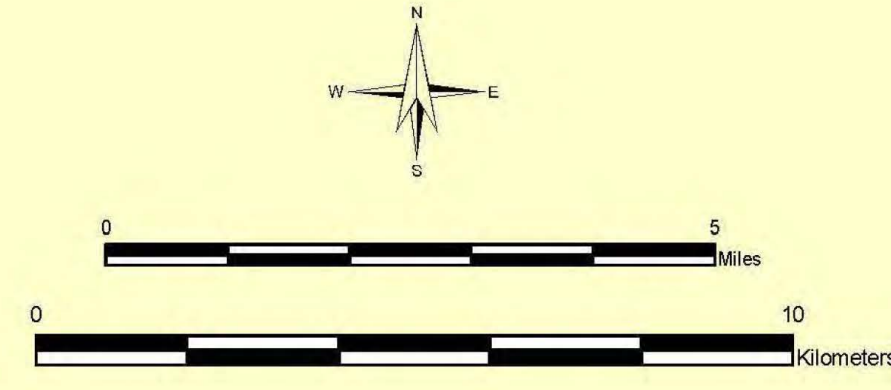
**FIRE HAZARD SEVERITY ZONES**

Local Responsibility Area		State or Federal Responsibility Area	
	VHFHSZ		VHFHSZ
	Non-VHFHSZ		Non-VHFHSZ
	Incorporated Cities		

Government Code 51175-89 directs the California Department of Forestry and Fire Protection (CAL FIRE) to identify areas of very high fire hazard severity zones within Local Responsibility Areas (LRA). Mapping of the areas, referred to as Very High Fire Hazard Severity Zones (VHFHSZ), is based on data and models of potential fuels over a 30-50 year time horizon and their associated expected fire behavior, and expected burn probabilities to quantify the likelihood and nature of vegetation fire exposure (including firebrands) to buildings. Details on the project and specific modeling methodology can be found at <http://frap.fire.ca.gov/projects/hazards/hz.html>. Local Responsibility Area VHFHSZ maps were initially developed in the mid-1990s and are now being updated based on improved science, mapping techniques, and data.

In late 2005 to be effective in 2008, the California Building Commission adopted California Building Code Chapter 7A requiring new buildings in VHFHSZs to use ignition resistant construction methods and materials. These new codes include provisions to improve the ignition resistance of buildings, especially from firebrands. The updated very high fire hazard severity zones will be used by building officials for new building permits in LRA. The updated zones will also be used to identify property whose owners must comply with natural hazards disclosure requirements at time of property sale and 100 foot defensible space clearance. It is likely that the fire hazard severity zones will be used for updates to the safety element of general plans.

This specific map is based on a geographic information system dataset that depicts final CAL FIRE recommendations for Very High FHSZs within the local jurisdiction. The process of finalizing these boundaries involved an extensive local review process, the details of which are available at <http://frap.fire.ca.gov/projects/hazards/hz.html> (click on "Continue as guest without logging in"). Local government has 120 days to designate, by ordinance, very high fire hazard severity zones within its jurisdiction after receiving the recommendation. Local government can add additional VHFHSZs. There is no requirement for local government to report their final action to CAL FIRE when the recommended zones are adopted. Consequently, users are directed to the appropriate local entity (county, city, fire department, or Fire Protection District) to determine the status of the local fire hazard severity zone ordinance.



Projection Albers, NAD 1927  
Scale 1: 100,000  
at 29" x 34"  
November 24, 2008

The State of California and the Department of Forestry and Fire Protection make no representations or warranties regarding the accuracy of data or maps. Neither the State nor the Department shall be liable under any circumstances for any direct, special, incidental, or consequential damages with respect to any claim by any user or third party on account of, or arising from, the use of data or maps.

Obtain FRAP maps, data, metadata and publications on the Internet at <http://frap.cdf.ca.gov>  
For more information, contact CAL FIRE-FRAP, PO Box 944246, Sacramento, CA 94244-2460, (916) 327-3939.

Arnold Schwarzenegger, Governor,  
State of California  
Mike Chrisman, Secretary for Resources,  
The Resources Agency  
Ruben Grijalva, Director,  
Department of Forestry and Fire Protection

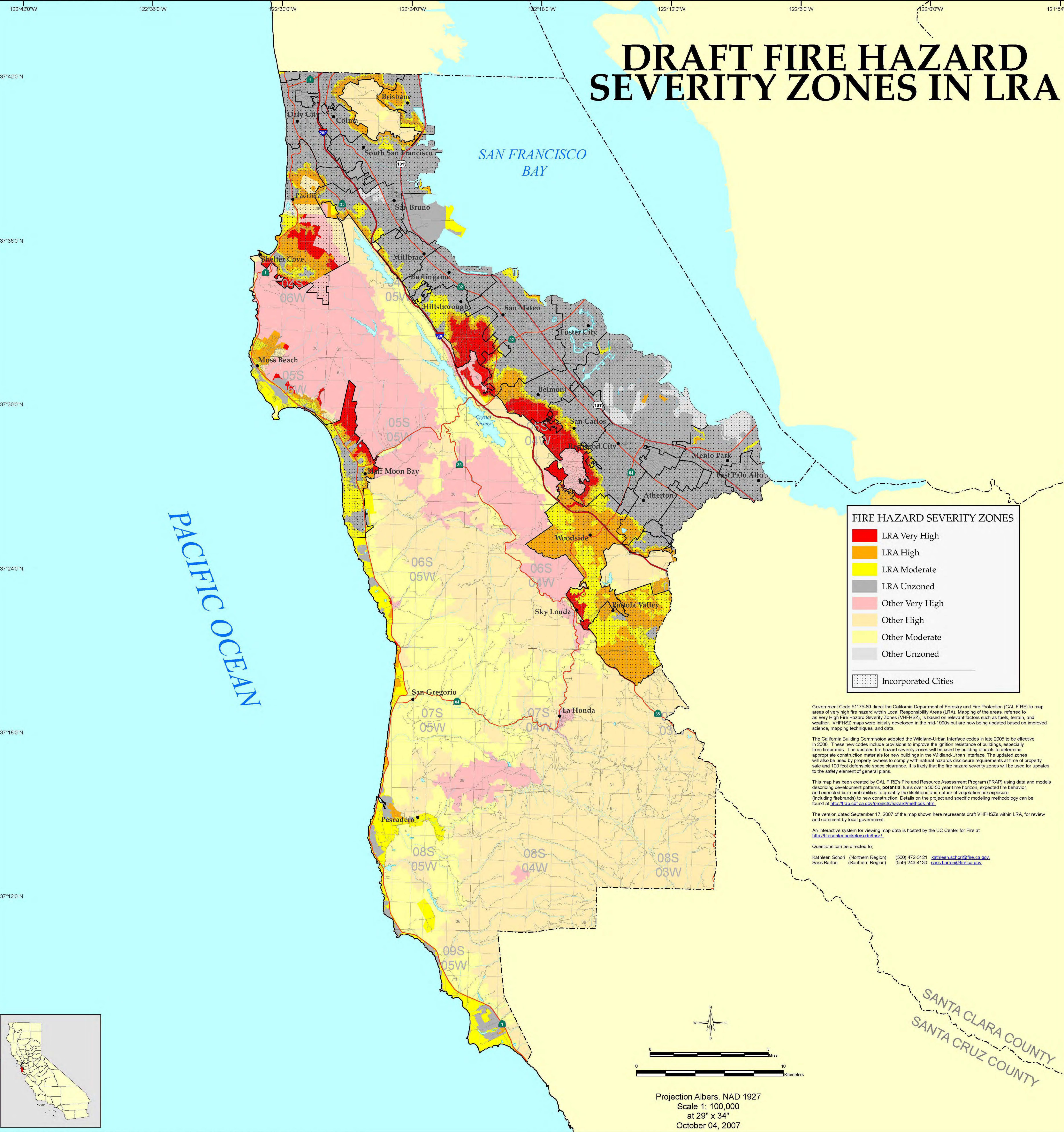
MAP ID: FHSZL\_MAP  
DATA SOURCES  
CAL FIRE Fire Hazard Severity Zones (FHSZL06\_3)  
CAL FIRE State Responsibility Areas (SRA05\_5)  
CAL FIRE Incorporated Cities (Incorp07\_3)  
PLSS (1:100,000 USGS, Land Grants with CAL FIRE grid)





# SAN MATEO COUNTY

## DRAFT FIRE HAZARD SEVERITY ZONES IN LRA



**FIRE HAZARD SEVERITY ZONES**

- LRA Very High
- LRA High
- LRA Moderate
- LRA Unzoned
- Other Very High
- Other High
- Other Moderate
- Other Unzoned
- Incorporated Cities

Government Code 51175-89 direct the California Department of Forestry and Fire Protection (CAL FIRE) to map areas of very high fire hazard within Local Responsibility Areas (LRA). Mapping of the areas, referred to as Very High Fire Hazard Severity Zones (VHFHSZ), is based on relevant factors such as fuels, terrain, and weather. VHFHSZ maps were initially developed in the mid-1990s but are now being updated based on improved science, mapping techniques, and data.

The California Building Commission adopted the Wildland-Urban Interface codes in late 2005 to be effective in 2008. These new codes include provisions to improve the ignition resistance of buildings, especially from firebrands. The updated fire hazard severity zones will be used by building officials to determine appropriate construction materials for new buildings in the Wildland-Urban interface. The updated zones will also be used by property owners to comply with natural hazards disclosure requirements at time of property sale and 100 foot defensible space clearance. It is likely that the fire hazard severity zones will be used for updates to the safety element of general plans.

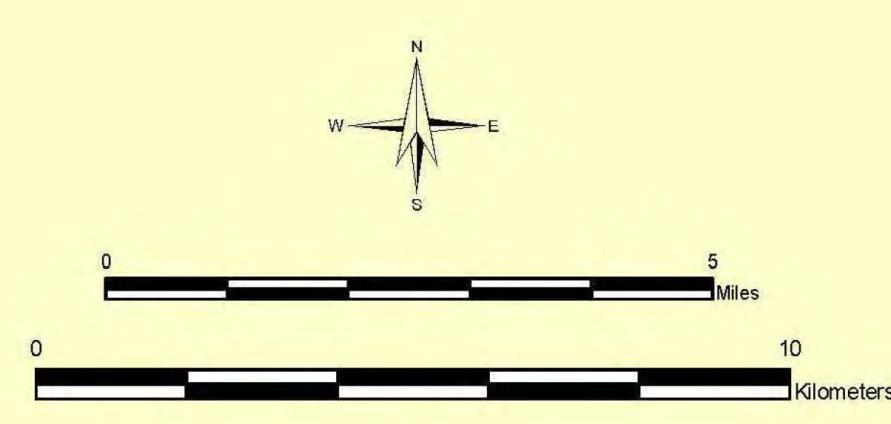
This map has been created by CAL FIRE's Fire and Resource Assessment Program (FRAP) using data and models describing development patterns, potential fuels over a 30-50 year time horizon, expected fire behavior, and expected burn probabilities to quantify the likelihood and nature of vegetation fire exposure (including firebrands) to new construction. Details on the project and specific modeling methodology can be found at <http://frap.cdf.ca.gov/projects/hazard/methods.htm>.

The version dated September 17, 2007 of the map shown here represents draft VHFHSZs within LRA, for review and comment by local government.

An interactive system for viewing map data is hosted by the UC Center for Fire at <http://firecenter.berkeley.edu/vhsz/>.

Questions can be directed to:

Kathleen Schori (Northern Region) (530) 472-3121 [kathleen\\_schori@fire.ca.gov](mailto:kathleen_schori@fire.ca.gov)  
 Sass Barton (Southern Region) (559) 243-4130 [sass\\_barton@fire.ca.gov](mailto:sass_barton@fire.ca.gov)



Projection Albers, NAD 1927  
 Scale 1: 100,000  
 at 29" x 34"  
 October 04, 2007

The State of California and the Department of Forestry and Fire Protection make no representations or warranties regarding the accuracy of data or maps. Neither the State nor the Department shall be liable under any circumstances for any direct, special, incidental, or consequential damages with respect to any claim by any user or third party on account of, or arising from, the use of data or maps.

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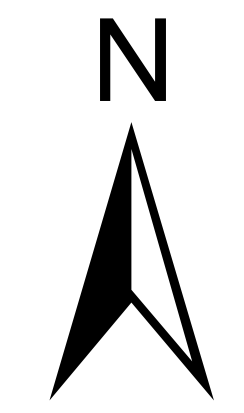
MAP ID: FHSZL06\_1\_MAP  
 DATA SOURCES  
 CAL FIRE Fire Hazard Severity Zones (FHSZL06\_1)  
 CAL FIRE State Responsibility Areas (SRA05\_4)  
 CAL FIRE Incorporated Cities (Incorp07\_2)  
 PLSS (1:100,000 USGS, Land Grants with CAL FIRE grid)





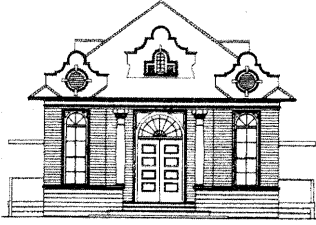
- CH (h+) CHAPARRAL (highest)
- CS (h) COASTAL SCRUB (high)
- FPO (h+) FIRE-PRONE OAK WOODLAND (highest)
- FPUF (h) FIRE-PRONE URBAN FOREST (high)
- FPUF (h+) FIRE-PRONE URBAN FOREST (highest)
- GR (m) GRASSLAND (moderate)
- MEF (h+) MIXED EVERGREEN FOREST (highest)
- MG (l) MOWED GRASS (low)
- RF (h) REDWOOD FOREST (high)
- US (m) URBAN SAVANNAH (moderate)
- VIN (l) VINEYARD (low)

0 1,200 2,400  
 Feet



Basemap: Town of Portola Valley  
 Vegetation Data Source: Moritz Arboricultural Consulting  
 Map: TRA Environmental Sciences, Inc.  
 October 2008





# MEMORANDUM

## TOWN OF PORTOLA VALLEY

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**TO:** Mayor and Members of the Town Council

**FROM:** Leslie Lambert, Planning Manager

**DATE:** February 25, 2009

**RE:** Introduction of an Ordinance Requiring the Designation of Very High Fire Hazard Severity Zones in the Town of Portola Valley

### Background

CAL FIRE is required to map all areas of the State of California to designate fire severity zones (moderate, high, or very high), based upon fuels, terrain, weather, and other relevant factors. These zones then define the application of various mitigation strategies to reduce risk associated with wildland fires. The maps cover State Responsibility Areas (SRA) and Local Responsibility Areas (LRA). SRA's cover the unincorporated regions of the State, while LRA's cover incorporated cities and towns. SRA's were originally mapped in 1985 and LRA's were originally mapped in 1996.

Starting in 2006, CAL FIRE undertook a map updating process, using Geographic Information System (GIS) data in conjunction with modeling techniques designed to describe potential fire behavior and fire probability.

The updated maps are to be provided to local agencies so that they can be used to implement Chapter 7A Wildland-Urban Interface Zone building standards. Within the SRA's the provisions of 7A apply to all fire hazard categories. Within the LRA's Chapter 7A applies only to those areas designated "Very High".

There have been a number of draft versions of the proposed maps for the Town. A considerable amount of interaction between the Woodside Fire Marshal, the Town staff and Ray Moritz Fire Consultant and CAL FIRE representatives has taken place over the past several months. While CAL FIRE received the attached April 25, 2008 letter from the Mayor (Exhibit "A") indicating that we accepted the April version of the draft map, showing no areas of "Very High" hazard, they also had a significant amount of information provided to them from Woodside Fire.

In May, CAL FIRE released its revised draft map. The map included recommendations made by Woodside Fire that included "Very High" designations within the Westridge Area, Alpine Hills, Portola Ranch, and a majority of the western hillsides. Town staff reviewed the map and requested that CAL FIRE reconsider the broad areas designated as "Very High". Staff worked with the Chief at CAL FIRE in charge of the mapping program to address our

concerns and we are pleased that CAL FIRE was responsive to most of our requests. CAL FIRE removed all the "Very High" zones except for the northwest quadrant of the Town, which includes Hayfields, Wayside and Santa Maria neighborhoods. Attached is a small version of the November 23, 2008 map as recommended by CAL FIRE (Exhibit "B"). (A larger scale map will be on display at the Town Council meeting.)

#### Local Very High Hazard Severity Zones Map

CAL FIRE prepared recommendations for Very High Fire Hazard Severity Zones in those areas where local government agencies have Local Responsibility Areas (LRA) and has transmitted these recommendations in the attached December 15, 2008 letter to the Town Manager (Exhibit "C"). Government Code Sections 51175-51189 govern the actions that local agencies must take concerning the designation of "Very High Hazard Severity" areas. Specifically, Section 51179 requires the local agency to designate, by ordinance, very high fire hazard severity zones in its jurisdiction within 120 days of receiving recommendations from CAL FIRE.

CAL FIRE has prepared Final Very High Fire Hazard Severity Zone recommendations for local responsibility areas. These recommendations reflect similar hazard ratings adjacent to the state responsibility area zones (unincorporated areas).

The fire hazard maps were updated to more accurately reflect the zones in California that are susceptible to wildfire. The hazard mapping process incorporated new science and technology for determining hazard ratings. Using the latest fire science, CAL FIRE developed and field-tested a model that serves as the basis of zone assignments. The model evaluated properties using characteristics that affect the probability of the area burning and potential fire behavior in the area. Many factors were considered such as fire history, existing and potential fuel, flame length, blowing embers, terrain, weather and the likelihood of buildings igniting.

The hazard maps are to be used to identify areas where ignition resistant building standards will be required for new construction, to identify properties requiring defensible space maintenance, and by sellers to disclose natural hazards at the time of property sale. CAL FIRE strongly recommends that local governments use the maps as they update the safety elements of their general plans.

Regarding the accuracy of the maps, CAL FIRE has made the maps available to local agencies through its website. Local agencies have had the opportunity to comment on the maps and have requested changes based on supporting data. CAL FIRE reviewed the recommended changes and updated the maps where appropriate.

#### Chapter 7A

In September 2005, the California Building Standards Commission approved the Office of the State Fire Marshal's emergency regulations amending the California Code of Regulations (CCR), Title 24, Part 2, know as the 2007 California Building Code (CBC).

In May 2008, the Town Council adopted an ordinance, which amended Chapter 15.04 of the Portola Valley Municipal Code. This chapter incorporates the Town's building regulations

and the subject ordinance was related to the 2007 Building Standards Code. Of interest to the Town Council was the Wildland Urban Interface Building Standards (Chapter 7A). The regulations included in Chapter 7A will only apply to new buildings in areas designated as "Very High Fire Hazard Severity Zones." Specific requirements and regulations included in Chapter 7A include:

**Roofing:** Class "A" roofing will be required in the designated wildland urban interface zones. The Town currently has Class "A" regulations, however, Chapter 7A further requires that any space between a roof covering and roof decking must be designed to prevent the intrusion of flames and embers. Chapter 7A calls out specifications for flashing, and requires that roof gutters are "provided with a means to prevent the accumulation of leaves and debris in the gutter." This will result in the construction plans calling out construction details, including flashing details and gutter details, and inspectors inspecting the same.

**Attic Ventilation:** Attic vents shall resist the intrusion of flame and embers into the attic area of the structure, or shall be protected by corrosion-resistant, noncombustible wire mesh with ¼ inch openings. Also, eaves and soffits shall be protected by ignition-resistant materials or noncombustible construction on the exposed underside.

**Exterior Walls:** Exterior walls are required to be noncombustible or ignition-resistant material, heavy timber, or log wall construction, and must provide protection from the intrusion of flames and embers. This regulation essentially precludes the use of wood shingles on buildings. Exterior wall vents must resist the intrusion of flame and embers into the structure or vents shall be screened with a corrosion resistant, noncombustible wire mesh with ¼ inch openings. Exterior windows, window walls, glazed doors, and glazed opening within exterior doors shall be insulating-glass units with a minimum of one tempered pane, or glass block units, or have a fire-resistance rating of not less than 20 minutes. This is a more substantial window than may typically be installed. Exterior doors are also required to utilize a noncombustible construction, or solid core wood with other design parameters. The exterior door requirements are fairly consistent with the doors typically utilized throughout Town.

**Decking:** Decking within ten feet of the primary structure must be constructed of an ignition-resistant material, or of heavy timber, exterior fire-retardant treated wood, or approved noncombustible materials. This regulation severely limits the allowable building materials when considering deck construction.

**Underfloors:** The underside of cantilevered and overhanging portions of the building must maintain the ignition-resistant integrity of the exterior walls. Buildings shall also have all underfloor areas enclosed to grade with exterior walls. Again, these provisions will limit the materials that can be utilized for construction.

**Landscape Maintenance Plans:** Section 701.A.3.2.4 states "Prior to building permit final approval, the property shall be in compliance with the vegetation clearance requirements prescribed in Public Resources Code 4291 Government Code 51182." The referenced code section provides information regarding fuel reduction treatments around buildings, including creating horizontal and vertical spacing between vegetation, removing surface fuels greater than 4 inches in height, and pruning branches to at least 6 feet. Essentially, the Town and/or Fire District will be responsible for reviewing, approving, and inspecting vegetation maintenance plans. Presumably, inspections will be on-going well after final

inspection of the structures. The staff has not yet prepared a plan for administration of this particular provision, and will work with the Fire District in determining enforcement responsibilities.

Inspection and Certification: The building official will be required to certify that, at the time of final inspection, the site is compliant with the provisions of Chapter 7A. Given the requirements for preparation and maintenance of defensible space, this will need to be carefully coordinated with the Fire Marshall, as Town staff is not specifically trained in landscaping for fuel reduction.

The Deputy Building Official is current on Chapter 7A and will also be attending a training seminar on the Wildland Urban Interface Code and Products sponsored by Underwriters Laboratory on March 12<sup>th</sup>. After the seminar we hope to come back with a definition of new buildings and we may also want to discuss applying these standards to areas not within the "Very High" designation.

#### Insurance

At the Town Council meeting of April 23, 2008 a review of the CAL FIRE map and the Fuel Mapping prepared by Ray Moritz was considered. Town Council and residents raised a number of concerns regarding the proposed Very High Fire Hazard Severity Zone and how it would affect cost and availability of insurance. CAL FIRE has indicated that insurance rates are determined by a variety of factors, including fire risk. Fire risk is different from Fire hazard. Fire hazard is the focus of the fire hazard maps, not fire risk. Fire hazard is based on factors such as fuel (material that can burn), slope and fire weather. Fire risk considers the potential for damage based on factors such as the ability of a fire to ignite the structure, the flammability of the construction material, and mitigation measures that reduce the risk. These mitigation measures include defensible space, building design, ignition resistant building materials, and ignition resistant construction techniques.

Ultimately, it is not possible to state that insurers will ignore the limitations of the focus of the hazard maps. However, to respond to such issues, the California Department of Insurance and CAL FIRE have established a partnership and joint commitment to protecting Californians from fire losses. A Memorandum of Understanding (MOU) (Exhibit "D") was signed by the Insurance Commission and the Director of CAL FIRE in October 2007 to mutually promote awareness and collaboration among fire officials, the insurance industry, and the public to prevent and mitigate fire losses. The MOU is attached for reference.

In the past few years, a number of residents have informed the Town staff and Fire Marshal that their insurance company was either intending to or canceling their insurance policies. It has been the practice of the staff and the Fire Marshal to encourage property owners to contact their insurance companies and request a site inspection of the property. Further, the Fire Marshal is also available to conduct a site inspection of the subject property and provide recommendations for fuel management and mitigation. This approach appears to have been successful in many instances, at least on those residents who responded back to staff on their outcome.



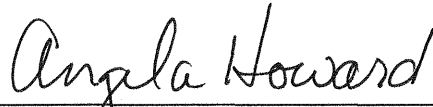
Local Discretion

Public Resources Code Section 51179 allows a local agency, at its discretion, to exclude from the requirements of Chapter 7A an area identified as a Very High Fire Hazard Severity Zone by the State, following a finding supported by substantial evidence in the record that the requirements of Chapter 7A and the Public Resources Code are not necessary for effective fire protection within the area. At this point, the staff does not believe substantial evidence exists to rebut the State's designation in the area the State has designated as Very High Fire Hazard Severity Zone.

Recommendation

It is recommended that the Town Council review this report and attachments as it relates to the Very High Fire Hazard Severity Zones in the Local Responsibility Area (LRA) Map dated November 24, 2008 as recommended by the Director of the California Department of Forestry and Fire Protection (CAL FIRE). It is further recommended that the Town Council introduce and conduct the first reading of the proposed ordinance adopting the Very High Hazard Severity Zones in LRA as prepared by the Town Attorney.

Approved: \_\_\_\_\_

  
Angela Howard, Town Administrator

**ORDINANCE NO. \_\_\_\_\_**  
**AN ORDINANCE OF THE TOWN COUNCIL OF THE**  
**TOWN OF PORTOLA VALLEY DESIGNATING**  
**VERY HIGH FIRE HAZARD SEVERITY ZONES**

**WHEREAS**, earlier this year, the Town adopted an updated Building Code, which included, among other things, Chapter 7A which will apply to new buildings in areas designated "Very High Fire Hazard Severity Zones"; and

**WHEREAS**, Pursuant to State law, the California Department of Forestry and Fire Protection ("CAL FIRE") is required to map all areas of the State to designate fire severity zones; and

**WHEREAS**, CAL FIRE prepared a draft map to Portola Valley, the Town and Woodside Fire Protection District made comments on the draft map, the Town held a public hearing on the draft map and CAL FIRE has now released its final map; and

**WHEREAS**, local agencies are required to designate by ordinance the very high fire hazard severity zones in their jurisdiction within 120 days of receiving recommendations from CAL FIRE.

**NOW, THEREFORE**, the Town Council of the Town of Portola Valley does **ORDAIN** as follows:

1. Adoption of Map. The Town Council hereby designates Very High Fire Hazard Severity Zones as recommended by the Director of the California Department of Forestry and Fire Protection and as designated on a map ("Map") titled Very High Fire Hazard Severity Zones in LRA-Portola Valley, dated November 24, 2008, and retained on file at Portola Valley Town Hall, 765 Portola Road, Portola Valley, CA 94028.
2. Environmental Review. Adoption of the map referred to in Section 1 is categorically exempt from the provisions of CEQA, under CEQA Guidelines Section 15307 and 15308 (Actions by Regulatory Agencies for Protection of Natural Resources and the Environment).
3. Severability. If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.
4. Effective Date; Posting. This ordinance shall become effective thirty (30) days from the date of its passage, and shall be posted within the Town of Portola Valley in three (3) public places.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

By: \_\_\_\_\_  
Mayor

ATTEST

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney



# TOWN of PORTOLA VALLEY

April 25, 2008

Ms. Kate Dargan  
Fire Marshal  
Cal Fire  
1131 S. Street  
Sacramento, CA 95814  
P.O. Box 94426

COUNCIL:  
Maryann Moise Derwin - Mayor  
Ann E. Wengert - Vice Mayor  
Richard T. Merk  
Steve Toben  
Ted Driscoll

TOWN OFFICERS:  
Angela Howard  
Town Administrator  
Sandy Sloan  
Town Attorney


Subject: State Fire Hazard Maps for the Town of Portola Valley

Dear Ms. Dargan,

The Town of Portola Valley Town Council at their April 23, 2008 meeting, held a public meeting on the proposed DRAFT Fire Hazard Severity Zones in LRA map. After much discussion it was unanimously decided to accept the DRAFT Map as shown on the State Web Site. The Town Council further voted unanimously to not accept the recommendations forwarded to the State by the Woodside Fire Protection District.

We appreciate your staff's assistance and support in working with us on the review of the DRAFT Map.

Sincerely,

  
Maryann Derwin, Mayor

cc: Town Council Members  
Sandy Sloan, Town Attorney  
Angela Howard, Town Administrator  
Leslie Lambert, Planning Manager  
George Mader, Town Planner  
Chief Muela, Woodside Fire Protection District  
Fire Marshal Enea, Woodside Fire Protection District  
Fire Captain Martinez, Cal Fire  
David Sapsis, Cal Fire  
Dean Cromwell, Cal Fire



# Portola Valley

## Very High Fire Hazard Severity Zones in LRA As Recommended by CAL FIRE



**Fire Hazard Severity Zones**

Legend:

- Very High Fire Hazard Severity Zone (VHFHSZ)
- High Fire Hazard Severity Zone (HFHSZ)
- Very Low Fire Hazard Severity Zone (VLFHSZ)
- Low Fire Hazard Severity Zone (LFHSZ)
- City Boundary (dashed line)
- County Boundary (dotted line)

Government Code 65700 allows the California Department of Forestry and Fire Protection (CAL FIRE) to identify areas that are highly susceptible to fire and to recommend fire hazard severity zones (FHSZ) for those areas. CAL FIRE is authorized by the California State Board of Forestry and Fire Protection (SBOFF) to identify areas that are highly susceptible to fire and to recommend fire hazard severity zones (FHSZ) for those areas. CAL FIRE is authorized by the California State Board of Forestry and Fire Protection (SBOFF) to identify areas that are highly susceptible to fire and to recommend fire hazard severity zones (FHSZ) for those areas. CAL FIRE is authorized by the California State Board of Forestry and Fire Protection (SBOFF) to identify areas that are highly susceptible to fire and to recommend fire hazard severity zones (FHSZ) for those areas.

This map was developed using data products such as parcel and city boundaries provided by local government agencies. In certain cases, this includes copyrighted geographic information. The maps are for display purposes only. Questions and requests related to parcel or city boundary data should be directed to the appropriate local government entity.



Projection: Albers, NAD 1983  
Scale: 1" = 14,000'  
at 30° x 30"  
November 24, 2008



## DEPARTMENT OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246  
SACRAMENTO, CA 94244-2460  
(916) 653-7772  
Website: [www.fire.ca.gov](http://www.fire.ca.gov)



December 15, 2008

TOWN OF PORTOLA VALLEY

Ms. Angela Howard  
Town Administrator  
City of Portola Valley  
765 Portola Road  
Portola Valley, California 94028

DEC 16 2008

RECEIVED

Dear Ms. Howard:

This letter is to transmit the California Department of Forestry and Fire Protection (CAL FIRE) recommendations for very high fire hazard severity zones in the city of Portola Valley in San Mateo County, California. This is made pursuant to Government Code Sections 51178, 51179 and 51181 which require the Director of CAL FIRE to make such recommendations. Government Code Sections 51178.5 and 51179 (a through g) describe local agency responsibilities upon receipt of this information. Cities and counties have 120 days from receipt of this letter to act on the recommendations.

The map and data are available on the enclosed compact disc. The information is also located on the CAL FIRE Website at:

[http://www.fire.ca.gov/fire\\_prevention/fire\\_prevention\\_wildland.php](http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland.php)

If you have questions or need further information please contact, John Ferreira, Unit Chief, San Mateo-Santa Cruz Unit at (831) 335-5355.

Sincerely,

Handwritten signature of Ruben Grijalva.  
RUBEN GRIJALVA  
Director

cc: John Ferreira  
Mike Fuge

Enclosures





**STEVE POIZNER**  
Insurance Commissioner  
California Department of Insurance

**RUBEN GRIJALVA**  
Director  
California Department of Forestry  
& Fire Protection (CAL FIRE)

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## MEMORANDUM OF UNDERSTANDING

**This Memorandum of Understanding (MOU) establishes a partnership between the California Department of Insurance, Steve Poizner, Insurance Commissioner and the California Department of Forestry and Fire Protection (CAL FIRE), Ruben Grijalva, Director in the prevention and mitigation of fire losses in California.**

### **I. BACKGROUND**

The California Department of Insurance (CDI) regulates California's \$118 billion insurance industry, the fourth largest insurance market in the world. Among his many duties, the Insurance Commissioner oversees the activities of all fire, homeowner, and other insurance products, which are intended to protect the public and businesses from losses, including losses caused by wildfire. One of Insurance Commissioner Poizner's primary objectives is to increase public awareness of the value of disaster preparation and mitigation for all types of disasters, including destructive wildfires. The Insurance Commissioner is committed to ensuring that fire insurance coverage is both affordable and available to those who need it most.

CAL FIRE/State Fire Marshal's (SFM) office provides Californians with a wide variety of public safety services including fire protection, fire prevention, law enforcement, code enforcement, arson/bomb response, hazardous liquid pipeline safety and product safety. The mission of the CAL FIRE/SFM is to protect life and property through the development and application of fire prevention engineering, education and enforcement. The CAL FIRE/SFM office is actively engaged in seeking new ways to approach the wildfire problem and bring additional resources, programs, and partnerships to bear on reducing loss and costs.

Facts at a glance:

- The number and degree of wildfire losses are increasing in California decade by decade.
- Each year, over \$100 million is being spent in the suppression efforts and more in the disaster recovery phases of these catastrophic natural and/or human caused hazards, but the losses continue to mount.

- Hundred of thousands of acres within the wildland-urban interface burn each year.
- Thousands of homes, businesses and other structures are damaged or destroyed each year by wildfires, resulting (on average) in more than \$200 million in annual property damage.
- Many of these fires result in injury and/or death to fire department and law enforcement personnel, and members of the public.
- In the 2003-2004 wildfire sieges, CAL FIRE's fire suppression costs exceeded \$252.3 million; property damage costs exceeded \$974 million; 5,394 structures were destroyed; and more than 23 people lost their lives as a result of California wildfires.
- More than 5 million homes are currently located in California's wildland-urban interface. As more homes are built within these areas, the danger to life and property will continue to increase, unless significant action takes place to prevent these fires or mitigate the damage and injury caused by fire.

## **II. COLLABORATIVE MISSION**

Together, the California Department of Insurance Commissioner and CAL FIRE Director, enter into this MOU to mutually promote an increased awareness and collaboration among fire officials, the insurance industry and the public in the prevention and mitigation of fire losses. Accordingly, the California Insurance Commissioner and CAL FIRE Director, agree to collaborate on the following goals:

- Reduce the risk that wildfires will cause in the loss of life or large-scale property damage/loss.
- Increase awareness of fire officials, the insurance industry and the public on methods and ways to prevent and mitigate fire losses.
- Increase incentives for homeowners, businesses, and insurance companies to actively prevent and mitigate fire risks.
- The Department of Insurance will facilitate obtaining comments/suggestions on the concepts contained herein, from representatives of the California insurance industry with the end goal of receiving their endorsement on this collaborative venture.

Unless otherwise agreed, each organization of this MOU is responsible for its own expenses related to this MOU. There will be no exchange of funds between the parties for tasks associated with this MOU.

### III. SCOPE OF COLLABORATION

In addition to as yet unknown/other pertinent efforts, that may be agreed upon, the California Insurance Commissioner and CAL FIRE/SFM agrees to collaborate on the following projects:

#### **1. Public Awareness Campaign - Prevention and Mitigation**

The public may realize several benefits of prevention and mitigation of wildfires which include: (1) a direct reduction in the risk of property damage, death or injury caused by fire, (2) increased availability and affordability of homeowners', business and other insurance products; and (3) increased level of insurance coverage resulting in fewer out-of-pocket expenses to rebuild after a fire.

Accordingly, the California Insurance Commissioner and CAL FIRE Director agree to collaborate on development of an outreach program targeted to residents and businesses located in the wildland-urban interface. The parties also agree to work closely on outreach projects with other organizations committed to fire safety, prevention and mitigation, such as, the California Fire Safe Council and others.

#### **2. Insurance Company Education - Wildfire Risk and Mitigation Courses**

In cooperation with the California Department of Insurance, the CAL FIRE/SFM will examine the feasibility and value in offering to insurers managing property business in California, a one-day course (brought to the insurers regional offices) targeting appropriate wildfire risk assessment and property mitigation strategies in California to:

- Educate policy makers, underwriters and property inspectors.
- Share best practices that promote fire-safe living in the Wildland-Urban Interface (WUI) as outlined within building codes and standards.
- Teach effective mitigation strategies that (when applied) would significantly reduce the risk level and serve to increase the comfort level of insuring property within the wildland-urban interface.

This course would be offered to all personal/commercial property insurers writing business policies in California. CAL FIRE/SFM subject matter expert staff will provide the instruction to the insurer's audience. The Insurance Commissioner's Office will assist in the review of course materials and facilitation of the courses.



### **3. Review of Fire Insurance Risk Models**

The development of a property's fire insurance premium by an insurer commonly includes a factor representing the proximity and effectiveness of public fire suppression capabilities. It also commonly includes an interest in the type of fire department (on-duty, public safety officers or volunteer), nearest fire station to the risk, type of response (pump and aerial apparatus, emergency medical, etc.) from the closest fire station and the availability of an effective water supply. Insurers often attempt to obtain this information through direct contact with the fire department providing services to the risk in question. This is a cumbersome process relying upon the availability and cooperation of the fire department.

CAL FIRE/SFM currently maintains a small internal division that manages the National Fire Database Reporting System California inputs. Partnering with the insurance industry and expanding the purpose of this division to serve the data and analytical needs of both the California fire service and insurers through the creation of a statewide emergency services database would greatly enhance information-sharing and risk assessment.

Risk Mitigation Mapping is an obvious "next generation" activity for California. As a State, we have advanced to the point where we are able to define and map hazard areas for a variety of natural hazards (wildfire, flood, seismic), but we have yet to quantify mitigation effectiveness, collect that information, and display it in conjunction with the underlying hazard. This tool, more than any other, will demonstrate the effect of the actions we are taking collectively to mitigate risk.

A partnership with fire prevention/protection and insurance is a solid starting point for this improvement since both are directly founded upon risk mitigation. This effort would start with pilot project(s) to create the databases, quantify the hazard and effective mitigations through a weighted-values assessment methodology, acquisition and compilation of Geographic Information Systems (GIS) data for graphical display, on-site assessments, and continuing analysis. A two-year pilot project will develop sufficient templates and process assessments from which to propose a statewide effort.

### **4. California's Fair Access to Insurance Requirements Plan (FAIR Plan)**

Established by the Legislature in 1968, one of the California FAIR Plan's objectives is to, "... assure the availability of basic property insurance... to properties ... for which basic property insurance cannot be obtained through the normal insurance market". A large portion of these properties are in the program because of their exposure to the brush fire hazard found in the wildland-urban interface.

California Insurance Code Section 10090-10100.2 appears to support the individual risk inspection and improvement statements for many properties located within wildfire risk areas. However, may be missing the input of the subject experts to assist in the correct assignment of the assessment of risk as well as the communication of preferred risks to insurers. The current inspection

forms used by the inspection bureau(s) may not have incorporated a complete knowledge base conforming to national best practices and appear to focus only upon the distance to the hazardous brush with no attention to the impact of flying embers. There appears to be a need for guidelines for properties located within areas exposed to wildfires other than brush (primarily Central & Northern California). CAL FIRE/SFM has significant expertise in all types of wildland fire that takes advantage of scientific studies, codes and standards, and results from post fire studies.

CAL FIRE/SFM in cooperation with the Department of Insurance will work with the governing committee of the California FAIR Plan Association to analyze whether the current inspection form and inspection procedures are appropriate to use to measure a property's risk to loss by a wildland fire; and, if needed, work collaboratively to improve the form and the inspections procedures used by the FAIR Plan. Following approval of the form, the CAL FIRE/SFM will provide training and certification of the inspection bureau staff to encourage a consistent and fair application of the inspection criteria. By utilizing the CAL FIRE/SFM expertise in the property review it can be expected that a proper assessment of the risk coupled with utilization of the guidance to mitigate the exposure will reduce the structure and life loss potential of a wildland fire event.

#### **5. Damage Assessment**

Both CDI and CAL FIRE perform damage assessment functions immediately after a catastrophic wildfire. A review of this process may reveal strategies to partner before, during, and after large and damaging wildfires. Providing faster access to CAL FIRE's fire activity information/data bases may assist CDI in planning for resource deployment during fires. The Office of Emergency Services (OES) may be a natural partner in this as they also conduct a damage assessment process for disaster declaration requirements. A timely, more efficient damage assessment process provides better service levels to the affected victims and local communities, speeds the recovery effort, and allows for enhanced fraud enforcement. The California Insurance Commissioner and CAL FIRE Director agrees to examine each agency's respective damage assessment functions to determine where a sharing of damage assessment data is appropriate and valuable.

**IV. ORGANIZATION CONTACTS**

Both the California Insurance Commissioner and the CAL FIRE Director will appoint a person to serve as the official contact to coordinate the activities of each organization in carrying out this MOU. The initial appointees of each organization are:

**Department of Insurance:** Tony Cignarale, Deputy Commissioner  
Consumer Services & Market Conduct Branch  
300 S. Spring Street  
Los Angeles, CA 90013  
(213) 346-6360  
cignaralea@insurance.ca.gov

**CAL FIRE:** Kate Dargan, State Fire Marshal  
State Fire Marshal's Office  
1131 "S" Street  
Sacramento CA, 95814  
(916) 445-8434  
kate.dargan@fire.ca.gov

**V. AUTHORIZATIONS**

On behalf of the organization I represent, I wish to sign this Memorandum of Understanding (MOU) establishing a partnership between the California Department of Insurance and the California Department of Forestry and Fire Protection (CAL FIRE) in the prevention and mitigation of fire losses in California; and contribute to its further development.

**SIGNATURE ON FILE**

Date: 10/15/07

Steve Poizner, California Insurance Commissioner  
California Department of Insurance

**SIGNATURE ON FILE**

Date: 10/15/07

Ruben Grijalva, Director  
California Department of Forestry & Fire Protection (CAL FIRE)





# TOWN OF PORTOLA VALLEY

## STAFF REPORT

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**TO:** Mayor and Members of the Town Council

**FROM:** Cara Silver, Town Attorney

**DATE:** June 23, 2001

**RE:** Ordinance amending Portola Valley Park Municipal Code by adding a new Chapter 8.36 (Fireworks) to Title 8 (Health and Safety) banning fireworks in Town and setting administrative fines.

### **RECOMMENDATION**

Staff recommends that the Town Council introduce and waive further reading of the attached Ordinance adding Chapter 8.36 (Fireworks) to the Portola Valley Municipal Code banning fireworks in town and setting administrative fines.

### **BACKGROUND**

Use of fireworks is governed by the State Fireworks Law. Under this law, the state classifies fireworks into two categories: “dangerous”<sup>1</sup> and “safe and sane” fireworks. State law prohibits people from using dangerous fireworks unless licensed by the State. As for “safe and sane” fireworks, people may use unless there is a local law prohibiting or regulating. Both towns and special districts are expressly authorized to enact local laws prohibiting or regulating the sale, use, or discharge of safe and sane fireworks.<sup>2</sup> Portola Valley does not have a local ordinance regulating fireworks and historically has relied on the Woodside Fire Protection District’s ordinance generally banning fireworks.<sup>3</sup>

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<sup>1</sup> Dangerous fireworks include those that contain arsenic sulfide, arsenates, or arsenites, boron, chlorates, gallates or gallic acid, magnesium, mercury salts, phosphorous, picrates or picric acid, thiocyanates, titanium, or zirconium. (Cal. Health & Safety Code §§ 12505, 12677.)

<sup>2</sup> Cal. Health & Safety Code §§ 12500 and following.

<sup>3</sup> The District’s ordinance provides: “All non-professional fireworks listed by the California State Fire Marshal as ‘Safe and Sane’ are prohibited within the jurisdictional boundaries of the Woodside Fire Protection District.”

Fireworks are a fire hazard particularly during a period with predicted low moisture conditions and other environmental factors making fire risk very high now and in future years. This is especially concerning in an area subject to significant wildfire risk. In an effort to adopt uniform local regulations in the County of San Mateo, the County developed a model fireworks ordinance. The attached ordinance (“Fireworks Ordinance”) is based on the County’s model ordinance.

## **DISCUSSION**

Historically, police and fire officials responding to and proactively encountering fireworks complaints have had limited authority for enforcement based on State Codes. However, the Health and Safety Code does allow for the Town to adopt an ordinance or regulation to prohibit or regulate the sale, use, or discharge of fireworks within the Town.<sup>4</sup> The proposed Fireworks Ordinance will provide the Town with tools to protect our community and hold accountable those who may endanger it. Penalties pursuant to this new authority include nuisance abatement authority under existing Municipal Code Chapter 8.12, fine of \$1000, and misdemeanor criminal penalties of fine and imprisonment. The ordinance also allows civil collection to recover expenses from city resources utilized to respond to repeated violations.

The Town historically has not had a significant fireworks problem, even during the Fourth of July and summer months. However, given the high risk of fire, staff thought it would be prudent to bring this ordinance forward. The Fireworks Ordinance is designed to complement the Woodside Fire Protection District’s ordinance by regulating sale, possession, use and discharge of fireworks and by providing additional enforcement tools against this potentially dangerous activity for subsequent fireworks seasons to come.

## **FISCAL IMPACT**

There is a nominal impact. Expenses for the training of personnel in new enforcement options, and any accompanying administrative needs to facilitate such enforcement can be absorbed by existing budget.

## **ATTACHMENT**

1. Fireworks Ordinance

**Approved by:** Jeremy Dennis, Town Manager

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<sup>4</sup> Health & Safety Code §§ 12541, 12540.1(b).

## ORDINANCE NO. 2021-\_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PORTOLA VALLEY AMENDING THE PORTOLA VALLEY MUNICIPAL CODE BY ADDING CHAPTER 8.36 (FIREWORKS) TO TITLE 8 (HEALTH AND SAFETY)**

**WHEREAS**, dangerous and unregulated fireworks are a health and safety concern to the Town of Portola Valley (“Town”), the members of the Town community and their visitors; and

**WHEREAS**, fireworks cause thousands of injuries across this country every year; and

**WHEREAS** fireworks can cause significant anxiety in adults and children, especially veterans and others with post-traumatic stress, as well as pets; and

**WHEREAS**, fireworks also pose a serious risk of fire under conditions that continue to demonstrate extraordinary risk of damaging fire, in the wake of a year that saw significant damage from wildfire in the immediate region, with predicted continued weather and low moisture conditions in the future continuing that risk according to Cal Fire; and

**WHEREAS**, there is a demonstrated need for enforcement tools with which emergency responders can hold those posing a significant risk to public health and safety through the possession and detonation of fireworks in the Town; and

**WHEREAS**, the Town Council wishes to revise its Municipal Code to include more provisions regulating the use of fireworks within the Town.

**NOW THEREFORE**, the Town Council of the Town of Portola Valley does **ORDAIN** as follows:

**SECTION 1:** Chapter 8.36 [Fireworks], of Title 8 [Health and Safety] of the Town of Portola Valley Municipal Code is hereby added to read as follows:

**CHAPTER 8.36 FIREWORKS**

**8.36.010 Purpose.**

**8.36.020 Definition of fireworks.**

**8.36.030 Prohibition on sale and use of fireworks.**

**8.36.040 Enforcement.**

8.36.010 – Purpose.

The sale and use of fireworks is a threat to health and safety of the community and creates a fire hazard. The purpose of this section is to prohibit the sale and use of fireworks.

8.36.020 – Definitions.

For purposes of this section, fireworks means and includes:

- (1) “Enforcement officer” means and includes: an officer employed by the San Mateo County Sheriff’s office; the Town Manager or designee or the Town’s Code enforcement officer.
- (2) “Fireworks” means and includes any combustible or explosive composition or any substance or combination of substances or articles prepared for the purpose of

- producing a visible or an audible effect by combustion, explosion, deflagration or detonation, whether manufactured, homemade or improvised;
- (2) Fireworks classified by the State Fire Marshal as "dangerous fireworks" and as "safe and sane fireworks" pursuant to Health and Safety Code Sections 12561 and 12562;
  - (3) Any pyrotechnic devices for which the State Fire Marshal requires a license to manufacture, sell, transport or operate; and
  - (4) Firecrackers, torpedoes, skyrocketes, roman candles, cherry bombs, sparklers, chasers, snakes or other fireworks of like or similar construction and any fireworks containing any explosive or flammable compound or substance and any device containing any explosive or flammable compound, or any tablet or other device containing an explosive substance, except that the term "firework" shall not include any auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap and toy pistols, toy canes, toy guns or other devices for use of such caps.

8.36.030 – Prohibition on sale, possession and use of fireworks.

- (a) It is unlawful to sell or offer for sale fireworks of any kind or nature in the town.
- (b) It is unlawful to possess any fireworks in the town.
- (c) It is unlawful to fire, discharge, burn or use fireworks of any kind or nature within the town.
- (d) Should the provisions of this section conflict with the provisions of any other ordinance or town code section of the town, the provisions of this chapter shall prevail.

8.36.040 – Enforcement.

- (1) The San Mateo County Sheriff or his/her designee shall seize, remove or cause to be removed at the expense of the owner or person in possession all stocks of fireworks offered for sale, sold, possessed used or otherwise held in violation of this chapter.
- (2) Violation of this chapter shall be deemed a public nuisance and may be abated pursuant to chapter 8.12 of this Code. Additionally, the Town may bring a civil action against the violator of this Chapter to abate, enjoin, or otherwise compel the cessation of the violation of any provision of this chapter.
- (3) Administrative Citation. Upon identification of a violation of this chapter, any enforcement officer may issue an administrative citation or a notice of violation. The administrative fine shall be one thousand dollars (\$1,000) for each citation issued to any person who violates this chapter.
- (4) Misdemeanor. In addition to the penalties described above, any person who violates this chapter shall also be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00, imprisonment in the County Jail for a period not exceeding six months, or both, if the violation:



- (a) Is a substantial factor in causing harm to persons or property; and
  - (b) Causes serious bodily injury to persons, defined as the serious impairment of physical condition, and may include, without limitation, loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and/or serious disfigurement; and/or
  - (c) Causes damage to real or physical property in excess of \$1,000.00.
- (5) Non-exclusivity of Penalties. The penalties set forth herein are not intended to be exclusive of other penalties and remedies and are intended to be in addition to any other remedies provided in this Code or any other law, statute, ordinance or regulation, including, without limitation, the California Health and Safety Code or California Penal Code with regard to the sale, use, possession, delivery, storage, and/or transportation of fireworks.
- (6) Response costs. Any person who has been issued a second administrative citation and/or written notice of violation under this chapter within any 12-month period may, in addition to the penalties provided for in this chapter 8.36, also be held liable for response costs incurred in responding to a violation of this chapter 8.36. All violators shall be jointly and severally liable for the response costs incurred.
- (7) Payment of Fines and Costs.
- (a) All administrative fines and/or response costs shall be paid to the Town within 30 days from the date of service of the citation, unless the person charged in the citation requests a hearing as set forth below in Section 8.12.030.
  - (b) Payment of a fine and/or response costs under this chapter shall not excuse or discharge any continuation or repeated occurrence of the Code violation that is the subject of the administrative citation.
- (8) Appeal/Hearing Request.
- (a) Any recipient of an administrative citation may contest that there was a violation of this chapter or that they are liable for the violation by requesting an appeal hearing within 30 days from the date of service of the citation. The contesting party shall file the request with the Town Clerk, identify the date and location of the alleged violation and indicate in the appeal that they are requesting a hearing. The appealing party shall attach a copy of the citation to the appeal.
  - (b) The person requesting the appeal hearing shall be notified of the time and place set for the hearing at least 10 days before the date of the hearing.
  - (c) If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, a copy of such report also shall be served on the person requesting the hearing at least five days before the date of the hearing.
  - (d) The Town Manager, or designee(s), shall designate the hearing officer for the administrative citation appeal hearing.
- (9) Appeal/Hearing Procedure.
- (a) A hearing before the hearing officer shall be set for a date that is not less than 15 days and not more than 60 days from the date that the request for appeal hearing is filed in accordance with the provisions of this chapter.
  - (b) At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.
  - (c) The failure of any recipient of an administrative citation to appear at the appeal hearing shall constitute a failure to exhaust administrative remedies.

- (d) The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.
  - (e) The hearing officer may continue the appeal hearing and request additional information from the enforcement officer or the recipient of the administrative citation before issuing a written decision.
  - (f) After considering all of the testimony and evidence submitted at the appeal hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall set forth in the decision the reasons for that decision. The decision of the hearing officer shall be final. If the hearing officer determines that the administrative citation should be upheld, then the responsible person shall pay the fine amount within 30 days. The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.
  - (g) The employment, performance evaluation, compensation, and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.
- (10) Late Payment Charges.
- (a) Unless otherwise provided in this chapter, any person who fails to timely pay, in full, any fine imposed pursuant to the provisions of this chapter, on or before the date that fine is due, shall also be liable for the payment of a late payment charge 10% of the amount of the delinquent fine.
  - (b) Any person who fails to timely pay, in full, any fine imposed pursuant to the provisions of this chapter, on or before 30 days after its due date shall also pay a second 10% of the delinquent amount.
- (11) Recovery of Administrative Fines and Costs.
- (a) The Town may collect any past due administrative citation fine or late payment charge by use of all available legal means, including filing a civil lawsuit.
  - (b) Any person who fails to pay any obligation shall be liable in any action brought by the Town for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs, and attorneys' fees.
  - (c) Collection costs shall be in addition to any penalties, interest, and/or late charges imposed upon the delinquent obligation.
  - (d) Collection costs imposed under this provision shall be added to and become a part of the underlying obligation.
- (12) Right to Judicial Review. Any person aggrieved by an administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Superior Court in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.
- (13) Notices.
- (a) The administrative citation required to be given by this chapter shall be served on the violator in the same manner as summons in a civil action in accordance with Article 3 (commencing with § 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. All subsequent notices shall be served by personal delivery or by deposit in the United States mail, in a sealed envelope postage prepaid, addressed to such person to be notified at his or her last-known business or residence address as the same appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.
  - (b) Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

**SECTION 2. Environmental Review.** Pursuant to Guideline Section 15061(b)(3) of the California Environmental Quality Act (CEQA), this ordinance is exempt from the provisions of the CEQA, as it does not have a potential for causing a significant effect on the environment.

**SECTION 3. Severability.** If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.

**SECTION 4. Effective Date; Posting.** This ordinance shall become effective thirty days after the date of its adoption and shall be posted within the Town in three public places.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

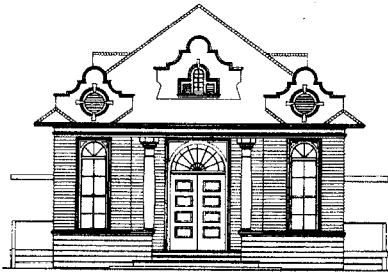
By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney



# TOWN OF PORTOLA VALLEY

## Colleagues Memo

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**TO:** Mayor and Members of the Town Council

**FROM:** Councilmember Wernikoff

**DATE:** June 23, 2021

**RE:** 6:00 P.M. Start Time for Town Council Meetings

### **RECOMMENDATION**

I recommend that the Town Council consider moving its current 7:00 P.M. start time for Council meetings to 6:00 P.M.

### **DISCUSSION**

Since I started on the Town Council, there have been three meetings that have run over three hours. For those required to contribute to the decision-making process, late nights can alter clear useful discussions, and asking residents to stay late with use on a regular basis is a significant ask (especially when we return to hybrid meetings later this summer).

Recently, the City of Redwood City moved its meetings to 6:00 P.M. as a result of the challenges I discussed above.

I welcome my colleagues thoughts on this recommendation.



There are no written materials for Council Liaison Committee and Regional Agencies Reports

There are no written materials for Town Manager Report

## **TOWN COUNCIL WEEKLY DIGEST**

Thursday – June 10, 2021

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1. Agenda – ASCC – Monday, June 14, 2021
2. Canceled Meeting– Trails & Path Committee – Tuesday, June 15, 2021
3. Agenda – Planning Commission – Wednesday, June 16, 2021

### **Attached Separates (Council Only)** *(will be mailed to your home)*

1. None



# TOWN OF PORTOLA VALLEY

## SPECIAL MEETING AGENDA

**Remote Meeting Covid-19 Advisory:** On March 17, 2020, the Governor of California issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings telephonically or by other electronic means. Pursuant to the statewide Shelter-In-Place Order issued by the Governor in Executive Order N-33-20 on March 19, 2020; and the CDC’s social distancing guidelines which discourage large public gatherings, Portola Valley Town Council and other public board, commission and committee meetings are being conducted electronically. The meeting are not available for in-person attendance. Members of the public may attend the meeting by video or phone linked in this agenda.

**Below are instructions on how to join and participate in a Zoom meeting.**

**Join Zoom Meeting Online:**

**Please select this link to join the meeting:**

<https://zoom.us/j/93783363737?pwd=aDNmSTNuRm84Unl4dG52Yk9KenRRQT09>

**Or:** Go to Zoom.com – Click Join a Meeting – Enter the Meeting ID

**Meeting ID:** 937 8336 3737     **Passcode:** 534151

**Or Telephone:**

1.669.900.6833

1.888.788.0099 (toll-free) Enter same Meeting ID and Passcode

\*6 - Toggle mute/unmute.

\*9 - Raise hand.

**Remote Public Comments:** Meeting participants are encouraged to submit public comments in writing in advance of the meeting. Please send an email to [planning@portolavalley.net](mailto:planning@portolavalley.net) by 12:00 PM on the day of the meeting. All comments received by that time will be distributed to Commissioners and included in the public record.

We encourage anyone who has the ability to join the meeting online to do so. You will have access to any presentations that will be shown on your screen and can easily ask questions using the “raise your hand” feature when the Chair calls for them.

**4:00 PM - CALL TO ORDER**

**ORAL COMMUNICATIONS**



Persons wishing to address the Architectural and Site Control Commission on any subject not on the agenda may do so now. Please note however, that the Architectural and Site Control Commission is not able to undertake extended discussion or action tonight on items not on the agenda.

### **NEW BUSINESS**

1. Architectural Review of an Application for an Addition and Remodel to an Existing Residence, 107 Degas Road, Bailis, File #PLN\_ARCH04-2021 (S. Avila)
2. Appoint ASCC Member to Ad-Hoc Work Group to Review Parking Area at Alpine Inn
3. ASCC Appointment to Ad-Hoc Housine Element Committee

### **COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS**

4. Commission Reports
5. Staff Report

### **APPROVAL OF MINUTES**

6. ASCC Meeting of May 24, 2021

### **ADJOURNMENT**

#### **AVAILABILITY OF INFORMATION**

For more information on the projects to be considered by the ASCC at the Special Field and Regular meetings, as well as the scope of reviews and actions tentatively anticipated, please contact Carol Borck in the Planning Department at Portola Valley Town Hall, 650-851-1700 ex. 211. Further, the start times for other than the first Special Field meeting are tentative and dependent on the actual time needed for the preceding Special Field meeting.

Any writing or documents provided to a majority of the Town Council or Commissions regarding any item on this agenda will be made available for public inspection at Town Hall located 765 Portola Road, Portola Valley, CA during normal business hours. Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall.

#### **ASSISTANCE FOR PEOPLE WITH DISABILITIES**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department at (650) 851-1700. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

#### **PUBLIC HEARINGS**

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge any proposed action(s) in court, you may be limited to raising only issues you or someone else raised at the Public Hearing(s) described in this agenda, or in written correspondence delivered to the Architectural and Site Control Commission at, or prior to, the Public Hearing(s).



**Town of Portola Valley**  
**Trails and Paths Committee Meeting**  
**Notice of Cancellation**  
**Tuesday, June 15, 2021**

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**TRAILS & PATHS COMMITTEE MEETING**

**CANCELLATION NOTICE**

The regular meeting of the Trails & Paths Committee, scheduled for Tuesday, June 15, 2021, has been cancelled.

The next regular meeting of the Trails & Paths Committee is scheduled for Tuesday, July 20, 2021.



# TOWN OF PORTOLA VALLEY

7:00 PM – Special Meeting of the Planning Commission  
Wednesday, June 16, 2021

**THIS SPECIAL MEETING IS BEING HELD  
VIA TELECONFERENCE ONLY**

## SPECIAL MEETING AGENDA

**Remote Meeting Covid-19 Advisory:** On March 17, 2020, the Governor of California issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings telephonically or by other electronic means. Pursuant to the statewide Shelter-In-Place Order issued by the Governor in Executive Order N-33-20 on March 19, 2020; and the CDC's social distancing guidelines which discourage large public gatherings, Portola Valley Town Council and other public board, commission and committee meetings are being conducted electronically. The meeting are not available for in-person attendance. Members of the public may attend the meeting by video or phone linked in this agenda.

Below are instructions on how to join and participate in a Zoom meeting.

### **Join Zoom Meeting Online:**

Please select this link to join the meeting:

<https://zoom.us/j/92691150616?pwd=Mjk5MFhCbzBpRi84alk3cXlmZENxdz09>

**Or:** Go to Zoom.com – Click Join a Meeting – Enter the Meeting ID

**Meeting ID:** 926 9115 0616    **Passcode:** 388381

**Or Telephone:**

1.669.900.6833

1.888.788.0099 (toll-free) Enter same Meeting ID

\*6 - Toggle mute/unmute.

\*9 - Raise hand.

**Remote Public Comments:** Meeting participants are encouraged to submit public comments in writing in advance of the meeting. Please send an email to Laura Russell at [dparker@portolavalley.net](mailto:dparker@portolavalley.net) by 12:00 PM on the day of the meeting. All comments received by that time will be distributed to Commissioners and included in the public record.

We encourage anyone who has the ability to join the meeting online to do so. You will have access to any presentations that will be shown on your screen and can easily ask questions using the "raise your hand" feature when the Chair calls for them.

**7:00 PM - CALL TO ORDER AND ROLL CALL**

Commissioners Goulden, Hasko, Targ, Vice-Chair Kopf-Sill, Chair Taylor

**ORAL COMMUNICATIONS**

Persons wishing to address the Planning Commission on any subject not on the agenda may do so now. Please note, however, that the Planning Commission is not able to undertake extended discussion or action tonight on items not on the agenda.

**PUBLIC HEARING**

1. Review of an application for a Municipal Code Text Amendment, a Conditional Use Permit Amendment, and Architectural and Site Development Review for an expansion to the existing fire station (Station #8), 135 Portola Road, Woodside Fire Protection District, File #PLN\_ARCH22-2019 (D. Parker)

**NEW BUSINESS**

2. Planning Commission appointment to Ad-Hoc Housing Element Committee

**COMMISSION, STAFF, COMMITTEE REPORTS AND RECOMMENDATIONS**

3. Commission Reports
4. Staff Reports

**APPROVAL OF MINUTES**

5. Planning Commission Meeting of June 2, 2021

**ADJOURNMENT****ASSISTANCE FOR PEOPLE WITH DISABILITIES**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department at (650) 851-1700. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

**AVAILABILITY OF INFORMATION**

Any writing or documents provided to a majority of the Town Council or Commissions regarding any item on this agenda will be made available for public inspection at Town Hall located 765 Portola Road, Portola Valley, CA during normal business hours. Copies of all agenda reports and supporting data are available for viewing and inspection at Town Hall and at the Portola Valley Library located adjacent to Town Hall.

**PUBLIC HEARINGS**

Public Hearings provide the general public and interested parties an opportunity to provide testimony on these items. If you challenge any proposed action(s) in court, you may be limited to raising only issues you or someone else raised at the Public Hearing(s) described in this agenda, or in written correspondence delivered to the Planning Commission at, or prior to, the Public Hearing(s).



## **TOWN COUNCIL WEEKLY DIGEST**

**Thursday – June 17, 2021**

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1. Agenda – Sustainability Committee – Monday, June 21, 2021
2. Agenda – Conservation Committee – Tuesday, June 22, 2021
3. Letter to Honorable Chris Holden, Chair Assembly Utilities & Energy Committee, in support of SB 612, a ratepayer equity bill
4. Letter from resident Robert Turcott dated June 3, 2021, re Consider validating ABAG's analysis
5. Letter from resident Robert Turcott dated June 9, 2021, re Validating ABAG's analysis - follow up
6. Letter from resident Robert Turcott dated June 16, 2021, re ADU Municipal Code Amendment for Compliance with State Law - June 2, 2021 Meeting
7. Council of Cites Meeting Invitation – Friday, June 25, 2021

### **Attached Separates (Council Only)**

*(will be mailed to your home)*

1. None



**TOWN OF PORTOLA VALLEY**  
**Special Sustainability Committee Meeting**  
**Monday, June 21, 2021 10:30 AM**  
**Special Videoconference Meeting via Zoom**

**SPECIAL VIDEOCONFERENCE MEETING AGENDA**

Remote Meeting Covid-19 Advisory: On March 17, 2020, the Governor of California issued Executive Order N- 29-20, suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings telephonically or by other electronic means. Pursuant to the statewide Shelter-In-Place Order issued by the Governor in Executive Order N-33-20 on March 19, 2020, and the CDC's social distancing guidelines which discourage large public gatherings, Portola Valley Town Council meetings are being conducted electronically. The meeting is not available for in-person attendance. Members of the public may attend the meeting by video or phone linked in this agenda.

**Join Zoom Meeting:**

<https://zoom.us/j/95834954249?pwd=aXBkNVZQdW4veTY3QmVLNE83ZDJMQT09>

**Meeting ID:** 958 3495 4249

**Password:** 412686

**To access the meeting by phone, dial:**

1-699-900-6833

1-877-853-5247 (toll-free)

*Mute/Unmute - press \*6*

*Raise Hand - press \*9*

1. Call To Order
2. Oral Communications
3. Approval of May 17, 2021 Minutes
4. Update on Regional Water Supply by Tom Francis of BAWSCA
5. Old Business:
  - a. Update by Maryann
  - b. Update by Brandi
  - c. Updates by Subcommittees
    - i. Climate Change Reading and Discussion Group
    - ii. Blackout Protection (draft flyer by Stefan)
    - iii. Smart Water Meter Implementation
6. New Business:
  - a. Discussion with Jeff Aalfs on pros and cons of Electrification
  - b. Survey results
  - c. Change meeting to Thursday eve?
7. Date and Topics for Next Meeting
8. Adjournment



**TOWN OF PORTOLA VALLEY  
Special Conservation Committee  
Virtual Meeting  
Tuesday, June 22, 2021 – 7:00 PM**

**Special Videoconference Meeting via Zoom**

**SPECIAL VIDEOCONFERENCE MEETING AGENDA**

Remote Meeting Covid-19 Advisory: On March 17, 2020, the Governor of California issued Executive Order N- 29-20, suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings telephonically or by other electronic means. Pursuant to the statewide Shelter-In-Place Order issued by the Governor in Executive Order N-33-20 on March 19, 2020, and the CDC's social distancing guidelines which discourage large public gatherings, Portola Valley Town Council meetings are being conducted electronically. The meeting is not available for in-person attendance. Members of the public may attend the meeting by video or phone linked in this agenda

**To access the meeting by computer, click on the link below:**

<https://zoom.us/j/95232282233?pwd=b1B5RzFNdkJFdExMTzhBN3R1a3JmQT09>

**To access the meeting by phone, dial:**

1-699-900-6833

1-877-853-5247 (toll-free)

*Mute/Unmute - press \*6*

*Raise Hand - press \*9*

**Meeting ID:** 952 3228 2233

**Password:** 888027

**SPECIAL MEETING AGENDA**

1. Call to Order  
Oral Communications: Persons wishing to address the Conservation Committee on any subject not on the agenda that is appropriately the concern of the Conservation Committee may do so now. Please note, however, that the Conservation Committee is not able to undertake extended discussion or action tonight on items not on the agenda.
2. Approval of Minutes for May 25, 2021
3. Site Permits – legal time constraints
  - a. 135 Portola Road – Fire Station – Murphy update (3 minutes)
  - b. 627 Westridge – Heiple – Completed
  - c. 228 Westridge revision - Murphy
4. Tree Permits
  - a. Douglas Fir changes – Murphy (2 minutes)
5. Old Business
  - a. Oversight of Significant Town Owned Properties
    - i. \*Town Center – Subcommittee met 3/9  
- Native grass garden need attention?
    - ii. Frog Pond – Subcommittee met 2/18
  - b. Committee/Town Cooperation
    - i. Public Works - Murphy
    - ii. Fire Ad Hoc – Plunder  
- Understory Subcommittee – Plunder, Chiariello, Richards, Waltz
    - iii. Hawthorns – Zimmerman, Heiple
    - iv. Planning

- c. Tip of the Month – Magill (3 minutes)
  - d. What's blooming now – Magill (3 minutes)
  - e. Kudos – Richards (5 minutes)
  - f. Predators / Rodenticides – Chiariello (Appendix A)
  - g. Town Event Saturday, October 9 Tables
  - h. Evening Lecture – (5 minutes) Fire Prevention practices. Who organize? Choose date 10/19, 21, 28  
November 2, 4, 9, 11, 16, 18, 30
6. New Business
    - a. Party Hello/Goodbye for new/old members
    - b. Gathering with ASCC
    - c. Change of meeting time?
  7. Adjournment aspirationally 8:30 pm; Hard Stop 9:00
  8. Next meeting: Tuesday, July 27, 2021 at 7:00 pm via Zoom





# TOWN of PORTOLA VALLEY

Town Hall: 765 Portola Road, Portola Valley, CA 94028 - Tel: (650) 851-1700 Fax: (650) 851-4677

June 15, 2021

The Honorable Chris Holden  
Chair, Assembly Utilities & Energy Committee  
State Capitol, Room 5132  
Sacramento, CA 95814

Re: SB 612 (Portantino) – Support

Dear Chair Holden,

The Town of Portola Valley strongly supports SB 612 (Portantino), a ratepayer equity bill that would ensure fair and equal access to the benefits of legacy resources and that these legacy resources held in the investor-owned utility (IOU) portfolios are managed to maximize value for all customers.

Over the last decade, more than 11 million customers have transitioned from Investor Owned Utility (IOU) electric service providers to Community Choice Aggregators (CCAs), local community-led, not-for-profit agencies, choosing to purchase electricity on behalf of their residents and businesses. Portola Valley is a part of Peninsula Clean Energy (PCE), which is comprised of San Mateo County and all 20 cities in San Mateo County. Next year PCE will begin service to the City of Los Banos, in Merced County. Our agencies have banded together to provide clean electricity at competitive rates, offering a choice in electricity service providers for the first time to nearly 300,000 customers.

When a customer transitions to a CCA, the customer continues to pay for resources, like energy, that were procured on their behalf through the power charge indifference adjustment (PCIA). However, unlike an IOU customer, CCA customers receive no benefits from these resources. This inequity has been exacerbated in recent years as the cost of this payment has risen by hundreds of millions of dollars, with no sign of decreasing. The impacts of COVID-19 have made the importance of righting this inequity and lowering costs for all customers even more urgent.

This bill would ensure fair and equal access to the benefits of the resources that all customers pay for and would ensure that these legacy contracts are managed in a way that maximizes benefits for everyone. The bill would also require the California Public Utilities Commission (CPUC) to recognize the value of GHG-free energy in legacy contracts.

However, time is of the essence. The longer the Legislature takes to act, the less valuable these legacy contracts will be, and the less value customers will gain from access to them. That is why we need your support for this important legislation.

If you have questions, or wish to discuss our position, please do not hesitate to contact me

Sincerely,



Jeremy Dennis  
Town Manager, Portola Valley

cc: Portola Valley Town Council  
Peninsula Clean Energy  
California Community Choice Association  
The Honorable Josh Becker  
The Honorable Marc Berman  
The Honorable Kevin Mullin  
The Honorable Phil Ting  
The Honorable Anthony Portantino

June 3, 2021

Portola Valley Town Council  
Town of Portola Valley  
765 Portola Road  
Portola Valley, CA 94028

Re: Consider validating ABAG's analysis

*"The [ABAG] Blueprint Growth Geographies not only exclude CAL FIRE designated 'Very High' fire severity areas, but they also exclude 'High' fire severity areas in unincorporated communities as well as county-designated wildland-urban interface (WUI) areas where applicable."*

- Therese W. McMillan, Executive Director, Association of Bay Area Governments, in January 19, 2021 letter to Portola Valley, included in the February 10, 2021 Town Council agenda packet

Dear Council Member:

I welcome the development of more affordable housing in Portola Valley.

Like many others, however, I have concerns about the potential for state and RHNA mandates to compromise safety. Satisfying the 253 unit mandate for the upcoming housing cycle will be particularly challenging, and therefore particularly prone to incentivizing development practices that jeopardize safety.

Given the potential for error in any complex algorithm or methodology, it is prudent to verify that the analysis was performed correctly. This is especially important when consequences of an error are significant, as is the case here.

**Including vs excluding Portola Valley's High and Very High Fire Hazard Severity Zones has a profound impact on our RHNA number**

As cited above, the Executive Director of ABAG notes that High and Very High Fire Hazard Severity Zones are excluded, under certain circumstances, from their calculation of Growth Geographies.

By my calculations, 65% of Portola Valley's area comprises High or Very High Fire Hazard Severity Zones (see map, below). I don't whether the RHNA allotment is directly proportional to eligible territory, but it is reasonable to assume that it is. If this is true, and if through some administrative or interpretive or processing error ABAG neglected to exclude the severity zones with elevated hazard, then instead of 253 units, **we should have been assigned 89**. In other words, our RHNA number is almost 3 times larger than it should have been.

Again, I don't know whether an error occurred, and my calculations assume a direct proportionality, but my point, I believe, is valid: an error in calculation can have a significant impact on our allotment.

**There are many potential sources of error**

Does ABAG rely on the Town's reporting of Fire Hazard Severity Zones, or does it make its own determination?

Portola Valley is an incorporated area in a wildland-urban interface setting. WFPD's former Fire Marshal, Denise Enea, now working at the county level, routinely refers to our landscape in this way. Is there a formal, administrative designation that ABAG looks for when considering High Fire Hazard Severity Zones in incorporated areas that is lacking?

The potential for human error in data entry and processing is substantial.

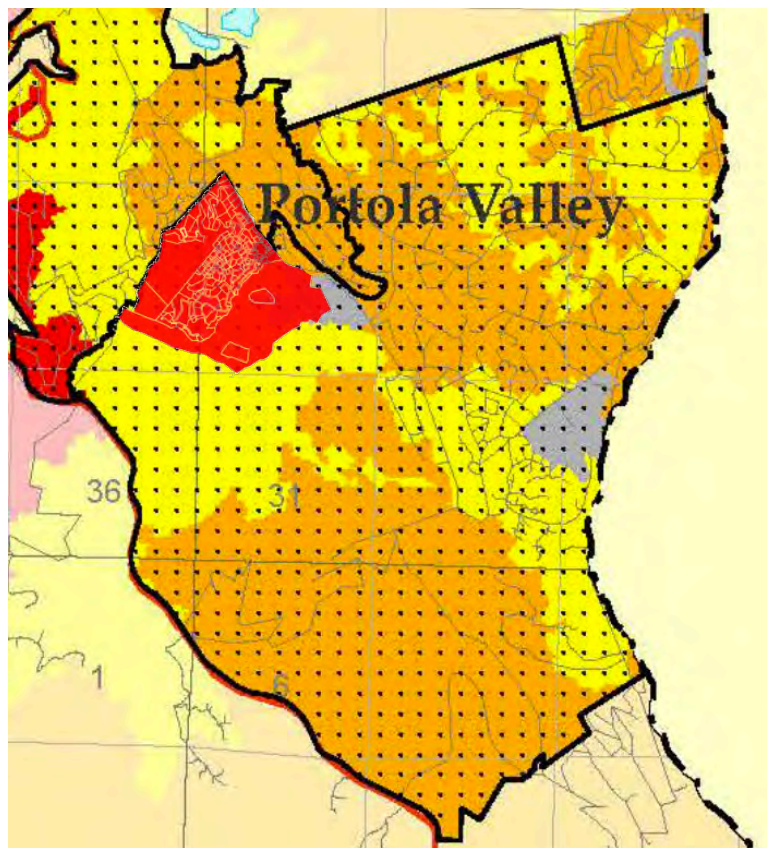
**Portola Valley should independently verify that the correct data were entered and that the analysis was performed correctly**

The stakes are too high to simply assume that the process was performed in an error-free way. Conducting independent verification is reasonable and entirely appropriate.

I would be happy to assist in any way.

Sincerely,

Robert Turcott



Composite of Cal Fire maps showing VHFHSZs (red) and HFHSZs (tan). Together, these represent 65% of Portola Valley's area.



June 9, 2021

Portola Valley Town Council  
Town of Portola Valley  
765 Portola Road  
Portola Valley, CA 94028

Re: Validating ABAG’s analysis - follow up

*“The [ABAG] Blueprint Growth Geographies not only exclude CAL FIRE designated ‘Very High’ fire severity areas, but they also exclude ‘High’ fire severity areas in unincorporated communities as well as county-designated wildland-urban interface (WUI) areas where applicable.”*

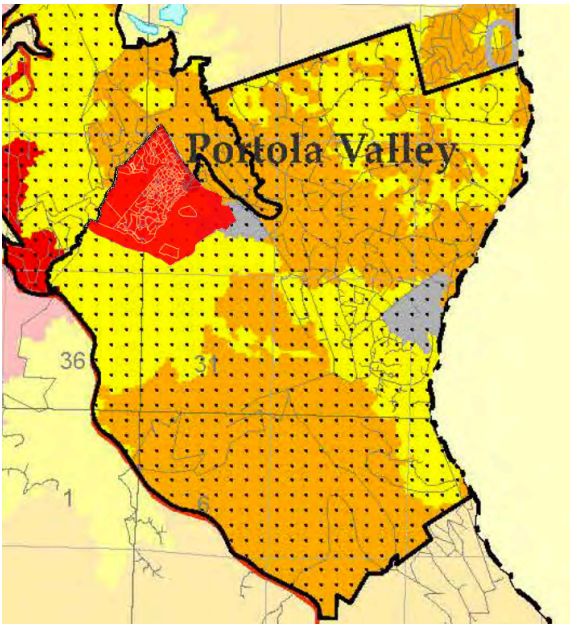
- Therese W. McMillan, Executive Director, Association of Bay Area Governments, in January 19, 2021 letter to Portola Valley, included in the February 10, 2021 Town Council agenda packet

Dear Council Members:

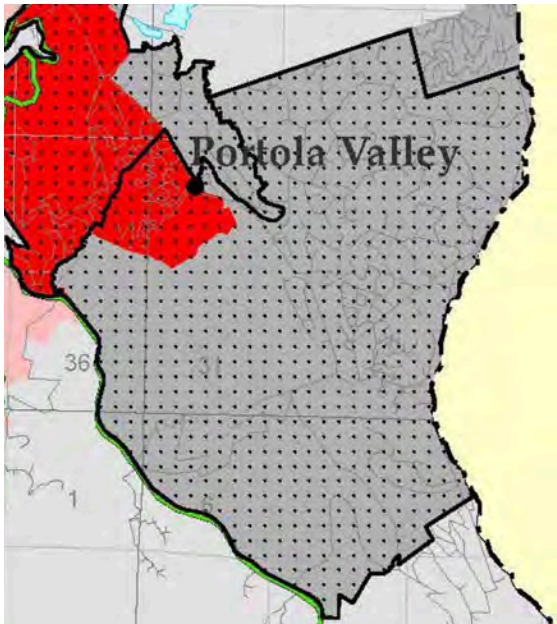
The profound effect that 253 new housing units will have on Portola Valley's land use policies, zoning laws, building practices, public infrastructure, schools, and public safety should prompt the Town Council to ensure that the basis for RHNA's allocation is accurate and appropriate.

I have worked toward validating Portola Valley’s allocation since my June 3, 2021 letter to you, with limited progress due to the opaqueness of the published descriptions of the methodology, but what I have learned so far is concerning.

I communicated with a Planner at ABAG who pointed me to the source they used to determine whether High and Very High Fire Hazard Severity Zones (FHSZs) are present. The source is as depicted in the right-hand panel of the image below. This is consistent with Cal Fire’s finalized



Composite Cal Fire maps showing High (tan) and Very High (red) Fire Hazard Severity Zones in Portola Valley.



Map used in RHNA methodology according to ABAG Planner. Very High Fire Hazard Severity Zone is shown in red.

determinations, which addressed High and Very High FHSZs in State Responsibility Areas (SRAs) and addressed Very High FHSZs in Local Responsibility Areas (LRAs), but did not address High FHSZs in LRAs. The only published determination by Cal Fire of High FHSZs in LRAs that I'm aware of is their October 4, 2007 Draft Fire Hazard Severity Zones In LRA map, which is included in the left-hand composite image above.

As is apparent from the map, approximately half of Portola Valley's area was determined by Cal Fire to be in a High FHSZ.

This raises a number of questions:

- Is ABAG aware that the source they're using only includes High and Very High FHSZs in SRAs and Very High FHSZs in LRAs, but, by design, does not address High FHSZs in LRAs?
- Does ABAG Executive Director McMillan have a different understanding of the methodology than her Planners?
- Did Executive Director McMillan actually mean to say that the RHNA methodology excludes High and Very High FHSZs from SRAs, but only excludes Very High FHSZs from LRAs? If so, what is the justification for this? Is the lack of designation of High FHSZs in LRAs in the finalized Cal Fire determination taken by ABAG to imply that areas so designated in the draft publication are safe for development, in contrast to High FHSZs in SRAs?
- What would the impact on Portola Valley's RHNA number be of incorporating the High FHSZs in the methodology, as Executive Director McMillan indicated in her January 19, 2021 letter?

Further questions remain about Executive Director McMillan's description of the methodology:

- What formal designation is referred to by "county-designated wildland-urban interface (WUI) areas", which appears to be in reference to incorporated areas?
- What is meant by "where applicable"?

I encourage the Town Council to seek clarification of these issues and to independently verify that the RHNA methodology was implemented as intended.

Sincerely,

Robert Turcott

Cal Fire Draft Fire Hazard Severity Zones in LRAs:  
[https://osfm.fire.ca.gov/media/6801/fhszl06\\_1\\_map41.pdf](https://osfm.fire.ca.gov/media/6801/fhszl06_1_map41.pdf)

Cal Fire Very High Fire Hazard Severity Zones in LRAs:  
[https://osfm.fire.ca.gov/media/6800/fhszl\\_map41.pdf](https://osfm.fire.ca.gov/media/6800/fhszl_map41.pdf)

June 16, 2021

Portola Valley Planning Commission  
Town of Portola Valley  
765 Portola Road  
Portola Valley, CA 94028

Re: Accessory Dwelling Unit (ADU) Municipal Code Amendment for Compliance with State Law  
June 2, 2021 Meeting Agenda Item 1

*“To the comments about restricting the ADUs in the Very High and High Hazard Zone that CalFire put out, I think we have addressed that in our earlier ordinance and the changes that got rolled here. My understanding in looking at those maps is that the Very High does map closely, not absolutely perfectly, with the limitations we’ve put on, **and that the High designation is not very prevalent in Portola Valley. So I think we’ve done a good job addressing that.**”*

- Planning Commissioner discussing ADU Code Amendment, 6/2/2021

Dear Commissioners:

I failed you.

Despite my best efforts, as apparent by their comments during the 6/2/2021 meeting, some Commissioners still have a mistaken understanding of what areas in town have been deemed to be High and Very High Fire Hazard Severity Zones, how large these areas are, and which areas have been excluded from ADU development by Portola Valley’s emergency vehicle access exception.

Please refer to the map, below. The area shown in red was deemed by CalFire to be a Very High Fire Hazard Severity Zone. According to statements by Town Staff and Attorney, this approximately corresponds to the area that is excluded by the emergency vehicle access exception, discussed in the context of municipal code amendment by the Commission on 6/2/2021.

Note the tan areas in the map. These areas were deemed by CalFire to be High Fire Hazard Severity Zones. These are not excluded by the Town’s emergency vehicle access exception.

ABAG takes these hazards seriously. According to the ABAG Executive Director’s letter to the Town on January 19, 2021, “The Blueprint Growth Geographies not only exclude CAL FIRE designated ‘Very High’ fire severity areas, but they also exclude ‘High’ fire severity areas in unincorporated communities as well as county-designated wildland-urban interface (WUI) areas where applicable.”

As I noted in my comments to the Commission on 5/5/2021, High and Very High Fire Hazard Severity Zones comprise approximately 65% of Portola Valley’s area. As I noted in my comments to the Commission on 5/5/2021 and 5/19/2021, the canyon network that defines central Portola Valley makes central Portola Valley a High Fire Hazard Severity Zone.

As acknowledged by the Town Attorney, State law recognizes the local responsibility and authority of the Town to exclude application of the state-wide ADU mandates when appropriate to protect public safety.

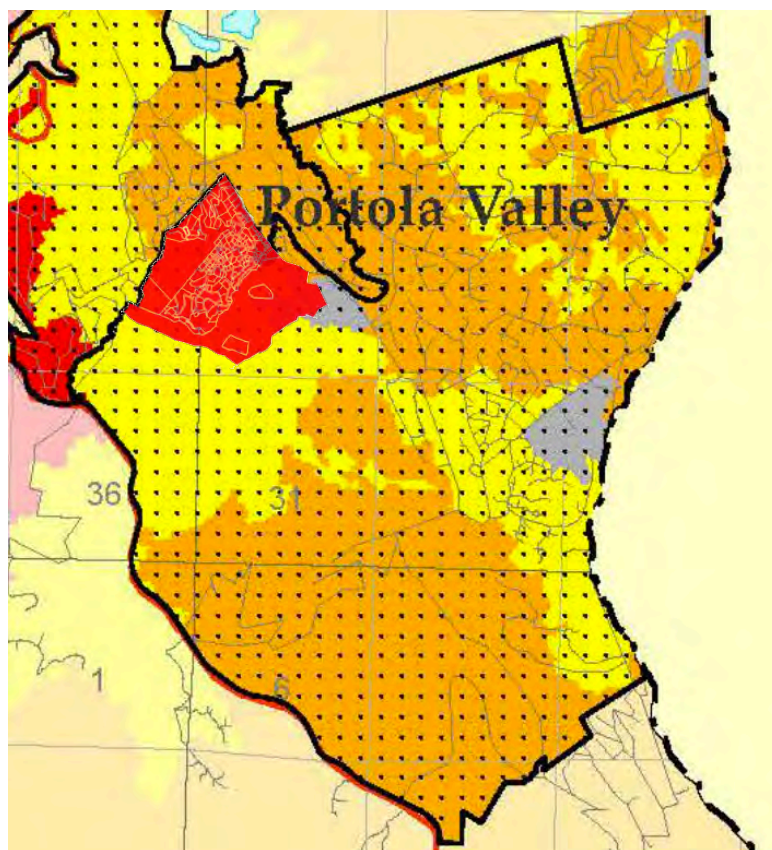
By failing to exclude, for reasons of public safety, both High and Very High Fire Hazard Severity Zones, the Planning Commission failed to meet even the minimum safety standards recommended by ABAG.

I urge you to reconsider your decision.

Sincerely,

Robert Turcott

cc: Don Bullard, Woodside Fire Protection District  
Portola Valley Town Council  
Portola Valley Ad Hoc Wildfire Preparedness Committee  
Cara Silver, Portola Valley Town Attorney  
Laura Russell, Director, Portola Valley Planning and Building Department



Composite Cal Fire maps showing High (tan) and Very High (red) Fire Hazard Severity Zones in Portola Valley.





## Meeting Announcement

Friday, June 25, 2021

*Hosted by City of Burlingame*

*Everyone is encouraged to attend these monthly meetings. This is a great opportunity to meet colleagues from other cities, work together on solutions for our county, get to know how other cities handle issues, make friends and helpful connections, and learn what's going on with the "big" issues we seldom have time to discuss at council meetings.*

### Join via Zoom:

Go to [www.zoom.us/join](http://www.zoom.us/join)

Or Dial 1-669-900-6833

Meeting ID: 873 2326 3654

Passcode: 923639

### Schedule:

5:30 p.m. Social Time

5:45 p.m. Program

6:45 p.m. Adjourn

### Direct Link to the Meeting:

<https://us02web.zoom.us/j/87323263654?pwd=b1hNVTRISWVDd3ZWSjhGeTA0NS9FQT09>

Please contact Chair Sue Vaterlaus if you wish to bring up an item for group discussion or give a committee report.  
email: [vaterlauss@ci.pacifica.ca.us](mailto:vaterlauss@ci.pacifica.ca.us)

### Program: 220 Park Road, the Historic U.S. Post Office Building Project

The 220 Park Road project has received significant interest over the years given its historic character and key downtown location. In the fall of 2019, Sares Regis brought forward a proposal to preserve the Post Office by re-purposing it as retail that opens onto a new City owned Town Square, and office space above to attract employers to locate jobs near services and transit. The proposal also includes over 250 new parking spaces, which will be made available to the public after hours. The City Council approved the Project in February of 2021, and construction is anticipated to commence in the fall. Sares Regis and their partner Dostart Development Company view this property as the most important development site in the North Peninsula, located in the center of the Downtown Core near retail, services, and transit. The Town Square, which lies directly adjacent to and abuts 220 Park, will be the signature open space of Burlingame's Downtown, providing public gathering space and an inviting environment for both active and passive enjoyment, including downtown events and gatherings.