DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
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October 30, 2026

Deanna Chow, Community Development Director
City of Menlo Park
701 Laurel St.
Menlo Park, CA 94025

RE: City of Menlo Park – Ballot Measure P – Letter of Technical Assistance

Dear Deanna Chow:

The California Department of Housing and Community Development (HCD) is aware that the Menlo Park City Council has placed the "Downtown Parking Plazas Ordinance" (Ordinance), a citizen initiative, on the November 3, 2026, ballot.[1] This letter provides technical assistance regarding the implications for the City of Menlo Park's (City) compliance with the Housing Element Law[2] should the Ordinance, also known as Measure P, be adopted by voters.

Background

HCD understands that the Ordinance proposes to amend the Menlo Park Municipal Code by adding a new Title 17. This addition to the Municipal Code would require voter approval for the City to take certain actions that would diminish parking availability, access or convenience on eight City-owned parking plazas in downtown Menlo Park (Downtown Parking Plazas). The Ordinance requires that any of the following actions concerning the Downtown Parking Plazas must be approved by a majority vote of the City's voters:

1. "Sell, trade, lease, donate, dispose or otherwise convey any of the Parking Plazas, or any portion thereof, for any reason which would affect the use of the Parking Plazas for parking or which would diminish the availability, access or convenience of public parking for Downtown customers, workers and visitors.

[1] https://www.menlopark.gov/Government/Departments/City-Managers-Office/City-Clerk/Elections/Nov.-3-2026-General-Election/Measure-P
[2] Gov. Code § 65580 et. seq.

2. Designate any of the Parking Plazas as "surplus land" or "exempt surplus land" under the California Surplus Land Act.[3] or otherwise designate the parking plazas in a way which could affect the use of the Parking Plazas for parking or which would diminish the availability, access or convenience of public parking for Downtown customers, workers and visitors.

3. Modify, alter or construct any capital project or other physical alteration on any of the Parking Plazas which permanently diminishes the availability, access or convenience of public parking for Downtown customers, workers and visitors.

4. Change the use of a Parking Plaza in any way which would diminish the availability, access or convenience of public parking for Downtown customers, workers and visitors."[4]

There are limited exceptions to the proposed Ordinance, which includes maintenance, repairs or renovations to the Downtown Parking Plazas, capital improvements for the Downtown Parking Plazas, and community events which use the Downtown Parking Plazas. If approved by a majority vote, the Ordinance shall become effective ten days following the date the vote is declared by City Council.[5]

Analysis

The City's sixth cycle housing element,[6] which has been adopted and certified by HCD as substantially compliant with the Housing Element Law, includes all eight downtown parking plazas in its site inventory. Collectively, the downtown parking plazas account for at least 345 affordable housing units.[7]

It is the responsibility of the City to "review its housing element as frequently as appropriate to evaluate … the appropriateness of the housing goals, objectives, and policies[,] the effectiveness of the housing element in attainment of the community's housing goals and objectives[,] the progress of the city … in implementation of the housing element[, and t]he effectiveness of the housing element goals, policies, and related actions to meet the community's needs, pursuant to paragraph (7) of subdivision (a) of Section 65583."[8] Additionally, the City's housing element contains several policies and programs that would be impacted should the Ordinance be adopted by voters.

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[3] Gov. Code § 54220 et. seq.
[4] https://www.menlopark.gov/Government/Departments/City-Managers-Office/City-Clerk/Elections/Nov.-3-2026-General-Election/Measure-P
[5] Id.
[6] Available at: https://www.menlopark.gov/housingelement
[7] Id.
[8] Gov. Code § 65588, subd. (a).

These include:

- Policy H4.1: Housing Opportunity Sites
- Policy H4.2: Housing to Address Local Housing Needs
- Policy H4.3: Variety of Housing Choices
- Program H4.G: Prioritize Affordable Housing on City-Owned Parking Lots Downtown

If voters adopt the Ordinance, the City will be required to amend its housing element to analyze the Ordinance as a potential governmental constraint on housing development,[9] including, but not limited to, whether the Downtown Parking Plazas are still appropriate to include in the site inventory. Depending on the results of that analysis, the City may need to identify additional site capacity to continue to accommodate the City's Regional Housing Needs Allocation (RHNA). As a reminder, the RHNA for the City includes 740 Very Low-Income units, 426 Low-Income units, and 496 Moderate-Income units for the sixth cycle housing element. According to the most recent Annual Progress Report (APR) data, there is an unmet need of 619 Very Low-Income units, 354 Low-Income units, and 436 Moderate-Income units.[10]

Process for Amending the Adopted, Substantially Compliant Housing Element

Pursuant to Government Code section 65585, prior to making any amendments to the housing element (including amending the sites inventory, or amending program commitments), the City must submit a draft of those changes to HCD at least 60 days prior to adoption.[11] HCD must then review those amendments to ensure substantial compliance with housing element requirements and report its findings to the City.[12] The City must then consider those findings prior to adoption. If HCD finds that the amendments do not substantially comply with housing element requirements, the City can either (1) change the draft amendments to substantially comply or (2) adopt the amendments without changes and include in the adopting resolution "written findings that explain the reasons [the City] believes that the … amendment[s]" substantially comply with housing element requirements despite HCD's findings.[13]

[9] Gov. Code, § 65583, subd. (a)(5).
[10] https://www.hcd.ca.gov/housing-open-data-tools/apr-dashboard
[11] Gov. Code, § 65585, subd. (b)(1).
[12] Gov. Code, § 65585, subd. (d).
[13] Gov. Code, § 65585, subd. (f).

After readopting the housing element, the City is required to resubmit it to HCD.[14] HCD is then required to review the amended housing element and determine if the amended element continues to substantially comply with Housing Element Law.[15] Please be aware that the City is also responsible for providing adequate opportunity for public participation and review, no less than seven days prior to submittal of a draft to HCD.[16]

As part of this review, HCD will review any changes to the housing element to ensure that sites are suitable and available for housing development within the planning period and meet all the requirements of Government Code section 65583.2. In addition, the element must demonstrate that any new development standards do not pose a constraint to the development of housing.[17]

Consequences for Housing Element Noncompliance

As a reminder, under the Housing Element Law, HCD "shall review any action or failure to act by [the City] that it determines is inconsistent with an adopted housing element … including any failure to implement any program actions included in the housing element."[18] If HCD "finds that the action or failure to act by [the City] does not substantially comply with" the Housing Element Law, HCD may revoke its finding that the City's housing element is in compliance with the Housing Element Law until it determines that the City has come into compliance with state law.[19]

Consequences that may apply when a city does not have a housing element in compliance with the Housing Element Law include ineligibility or delay in receiving certain state funds, referral to the California Office of the Attorney General (AGO), court imposed financial penalties, the loss of local land use authority to a court-appointed agent, and the application of the "builder's remedy."[20] The builder's remedy strictly limits a jurisdiction's ability to deny housing development projects that include a certain amount of affordable housing, even if those projects do not comply with the jurisdiction's zoning or general plan.[21]

In addition, pursuant to SB 1037 (Statutes of 2024), further penalties including a minimum of $10,000 per month and associated attorney's fees and costs are now authorized for any action brought by the AGO or HCD to enforce the adoption of housing element revisions, among other statutes.[22]

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[14] Gov. Code, § 65585, subd. (g).
[15] Gov. Code, § 65585, subd. (h).
[16] Gov. Code, § 65585, subd. (b)(2)(A).
[17] Gov. Code, § 65583, subd. (a)(5).
[18] Gov. Code, § 65585, subd. (i)(1)(A).
[19] Gov. Code, § 65585, subd. (i)(1)(C).
[20] Gov. Code, §§ 65585, subds. (j), (l); 65589.5, subd. (f)(6).
[21] Gov. Code, § 65589.5, subd. (h)(11).
[22] Gov. Code, § 65009.1, subds. (a)(1), (a)(2).

Conclusion

HCD appreciates the opportunity to provide technical assistance to implement the provisions of the Housing Element Law. We look forward to continued cooperation with City staff as the City continues to implement its housing element. If you have questions or need additional information, please contact Clancy Taylor at clancy.taylor@hcd.ca.gov.

Sincerely,



Brian Heaton
Section Chief, Land Use Policy
Housing Accountability Unit