

The End of the Line for Exclusionary Zoning: Berkeley Set to Make its Move

Key Points

- Later this month, the Berkeley City Council is expected to consider ending exclusionary zoning by December 2022.
- The city has a long history of implementing single-family zoning, which encourages more expensive stand-alone homes that are often inaccessible to disadvantaged populations.
- The shift would place Berkeley, which in 1916 became the nation's first city with single-family zoning, at the forefront of a modern era of inclusionary housing policy.
- Despite limited state-level legislative success in single-family zoning reform, a bottom-up approach has momentum at the local level, led by Berkeley and Sacramento.

February 23, 2021 is poised to be the dawn of a new housing era in the City of Berkeley as the City Council considers a resolution to state the Council's intent to end exclusionary zoning in Berkeley by December 2022. Exclusionary zoning is a buzzword for zoning district rules that allow occupancy of only single-family homes, which in California often command high sales prices and rental rates, excluding traditionally disadvantaged populations. The effort is led by Vice-Mayor Lori Droste and co-authored by Councilmembers Taplin, Bartlett, and Robinson and, if adopted, could have ripple effects across California. The state continues to grapple with the questions of how best to marry housing policies with social justice goals and ensure that all populations have housing while accounting for practical challenges, including incentives for the development community. The Council is scheduled to discuss this issue at its next regular meeting later this month.

More specifically, the resolution seeks to address issues caused by single-family zoning, noting its roots in racist exclusionary zoning policies that have contributed to racial and economic segregation. The city's current single-family zoning policy covers nearly half of the city and has a stated purpose of recognizing and protecting the existing pattern of development in the city's low-density, single-family residential areas. Single-family zoning originated in Berkeley's Elmwood neighborhood in 1916 when Berkeley became the first United States city to forbid the construction of anything greater than one home per lot. The

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resolution acknowledges the policy's controversial history, including City zoning maps that "sought to maintain segregation through discriminatory lending practices" later called "redlining," and the 1973 Neighborhood Preservation Ordinance, which restricted the creation of multifamily units in residential zones.

Rather than banning single-family homes entirely, the resolution instead seeks to allow a "greater mix of home types and home affordability levels in more Berkeley neighborhoods" by encouraging apartments and other forms of multifamily housing, which traditionally have been more accessible to disadvantaged groups. The resolution also signals support of the League of California Cities call for cities to allow up to fourplexes in single-family zones. The city has referred the fourplex issue to its land-use policy committee for further deliberation.

Should Berkeley's resolution pass in its current form, it would commit the city to the following:

- Registering the city's intent to allow more multifamily housing throughout Berkeley;
- Pursuing zoning reform that takes into account public safety in all parts of Berkeley, including within CalFire's Very High Severity Zones;
- In areas and neighborhoods already containing housing type mixes ranging from single-family homes to apartments, allowing new housing like the existing range;
- Encouraging the inclusion of homes that accommodate families in new and rehabilitated multifamily housing developments; and
- No longer excluding multifamily housing in certain parts of Berkeley, such as single-family zones, with the goal of making housing more affordable in those areas.

With this resolution, Berkeley would join the ranks of national progressive housing policy leaders such as Minneapolis and Portland. Elsewhere in California, the Sacramento City Council in recent weeks unanimously approved a preliminary plan to allow construction of up to four units on most residential parcels, an effort all the more notable since single-family zoning is currently in place for approximately 70 percent of Sacramento's residential neighborhoods and 43 percent of the city's total land area. Whereas Accessory Dwelling Unit (ADU) legislation was successful at the state level, single-family zoning reform has not reached a similar level of support. It remains to be seen if this bottom-up trend in Berkeley and Sacramento changes that calculus during the current state legislative session.

We will continue to track inclusionary housing initiatives and other housing trends across the state. For more information about these developments or any other land use issue you are facing, please contact the authors or the [Hanson Bridgett Land Use Practice Group](#).

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