

Appendix H4

Constraints Analysis

City of Morgan Hill Housing Element 2023-2031

Table of Contents

City of Morgan Hill Housing Element

APPENDIX H-4 Constraints Analysis.....	H-4-i
4.1 Introduction.....	H-4-1
4.2 Nongovernmental Constraints.....	H-4-1
4.3 Governmental Constraints.....	H-4-10

Figures

Figure H 4-1: Total Development Costs: Single-Family.....	H-4-5
Figure H 4-2: Total Development Costs: Multi-Family.....	H-4-6
Figure H 4-3: Earthquake Faults.....	H-4-8
Figure H 4-4: Fire Hazard Severity Zones.....	H-4-9
Figure H 4-5: FEMA Flood Zones.....	H-4-10
Figure H 4-6: City of Morgan Hill Zoning Map.....	H-4-12
Figure H 4-7: Draft Monterey Corridor Form-Based Code Regulating Plan.....	H-4-23

Tables

Table H 4-1: Status of Home Purchase, Refinance, and Home Improvement Loans 2020.....	H-4-2
Table H 4-2: Base Zoning Districts.....	H-4-13
Table H 4-3: Residential Estate (RE) District Development Standards.....	H-4-15
Table H 4-4: Residential Detached Low and Medium Density District Development Standards....	H-4-15
Table H 4-5: Residential Detached High Density District Development Standards.....	H-4-16
Table H 4-6: Residential Attached Low Density District Development Standards.....	H-4-17
Table H 4-7: Residential Attached Medium and High Density District Development Standards....	H-4-18
Table H 4-8: Mixed Use Zoning District Development Standards.....	H-4-18
Table H 4-9: Required Parking Spaces.....	H-4-19
Table H 4-10: Required Guest Parking Spaces.....	H-4-19
Table H 4-11: Development Fees.....	H-4-29
Table H 4-12: Development Fees as a Percentage of Total Development Costs.....	H-4-30
Table H 4-13: Total Fees per Unit (By Jurisdiction).....	H-4-30
Table H 4-14: Permit Processing Times, in Months (By Jurisdiction).....	H-4-31
Table H 4-15: Permitted Residential Land Uses by Zoning District.....	H-4-34
Table H 4-16: Single Room Occupancy (SRO) Facilities.....	H-4-41
Table H 4-17: AB 1483 Required Documents and Website Access.....	H-4-42

APPENDIX H-4 | Constraints Analysis

4.1 Introduction

The purpose of this section, per Government Code Section 65583(a)(5-6), is to identify nongovernmental and governmental factors (constraints) that impact the feasibility, costs, and timelines of housing projects, which in turn affect the City's ability to meet the housing needs of all its residents and to affirmatively further fair housing goals. Constraints affect a housing development's location selection, density, design, and permitting process which impact whether housing can be developed, maintained, or improved. Examples of such constraints are land and construction costs, access to credit, permit fees, development standards, and compliance with Federal and State laws intended to facilitate housing for lower-income and special needs households. A thorough understanding of the constraints to development can help to create appropriate policy responses to mitigate constraints and make it easier and more affordable to develop housing.

4.2 Nongovernmental Constraints

State law (California Government Code, Section 65583[a][6]) requires Housing Elements to contain an analysis of nongovernmental constraints to the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction. Potential nongovernmental constraints are largely determined by market conditions over which local jurisdictions have little control. However, local governments can influence market conditions and their associated costs, even if only indirectly. Governmental interventions that affect nongovernmental constraints will be explored in more detail in Section 5.3.

4.2.1 Availability of Financing

The availability of financing is a critical factor that can influence the cost and supply of housing. There are generally two types of financing used in the housing market: (1) capital used for initial site preparation and construction; and (2) capital used to finance the purchase of units by homeowners and investors. Interest rates substantially impact home construction, purchase, and improvement costs. A small fluctuation in rates can make a dramatic difference in the annual income needed to qualify for a loan. In general, financing for new residential development in the City is available at reasonable rates. While interest rates have been historically low in recent years, interest rates have increased within the past year, leading to credit tightening. The availability of financing in a community depends on a number of factors, including the type of lending institutions active in the community, lending practices, rates and fees charged, laws and regulations governing financial institutions, and equal access to those institutions. Through analysis of Home Mortgage Disclosure Act (HMDA) data on the disposition of residential loan applications, an assessment can be made of the availability of residential financing within a community.

Table H 4-1 summarizes HMDA data for both the City of Morgan Hill and Santa Clara County, providing information on the approval status of all home purchase, refinance, and home improvement loan applications during 2020.

- ❖ Of the total 1,045 completed applications for home purchase loans in Morgan Hill, 95

percent were approved and five percent were denied, above the 90 percent approval rate County-wide. In 2018, the approval rate for home purchase loans in Morgan Hill was 88 percent, indicating access to mortgage financing has improved in the City. Review of loan denials in 2020 by Morgan Hill's nine census tracts indicates three tracts (5123.05, 5123.08, 5123.14) with loan denial rates significantly above the five percent citywide average.

- ❖ The volume of applications for refinance loans in Morgan Hill was nearly three times that of home purchase loans due to historically low interest rates in 2020, with 89 percent of the total 3,432 applications receiving approval and 11 percent denied, similar to the regional average.
- ❖ The number of applications for home improvement loans in Morgan Hill was very limited at just 99, with 66 percent of applications receiving approval and 34 percent being denied, slightly better than the 38 percent denial rate County-wide. Home improvement loans typically have higher denial rates because homeowners may already have high debt-to-income ratios on their home mortgage or refinance loans.

Table H 4-1 Status of Home Purchase, Refinance, and Home Improvement Loans 2020					
Loan Type	Morgan Hill Completed Loan Applications	Loans Approved		Loans Denied	
		Morgan Hill	Santa Clara County	Morgan Hill	Santa Clara County
Conventional Home Purchase Loans					
# of Applications	1,100	1,045	14,744	55	1,596
% Approval/Denial	-	95%	90%	5%	10%
Refinancing Loans					
# of Applications	3,432	3,041	65,758	391	7,658
% Approval/Denial	-	89%	90%	11%	10%
Home Improvement Loans					
# of Applications	151	99	2,724	52	1,639
% Approval/Denial	-	66%	62%	34%	38%

4.2.2 Development Costs

The cost to develop housing, whether single-unit or multi-unit, includes the cost of land, construction, infrastructure, and “soft costs,” which refers to engineering and architectural fees, insurance, financing, administrative costs, and marketing costs.

Century Urban, LLC (Century | Urban) has performed research on the development costs of certain residential prototypes (2,600 square foot single-family dwelling, 5,000 square foot single-family dwelling, 10-unit multi-family building, and a 100-unit multi-family building) in Santa Clara County, including the City of Morgan Hill. The research findings are based on Century | Urban's recent work on other assignments as well as on third-party data sources.¹

¹ Century Urban, LLC; April 2022. San Mateo and Santa Clara Counties Development Cost & San Mateo County Unit Mix Research.

Land Costs

The availability and price of land are potential constraints to the development of housing for all income levels. The scarcity of vacant land in the Silicon Valley, including the City of Morgan Hill, results in land cost being very expensive, especially in denser and more desirable areas. Compared with other residential development cost components, land cost is the most prone to variations in price by location, school district, nearby amenities, and zoning.

To generate the single-family land values utilized in the development cost estimates, Century | Urban collected sales data for land lots totaling one acre or less which transacted over the past three years. The data does not include properties with existing homes or infrastructure that were redeveloped as new single-family homes. 11 data points were collected for the City of Morgan Hill. According to the Century | Urban report, land sales costs for single-family home land sites in Morgan Hill range from a low of \$1 to a maximum of \$495 per square foot; with the median rate at \$15 per square foot and the average at \$79 per square foot.

Century | Urban collected available multi-family land sales data from 2013 to the present in Santa Clara County. Of the 40 data points collected for Santa Clara County, one was located in Morgan Hill with a land cost of \$86,000 per unit; whereas the county land cost per unit average is \$60,000.

Hard Costs

The cost of labor and material, referred to as hard construction costs, represent the largest component of housing development costs. The greatest determinant of construction costs is the type of building. Single-story, wood-framed structures are the least costly to build, whereas multi-story steel-reinforced, poured-in-place concrete structures are the most expensive.

According to a report released in March 2020 on multi-unit construction costs in California from the Terner Center, hard construction costs make up more than 60 percent of total development costs. The Terner Center study found that on average, construction costs were about \$222 per square foot in 2018 compared to \$177 in 2008-2009, representing a 25 percent increase. Costs have continued to increase since 2018. Several factors have caused the increased cost of materials, including global trade patterns and federal policy decisions, such as tariffs, as well as state and local regulations, such as building codes. The COVID-19 pandemic has also influenced the cost and availability of construction materials. Supply chain disruptions have resulted in project delays and increased costs due to a shortage of construction materials and equipment.

Labor costs have also increased in recent years, as the labor pool has not kept pace with the increase in demand. Since the recession, California has seen a severe tightening in the construction labor market, especially for workers trained in specific construction trades. The lack of an available labor force drives up the cost of labor and leads to project delays as workers are either unavailable or lost to more profitable projects.²

However, in the more recent, and focused, Century | Urban report, the hard costs for a 2,600 square foot single-family dwelling were found to be \$420 per square foot in San Mateo and Santa Clara Counties; and the hard costs for a 5,000 square foot single-family dwelling were found to be \$525 per square foot. Whereas the hard costs for a 10-unit multi-family building were found to be \$522 per square foot; and the hard costs for a 100-unit multi-family building were found to be

² Forscher, T.; Kneebone, E.; Raetz, H.; and Reid, C. March 2020. The Hard Costs of Construction: Recent Trends in Labor and Material Costs for Apartment Buildings in California. Terner Center for Housing Innovation, UC Berkeley.

\$517 per square foot according to the Century | Urban report.

Soft Costs

Other costs, often called “soft costs,” include engineering and architectural fees, insurance, financing, administrative costs, and marketing costs. According to the Century | Urban report, soft costs are generally assumed to be around 30% of hard costs, with single-unit development prototypes studied ranging from about \$133 to \$147 per square foot, and the soft costs for the multi-unit development projects ranging from \$159 to \$165 per square foot.

Total Development Costs

Figures H 4-1 and H 4-2 summarizes total costs per site square footage, including construction and soft cost estimates for the four prototypes complied by Century | Urban. Based on the cost estimates for the residential prototypes shown in Figures H 4-1 and H 4-2, the cost to construct a single-unit home in Santa Clara County ranges from approximately \$936 to \$1,060 per square foot. The cost to construct an apartment project in Santa Clara County range from \$748 to \$755 per square foot. These estimates account for the cost of land.

Figure H 4-1: Total Development Costs: Single-Family

Total Development Costs - San Mateo and Santa Clara Counties					
Large numbers rounded to nearest \$'000 or nearest \$'0,000					
Prototype Elements	Single Family Small			Single Family Large	
	Total	\$ / SF		Total	\$ / SF
1) Gross Residential Square Feet	2,600			5,000	
Hard Costs					
1) Residential Hard Costs	\$1,040,000	\$400		\$2,500,000	\$500
2) Site improvements and utilities					
3) Grading and erosion control					
4) Parking Hard Costs					
5) Contingency	\$52,000	\$20		\$125,000	\$25
Total Hard Costs	\$1,092,000	\$420		\$2,625,000	\$525
Soft Costs					
1) Soft Costs	\$270,000	\$104		\$660,000	\$132
2) City Fees	\$75,000	\$29		\$75,000	\$15
3) Soft Cost Contingency	\$20,000	\$8		\$40,000	\$8
Total Soft Costs	\$365,000	\$133		\$775,000	\$147
% of hard costs	33%			30%	
Land Costs	Total	Per SF Bldg		Total	Per SF Bldg
1) Land Costs - San Mateo	\$1,030,000	\$396		\$1,030,000	\$206
2) Land Costs - Santa Clara	\$1,320,000	\$508		\$1,320,000	\$264
Single Family Land Cost Range					
SFH Land - Lower Price Tier	\$210,000	\$81		\$210,000	\$42
SFH Land - Middle Price Tier	\$730,000	\$281		\$730,000	\$146
SFH Land - Higher Price Tier	\$2,510,000	\$965		\$2,510,000	\$502
Total Development Cost - San Mateo	\$2,487,000	\$949		\$4,430,000	\$878
Total Development Cost - Santa Clara	\$2,777,000	\$1,060		\$4,720,000	\$936
Total Development Cost by Range of Land Cost					
Single Family - Lower Land Price Tier	\$1,667,000	\$633		\$3,610,000	\$714
Single Family - Middle Land Price Tier	\$2,187,000	\$833		\$4,130,000	\$818
Single Family - Higher Land Price Tier	\$3,967,000	\$1,518		\$5,910,000	\$1,174

Source: Century Urban, LLC; April 2022. San Mateo and Santa Clara Counties Development Cost & San Mateo County Unit Mix Research.

Figure H 4-2: Total Development Costs: Multi-Family

Total Development Costs - San Mateo and Santa Clara Counties						
Large numbers rounded to nearest \$'000 or nearest \$'0,000						
Prototype Elements	Multi-Family Small			Multi-Family Large		
	Total	\$ / SF	\$ / Unit	Total	\$ / SF	\$ / Unit
1) Gross Residential Square Feet	10,000			93,750		
2) Parking Square Footage	3,750			40,000		
3) Parking Type	Surface Lot			Standalone above grade		
4) Units	10			100		
5) Avg Net SF / Unit	850			750		
6) Efficiency	85%			80%		
Hard Costs						
1) Residential Hard Costs	\$4,150,000	\$415	\$420,000	\$39,840,000	\$425	\$400,000
2) Site improvements and utilities	\$605,000			\$1,165,000		
3) Grading and erosion control	\$110,000			\$335,000		
4) Parking Hard Costs	\$100,000	\$28		\$4,800,000	\$120	
5) Contingency	\$250,000	\$21	\$21,000	\$2,310,000	\$21	\$20,000
Total Hard Costs	\$5,215,000	\$522	\$521,500	\$48,450,000	\$517	\$484,500
Soft Costs						
1) Soft Costs	25.0%	\$1,303,750	\$130	\$130,000	\$12,110,000	\$129
2) City Fees		\$350,000	\$35	\$35,000	\$2,800,000	\$30
3) Soft Cost Contingency	5%	\$80,000	\$8	\$8,000	\$750,000	\$8
Total Soft Costs		\$1,733,750	\$165	\$165,000	\$15,660,000	\$159
		33%			32%	
Land Costs			Total	Per Unit		Per Unit
1) Land Costs - San Mateo		\$1,000,000		\$100,000	\$10,000,000	\$100,000
2) Land Costs - Santa Clara		\$600,000		\$60,000	\$6,000,000	\$60,000
Range of Land Costs						
Apts/Condo- Lower Price Tier		\$400,000		\$40,000	\$4,000,000	\$40,000
Apts/Condo- Middle Price Tier		\$800,000		\$80,000	\$8,000,000	\$80,000
Apts/Condo- Higher Cost Tier		\$1,600,000		\$160,000	\$16,000,000	\$160,000
Total Development Cost - San Mateo		\$7,948,750	\$795	\$786,500	\$74,110,000	\$791
Total Development Cost - Santa Clara		\$7,548,750	\$755	\$746,500	\$70,110,000	\$748
Total Development Cost by Range of Land Cost						
Apts/Condo- Lower Land Price Tier		\$7,348,750		\$726,500	\$68,110,000	\$672,500
Apts/Condo- Middle Land Price Tier		\$7,748,750		\$766,500	\$72,110,000	\$712,500
Apts/Condo- Higher Land Price Tier		\$8,548,750		\$846,500	\$80,110,000	\$792,500

Source: Century Urban, LLC; April 2022. San Mateo and Santa Clara Counties Development Cost & San Mateo County Unit Mix Research.

4.2.3 Requests for Housing Developments at Reduced Densities

New State Housing Element law now requires the non-governmental constraints analysis to evaluate developer requests to build at densities below the density identified in the Housing

Element sites inventory. In Morgan Hill, properties generally develop at or above the allowed density (such as with a density bonus).

4.2.4 Length of Time between Project Approval and Applications for Building Permits

New State Housing Element law now also requires an examination of the length of time between receiving approval for a housing development and submittal of an application for building permits. The time between application approval and building permit issuance is influenced by a number of factors, none of which are directly impacted by the City. Factors that may impact the timing of building permit issuance include: required technical or engineering studies; completion of construction drawings and detailed site and landscape design; securing construction and permanent financing; and retention of a building contractor and subcontractors.

In Morgan Hill, most approved projects are constructed in a reasonable time period. Projects with entitlements nearly always move forward with construction, the one recent exception being an approved three-story mixed-use building and 15 residential units, consisting of twelve attached single-family homes and three condominium units in the mixed-use building (SR2016-0017 Monterey-Gunter) at 17620 Monterey Road (APN 726-23-008). As a small city, Morgan Hill staff have the advantage of working closely with applicants through the review and approval process, thereby helping to expedite the issuance of building and zoning permits. Furthermore, the City's contract with its building plan check consultant includes a requirement that the first plan check for development projects be completed within two weeks, whereas the Building Division's standard has been four weeks for a large residential master plan review and two weeks for an individual dwelling.

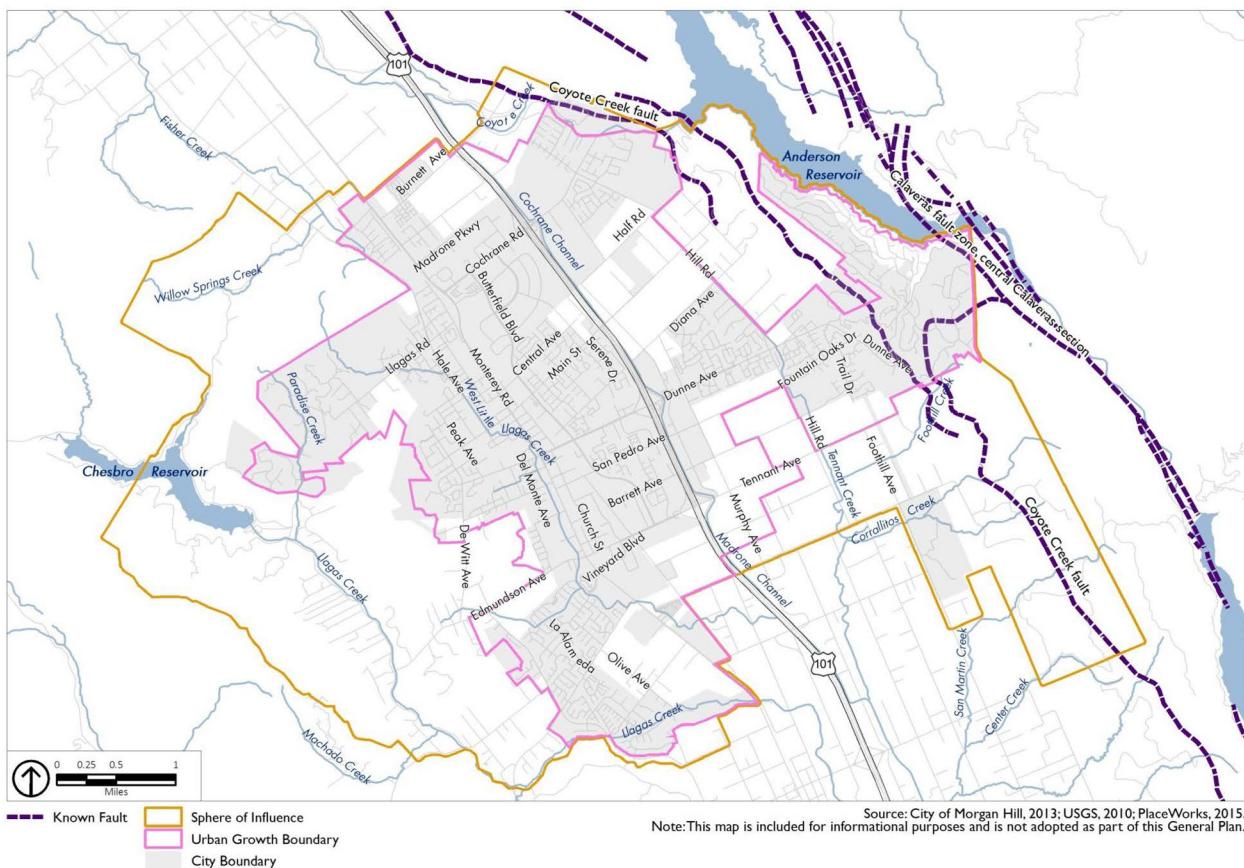
Building Permits are generally issued within two years of a project getting entitled. For example, Sunsweet (SR2017-0004 Depot-Sunsweet), a mixed-use building complex project consisting of 83 apartment units, was entitled in April of 2017 with building permits for the project's 83-units issued in May of 2018.

4.2.5 Environmental Constraints

The environmental setting affects the feasibility and cost of residential development. Environmental issues range from the suitability of land for development, the provision of adequate infrastructure and services, as well as the cost of energy. Morgan Hill currently encompasses about 8,256 acres of land. The majority of the parcels in the City's boundary are developed. Most of the undeveloped parcels are in areas surrounding El Toro in the central-western boundary of the City and in the central-eastern portion of the City near the Jackson Oaks neighborhood. These areas contain environmental constraints on development, such as steep slopes, landslide hazards, fire hazards, or flood hazards, and therefore, much of the undeveloped land has been set aside as open space. The following are environmental constraints and hazards that affect, in varying degrees, existing and future residential developments.

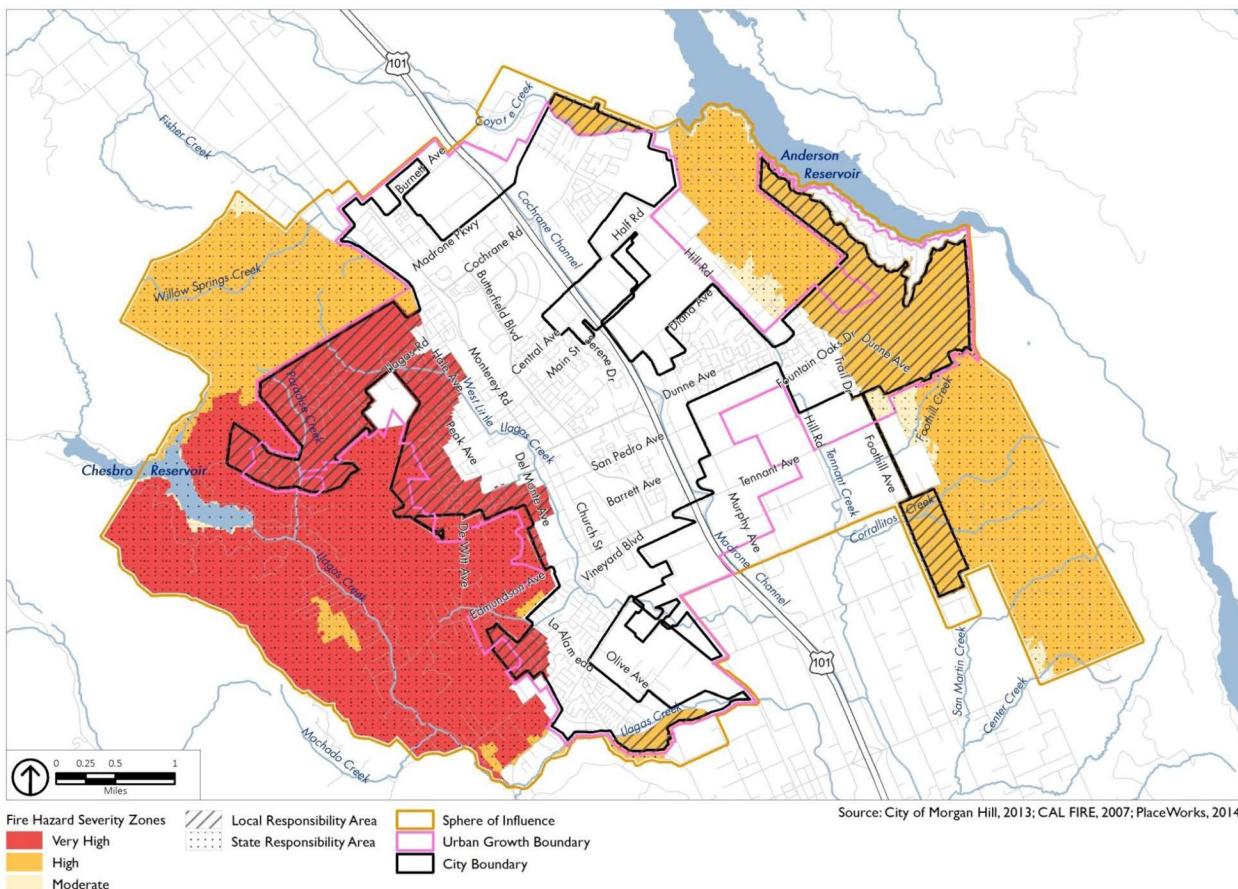
Seismic Hazards

The Coyote Creek fault and Calaveras fault zone is located near the eastern boundary of the City. Major problems could result from ground shaking, which is likely to be amplified in the areas underlain by relatively unconsolidated deposits, especially in the eastern part of the City. Liquefaction is also a possibility in these areas. There is potential for landslides on all slopes; however, site-specific investigations can differentiate the degree of risk.

Figure H 4-3: Earthquake Faults

Fire Hazards

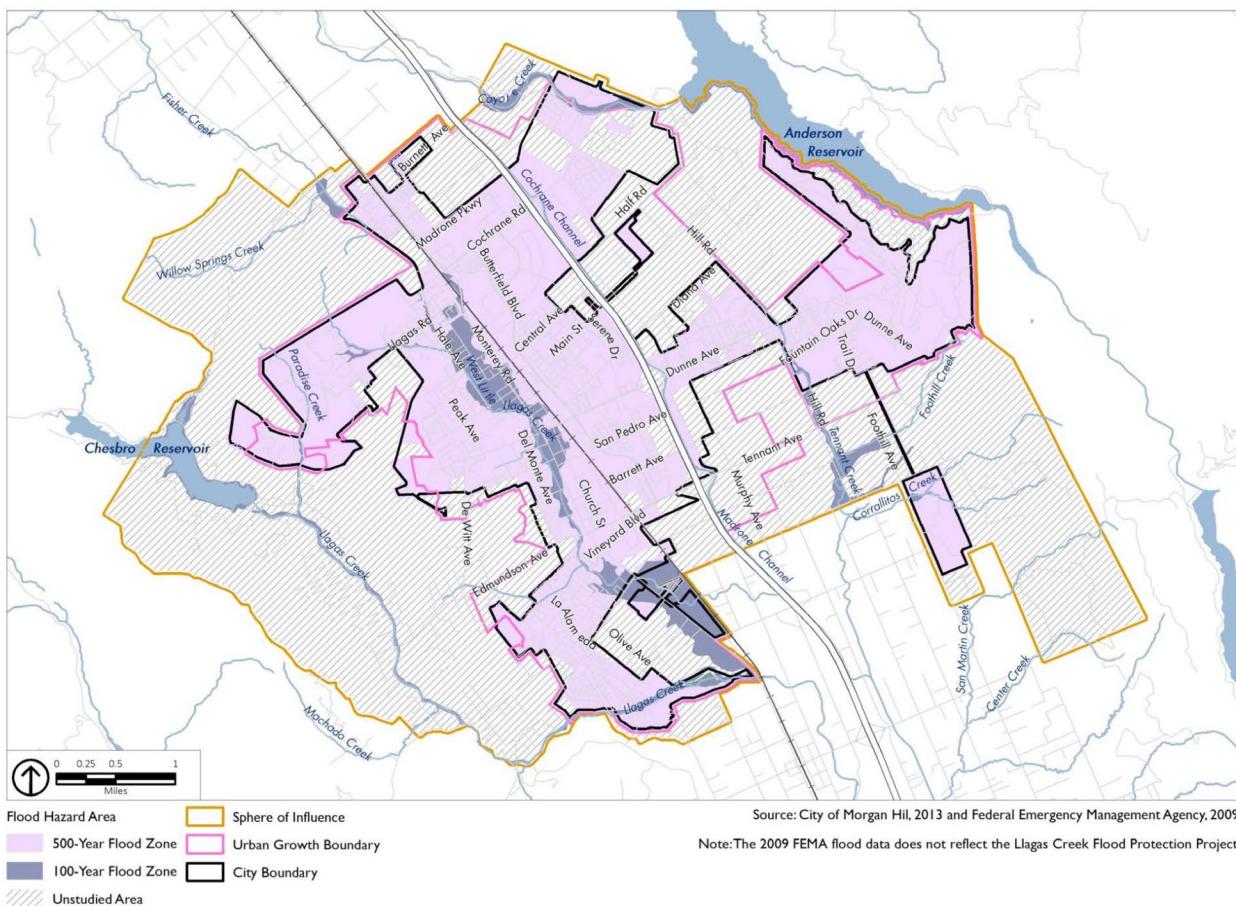
Much of the open space, hillside area of Morgan Hill is located along the western and eastern borders of the city. There is higher potential for fire in these areas including grass or wildland fires as shown in Figure H 4-4. The risk in these areas is compounded by limited emergency access to open space areas and, in some cases, by insufficient fire hydrants/water flow to meet fire-fighting requirements. The Safety, Services, and Infrastructure Element of the General Plan sets forth approaches to reduce this risk in developed areas and in the design and location of new development in the hillsides.

Figure H 4-4: Fire Hazard Severity Zones

Flood Hazards

All of the creeks in the city have flooding potential. Federal Emergency Management Agency (FEMA) standards govern development in the 100-year floodplain (see Figure H 4-5) and floodways. A 100-year floodplain is the area next to a river or stream with a 1 percent or greater chance of being flooded in any year. A 500-year floodplain is the area next to a river or stream with a 0.2 percent chance of being flooded in any year. A floodway, a smaller area within the floodplain, is a river or stream and the area within immediate proximity of a river or stream that is capable of conveying the 100-year flood with no more than a 1-foot rise in water.

Development in the floodplain and floodway must be controlled because it can increase flooding hazards by raising water levels upstream and by adding flow, velocity, and debris downstream. Figure H 4-5 shows both 100-year and 500-year FEMA flood zones.

Figure H 4-5: FEMA Flood Zones

4.3 Governmental Constraints

Governmental policies and regulations can result in both positive and negative effects on the availability and affordability of housing. This section, as required by Government Code Section (a)(5), describes City policies and regulations that could potentially constrain the City's ability to achieve its housing goals. Potential constraints to housing include land use controls (through General Plan policies and zoning regulations), development standards, infrastructure requirements, development impact fees, and the development approval processes. While government policies and regulations are intended to serve public objectives and further the public good, the City of Morgan Hill recognizes that its actions can potentially constrain the availability and affordability of housing to meet the community's future needs.

4.3.1 Land Use Controls

Land Use General Plan Designations

A city's Comprehensive General Plan is the constitution for development within the community. The City and Neighborhood Form Element, one of the seven State mandated elements of the General Plan, sets forth the city's goals, policies, and programs for guiding physical development within the city. The Transportation, Natural Resources and Environment, and Safety, Services,

and Infrastructure Elements help determine land use areas within the community. The Housing Element has become a significant component in shaping the land use makeup within the community. State law also requires that the General Plan be internally consistent, and that zoning and development standards be consistent with the General Plan. While the General Plan is general in nature, its implementation, through zoning, subdivision, and other development codes are more specific.

The City's Land Use Element provides for the following range of intensities for residential development:

- ❖ Residential Estate, up to 1 unit/acre
- ❖ Residential Detached Low, up to 4 units/acre
- ❖ Residential Detached Medium, up to 7 units/acre
- ❖ Residential Detached High, 6-12 units/acre
- ❖ Residential Attached Low, 6-16 units/acre
- ❖ Residential Attached Medium, 16-24 units/acre
- ❖ Residential Downtown, 24-46 units/acre
- ❖ Mixed Use, per adopted Downtown Specific Plan
- ❖ Mixed Use Flex, 7-24 units/acre

Morgan Hill is illustrative of how the availability of sufficient sites for multi-family development can outweigh zoning regulations as a determining factor of whether such development, including affordable housing, occurs. As the City's zoning map below reflects, most of the City's residentially zoned land is zoned for single-family homes. Nonetheless, multi-family zoned areas are sufficient to ensure that there are enough permitted developments in the pipeline for Morgan Hill to meet its RHNA targets at all income levels for the 6th Housing Element cycle. At the same time, as identified in the Affirmatively Furthering Fair Housing (AFFH) Appendix, the relative lack of land zoned for multi-family housing in the eastern portion of the City is a concern, and relatively stringent maximum heights and density limits for multi-family housing could curb multi-family housing development and affordable housing development in the future if developers' cost constraints change.³ Regionally, exclusionary zoning is a much more significant issue as many high resource cities accommodate far less multi-family development than Morgan Hill has. However, the City has implemented the following measures to create opportunities for affordable housing development in the eastern portions of the city and the need to consider changes to multi-family development standards in the future:

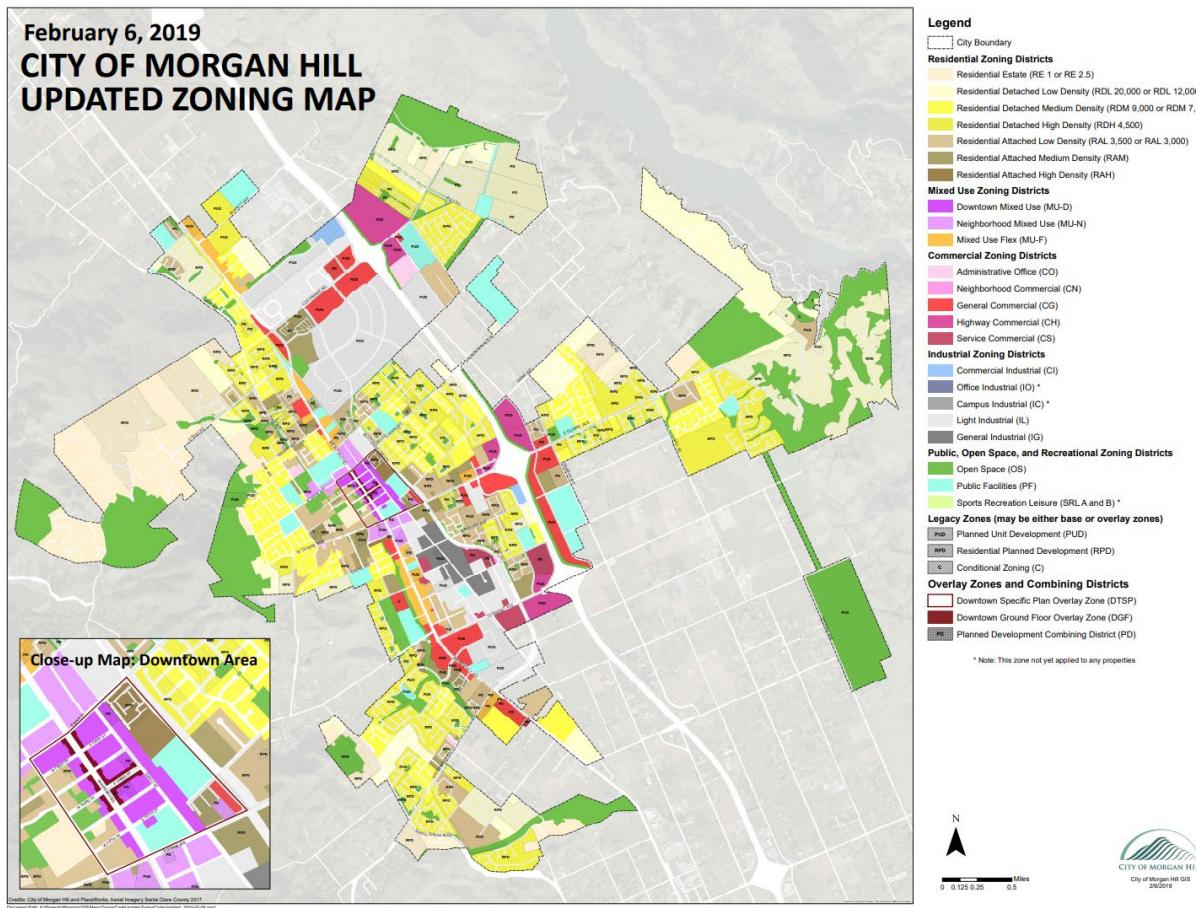
Action HE-3.A Increase geographic equity and opportunities for residents by identifying and facilitating areas appropriate for medium and high residential densities, specifically in higher resource areas designated as "Moderate Resource" or "High Resource" on the TCAC Opportunity Maps, and in areas identified as Racially Concentrated Areas of Affluence (RCAA), which will increase new housing choices, affordability, and upward mobility through access to opportunity and integration.

Action HE-3.C Study the creation of affordable housing overlay districts in advance of the next Housing Element cycle. If study recommends adoption of overlay districts, draft ordinance prior to next Housing Element cycle.

³

https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeId=TIT18ZO_DIVIZOCO_CH18.18REATZODI_18.18.030DEST

Figure H 4-6: City of Morgan Hill Zoning Map



4.3.2 Development Standards

The City's Zoning Code implements the General Plan and contains development standards for each zoning district consistent with the land use designations of the General Plan. The City adopted a comprehensive update of the Zoning Code to provide consistency with the 2035 General Plan. Table H 4-2 illustrates Morgan Hill's residential General Plan Designations and corresponding Zoning Districts.

Table H 4-2 Base Zoning Districts

<i>Zoning District Symbol</i>	<i>Name of Zoning District</i>	<i>General Plan Designation</i>
RE 10	Residential Estate (10 acre lots)	Residential Estate
RE 2.5	Residential Estate (2.5 acre lots)	
RE 1	Residential Estate (1 acre lots)	
RDL 20,000	Residential Detached Low Density (20,000 sq. ft. lots)	Residential Detached Low
RDL 12,000	Residential Detached Low Density (12,000 sq. ft. lots)	
RDM 9,000	Residential Detached Medium Density (9,000 sq. ft. lots)	Residential Detached Medium
RDM 7,000	Residential Detached Medium Density (7,000 sq. ft. lots)	
RDH 4,500	Residential Detached High Density (4,500 sq. ft. per lots)	Residential Detached High
RAL 3,500	Residential Attached Low Density (3,500 sq. ft. per unit)	Residential Attached Low
RAL 3,000	Residential Attached Low Density (3,000 sq. ft. per unit)	
RAM	Residential Attached Medium Density (2,000 sq. ft. per unit)	Residential Attached Medium
RAH	Residential Attached Hight Density (1,100 sq. ft. per unit)	Residential Downtown
MU-D	Downtown Mixed Use	Downtown Mixed Use
MU-N	Neighborhood Mixed Use	
MU-F	Mixed Use Flex	Mixed Use Flex

The General Plan and Zoning Code provide for the following residential and mixed-use land use designation zones:

- ❖ **Residential Estate.** This designation is intended to promote and encourage a suitable environment for families living on relatively large parcels of land. Concentrated along the western and southern City borders, the Residential Estate designation allows single-family homes, accessory dwelling units, appropriate agricultural uses, and associated community services and facilities. The maximum allowable density is 1 unit per net acre.
- ❖ **Residential Detached Low.** The Residential Detached Low designation is intended to accommodate families in suburban single-family homes, including manufactured homes on medium-sized parcels. Accessory dwelling units are allowed under this designation. The highest concentrations of the Residential Detached Low designation are at the eastern City limit, especially in the hills near the Anderson Reservoir. This designation allows up to 4 units per net acre.
- ❖ **Residential Detached Medium.** Residential Detached Medium areas allow detached homes on smaller lots, including courtyard homes, manufactured homes, and small-lot single-family homes. Accessory dwelling units are allowed under this designation. Up to 25 percent of the total number of units in a project in the Residential Detached Medium designation may be duets. The Residential Detached Medium designation is dispersed throughout the City, often providing a transition from nonresidential areas to lower-density neighborhoods. The largest areas with this designation are centered around East Dunne Avenue and West Main Avenue between Highway 101 and the railroad. This designation allows up to 7 units per net acre.
- ❖ **Residential Detached High.** The Residential Detached High designation is intended to accommodate detached single-family homes on small lots at a density of 6 to 12 units per

net acre. This land use is meant to serve as a transition between single-family and multi-family land uses. Up to 25 percent of the total number of units in a project in the Residential Detached High designation may be duets.

- ❖ **Residential Attached Low.** The Residential Attached Low designation is primarily meant to accommodate attached homes including duplexes/duets, courtyard homes, townhomes, and garden apartments. Up to 25 percent of a Residential Attached Low site may include small-lot single family detached homes when those units are located adjacent to an existing single family detached neighborhood. Residential Attached Low areas generally are located in or next to existing residential neighborhoods and close to commercial corridors, including West Dunne Avenue and Monterey Road. This designation allows 6 to 16 units per net acre.
- ❖ **Residential Attached Medium.** This designation allows attached housing types including townhomes, garden apartments, and stacked flats. Pockets of Residential Attached Medium are primarily centered around the Downtown. Frequently found near commercial areas that in part serve the adjacent residents, this designation accommodates 16 to 24 units per net acre, most of which are townhomes, apartments, or condominiums.
- ❖ **Residential Downtown.** Small pockets of Residential Downtown, the highest-density residential designation is centered around Downtown and the commuter rail station. Development within this area must be supportive of transit oriented design. This designation allows 24 to 46 units per net acre, most of which are apartments or condominiums.
- ❖ **Mixed Use.** Applied in accordance with the Downtown Specific Plan, this designation applies to the majority of the parcels in and around the core of the Downtown area, especially parcels along Monterey Road and all the parcels between Monterey Road and Depot Street. It is intended to encourage a mixture of retail uses and residences. Consistent with the adopted Downtown Specific Plan, the Mixed Use designation generally allows a density between 8 to 20 units per net acre, except for the Central Business District (CBD), where there is no maximum or minimum density.
- ❖ **Mixed Use Flex.** The Mixed Use Flex designation, which is primarily applied to properties along the Monterey Road corridor north and south of downtown, allows for a mix of residential, commercial, and office uses applied either vertically (i.e., one structure with multiple uses) or horizontally (i.e., structures with different land uses located adjacent to one another). Density should transition from higher to lower at the ends of Monterey corridor. The Mixed Use Flex designation allows 7 to 24 units per acre and a maximum FAR of 0.5. Prior to development of Residential or Mixed-Use projects within the Mixed Use Flex designation a block level master plan is required to identify how commercial uses will be incorporated within the development of the block and how individual development projects will connect with each other. Commercial development may proceed without preparation of a block level master plan consistent with the Commercial designation.

Morgan Hill's residential development standards are summarized in Tables H 4-3 through H 4-8.

Table H 4-3 Residential Estate (RE) District Development Standards

Site Requirements	RE-10	RE-2.5	RE-1
Lot Area, Minimum	10 acres	2.5 acres	1 acre
Lot Width, Minimum	200 ft.	150 ft.	100 ft.
Lot Depth, Minimum	200 ft.	150 ft.	100 ft.
Building Coverage, Maximum	15%	25%	30%
Structure Requirements	RE-10	RE-2.5	RE-1
Setbacks, Minimum			
Front	50 ft.	50 ft.	25 ft.
Rear	50 ft.	25 ft.	25 ft.
Interior Side	50 ft.	25 ft.	20 ft.
Street Side	25 ft.	15 ft.	15 ft.
Height, Maximum	30 ft.	30 ft.	30 ft.

Table H 4-4 Residential Detached Low and Medium Density District Development Standards

Site Requirements	RDL-20,000	RDL-12,000	RDM-9,000	RDM-7,000
Lot Area, Minimum				
Single-Family Lot	20,000 sq. ft.	12,000 sq. ft.	9,000 sq. ft.	7,000 sq. ft.; 7,500 sq. ft. for corner lots
Corner Duet Lot			4,200 sq. ft.	3,500 sq. ft.
Lot Width, Minimum				
Single-Family Lot	100 ft.	75 ft.	70 ft.	60 ft.
Corner Duet Lot			40 ft.	40 ft.
Lot Depth, Minimum	100 ft.	100 ft.	85 ft.	85 ft.
Building Coverage, Maximum	40%	40%	50%	50%
Structure Requirements	RDL-20,000	RDL-12,000	RDM-9,000	RDM-7,000
Setbacks, Minimum				
Front	25 ft.	25 ft.	First Story: 20 ft. Upper Stories: 25 ft.	First Story: 20 ft. Upper Stories: 25 ft.
Rear	25 ft.	25 ft.	First Story: 20 ft. Upper Stories: 25 ft.	First Story: 20 ft. Upper Stories: 25 ft.
Interior Side	15 ft.	First Story: 10 ft. Upper Stories: 15 ft.	First Story: 5 ft. Upper Stories: 12.5 ft.	First Story: 5 ft. Upper Stories: 12.5 ft.
Street Side	15 ft.	15 ft.	15 ft.	15 ft.
Height, Maximum	30 ft.	30 ft.	30 ft.	30 ft.

Table H 4-5 Residential Detached High Density District Development Standards

Site Requirements	RDH-4,500
Lot Area, Minimum	
Single-Family Detached Lots	4,500 sq. ft.
Corner Single-Family Detached Lots	5,000 sq. ft.
Duet Lots	3,500 sq. ft.
Lot Width, Minimum	
Lots Less Than 5,000 sq. ft.	40 ft.
Lots 5,000 sq. ft. or greater	50 ft.
Lot Depth, Minimum	85 ft.
Floor Area Ratio, Maximum	52%
Structure Requirements	RDH-4,500
Setbacks, Minimum	
Front	First Story: 15 ft. Upper Stories: 20 ft.
Rear	15 ft.
Interior Side	First Story: 10 % of lot width Upper Stories: 15% of lot width
Street Side	9 ft.
Height, Maximum	35 ft.

Table H 4-6 Residential Attached Low Density District Development Standards

Site Requirements	RAL-3,500	RAL-3,000
Lot Area, Minimum		
Duplex Lots	7,000 sq. ft.	6,000 sq. ft.
Duplex Corner Lots	7,500 sq. ft.	6,500 sq. ft.
Duet Lots	3,500 sq. ft.	3,000 sq. ft.
Duet Corner Lots	3,750 sq. ft.	3,250 sq. ft.
Multi-Family and Other Uses	3,500 sq. ft.	3,000 sq. ft.
Lot Width, Minimum		
Duplex Lots	70 ft.	70 ft.
Duplex Corner Lots	80 ft.	80 ft.
Duet and Single-Family Attached Lots	30 ft.	30 ft.
Duet and Single-Family Attached Corner Lots	40 ft.	40 ft.
Lot Depth, Minimum	85 ft.	85 ft.
Building Coverage, Maximum	50%	50%
Site Area per Dwelling Unit, Minimum	3,500 sq. ft.	3,000 sq. ft.
Structure Requirements	RAL-3,500	RAL-3,000
Setbacks, Minimum		
Front	20 ft.	20 ft.
Rear	15 ft.; or 20 ft. for two-story, located adjacent to a single-family district	15 ft.; or 20 ft. for two-story, located adjacent to a single-family district
Interior Side	5 ft.	5 ft.
Street Side	15 ft.	15 ft.
Height, Maximum	30 ft.	30 ft.

Table H 4-7 Residential Attached Medium Density and High Density District Development Standards

Site Requirements	RAM	RAH
Lot Area, Minimum	6,000 sq. ft.; 4,500 sq. ft. for corner lots	6,000 sq. ft.; 6,500 sq. ft. for corner lots
Lot Width, Minimum	60 ft.	40 ft.
Lot Depth, Minimum	85 ft.	75 ft.
Building Coverage, Maximum	60%	60%
Site Area per Dwelling Unit, Minimum	2,000 sq. ft.	1,100 sq. ft.
Structure Requirements	RAM	RAH
Setbacks, Minimum		
Front	15 ft.	15 ft.
Rear	20 ft.	15 ft.
Interior Side	5 ft.	5 ft.
Street Side	15 ft.	15 ft.
Height, Maximum	3 stories or 40 ft., whichever is less; min. 10 ft. for roof element on 3 story structure	3 stories or 40 ft., whichever is less; min. 10 ft. for roof element on 3 story structure

Table H 4-8 Mixed Use Zoning District Development Standards

Site Requirements	MU-D		MU-N		MU-F	
Lot Area, Minimum	3,500 sq. ft.		6,000 sq. ft.		6,000 sq. ft.	
Lot Width, Minimum	40 ft.		60 ft.		60 ft.	
Lot Depth, Minimum	80 ft.		100 ft.		100 ft.	
Residential Density						
Minimum	None		8 du/acre		7 du/acre	
Maximum	None		20 du/acre		24 du/acre	
Building Coverage, Maximum	None		75%		50%	
Structure Requirements	MU-D		MU-N		MU-F	
Setbacks	Res.	Non-Res.	Res.	Non-Res.	Res.	Non-Res.
Front	Min: 6 ft. Max: 15 ft.	Min: 0 ft. Max: 10 ft.	Min: 6 ft. Max: 15 ft.	Min: 0 ft. Max: 10 ft.	Min: 15 ft. Max: None	Min: 10 ft. Max: None
Rear, Minimum	0 ft.	10 ft.	0 ft.	10 ft.	20 ft.	10 ft.
Interior Side, Minimum	5 ft.	0 ft.	5 ft.	0 ft.	5 ft.	0 ft.
Street Side, Minimum	6 ft.	0 ft.	6 ft.	0 ft.	10 ft.	10 ft.
Height, Maximum	3 stories and 45 ft.		35 ft.		35 ft.	

Table H 4-9 Required Parking Spaces

<i>Land Use</i>	<i>Number of Required Parking Spaces</i>
Duets	2 covered per unit
Duplexes	2 covered per unit
Emergency Shelters	1 parking space per eight beds, plus 1 parking space per 300 square feet of office or other non-residential floor area
Group Housing	1 per bedroom
Live/Work Unit	2 per unit
Mixed Use Residential	As required for each individual use, except that parking serving residential uses may be uncovered
Multi-Family Dwellings	
Studio or One-Bedroom	1 covered and 0.5 uncovered per unit
Two Bedroom	1 covered and 1 uncovered per unit
Three Bedroom	1 covered and 1.5 uncovered per unit
Senior Housing, Multi-Family Dwellings	1 covered per unit
Senior Housing, Single-Family Dwellings	50% of units with 2 covered spaces, 50% with 1 covered space
Single-Family Attached Dwellings	2 covered per unit
Single-Family Detached Dwellings	2 covered per unit

Table H 4-10 Required Guest Parking Spaces

<i>Land Use</i>	<i>Number of Required Parking Spaces</i>
Single-Family Dwellings	1 per 4 units
Multi-Family Dwellings	1 per 3 units
Multi-Family Dwellings for Senior Citizens	1 per 5 units

Height Limit

As shown on Tables H 4-3 through H-8, maximum height restrictions are limited to 30-feet for low density residential uses (RE-10, RE-2.5, RE-1, RDL-20,000, RDL-12,000, RDM-9,000, RDM-7,000, RAL-3,500, and RAL-3,000); and maximum height restrictions are limited to 35-feet through 45-feet for medium and high density residential uses and mixed-use uses (RDH-4,500, RAM, RAH, MU-D, MU-N, MU-F). In addition to the height limits identified for each zoning district, Section 18.56.020 (Height Exceptions) identify building features (such as decorative features, parapets, chimneys, elevator shafts and stair towers, rooftop equipment and enclosures, and photovoltaic panels) which may project above the maximum permitted building height in the applicable zoning district.

The City has processed entitlement applications for many multi-family housing and affordable housing developments that met the height limit restrictions of the Zoning Code. One of the larger affordable housing developments that met the height limit restrictions of the RAL (30-feet) and MU-F (35-feet) zoning districts was the 249-unit Monterey-Minor (Jemcor) project.

However, the City has processed some smaller affordable housing applications, including the 66-unit Monterey-First Community Housing (Magnolias) project, the 73-unit Royal Oaks Village project, and the 82-unit Morgan Hill Senior Housing project, which all requested a concession on the 35-foot height requirement of the MU-F zoning district, 68-feet, 45-feet, and 42-feet respectively, based on Government Code Section 65915. Although these projects requested a concession of the height limitations of the zoning district, the height restrictions of the Zoning Code are determined to not be a constraint on housing development, as these three projects were taking advantage of the recent changes to Density Bonus Law to maximize the number of units to be constructed on a site.

Previously, height requirements were re-evaluated in 2016 during the preparation of the 2035 General Plan and subsequently amended during the comprehensive update to the Zoning Ordinance in 2018 pursuant to Action HE-1h-2 (Review Height Limits) in the previous Housing Element to ensure that height limits allow for the intended density of the General Plan land use diagram. However, as mentioned previously, the Affirmatively Furthering Fair Housing (AFFH) Appendix states the maximum heights for multi-family housing could curb multi-family housing development and affordable housing development in the future if developers' cost constraints change. Therefore, upon review of the next Housing Element cycle, the City will review and analyze development costs as required by State law to determine the costs and any constraints at that time.

Parking Requirements

Adequate parking is an important component of well-designed residential development and is intended to contribute to the value of a project, the safety of residents, and the project's appearance and livability. The City's parking regulations are also intended to promote efficient land use, reduce street congestion and traffic hazards, promote vehicular and pedestrian safety, and improve the ability to finance a project. Table H 4-9 lists the parking requirements for residential developments; however, the MU-D and RAH zoning districts have reduced parking requirements pursuant to Section 18.72.030.A of the Zoning Code. The following text analyzes the impact of parking standards on housing.

Residential parking space requirements can, if too stringent and not related to consumer demand or project needs, affect the cost and supply of housing to the extent that such standards make it infeasible to obtain the requisite density or revenue necessary to finance new projects. Public transit systems have proven to reduce road congestion and travel time for drivers; hence the need for automobiles and parking spaces are typically lower for public transit users. In addition, affordable housing residents typically have lower car ownership rates, and therefore have fewer auto trips and fewer single occupant automobile commutes. However, Morgan Hill has limited public transit within the City. Although Morgan Hill has a Caltrain Station with downtown, the station is only served during weekday peak hours, with three northbound trains in the morning and three southbound trains in the evening. In addition, bus service is also limited within Morgan Hill, with only one line, bus Route 68, that has 15-minute headways, which runs along Monterey Road, from Gilroy to San Jose. Due to the limited public transit in Morgan Hill, the usage of personal automobiles is heavily relied on.

However, due to changes to Density Bonus Law (Government Code Section 65915), three housing projects have requested parking reduction concessions due to increased density provided pursuant to Government Code Section 65915. The 101-unit Monterey-City Ventures (Jasper) project requested a parking reduction from 292 parking spaces to 254, the 73-unit Royal Oaks Village project requested a parking reduction from 204 parking spaces to 140, and the 82-

unit Morgan Hill Senior Housing project requested a parking reduction from 83 parking spaces to 37. It is highly anticipated that the future residents of these projects will utilize on-street parking and adjacent parking lots due to the reduction of off-street parking provided by the entitled projects. Although these projects have received concessions for the reduced parking, the parking requirements by the City are determined to be not a constraint to housing due to the vast number of projects, including affordable housing projects (389-unit Jarvis-MH Apartments project, 249-unit Monterey-Minor (Jemcor) project, and the 66-unit Monterey First Community Housing (Magnolias) project), that meet the parking requirements of the Zoning Code.

However, it is important to note, requiring 1.5 to two parking spaces (one covered and 0.5 uncovered parking spaces per unit plus an additional parking space for every three dwellings for guest parking) for smaller bedroom units (e.g., studio and one-bedroom units), as indicated in Tables H 4-9 and H 4-10 above, is generally considered a constraint by increasing project costs and reducing available land to develop units, and thus impacts a projects ability to meet maximum densities; therefore, the Housing Element includes an implementation program to amend the Zoning Code to modify parking standards for studio and one-bedroom units for multi-family dwellings to require one covered parking space per unit plus one parking space for every four units for guest parking (a total of one to 1.25 parking spaces per unit).

Action HE-1.K Amend the Zoning Code by 2024 to modify parking standards for studio and one-bedroom units for multi-family dwellings to require one covered parking space per unit plus one parking space for every four units for guest parking (a total of one to 1.25 parking spaces per unit).

In addition, with the passage of AB 2097, effective January 1, 2023, cities in California can no longer impose minimum parking requirements on new developments within a half-mile of public transit. The City of Morgan Hill will comply with this new requirement.

Parking requirements for Emergency Shelters are provided in more detail within Section 4.3.7 of this Appendix. In summary, Section 18.92.050 (Emergency Shelters) of the Morgan Hill Zoning Code requires emergency shelters to provide one space per three hundred square feet of habitable floor area; however, Section 18.72.030 (Required Parking Spaces) of Chapter 18.72 (Parking and Loading) of the Morgan Hill Zoning Code requires one parking space per eight beds, plus one parking space per 300 square feet of office or other non-residential floor area. Due to this inconsistency within the Zoning Code, and to ensure consistency with Government Code Section 65583(a)(4)(B)(ii), the Housing Element includes an implementation program to amend the Zoning Code to clarify and modify parking standards for emergency shelters consistent with Government Code Section 65583(a)(4)(B)(ii).

Action HE-5.I Amend the Zoning Code by 2024 to clarify and modify parking standards for emergency shelters consistent with Government Code Section 65583(a)(4)(B)(ii).

Downtown Specific Plan

The Downtown Specific Plan, adopted in 2009, provides a long-term strategy for revitalizing central Morgan Hill by strengthening Downtown as the gathering place, a connecting force, the social and activity heart of Morgan Hill. A place where residents from all segments of the community can live, work, meet, shop, dine and participate in public celebrations, and share in the richness of Morgan Hill's community life. The primary urban design goals and objectives addressed by the Downtown Specific Plan include:

- ❖ Creating an active Downtown village through intensifying residential, retail, restaurant, and

entertainment uses, within an urban setting improved with unified landscaping and streetscape improvements;

- ❖ Making Monterey Road and Third Street more pedestrian and retail friendly, and improve other roads with better street lighting and streetscape improvements;
- ❖ Strengthening Downtown's identity and scale with new design related to a traditional character; and
- ❖ Creating visual and physical linkages to Downtown with landscaping, bike paths and entry area features; and with linking downtown commercial uses to common parking areas available to the general public.

Monterey Corridor Form-Based Code

The City of Morgan Hill is in the process of preparing a Draft Form-Based Code (FBC) for the Monterey Corridor. The City of Morgan Hill is guided by several key policy and regulatory documents to manage future growth. Adopted by the City Council in July 2016, the Morgan Hill 2035 General Plan establishes a vision for a prosperous, vibrant city supported by a framework of goals, policies, and actions that guide the City's decisions for the next two decades. The Morgan Hill Downtown Specific Plan, adopted in November 2009, complements the General Plan, ensuring that residential and commercial development standards support the community's vision for a vibrant and accessible Downtown village. The General Plan vision for the Monterey Corridor is as follows:

"North and south of Downtown will transform from its current predominantly strip commercial character to a vibrant mixed-use corridor that encourages walking and biking. Buildings will front onto the street and a range of commercial and office uses will be located within close proximity to attached residential units. Density will decrease with distance from Downtown."

State law also continues to influence the City's growth and development. Legislation that facilitates and accelerates the development of housing, with an emphasis on affordable housing, will play a role in shaping municipal policies, permit processes, and development standards for years to come.

In light of the visions and policies of the 2035 General Plan and the Morgan Hill Downtown Specific Plan, the draft Monterey Corridor Form-Based Code (FBC) proposes to facilitate development that complies with local requirements and State law. The draft FBC is also intended to build on the success of public and private investments in Downtown, which has become a cherished community gathering place and a desirable tourist destination, all supported by a pedestrian-oriented, mixed-use built environment. The draft FBC is meant to expand on Downtown's success along the Corridor, encouraging walking, biking, a mix of uses, and a range of housing options consistent with the General Plan.

Regulations and standards in a Form-Based Code are presented graphically in simple diagrams and photographs as well as supplemental text. While Form-Based Codes focus on an intended physical form, they also regulate use by allowing a mix of appropriate land uses chosen to ensure compatibility among different contexts and the intended physical form of the area. The standards ultimately shape the relationship between building facades and the public realm (i.e., the public and private space between buildings), the form and mass of buildings in relation to one another, and the scale and type of blocks.

The draft FBC establishes development standards that are objective and implement the community vision, emphasizing pedestrian-oriented building form and streamlined housing development with an appropriate mix of uses. The draft FBC is designed with a user-friendly

organizational structure, where City staff and community members can easily navigate and recognize the standards and requirements that apply to the applicable development site. The draft FBC proposes the following three Form-Based Zoning Districts within the FBC:

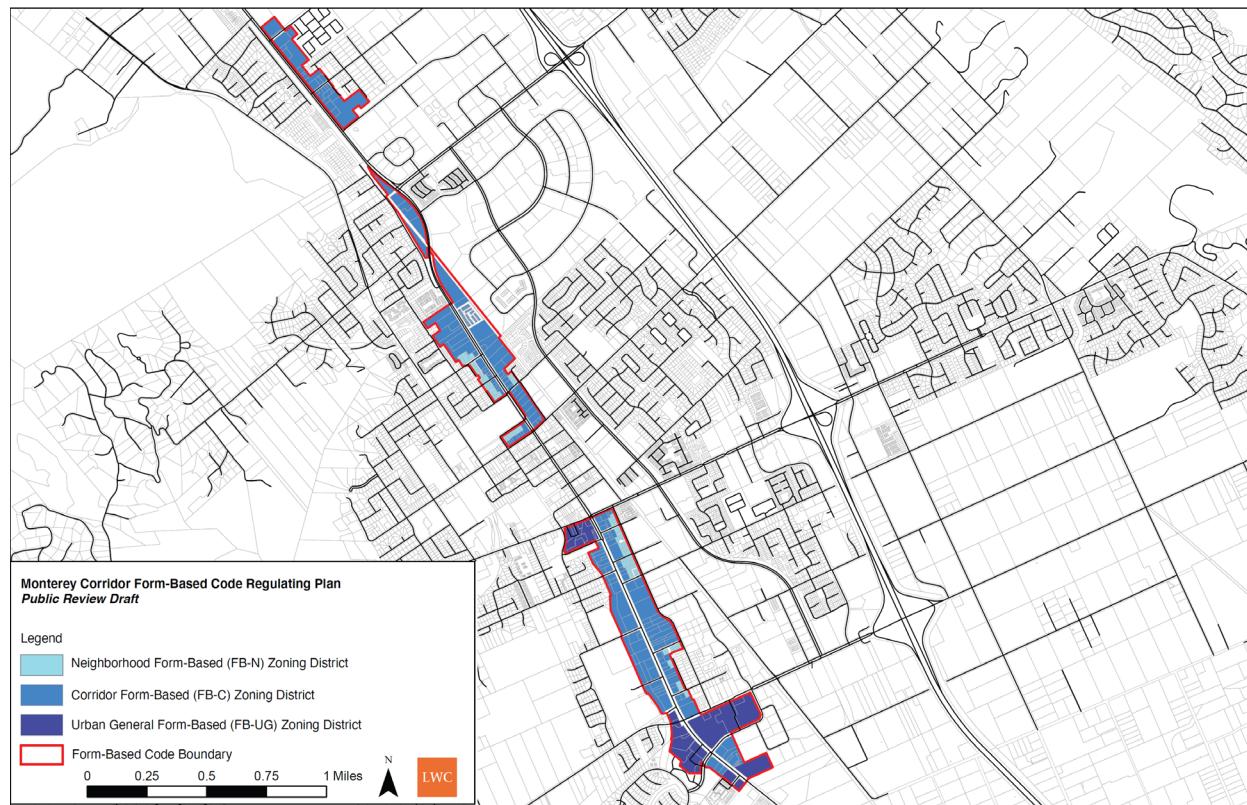
Neighborhood Form-Based (FB-N). A variety of housing opportunities that are accessible to a range of income levels in a walkable environment with neighborhood-serving retail and services.

Corridor Form-Based (FB-C). Variable intensities of infill and redevelopment with a mix of walkable uses, such as retail, service, and commercial, that are sensitive to the scale and character of the area.

Urban General Form-Based (FB-UG). Mixed-use commercial and residential hubs with a variety of uses and clustered job opportunity centers. Accessible corridors and streets with internal block patterns and an improved pedestrian experience transitioning from an auto-centric environment to a walkable environment.

These three Form-Based Zoning Districts are keyed to a plan, referred to as a Regulating Plan, that functions like a zoning map, assigning an appropriate form-based zone to specific lots. The proposed Regulating Plan boundary, in which the FBC would apply to, generally includes parcels adjacent to Monterey Road within the City limit, excluding the Downtown Specific Plan Area and parcels south of Watsonville Road (see Figure H 4-7 below). The boundary extends north and south of Downtown from approximately Main Ave north to Burnett Ave and from approximately Dunne Ave south to Rome Ave.

Figure H 4-7: Draft Monterey Corridor Form-Based Code Regulating Plan



Local Ordinances

State law now requires jurisdictions to analyze in their Housing Elements any locally adopted ordinances that directly impact the cost and supply of residential development. The City of Morgan Hill has an Inclusionary Housing Ordinance (Chapter 14.04 Inclusionary Housing) which is analyzed in the following section and a Residential Development Control System (Chapter 18.156 of the Municipal Code), which was suspended until 2030 pursuant to Senate Bill 330 and Senate Bill 8, is analyzed below.

The historical backdrop to Morgan Hill's unique housing story began in 1977, when the voters adopted the Residential Development Control System (RDCS), a smart growth residential pacing policy. This was done in response to the community's concern for the amount and pace of residential growth and its impacts on city services and infrastructure. While RDCS limited the number of residential homes to 215 building permits per year, it did more than manage growth. It was a well-designed, intentional program that effectively incentivized and prioritized affordability in most developments in Morgan Hill. For 40 years, RDCS worked as a "de facto" Inclusionary Housing Ordinance, incentivizing the creation of high-quality, affordable housing throughout the entire city. The pacing of residential development with services (or smart growth) continued through a city-initiated ballot, Measure S, which was approved in November of 2016 and effective March 2017.

The RDCS program provided an opportunity for developers to compete for allocations to build housing based upon a competition system that paced growth with infrastructure development and revenue streams. Points were awarded for park lands and open space, safe routes to schools, proximity to the downtown businesses and services. Points were awarded for providing affordable housing. Additionally, the program encouraged developers to offer a wide range of housing types and sizes in their proposals. Through RDCS, Morgan Hill has been able to obtain a significant amount of affordable housing, developer fees, and other public benefits that it is no longer able to obtain.

Major housing legislation began in 2017 with a package of 15 new housing laws that address the state's critical housing shortage. On top of that, more than 45 laws of significance have been adopted since the 2017 housing package. These include changes in Housing Element requirements, a focus on streamlining housing production, creating ministerial approval processes, and constraining local land use authority to increase supply. In 2018, as suspected, RDCS was suspended when Governor Newsom signed Senate Bill 330 ("SB 330") into law, effective as of January 1, 2020. SB 330 enacted Government Code Section 66300, the "Housing Crisis Act of 2019". The Housing Crisis Act preempts and precludes the enforcement of RDCS while the State of California's Housing Crisis Act is in effect. The HAA establishes the state's overarching policy that a local government may not deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards. The legislature amended the HAA to expand and strengthen its provisions to effectively curb the capacity of local governments to deny, reduce the density, or render housing development projects infeasible via the following laws: (2017) Senate Bill 167, Assembly Bill 678, Assembly Bill 1515; (2018) Assembly Bill 3194; (2019) Senate Bill 330 and (2021) Senate Bill 8.

In 2018, the City of Morgan Hill adopted an Inclusionary Housing Ordinance (IHO) requiring residential developments to provide 15% of the units outside of Downtown, and 10% of the units in Downtown, as part of the City's efforts to create and maintain an income-based housing inventory of Below Market Rate (BMR) units to archive the City's housing goals. Due to the passage of Senate Bill (SB) 330, the IHO is a result of the loss of the City's Residential

Development Control System (RDCS) growth management program which has been the mechanism for the City to obtain BMR housing units for many years.

The IHO was amended in December 2021 to clarify the intent to broaden the first-time homebuyer pool to include households whose gross annual income ranges from 110% of the AMI to 120% of the AMI; thus, maintaining a moderate ownership program with a sales price that is capped at 110%. This work originally began when the City retained Keyser Marston & Associates (KMA) to evaluate:

1. The additional financial cost to new for-sale residential projects to provide the deeper levels of on-site affordable units with the original consideration of adding lower income units to the BMR IHO ownership program requirement; and
2. The evaluation of proposed changes to current in-lieu fee levels that would approximate the cost of providing the proposed deeper levels of on-site affordable units.

KMA identified opportunities to deepen the overall level of affordability of for-sale inclusionary units. KMA prepared a report summarizing the findings of the evaluation. Staff held a workshop with KMA and the development community on May 24, 2021, to discuss the possibility of deepening the overall level of affordability of for-sale inclusionary units. The consensus from the development community was that adding lower-income units to the ownership program is not economically feasible due to high construction costs, the uncertainty of the pandemic, and the overall economic implications to a project. KMA also did not recommend adding low-income ownership to the Inclusionary Program. Although the analysis by KMA was supportive in helping the team arrive at the final recommendations, the work and the recommendations have continued to evolve throughout the process.

As housing workshops were held with the City Council and community from May through June 2021, it resulted in a shift in priorities in the Housing Program. The City Council prioritized meeting the City's RHNA at all affordability levels to ensure income-based inclusivity.

The City, like all cities and counties, has historically struggled to achieve the RHNA goals for very low-income units and extremely low-income units. With the priority set to meet the very low-income goal earlier in this next 6th Housing Element planning cycle (2023-2035), the City's Housing team used this opportunity to further amend the Inclusionary Housing Ordinance to address the City Council's goal of finding opportunities to meet the very low and extremely low-income goal. To that end, the Inclusionary Housing Ordinance has been modified to create needed flexibility to best use the program to meet the RHNA requirements, while at the same time deepening the affordability of the built BMR units.

As part of the 2021 IHO update, the two main changes to the IHO would permit, by right, up to 50% of the affordable housing requirement to be satisfied with an in-lieu fee. This fee would provide the City with a funding mechanism to support projects that produce units that contribute to meeting the RHNA goals and achieve its very low income and extremely low-income goals. The second significant change clarifies that the sales price for moderate-income units is based on an affordability level of 110% of AMI.

At the Planning Commission's hearing, two programmatic suggestions were discussed. The first notion was to consider allowing the BMR homeowners with a 45-year agreement to exit the BMR Program early if they have paid off their 30-year mortgage. This would allow the BMR home to be sold at the market value. While the BMR Program allows individuals/families to enjoy home ownership security at a much-reduced cost with lower consistent stable mortgages and property tax benefits, BMRs in Morgan Hill have not been intended to serve as the way a family achieves investment or significant asset building. Staff acknowledges that each homeowner's journey is different, and some families may certainly choose to stay in their BMR for 45 years or more;

however, the City also expects and counts on the fact that some families will choose to move on, providing a resale opportunity for the next income-qualified family. Allowing the exit of the BMR program early, would impact the City's BMR inventory and limit the City's ability to continue to have a robust income-based housing inventory. Allowing for an early sale of the BMR at market-rate would not be consistent with the intent of the City's BMR goals, which is to create a path to a first-time homebuyer opportunity, not a "forever home." A change to the contract terms based on an attempt to increase value or equity for one household would likely reduce a good number of BMR homes in the Program, as well as future resale families for additional families. Therefore, it was not recommended that the City consider altering contracts but rather to continue to focus on the preservation of affordable units.

The second item that was brought up by the Planning Commission was the consideration of Commercial Linkage Fees (CLF). CLF is a type of fee that some cities add to new commercial or industrial development to offset a portion of the need for affordable housing created by new jobs. While CLFs are commonly used in job-rich cities, they would disincentivize commercial development. Morgan Hill currently struggles with the high cost of green field development. Commercial and Industrial development in Morgan Hill requires a certain amount of investment that provides for the high cost of infrastructure. Therefore, given the high impact fees in Morgan Hill, a Commercial Linkage Fee was not adopted in the 2021 IHO update. However, the City acknowledges the need to reevaluate CLF in the future.

The following is a summary of the notable changes from the 2018 IHO to the updated 2021 IHO:

1. **In-Lieu Fee Election for One-Half of Required Inclusionary Units.** Developers may elect to satisfy the applicable requirements (For-sale in Downtown, For-sale Outside Downtown, Rental Projects in Downtown and Rental Projects outside Downtown) by paying an in-lieu fee for up to one-half of the number of required inclusionary units and constructing the remaining required inclusionary units for their remaining affordability requirement. If the required number of inclusionary units results in a fractional number, the provisions of the preceding paragraph regarding payment of a fee shall apply to the fractional unit. These funds would provide the City with the ability to leverage outside funding sources to build very low-income and extremely low-income units.
2. **In-lieu fee schedule.** Fees will be automatically increased for inflation.
3. **"Affordable Sales Price" defined.** Moderate-Income units that are built would be priced for households whose gross annual income does not exceed 110% of AMI.
4. **Accessory Dwelling Units (ADUs).** ADU's constructed within for-sale projects will not be counted toward satisfaction of the requirement to construct inclusionary units. ADU's are not deed restricted for affordability and the City cannot require them to be rented out.
5. **Alternatives.** For developers who choose an alternative method for complying with the IHO, the City is requiring a deeper level of affordability or a higher number of units built to benefit the City.
6. **Incentives.** Section 14.04.120 related to incentives to building on-site inclusionary housing units was removed as these are available automatically through State Density Bonus Law.

Although the City recently updated its Inclusionary Housing Ordinance, the City recognizes that there is a need to revisit the IHO during the 6th Housing Element cycle to ensure that the IHO is meeting its objectives, is functional, and to further evaluate the needs to provide affordable housing for all segments of the community. In addition, currently, the City's Inclusionary Housing Ordinance requires the provision of units affordable to moderate-income households in for-sale developments. Requiring that developers achieve deeper owner-occupied affordability through

cross-subsidization and existing incentives may not be effective. However, the City could seek to bridge the gap between inclusionary for-sale units and low-income households by providing financial support. Therefore, the City has implemented the following measures to further evaluate the Inclusionary Housing Ordinance:

Policy HE-2.19 Commercial Linkage Fee. Consider new commercial and industrial development to meet the housing demand they generate, particularly the need for affordable housing for lower-income workers, through a Commercial Linkage Fee Ordinance or similar mechanism.

Action HE-3.L Review the Inclusionary Housing Ordinance to provide deeper for-sale affordability beyond the updated 2021 Inclusionary Housing Ordinance. Complete review by year six; revise ordinance by eight years.

4.3.3 Building Codes and Code Compliance

Building codes regulate the construction of dwellings and apply to plumbing, electrical, and mechanical systems as well as other aspects of construction. The purpose of building codes and their enforcements is to protect the public from unsafe conditions associated with faulty construction. As of January 1, 2020, the City of Morgan Hill required all new development to comply with the California 2019 Building Standards Code and applicable code amendments. Building code modifications and City code compliance practices are described below.

Prohibition of Natural Gas Infrastructure in New Buildings

The City of Morgan Hill enforces State building code standards (Title 24) for all structures subject to the code, including the construction and rehabilitation of housing. In 2019, the City of Morgan Hill adopted Chapter 15.63 (Prohibition of Natural Gas Infrastructure in New Buildings) pursuant to Ordinance No. 2306 N.S. requiring all new buildings to rely solely on electricity as their energy source if they apply for a building permit after March 1, 2020.

Emissions from natural gas combustion, and propane in areas unserved by natural gas, have become the largest source of greenhouse gas emissions associated with buildings. These emissions make up about one-third of the greenhouse gas emissions in our region. Of these emissions in a typical dwelling, about 49% come from water heating, 37% from space heating, and 7% from cooking, with the remainder being pool heating, clothes drying, etc. While the exact numbers for nonresidential buildings vary widely with the type of occupancy, the aggregate nonresidential numbers are 32% for water heating, 36% for space heating, 23% for cooking, and 9% miscellaneous.

Although natural gas was considered superior to electricity because it was more efficient in the past, this is no longer the case. Three modern electric appliances (heat pump water heaters, heat pump space heaters, and induction cooktops) now offer enhanced efficiency and performance.

In terms of construction costs, avoiding the installation of gas pipelines into a development can save approximately \$7,000 per unit. While the increased cost of installing larger electrical transformers will reduce the net savings, depending on the location, all-electric construction is expected to be less expensive on average.

On the operational cost side, it is difficult to definitively determine whether an all-electric building will cost more or less to operate because the relative costs of electricity and natural gas fluctuate over time. What is certain is that property owners have the opportunity to own their own solar energy systems, which can offset some or all of their electricity use, and the same cannot be said for their natural gas use. The only practical way to “zero-out” a gas utility bill is to rely solely on electricity.

Lastly, all-electric homes are considered substantially safer than their dual-fuel counterparts because there are no emissions within the home from gas combustion and there are no gas pipes that can leak due to wear, age, or earthquake.

Code Compliance

Building safety standards are upheld through the Code Compliance section of the Building Division utilizing the 2018 International Property Maintenance Code. In the last three years, data reflecting prevalence of residential habitability issues, such as mold, vermin, broken windows, non-functioning utilities, etc. have indicated that there were 19 code enforcement violations that involved health and safety issues. City enforcement removed these hazardous and dangerous situations. The expanded use of this program has helped to address building condition issues before they progress to conditions requiring demolition or substantial rehabilitation, and to promote the exploration of rehabilitation opportunities before demolition.

Based on efforts to use code enforcement as a tool to catch problems before they require more extensive repairs or demolition, building code and code compliance practices and regulations by the City of Morgan Hill are not considered to represent a constraint to the provision of housing or affordable housing in the City.

4.3.4 Infrastructure Requirements

Various City departments implement on- and off-site improvement requirements, including standards for street construction, sidewalks, curbs, gutters, on-street parking and bicycle lanes. Residential development may also necessitate constructing water, sewer, and drainage improvements. All improvements are generally required as conditions of approval and are developer financed. Complying with certain infrastructure improvements may be perceived as a constraint on the provision of housing for all income levels.

For infill projects, the City Code requires the construction of standard improvements that may include repair of defective sidewalks, construction of standard driveways, and maneuvering areas. The Code also requires dedication and improvement of full-street or alley frontages. Section 12.02.190 (Exceptions) of Chapter 12.02 (Street and Sidewalk Development) of Title 12 (Streets, Sidewalks and Public Places) of the Municipal Code allows the Planning Commission to recommend that the City Council authorize conditional exceptions to any of the requirements and regulations of Chapter 12.02 (Street and Sidewalk Development).

Although infrastructure requirements represent a cost to developing housing, these improvement standards are not unreasonable nor do they represent a significant constraint.

4.3.5 Jurisdiction Fees

Like cities throughout California, the City of Morgan Hill collects development fees to recover the capital costs of providing the required citywide infrastructure that supports increased development and the administrative cost associated with processing applications.

New housing typically requires payment of the following fees: building permits, school impact, fire sprinkler permit, solar permit, meter deposit, water impact, sewer impact, storm drain impact, traffic impact, park impact, public facilities impact, library impact, community/recreation center impact, public safety impact, and burrowing owl mitigation fees. These fees are necessary to pay for services rendered during the processing of the project, but can, however, add to housing costs. In addition, subdivisions and multi-family projects may incur the cost of preparing environmental documentation, traffic studies, soils reports, and filing fees for tentative and final maps. These are requirements of California law. In addition, multi-family projects may require a Conditional Use

Permit, Design Permit, a SB 330 Preliminary application, and a Santa Clara Valley Habitat Agency Review Fee. Such fees are typically based on the rates of city employees (including overhead) and the number of hours spent processing the application or performing the associated work.

Table H 4-11 identifies all development fees for single family (2,600 square foot single-family dwelling), small multi-family (10-unit multi-family building) and large multi-family (100-unit multi-family building) housing developments. The development fees including planning entitlement fees, building permit fees, and impact fees.

Summary of Fees	Single Family	Small Multi-Family	Large Multi-Family
Planning Entitlement Fee	-	-	-
Conditional Use Permit	n/a	n/a	\$114.40
Environmental Assessment	n/a	\$230.80	\$23.08
Design Permit	n/a	\$1,139.28	\$708.15
SCVHA Review Fee	n/a	\$62.64	\$6.26
SB 330 Preliminary Application	n/a	\$1,372.44	\$137.24
Building Permit Fees	-	-	-
School Impact Fee	\$12,648	\$3,468	\$306
Fire Sprinkler Fee	\$711.80	\$711.80	\$711.80
Solar Permit	\$400	\$400	\$400
Impact Fees	-	-	-
Meter Deposit	\$527	\$527	\$527
Water Impact Fee	\$4,460	\$3,753	\$3,753
Sewer Impact Fee	\$16,280	\$13,778	\$13,778
Storm Drain Impact Fee	\$2,063	\$546	\$546
Traffic Impact Fee	\$3,585	\$1,399	\$1,399
Park Impact Fee	\$6,173	\$5,948	\$5,948
Public Facilities Impact Fee	\$588	\$566	\$566
Library Impact Fee	\$2,267	\$2,184	\$2,184
Community/Recreation Center Impact Fee	\$4,204	\$3,689	\$3,689
Public Safety Impact Fee	\$2,063	\$1,366	\$1,366
Burrowing Owl Mitigation	\$233	\$233	\$233
Total	\$55,903	\$41,374	\$36,396

In general, jurisdiction-imposed fees represent a small percentage of the overall cost to develop new housing, however, given the additional strain of hard costs, these fees can compound constraints on the production of new housing. As summarized in Table H 4-11 and H 4-13, total development fees in Morgan Hill are \$55,903 for a single-family house, and between \$41,374 and \$36,396 for a multi-family unit. As depicted in these tables, fees per unit are higher for single family construction than for multi-family construction. Therefore, there is not a concern of fees disproportionately impacting multi-family housing.

In addition, according to HCD's Comprehensive Housing Element Guide, housing development fees ranging from 10 to 15 percent of development costs are considered typical. Within Morgan Hill, the total amount of fees in proportion to the development costs, as described in Figures H 4-1 and H 4-2, for both single family and multi-family housing ranges from 2.0% to 5.5% as indicated in Table H 4-12. Therefore, Morgan Hill's development fees are not considered a constraint on

housing production in Morgan Hill.

Table H 4-12 Development Fees as a Percentage of Total Development Costs

<i>Single Family</i>	<i>Small Multi-Family</i>	<i>Large Multi-Family</i>
2.0%	5.5%	5.2%

A recent Santa Clara County Planning Collaborative analysis in April 2022, performing a regional fee comparison, showed that the City of Morgan Hill's impact fees typically fall just under the average when compared with other jurisdictions in the region. The City's fees are not considered a constraint on housing production. Table H 4-13 summarizes the total fees (entitlement fees, building permits, and impact fees) per unit by jurisdiction for all local jurisdictions within Santa Clara County, including the City of Morgan Hill, that contribute to the overall cost of development which apply to new residential construction as found in the Santa Clara County Planning Collaborative analysis. The residential prototypes used in this analysis include a 2,600 square foot single-family dwelling, a 10-unit multi-family building, and a 100-unit multi-family building.

Table H 4-13 Total Fees per Unit (by Jurisdiction)

<i>Jurisdiction</i>	<i>Single Family</i>	<i>Small Multi-Family</i>	<i>Large Multi-Family</i>
Campbell	\$72,556	\$20,599	\$18,541
Cupertino	\$136,596	\$77,770	\$73,959
Gilroy	\$69,219	\$40,195	\$39,135
Los Altos Hills	\$146,631	N/A	N/A
Los Gatos	\$32,458	\$5,764	\$3,269
Milpitas	\$77,198	\$74,326	\$59,740
Monte Sereno	\$33,445	\$4,815	\$4,156
Morgan Hill	\$55,903	\$41,374	\$36,396
Mountain View	\$90,423	\$69,497	\$82,591
San Jose	\$9,919	\$23,410	\$23,410
Santa Clara	\$14,653	\$6,733	\$2,156
Saratoga	\$64,272	\$17,063	\$15,391
Sunnyvale	\$133,389	\$126,673	\$98,292
Unincorporated County	\$25,166	N/A	N/A

4.3.6 On- and Off-Site Improvements

Development within Morgan Hill mainly consists of greenfield development (vacant undeveloped property) where on- and off-site improvements may not exist. As indicated in Appendix H-1 Housing Needs Assessment, the predominate housing type are new subdivisions with single-family houses. The costs of the subdivision infrastructure are spread over the units which tend to be larger houses which are able to absorb the cost of development into their sales price. Multi-family housing and affordable housing are usually developed on infill parcels where on- and off-site improvements usually exist, thereby reducing the cost of development. The City has developed Design Standards and Standard Details for Construction in alignment with Title 12 (Streets, Sidewalks, and Public Places) of the Morgan Hill Municipal Code to ensure that minimum levels of design and construction quality are maintained, and adequate levels of street improvements are provided. If not in place, the installation of on- and off-site improvements will be required as conditions of approval for the subdivision, parcel map, or design permit. These include: (1) interior streets, driveways, and other public rights-of-way; (2) street improvements, including streetlights, street trees, traffic signals, sidewalks, etc.; (3) utilities, including water, sewer, storm drains, and dry utilities underground to support new housing; and (4) land for park

and recreation easements for utilities, drainage, and other public improvements. Per the Design Standards and Standard Details for Construction, typical residential subdivision streets range from 48 feet wide to 60 feet wide to accommodate the right of way depending if the 1,000 vehicles per day threshold is met. The right of way includes the street, curb and gutter, bicycle lane, median, landscaping, and a minimum of five feet for sidewalks. Street sections may be modified for infill. Lane widths are to be no less than 10 feet unless otherwise approved by the City Engineer. The Design Standards and Standard Details for Construction have a potential to affect housing costs but are necessary to provide a minimum level of design and construction quality in the City's neighborhoods.

4.3.7 Permit Processing

The City of Morgan Hill meets or exceeds State-required timelines for the approval of development permits; and when compared to other local jurisdictions within Santa Clara County, Morgan Hill is on par for the amount of time to process development permits, as shown in Table H 4-14. The time required for development approval is not generally a constraint or substantial cost to housing developers. Further descriptions of permits and their processing procedures are provided in the following subsections.

Table H 4-14 Permit Processing Times, in Months (by Jurisdiction)

<i>Jurisdiction</i>	<i>ADU Process</i>	<i>Ministerial By-Right</i>	<i>Discretionary By-Right</i>	<i>Discretionary (Hearing Officer)</i>	<i>Discretionary (Planning Commission)</i>	<i>Discretionary (City Council)</i>
Campbell	1	1	3	NA	5	1
Cupertino	1 – 3	1 – 6	2 – 4	2 – 4	3 – 6	1 – 3
Gilroy	1 – 2	1 – 2	2 – 4	NA	4 – 5	1 – 2
Los Altos Hills	1 – 2	0.5 – 2	2 – 3	3 – 4	4 – 6	1 – 2
Los Gatos	No data	3 – 6	1 – 2	2 – 4	4 – 6	No data
Milpitas	3 – 5	4 – 6	2 – 3	6 – 18	NA	3 – 5
Monte Sereno	0.75	0.75	1	1 – 2	1 – 2	0.75
Morgan Hill	1 – 2	1 – 3	2 – 3	2 – 3	4 – 6	1 – 2
Mountain View	3 – 5	4 – 6	2 – 3	6 – 18	NA	3 – 5
San Jose	2	1 – 3	7	7	7 – 11	2
Santa Clara	0 – 1	0 – 1	0 – 3	4 – 9	6 – 9	0 – 1
Saratoga	1	1 – 2	2 – 3	NA	4 – 6	1
Sunnyvale	1 – 3	1 – 3	3 – 6	6 – 9	9 – 18	1 – 3
Unincorporated County	4 – 6	6 – 8	9 – 12	12 – 15	15 – 18	4 – 6

Early consultation with the Development Services team is strongly recommended since zoning and housing requirements may apply that could affect the anticipated scope of a project. However, procedures for a typical single family or multi-family development is relatively straightforward. A typical residential development, depending on the number of units proposed, may only require a ministerial by-right building permit which typically takes one to three months to process. However, if three or more units are proposed, a Design Permit is required as outlined below; in addition, a Parcel Map or Subdivision Map may be required depending on if the property owner/developer proposes to divide the property. In these circumstances the approval process typically takes two to three months for a Design Permit, and four to six months to process a Parcel Map; if a Subdivision Map is being seek, an additional one to two months processing time is needed to

hold a public hearing with the City Council. As identified in Appendix H-2 Site Inventory, residential entitlement projects have approximately 88.7% of the units constructed with nearly 100% approval certainty.

Permit Streamlining Act

Ensuring an efficient permit process assists in controlling project costs. Developers have options available to them to receive expedited or streamlined processing of development applications under the Permit Streamlining Act. Per Government Code Section 65921, the Permit Streamlining Act was enacted in 1977 to expedite the processing of permits for development projects. The Permit Streamlining Act achieves this goal by (1) setting forth various time limits within which state and local government agencies must either approve or disapprove permits and (2) providing that these time limits may be extended once (and only once) by agreement between the parties. In addition, state law also requires a streamlined ministerial approval process for “qualified projects” in accordance with Government Code Section 65913.4.

The City of Morgan Hill adheres to all permit processing timelines for streamlining and CEQA determinations as required by the Permit Streamlining Act, Public Resources Code, and the Government Code. However, to continue to ensure the City meets these requirements, the Housing Element includes the following implementation program:

Action HE-1.L Continue to track project processing to ensure that an environmental determination is made pursuant to PRC §21080.1, within the timeframes of the PRC §21080.2 and Gov't Code 65950(a)(5) (e.g., State law).

Senate Bill 35

Senate Bill (SB) 35, passed in 2017, requires jurisdictions that have not approved enough housing projects to meet their RHNA to provide a streamlined, ministerial entitlement process for housing developments that incorporate affordable housing. Per SB 35, review and approval of proposed project's with at least 50 percent affordability must be based on objective standards and cannot be based on subjective design guidelines. However, to be eligible, projects must also meet a long list of other criteria, including prevailing wage requirements. In order for applicants to take advantage of SB 35, per Government Code Section 65913.4 (10)(b)(1)(a)(et seq.) they need to submit a Notice of Intent and jurisdictions need to give Native American tribes an opportunity for consultation. The City of Morgan Hill has developed a Notice of Intent form consistent with the law. Additionally, the City Council adopted “Residential Development Design and Development Standards” to meet the requirements of objective standards that are consistent with the Morgan Hill 2035 General Plan.

Senate Bill 330

Senate Bill (SB) 330, Housing Crisis Act of 2019, prohibits cities and counties from enacting a development policy, standard, or condition that would impose or enforce design standards that are not objective design standards on or after January 1, 2020 [Government Code Section 663300 (b)(C)]. The bill also established specific requirements and limitations on development application procedures.

Per SB 330, housing developers may submit a “preliminary application” for a residential development project. Submittal of a preliminary application allows a developer to provide a specific subset of information on the proposed housing development before providing the full amount of information required by the local government for a housing development application. Submittal of the preliminary application secures the applicable development standards and fees

adopted at that time. The project is considered vested and all fees and standards are frozen, unless the project changes substantially.

The City of Morgan Hill has developed a preliminary application form consistent with SB 330. In addition, the bill limits the application review process to 30 days, for projects less than 150 units, and 60 days, for projects greater than 150 units, and no more than five total public hearings, including planning commission, design review, and city council.

SB 330 also prohibits cities and counties from enacting a development policy, standard, or condition that would have the effect of: (A) changing the land use designation or zoning to a less intensive use or reducing the intensity of land use within an existing zoning district below what was allowed on January 1, 2018; (B) imposing or enforcing a moratorium on housing development; (C) imposing or enforcing new design standards established on or after January 1, 2020, that are not objective design standards; or (D) establishing or implementing certain limits on the number of permits issued or the population of the city or county.

Design Permit

Design Permits are required for projects that are not eligible for ministerial review. A design permit is a discretionary action that enables the City to ensure that proposed development exhibits high quality design consistent with the General Plan and any other applicable Specific Plan or Area Plan adopted by the City Council. The design permit process is also intended to ensure that new development and uses are compatible with their surroundings and minimize negative impacts on neighboring properties. The Development Services Director reviews and acts on all Design Permit applications, except the Director may elevate any Design Permit application to the Planning Commission as a public hearing for review and final decision. In addition, the City Council shall review and act on all design permit applications for new City projects determined to be significant; and the Planning Commission shall act on any Design Permit applications determined to be significant. The Design Permit process is described in the City's Zoning Ordinance under Section 18.108.040 (Design Permit) of Chapter 18.108 (Specific Permit Requirements).

Design Permits are required for the following types of projects:

- ❖ Three or more new residential units.
- ❖ One or more new residential unit on a sensitive site
- ❖ New non-residential buildings, structures physical site improvements determined to be significant.
- ❖ Additions to existing buildings, structures, or other physical site improvements visible from a public right-of-way and determined to be significant. Single-family homes are exempt unless the home is on a sensitive site.
- ❖ Additions to existing residences located on a sensitive site.
- ❖ Site alterations that change the topography of the currently developed site area on a sensitive site.
- ❖ Relocation of existing buildings, structures or other physical site improvements.
- ❖ Exterior changes to existing buildings, structures or other site improvements determined to be significant. Single-family homes are exempt unless the home is on a sensitive site.
- ❖ Grading of more than fifty cubic yards on slopes greater than ten percent.
- ❖ New accessory structures including secondary dwelling units or guest homes on a sensitive site.

To approve a Design Permit, the review authority shall make all of the following findings:

- ❖ The project is consistent with the general plan and any applicable specific plan, area plan, or other design policies and regulations adopted by the City Council.
- ❖ The proposed project complies with all applicable provisions of the zoning code and municipal code.
- ❖ The proposed project substantially complies with all applicable design standards and guidelines contained in the design review handbook.
- ❖ The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).
- ❖ The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.
- ❖ The proposed project complies with all applicable design review criteria in Subsection 18.108.040.H.

As mentioned above within this Section and Table H 4-14, the Design Permit approval process typically takes two to three months, which is not generally a constraint or substantial cost to housing developers. As part of the Design Permit approval process, a housing development project is required to be consistent with the City Council adopted objective criteria titled, "Residential Development Design and Development Standards" (Standards). These Standards are utilized to detail the review process by clearly stating the City of Morgan Hill's objectives for high quality, residential projects that are aesthetically pleasing, livable, sustainable, and well-connected to neighborhood services. A housing development that is consistent with the Standards promote approval certainty in the design review and permit process. In addition, as identified in Appendix H-2 Site Inventory, residential entitlement projects have approximately 88.7% of the units constructed with nearly 100% approval certainty.

Conditional Use Permit Process

Housing is allowed by-right in most zones as a permitted use. Conditional use permits (CUPs) are only required for Group Homes, Nursing Homes and Long-Term Care, and Residential Care Facilities as well as most housing uses in the MU-F zoning district. An Administrative Use Permit is required for Live/Work units in the MU-N and MU-F zoning districts. The CUP process is described in the City's Zoning Ordinance under Section 18.108.030 (Conditional Use Permits) of Chapter 18.108 (Specific Permit Requirements). A CUP is required for land uses that are generally appropriate within a district, but potentially undesirable on a particular parcel or in large numbers. A CUP is a discretionary action that enables the Planning Commission to ensure that a proposed use is consistent with the General Plan and will not create negative impacts to adjacent properties or the general public. An Administrative Use Permit has the same meaning as a CUP but grants discretion to the Development Resources Director. The Administrative Use Permit process is described in the City's Zoning Ordinance Under Section 18.108.020 (Administrative Use Permit).

To approve a Conditional Use Permit, the review authority shall make all of the following findings:

- ❖ The proposed use is allowed in the applicable district.
- ❖ The project is consistent with the general plan, zoning, and any applicable specific plan, or area plan adopted by the City Council.
- ❖ The site is suitable and adequate for the proposed use.
- ❖ The location, size, design, and operating characteristics of the proposed use will be

compatible with the existing and future land uses in the vicinity of the property.

- ❖ The proposed use will not be detrimental to the public health, safety, and welfare.
- ❖ The proposed use will not have a substantial adverse effect in traffic circulation and on the planned capacity of the street system.
- ❖ The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

4.3.7 Zoning for a Variety of Housing Types

Housing Element law specifies that jurisdictions identify adequate sites to be made available through appropriate zoning and development standards to encourage the development of various types of housing for all economic segments of the population, including multi-family rental housing, manufactured housing, accessory dwelling units, single room occupancies, emergency shelters, and transitional and supportive housing. Table H 4-15 summarizes the variety of housing types permitted within Morgan Hill's zoning districts.

Table H 4-15 Permitted Residential Land Uses by Zoning District									
Key	RE	RDL	RDM	RDH	RAL	RAM	RAH	MU-N	MU-F
<i>P Permitted Use</i>									
<i>A Administrative Use Permit</i>									
<i>C Conditional Use Permit</i>									
<i>– Use not allowed</i>									
Accessory Dwelling Unit	P	P	P	P	P	P	P	P	P
Duets	-	-	P	P	P	P	P	P	C
Duplexes	-	-	-	-	P	P	P	P	C
Emergency Shelters								-	C
Group Housing	-	-	-	-	C	C	C	C	C
Live/Work Unit	-	-	-	-	-	-	-	A	A
Mixed Use Residential	-	-	-	-	-	-	-	P	P
Multi-Family Dwellings	-	-	-	-	P	P	P	P	C
Nursing Homes and Long-Term Care	-	-	-	-	C	C	C	C	C
Residential Care Facilities	-	-	-	-	C	C	C	C	C
Residential Care Facilities, Small	P	P	P	P	P	P	P	P	P
Senior Housing, Independent Living	-	-	-	-	-	-	-	P	C
Single-Family Attached Dwellings	-	-	-	-	P	P	P	P	C
Single-Family Detached Dwellings	P	P	P	P	P	P	P	P	C

Manufactured Housing

State law requires that cities and counties allow the placement of manufactured homes (also referred to as factory-built homes and modular homes) meeting Federal construction standards and manufactured home subdivisions in single-unit neighborhoods.⁵ Government Code Sections 65852.3 through 65852.5 require that manufactured homes be permitted in single-unit districts subject to the same land use regulations as conventional homes. In keeping with State law, Section 18.124.020 of Morgan Hill's Zoning Code specifies that manufactured housing is considered a single-family dwelling and is subject to the same property development and design standards in the same residential zones as dwellings.

Accessory Dwelling Units

Over the last several years the State legislature has passed a series of bills aimed at encouraging single-family homeowners to add Accessory Dwelling Units (“ADUs” also known as “second units” or “granny flats”) to their property by requiring local jurisdictions to adopt regulations to facilitate their production and streamline their approval. ADUs are complete independent housing units that can be either detached or attached from an existing single-family or multi-family residence. In December 2019, the Morgan Hill City Council adopted Ordinance No. 2313 amending Chapter 18.84 (Accessory Dwelling Units) of the Zoning Ordinance consistent with State laws.

Housing for Persons with Disabilities

SB 520, signed into law in 2001, requires that Housing Elements analyze the potential and actual governmental constraints on the development of housing for persons with disabilities. The City must demonstrate its efforts to remove constraints such as accommodation procedures for the approval of group homes, ADA retrofit efforts, and evaluation of the zoning code for ADA compliance. The Housing Element should provide measures that provide flexibility in the development of housing for persons with disabilities.

As noted in the Special Needs section of the Housing Needs Assessment, persons with disabilities have a number of housing needs related to accessibility of dwelling units; access to transportation; employment and commercial services; and alternative living arrangements that include on-site or nearby supportive services. The City of Morgan Hill ensures that new housing developments comply with California building standards (Title 24 of the California Code of Regulations) and federal requirements for accessibility. The following is a description of City regulations, policies, and procedures that support housing opportunities for people with disabilities.

Residential Care Facilities

State law requires that State-licensed group homes of six or fewer residents be regulated in the same manner as single-unit residences for zoning purposes. The City of Morgan Hill Zoning Code allows group homes with six or fewer residents (called “Residential Care Facilities, Small” in the City code) by right in zones that permit single-unit dwellings (RE, RDL, RDM, RDH, RAL, RAM, RAH, and MU-N) consistent with State law as well in the MU-F zoning district. The Zoning Code also states Group homes with more than six residents (defined by the City code as “Residential Care Facilities”) are permitted with a Conditional Use Permit in the following zoning districts: RAL, RAM, RAH, MU-N, and MU-F. Therefore, the Housing Element includes an implementation program to amend the Zoning Code to allow Residential Care Facilities as a permitted use by-right in all residential zoning districts. In addition, “Group Housing” is permitted with a Conditional Use Permit in the following zoning districts: RAL, RAM, RAH, MU-N, and MU-F. As such, subjecting this use to a Conditional Use Permit is generally considered a constraint, therefore the Housing Element includes an implementation program to amend the Zoning Code to eliminate this constraint.

Action HE-6.E Amend the Zoning Code by 2024 to permit Group Housing and Residential Care Facilities as a permitted use by-right in all residential zoning districts, consistent with State law and HCDs December 2022 “Group Home Technical Advisory”.

Definition of Family

Historically zoning codes have included narrow definitions of the term family that have been used to deny housing opportunities for unrelated individuals. Although the City’s Zoning Code defines ‘Family’ as, “An individual or group of individuals living together who constitute a bona fide single

housekeeping unit in a dwelling unit. ‘Family’ does not include a group of individuals occupying a hotel or lodging house of any kind,” the City does not use the term family to discriminate against unrelated persons with disabilities living together.

Universal Design

Universal design focuses on making homes safe and accessible for everyone, regardless of age, physical ability, or stature. Universal design features can include grab bars, no step entries, and wider doorways. Other features could include accessible bedrooms, bathrooms, and kitchens; and general amenities like lever door handles and rocker light switches. Although the City does not have a universal design ordinance, the City has identified two Policies within the Housing Element to encourage and promote universal design for people with disabilities and allow older adults to age in place, maximizing on visibility and building upon Title 24.

Policy HE-6.1 Work with Affordable Housing Developers to Encourage Universal Design. Encourage universal design and maximize visibility, building on Title 24.

Policy HE-6.12 Universal Design in New Housing. Strive to achieve universal design in new residential housing units to provide housing for people with disabilities and allow older adults to age in place.

Reasonable Accommodation Ordinance

Both the federal Fair Housing Act and the California Fair Employment and Housing Act impose an affirmative duty on local governments to make Reasonable Accommodations (i.e., modifications or exceptions) in their zoning and other land use regulations when such accommodations may be necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. For example, it may be a Reasonable Accommodation to allow covered ramps in the setbacks of properties that have already been developed to accommodate residents with mobility impairments.

The City of Morgan Hill has a process to ensure that reasonable accommodations are made for persons with disabilities. The process, codified in Chapter 18.118 of the Zoning Code, was established to provide people with disabilities a way to ensure that their needs are met by the City’s zoning, building, and permitting process.

As stated in the Zoning Code, a request for reasonable accommodation may be made by any person with a disability, their representative, or any other entity, when the application of the zoning code or other land use or building regulation, policy, or practice acts as a barrier to fair housing opportunities. A request for reasonable accommodation may include a request for a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers. The Development Services Director shall take action on reasonable accommodation applications unless the application is filed for concurrent review with an application for discretionary review by the Planning Commission or City Council. The Director shall make a written determination within forty-five days and either grant, grant with modifications, or deny a request for reasonable accommodation based on the following factors:

- ❖ Whether the housing which is the subject of the request will be used by an individual with disabilities protected under fair housing law.
- ❖ Whether the request for reasonable accommodation is necessary to make housing available to an individual with disabilities protected under fair housing law.
- ❖ Whether the request for reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and

zoning.

- ❖ Potential impacts on surrounding uses.
- ❖ Physical attributes of the property and structures.
- ❖ Availability of other reasonable accommodations that may provide an equivalent level of benefit.

In addition to the quick turn-around to review and provide a written determination on the reasonable accommodation request, as stated in the Zoning Code, if an individual needs assistance in making the request, the City will provide assistance to ensure that the process is accessible to the individual.

In reviewing the factors of granting a request for a reasonable accommodation, it was found that the “potential impacts on surrounding uses” factor is a constraint in addressing barriers to housing for persons with disabilities. Therefore, the Housing Element includes an implementation program to amend the Reasonable Accommodations Chapter of the Zoning Code to remove the “potential impacts on surrounding uses” as a factor of approval or denial for a reasonable accommodation request.

Action HE-6.C Amend Section 18.118.070 (Criteria for Decision) of Chapter 18.118 (Reasonable Accommodations) of the Zoning Code by 2024 to remove the “potential impacts on surrounding uses” as a factor of approval or denial for a reasonable accommodation request.

Emergency Homeless Shelters

State law (Government Code section 65583) requires each jurisdiction to identify one or more zoning districts that allow residential uses, including mixed uses, where emergency homeless shelters are allowed without a discretionary permit and that are suitable for residential uses. The jurisdiction must demonstrate in the Housing Element that the zoning provides sufficient capacity on available sites to meet the shelter needs of the local homeless population, as identified in the most recent point-in-time count.

Within the Zoning Ordinance, Chapter 18.124 (Land Use Definitions) defines Emergency Shelters as “housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.” Emergency Shelters are permitted by right in the PF (Public Facilities) zoning district and allowed with a Conditional Use Permit within the MU-F (Mixed Use Flex) zoning district.

State law (Government Code Section 65583(a)(4)) limits the development standards and locational restrictions that can be applied to emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

- ❖ the maximum number of beds or persons permitted to be served nightly by the facility;
- ❖ sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone;
- ❖ the size and location of exterior and interior onsite waiting and client intake areas;
- ❖ the provision of onsite management;

- ❖ the proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart;
- ❖ the length of stay;
- ❖ lighting; and
- ❖ security during hours that the emergency shelter is in operation.

Section 18.92.050 (Emergency Shelters) of Chapter 18.92 (Supplemental Standards) of the Zoning Ordinance requires the following minimum performance standards which are consistent and in compliance with the requirements of State law:

- ❖ The number of beds shall be limited to thirty.
- ❖ Parking requirements shall be either one space per three hundred square feet of habitable floor area, or sufficient to serve the parking demand determined in a study prepared by the applicant and approved by the development services department.
- ❖ The size of outdoor waiting areas shall be sufficient to accommodate the expected number of clients without infringing upon the public right-of-way.
- ❖ On-site management shall be provided during the hours that the emergency shelter is in operation.
- ❖ An emergency shelter shall be located at least three hundred feet from other emergency shelters.
- ❖ The length of stay at any emergency shelter shall not exceed ninety days, unless the management plan provides for longer residency by those enrolled and regularly participating in a training or rehabilitation program.
- ❖ Exterior lighting of the property shall be designed to provide a minimum maintained horizontal illumination of at least one foot candle of light on parking surfaces and walkways that serve the facility.
- ❖ Security shall be provided during the hours that the emergency shelter is in operation.

Capacity for Emergency Homeless Shelters

Government Code Section 65583(a)(4)(A) requires the Housing Element to address new planning and approval requirements for emergency shelters and to determine if sufficient capacity to accommodate the need for emergency shelter identified in the most recent point-in-time count conducted before the start of the planning period. Jurisdictions with an unmet need for emergency shelters for the homeless are required to identify a zone(s) that allow residential uses, including mixed uses, where emergency shelters will be allowed as a permitted use without a conditional use or other discretionary permit and that are suitable for residential uses. The identified zone must have sufficient capacity to accommodate the shelter need, and at a minimum provide capacity for at least one year-round shelter. Permit processing, development and management standards for emergency shelters must be objective and facilitate the development of, or conversion to, emergency shelters. Section 65583(a)(4)(A) of the Government Code further states that if the local government cannot identify a zoning designation(s) with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the Housing Element.

The 2022 Santa Clara County Homeless Census and Survey Report point-in-time count identified 60 unsheltered homeless individuals within the Morgan Hill city limits. As described above, Emergency Shelters are permitted by right in the PF (Public Facilities) zoning district and allowed with a Conditional Use Permit within the MU-F (Mixed Use Flex) zoning district. Within the City,

there are 5.7 acres of vacant land zoned PF where emergency shelters would be allowed by-right. These sites have a maximum capacity for 120 beds. Therefore, these sites theoretically have sufficient capacity for shelters to accommodate the 60 unsheltered individuals on the night of the 2022 point-in-time count. However, Government Code Section 65583(a)(4)(H) states that the zoning designation(s) where emergency shelters are allowed shall include sites that meet at least one of the following standards:

- ❖ Vacant sites zoned for residential use.
- ❖ Vacant sites zoned for nonresidential use that allow residential development, if the local government can demonstrate how the sites with this zoning designation are located near amenities and services that serve people experiencing homelessness, which may include, health care, transportation, retail, employment, and social services, or that the local government will provide free transportation to services or offer services onsite.
- ❖ Nonvacant sites zoned for residential use or for nonresidential use that allow residential development that are suitable for use as a shelter in the current planning period, or which can be redeveloped for use as a shelter in the current planning period. A nonvacant site with an existing use shall be presumed to impede emergency shelter development absent an analysis based on substantial evidence that the use is likely to be discontinued during the planning period. The analysis shall consider current market demand for the current uses, market conditions, and incentives or standards to encourage shelter development.

As mentioned above, the PF (Public Facilities) zoning district permits Emergency Shelters by-right, however, other residential uses are not allowed within the PF zoning district. In addition, AB 2339 (Government Code Section 65583(a)(4)(C)) states the definition of emergency shelters shall include other interim interventions, including, but not limited to, a navigation center, bridge housing, and respite or recuperative care. Therefore, to ensure consistency with AB 2339 and Government Code Section 65583(a)(4), the Housing Element includes an implementation program to amend the Zoning Code to meet the requirements of this paragraph within one year of the adoption of the Housing Element.

Action HE-5.J Amend the Zoning Code within one year of the adoption of the Housing Element to allow emergency shelters as a permitted use by-right within one or more zoning designations that are either zoned for residential use or allow residential development; amend the definition of emergency shelters to include other interim interventions, including, but not limited to, a navigation center, bridge housing, and respite or recuperative care; and identify sites where emergency shelters are allowed to accommodate a minimum of 60 unsheltered individuals consistent with the standards listed in AB 2339 and Government Code Section 65583(a)(4).

In addition, it is noted that the 30-bed limit per emergency shelter required within Section 18.92.050 (Emergency Shelters) of the City's Zoning Ordinance could be a potential constraint for the development of emergency shelters. In analyzing this possible constraint, the County of Santa Clara Office of Supportive Housing (OSH) was consulted. OSH collaborates with many service providers who operate emergency shelters throughout Santa Clara County. OSH oversees many emergency shelter program contracts and has indicated that although there is not a standard or best practice on the size or number of beds of an emergency shelter, the cost effectiveness generally increases with size. OSH indicated that the population being served and the services provided, i.e. models (low-barrier access, promoting dignity and respect, and providing resources and referrals), are key considerations over the number of beds provided at a

facility.⁴ ⁵

Although OSH oversees contracts of several large emergency shelters with more than 30-beds per facility (25 facilities with 2,261-beds, an average of 90 beds per facility, and a mode of 72-beds) ranging in size from 36-beds to 303-beds, they also oversee contracts for 20 emergency shelters with 30 or less beds. There are 298 beds within these 20 emergency shelters, an average of 15 beds per emergency shelter. Due to the feasibility of operating an emergency shelter with 30 or less beds, the requirements of the City's Zoning code of limiting emergency shelters to 30-beds is determined to not be a constraint on emergency shelter development.

Section 65583(a)(4)(B)(ii) of the Government Code requires sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone. As mentioned above, Section 18.92.050 (Emergency Shelters) of the Morgan Hill Zoning Code requires emergency shelters to provide one space per three hundred square feet of habitable floor area; however, Section 18.72.030 (Required Parking Spaces) of Chapter 18.72 (Parking and Loading) of the Morgan Hill Zoning Code requires one parking space per eight beds, plus one parking space per 300 square feet of office or other non-residential floor area. Due to this inconsistency within the Zoning Code, and to ensure consistency with Government Code Section 65583(a)(4)(B)(ii), the Housing Element includes an implementation program to amend the Zoning Code to clarify and modify parking standards for emergency shelters consistent with Government Code Section 65583(a)(4)(B)(ii).

Action HE-5.I Amend the Zoning Code by 2024 to clarify and modify parking standards for emergency shelters consistent with Government Code Section 65583(a)(4)(B)(ii).

In addition, an inclement cold weather shelter has been established at Community Christian Church, located at 305 W. Main Ave in Morgan Hill. Also, Morgan Hill Bible Church operates a homeless safe parking program for 8 families, 30 people maximum, at 15055 Monterey Road within the City.

Low Barrier Navigation Centers

Assembly Bill 101, passed in 2019, requires that a low barrier navigation center be a use permitted by right in mixed-use zones and non-residential zones permitting multi-unit uses if it meets specified requirements. AB 101 defines "low barrier navigation center" as a housing first, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. The Housing Element includes an implementation program to amend the Zoning Code to comply with this new requirement.

Action HE-5.A Amend the Zoning Code by 2024 to facilitate by-right processing procedures for Low Barrier Navigation Centers consistent with Assembly Bill 101.

Transitional/Supportive Housing

Transitional housing is defined as temporary housing (generally six months to two years) for a homeless individual or family who is transitioning to permanent housing. This housing can take several forms, including group housing or multi-family units, and typically includes a supportive

⁴ County of Santa Clara Office of Supportive Housing, personal communication and data provided (December 15, 2022)

⁵ https://www.usich.gov/resources/uploads/asset_library/emergency-shelter-key-considerations.pdf

services component to allow individuals to gain necessary life skills in support of independent living.

Supportive housing is generally defined as permanent, affordable housing with onsite services that help resident's transition into stable, more productive lives. Services may include childcare, after-school tutoring, career counseling, etc.

The Morgan Hill Zoning Code accommodates transitional housing and supportive housing as "Residential Care Facilities" as a conditional use within several zoning districts (RAL, RAM, RAH, MU-N, and MU-F).

Per recent changes in State law (AB 2162), the City must also allow 100 percent affordable projects that include 25 percent, or 12 units of supportive housing, by right where multi-unit and mixed-use development is permitted. Therefore, the Housing Element includes an implementation program to comply with this new provision of State law.

Action HE-5.G Amend the Zoning Code by 2024 to facilitate by-right transitional and supportive housing and residential care facilities residential uses are permitted. In addition, amend zoning and processes to comply with Assembly Bill 2162 which requires that supportive housing to be considered a use by-right in zones that allow multifamily and adhere to timing provisions.

Housing for Agricultural Workers

Farmworkers are traditionally defined as persons whose primary incomes are earned through seasonal agricultural work. Farmworkers have special housing needs because they earn lower incomes than many other workers. The housing needs of this group are addressed under Morgan Hill's overall programs for affordability. Although little agricultural activity remains within the Morgan Hill City limits, the greater region includes agricultural activity that attracts farmworkers and their families. The City recognizes the need to provide housing affordable to farmworkers and agricultural employees and is committed to assisting in providing this need by implementing several policies regarding prioritizing farmworker/agricultural employee housing.

Policy HE-2.21 Prioritize Farmworker Housing. Establish farmworker housing as an affordable housing priority within the City.

Policy HE-2.23 Farm Worker Housing Advocacy. On an ongoing basis, advocate for federal, state, and County funding for farmworker/agricultural employee housing, including housing that meets the needs of the County's agricultural industry and its workers.

Policy HE-2.24 Partner with Developers. Continue to work with non-profit developers and employers to develop innovative housing solutions for farmworkers and agricultural employees and identify and pursue all potential funding sources and assist owners and developers in applying for funding.

The provisions of Section 17021.5(b) of the California Health and Safety Code state that employee housing for six or fewer employees must be treated like any other single-unit dwelling. The City does not regulate the occupancy of single unit dwellings and there are no provisions in the City's code to restrict employee housing for six or fewer employees, therefore, the City complies with this requirement.

California Health and Safety Code Section 17021.6, requires that farmworker housing of no more than 36 beds in a group quarters or 12 units shall be deemed an agricultural use. No conditional use permit, zoning variance, or other discretionary zoning clearance shall be required of this housing that is not required of any other agricultural activity in the same zone. The City currently

allows Agricultural Labor Accommodations (i.e. farmworker housing) as a conditional use in the OS (Open Space) zone; therefore, the Housing Element includes an implementation program to comply with this provision of State law.

Action HE-2.F Amend the Zoning Code by 2024 to facilitate by-right Agricultural Labor Accommodations within the OS (Open Space) zoning district consistent with Section 17021.6 of the California Health and Safety Code.

Single Room Occupancy

Single room occupancy (SRO) facilities are intended to provide housing opportunities for lower-income, one- or two-person households that cannot typically afford apartments. SROs are small, one-room units usually occupied by a single individual and may have either shared or private kitchen and bathroom facilities. SROs can provide a valuable form of affordable housing for lower income individuals, seniors, and persons with disabilities and can serve as an entry point into the housing market for people who previously experienced homelessness. State law requires local Housing Elements to make provisions for such uses.

The Morgan Hill Zoning Code accommodates SRO as “Group Housing” as a conditional use within several zoning districts (RAL, RAM, RAH, MU-N, and MU-F). Pursuant to Chapter 18.124 (Land Use Definitions) of the Zoning Code, Group Housing is defined as, “shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. Includes rooming and boarding houses, single-room occupancy housing, dormitories, and other types of organizational housing, and extended stay hotels intended for long-term occupancy (thirty days or more). Excludes ‘hotels and motels’ and ‘residential care facilities’.”

The requirement of a conditional use for SROs/Group Housing is not seen as a constraint as several hotels/motels within Morgan Hill converted to SROs and a couple that operate a portion of their building as SROs providing housing opportunities for lower-income households. The hotels/motels that operate, or have a portion that operates, as SROs are listed in Table H 4-16.

Table H 4-16 Single Room Occupancy (SRO) Facilities

Name	Address	# of Rooms
Budget Inn	19240 Monterey Rd	30
Economy Inn	15080 Monterey Rd	90
Extended Stay America	605 Jarvis Dr	92
Morgan Hill Inn	16250 Monterey Rd	22
Paradise Motel	16310 Monterey Rd	11
Rancho Motel	19040 Monterey Rd	10

4.3.8 Transparency Requirements

In 2019, the California Legislature passed Assembly Bill (AB) 1483 adding Section 65940.1 to the Government Code, which increases the transparency of various codes, fees, and processes required for residential development projects in a community. Specifically, AB 1483 requires all governmental agencies to publish on their websites specific financial and local zoning information. Starting January 1, 2021, any city with a website is required to make information available online. Moreover, agencies must update this information within 30 days of any changes.

Items to be provided online include:

- Current schedule of fees, exactions, and affordability requirements imposed by the city, county, or special district applicable to a proposed housing project.
- All zoning ordinances, design standards, and development standards for each parcel including other regulatory requirements.
- Current and five previous annual fee or financial reports and archive of impact fee nexus studies, cost of service studies done by the city, county, or special district after January 1, 2018.

Table H 4-17 outlines the documentation required to be made available online and the web path where it can be found. The table also includes links to current versions of these documents.

Table H 4-17 AB 1483 Required Documents and Website Access	
<i>Required Documents</i>	<i>Online Location</i>
Schedule of Fees, Exactions	https://www.morgan-hill.ca.gov/124/Applications-Permits-Fees
Affordability Requirements	https://www.morgan-hill.ca.gov/1780/Housing-Ordinances-Resolutions
Zoning Ordinance and Development Standards	https://www.morgan-hill.ca.gov/76/Zoning ; https://www.morgan-hill.ca.gov/109/Housing-Development-Process
Current & Previous (5) Annual Fee and Financial Reports	https://www.morgan-hill.ca.gov/463/Budget-and-Financials
Impact Fee Nexus or Cost of Service Studies, and other financial reports	https://www.morgan-hill.ca.gov/1572/Fee-Schedules