



STAFF REPORT

2100 Thousand Oaks Boulevard • Thousand Oaks, CA 91362
Phone 805/449.2121 • Fax 805/449.2125 • www.toaks.org

TO: Andrew P. Powers, City Manager

FROM: Kelvin Parker, Community Development Director

DATE: November 1, 2022

SUBJECT: Inclusionary Housing Plan Update Parameters and Policy Direction

RECOMMENDATION:

Discuss and provide direction on inclusionary housing parameters for further analysis in the Inclusionary Housing Plan Update Financial Evaluation and find that this action is not a project as defined under the California Environmental Quality Act.

FINANCIAL IMPACT:

No Additional Funding Requested. Minimal staff time required to prepare the report and \$206,000 is included in the Adopted FY 2022-23 General Fund Budget for the inclusionary housing program and non-residential development linkage fee update consultant contract.

BACKGROUND:

On June 9, 2020, City Council directed staff and the Planning Commission to study and make recommendations to City Council on the inclusionary housing program and non-residential linkage fee ordinance updates.

On January 25, 2022, City Council adopted the 2021-2029 Housing Element, which includes many implementation actions, to address housing issues. To facilitate the development of affordable housing, Program 6 of the Housing Element contains an implementation objective that requires an update to the Inclusionary Housing Ordinance.

On April 26, 2022, City Council approved a Professional Services Agreement with Keyser Marston Associates, Inc., (KMA) for preparation of inclusionary housing program feasibility and non-residential linkage nexus analysis and fee studies in an amount of \$206,000 with a term ending June 30, 2023. The contract not-to-exceed total includes \$171,000 for base contract services and \$35,000 for extra services.

Inclusionary Housing Ordinance History

Inclusionary housing describes a local government requirement that a specified percentage of new housing units be reserved for, and affordable to, lower and moderate-income households. The goal of inclusionary housing programs is to increase the supply of affordable housing commensurate with new market-rate development in a jurisdiction. This can result in improved regional jobs-housing balances and foster greater economic benefits and diversity within a community.

In 2008, the City adopted an inclusionary housing ordinance that requires a specified percentage of affordable units or payment of an in-lieu fee for certain residential development projects (Thousand Oaks Municipal Code Section 9-10.301 et seq). This ordinance required that 10 percent of a for-sale, residential development of five or fewer dwelling units be available to moderate-income households or payment of specific fees.

In 2009, City Council set the in-lieu fee at zero, and therefore new projects are not required to provide a specified number of affordable units through this mechanism.

Before local agencies can adopt an in-lieu fee, a market analysis and feasibility study are necessary to inform the decision-making body what the market can feasibly accommodate and the appropriate amount to incentivize construction of affordable housing.

DISCUSSION/ANALYSIS:

The discussion before City Council is a step to understanding the parameters considered when updating the inclusionary housing plan and allows an opportunity for City Council to provide general policy direction for the preparation of the Inclusionary Housing Financial Evaluation analysis and recommendations. In preparation, staff solicits City Council to consider the legal landscape when providing direction to the consultant.

San Jose Case

The 2015 California Supreme Court ruling in the California Building Industry Association v. City of San Jose case found that Inclusionary Housing Programs are a planning tool and in-lieu optional fees are not subject to Nexus study under the Mitigation Fee Act. However, these programs must comply with the following criteria:

1. The requirements cannot be a physical taking or “Confiscatory”; and
2. The requirements cannot deprive a property owner of a fair and reasonable return on their investment.

The court did not provide criteria under which jurisdictions can determine whether proposed price controls are confiscatory, and/or they deprive a property owner of a fair and reasonable return. As such, jurisdictions need to develop their own methodology that includes interests of property owners, developers, and the jurisdiction's housing needs. Any restrictions must be reasonably related to the broad general welfare purposes for which the ordinance is being enacted to achieve.

California Government Code Section 65583 (a)

This Housing Element law requires the City to analyze potential and actual constraints being placed on the development of housing. If the City chooses to impose a greater than 15 percent affordability requirement and/or a deeper affordability standard than 80 percent of Area Median Income (Low Income) on apartment development, the State Department of Housing and Community Development (HCD) can require the City to demonstrate that the Inclusionary Housing requirement does not create a constraint to housing development.

In a technical guidance memorandum dated October 21, 2019, HCD reaffirmed its authority to review Inclusionary Housing ordinances as part of its review of a jurisdiction's Housing Element. To that end, the requirements set forth within an Inclusionary Housing Program would only be anticipated to meet a small portion of the unmet need for affordable housing in Thousand Oaks. If the City were to adopt a program viewed as a constraint to housing, that could potentially extend and complicate the approval process for the City's Sixth Cycle Housing Element.

Policy Issues for Consideration

As part of the presentation, City Council is requested to provide preferences related to the following:

1. What will be the minimum residential or mixed-use project size that will trigger the Inclusionary Housing requirements?
 - a. Applicability threshold possibilities:
 - i. Multi-Family Development: 5 units or more
 - ii. Townhomes and Condominiums: 10 units or more
 - iii. Single-Family Development: 20 units or more
2. What target income and affordability standards should be applied?
 - a. Standard possibilities for discussion:
 - i. Low-income for rental development. Note that Very Low-income may be viewed as a constraint by HCD if not financially feasible. Density Bonus projects present the best opportunity for Very Low-income units.
 - ii. Moderate-income for ownership.

3. What options should be applied for the Inclusionary Housing requirements?
In considering these options, there must be at least one alternative other than on-site production.

- a. Providing the Inclusionary Units within the market rate project.
- b. Priority for production of affordable units within multi-family developments.
- c. Production of the Inclusionary Units in an off-site location.
 - i. This option would require secure entitlements for the off-site affordable housing, which presents construction timing and financing issues. High land values and limited site availability make this difficult to achieve.
 - ii. Challenge in providing units comparable to market rate project.
 - iii. Affordable units should be in proximity to market rate project/higher resource areas and not be over concentrated in a neighborhood.
- d. A payment to the City in lieu of producing required Inclusionary Units.

Direction on applicability if a fee were to be adopted:

- i. Multi-Family Development: Projects less than 10 units could have an in-lieu fee option due to smaller number of market rate units to cover affordability gap.
 - ii. Require projects of 10 units or more to construct inclusionary units. Possibly allow an in-lieu fee that would be demonstrated through extreme economic hardship, which would be based on a definition and findings within future ordinance.
 - iii. Townhouse and Single-Family Development: Allows fee to be applied to very low- and low-income units.
- e. Dedication of land to the City for the subsequent development of the required Inclusionary Units.
 - f. The acquisition and rehabilitation of existing apartment units.

KMA will present additional factors for City Council consideration when providing the direction on the basic parameters for financial feasibility evaluation. KMA will facilitate discussion of the parameters to be set, such as percentage affordable, level of affordability, in lieu fee amounts, etc., and describe the various ranges and implications for those parameters. As reference, a survey of other municipalities that have inclusionary ordinances is included (Attachment #1) to demonstrate the different parameters and ranges currently being implemented throughout the state, and this information will be discussed during the presentation. The goal of the discussion is for City Council to provide the preferred parameters for KMA to conduct a financial evaluation to test the feasibility of those levels.

COUNCIL GOAL COMPLIANCE:

Meets the following City Council goals:

A. Create a more equitable, accessible, safe, welcoming, and inclusive government and community regardless of race, color, ethnicity, religion, sex, physical or mental ability, sexual orientation, gender identity and expression, age, language, education, and/or socio-economic status.

B. Provide municipal government leadership which is open and responsive to residents, and is characterized by ethical behavior, stability, promoting public trust, transparency, confidence in the future, and cooperative interaction among civic leaders, residents, business representatives, and staff, while recognizing and respecting legitimate differences of opinion on critical issues facing the City.

J. Implement high quality revitalization projects within Thousand Oaks Boulevard and Newbury Road Areas; Develop a pedestrian-oriented, viable, and self-sustaining "Downtown;" and, continue to support production of long-term affordable housing.

PREPARED BY: Iain Holt, Interim Planning Division Manager

Attachments:

Attachment #1 – Inclusionary Housing Program Surveys

INCLUSIONARY HOUSING PROGRAM SURVEYS - CALIFORNIA
INCLUSIONARY HOUSING: FINANCIAL EVALUATION
THOUSAND OAKS, CALIFORNIA

Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development		
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
I. <u>Inclusionary Requirements: Both Rental and Ownership Projects</u>									
Albany	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	15%	Yes	5		Perpetual	5		Perpetual
Agoura Hills	Create on-site units; pay an in-lieu fee for the required Low and/or Moderate Income Units. In-lieu fee cannot be paid to fulfill the very low income requirement.	15%	N/A	10	7% @ VL + 4% @ Low + 4% @ mod	55	10	7% @ VL + 4% @ Low + 4% @ mod	45
Alhambra	Create on-site units; create off-site units; pay in-lieu fee; donate land	15%	No	7	9% @ 120% + 6% @ 80%		7	9% at 120% + 6% at 80%	
Avalon	Create on-site units; create off-site units; pay in-lieu fee	20%	No	4	Decided per project	55	4	Decided per project	55
Brea	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10%	No	20	Not defined	55	20	120%	45
Campbell	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	15%	No	10	6% @ VL + 9% @ Low	55	10	120%	45
Capitola	Create on-site units; pay in-lieu fee	15%	Yes				7	120%	Life of Bldg
Carlsbad	Create units; pay in-lieu fee. City Council may approve additional alternative fulfillment options.	15%	No	1	Low	55	1	Low	30
Chula Vista	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land. Excludes area west of I-805 identified as "Area of Low/Moderate Income Concentration".	10%	No	50	5% @ Low + 5% @ Mod	Life of Bldg	50	5% @ Low + 5% @ Mod	Life of Bldg
Colma	Create on-site units; pay in-lieu fee	20%	No	5	5% @ VL + 5% @ Low + 10% @ Mod	55	5	5% @ VL + 5% @ Low + 10% @ Mod	45
Concord	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	10%	Yes	5		55	5		45
Contra Costa County	Create on-site units; create off-site units; pay in-lieu fee; donate land. Program requirements are only applied in designated areas.	15%	No	5	3% @ VL + 12% @ Lower		5		3
Coronado	Create units; pay in-lieu fee	20%	No	2	Low		2	Mod	
Cupertino	1-7 units pays in-lieu fee. Create on-site units; create off-site units; pay impact/linkage fee; donate land	15%	No	7	50% / 80%	99	7	50% /120%	99
Davis	Create on-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10% - 25%	No	5-19 , 20+	5-19: 15% @ 80% or 10% @ 50%. 20+: 25% @ 80% or 10% @ 50%	Perpetual	5	120%	Perpetual

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INCLUSIONARY HOUSING: FINANCIAL EVALUATION
THOUSAND OAKS, CALIFORNIA

Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development		
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
Downey	Create on-site units; create off-site units; pay in-lieu fee in the case of extreme hardship for apartments	11%/10%	No	10	Mod	>55 or as long as resid	10	Mod	45
Dublin	Create on-site units; create off-site units; pay in-lieu fee; donate land	12.5%	No	20	50% @ 120% + 20% @ 80% + 30% @ 50%	55	20	5% @ 80% + 7.5% @ 120%	55
Emeryville	Create on-site units; pay impact/linkage fee	12%/20%	No		4% @ VL + 8% @ Low	55	10		55
Encinitas	Create on-site units; create off-site units; create ADU's; preserve at-risk units; pay in-lieu fee; donate land	10%/15%	No	7	10% @ VL or 15% @ Low	Perpetual	7	10% VL or 15% @ Low	Perpetual
Fremont	Has a production option, but the in-lieu fee option is more cost effective	15%	No	2	10% @ Low		2	5% @ Mod + 10% @ Low	
Fort Bragg	Create on-site units	10% to 20%		5	80% / 120%		5	100% / 120%	15
Goleta	Create on-site units; create off-site units; donate land, pay in-lieu fee; acquisition/rehabilitation. Income/Affordability trade off of extremley low and very low income units to low and moderate income units in demonstrated extreme hardship.	25% - reduced to 20% with public benefit	No	2	2.5% @ ELI + 2.5% @ VL+ 5% @ Low + 5% @ Mod + 5% at Above Mod	In general 45 to 55 years, but not less than 30 years	2	2.5% @ ELI + 2.5% @ VL+ 5% @ Low + 5% @ Mod + 5% at Above Mod	In general 45 to 55 years, but not less than 30 years
Hayward	Create on-site units; create off-site units; pay in-lieu fee; pay impact/linkage fee; donate land	6% / 7.5% - 10%	No	2	3% @ 50% + 3% @ 60%	55	2	110%	45
Huntington Beach	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	10%	No	3	80%	55	3	120%	45
Irvine	Projects with fewer than 50 units can create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land. Projects with 50+ units must produce the affordable units on site.	15%	No	50	50%, 80% & 120% Defined credits	30	50	50%, 80% & 120% Defined credits	30
La Habra	Create on-site units; create off-site units; pay in-lieu fee; acquisition/rehabilitation.	15%	No	10	9% @ Mod + 6% @ VL & Low	55	10	110%	45
Long Beach	Create on-site units; pay in-lieu fee; donate land	11%/10%	No	10	50%	>55 or as long as resid	10	110%	>55 or as long as resid

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				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
Los Altos	Create on-site units; create off-site units. Program requirements are only imposed in designated areas.	Rental: 5-9 @ 15% & 10+ @ 30%. Ownership @ 15%	No	5	5-9: 15% @ Mod, 10+: 5% @ Low + 15% @ Mod	30	10	7.5% @ Mod, 7.5% @ Low	30
Menlo Park	Create on-site units; create off-site units; pay in-lieu fee	10%	Yes	5	80% /120%		5	80% /120%	
Mill Valley	Create on-site units	25%	Yes	4	120%	Perpetual	4	120%	Perpetual
Nevada County	Create on-site units; create off-site units Program requirements are only applied in designated areas.		No	20		30	20		30
Oceanside	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land; purchase credits from another project.	10%	No	3	Low (80%)	55	3	Mod (120%)	55
Oxnard	Create on-site units; create off-site units; pay in-lieu fee in limited circumstances	10%	No	10	5% @ VL + 5% Low	55	10	Low	20
Pacifica	Create on-site units; create off-site units; pay in-lieu fee; donate land	15%	No	8	6% @ VL + 4.5% @ Low + 4.5% @ Mod	55	8		45
Palo Alto	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	20%	Yes	5	5% @ 35% + 10% @ 50% + 5% @ 60%	59	5	10% @ 80% + 10% @ 120%	59
Pasadena	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	20%	No	1	5% @ 50% + 5% @ 80% + 10% @ 120%	Perpetual	1	110%	45
Petaluma	Create on-site units; pay in-lieu fee; donate land	15%	No	5	7.5% @ VL; 7.5% @ Low	45	5	7.5% @ Low + 7.5% @ Mod	55
Pleasanton	Create on-site units; create off-site units; pay in-lieu fee; donate land; credit transfers; other alternate methods of compliance	15%	Yes	15	50% to 80%		15	50% to 120%	Perpetual
Pomona	Create on-site units; create off-site units; pay in-lieu fee; donate land	13% / 7%-11%	Yes	3	120%	Perpetual	3	120%	45
Redondo Beach	Create on-site units; create off-site units; pay in-lieu fee up to nine units. Fractional unit obligations are rounded down	10%-15% / 9%-15%	Yes	2	Moderate	>75 or as long as resid	2	Moderate	55
Redwood City	Create on-site units; create off-site units; preserve or rehab units; pay impact/linkage fee; donate land	20% / 15%	No	20	10% @ Mod + 5% @ Low + 5% @ VL	30	5	Moderate	30
Sacramento County	Has a production option, but the in-lieu fee option is more cost effective	10%	No	1	80%		1	80%	

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Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development		
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
San Bruno	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land. Excludes area	15%	No	10	6% VL + 4.5% Low + 4.5% Mod	55	10	6% Low + 9% Mod	45
San Buenaventura (Proposed Update)	Create on-site units; create off-site units; pay in-lieu fee; preserve or rehab existing housing; donate land	15% / 10%	No	7	Low	55	7	Mod	45
San Diego	Create on-site units; create off-site units; rehabilitate existing units, SRO hotel rooms, or conversion of guest rooms; pay in-lieu fee; donate land. The amended requirements were approved in 2020 and are being phased in over five years.	10% to 15%	No	10	10% @ 60%	55	10	10% @ 100% or 15% 120%	15
San Francisco	Create on-site units; create off-site units; pay in-lieu fee. Full schedule goes into effect in 2023 for rental and 2025 for ownership.	15% to 20% / 15% to 26%	Yes	10	55% to 110%		10	80% to 130%	
San Jose	Create on-site units; create off-site units; preserve or rehab units; in-lieu fee; donate land; credit transfers; reduction for deeper affordability	15%	Yes	10	5% @ 50% + 5% @ 60% + 5% @ 100%	Perpetual	10	120%	Perpetual
San Juan Capistrano	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10%	No	2		55	2		55
SLO County	Multiple subareas and requirements. Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	15%	Yes	1, 2 or 11 depending on subarea	Coastal: 15% at Low or 15% at Mod	55	1, 2 or 11 depending on subarea	Coastal A: 5% VL + 5% Low + 5% Mod + 5% 120-150%. Coastal: 15% Low. Inland: 2% VL + 2% Low + 2% Mod + 2% 120-150%.	Coastal: 45 Inland: Perpetuity
San Mateo County	Create on-site units, pay in-lieu fee	20%	Yes	5	10% @ ELI + 10% @ Low	Life of Bldg	11	10% @ Low + 10% @ Mod	45
San Rafael	Create on-site units; pay in-lieu fee	10%	No	2			2	120%	
Santa Ana	Only applies to changes in land use and zoning designations. Create on-site units; off-site units; substantially rehab existing units; pay in-lieu fee	Rental: 5% - 15% & Own: 5%	No	5	15% @ Low or 10% @ VL or 5% @ ELI or 5% Low + 3% VL + 2% ELI	55	5	120%	55
Santa Barbara (City)	Create on-site units; create off-site units; pay in-lieu fee for 1 to 9 & fractional units; donate land	10% / 15%	No	5	Mod	90	1	120% to 200%	90 / restarts on each resale
Santa Cruz	Create on-site units; create off-site units; pay in-lieu fee; donate land	15%	Yes	2	80%	Perpetual	2	120%	Perpetual

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				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
Santa Monica	Create on-site units; create off-site units; pay in-lieu fee; donate land	5% to 30%	Yes	2	50%, 80% & 120% Defined credits	55	2	50%, 80% & 120% Defined credits	55
Santa Paula	Create on-site units; create off-site units; pay in-lieu fee	10% to 17%	Yes	10	15% Low or 10% VL	55	10	15% Low or 10% VL	45
Santa Rosa	Has a production option, but the in-lieu fee option is more cost effective	5% to 8% / 10%	No	1	5% @ 50% or 8% @ 60%		2	110%	
Sonoma	Create on-site units	20%	Yes	5	120%	55	5	120%	55
Sonoma County	Create on-site units; create off-site units; pay in-lieu fee; donate land	10% or 15% / 20%	Yes	1	7.5% @ VL + 7.5% @ Low, or 5% @ ELI + 5% @ VL	55	1	10% @ Low + 10% @ Mod	30
South San Francisco	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	20%	No	4		55	4		55
Sunnyvale	Create on-site units; create off-site units; pay in-lieu fee; donate land, unit conversion, other proposals	15.0%	No	7	5% @ 50% + 10% @ 60%	55	7	100%	30
Tiburon	Create on-site units; create off-site units; pay in-lieu fee	15%		3	5% @ Low + 10% @ Mod	Perpetual	3	5% @ Low + 10% @ Mod	Perpetual
Union City	Create on-site units; create off-site units; pay in-lieu fee	15%	No	7	4.5% @ VL + 10.5% @ Low		7	1.5% @ Low + 4.5% @ 100% + 9% @ 120%	
West Sacramento	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10%	No	5	5% @ 50% + 5% @ 60%	55	5	70%	45
West Hollywood	Create on-site units; create off-site units; pay in-lieu fee for 2-10 unit projects	20%	No	2	Low / Mod	As long as resid	2	Low / Mod	As long as resid

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				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
II. <u>Inclusionary Requirements: Ownership Projects Only</u>									
Alameda	Create on-site units; create off-site units; pay in-lieu fee	15%	No				5	4% @ VL + 4% @ Low + 7% @ Mod	59
Carpinteria	Create on-site units; pay in-lieu fee in limited circumstances	12%	No				5	200%	30
Danville	Create on-site units; pay in-lieu fee	10%	Yes				7	110%	20
Folsom	Create on-site units; create off-site units; pay in-lieu fee; donate land; acq/rehab; other proposals	10%	No				10	3% @ VL + 7% @ Low	
Lafayette	Create on-site units; create off-site units	15%	No				2	9% @ Mod + 6% @ VL	45
Monterey	Create on-site units; donate land	20%	No				6		Perpetual
Mountain View	Create on-site units; pay in-lieu fee	15%	No				3	100%	55
Rohnert Park	Create on-site units; create off-site units; pay in-lieu fee	15%	No				50		55
San Clemente	Create on-site units; create off-site units; pay in-lieu fee; donate land; or a combination recommended by the Community Development Director.	4%	No				6	50%	
San Leandro	Create on-site units; pay in-lieu fee	15%	Yes				2	9% @ Mod + 6% @ Low	55
San Mateo County	Create on-site units; create off-site units; pay in-lieu fee; donate land	20%	No				5	10% @ Low + 10% @ Mod	55
Santa Barbara County	Create on-site units; create off-site units in the coastal zone; pay in-lieu fee for certain unit types	5% - 15%	Yes				5	5-19: 1 Mod. 20+: South Coast: 2.5% VL + 2.5% Low + 5% Mod + 5% Workforce Santa Ynez: No Workforce Santa Maria & Lompoc: 2.5% VL + 2.5 Low	45 - restarts up to 90
Thousand Oaks	Create on-site units; create off-site rental units; pay in-lieu fee	10%	No				5	Mod	45

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Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development		
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period
III. <u>Inclusionary for Ownership Projects & Impact Fee for Rental Projects</u>									
Berkeley	Create on-site units; pay in-lieu fee	20%	No				5	10% @ 80% + 10% @ 50%	Perpetual
San Carlos	Create on-site units; create off-site units; pay impact/linkage fee	15%	Yes			55	2	10% @ Mod + 5% @ Low	45
Truckee	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; pay impact/linkage fee; donate land. Requirements vary by zones, neighborhoods or districts.	15%	No	7		Perpetual	7		Perpetual
IV. <u>Mandatory Inclusionary for Ownership Projects & Voluntary Inclusionary for Rental Projects</u>									
Pittsburg	Create on-site units; pay in-lieu fee	15%/20%	Yes				5	9% @ Mod + 6% @ Low, or 20% @ Mod	
Salinas	Create on-site units; create off-site units; donate land	20%	No				10		30
San Juan Bautista	Create on-site units; pay impact/linkage fee	6%					6	80%	
San Luis Obispo	Create on-site units; pay in-lieu fee; donate land	3%	Yes			55	5		45
San Marcos	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	15%	No			55		120%	55
Solana Beach	Create on-site units; create off-site units; preserve or rehab existing housing; pay impact/linkage fee	15%	No	5		55	5		45
V. <u>Rental Projects Only</u>									
Glendale	Create on-site units; create off-site units; pay in-lieu fee; donate land	15%	No	8	60%	55			

APPENDIX B

INCLUSIONARY HOUSING PROGRAM SURVEYS - VENTURA, SANTA BARBARA, LOS ANGELES, ORANGE AND SAN DIEGO COUNTIES
INCLUSIONARY HOUSING: FINANCIAL EVALUATION
THOUSAND OAKS, CALIFORNIA

Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development			In-Lieu Fee
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period	
I. <u>Inclusionary Requirements: Both Rental and Ownership Projects</u>										
Alhambra	On-site or pay in-lieu fee.	15%	No	7	9% at 120% & 6% at 80%		7	9% at 120% + 6% at 80%		Fee Schedule: 5 -20 units. Rental: \$0.89 - \$14.30/SF; Ownership: \$1.88 - \$30.00/SF
Agoura Hills	Create on-site units; pay an in-lieu fee for the required Low and/or Moderate Income Units. In-lieu fee cannot be paid to fulfill the very low income requirement.	15%	N/A	10	7% @ VL + 4% @ Low + 4% @ mod	55	10	7% @ VL + 4% @ Low + 4% @ mod	45	Set in 2018 to be consistent with the Affordability gap. \$285,336 per VL apartment unit, \$262,541 per low income condominium unit, and \$427,002 per moderate income single family home.
Brea	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10%	No	20		55	20	120%	10	Calculated per project. Based on the Affordability Gap
Carlsbad	Create units; pay in-lieu fee	15%	No	1	Low		1	Low		Available up to 6 units. \$8,515 for on SFH. \$15.00/SF for 2-6 unit projects.
Chula Vista	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land. Excludes area west of I-805 identified as "Area of Low/Moderate Income Concentration".	10%	No	50	5% @ Low + 5% @ Mod	Life of Bldg	50	5% @ Low + 5% @ Mod	Life of Bldg	In-lieu fee is based on the median home price minus the affordable home price
Coronado	Create units; pay in-lieu fee	20%	No	2	Low		2	Mod		In-lieu fee paid by right. \$7,000 per market rate unit
Downey	Create on-site units; create off-site units; pay in-lieu fee	11%/10%	No	10	Mod	>55 or as long as resid	10	Mod	45	Rental: \$23.50/SF - only allowed under extreme hardship. Ownership: \$15.90/SF payable based on City Council criteria
Encinitas	Create on-site units; create off-site units; create ADU's; preserve at-risk units; pay in-lieu fee; donate land	10%/15%	No	7	10% VL or 15% Low	Perpetual	7	10% VL or 15% Low	Perpetual	In-lieu fee is calculated on a project-by-project basis based on the affordability gap.

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Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development			In-Lieu Fee
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period	
Goleta	Create on-site units; create off-site units; donate land, pay in-lieu fee; acquisition/rehabilitation. Income/Affordability trade off of extremley low and very low income units to low and moderate income units in demonstrated extreme hardship.	25% - reduced to 20% with public benefit	No	2	2.5% @ ELI + 2.5% @ VL+ 5% @ Low + 5% @ Mod + 5% at Above Mod	In general 45 to 55 years, but not less than 30 years	2	2.5% @ ELI + 2.5% @ VL+ 5% @ Low + 5% @ Mod + 5% at Above Mod	In general 45 to 55 years, but not less than 30 years	Equal to the Affordability Gap associated with providing the requisite number of affordable units on site within the market rate project.
Huntington Beach	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee	10%	No	3	80%	55	3	120%	45	Sliding Scale: 3 to 30 units. In-Lieu Fee allowed for projects up to 100 units. Rental: \$3.58 to \$35.80/SF Ownership: \$2.54 to \$25.36/SF. The per SF measurement caps at 2,000 SF.
Irvine	Projects with fewer than 50 units can create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land. Projects with 50+ units must produce the affordable units on site.	15%	No	50	50%, 80% & 120% Defined credits	30	50	50%, 80% & 120% Defined credits	30	Calculated per project. Based on an equivalent value calculation
La Habra	Create on-site units; create off-site units; pay in-lieu fee; acquisition/rehabilitation.	15%	No	10	9% Mod + 6% VL & Low	55	10	110%	45	Calculated per project. Based on the estimated construction cost to produce the unit.
Long Beach	Create on-site units; pay in-lieu fee; donate land	11%/10%	No	10	50%	> of 55 yrs or as long as resid	10	120%	> of 55 yrs or as long as resid	Rental @ \$38.00/SF; Ownership @ \$29.10/SF

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Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development			In-Lieu Fee
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period	
Oceanside	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land; purchase credits from another project.	10%	No	3	Low	55	3	Mod	55	In-lieu fee paid by right. The fee is set at \$8.82/SF.
Oxnard	Create on-site units; create off-site units; pay in-lieu fee in limited circumstances	10%	No	10	5% @ VL + 5% Low	55	10	Low	20	Fee charged per total unit in the project. In 2022: SFH \$36,000; MF Ownership \$35,000; Rental \$28,000
Pasadena	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	20%	No	1	5% @ 50% + 5% @ 80% + 10% @ 120%		1	110%	45	Sliding scale by sub-area & project size. Low at \$34.19/SF & High at \$73.52/SF
Pomona	Create on-site units; create off-site units; pay in-lieu fee; donate land	13% / 7%- 11%	Yes	3	120%	Perpetual	3	120%	45	Rental @ \$9.30/SF; SFH @ \$11.40/SF Condominiums @ \$9.30/SF
Redondo Beach	Create on-site units; created off-site units; pay in-lieu fee up to nine units. Fractional unit obligations are rounded down	10%-15% / 9%-15%	Yes	2	Moderate	>75 or as long as resid	2	Mod	55	Sliding scale for 2 to 9 unit projects: Rental: extrapolated from \$34.20/SF of total project area. Ownership: extrapolated from \$43.20/SF of total project area.
San Buenaventura (Proposed Update)	Create on-site units; create off-site units; pay in-lieu fee; preserve or rehab existing housing; donate land	15% / 10%	No	7	Low	55	7	Mod	45	Ownership @ \$29.80 - \$66.30/SF; Apartments @ \$20.30 - \$48.90/SF
San Diego	Create on-site units; create off-site units; pay in-lieu fee; donate land	10% to 15%	No	10	50% or 80%	55		100% or 120%		In 2024 the in-lieu fee will be set a \$25/SF
San Juan Capistrano	Create on-site units; create off-site units; preserve or rehab existing housing; pay in-lieu fee; donate land	10%	No	2		55	2		55	Based on 90% of the Affordability Gap, which is updated monthly based on benchmark market prices

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Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development			Ownership Development			In-Lieu Fee
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size	% of AMI	Covenant Period	
Santa Ana	Only applies to changes in land use and zoning designations. Create on-site units; off-site units; pay in-lieu fee	Rental: 5% - 15% & Own: 5%	No	5	15% @ Low or 10% @ VL or 5% @ ELI or 5% Low + 3% VL + 2% ELI	55	5	120%	55	Fee charged per sf of habitable area: 5-9: \$6.00; 10-14: \$9.00; 15-19: \$12; 20+: \$15. Discounts for use of skilled and trained labor force
Santa Barbara (City)	Create on-site units; create off-site units; pay in-lieu fee for 1 to 9 & fractional units; donate land	10% / 15%	No	5	Mod	90	1	120% to 200%	90 / restarts on each resale	In 2020 the in-lieu fee for rental projects was set at \$25 per SF. Adjusted annually by the Engineering News Record (ENR) Building Cost Index for Los Angeles. In-lieu fee for ownership units is calculated based on the median price for 2-bedroom condos, a low income standard, and the estimated production cost (sales price - 15% profit). A discount schedule is provided from small units.
Santa Monica	Create on-site units; create off-site units; pay in-lieu fee; donate land	5% to 30%	Yes	2	50%, 80% & 120% Defined credits	55	2	50%, 80% & 120% Defined credits	55	Rental @ \$35.70/SF Ownership @ \$41.70/SF
Santa Paula	Create on-site units; create off-site units; pay in-lieu fee	10% to 17%	Yes	10	15% Low or 10% VL	55	10		45	In-Lieu Fee is set on a project-by-project basis.
West Hollywood	Create on-site units; create off-site units; pay in-lieu fee for 2-10 units projects	20%	No	2	Low / Mod	As long as resid	2	Low / Mod	As long as resid	Sliding scale: 2 Units @ \$13.63/SF - 10 Units @ \$29.23/SF

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Jurisdiction	Compliance Options	Set Aside %	On-site % Varies	Rental Development		Ownership Development		In-Lieu Fee		
				Threshold Project Size	% of AMI	Covenant Period	Threshold Project Size		% of AMI	Covenant Period
II. <u>Inclusionary Requirements: Ownership Projects Only</u>										
Carpinteria	Create on-site units; pay in-lieu fee in limited circumstances	12%	No				5	200%	30	In-lieu fee allowed if infeasibility can be proved. The fee is based on the difference between the median sales price of condominiums and/or single family homes and the affordable price at 121% of AMI with 30% of income dedicated to housing expenses
San Clemente	Create on-site units; create off-site units; pay in-lieu fee; donate land; or a combination recommended by the Community Development Director.	4%	No				6	50%		Based on the Affordability Gap associated with a prototype 1,100 SF unit.
Santa Barbara County	Create on-site units; create off-site units in the coastal zone; pay in-lieu fee for certain unit types	5% - 15%	Yes				5	5-19: 1 Mod. 20+: South Coast: 2.5% VL + 2.5% Low + 5% Mod + 5% Workforce Santa Ynez: No Workforce Santa Maria & Lompoc: 2.5% VL + 2.5 Low	45 - restarts up to 90	In-Lieu fee is measured per affordable unit. Varies by HMA & income / affordability level. Fee: Very Low & Low are based on the estimated cost for the County to subsidize very low & low income units. Cost of Construction Fee: Moderate & Workforce are based on the median condo sales prices minus 15% of the median price of condos. 2020 Very Low & Low Fees: South Coast \$176,000; Santa Maria \$96,600; Santa Ynez \$146,200; Lompoc \$99,500 2020 Mod & Workforce Fees: South Coast \$658,000; Santa Maria \$248,000; Santa Ynez \$431,600; Lompoc \$227,600
III. <u>Inclusionary Requirements: Rental Projects Only</u>										
Glendale	Create on-site units; create off-site units; pay in-lieu fee; donate land	15%	No	8	60%	55				Sliding scale: 8 Units @ \$28.71/SF - 21 Units @ \$55/SF

Prepared by: Keyser Marston Associates, Inc.

File name: 10 22 22 Inclusionary Survey; VEN,SB,OC,LA,SD

Inclusionary Housing Policy Issues City of Thousand Oaks

PRESENTED BY: KEYSER MARSTON ASSOCIATES, INC.
NOVEMBER 1, 2022

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Foundational Concepts

- Over 170 jurisdictions in California include an Inclusionary Housing program as one component of their affordable housing strategy. However, Inclusionary Housing can only be expected to fulfill a small part of the unmet need.
- RHNA targets are a good starting point for establishing the income and affordability requirements to be imposed.



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Inclusionary Housing Program Considerations

November 1, 2022

- The legal standards are:
 - The requirements cannot be confiscatory; and
 - The requirements cannot deprive an owner of a fair and reasonable return on their investment.
- The strength of the real estate market needs to be considered in formulating goals & objectives.
- The requirement should balance the interest of property owners and developers against the public benefit created by the production of affordable housing units.

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Inclusionary Housing Program Survey

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85 California Jurisdictions

November 1, 2022

- Most Inclusionary Housing programs include a threshold project size:
 - Common thresholds range from 3 to 10 units.
 - The average and median threshold project sizes are 8 units and 5 units, respectively.
- Income and affordability requirements vary widely. Majority of the surveyed programs impose a 10% to 20% requirement:
 - The thresholds tend to reflect the depth of the affordability standards being required.
 - The requirements have a disproportionate impact on smaller projects, due to fewer market rate units available to spread the impacts. Sliding scale requirements are sometime used.
- The covenant periods are often set at 45 years for ownership projects and 55 years for apartment projects. Shorter and longer periods are applied in some jurisdictions.

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Southern California Jurisdictions

November 1, 2022



30 cities and counties are included in the survey.



Threshold project sizes of up to 50 units. 15 of the programs are set at 5 or fewer units.



Inclusionary Housing requirements range from 4% to 30%. 28 out of the 30 jurisdictions have requirements that range between 10% and 20%.



Income and affordability covenants fall within the following ranges:

Ownership projects are focused on moderate income.

Apartment projects are focused on very low and low income.



Common covenant periods: Ownership – 45 to 55 years. Apartment – 55 years, with an increasing number of jurisdictions applying apartment covenants that run for as long as the site is developed with a residential use.



The programs all include an in-lieu fee option. The fee is generally tied to the affordability gap associated with the requirement. Programs measure several different ways – per market rate unit, per affordable unit, per square foot.

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Program Parameters

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Program Standards for the City Council to Establish

- The minimum project size that will trigger the requirements.
- Target income and affordability standards.
- Covenant periods.
- Alternative options to the requirement for on-site production of affordable housing units:
 - In-Lieu Fee Option
 - Off-Site Production Option
 - Apartment units to fulfill ownership housing requirements
 - Land dedication
 - Acquisition and substantial rehabilitation of existing apartment units.

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Income and Affordability Considerations

November 1, 2022

- Inclusionary Housing programs tend to set the affordability level for ownership units at the moderate income level. This reflects the fact that higher income households are likely to have more discretionary income to devote to housing costs than lower income households.
- AB 1505, and subsequent HCD guidance, strongly recommend limiting the affordability level on apartment units to 80% of AMI:
 - Stricter affordability requirements should not be applied to projects that fulfill the Inclusionary Housing requirements on site within the market rate project.
 - Stricter standards can be applied to an off-site production option.
 - Developers who use the State density bonus will likely propose to fulfill the affordability requirements with very low income units.

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Fulfillment Alternatives

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In-Lieu Fee Payment Considerations

- Will in-lieu fees be allowed by right, or only under defined circumstances?
Considerations are:
 - Program goals
 - Ownership versus apartment projects
 - Project size thresholds
 - Community's views on density
 - City responsibility to implement the affordable housing development.
- Establishing the in-lieu fee payment amounts:
 - Affordability gap methodology
 - A discounted amount to encourage payment of the in-lieu fee
 - A schedule that provides reduced in-lieu fees for small projects.



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Other Fulfillment Options for Consideration

Parcelization to create an affordable housing site:

- Opportunity to develop an apartment project at deeper affordability.
- Provides the affordable units in the same location as the market rate project.

Off-site production of affordable units:

- Tenure decision – apartment units as a requirement?
- Unit comparability
- Proximity to the market rate project?

Land dedication:

- Appropriate site for fulfilling the affordable housing obligations.
- City responsibility for developer selection.
- Proximity to the market rate project?

Acquisition & rehabilitation of existing rental units:

- Difficulty in obtaining RHNA credits for the affordable units.
- Displacement of existing tenants.

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Evaluation Considerations

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Financial Evaluation Parameters

- KMA is preparing pro forma analyses of prototype residential developments.
- The prototype projects are being created using the following resources:
 - The draft Housing Element.
 - Development plans that have been submitted to the Planning Division.
 - Project types identified in KMA's market surveys.
- The prototypes do not represent actual projects. They are a composite of many factors.

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§65915 Density Bonus



State density bonus can potentially mitigate the impacts of affordable housing requirements by allowing an increased number of units plus one to three incentives or concessions such as height and floor area ratio increases.



Projects that use the State density bonus cannot pay a fee in lieu of producing affordable housing units.



KMA is analyzing prototype density bonus apartment projects at and below the maximum bonus provided by §65915.

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Issues for Consideration

- Legal limits on Inclusionary Housing programs:
 - The requirements cannot be confiscatory; and
 - The requirements cannot deprive an owner of a fair and reasonable return on their investment.
- Inclusionary Housing requirements provide the City with flexibility to establish development standards that the §65915 density bonus alone does not provide.
- In-Lieu Fees can be used for a wide array of affordable housing activities including:
 - Assistance to 100% affordable projects
 - Contributions to homeless shelters
 - Home buyer programs
 - Rehabilitation loans

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City Council Decisions

November 1, 2022

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Selection of Parameters: Ownership Housing Projects

Option	Permitted (Yes / No) (By Right / Discretionary)	Income Standard (Very Low, Low or Mod)	Percentage Requirement	Covenant Period (Years)
On-Site Production				
On-Site: Parcel for Apartment Development				
Off-Site: Ownership or Apartment Development				
Acquisition / Rehabilitation				
	Permitted (By Right / Discretionary)	Maximum Project Size		
In-Lieu Fee Payment				
	Permitted (By Right / Discretionary)			
Land Dedication				

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Selection of Parameters: Apartment Projects

Option	Permitted (Yes / No) (By Right / Discretionary)	Income Standard (Very Low, Low or Mod)	Percentage Requirement	Covenant Period (Years)
On-Site Production				
Off-Site Production				
Acquisition / Rehabilitation				
	Permitted (By Right / Discretionary)	Maximum Project Size		
In-Lieu Fee Payment				
	Permitted (By Right / Discretionary)			
Land Dedication				

November 1, 2022

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Next Steps

A financial evaluation will be undertaken to test the policy objectives established by the City Council, and to identify the supportable parameters.

The results of the financial evaluation will be presented to the City Council.

A policy memorandum will be prepared that includes the guidance provided by the City Council.

A draft Inclusionary Housing Ordinance will be prepared in conjunction with the City Attorney's office for City Council consideration.

November 1, 2022

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