

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THOUSAND OAKS AMENDING THE THOUSAND OAKS MUNICIPAL CODE BY MODIFYING SECTIONS 9-10.102, 9-10.203, 9-10.301, 9-10.302, 9-10.303, 9-10.304, 9-10.305, 9-10.306, 9-10.307, 9-10.308, 9-10.401, AND 9-10.601 TO TITLE 9, CHAPTER 10, ARTICLES 1, 2, 3, 4 AND 6 TO UPDATE THE CITY'S INCLUSIONARY HOUSING PROGRAM AND RELATED AFFORDABLE HOUSING REQUIREMENTS **(MCA-2023-70004)**

The City Council of the City of Thousand Oaks does hereby ordain as follows:

Part 1

Section 9-10.102 of the Thousand Oaks Municipal Code is amended to read as follows:

Sec. 9-10.102. Definitions.

If a word or term is defined in another chapter of this Title (e.g., Chapter 4) it shall have the same meaning in this chapter. Wherever the following words and terms are used in this chapter, they shall have the meanings set out in this section:

- a) "Adjusted for household size appropriate for the unit." A household of one (1) person in the case of a studio unit, two (2) persons in the case of a one-bedroom unit, three (3) persons in the case of a two-bedroom unit, four (4) persons in the case of a three-bedroom unit, five (5) persons in the case of a four- bedroom unit, and six (6) persons in the case of a five-bedroom unit. This household size standard is used in the Affordable Housing Cost calculations. It is neither an occupancy minimum nor a maximum.
- b) "Affordable housing costs." The total housing costs paid by a qualifying household, which shall not exceed a specified fraction of their gross income, adjusted for household size appropriate for the unit, as follows:
 - 1) "Affordable ownership cost." A sales price that results in a monthly housing cost for moderate-income households as defined in California Health & Safety Code Section 50052.5.

- 2) "Affordable rent." A rent that results in a total monthly housing cost that is equal to thirty percent (30%) of eighty percent (80%) of the Ventura County median income.
- c) "Affordable Housing Trust Fund." A fund created by the City in which all fees collected in compliance with Chapter 10, Article 2 shall be deposited.
- d) "Common interest development." Shall have the same meaning as defined in Civil Code Section 1351(c).
- e) "Condominium/Townhouse Residential Project." A residential development with attached dwelling units located on a single lot where the dwelling units are designated for separate ownership with proportional undivided ownership of common land and facilities, pursuant to Section 1351 (f) of the California Civil Code.
- f) "Eligible Household." A household that meets any of the following as applicable:
- 1) "Low-income household." A household whose income does not exceed the qualifying limits for Ventura County set by California Health and Safety Code Section 50093, as published and annually updated by HCD.
 - 2) "Moderate-income household." A household whose income does not exceed the qualifying limits for Ventura County set by California Health and Safety Code Section 50079.5, as published and annually updated by HCD.
 - 3) "Very low-income household." A household whose income does not exceed the qualifying limits for Ventura County set by California Health and Safety Code Section 50105, as published and annually updated by HCD.
- g) "HCD." State of California Department of Housing and Community Development.
- h) "Household." means all the persons who will occupy the Inclusionary Unit.
- i) "Inclusionary housing agreement." A recorded agreement between an applicant and the City specifying the affordable income level served and guaranteeing the affordability of dwelling units constructed pursuant to this chapter, in order to ensure that the requirements of this chapter are satisfied.
- j) "Density bonus unit." Those dwelling units granted pursuant to the provisions of State Density Bonus Law which exceed the otherwise allowable maximum residential density for the site.
- k) "Inclusionary units." Dwelling units within a residential development which are required to be sold or rented at an affordable housing cost, pursuant to Article 3 of this chapter.
- l) "Market-rate unit." Any dwelling unit in a residential development that is not an inclusionary unit.

- m) “Nonresidential development.” Any development or use other than developments or uses solely involving the construction, alteration or condominium conversion of dwelling units. A “nonresidential development” also includes the conversion of a residential use to nonresidential use and the conversion of one nonresidential use to another nonresidential use.
- n) “Residential development.” Any development that includes either the construction of dwelling units or a condominium conversion.
- o) “Single-family detached residential project.” A development consisting of one-family dwellings each located on a single lot, where both the dwelling and land are owned together in fee.
- p) “Ventura County area median income.” Area median income for Ventura County as published by HCD pursuant to California Code of Regulations, Title 25, Section 6932, or successor provision.

Part 2

Section 9-10.203 (a) of the Thousand Oaks Municipal Code is amended to read as follows:

Section 9-10.203 – Purpose and use of monies in the Fund

- (a) Money in this fund shall be expended exclusively on activities related to the prioritization for the construction of affordable housing in the City of Thousand Oaks, for the benefit of extremely-low, very-low, lower and moderate-income households. Preservation, or rehabilitation of affordable housing shall be used in the event there is limited opportunity for the creation of new affordable housing using this fund. The City may enact Guidelines, consistent with this article, to more specifically implement the purposes of the Fund, which shall be adopted by City Council Resolution.

Part 3

Section 9-10.301 of the Thousand Oaks Municipal Code Article 3. Inclusionary Housing Program is amended to read as follows:

Sec. 9-10.301. Purpose and intent.

- (a) Purpose. The purpose of this article is to provide a mechanism and procedures for implementing inclusionary housing as part of new residential development.
- (b) Intent

- 1) Ensure the development and availability of decent, affordable housing to a broad range of households with varying income levels throughout the City.
- 2) Promote the City's goal to add affordable dwelling units to the City's housing stock.
- 3) Ensure the long-term affordability of dwelling units and availability for eligible households in years to come.
- 4) Ensure that the private sector, in addition to public sector, participates in the provision of affordable housing for workers within the City of Thousand Oaks.
- 5) Ensure that affordable housing will be dispersed throughout the City and each residential development, and not segregated from market-rate housing, by adopting the inclusionary housing requirement for each applicable residential development.

Part 4

Section 9-10.302. of the Thousand Oaks Municipal Code Article 3. Inclusionary Housing Program is amended to read as follows:

Sec. 9-10.302. Applicability.

Unless otherwise exempted pursuant to Section 9-10.303, all residential developments of ten (10) or more residential units shall be subject to the requirements of this article, and shall be subject to the following requirements:

- (a) Construction of Rental Inclusionary Units. Apartment developments shall provide at least ten (10%) percent of the total dwelling units as low-income inclusionary units.
- (b) Construction of Ownership Inclusionary Units. Condominium/Townhome developments shall provide at least ten percent (10%) of the total dwelling units as moderate-income inclusionary units. Detached single-family home developments shall provide at least five (5%) percent of the total dwelling units as moderate-income inclusionary units.
- (c) For the purposes of calculating the number of inclusionary units required, any additional dwelling units authorized as a density bonus under the City

Density Bonus Ordinance or State law will not be counted in determining the required number of inclusionary units.

- (d) Any fractional number of inclusionary units required in a residential development, shall be provided by payment of an in-lieu fee in the amount determined pursuant to Section 9-10.306 of this Chapter.

Part 5

Section 9-10.303 (a) and (e) of the Thousand Oaks Municipal Code is amended to read and Section 9-10.303 (f) is deleted as follows:

Sec. 9-10.303. Exemptions.

The following residential developments are exempt from the provisions of this article:

- (a) A residential development of nine (9) or fewer dwelling units.
- (e) The reconstruction of any dwelling units that has been destroyed by fire, flood, earthquake or other act of nature provided that the reconstruction of the project does not result in an increase in the number of existing units by ten (10) or more.

Part 6

Section 9-10.304 (a)(2) of the Thousand Oaks Municipal Code is amended to read as follows:

Sec. 9-10.304. Inclusionary housing plan.

- (a) Preliminary Inclusionary Housing Plan. Any applicant proposing to satisfy the requirements of this article by any means other than payment of an in-lieu fee shall be required to submit a Preliminary Inclusionary Housing Plan. The Preliminary Inclusionary Housing Plan shall be submitted at the time application is made to the Community Development Department for discretionary approval of the residential development. The Preliminary Inclusionary Housing Plan shall include the following information, as well as any other information required by the Community Development Director to evaluate the proposal:
 - 1) ...
 - 2) The Preliminary Inclusionary Housing Plan shall include a unit count of all proposed units, market-rate and inclusionary, a mathematical calculation that demonstrates compliance with this article, the square

footage and number of bedrooms and bathrooms for each inclusionary unit, and the income levels to which each inclusionary unit will be made affordable.

3) ...

4) ...

Part 7

Section 9-10.305 of the Thousand Oaks Municipal Code is amended to read as follows:

Sec. 9-10.305. Standards for inclusionary units.

Where inclusionary units are provided in a project, the City and applicant shall enter into an Affordable Housing Agreement to document and guarantee the provision of the required affordable housing units. The Affordable Housing Agreement shall incorporate the approved Inclusionary Housing Plan. Inclusionary units shall also be subject to the following minimum standards.

- (a) Design. Inclusionary units shall be comparable in design to market-rate units, with comparable infrastructure (including sewer, water, and other utilities), construction quality, and exterior design. The bedroom and bathroom mix for inclusionary units shall be proportional to the bedroom and bathroom mix in corresponding market-rate units. Inclusionary units shall have same exterior finishes and features as the market-rate units. The Inclusionary units shall have the same type or quality of appliances, fixtures, and finishes as the market rate units in the development.
- (b) Location. Inclusionary units shall be equally distributed throughout a residential development and not clustered in a particular area of the development. Inclusionary units within developments that share a common entrance shall not have separate entrances for market-rate and inclusionary units.
- (c) Timing of construction. Inclusionary units shall be constructed and occupied concurrently with or prior to the construction and occupancy of market-rate units. In phased developments, inclusionary units may be constructed and occupied in proportion to the number of dwelling units in each phase of the development.
- (d) Access to common amenities. Residents of inclusionary units shall have the same rights and access to common amenities in the development, such as

parking, open space, storage, and recreational space, as residents in market-rate units.

Part 8

Section 9-10.306 of the Thousand Oaks Municipal Code is amended to read as follows:

Sec. 9-10.306. Alternative Compliance Procedures

(a) In-lieu fees

The requirements of this article may be satisfied by paying a fee, in-lieu of constructing inclusionary units. The fee set by City Council pursuant to Section 9-10.306 shall be charged per leasable or saleable square foot of all units in a project. Any money paid pursuant to this subsection shall be deposited in the Affordable Housing Trust Fund as provided in Article 2.

- 1) The payment of in-lieu fees may be used to satisfy the inclusionary housing requirement for the following residential developments:
 - i. Any fractional number of inclusionary units required in a residential development.
 - ii. Ownership developments.
 - iii. Rental developments with 20 or fewer dwelling units.
 - iv. Rental developments with more than 20 dwelling units, provided the City Council finds that constructing the required inclusionary units on site would be an extreme hardship, based on factors such as project size, site constraints, and/or excessively large affordability gaps. One way this can be achieved is for the developer to demonstrate that the imposition of the affordable housing production requirement would violate the California and/or United States Constitutions.
- 2) In-lieu fees shall be paid according to a fee schedule adopted by the City Council and will be adjusted annually based on the percentage change in new home prices and average apartment rent increases in Ventura County.
- 3) In-lieu fees shall be paid prior to the issuance of the first building permit for the development. For phased developments, the developer may pay a pro rata share of the in-lieu fee concurrently with the issuance of building permits for each development phase.

(b) Production of Rental Inclusionary Units as part of an Ownership Housing development.

1) Developers of ownership housing developments are allowed to fulfill the development's Inclusionary Housing obligations with rental Inclusionary Units on a site that meets one of the following criteria:

- i. A separate Inclusionary Housing parcel that is created within the development site for the market rate residential development; or
- ii. A site that is located within one mile of the development site for the market rate residential development.

2) City Council shall be the approval authority for the following:

- i. Development location for the off-site inclusionary production option.
- ii. On-site parcel option for the size and location within the original development site for the market rate ownership residential development.

3) Rental Inclusionary Unit requirements

- i. Fifteen (15%) percent applied to the total number of ownership housing and apartment units being developed.
- ii. Low-income level, unless developer volunteers to fulfill the requirement with very low-income units.
- iii. Bedroom mix is not required to match the unit mix provided in the market rate ownership housing development.
- iv. Notwithstanding subdivision (3)(iii) above, the off-site inclusionary units shall meet the following requirements:
 - 1. No more than 15 percent of the off-site inclusionary units shall be studios.
 - 2. At least 40 percent of the off-site inclusionary units shall include two or more bedrooms.

4) A market-rate developer may enter into an agreement with an affordable housing developer to construct, own and operate the off-site inclusionary units required to fulfill the inclusionary housing requirement, provided:

- i. The affordable housing developer has relevant recent experience and is approved by the City.
- ii. The affordable housing developer does not request any financial assistance from the City.
- iii. The affordable housing developer may apply to use the California Government Code Sections 65915-65918 (Section 65915) density bonus and the statutorily established number of incentives or concessions.

(c) Land Dedication

At the discretion of the City Council, the inclusionary housing requirement may be satisfied by the dedication of land as follows:

- 1) The land shall be conveyed to the City at no cost.
- 2) Payment in full of all property taxes and special taxes shall be made when the proposal for land dedication is submitted, and again prior to conveyance of the land to the City.
- 3) The inclusionary units constructed on the land shall be set at 15% of the rental units and affordable to eligible very low-income households.
- 4) Location of the units:
 - i. The land to be dedicated shall be located within 1 mile of the market-rate development that is subject to the inclusionary housing requirement, unless the units are located within a moderate or higher resource area as defined by the California Tax Credit Allocation Committee (CTCAC) Opportunities Mapping.
 - ii. The inclusionary units constructed on the land to be dedicated shall not create an overconcentration of deed-restricted affordable dwelling units in any specific neighborhood, unless the units are located within a moderate or higher resource area as defined by the California Tax Credit Allocation Committee (TCAC) Opportunities Mapping.
 - iii. Overconcentration is defined as more than 50 deed-restricted dwelling units for eligible very low-or low-income within $\frac{1}{4}$ mile of the land, or more than 200 deed restricted dwelling units for eligible very low-or low-income households within $\frac{1}{2}$ mile of the land.

- 5) Upon submittal of a proposal for land dedication, evidence shall be provided that:
- i. The developer has control of the land to be dedicated.
 - ii. The land to be dedicated is free of any liens.
 - iii. Any encumbrances or easements that adversely impact the property's title must be disclosed and factored into the estimated value of the interests proposed to be conveyed to the City.
 - iv. The land cannot contain any hazardous materials at the time the land dedication proposal is submitted:
 - 1. The developer has disclosed whether any hazardous materials were previously contained on the site.
 - 2. If any hazardous materials were previously remediated on the site, the developer has provided evidence that cleanup was performed in accordance with applicable law.
 - v. The land has not been improved with any residential use for at least five years prior to the submission of the land dedication proposal.
 - vi. The land's existing General Plan and Zoning allows for residential use at a density sufficient to permit the development of the required number of inclusionary units.
 - vii. The land is suitable in terms of size, configuration, and physical characteristics to allow cost-efficient development of the required number of inclusionary units.
 - viii. The land is fully served by the necessary infrastructure to support the required number of inclusionary units prior to the conveyance to the City.
- 6) The developer shall submit all necessary information to evaluate compliance with the requirements of this Chapter, including:
- i. Conceptual site plan and narrative description of a project that could be developed on the property.
 - ii. An identification of the income and affordability restrictions proposed to be imposed.

- iii. A pro forma analysis that qualifies any financial gap associated with the identified development scope and describes how this financial gap will be filled.
 - iv. If a Section 65915 density bonus will be required, an identification of the terms of the requested density bonus; incentives and concessions; and development standards waivers.
- 7) City staff shall review land dedication proposals prior to consideration by the decision-making authority, to ensure they meet the requirements of this Section.
 - 8) The City shall re-convey dedicated properties to developers with experience developing affordable apartment developments targeted to very low-income households.

Part 9

Section 9-10.307 of the Thousand Oaks Municipal Code is amended to read as follows:

Sec. 9-10.307. Inclusionary housing incentives.

Applicants for residential developments who elect to satisfy the requirements of this article by constructing the requisite number of inclusionary units may request a regulatory incentive consistent with Government Code Section 65915 (d)(2) regardless of whether the project includes a Density Bonus.

Part 10

Section 9-10.308 of the Thousand Oaks Municipal Code is amended to read as follows:

Sec. 9-10.308. General requirements for inclusionary units.

In addition to the requirements of this article, inclusionary units shall be subject to the requirements of Article 6 of this chapter (Compliance Requirements).

- (a) Term of Affordability. Inclusionary units which are individually sold shall remain affordable for a cumulative period of forty-five (45) years from the date of initial occupancy. Inclusionary units which are rented shall remain affordable for as long as the property is developed with a residential use,

but not less than a fifty-five (55) year period from the date of initial occupancy.

Part 11

Section 9-10.401 of the Thousand Oaks Municipal Code is amended to read as follows:

Sec. 9-10.401. Purpose

- (a) Purpose. The purpose of this article is to provide a mechanism for producing housing affordable to extremely-low, very-low, lower and moderate-income households by requiring applicable nonresidential development pay a fee to be used for the production, preservation, or rehabilitation of affordable housing units.

Part 12

Section 9-10.601 of the Thousand Oaks Municipal Code is amended to read as follows:

Sec. 9-10.601. Affordable housing agreement.

A developer who proposes to construct affordable units on-site or off-site pursuant to this chapter, or whose project receives money from the Housing Trust Fund, shall execute an Affordable Housing Agreement with the City.

- (a) Form of Agreement. The forms of the Affordable Housing Agreement and any related Declarations, Resale Restrictions, deeds of trust, and other documents authorized by this chapter shall be approved as to form by the City Attorney prior to being executed with respect to any residential development subject to this chapter. Any such agreements may be approved and executed by the City Manager.

- (b) Recording of Agreement. The affordable housing agreement shall be recorded prior to, or concurrently with, final map recordation or, where the residential development does not include a map, prior to issuance of a building permit for any structure on the site. Resale restrictions, deeds of trust, and/or other documents comprising or related to the affordable housing agreement shall also run with the land and bind all future owners and successors in interest.

Part 13
(Uncodified)
Severability

If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this title; it being hereby expressly declared that this title, and each section, subsection, sentence, clause and phrase hereof, would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Part 14
(Uncodified)
Effective Date

This Ordinance shall take effect on the thirty-first (31st) day following its final passage and adoption.

PASSED AND ADOPTED THIS XXth DAY OF XXX, 2023, by the following vote:

Ayes:
Noes:
Absent:

Kevin McNamee, Mayor
City of Thousand Oaks, California

ATTEST/CERTIFY:

Laura B. Maguire, City Clerk

Date Attested: _____

APPROVE AS TO FORM:

APPROVE AS TO ADMINISTRATION:

Tracy M. Noonan, City Attorney

Andrew P. Powers, City Manager

Introduced: XXXX XX, 202X
Published: XXXX XX, 202X
Ordinance No.: XXXX-NS

The presence of electronic signature certifies that the foregoing is a true and correct copy as approved by the City of Thousand Oaks City Council on the date cited above.