



Council Agenda Report

Item 7b

Department: Community Development
Cost Center: 4003
For Agenda of: 7/19/2022
Placement: Public Hearing
Estimated Time: 90 minutes

FROM: Michael Codron, Community Development Director
Prepared By: Rachel Cohen, Senior Planner

SUBJECT: REPEAL AND REPLACE THE CITY OF SAN LUIS OBISPO'S MUNICIPAL CODE CHAPTER 17.138 (INCLUSIONARY HOUSING REQUIREMENTS) TO UPDATE REGULATIONS FOR CONSISTENCY WITH THE 6TH CYCLE HOUSING ELEMENT, AMEND TITLE 4 OF THE CITY OF SAN LUIS OBISPO MUNICIPAL CODE TO ADD CHAPTER 4.60 TO ESTABLISH A COMMERCIAL LINKAGE FEE, AMEND INCLUSIONARY HOUSING IN-LIEU FEES IN ACCORDANCE WITH CHAPTER 17.138 OF TITLE 17, ESTABLISH THE AMOUNTS OF COMMERCIAL LINKAGE FEES IN ACCORDANCE WITH CHAPTER 4.60 OF TITLE 4 OF THE SAN LUIS OBISPO MUNICIPAL CODE, AND AMEND THE COMPREHENSIVE FEE SCHEDULE

RECOMMENDATION

Planning Commission recommends the following actions:

1. Introduce a draft Ordinance entitled, "An Ordinance of the City Council of the City of San Luis Obispo, California, approving the repeal and replacement of the City of San Luis Obispo's Municipal Code Chapter 17.138 (Inclusionary Housing Requirements) to update regulations for consistency with the 6th Cycle Housing Element with an exemption from Environmental Review (CEQA); and
2. Introduce a draft Ordinance entitled, "An Ordinance of the City Council of the City of San Luis Obispo, California, amending Title 4 of the City of San Luis Obispo Municipal Code to add Chapter 4.60 to establish a Commercial Linkage Fee with an exemption from Environmental Review (CEQA)"; and
3. Adopt a Resolution entitled, "A Resolution of the City Council of the City of San Luis Obispo, California, amending Inclusionary Housing In-Lieu Fees in accordance with Chapter 17.138 of Title 17 and establishing the amounts of Commercial Linkage Fees in accordance with Chapter 4.60 of Title 4 of the San Luis Obispo Municipal Code and amending the Comprehensive Fee Schedule"; and
4. Direct staff to develop new incentives for housing developers to ensure the success of Housing Element Programs such as Flexible Density Downtown, Missing Middle Housing, and SB9/Subdivision Regulations Update; and
5. Direct staff to investigate grants and other options for funding of additional affordable housing programs, such as a First-Time Homebuyers Program.

POLICY CONTEXT

The purpose of this item is for the City Council to consider an update of the City's Inclusionary Housing Ordinance (IHO). The recommendation is in support of the City Council's policy to increase the amount of affordable housing production in the City. Work to complete this task started in 2019 and benefitted from the public outreach process conducted during the update of the 2020 Housing Element. This project, along with several other important initiatives to increase affordable housing production, are included in Community Development's work program in support of the 2021-23 Financial Plan Major City Goal for Housing and Homelessness.

The City's Major City Goal states, "The City will prioritize new and ongoing Housing Element policies and programs that focus on **facilitating the increased production of affordable and workforce housing**, in addition to market rate housing; ..."

In order to increase the development of additional deed restricted, affordable housing units, the Housing Element update included Program 2.13 – "Update the Inclusionary Housing Ordinance, including Table 2A, based on findings and recommendations in the 2020 Affordable Housing Nexus Study and conduct further feasibility analysis in order to evaluate the City's ability to provide affordable housing in the proportions shown in the Regional Housing Needs Allocation, per Policy 2.4."

Goal 2 in the 6th Cycle Housing Element is "Affordability: Accommodate affordable housing production that helps meet the City's Quantified Objectives." The City's Quantified Objectives are the number of housing units that will be planned, built, rehabilitated, and preserved during the Housing Element's planning period. Importantly, Housing Element Policy 2.4¹ focuses on housing production *for all financial strata* of the City's population, as allocated in the Regional Housing Needs Allocation (RHNA). Very low-, low-, and moderate-income housing units account for 58% (1,948 units) of the City's total RHNA.

The best way to provide for these units is through an effective Inclusionary Housing Ordinance that includes deed-restricted affordable housing within new housing developments. The IHO also provides for a funding stream that enables the City's non-profit partners to construct a variety of affordable housing types that the market does not produce on its own.

The update of the Inclusionary Housing Ordinance, together with ongoing implementation of the Major City Goal work plan listed in the following table, are designed to work in concert to accomplish the vision for housing in our community, as expressed in the City's General Plan.

¹ Encourage housing production for all financial strata of the City's population, as allocated in the Regional Housing Needs Allocation, for the 6th cycle planning period. The number of units per income category are: extremely low and very low income, 825 units; low income, 520 units; moderate income, 604 units; and above moderate income, 1,405 units.

Table 1: 2019-2023 Major City Goal Work Plan

HE Program No.	Housing Work Program		Implementation Status
6.22	Objective Design Standards	Update the City's municipal code to expand objective design standards within one year of the adoption of the Housing Element Update.	Completed
2.17	Objective Design Standards	Allowance of developments that include at least 20% low income affordable units by-right.	Completed
2.18	Objective Design Standards	Utilize objective design standards to allow residential uses by-right for developments that include at least 20% low income units	Completed
5.5	Zoning Code Update	Update the Zoning Regulations to allow mixed-use development within Service Commercial (C-S) and Manufacturing (M) zones	Completed
6.23	Zoning Code Update	Update the development review process and expand the thresholds of each review level (minor, moderate, and major) to eliminate or reduce the number of public hearing required for housing projects within one year of adopting the Housing Element.	Completed
2.13	IHO Update	Update the Inclusionary Housing Ordinance, including Table 2A, based on findings and recommendations in the 2020 Affordable Housing Nexus Study and conduct further feasibility analysis in order to evaluate the City's ability to provide affordable housing in the proportions shown in the Regional Housing Needs Allocation, per Policy 2.4.	In Process.
4.6	IHO Update	Amend the City's Inclusionary Housing Ordinance to require that affordable units in a development be of similar size, number of bedrooms, character and basic quality as the non-restricted units in locations that avoid segregation of such units, including equivalent ways to satisfy the requirement. Also evaluate adjusting the City's allowable sales prices for deed-restricted affordable units per a variety of unit types.	In Process.
2.15	Flexible Density	Update of the Zoning Regulations and Community Design Guidelines to incorporate flexible density development options in Downtown Core and portions of Upper Monterey and Mid-Higuera Special Focus Areas.	In Process. Anticipated to be completed by June 2023.

6.20	Subdivision Update	Evaluate and update the Subdivision Regulations, within three years of Housing Element adoption, to support small lot subdivisions, ownership bungalow court development and other alternatives to conventional subdivision design.	In Process. Anticipated to be completed by June 2023.
5.4	Missing Middle Housing	Evaluate and implement “missing middle” housing types (e.g. duplex, triplex, quadplex, cottages, etc.) to increase housing options in the City within three years of adopting the Housing Element.	In Process.

The City Council has tasked the Community Development Department with updating the Inclusionary Housing Ordinance (IHO) as part of the 2021-23 Major City Goal work program to increase the production of affordable housing. The IHO requires a specified percentage of deed restricted, moderate- and lower-income housing units to be provided in new residential developments and establishes a commercial linkage fee so that commercial development can contribute to addressing the related housing demand.

The City is required to accommodate 3,354 residential units as a part of its 6th Cycle Regional Housing Needs Allocation (RHNA). By 2021, the City met 100 percent of its total allocation for “Above Moderate” housing units (1,411 units), but only has met 11 percent (208 units) of the total number of needed affordable units. The housing market is not producing housing that is affordable to moderate- and lower-income households, and as a result, the City’s IHO is being updated to increase affordable housing in the community to help achieve quantified objectives related to affordable housing.

In 2019 the City hired consultant David Paul Rosen and Associates (DRA) to complete an [Affordable Housing Nexus Study](#). The Study confirmed that both market-rate residential and commercial development are inducing demand for affordable housing that is not being met by the current housing market. Information from the Nexus Study was utilized to develop Program 2.13² in the City’s [6th Cycle Housing Element](#) (adopted on November 17, 2020).

After the Nexus Study was completed and presented to the City Council, Economic & Planning Systems, Inc. (EPS) conducted a [Feasibility Analysis](#) in 2021 of the City’s proposed affordable housing requirements and in-lieu fees and commercial linkage fees. EPS provided a preliminary recommendation that was presented to City Council on March 1, 2022 (details of the Nexus Study and Feasibility Analysis recommendations are provided in Attachment G). Council provided the following comments:

1. Supported the removal of Table 2A (Inclusionary Housing Adjustment Factors).
2. Agreed that inclusionary housing requirements be based on project type, rather than zoning or location.

² Update the Inclusionary Housing Ordinance, including Table 2A, based on findings and recommendations in the 2020 Affordable Housing Nexus Study and conduct further feasibility analysis in order to evaluate the City’s ability to provide affordable housing in the proportions shown in the Regional Housing Needs Allocation, per Policy 2.4

3. Supported an increased Commercial Linkage fee.
4. Agreed with the list of duties of a BMR Administrator, and provided further guidance to work with the BMR Administrator to establish the following:
 - a. Local preference for San Luis Obispo residents or employees, or others who often commute to the city; and
 - b. Long term affordability (maintaining deed-restricted units as long as possible).
5. Directed staff to continue outreach with various stakeholders and the community.

Staff released a draft of the proposed amendments to the IHO for public review on May 11, 2022 on the City's Inclusionary Housing Ordinance Update website. The public was invited to provide comments on Open City Hall, through e-mail, or by telephone. Presentations were made to the SLO Chamber of Commerce, Economic Development Committee, and members of the Developer's Roundtable. On June 8, 2022, the Planning Commission (PC) reviewed the draft IHO and unanimously recommended the City Council adopt amendments to the IHO (see Table 2 for a summary of the amendments).

Table 2: Summary Key Requirements of the Inclusionary Housing Ordinance

	Proposed Amendments
Where the IHO applies	Citywide
Table 2A Adjustments	Remove (requirement no longer adjustable)
Shared Equity Purchase Program	Available for residential development projects that include affordable housing units for sale <i>in excess of</i> the inclusionary housing requirement for the project.
Residential*	
For Sale	10% (5% low-income units and 5% moderate income)
For Sale In-lieu Fee**	\$25 per square foot
For Rent	6% (3% very low-income and 3% low-income)
For Rent In-lieu Fee**	\$20 per square foot
Commercial***	
Commercial Development	<u>Office, service, hotel, and retail uses</u> : \$6 per square foot <u>Industrial and Institutional Uses</u> : \$5 per square foot

*IHO would be applied to all market rate residential units.

**Residential projects of 10 units or less would have the ability to pay a fraction of the in-lieu fee or provide one Moderate income unit to meet their inclusionary requirement.

*** All commercial square footage would be required to pay the Commercial Linkage fee. Projects that contain less than 2,500 square feet of new gross floor area of commercial space would no longer be exempt. Based on public comment, the PC made a separate motion recommending the City Council give direction to staff to work on identifying exemptions to IHO requirements for key Housing Element programs, such as Missing Middle and Flexible Density, as they are brought forward for consideration. These are projects that are expected to enable the production of a wide variety of housing types downtown and in that may be affordable to Workforce Income and other above-moderate income households. Appropriate

adjustments to the IHO could help ensure the success of these creative, new housing programs.

In addition, public feedback indicates a strong desire to pursue other revenue streams that could create even more affordable housing, including a down-payment assistance program. Staff recommends that the City Council provide direction to staff to investigate a variety of Federal, state, and local grant opportunities and other options for creating revenue to support expanded affordable housing programs. If existing revenues are explored (i.e. general fund), then expenditure offsets will need to be identified for corresponding reductions.

DEFINITIONS AND TERMS USED IN THIS REPORT

Affordable Housing - Housing which can be purchased or rented by a household with very low-, low-, or moderate- income, as described in the City's affordable housing standards. By law, the upper income limit for "extremely-low income" households is 30 percent of the area median income; the upper income limit for "very-low income" households is 50 percent of the area median income; the upper limit for "lower income" households is 80 percent of the area median income; and the upper limit for "moderate-income" households is 120 percent of the area median income.

Regional Housing Needs Allocation (RHNA) – The City's projected housing need during the Housing Element planning period is determined through the Regional Housing Needs Allocation (RHNA) process, which is based on projected Statewide growth in households as determined by the California Department of Housing and Community Development (HCD). HCD distributes the Statewide projected housing need among the regions in the State, where each regional council of government allocates the projected regional growth to local jurisdictions within the region. The total housing need for each jurisdiction is distributed among income categories, requiring each jurisdiction to plan to meet the need for housing for households at all income levels.

Nexus Study – An established methodology to determine the nexus between market-rate residential development and nonresidential development and the need for affordable housing in the City. The study identifies the maximum nexus-based affordable housing impact fees and commercial linkage fees needed to cover the affordability gap.

Feasibility Analysis – An evaluation of the maximum nexus-based affordable housing impact fees and commercial linkage fees calculated to determine the financially feasible level of impact fees and linkage fees that can be absorbed by new development.

Inclusionary housing unit - A dwelling unit required under the provisions of Chapter 17.138 of the Municipal Code, and which is priced to be affordable to households that qualify as moderate, low, very-low or extremely-low income under the City's Affordable Housing Standards.

Market rate - The highest price a willing buyer would pay and a willing seller would accept, both being fully informed and in an open market, as determined by an appraiser.

Workforce Income Household - A household with an income that exceeds 121% but does not exceed 160% of the area median income (AMI).

Missing Middle Housing – Describes a range of multi-family housing types that are house-scale and architecturally compatible within existing neighborhoods.

DISCUSSION

Background on the Local Zoning Ordinance – the Inclusionary Housing Ordinance

The City's first Inclusionary Housing Ordinance (IHO) was adopted in 1999. The purpose of an IHO is to require new housing development projects to include a specified

percentage of deed restricted, moderate- and lower-income³ housing units (otherwise referred to as affordable housing in this report) in new residential developments or pay a fee. More than 1,200 deed-restricted or otherwise secured affordable dwellings have been planned for, entitled, or built since the City's adoption of its IHO in 1999. The City has granted, loaned, or committed over \$10,750,000 of affordable housing in-lieu funds to assist with the development of over 500 of these deed-restricted affordable housing units during this same time period

The Need for More Affordable (Moderate and Lower Income) Housing

The City's Housing Element includes a Regional Housing Needs Allocation (RHNA), set by the State, that the City must work towards achieving. For the 5th Cycle RHNA (2014-2019), the City saw 1,272 housing units permitted. 1,052 of the units (over 200 percent of the RHNA number) were above moderate and the City only met 33 percent of the allocated affordable housing units (see Table 3 below) required by the State.

Table 3: Progress Towards 5th Cycle Quantified Objectives (1/1/14 to 6/30/19)

Income Level (% of County Median Income)	5th Cycle RHNA Allocation	Building Permitted Units Issued by Affordability						Total Units by Income Level	Total Units Remaining by Income Level
		Year 1 (2014)	Year 2 (2015)	Year 3 (2016)	Year 4 (2017)	Year 5 (2018)	Year 6a (01/01/19 - 06/30/19)		
Extremely Low & Very Low	285	35	1	19	41	70	0	166	119
Low	179	16	1	1	9	4	4	35	144
Moderate	202	8	2	3	0	0	6	19	183
Above Moderate	478	146	168	111	164	212	251	1,052	-574
Total Units	1,144	205	172	134	214	286	261	1,272	
Total Remaining for RHNA Period:									446

Source: Community Development Department, 2019

In 2019, the City received its RHNA as a part of the 6th Cycle Housing Element update (see Table 4). Quickly, by 2021, the City had already met its total allocation for "Above Moderate" housing units. Unfortunately, the City's housing market is producing housing that is not affordable to moderate- and lower-income households. Within the same time period, the City has only permitted 10.7 percent of the needed affordable housing units and the proposed IHO update is intended to improve this outcome.

With the exception of ADUs (Accessory Dwelling Units)⁴, the City can only meet affordable housing targets through its requirement that a percentage of all new housing units be

³ These Standards are updated annually by the Community Development Department and remain in effect per each corresponding fiscal year (July 1 - June 30). The Standards show income limits for the City and County of San Luis Obispo, as published by the State Department of Housing and Community Development (HCD). <https://www.slocity.org/government/departments/community-development/affordable-housing/affordable-housing-standards/-fsiteid-1>

⁴ Section 65583.1 of State housing element law allows local governments to identify realistic capacity for ADUs in addressing a locality's share of the regional housing need. The identification of realistic capacity

deed-restricted for affordability. The IHO is supported by nexus and feasibility analyses and is a best practice to ensure that affordable housing units are constructed within, or concurrent with “Above Moderate” income category housing units. Ultimately, inclusionary housing policies will ensure that new City neighborhoods are inclusive of the full range of household incomes represented in the City’s workforce.

Table 4: Progress Towards 6th Cycle Quantified Objectives, 2019-2028

Income Level (% of County Median Income)		6th Cycle RHNA Allocation	Building Permitted Units Issued by Affordability				Total Units by Income Level	Total Units Remaining by Income Level
			Year 1 (2019)	Year 2 (2020)	Year 3 (2021)	Years 4 – 10 (2022 - 2028)		
Extremely Low & Very Low	Deed Restricted	825	0	14	35	-	49	776
	Non-Deed Restricted		0	0	0	-	0	
Low	Deed Restricted	520	6	0	56	-	62	382
	Non-Deed Restricted		0	30	46	-	76	
Moderate	Deed Restricted	603	8	5	8	-	21	582
	Non-Deed Restricted		0	0	0	-	0	
Above Moderate		1,406	523	416	472	-	1,411	0
Total Units		3,354	537	465	617	-	1,619	
						Total Remaining for RHNA Period:		1,735

Source: Community Development Department, Building Permits Issued, 2021

Previous Council or Advisory Body Action

April 21, 2020: City Council received the Affordable Housing Nexus Study that determined that both residential and commercial development are inducing demand for affordable housing that is not being met by the housing market. The Nexus Study included the maximum justifiable nexus fees the City could implement to meet the affordable housing demand incurred by current development. However, the Study recommended that the City adopt fees *less* than the maximums because fees at these high levels would affect the financial feasibility of development as well as the competitiveness of development in the City.

should be based on the development trends of ADUs in the previous housing element planning period and other relevant factors. The County of San Luis Obispo conducted a market study for ADUs, including information from the City of San Luis Obispo, and found that approximately 50 percent of the ADUs constructed meet low-income housing rental costs.

The Study's findings verify that there is a nexus that justifies the City having an Inclusionary Housing Ordinance that applies to both residential and commercial development ([4.21.20 Council Report](#) and [Meeting Minutes](#)).

March 1, 2022: City Council conducted a Study Session for the purposes of providing background information and analysis of the City's current affordable housing requirements, a preliminary recommendation⁵ on updates to the City's Inclusionary Housing Ordinance, a commercial linkage fee recommendation, and an overview of progress of onboarding the City's Below Market Rate (BMR) Housing Administrator ([3.1.22 Council Report](#) and [Meeting Minutes](#)). Council provided the following comments and direction to staff:

1. Supported the removal of Table 2A (Inclusionary Housing Adjustment Factors).
2. Agreed that inclusionary housing requirements be based on project type, rather than zoning or location.
3. Supported an increased Commercial Linkage fee.
4. Agreed with the list of duties of a BMR Administrator, and provided further guidance to work with the BMR Administrator to establish the following:
 - a. Local preference for San Luis Obispo residents or employees, or others who often commute to the city; and
 - b. Long term affordability (maintaining deed-restricted units as long as possible).
5. Directed staff to continue outreach with various stakeholders and the community.

The recommendations in this report directly respond to the March 1, 2022 direction.

June 8, 2022: The Planning Commission (PC) reviewed the draft IHO and unanimously recommended the City Council adopt the ordinance with staff's proposed modifications. The modifications included the elimination of the exemption of residential projects of less than five units. The draft Ordinance (Attachment A) includes the recommended modifications. There was public comment during the public hearing concerning potential impacts the recommended draft IHO may have on the development of smaller, compact market-rate development. One specific concern was that requirements of the IHO for affordable housing may burden small infill housing projects that would otherwise support missing middle housing. In order to provide opportunities to address this concern, the PC also made a motion recommending the City Council give direction to staff to work on identifying exemptions to Inclusionary Housing requirements for key Housing Element programs, such as the pending Missing Middle and Flexible Density programs, when they are brought forward for consideration. ([6.8.22 PC Report](#) and [Meeting Minutes](#)).

⁵ The preliminary recommendations provided as a part of the Study Session were derived from a Feasibility Analysis completed in 2022 that tested the feasibility of a range of inclusionary requirements and affordable housing fee levels and compared those costs to the revenues that could be generated given the various mixes of market-rate and affordable housing and/or fee levels. Based on this analysis, the preliminary recommendation included several revisions to the City's existing affordable housing inclusionary program for new residential and mixed-use development and introduced a nexus-based commercial linkage fee for non-residential uses.

Public Input on the Elimination of Table 2A and Staff Response

Preceding the PC hearing on June 8, 2022, staff received public comment as [agenda correspondence](#) on the draft IHO, including a letter from the [SLO Chamber of Commerce](#). Staff provided a [response](#) to key issue areas raised by the Chamber in PC agenda correspondence.

The key issue discussed in the letter and reiterated during public comment at the PC meeting was the elimination of Table 2A. The Chamber's letter states, "We recognize that 2A needs to be updated, however, the risks of eliminating it all together are too great. The demand for larger, more expensive housing is significant and without incentives like Table 2A, missing middle housing will be even less likely to be produced."

As previously stated, the purpose of the IHO update is to produce more affordable housing. Table 2A was established as an amendment to the original IHO to encourage the development of projects with higher density and smaller unit sizes, which would be considered affordable-by-design within the City. The intent was that these smaller units would sell or be rented to households that meet moderate- or lower-income standards. This concept has not produced affordable housing in practice. The Feasibility Analysis found that the development that meets the size and density criteria established by Table 2A is still not affordable at any income level other than above moderate, which the City is already over-producing. Some examples of new, smaller units for rent and for sale are provided below:

- **Vintage** (an apartment complex in the Orcutt Area Specific Plan), a studio unit (500 square feet) rents for \$2,385 per month, where the maximum allowed rent for a moderate-income studio unit is \$1,426, which is based on a household income threshold of 80–120% of the Average Median Income (AMI).
- **Harvest Lofts**, at San Luis Ranch, where (according to their website) a one-bedroom 436 square foot unit is for sale starting at \$404,900; low-income threshold for purchase is \$187,800 and \$328,650 at the moderate-income threshold.
- **Heirloom**, at San Luis Ranch, provides a three-bedroom, 1,564 square foot unit, for sale, starting at \$786,385; low-income threshold for purchase is \$244,200 for a three-bedroom and \$427,175 at the moderate-income threshold.

Table 5 below provides a snapshot of recent projects that have utilized Table 2A and shows how many affordable, deed-restricted units were lost. Unfortunately, if the results are smaller homes on smaller lots, those homes are still not affordable to households earning 120% or less of Area Median Income (AMI). As a result, the elimination of Table 2A is recommended to increase the production of affordable housing while the City works to implement a variety of other programs that are targeted to provide housing for households earning above 120% of AMI.

Table 5: Recent projects that have utilized Table 2A

Year Approved	Project Name	Number of Units	Number of Affordable Units	Income Level	Number of Units w/out Table 2A
2019	Terraza	28	1	Moderate	2
2021	Bullock Ranch*	192	7	2 Low, 5 Mod	29
2017	West Creek (Vintage & Noveno)*	172	10	Moderate	26
2018	The Connect	78	1	Moderate	4
2020	Laurel Creek	100	1	Moderate	5
2016	The Yard	43	1	Moderate	3
2005	Avivo	161	2	Moderate	9
2018	Twin Creeks	94	3	2 Low, 1 Mod	5
2020	Orcutt Road Apartments	10	1	Moderate	1
Total		878	27		84

* Projects located within Expansion Areas have an Inclusionary Housing Requirement of 15%

Additional Tools that Accomplish the City's Housing Objectives

The evolution of density bonus law (DBL) in recent years provides developers with an opportunity to provide more affordable housing in exchange for relaxed development requirements.⁶ In addition, the City can grant an additional density bonus as a further incentive to help projects with affordable housing to pencil out.

A developer who meets the requirements of the state law is entitled to receive density bonuses and other benefits as a matter of right. In the case of a project that is at least 20% low income, the project would be automatically entitled to move forward with building permits.

Most importantly, projects that qualify for DBL are not subject to IHO requirements. Developers also benefit from waivers or concessions that allow the City to grant deviations from development standards such as reduced setbacks, increased height, or reduced parking. These relaxed standards along with density bonuses allow more **market rate** units on the site than the zone would otherwise allow, which makes development of affordable housing more economically feasible.

⁶ The Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with tools to encourage the development of affordable and senior housing, including up to a 50% increase in project densities for most projects, depending on the amount of affordable housing provided, and an 80% increase in density for projects which are completely affordable. The City's regulations contained in Chapter 17.140 of the Municipal Code exceed state standards.

In addition to density bonuses, the City supports several other tools to increase production of a variety of housing types including:

- Streamlined development review process for housing projects.
- Objective Design Standards that allow eligible residential projects to be reviewed through a ministerial process.
- Mixed-use development allowed by right in all Service-Commercial and Manufacturing zones.

Existing tools that incentivize smaller infill development include:

- As proposed, the IHO in-lieu fee is based on square footage- smaller units will have lower fees;
- Density bonus provisions in Chapter 17.140 of the Municipal Code (higher density development with the inclusion of affordable units);
- Ministerial review and reduced fees for ADUs and JADUs;
- Tiered fee structure that provides substantial reductions in cost for smaller residential units for water, sewer and transportation impact fees;
- Fractional density allowances based on unit size and number of bedrooms;
- Minimum density allowances based on Zoning designations; and
- Implementation of SB 9 (California H.O.M.E Act).

Creative New Market-Rate Housing Options in the Works

Currently, the City is seeing the most significant production upswing in market-rate housing in the past twenty years. The vast majority of planned housing production in the City (in the Orcutt Area, Margarita Area, Avila Ranch, San Luis Ranch and Froom Ranch) will not be impacted by the proposed changes to the IHO. This includes over 3,000 units of newly entitled housing. This new housing is serving the community well. New homes in Avila Ranch or San Luis Ranch, for example, prioritize sales to current SLO residents and employees, and these homes are selling.

Future projects are in the works to ensure that the City continues to provide a diverse set of housing opportunities for residents. The City's Downtown Flexible Density program will remove density limits for downtown housing units of 600 square feet or less. The Missing Middle Housing Program will enable duplex, tri-plex, bungalow court, and other house-scale, multi-family housing projects to be developed in qualifying R-1 locations throughout the City. Together, these projects would have the capacity to enable production of over 1,000 units of market-rate housing to serve the workforce and a variety of other local housing needs.

As part of the Planning Commission and staff recommendation, the Council is being asked to direct staff to consider appropriate exemptions or adjustments from the IHO when these programs move forward for consideration. In addition, public feedback to staff and the Planning Commission indicates a strong interest in the City pursuing other revenue streams that could create even more affordable housing, including through a down-payment assistance program.

Staff is also recommending that the City Council provide direction to staff to investigate a variety of Federal, state, and local grant opportunities and other options for creating revenue to support expanded affordable housing programs.

Public Engagement

Public outreach regarding the Inclusionary Housing Ordinance began in 2020 with the presentation to City Council on April 21st about the completed Nexus Study. On June 2, 2020, staff submitted a Memo to the Planning Commission about the Nexus Study. The Nexus Study was used to inform new programs within the 6th Cycle Housing Element Update.

As a part of the Housing Element update, staff facilitated eight presentations, meetings, online surveys, and a public workshop (details of the public outreach are provided in Appendix G of the 6th Cycle Housing Element). Participants of the community workshop and the online survey were invited to answer the following questions: “What type of housing is needed most in our community?” and “What housing issues exist in the community?” Approximately 100 individuals participated in the in-person workshop and online survey and identified **affordable housing** as the type of housing needed most and the biggest housing issue of the community.

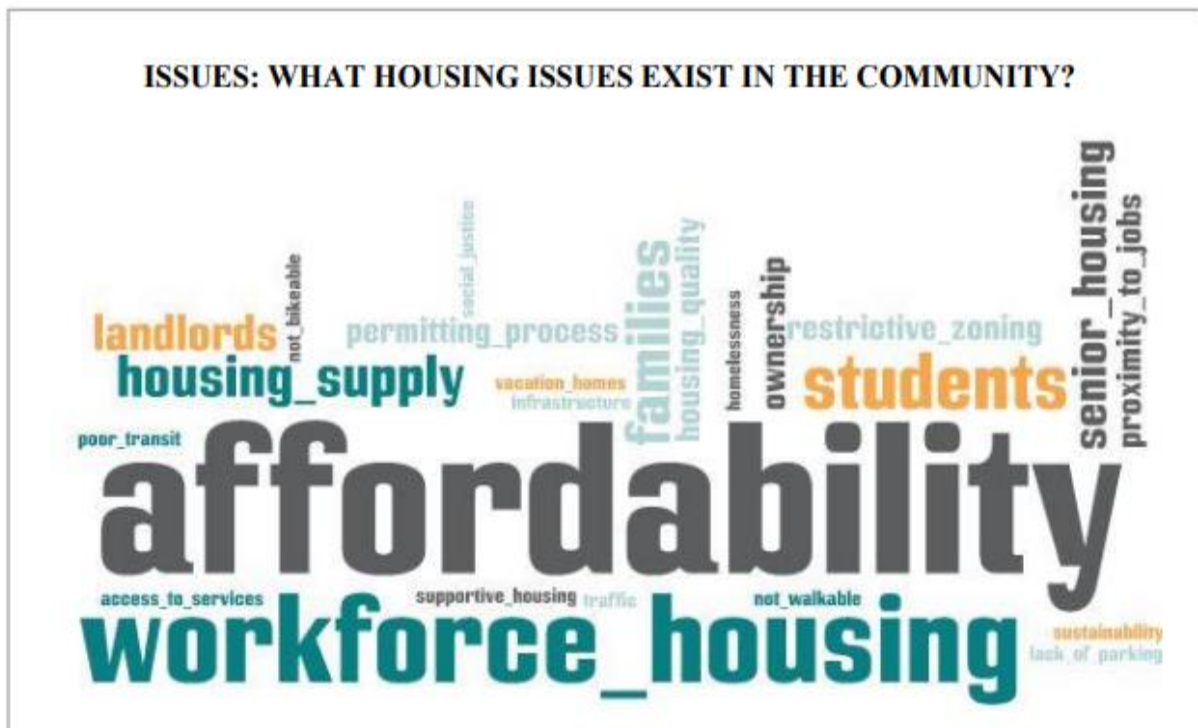


Figure 1: A word cloud created from the comments received from the 6th Cycle Housing Element workshop and online survey participants.

With the completion of the Feasibility Analysis in January 2021, staff presented the preliminary IHO recommendation to Council on March 1st as part of a Study Session. On March 2, 2022, staff presented the to the Chamber of Commerce. On May 11, 2022, City staff released the draft IHO amendments for public review. The proposed amendments were made available to the public through the City's Website with opportunities for public feedback via email, phone, mail and Open City Hall. In May 2022 staff presented the draft IHO to the Chamber of Commerce and the members of the Developer's Roundtable. Staff has continued to engage with interested individuals and the Chamber of Commerce (which created a Task Force to work directly with staff on this topic).

Public notice of this hearing has been published in a widely circulated local newspaper, and hearing agendas for this meeting have been posted at City Hall, consistent with adopted notification procedures. Email notices have been provided for each public meeting to those on the interested parties list.

CONCURRENCE

Staff from the Housing and Homelessness Division of Community Development concur with the proposed changes to the Inclusionary Housing Ordinance.

ENVIRONMENTAL REVIEW

The proposed amendments to the Municipal Code Title have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the state CEQA Guidelines, and the environmental regulations of the City. Specifically, the proposed amendments have been determined to be exempt from further environmental review pursuant to CEQA Guidelines Section 15061(b)(3), the "Common Sense" exemption, because the proposed actions will have no possibility of a significant effect on the environment and will not cause impacts as all projects subject to the Inclusionary Housing Ordinance will be required to comply with all relevant City standards, codes, and regulations, including environmental review.

FISCAL IMPACT

Budgeted: Yes
Funding Identified: Yes

Budget Year: 2022-23

Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$N/A	\$	\$	\$
State				
Federal				
Fees				
Other:				
Total	\$	\$	\$	\$

The implementation of Housing Element Programs was adopted as a part of the 2021 - 2023 Financial Plan. Funding was provided as a part of the Community Development Department budget appropriation for staff resources to implement Housing Element programs such as Program 2.13.

The City's applicable fee schedule will be updated according to City Council action and incorporate the fees as approved.

ALTERNATIVES

1. ***The City Council could direct staff to conduct further outreach and return with a revised IHO and recommendation.*** This alternative is not recommended because the Community Development Department work program includes a significant number of additional projects that should be completed before June 30, 2023. Further work on the IHO would forestall these efforts. Therefore, staff is hopeful that changes to the recommendation directed by the City Council can be incorporated into an action during the public hearing.
2. ***The City Council could change the percentage of affordable housing required by the IHO and/or the amount of in-lieu fees.*** The affordable housing requirements and in-lieu fee amounts contained in the IHO are based on a detailed analysis prepared by the City's consultant, EPS. There is alignment between the affordable housing percentage requirement contained in the proposed IHO update and the corresponding in-lieu fees. Reducing these requirements is not recommended, however, the City Council's decision is a pure policy choice, and the Council has plenary authority to make revisions as long as they comply with applicable state and Federal housing law. If the Council majority decides that a reduced affordable housing requirement best balances all policy considerations, then staff would recommend reducing the for-sale percentage requirement from 10% to 8% (3% low and 5% moderate). In addition, this change should be made together with a reduction in the in-lieu fee amount from \$25 per square foot, to \$20 per square foot to maintain consistency with the feasibility analysis.

ATTACHMENTS

- A - Draft Ordinance repealing and replacing the City of San Luis Obispo Municipal Code Chapter 17.138 (Inclusionary Housing Requirements)
- B - Draft Ordinance amending Title 4 of the City of San Luis Obispo Municipal Code to establish a commercial linkage fee
- C - Draft Resolution for Inclusionary In-lieu and Commercial Linkage Fees
- D - Legislative Draft of the Inclusionary Housing Ordinance
- E - PC Resolution No. PC-1061-2022 recommending Council repeal and replace IHO and review In-lieu Fees and Commercial Linkage Fees
- F - Effect of CCCI Increase and Implications for the Inclusionary Housing Ordinance Update
- G - Affordable Housing Analysis and Recommendations