

City of Agoura Hills Inclusionary Housing Ordinance

(Ord. No. 98-287, § 1, 5-13-98)

Inclusionary

9133. **Inclusionary** housing; purpose.

- A. The City of Agoura Hills General Plan Housing Element sets forth goals, policies and programs to address the affordable housing needs of the city.
- B. The housing element provides for an **inclusionary** housing program to address the provision of housing for low- and moderate-income households.
- C. The purpose of the **inclusionary** housing program is to expand the affordable housing stock in proportion with the overall increase in residential units by establishing standards and procedures that encourage the development of low- to moderate-income housing.

(Ord. No. 137, § 2, 9-23-87; Ord. No. 00-303, 9-13-2000)

Editor's note: With the city's concurrence, Ord. No. 137, § 2, adopted Sept. 23, 1987, has been treated as superseding provisions formerly codified as section 9133. Prior to supersession, section 9133 pertained to similar subject matter and bore no history note.

Inclusionary

9133.1. **Inclusionary** housing; definitions.

The following definitions apply to terms used in sections 9133 to 9133.6:

- A. *Dwelling unit.* One (1) or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with full cooking, sleeping, and bathroom facilities for the exclusive use of a single household.
- B. *Elderly household.* A household where the head of household is at least sixty-two (62) years of age.
- C. *HUD.* The United State Department of Housing and Urban Development.
- D. **Inclusionary** unit. A dwelling unit which is affordable by a household with low- or middle-income.
- E. *Income eligibility.* The gross annual household income considering household size and number of dependents, income of all wage earners, elderly or disabled family members, and all other sources of household income.
- F. *In-lieu fee.* A fee paid to the city by a developer in-lieu of providing the required **inclusionary** units.
- G. *Market rate unit.* A dwelling unit as to which the rental rate is not restricted by this chapter.
- H. *Maximum affordable housing cost.* Defined by Health and Safety Code section 50052.5 as the following for moderate (one hundred twenty (120) percent area median income) income households: 1) Rental thirty (30) percent of one hundred ten (110) percent of area median income, adjusted for household size; 2) Ownership thirty-five (35) percent of one hundred ten (110) percent of area median income, adjusted for household size. As Agoura Hills income targeting under the **inclusionary** housing program is for middle (one hundred (100) percent area median income) rather than moderate income households, the above affordable housing cost definitions are adjusted downwards accordingly from one hundred ten (110) percent to ninety (90) percent of area median income.

I. *"Middle" and "low" income levels.* Determined periodically by the city based on the United States Department of Housing and Urban Development (HUD) estimate of median income in the Los Angeles-Long Beach Primary Metropolitan Statistical Area. The two (2) major income categories are: middle income (eighty-one (81) percent to one hundred (100) percent of the area median) and "low-income" (eighty (80) percent or less of the area median). State law also defines "moderate" income as between eighty-one (81) percent and one hundred twenty (120) percent of the area median. Further adjustment shall be made by household size as established by the city. The planning department shall make available a list of middle- and low-income levels as adjusted, which list shall be updated periodically by the city and filed with the city clerk.

J. *Off-site construction.* Erection of low- or middle-income housing units on land other than that on which the developer intends to place a project within the city.

K. *Project.* A residential development or land subdivision proposal for which city permits and approvals are sought.

(Ord. No. 00-303, 9-13-2000)

9133.2. Applicability.

A. In all residential developments with more than ten (10) dwelling units, at least fifteen (15) percent of all units in such projects shall be made available to low- and middle-income households. In determining the number of affordable units, any fractional amount shall be disregarded.

B. The requirements of this section may alternatively be satisfied at the planning commission's discretion by off-site development of required units pursuant to section 9133.3, or an in-lieu fee payment pursuant to the provision of section 9133.4. Where provision of affordable units onsite is determined to be economically infeasible, off-site mitigation is the preferred alternative to paying an in-lieu fee. If neither on-site or off-site mitigation is feasible, an in-lieu housing fee will be collected.

C. This section shall apply to all projects with more than ten (10) dwelling units which are or were subject to site plan review or other discretionary approval, including projects approved after June 12, 1985, which required, as a condition of approval, the execution of an agreement to make units available to low- and middle/moderate-income families.

(Ord. No. 00-303, 9-13-2000)

9133.3. Standards.

A. Affordable **inclusionary** units shall be reserved for either low- or middle-income households, and shall be provided at affordable housing cost, as defined by Health and Safety Code section 50052.5. For rental housing, affordable housing cost shall not exceed thirty (30) percent of ninety (90) percent of area median income adjusted for family size appropriate for the unit. For ownership housing, affordable housing cost shall not exceed thirty-five (35) percent of ninety (90) percent of the area median income adjusted for family size appropriate for the unit. The city shall on an annual basis set the maximum allowable rents and sales prices for **inclusionary** units, adjusted by the number of bedrooms.

B. All units established for low- and middle-income households in compliance with this section shall be reserved for occupancy by low- and middle-income households for a

minimum of fifteen (15) years following issuance of the certificate of occupancy for such project.

C. All affordable units in a project or phases of a project shall be constructed concurrently with or prior to construction of market rate units.

D. All affordable units shall be reasonably dispersed throughout the project unless approval for an off-site location has been granted. The affordable units shall contain on the average the same number of bedrooms as the market rate units in the project. The materials and finished quality of the affordable units shall be comparable with the market rate units.

E. Where on-site provision of **inclusionary** units are deemed economically infeasible, units may be provided at another location in the city's jurisdiction at the planning commission's discretion. Any such off-site **inclusionary** units shall be completed prior to the issuance of a certificate of occupancy for the market rate housing development. The occupancy and rents of any such off-site units shall be governed by the terms of a deed restriction similar to that used for on-site **inclusionary** units.

(Ord. No. 00-303, 9-13-2000)

9133.4. In-lieu fees.

A. Whenever the city requires as a condition of approval of a market-rate housing development that the development include **inclusionary** units, the first priority will be to provide units on-site. Where provision of affordable units onsite is determined to be economically infeasible, off-site mitigation is the preferred alternative to paying an in-lieu fee. If neither on-site or off-site mitigation is feasible, the planning commission may grant the developer the option of paying a fee to the city in lieu of providing such on-site or off-site **inclusionary** units in accordance with the provisions of this section. For any such project that received final discretionary approval of density prior to the effective date of this section the developer shall have the option of providing the required **inclusionary** units on-site, off-site, or paying the applicable in-lieu fee without further consideration by the planning commission. In the event that amendments would have the effect of changing the number of residential units to be constructed, the foregoing exception shall not apply and the planning commission shall consider the provision of **inclusionary** units.

B. The amount of the fee pursuant to this section shall be determined as follows: a) Single-family, condominium and townhome developments--six thousand two hundred seventy-seven dollars (\$6,277.00) per unit for all project units; and b) Apartments--four thousand five hundred forty-one dollars (\$4,541.00) for all project units.

C. Any fee required pursuant to section 9133.4 shall be adjusted for inflation by the percentage change in the consumer price index (CPI) between the date of adoption of this chapter through the month in which payment is made. For purposes of this section, CPI shall mean the index for urban wage earners and clerical workers for all items of the Los Angeles/ Long Beach/ Anaheim statistical area, as published by the United States Department of Labor, Bureau of Labor Statistics.

D. Any fee required pursuant to section 9133.4 shall be paid in full before a certificate of occupancy is issued for any unit in the housing project.

E. The in-lieu fees collected shall be deposited in an affordable housing trust fund to be used exclusively for the development or maintenance of housing affordable to low- to moderate-income households.

F. This section shall not apply to any housing development in which a density bonus has been given pursuant to Government Code Section 65915.

(Ord. No. 00-303, 9-13-2000)

9133.5. Eligibility requirements.

A. Only low- and middle-income households shall be eligible to occupy **inclusionary** units. The city may establish administrative guidelines for determining household income, minimum and maximum occupancy standards and other compatible eligibility criteria.

B. The following individuals, by virtue of their position or relationship, are ineligible to occupy an affordable unit:

(1) All employees and officials of the city or its agencies, authorities, or commissions who have, by the authority of their position, policy making authority or influence affecting city housing programs.

(2) The immediate relatives, employees, or other persons gaining significant economic benefit for a direct business association with public employees or officials.

(3) The immediate relatives of the applicant or owner, including spouse, children, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, sister-in-law, and brother-in-law.

C. In setting priorities among eligible households, first priority shall be given to Agoura Hills residents, second priority to persons employed in Agoura Hills and third priority to other persons.

(Ord. No. 00-303, 9-13-2000)

9133.6. Deed restrictions.

A written agreement shall be executed between the developer and the city which specifies the number, type, and location of affordable units; the formula for determining rental rates or sales price of all required affordable units; the method of providing proof of eligibility as a low- or middle-income household, and such additional information as may be required by the city for the purpose of determining the developer's compliance with this section. Said agreement shall specify that the required units shall be reserved for and rented or sold to low- and middle-income households and the term of such agreement shall be fifteen (15) years. The agreement shall be in a form acceptable to the city attorney and upon execution of the agreement, it shall be recorded with the office of the county recorder of Los Angeles County. A certificate of occupancy shall not be issued for a project subject to the provisions of this section of the zoning ordinance until the agreement required by this section is executed.

(Ord. No. 00-303, 9-13-2000)

Note: CEQA findings: Ord. No. 00-303, adopted Sept. 13, 2000, will not change the permitted density or intensity of development previously studied in the city's general plan EIR. It can be seen with certainty that Ord. No. 00-303, adopted Sept. 13, 2000, will not create new environmental impacts not previously identified. On that basis, the city has prepared an addendum to the previously certified EIR which is hereby adopted.

9134--9140. Reserved.