

To: Oakland City Council
From: Councilmembers Jane Brunner, Ignacio De La Fuente and Jean Quan
Re: **Proposed Modifications to the Inclusionary Housing Ordinance**
Date: June 27, 2006

City staff has submitted a draft Inclusionary Housing Ordinance for consideration by the City Council at its meeting on June 27, 2006.

We are proposing that a number of modifications be made to the ordinance.

The Inclusionary Housing Requirements should be adopted as an amendment to the Oakland Municipal Code, immediately following the Jobs/Housing Impact Fee and Affordable Housing Trust Fund provisions, and all sections should be renumbered appropriately.

The following changes are shown in standard redline format (~~strike-out of deleted language~~ and underscore of new language) over the original document text.

1. Title of Ordinance

AN ORDINANCE ADDING CHAPTER 15.70 TO THE OAKLAND MUNICIPAL CODE TO ESTABLISH AN INCLUSIONARY HOUSING REQUIREMENT AND ESTABLISH TWO NEW HOMEOWNERSHIP PROGRAMS FOR OAKLAND TEACHERS, AMENDING SECTION 15.68.100 OF THE OAKLAND MUNICIPAL CODE TO PERMIT AFFORDABLE HOUSING TRUST FUNDS TO BE USED TO ADMINISTER AND ENFORCE THE INCLUSIONARY HOUSING REQUIREMENT, AND AMENDING THE MASTER FEE SCHEDULE TO ESTABLISH AN INCLUSIONARY HOUSING IN-LIEU FEE

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2. First "Whereas" clause on page 3:

WHEREAS, the Inclusionary Housing Ordinance will provide rental units affordable to households earning no more than 80 percent of area median income and to households earning no more than 50 percent of area median income, and ownership units affordable to moderate income households with an income of no more than 110 percent of area median income, thus allowing the City to target its limited affordable housing dollars to extremely low, very low and low income households who have the greatest housing needs and require the greatest subsidies; and

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3. Definitions (Section 17.109.020)

"Affordable housing" means a housing unit that is provided at an affordable rent to low income households or to very low income households, or sold at an affordable sales price to moderate income households with an income of not more than 110% of area median income as further described in Section 15.70.100 (Affordability Level and Housing Cost).

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Deleted: the maximum allowable income specified in Section 17.109.100 (Affordability Level and Housing Cost)

"Affordable housing cost" means an annual housing cost that does not exceed 35 percent of 110 percent of AMI, adjusted for family size appropriate to the unit pursuant to California Health and Safety Code Section 50052.5, and is not less than 28 percent of the actual gross income of the household. "Housing cost" shall include those items set forth in 25 California Code of Regulations Section 6920.

"Affordable rent for low income households" shall mean a gross rent, including an allowance for tenant-paid utilities, that does not exceed 30 percent of 80 percent of AMI adjusted for family size appropriate to the unit.

"Affordable rent for very low income households" shall be as defined in California Health and Safety Code Section 50053(b)(2), and its implementing regulations.

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"Very low income household" shall be as "very low income household" is defined in California Health and Safety Code Section 50105 and its implementing regulations.

4. Applicability of the Ordinance (Section 17.109.030)

This chapter shall apply to all housing units in covered development projects with 20 or more new housing units, unless the covered development project has acquired or will acquire vested rights to develop under California law on or before September 30, 2006, or unless the covered development project receives a discretionary land use approval by the City not later than 12 months from the date of final adoption of the Inclusionary Housing Ordinance provided that a building permit is issued for such housing units not later than 18 months from the date the first such discretionary land use approval is received for the project, or unless the covered development project qualifies for an exemption listed in Section 15.70.040 (Exemptions).

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5. Requirements for Off-Site Inclusionary Units (Section 17.109.060)

A project applicant may elect to build affordable housing units on a site other than the site of the principal project to satisfy the requirements of this chapter. If the project applicant selects this alternative, the number of affordable units developed off-site must be no fewer than 20 percent of all housing units constructed on the principal project site. Off-site units shall be subject to all applicable provisions of this chapter.

Deleted: , and shall have the same tenure (rental or ownership) as the housing units in the principal project

6. Comparability of Inclusionary Units (Section 17.109.100)

The number of inclusionary units of each size, as measured by number of bedrooms per unit, shall be at least proportional to the number of market rate units of each size in the principal project, as measured by number of bedrooms per unit. The construction type, tenure (rental or ownership), square footage and interior features of inclusionary units do not need to be the same as or equivalent to those in market rate units in the principal project, provided they are of standard construction grade quality, approved by the City, and consistent with then-current standards for new affordable housing. Project applicants shall endeavor to distribute the inclusionary units proportionately among the market rate units, avoid concentration of inclusionary units, and avoid taking actions that would stigmatize or set apart the inclusionary units.

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Deleted: Exterior appearance and overall quality of construction of the inclusionary units shall be comparable to the market rate units in the principal project.

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7. Affordability Levels and Housing Cost (Section 17.109.110)

Rental units

For each covered development project, at least 40 percent of the inclusionary units required by this chapter that are rental housing units must:

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- (1) be rented to and occupied only by very low income households;
- (2) have rents that do not exceed an affordable rent for very low income households (30% of 50% AMI); and,
- (3) be subject to these restrictions on tenant incomes and affordable rents for a period of at least 55 years from the date of initial occupancy.

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For each covered development project, the remaining inclusionary units required by this chapter that are rental housing units must:

- (1) be rented to and occupied only by low income households;
- (2) have rents that do not exceed an affordable rent for low income households (30% of 80% AMI); and
- (3) be subject to these restrictions on tenant incomes and affordable rents for a period of at least 55 years from the date of initial occupancy.

Ownership units:

Inclusionary units required by this chapter that are ownership units must:

- (1) be sold only to households that have incomes that do not exceed 110 percent of AMI;

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- (2) be sold at an affordable sales price; and
- (3) be subject to these restrictions on affordable sales prices and buyer incomes for a period of at least 45 years from the date of initial sale.

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Low income purchasers of inclusionary units that are ownership units shall be permitted by the seller of the unit to utilize homebuyer assistance provided by the City or Agency.

Deleted: . Affordability schedule for ownership units:
Maximum Household Income ... [1]

8. Effective Date of Ordinance (Section 12 of Ordinance)

This Ordinance shall be effective upon its adoption if it receives at least six affirmative votes; otherwise, it shall be effective upon the seventh day after final adoption; but as set forth above shall not be applied to (a) covered development projects that have acquired or will acquire vested rights to develop under California law on or before September 30, 2006, or (b) housing units in covered development projects that obtain a discretionary land use approval by the City not later than 12 months from the date of final adoption provided that a building permit is issued for such units not later than 18 months from the date the first such discretionary land use approval is received for the project.

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