

CITY OF OAKLAND
AGENDA REPORT

OFFICE OF THE CITY CLERK
2006 MAY 31 PM 5:11

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: June 13, 2006

RE: **An Ordinance Adding Chapter 17.109 To The Oakland Planning Code To Establish An Inclusionary Housing Requirement And Establish Two New Homeownership Programs For Oakland Teachers, Making Related Amendments To The Oakland Planning Code, Amending Section 15.68.100 of the Oakland Municipal Code, And Amending The Master Fee Schedule To Establish An Inclusionary Housing In-Lieu Fee**

SUMMARY

In response to direction from the City Council's Community and Economic Development Committee, staff has prepared a proposed Inclusionary Zoning Ordinance. The ordinance follows the parameters of the proposal announced by Councilmembers Brunner, De La Fuente, and Quan on April 24, 2006.

Given the continued strength of the City's housing market and the pace of new development of market rate housing, it appears that market conditions are conducive to adoption of an inclusionary housing program similar to what is already in place in over 100 California cities and counties.

The proposal announced by Councilmembers Brunner, De La Fuente and Quan takes many of its parameters from San Francisco's inclusionary housing ordinance, and staff has used that ordinance as a starting point for crafting the particulars of the proposed Oakland ordinance. This is especially true with respect to the percentage of units required on site and off site, the affordability levels, and the methodology for calculating in-lieu fees. The proposed ordinance is consistent with the approach and parameters used by many other jurisdictions throughout the State. **A summary of the key provisions of the ordinance is contained in Attachment A.**

The proposed ordinance also contains two new innovative programs designed to provide affordable homeownership opportunities for teachers who commit to teaching in the Oakland Unified School District for at least five years. One program would require that a portion of inclusionary homeownership units be marketed to teachers. The second program would use 20 percent of any in-lieu fees generated by the inclusionary housing requirements to provide loans to assist teachers purchase homes. Both programs would provide increasing shares of the appreciation in the homes to borrowers after the initial five year period ends.

Item: _____
CED Committee
June 13, 2006

ATTACHMENT A

The proposed Inclusionary Housing Ordinance will add another component to the City's wide range of programs designed to address the affordable housing needs of Oakland's low and moderate income residents. While inclusionary housing can not meet the full spectrum of the City's affordable housing needs, it will work well as a complement to other affordable housing efforts including development of new and preservation of existing affordable housing; first-time homebuyer assistance; rehabilitation loans for homeowners; and the public housing and Section 8 programs operated by the Oakland Housing Authority. By requiring developers of market-rate housing to include housing affordable to low and moderate income households, the City can *promote the goal of providing economic integration in neighborhoods experiencing substantial development*. Inclusionary housing can also allow the City to focus its own affordable housing funds on extremely low and very low income households who have the greatest housing needs, but also require affordability levels that are generally below what is economically feasible for inclusionary zoning.

FISCAL IMPACT

The full fiscal impact of the proposed ordinance is difficult to assess. Because it will require housing units that otherwise would be market rate to be sold or rented at affordable rates, it will result in a small and probably negligible decrease in revenues from property taxes and real estate transfer tax. To the extent that developers choose to pay an in-lieu fee instead of building inclusionary units, there will be no impact on tax revenues, and the City will receive substantial new revenue that will allow it to develop more affordable housing.

Revenues from collection of the in-lieu fee will be deposited to the Affordable Housing Trust Fund (Fund 7450) originally established when the Jobs/Housing Impact Fee was enacted. Those funds are reserved for affordable housing activities and appropriations must be approved by the City Council.

Implementation and enforcement of the ordinance will require staff resources in the Community and Economic Development Agency and the Office of the City Attorney. No additional staffing is proposed at this time and initially the program costs will be absorbed by existing programs. As the inclusionary housing program grows, additional staff costs can be recovered from a portion of the in-lieu fee revenue.

BACKGROUND

The issue of inclusionary zoning and suggestions that Oakland adopt such a policy has come before the City Council on a number of occasions.

The Final Report of the Housing Development Task Force, which was adopted by the City Council in July 2000, included a recommendation to adopt an inclusionary zoning ordinance.

On May 15, 2001, staff presented the City Council with an overview of inclusionary zoning programs and the issues associated with the feasibility of implementing such a program in Oakland.

In December 2003, staff provided the City Council with a summary of key findings of a comprehensive survey of inclusionary zoning published by the Non-Profit Housing Association of Northern California (NPH) and the California Coalition for Rural Housing (CCRH). That study is the most thorough study of inclusionary zoning in California conducted in over a decade. While NPH is currently working to update the data, it remains the most definitive source of information regarding existing inclusionary policies and programs in cities and counties throughout the state.

On April 25, 2006, staff presented to the Community and Economic Development Committee an informational report regarding an inclusionary housing policy proposed by the Oaklanders for Affordable Housing Coalition. At that time, the Committee directed staff to return with an ordinance to implement a proposal that was announced on April 24, 2006 by Councilmembers Brunner, De La Fuente and Quan.

KEY ISSUES AND IMPACTS

The City faces a number of inter-related affordable housing issues that will be addressed in part by the proposed ordinance.

Unmet Housing Needs

The City's Consolidated Plan for Housing and Community Development identifies substantial housing needs of existing residents, particularly those with very low, low and moderate income. Over 30,000 very low and low income households experience housing problems including overcrowding, substandard conditions and overpayment (housing costs greater than 30 percent of household income).

Housing to Accommodate New Growth

The City's Housing Element identifies projected housing needs for the period 1999 through 2006 (the state has recently extended the time frame by an additional two years through mid-2008). The City's Regional Housing Need Allocation calls for production of over 7,700 units. Over 3,000 of these units must be affordable to very low and low income people. While the State's Housing Element law does not require the City to build these units, it does require that the City ensure that there are adequate sites with appropriate zoning to meet this need, and it requires that the City remove public policy barriers and develop and implement affirmative programs to meet its housing needs, including the need for affordable housing.

Redevelopment Law Requirements

Under California Redevelopment Law, redevelopment project areas adopted after 1976 are subject to a requirement to include affordable housing in the project areas. These requirements mandate that 15 percent of all housing units newly constructed or substantially rehabilitated in the project area over a 10-year period must be affordable and targeted to low to moderate income households, with at least 6 percent of units targeted to very low income households. The law requires that affordable units be built within the project area, but does not necessarily require that units be included within each market rate project in the project area. (It is possible to provide the units outside the project area, but twice as many units are required in that case.) Oakland has a number of redevelopment project areas subject to these requirements: Coliseum, Broadway/MacArthur/San Pablo, Oakland Army Base, West Oakland, Central City East and Oak Knoll. Many redevelopment agencies use inclusionary housing programs to meet this requirement, and the redevelopment plans for these project areas all authorize the Agency to impose inclusionary requirements on market rate projects to meet the area production requirements.

At present a number of large residential development projects are either underway or proposed in these areas. These projects collectively contain over 7,500 housing units, and will generate an obligation for production within these redevelopment areas of over 1,000 units of affordable housing, including nearly 500 units for very low income households.

Promotion of Mixed-Income Development

Inclusionary requirements are specifically designed to encourage residential development that includes housing for a range of income levels. Inclusionary requirements for redevelopment areas are applied to the entire redevelopment area, and inclusionary zoning laws require income mixing within individual developments. Inclusionary housing can serve as an important mechanism for providing fair housing opportunities for minorities outside areas of racial concentration and can help promote a deconcentration of low income people by providing opportunities to live in neighborhoods that would otherwise consist largely of middle- and upper-income households.

Inclusionary Housing Programs in California

Inclusionary housing programs have been in place in California for over 30 years. As of March 2003, 107 jurisdictions had some kind of inclusionary housing program, and the rate of adoption has increased over the past ten years as cities and counties have sought innovative ways to meet their affordable housing needs.

Many jurisdictions, particularly the larger cities, use inclusionary housing programs to complement and augment their other housing efforts. Typically, inclusionary programs do not meet the full spectrum of needs. Other programs and funding sources, such as Federal grant funds and redevelopment agency housing set-aside funds, are used to provide deeper subsidies to develop and preserve housing affordable to income levels lower than are feasible to reach through inclusionary programs.

While there is considerable variation in these programs, some general features can be described:

- Half of all programs require at least 15 percent of units to be affordable; including roughly one-fourth that require 20 percent or more.
- Most programs target low income (50% to 80% of median income, or between \$38,000 and \$60,000 for a three-person household) and moderate income (80% to 120% of median income, or between \$60,000 and \$90,000 for a three-person household). Just under half of all programs provide some targeting to very low income households (30% to 50% of median income, or between \$23,000 and \$38,000 for a three-person household). Targeting to extremely low income households (less than 30% of median income, or less than \$23,000 for a three-person household) is not commonly found.
- Rental housing is generally targeted to very low and low income, while ownership housing is generally targeted to low and moderate income.
- Most jurisdictions require long-term affordability covenants. Many cities have amended their programs to ensure that projects remain affordable for at least as long as required for affordable housing under California redevelopment law (45 years for homeownership, 55 years for rental).
- Many jurisdictions exempt smaller projects (ranging from 3 to 10 units) from inclusionary requirements, while others require in-lieu fees to be paid for smaller projects. Some jurisdictions require larger percentages of affordable housing for larger development projects.
- Many jurisdictions require that affordable units be built at the same time as market rate units.
- Most programs provide for alternatives to on-site construction within the market-rate project. Common alternatives include off-site construction, land dedication, and payment of in-lieu fees.
- Most jurisdictions provide incentives to developers to help offset the cost of providing affordable units. The most common incentive is density bonuses that allow projects to exceed the allowable density in order to provide affordable units by reducing the per unit costs of development. Other incentives include fast track processing; direct subsidies; design flexibility and relaxation of development standards; and fee waivers, reductions or deferrals. In some jurisdictions, inclusionary units may be of a smaller size or may require only standard grade

finishes and features to reduce their cost. Some larger cities, such as San Diego and San Francisco, do not provide incentives.

DESCRIPTION OF PROPOSED INCLUSIONARY HOUSING PROGRAM

The proposed ordinance is consistent with best practices in other California jurisdictions. It includes the following provisions.

Applicability

The policy would apply to any development project that creates 20 or more housing units. Lofts and live/work units are included. The ordinance will not apply to projects that secure "vested rights" to develop prior to May 1, 2007. Under current California law, a project acquires "vested rights" in one of three ways: (1) the developer and the city enter into a development agreement pursuant to the California Government Code for the project, (2) the developer obtains a vesting tentative map under the California Government Code for the project, or (3) the developer obtains a building permit for the project and has performed substantial work and incurred substantial liabilities in good faith reliance on the permit.

Exemptions

Certain types of development projects would be exempt from the ordinance:

- Transit village developments (i.e., projects within 1,000 feet of a BART station) that are subject to Disposition and Development Agreements or Owner Participation Agreements with the City or Agency.
- Affordable housing projects that are funded through the City's competitive process for funding affordable housing (the annual Notice of Funding Availability or "NOFA" process). These projects typically provide much higher percentages of affordable housing and deeper income targeting than would be required by the inclusionary housing program.
- Affordable rental housing projects with funding from sources other than City or Agency affordable housing funds, provided at least 40 percent of the units are restricted at affordable rents to households with incomes at less than 60 percent of median, for a period of at least 55 years.
- The reconstruction or rebuilding of housing units damaged or destroyed by natural disaster, provided construction is started within four years and completed within six years of the damage.

- Rehabilitation of existing housing units, unless the estimated cost of rehabilitation is more than 75 percent of the estimated replacement cost after rehabilitation, in which case the project would be treated as new construction.
- Conversion of existing rental units to condominiums (unless it entails substantial rehabilitation that qualifies as new construction as described above).

Inclusionary Requirement

Projects subject to the ordinance would be required to provide 15 percent of the units as affordable housing, using income and rent or sales price limits consistent with California Redevelopment Law. Use of these definitions ensures that inclusionary housing units can be counted toward the affordable housing production requirements for the City's redevelopment project areas.

Inclusionary units must generally be comparable to market rate units in a project and should be distributed throughout the development. Inclusionary units must be developed in tandem with the market rate units.

Affordability Restrictions

Occupancy of inclusionary rental housing would be restricted to low income households with incomes less than 80 percent of area median income (as noted below, consistent with California redevelopment law, rents will be set at levels affordable to households with incomes of 60 percent of median income).

Ownership housing would be restricted to moderate income households (maximum income of 120 percent of median income), and each development would be required to have an average income limit of 100 percent of median income.

These are maximum incomes; based on staff's experience with City-assisted developments, the units can and most likely will be occupied with households with incomes below these limits.

The current income limits are as follows:

INCOME LEVEL	INCOME LIMITS ADJUSTED FOR HOUSEHOLD SIZE					
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons
60% of Area Median Income	\$35,220	\$40,200	\$45,240	\$50,280	\$54,300	\$58,320
80% of Area Median Income (Low Income)	\$46,350	\$53,000	\$59,600	\$66,250	\$71,550	\$76,850
100% of Area Median Income (Median Income)	\$58,700	\$67,000	\$75,400	\$83,800	\$90,500	\$97,200
120% of Area Median Income (Moderate Income)	\$70,440	\$80,400	\$90,480	\$100,560	\$108,600	\$116,640

Length of Affordability Restrictions

Rental units would be required to remain affordable for 55 years.

Ownership units would be required to remain affordable for 45 years (except in some cases for units made available to Oakland teachers; see below).

Affordable Rents

All inclusionary rental units would be required to have rents that do not exceed 30 percent of 60 percent of area median income, which is consistent with State law definitions of housing affordable to low income households.

Based on current median income, the maximum allowable rents would be as follows (and must be further adjusted downwards by an allowance for utilities paid by the tenant).

Maximum Allowable Rents				
0 Bdrm	1 Bdrm	2 Bdrm	3 Bdrm	4 Bdrm
\$880	\$942	\$1,131	\$1,307	\$1,458

These rents are substantially below the rents that are projected for many of the market rate developments currently proposed or underway in the City.

Affordable Sales Prices

Sales prices will be established using formulas prescribed by California redevelopment law to determine affordable housing cost, which takes into account mortgage payments, hazard insurance, taxes, homeowners' association dues, utilities and an allowance for maintenance. Currently these formulas result in the following sales prices for households earning no more than 100 percent of median income.



\$143,290	\$170,970	\$198,983	\$226,997	\$249,340
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These prices are substantially lower than market prices for new ownership units. It should be noted that in practice, based on underwriting practices of most mortgage lenders, these sales prices are affordable to households at incomes less than median income. Experience with the City's own assisted homeownership developments shows that units are typically purchased by families with incomes below the maximum income limit.

In addition, households with incomes less than 80 percent of median income could use the City's first-time homebuyer assistance program to purchase inclusionary ownership units.

Alternative: Off-Site Development

Developers could also meet the inclusionary requirement by building a higher percentage of units (20 percent) on some other site in the City. Off-site units would be required to be comparable to any units that would be required on site.

Alternative: In-Lieu Fee

Developers could choose to pay an in-lieu fee equal to the full amount of the "financing gap," defined as the difference between the total cost to develop comparable units off site and (a) for ownership housing, the affordable sales prices, or (b) for rental housing, the amount of debt that can be supported by affordable rents. The fee would be required to be paid for each affordable unit that would be required if the developer built off-site inclusionary units (i.e., 20 percent of the total units in the market-rate project). For example, for a project containing 100 2-bedroom market rate units, the in-lieu fee would be $20 \times \$265,000 = \$5,300,000$.

The ordinance requires that the City hire a consultant to conduct and complete a study by December 31, 2006 to establish the appropriate fee amount. The fee would be indexed annually to increases in residential construction costs, and the City could conduct new studies periodically as needed to recalibrate the fee.

Until the study is completed, the proposed ordinance sets an initial fee based on staff's estimate of the "financing gap" based on projects recently funded under the City's annual affordable housing funding competition.

Initial In-Lieu Fee Pending Completion of Study

0 Bedroom	\$ 195,000
1 Bedroom	\$ 240,000
2 Bedroom	\$ 265,000
3 Bedroom	\$ 305,000
4 Bedroom	\$ 315,000

Use of In-Lieu Fees

In-lieu fees would be deposited to the Affordable Housing Trust Fund first established by the Jobs/Housing Impact Fee Ordinance in July 2002.

Fees would be reserved for development of housing projects affordable to low and very low income households, subject to approval by the City Council, with a preference for units serving very low income households (less than \$41,900 per year for a family of four).

Twenty percent of in-lieu fees would be set-aside for a new Teacher Mortgage Assistance Program described below, which would be affordable to households up to 100 percent of median income.

A portion of the in-lieu fees could also be used to pay reasonable costs of administering, monitoring and enforcing the inclusionary housing program.

Prohibition on Use of Affordable Housing Funds

The ordinance prohibits the use of federal, state or local affordable housing funds to provide inclusionary units. Such funds could be used to provide additional affordable units above the minimum required by the ordinance, or to provide a deeper level of affordability than that required by the ordinance. Rental projects whose sole source of affordable housing funds is tax-exempt bond proceeds or 4 percent low income housing tax credits would not be subject to this limitation provided that at least 20 percent of the units are rented to very low income households (less than \$41,900 per year for a family of four) at an affordable rent.

New Teacher Homeownership Programs

The ordinance provides for the creation of two new programs designed to provide homeownership opportunities as an incentive for teachers to remain within the Oakland Unified School District.

The first program would require 20 percent of most ownership inclusionary units, whether built on-site or off-site, to be marketed to Oakland teachers. The units would be sold initially at the same affordable prices described above. If the teacher continues working in the Oakland Unified School District for the next five years, the sales price restrictions will be removed, and in years six through ten the teacher/homeowner would receive an increasing share of the appreciation in the market value of the unit. After 10 years, the City would be

repaid only the amount that represents the initial gap between market rate and the affordable sales price, with all of the increase in market value going to the owner.

California redevelopment law does not permit ownership units that are not subject to the full 45-year resale restrictions from being counted towards the Agency's affordable housing production requirements. As a result, the requirement for teacher housing would apply only to on-site or off-site inclusionary units built outside those redevelopment project areas that have affordable housing production obligations.

The second program would use 20 percent of the in lieu fee revenues to fund first time homebuyer loans to assist teachers with the purchase of units anywhere in the City. The loans would be structured with provisions similar to those just described for construction of teacher housing.

Both programs differ from existing City homebuyer programs because (a) they would provide greater amounts of financial assistance (up to the entire "financing gap" as described in the discussion on in-lieu fees), and (b) after ten years there would be no interest or shared appreciation due the City.

These programs are intended to provide financial incentives for teachers to remain in the OUSD and to reduce the rate of teacher turnover in the District.

Implementation, Monitoring and Enforcement

The ordinance contains provisions that would authorize staff to implement the program, monitor the affordable housing units for ongoing compliance, and enforce the requirements for long term affordability.

Developers will be required to submit an inclusionary housing plan as part of their first application for a development-related permit from the City. The permit cannot be approved unless the inclusionary housing plan is approved. The inclusionary obligations will be enforced through regulatory agreements, resale controls, or similar restrictions recorded against the inclusionary housing units.

The City would be able to take a range of actions to enforce the ordinance, including revoking development approvals and assessing a fine equal to the full amount of the in-lieu fee otherwise required for the project.

The proposed ordinance also allows third parties (including members of the public) to sue project owners if they fail to comply with the requirements of the ordinance.

Finally, the ordinance grants the City Administrator the authority to develop regulations and procedures for implementing the ordinance.

RECOMMENDATIONS AND RATIONALE

For many years, development conditions in Oakland were not conducive to adoption of inclusionary housing requirements. During the 1990s there was very little unsubsidized housing development except for rebuilding of homes destroyed in the 1991 Oakland Hills firestorm. Since 1999, however, there has been a substantial increase in development of market rate housing throughout many areas of the city, including areas that had not seen new development for many decades. Over 2,000 market rate units have been completed in this period, with thousands more under construction, approved, or in the planning stages. Competition for land has become so strong that developers are now seeking to convert industrial land in many parts of the City to residential uses.

Given the continued strength of the market for new housing development, it appears that conditions are more conducive to adoption of an inclusionary housing ordinance. It is anticipated that the market will be able to absorb the costs of the proposed requirements without jeopardizing the feasibility of continued development.

The proposed inclusionary housing program should be viewed as one component of a City's overall housing strategy. The program will serve as a complement to other affordable housing efforts, including preservation of existing assisted rental housing serving very low and extremely low income households; development of new assisted housing for extremely low, very-low, low and moderate income households; first-time homebuyer assistance for low income households; rehabilitation loans for very low and low income homeowners; and the public housing and Section 8 programs operated by the Oakland Housing Authority and targeted to the very lowest income households.

Oakland currently invests substantial amounts of money to assist in the development of affordable housing, most of it to very low and low income households. In 2001, the Agency increased the affordable housing set-aside from the legally-required 20 percent of tax increment funds to a figure of 25 percent, effectively increasing the Agency's efforts by one-fourth. In 2000, the Agency issued \$40 million in bonds backed by those affordable housing funds; all of those funds have been spent or are committed to projects that are underway. Earlier this year, the Agency issued a second round of affordable housing bonds that yielded another \$55 million. Combined with existing HOME and tax increment funds, this allowed the City and Agency to provide funding of \$40 million to 11 projects in this year's affordable housing funding allocation, mostly for rental housing serving households with incomes between 25 percent and 60 percent of median income. There is a balance of \$35 million available for future projects.

Since 1999, over 1,200 units of affordable housing have been constructed or substantially rehabilitated with City financial assistance. An additional 1,000 units are in the development pipeline. This does not include more than 650 units of existing assisted housing that is being rehabilitated and preserved with affordability restrictions for another 55 years, including the

these units are affordable to households with incomes less than 80 percent of median income (most less than 60 percent), and more than half are affordable to households with incomes less than 50 percent of median; many are affordable to households earning less than 30 percent of median income.

Despite these substantial efforts, the City has not been able to meet all of its affordable housing needs, and in recent years there has been growing pressure to devote an increasing share of these funds to support ownership housing for moderate income households. The enactment of an inclusionary housing ordinance provides the City with another tool to meet the need for low income rental housing and moderate income homeownership. This would allow the City to better target its own affordable housing funds, including some of the in-lieu fees generated by inclusionary housing, to extremely low and very low income households while still maintaining balance across its overall housing program.

SUSTAINABLE OPPORTUNITIES

Economic The economic impact of inclusionary zoning is difficult to gauge. There are no empirical studies, but the experience of other cities that have inclusionary requirements suggests that a well crafted inclusionary housing program does not reduce development activity.

Environmental Inclusionary zoning can serve to further sustainable development and smart growth policies by encouraging higher density development in appropriate locations, when zoning constrains density. This is because inclusionary units are often made feasible through such mechanisms as density bonuses and higher density development. In areas of Oakland, where allowable density is not a barrier, there would be little environmental benefit because inclusionary zoning probably would not lead to higher densities.

Equity Inclusionary zoning promotes greater housing opportunities for economically disadvantaged segments of the population. In addition, by producing mixed income housing, it contributes to a more equitable distribution of affordable housing and may help to reduce concentrations of lower income people while also providing safeguards against displacement caused by development in gentrifying areas.

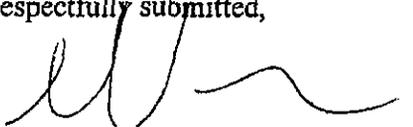
DISABILITY AND SENIOR CITIZEN ACCESS

To the extent that inclusionary zoning results in production of more affordable housing, it will also produce more affordable housing opportunities for low income seniors and persons with disabilities.

ACTION REQUESTED OF THE CITY COUNCIL

It is recommended that the City Council adopt the proposed ordinance, which would establish an inclusionary housing obligation, authorize the creation of two new homeownership programs for Oakland teachers, make necessary technical amendments to the Planning Code, amend provisions of the Municipal Code to allow in-lieu fees to be deposited to the Affordable Housing Trust Fund, establish an initial in-lieu fee, and require staff to hire a consultant to complete an in-lieu fee study by December 31, 2006.

Respectfully submitted,



DANIEL VANDERPRIEM

Director of Redevelopment, Economic
Development and Housing

Reviewed by: *SKA*
Sean Rogan, Director of Housing and
Community Development

Prepared by:
Jeffrey P. Levin, Housing Policy and
Programs Coordinator
Housing & Community Development Division

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:


OFFICE OF THE CITY ADMINISTRATOR

Attachment A
Summary of Key Provisions of Inclusionary Housing Ordinance

Units Covered	<ul style="list-style-type: none"> • Housing developments with at least 20 units (including loft and live/work conversions of non-residential buildings) • Applies to units that gain vested development rights after May 1, 2007
On-site inclusionary units required	<ul style="list-style-type: none"> • 15% of total units in project
Off-site inclusionary units required	<ul style="list-style-type: none"> • 20% of total units in project
Affordability Levels – Ownership Housing	<ul style="list-style-type: none"> • Maximum income = 120% of median income (moderate income); average income limit within each project not to exceed 100% of median income • Sales prices affordable to same income ranges using Redevelopment Law formula
Affordability Levels – Rental Housing	<ul style="list-style-type: none"> • Maximum income = 80% of median income (low income) • Rents set at 30% of 60% of median income using Redevelopment Law formula
Term of Affordability Controls	<ul style="list-style-type: none"> • 45 years for ownership housing • 55 years for rental housing
Timing and Comparability	<ul style="list-style-type: none"> • Inclusionary units must be developed and marketed no later than market-rate units • Inclusionary units must be generally comparable to market rate units • Units should be distributed throughout the development to avoid economic segregation
In-Lieu Fees	<ul style="list-style-type: none"> • Based on full subsidy required to reduce development cost to the affordable sales prices or rent levels • City consultant to complete an in-lieu fee study no later than December 31, 2006 • Fees indexed to annual increases in construction costs, with in-lieu fee study updated periodically as needed • Fees deposited to Affordable Housing Trust Fund for affordable housing only

Use of Federal, State or Local Affordable Housing Funds	<ul style="list-style-type: none"> • Prohibited, except for tax-exempt bonds or 4% tax credits if project provides 20% of units at 50% of median income
Exemptions	<ul style="list-style-type: none"> • Certain City/Agency sponsored transit village projects • Publicly-assisted rental housing projects funded under City/Agency NOFA or meeting tax-credit requirements (40% at 60% AMI) • Reconstruction of units damaged by natural disaster • Minor and moderate rehabilitation of existing housing • Condominium conversions
Administration and Enforcement	<ul style="list-style-type: none"> • No permits issued without approved inclusionary housing plan or payment of in-lieu fee • Recorded restrictions to ensure affordability • For non-compliance, City may revoke permits, assess a penalty equal to the full in-lieu fee, or take other actions • Third parties have right to take action to enforce the requirements
Teacher Housing Programs	<ul style="list-style-type: none"> • 20 percent of inclusionary ownership units (except in certain redevelopment project areas) targeted to Oakland teachers. • 20 percent of in-lieu fees used for homebuyer assistance program for Oakland teachers • Teachers must remain in Oakland school district for 5 years • In years 6 through 10, teachers earn increasing share of appreciation in market value • Principal amount of the price reduction or homebuyer loan repaid to City