



City Council Agenda Item

City Council Meeting Date: September 20, 2022

TO: Dean Albro, City Manager

FROM: Brian Halvorson, Planning Manager
b_halvorson@ci.lompoc.ca.us

Christie Alarcon, Community Development Director
c_alarcon@ci.lompoc.ca.us

SUBJECT: Introduction of Ordinance No. 1698(22) Amending the City's Inclusionary Housing Ordinance, Including Adopting a New Mechanism for Calculating the Affordable Housing In-Lieu Fee; Adoption of Resolution No. 6545(22) Revising the Lompoc Affordable Housing Trust Fund Program Implementation Plan to Establish a Formula For Calculation of the Maximum Assistance Amount Under Homebuyer Assistance Program; Adoption of Resolution No. 6546(22) Setting the Maximum Assistance Amount Under Homebuyer Assistance Program and Affordable Housing In-Lieu Fee; Consideration of Limiting Use of Housing Trust Fund to Homebuyer Assistance Program

Recommendation:

Staff recommends the City Council:

- 1) Introduce, for first reading by title only with further reading waived, Ordinance No. 1698(22) amending the City's inclusionary housing ordinance, including adopting a new mechanism for calculating the in-lieu fee and the maximum amount of assistance available under the Homebuyer Assistance Program (HAP), and direct staff as to whether the ordinance should include Section 6 (Attachment 1);
- 2) Adopt Resolution No. 6545(22), revising the Lompoc Affordable Housing Trust Fund Program Implementation Plan (Implementation Plan) to establish a formula for calculation of the maximum assistance amount under the HAP (Attachment 2);
- 3) Adopt Resolution No. 6546(22), setting the maximum amount of assistance under the HAP at \$80,050, and setting the affordable housing in-lieu fee at \$88,550 (Attachment 3); and

- 4) Consider whether to limit use of the Affordable Housing Trust Fund (Trust Fund) solely to providing assistance through the HAP, and direct staff to further revise the Implementation Plan if such limit is desired.

Background:

The Community Development Department has undertaken a review of the City's housing and development policies in order to find ways to both incentivize the construction of market-rate residential units and also promote affordable housing options in Lompoc. The proposed ordinance and revisions to the Implementation Plan aim to accomplish these goals by reducing the cost of compliance with the City's inclusionary housing requirements while continuing to help lower-income households afford housing in Lompoc.

Current Inclusionary Housing Ordinance

Chapter 17.324 of the Lompoc Municipal Code ("Inclusionary Housing Ordinance") requires that a percentage of the units in certain housing developments be affordable to very-low, low, or moderate-income households. Specifically, for residential developments of 10 units or more, that are located outside of the Old Town Redevelopment Project, Amendment No. 2 Area, a minimum of 10% of the units must be affordable. For all residential developments located within the Old Town Redevelopment Project, Amendment No. 2 Area, a minimum of 15% of the units must be affordable.

The default method of providing the affordable units is to build the units on the project site and then record covenants on the project site requiring that the units may only be sold or rented for an affordable purchase price or rental amount, as defined by state law and based on average income levels in Santa Barbara County.

However, the Inclusionary Housing Ordinance allows developers to request alternative means of satisfying the affordable unit requirement, including constructing affordable units outside of the project site, dedicating land to the City that can be used for affordable housing, or paying a fee to the City that can be used by the City to provide affordable housing through other means, such as providing loans to developers of low-income housing or providing loans and down-payment grants to low-income homebuyers (in-lieu fees).

Current In-Lieu Fee

Under the current Inclusionary Housing Ordinance, the in-lieu fee for a single-family for-sale unit is "calculated on the basis of the difference between the estimated total construction cost of a market rate single-family unit and the affordable purchase price of a unit for which a low-income household unit can qualify." In 2008, based on this methodology, the City Council adopted Resolution No. 5457(08), which established an in-lieu fee amount of **\$113,998** per required affordable unit. This remains the amount of the in-lieu fee today.

Affordable Housing Trust Fund and Homebuyer Assistance Program

The Inclusionary Housing Ordinance requires that all in-lieu fees collected by the City must be deposited into an affordable housing fund called the Lompoc Affordable Housing Trust Fund (Trust Fund). The Trust Fund is administered by the City Manager or a designee and it must be administered in accordance with the Implementation Plan, which was adopted by the City Council on April 5, 2005 by Resolution No. 5237(05).

On June 7, 2016, through Resolution No. 6054(16), the City Council created the HAP, originally called the Homebuyer Assistance Downpayment Loan Program, which is funded through the Trust Fund and provides second loans and down payment grants to lower-income homebuyers, with the aim of helping people buy market-rate homes in Lompoc when they would not otherwise be affordable.

The HAP currently has a balance of \$377,191. Since its inception, the City has provided 56 households with second mortgage loans and closing cost grants totaling \$3,622,479 in the aggregate and averaging \$64,581 per household in assistance. Assistance through the HAP is only available to lower-income households, as defined under state law. In order to qualify for assistance through the HAP, the applicant must be income certified, complete a homebuyer education course, and qualify for a home purchase loan within the City. The total amount of aid (loan plus down-payment grant) available to a single applicant is set by City Council resolution. The current maximum assistance amount is **\$72,500**. That amount is updated periodically to ensure that it matches current market conditions and particularly that the amount is sufficient to help an applicant purchase a home in the Lompoc housing market.

Inclusionary Housing In-Lieu Fees in Other Cities

A summary of the in-lieu fees in neighboring jurisdictions is included in the July 8, 2022, Planning Commission staff report (Attachment 4).

Planning Commission Recommendation

The Planning Commission reviewed proposed changes to the Inclusionary Housing Ordinance on April 13, 2022, and June 8, 2022. Ultimately, the Planning Commission made the following recommendations to the City Council (see Attachments 4 and 5):

- 1) Adopt the Code revisions presented to the Planning Commission at the June 8, 2022, meeting;
- 2) Update the maximum amount of assistance available through the HAP on an annual basis; and
- 3) Restrict the use of in-lieu fees so that they can only be used to provide assistance through the HAP.

Each of the recommendations is discussed below.

Discussion:

Inclusionary Housing Ordinance

Ordinance No. 1698(22) (Attachment 1) would make the following changes to the Inclusionary Housing Ordinance:

1. Method for Calculating In-Lieu Fee: As discussed above, the current in-lieu fee is based on “the difference between the estimated total construction cost of a market rate single-family unit and the affordable purchase price of a unit for which a low-income household can qualify.” Ordinance No. 1698(22) would change the basis for the in-lieu fee to the maximum amount of financial assistance available to a single applicant under the HAP, plus a 10% administrative fee. The maximum assistance under the HAP would be calculated by adding (a), (b), and (c), below, in accordance with the formulas and assumptions stated in the Implementation Plan. The in-lieu fee would be calculated by adding (a), (b), (c), and (d), below:
 - (a) The difference between the average sale price of a market-rate three-bedroom home in the City of Lompoc and the maximum affordable purchase price for a four-person moderate-income household in the City of Lompoc;
 - (b) An allowance for inflation to cover potential increases in home prices over the 12 months following the calculation of the in-lieu fee;
 - (c) A closing cost grant, in an amount approved by City Council resolution, which shall not exceed the actual market rate for closing costs at the time the grant amount is adopted. Closing costs include, but are not limited to, loan origination and/or processing fees, appraisal, credit reports, prepaid hazard insurance and property taxes, and title and escrow fees; and
 - (d) An administrative fee equal to 10% of the sum of (a), (b), and (c). That administrative fee will be used to pay for the salaries and benefits of staff working directly with the HAP, office supplies, program marketing, consulting costs, legal fees, audit charges, environmental fees, maintenance costs associated with properties received through default actions (including in-lieu of foreclosures), loan servicing costs, title, escrow and covenant monitoring costs.

The change in the calculation method would result in a decrease to the in lieu fee and an increase in the maximum HAP assistance amount as the following chart indicates.

	Current Amount	New Amount
Max HAP Assistance	\$72,500	\$80,050
In-Lieu Fee	\$113,998	\$88,550

2. Inclusion of Formula in the Inclusionary Housing Ordinance and 10% Administrative Fee. The recommendations made by the Planning Commission did not include the calculation formula, but simply stated that the in-lieu fee would be equal to the maximum assistance available under the HAP. However, after further consideration, staff felt it would be more transparent to include the calculation

formula in the ordinance itself. Also, after further consideration, staff is recommending that in-lieu fee include a 10% administrative fee to cover the City's costs of administering the HAP program. That percentage was chosen because the Implementation Plan allows 10% of annual Trust Fund revenues to be used for administrative costs.

3. Annual Re-Calculation. As recommended by the Planning Commission, the proposed changes to the Inclusionary Housing Ordinance require that the maximum assistance amount under the HAP, and the in-lieu fee, be re-calculated each year. The new assistance amount and in-lieu fee would be adopted annually by the City Council and would become effective on July 1st of each year.
4. Termination or Suspension of HAP. Under the revisions considered by the Planning Commission, if the HAP is terminated or suspended, the option of paying in-lieu fees would also be suspended until the City Council determines a new method for calculating in-lieu fees. However, in order to ensure that in-lieu fees will continue to be an option for developers, staff is recommending removal of that recommendation. Instead, Ordinance No. 1698(22) provides that if the HAP is terminated or suspended, in-lieu fees will continue to be an option for developers and the fee will continue to be calculated in the same way unless the City Council adopts a new calculation method. That revision is aimed at providing more certainty for developers.
5. Timing of Fee Determination. Under the recommendations considered by the Planning Commission, the in-lieu fee would have been determined at the time the project was approved. However, the developer would not have to pay the fee until the first building permit is issued. That could create a shortfall for the City if there is a substantial time gap between project approval and the issuance of building permits. Consequently, staff recommends the ordinance provide that the fee amount will be the current fee at the time the in-lieu fee is paid, and has also made related modifications to the payment requirements.
6. Staff's revisions to the Planning Commission recommendations are indicated as tracked changes to the ordinance at Attachment 6.

Calculation Methodology for Maximum HAP Assistance

The Inclusionary Housing Ordinance explains, in broad terms, how the maximum assistance will be calculated. However, staff recommends that the full calculation methodology, including all details and assumptions of the formula, be added to the Implementation Plan. Resolution No. 6545(22) (Attachment 2) would make those changes, and a few other related changes, to the Implementation Plan. The calculation methodology is shown in Table 5 of the Implementation Plan.

Adoption of Maximum Assistance Under HAP & In-Lieu Fee

Resolution No. 6546(22) would adopt the new maximum assistance amount and in-lieu fee shown in Section 1, above, based on the new revised calculation methodologies. The

new maximum assistance amount and in-lieu fee would become effective on the effective date of Ordinance No. 1698(22) and would remain valid until it is updated on July 1, 2023.

Limitation on City's Use of In-Lieu Fees

The Trust Fund is funded solely by in-lieu fees. The Trust Fund can currently be used for several purposes, as described in the Implementation Plan, including: providing loans to developers that are constructing affordable housing or converting market-rate housing to affordable housing, or providing loans and closing grants to lower-income homebuyers through the HAP. Since 2016, the Trust Fund has been used solely for the HAP. The last multi-family affordable housing project financed by the Trust Fund was in 2014.

The Planning Commission recommended limiting the use of the Trust Fund to only be used to fund the HAP. If this change was made, funding would still be available to affordable housing developers through other affordable housing development financing funds such as HOME Investment Partnership, Federal and State Tax Credits, and other new funding sources that arise annually through both Federal and State programs.

Making that change would result in a policy shift away from using the Trust Fund to create *new* affordable units, and toward assisting lower-income residents afford to buy *existing* market-rate units. Staff is not making a recommendation one way or the other on this issue.

Limiting the use of the Trust Fund would require substantial revision to the Implementation Plan, and therefore staff is seeking direction from the City Council before making any changes. If the City Council would like to make changes, then staff can bring back further revisions to the Implementation Plan at a future meeting.

The Inclusionary Housing Ordinance currently states that the Trust Fund should be used for programs and purposes that go beyond the HAP. Staff has drafted revisions in Section 6 of Ordinance No. 1698(22) to limit the use of the Trust Fund to the HAP. However, if the City Council does not want to limit the Trust Fund to being used solely for the HAP, then the City Council should approve the proposed ordinance without Section 6.

Conformance with 2030 General Plan

The City's General Plan Housing Element establishes inclusionary housing requirements. Policies 1.11 and 1.12 state as follows:

- Policy 1.11 With the exception of areas within the Old Town Redevelopment Project, Amendment No. 2 area, in all residential developments of ten units or more, at least 10% of all the units shall be affordable to target income groups. As an alternative to providing affordable housing on-site, the inclusionary requirement may be satisfied through other equivalent measures (e.g., production based on units with a similar number of bedrooms and bathrooms) including off-site construction, acquisition of affordability covenants on existing dwelling units, donation of land or payment of in-lieu fees. In accordance with State law, residential development projects within

the Old Town Redevelopment Project, Amendment No. 2 area shall provide 15% of new housing affordable to low- and moderate-income households with at least 40% of those units to be used by very low income households.

- Policy 1.12 In implementing Policy 1.11: (i) the City may waive any or all of the affordable housing requirements or accept equivalent measures in lieu of on-site construction taking into account market conditions, development proformas, land economics and other substantial evidence; (ii) inclusionary fee collection may be deferred until prior to issuance of Certificate of Occupancy.

The above policies establish the requirement that a certain percentage of units must be affordable. However, they also provide that the City may “accept equivalent measures in lieu of on-site construction taking into account market conditions, development proformas, land economics and other substantial evidence.” The policies further explicitly allow the payment of fees in-lieu of construction of affordable units. Although the recommended changes to the Inclusionary Housing Ordinance would change the basis for calculating the in-lieu fee, the proposed basis is still tied directly to the cost of providing an affordable unit to a lower-income family and is thus an equivalent measure to the construction of a new affordable unit.

Conformance with Zoning Code

The proposed amendments to the Inclusionary Housing Ordinance are internally consistent with the existing Inclusionary Housing Ordinance and the Zoning Code as a whole.

Environmental Determination:

The adoption of the proposed ordinance is not subject to environmental review under the California Environmental Quality Act (CEQA) because it can be seen with certainty that the adoption of this ordinance does not have the potential for causing a significant effect on the environment. (CEQA Guidelines Section 15061(b)(3).)

Fiscal Impact:

Adopting the proposed ordinance and resolutions would reduce the housing in-lieu fee from \$113,998/unit to \$88,550/unit. Despite the fact that this is a decrease in the fee amount, this decrease may incentivize more developers to pay in-lieu fees rather than building on-site units, which could result in an overall increase in the amount of in-lieu fees collected by the City. If this decrease does not incentivize more developers to pay in-lieu fees rather than building on-site units, then the HAP funding available to provide second mortgage loans and closing cost grants would be reduced. There would be no impact to the General Fund.

Conclusion:

Adopting Ordinance No. 1698(22) and Resolution Nos. 6545(22) and 6546(22) would lower the cost and ease some of the uncertainty involved in developing market-rate residential units in the City, while continuing to provide funding to help lower-income residents afford homes in Lompoc.

Respectfully submitted,

Brian Halvorson, Planning Manager

Christie Alarcon, Community Development Director

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Dean Albro, City Manager

- Attachments:
- 1) Ordinance No. 1698(22)
 - 2) Resolution No. 6545, Revising the Lompoc Affordable Housing Trust Fund Program Implementation Plan
 - 3) Resolution No. 6546, Adopting the Maximum Assistance Amount under the HAP for Fiscal Year 2022/2023
 - 4) Planning Commission Staff Report from Meeting on June 8, 2022
 - 5) Planning Commission Resolution No 965 (22) Recommending Approval
 - 6) Redline Showing Proposed Changed To Ordinance Recommended By Planning Commission