



**DEPARTMENT OF PLANNING AND  
COMMUNITY DEVELOPMENT**

**TO: PLANNING COMMISSION**

**FROM: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY  
DEVELOPMENT**

**DATE: JUNE 5, 2008**

**SUBJECT: INCLUSIONARY HOUSING ORDINANCE (CASE NO. 08-ZOA-  
002)**

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**I. BACKGROUND**

The purpose of inclusionary housing is to provide affordable housing opportunities as part of each residential development project constructed in the City. The Inclusionary Housing Ordinance Amendment (Attachment 1) would supplement other affordable housing programs in the City, including those in the Redevelopment Project Area, and the Residential Density Bonus. This Ordinance requires that residential and mixed-use projects include a share of housing that is affordable to very low, low and moderate income households.

Currently in the Municipal Code, Section 9133 details the Inclusionary Housing Program. This Ordinance updates the existing Zoning Code in two main ways: (1) offers the option of providing a land donation instead of constructing the affordable units; (2) updates the in lieu fee amount. The Ordinance also provides more clarification regarding program procedures and affordable housing standards.

The City's Inclusionary Housing Ordinance Amendment consultant, Jim Draughon of RSG, will be present at the meeting to provide a presentation and respond to questions you may have.

**II. SUMMARY OF ORDINANCE**

As with the current Inclusionary Housing Ordinance, this amendment requires that at least 15 percent of all newly constructed dwelling units in a residential development of at least 10 dwelling units be affordable. The affordable units must be developed, sold to or rented to, and occupied by very low-, low- and moderate-income households (as defined

in the Ordinance, based on State Housing and Community Development Department figures). Of the 15 percent, a minimum six percent (6%) of all the units would be sold to or rented to very low income households, while the remaining nine percent (9%) would be rented or sold to low or moderate income households.

The Ordinance provides alternatives to constructing the required affordable units on the primary development site, at the discretion of the Planning Commission. Where the provision of affordable units onsite is determined to be economically infeasible, the Ordinance allows the following, in order of preference: 1) offsite construction of the affordable units; 2) donation of offsite land the value of which is at least equal to the in lieu amount that would be applied to the project; 3) in lieu fee, as established by a fee schedule. The City Council will be asked to adopt a resolution outlining an updated fee schedule subsequent to approval of the ZOA. As detailed further below, the proposed fee is \$21,821 per market rate unit for ownership units and \$15,313 per market rate unit for rental units. In comparison, the current fee, established by ordinance in 2000, is \$6,277 per unit for ownership units and \$4,541 per unit for rental units. The fee schedule would be updated annually by resolution of the City Council.

RSG prepared detailed data to demonstrate how the in lieu fee amount was derived. Rather than identify the developer's financial impact from providing the affordable units as being equal to the difference between the market rate sales prices or rents and the affordable sales or rental price for the affordable units, the difference in the construction costs between the market rate and affordable units is used. The estimated construction funding gap for ownership units (primarily condominiums) is \$145,475 per unit, and is \$102,084 for rental apartments. This difference is referred to as the funding gap. The funding gap is then translated into the in lieu fee amount that would have to be charged to provide the City with adequate funds to produce the required inclusionary units off site with a similar product type at another location in the City. RSG has calculated the in lieu fee as \$21,821 for ownership units and \$15,313 for rental units. The total amount of fee is determined by applying these factors to the entire number of dwelling units proposed onsite (not just the portion of the units that are allocated as affordable). RSG evaluated these in lieu fees with those of other cities, and found them to be comparable.

The Inclusionary Housing Ordinance Amendment would apply to all portions of the City, with the exception of the Redevelopment Project Area. In these cases, the inclusionary housing provisions under California Redevelopment Law (CRL) would prevail. Therefore, there is limited practical applicability of the ZOA in the City, as there is not much vacant residential land in the City, outside of the Redevelopment Project Area, where a multi-unit housing project could be developed.

### **III. ENVIRONMENTAL REVIEW**

The project was analyzed for potential environmental impacts pursuant to the California Environmental Quality Act (CEQA), including the preparation of an Initial Study (IS). The project, being a ZOA and not a specific physical development, was found to have no potential environmental impacts, and a Negative Declaration (ND) was issued

(Attachment 2). The IS/ND was circulated for public comment starting on April 17, 2008, and ending on May 19, 2008. No comments were received.

#### **IV. RECOMMENDATION**

Staff recommends that the Planning Commission adopt a Resolution (Exhibit 3) recommending that the City Council: (1) adopt Zoning Ordinance Amendment Case No. 08-ZOA-001, including the environmental findings pursuant to the California Environmental Quality Act found therein; and (2) adopt the Negative Declaration.

#### **Attachments:**

1. Draft Inclusionary Housing Ordinance
2. Initial Study/Negative Declaration
3. Draft Resolution

CASE PLANNER: Allison Cook, Senior Planner



D R A F T

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF AGOURA HILLS REVISING REGULATIONS APPLICABLE TO THE PROVISION OF INCLUSIONARY HOUSING, AND AMENDING SECTION 9133 OF PART 4 OF CHAPTER 1 OF TITLE IX OF THE CITY OF AGOURA HILLS MUNICIPAL CODE**

**A. Recitals.**

(i) The purpose of this Ordinance is to amend the City's Municipal Code to update the regulations pertaining to the provision of inclusionary housing units in the City.

(ii) On \_\_\_\_\_, 2008, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the zoning code amendments contained herein as required by law.

(iii) At the public hearing on \_\_\_\_\_, 2008, the City Council received testimony from City staff and all interested parties regarding the proposed amendments.

(iv) All legal prerequisites to the adoption of the Ordinance have occurred.

**B. Ordinance.**

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

**Section 1.** The facts set forth in the Recitals, Part A of this Ordinance, are true and correct.

**Section 2.** The provisions of this Ordinance and the Municipal Code amendments contained herein have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The City Council held a public hearing on \_\_\_\_\_, 2008 to consider the Negative Declaration. Evidence, both written and oral, was duly presented to and considered by the City Council at this said hearing. The City Council finds that the Negative Declaration has been completed in accordance with the CEQA Guidelines, and there was adequate review given of the Draft Negative Declaration. The Negative Declaration adequately discusses all significant environmental issues, and reflects the independent judgment and analysis of the City. The City Council has considered the contents of the Negative Declaration in its decision-making processes of the Zoning Ordinance Amendment, and hereby adopts the Negative Declaration..

**Section 3.** Section 9133 of Part 4 of Chapter 1 of Title IX of the Agoura Hills Municipal Code is hereby repealed in its entirety.

**Section 4.** New Section 9133. Inclusionary Housing is hereby added to Part 4 of Chapter 1 of Title IX of the Agoura Hills Municipal Code.

**“Section 9133  
INCLUSIONARY HOUSING**

**Subsections:**

<b>9133.1</b>	<b>Purpose</b>
<b>9133.2</b>	<b>Definitions</b>
<b>9133.3</b>	<b>Applicability</b>
<b>9133.4</b>	<b>Exemptions</b>
<b>9133.5</b>	<b>Inclusionary Unit Requirements</b>
<b>9133.6</b>	<b>Alternatives</b>
<b>9133.7</b>	<b>Procedures</b>
<b>9133.8</b>	<b>Standards</b>
<b>9133.9</b>	<b>Enforcement</b>
<b>9133.10</b>	<b>Regulations</b>
<b>9133.11</b>	<b>Inclusionary Housing Trust Fund</b>
<b>9133.12</b>	<b>Administrative Fees</b>
<b>9133.13</b>	<b>Appeal</b>
<b>9133.14</b>	<b>Taking Determination</b>

**9133.1 Purpose**

The provisions of this section establish standards and procedures that encourage the development of housing affordable to a range of households with varying income levels. The purpose of this section is to encourage the development and availability of such housing by ensuring that the addition of affordable housing units to the City’s housing stock is in proportion with the overall increase in new housing units and to provide standards and procedures to that effect.

**9133.2 Definitions**

As used in this section, the following terms shall have the following meanings:

“Adjusted for Household Size Appropriate for the Unit” means for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

“Affordable Housing Cost” means the total housing costs paid by a qualifying household, which shall not exceed a specified fraction of its gross income, adjusted for household size appropriate for the unit, as follows:

- A. Very Low-Income Households, rental or for-sale units: thirty (30) percent of fifty (50) percent of the Los Angeles County median income.
- B. Low Income-Households, rental units: thirty (30) percent of sixty (60) percent of the Los Angeles County median income.
- C. Low Income-Households, for-sale units: thirty (30) percent of seventy (70) percent of the Los Angeles County median income.
- D. Moderate-Income Households, rental units: thirty (30) percent of one hundred and ten (110) percent of the Los Angeles County median income
- E. Moderate-Income Households, for sale units: thirty-five (35) percent of one hundred and ten (110) percent of the Los Angeles County median income.

“Developer” means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a residential development.

“Development Agreement” means an agreement entered into between the City and a developer pursuant to Section 65864 of the California Government Code and Sections 9681 and 9682 of Division 1, Part 4 of Title IX of the City of Agoura Hills Municipal Code.

“Director” means the City’s Director of Planning and Community Development.

“Discretionary Approval” means any entitlement or approval pursuant to Section 9133 of the Municipal Code, including but not limited to a use permit, variance, design approval, and subdivision map.

“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.

“HCD” The California Department of Housing and Community Development.

“HUD” The United States Department of Housing and Urban Development.

“Inclusionary Housing Agreement” means a legally binding agreement between a developer and the City, in form and substance satisfactory to the Director and City Attorney, setting forth those provisions necessary to ensure that the requirements of this section, whether through the provision of inclusionary units or through an alternative method, are satisfied.

“Inclusionary Housing Plan” means the plan referenced in paragraph “A” of Subsection 9133.8 and further described in the regulations, which sets forth the manner in which the requirements of this section will be implemented for a particular residential development.

“Inclusionary Housing Trust Fund” shall have the meaning set forth in subsection 9133.12.

“Inclusionary Unit” means a dwelling unit that will be offered for rent or sale to and for occupancy by very low, low and moderate-income households, at an affordable housing cost, pursuant to this section.

“In-Lieu Fee” A fee paid to the City by a developer instead of providing the required inclusionary units.

“Low-Income Households” means households whose gross income is greater than 50% and does not exceed eighty (80%) percent of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

“Low-Income Units”; “Moderate-Income Units”; and “Very Low-Income Units” mean inclusionary units restricted for sale or rent to and for occupancy by low, moderate, or very low-income households, respectively, at an affordable housing cost.

"Market Rate Units" means those dwelling units in a residential development that are not inclusionary units.

"Moderate Income Households" means households whose gross income is greater than 80% and does not exceed one hundred and twenty (120%) percent of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

"Off Site Construction" Erection of affordable housing units on land other than that on which the developer intends to place a project within the City.

"Redevelopment Agreement" means an Owner Participation Agreement, Disposition and Development Agreement, Affordable Housing Agreement, Regulatory Agreement or similar agreement entered into between the City of Agoura Hills Redevelopment Agency and a developer.

"Regulations" means the regulations adopted by the Agoura Hills City Council pursuant to Subsection 9133.11 for the implementation and enforcement of the provisions of this section.

"Residential Development" means the construction of projects consisting of ten (10) or more dwelling units.

"Substantial Rehabilitation" or "Substantially Rehabilitated" means the rehabilitation of a dwelling unit(s) for very low and low income households, which has substantial building and other code violations, and has been vacant for at least six (6) months, such that the unit is returned to the City's housing supply as decent, safe, and sanitary housing, and the cost of such work exceeds Forty Thousand Dollars (\$40,000) per unit, as that amount may be adjusted for inflation pursuant to the Regulations.

"Total Housing Costs" means the total monthly or annual recurring expenses required of a household to obtain shelter. For a rental unit, total housing costs include the monthly rent payment and a reasonable allowance for utilities. For an ownership unit, total housing costs include the mortgage payment (principal and interest), mortgage insurance, property taxes, property insurance, utilities, homeowner's association dues, and any other related fees and assessments.

"Very Low Income Households" means households whose gross income is equal to fifty (50%) percent or less of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

### **9133.3            Applicability**

This subsection shall apply to all residential developments, except those that are exempt pursuant to Section 9133.4, and excluding here from residential developments located in the Agoura Hills Redevelopment Project Area, which are separately subject to inclusionary housing requirements under the California Health and Safety Code Section 33000 et seq., and related regulations and policies of the Agoura Hills Redevelopment Agency.



#### **9133.4 Exemptions**

The following residential developments are exempt from the requirements of this Section:

- A. Residential developments that obtain a variance, conditional use permit, or design review approval (pursuant to Sections 9676, 9673, and 9677 of Division 6 of Part 3 of Title IX of the Municipal Code, respectively) from the City prior to the effective date of this section, which obtain a building permit pursuant to that discretionary approval within one year of the effective date of this section, and which obtain a certificate of occupancy pursuant to that same discretionary approval.
- B. Residential developments that are exempt from this section pursuant to state law, including, but not limited to, those for which the City enters into a development agreement.
- C. Residential developments for which the Redevelopment Agency enters into a Redevelopment Agreement, so long as the Redevelopment Agreement is in full force and effect at the time the residential development would otherwise be required to comply with the requirements of this Section, and there is no uncured breach of the Redevelopment Agreement prior to the earlier of a) issuance of Certificate of Completion for the Redevelopment Agreement, or b) issuance of the first certificate of occupancy for the residential development.

#### **9133.5 Inclusionary Unit Requirements**

- A. Affordable inclusionary units shall be reserved for very low, low and moderate income households. Such units shall be provided at affordable housing cost, as defined by California Health and Safety Code Section 50052.5 for owner-occupied units and Section 50053(b) for rental units, which calculates affordable housing rates for each applicable income category. At least fifteen percent (15%) of all newly constructed dwelling units in residential developments shall be developed, sold to or rented to, and occupied by very low, low and moderate-income households, at an affordable housing cost. A minimum of six percent (6%) of all the units shall be sold to or rented to very low income households; the remaining nine percent (9%) shall be sold to or rented to low or moderate income households.
- B. The City shall on an annual basis set the maximum allowable rents and sale prices for inclusionary units, adjusted for family size.
- C. The inclusionary unit requirement set forth in Paragraph A of this subsection may be reduced as follows:
  - 1. If very low-income units are provided in lieu of required low income units, a credit of 1.5 units shall be granted for every 1 unit actually provided.
  - 2. If very-low income units are provided in lieu of required moderate income units, a credit of 2 units shall be granted for every 1 unit actually provided.

3. If low-income units are provided in lieu of required moderate income units, a credit of 1.5 units shall be granted for every 1 unit actually provided.

D. In calculating the required number of inclusionary units, fractional units of 0.50 or above will be rounded-up to a whole unit if the residential development consists of ten (10) or more units.

E. In setting priorities among eligible households, first priority shall be given to public safety employees and primary and secondary school teachers. Second priority shall be given to Agoura Hills' residents. Third priority shall be given to persons employed within Agoura Hills. Fourth priority shall be given to all other persons.

### **9133.6 Alternatives**

As an alternative to developing the inclusionary units in the residential development pursuant to Subsection 9133.5, the requirements of this section may be satisfied at the Planning Commission's discretion by off-site development of required units, donation of off-site land, or an in-lieu fee payment. Where provision of affordable units onsite is determined to be economically infeasible, off-site units are preferred, followed by donation of off-site land, to payment of an in-lieu fee. If neither on site or off-site mitigation is feasible, an in lieu housing fee will be collected in accordance with procedures and standards set forth in the regulations.

A. Off-site units. Upon application by the developer and at the discretion of the Planning Commission, the developer may satisfy the requirement of providing inclusionary units as part of the residential development, in whole or in part, by constructing or substantially rehabilitating the required inclusionary units at a site different than the site of the residential development.

B. Land Donation. Upon application by the developer and at the discretion of the Planning Commission, the developer may satisfy the requirement of providing inclusionary units as part of the residential development, in whole or in part, by conveying land to the City for the construction of the required inclusionary units. The donated land must at least be equal in value to the in lieu amount that would be applied to the project, vacant and suitable for development for affordable housing units, and fully served by utilities and related infrastructure improvements.

C. In-Lieu Fee. At the discretion of the Planning Commission, the developer may satisfy the requirement for providing inclusionary units as part of the residential development, in whole or in part, by paying a fee in lieu for all or some of the inclusionary units as follows:

1. The amount of the fee shall be calculated using the fee schedule established by resolution of the City Council.
2. One-half of the in-lieu fee required by this subsection shall be paid (or an irrevocable letter of credit posted) prior to issuance of a building permit for all or any part of the residential development. The remainder of the fee

shall be paid before a certificate of occupancy is issued for any unit in the residential development.

3. The fees collected shall be deposited in the Inclusionary Housing Trust Fund for use exclusively for the development of housing units affordable to very low, low or moderate income households.

### **9133.7 Procedures**

A. At the times and in accordance with the standards and procedures set forth in the regulations, developers shall:

1. Submit an inclusionary housing plan for approval by the Director, setting forth in detail the manner in which the provisions of this section will be implemented for the proposed residential development.

2. Execute and cause to be recorded an inclusionary housing agreement unless developer is complying with this section pursuant to paragraphs "B" (land donation) or "C" (in lieu fee) of Subsection 9133.6.

B. No discretionary approval shall be issued for all or any portion of a residential development subject to this section until the developer has submitted an inclusionary housing plan.

C. No building permit shall be issued for all or any portion of a residential development subject to this section unless the Director has approved the inclusionary housing plan, and the inclusionary housing agreement, if required, recorded.

D. No certificate of occupancy shall be issued for all or any portion of a residential development subject to this section unless the approved inclusionary housing plan has been fully implemented.

### **9133.8 Standards**

A. All inclusionary units shall be:

1. Reasonably dispersed throughout the residential development.

2. Proportional, in number, bedroom size and location, to the market rate units.

3. Comparable with the market rate units in terms of the base design, appearance, materials and finished quality.

B. All inclusionary units in a residential development shall be constructed concurrently with or prior to the construction of the market rate units. In the event the City approves a phased project, the inclusionary units required by this section shall be provided within each phase of the residential development.

C. Inclusionary units shall be reserved for very low, low and moderate income households at the ratios established pursuant to California Health and Safety Code Section 33413(b)(2) and shall be provided at the applicable affordable housing cost.

1. An inclusionary unit that is for rent shall remain restricted for occupancy by the target income category at the applicable affordable housing cost for a period of not less than fifty-five (55) years.

2. An inclusionary unit that is for sale shall remain restricted for owner-occupancy the target income category at the applicable affordable housing cost for a period of not less than forty-five (45) years.

The occupancy and rents of the inclusionary units shall be governed by the terms of a deed restriction recorded with the property.

D. Notwithstanding paragraph C (2) of this Subsection 9133.8, if an inclusionary unit for-sale is sold to an above moderate income purchaser, the sale shall result in a recapture by the City or its designee of a financial interest in the unit equal to (1) the difference between the initial affordable sales price and the appraised "fair market" value of the unit at the time of the initial sale, and (2) a proportionate share of any appreciation, provided that there are no more restrictive agreements executed by and between the home owner and the City or Redevelopment Agency, in which case the more restrictive requirement will apply.

E. Where the developer contends that onsite provision of inclusionary units is economically infeasible, the developer may request that the Planning Commission review the proposed residential development for a determination of economic infeasibility. The developer is required to submit to the City all necessary documentation demonstrating economic infeasibility. Upon a determination of economic infeasibility by the Planning Commission, the units may then 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 onsite inclusionary units, as referenced in Paragraph C of Subsection 9133.8..

#### **9133.9 Enforcement**

A. Any violation of this section constitutes a misdemeanor.

B. The provisions of this Section shall apply to all Developers and their agents, successors and assigns proposing a Residential Development. All Inclusionary Units shall be rented or sold in accordance with this Section and any regulations adopted pursuant to this section.

C. Any individual who sells or rents an Inclusionary Unit in violation of the provisions of this Section shall be required to forfeit all monetary amounts so obtained. Recovered funds shall be deposited into the Inclusionary Housing Trust Fund.

D. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Section, including but not limited to: (1) actions to revoke, deny or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; and (2) actions for injunctive relief or damages.

E. In any action to enforce this Section or an Inclusionary Housing Agreement recorded hereunder, the City shall be entitled to recover its reasonable attorney's fees and costs.

**9133.10 Regulations**

The City Council may by resolution establish additional regulations for the implementation of this section.

**9133.11 Inclusionary Housing Trust Fund**

There is an established separate fund of the City, known as the Inclusionary Housing Trust Fund. All monies collected pursuant to Paragraph "C" of Subsection 9133.6 shall be deposited in the Inclusionary Housing Trust Fund.

**9133.12 Administrative Fees**

The City Council may by resolution establish reasonable fees and deposits for the administration of this Chapter.

**9133.13 Appeal**

Within fifteen (15) calendar days after the date of the Director's decision, an appeal may be filed pursuant to Section 9804 of Division 4 of Part 1 of Chapter 8 of Title IX of the Municipal Code in which appeal procedures are set forth.

**9133.14 Taking Determination**

A. Commencing upon the approval or disapproval of the inclusionary housing plan by the Planning Commission pursuant to the regulations, and within fifteen (15) days thereafter, a developer may request a determination that the requirements of this section, taken together with the inclusionary incentives, as applied to the residential development, would legally constitute a taking of property of the residential development without just compensation under the California or Federal Constitutions.

B. The developer has the burden of providing economic information and other evidence necessary to establish that application of the provisions of this section to the residential development would constitute a taking of the property of the proposed residential development without just compensation. The Director shall make the determination, which may be appealed in the manner and within the time set forth in Subsection 9133.13, except that the City Council shall serve as the review body.

C. In making the taking recommendation or determination, the decision maker shall assume each of the following:

1. Application of the inclusionary housing requirement to the residential development;
2. Application of the inclusionary incentives;
3. Utilization of the most cost-efficient product type for the inclusionary units; and

4. External funding where reasonably likely to occur.

D. If it is determined that the application of the provisions of this section would be a taking, the inclusionary housing plan shall be modified to reduce the obligations in the inclusionary housing component to the extent and only to the extent necessary to avoid a taking. If it is determined no taking would occur though application of this section to the residential development, the requirements of this section remain applicable.”

**Section 5.** On or before the date that is forty-two (42) months after the effective date of this Ordinance, the Director shall prepare and present to the City Council an evaluation of the effectiveness of Section 9133 during the first three (3) years of its implementation, and recommendations for changes (if any), to be followed thereafter with an annual summary report.

**Section 6.** If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

**Section 7.** The City Clerk shall certify the adoption of this Ordinance and cause its publication in accordance with applicable law.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_  
2008 , by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
John M. Edelston, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

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Craig A. Steele, City Attorney





**INCLUSIONARY HOUSING**  
**ZONING ORDINANCE**  
**AMENDMENT**

*Final*  
**Initial Study and Negative Declaration**



**City of Agoura Hills**

**May 2008**

# **INCLUSIONARY HOUSING ZONING ORDINANCE AMENDMENT**

*Final*  
**Initial Study and  
Negative Declaration**

**Prepared by:**

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May 2008

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Exhibit 1 – Draft ZOA Inclusionary Housing

# INTRODUCTION

This Initial Study and Negative Declaration (IS/ND) addresses the potential environmental effects resulting from a Zoning Ordinance Amendments (ZOA) to revise regulations applicable to requirements for inclusionary housing in residential areas of the City of Agoura Hills.

## LEGAL AUTHORITY AND FINDINGS

This Initial Study/ Negative Declaration has been prepared in accordance with the CEQA Guidelines and relevant provisions of the California Environmental Quality Act (CEQA) of 1970, as amended.

**Initial Study.** Section 15063(c) of the CEQA Guidelines defines an Initial Study as the proper preliminary method of analyzing the potential environmental consequences of a project. The purposes of the Initial Study are:

- (1) To provide the Lead Agency with the necessary information to decide whether to prepare an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND);
- (2) To enable the Lead Agency to modify a project, mitigating adverse impacts, thus avoiding the need to prepare an EIR; and
- (3) To provide sufficient technical analysis of the environmental effects of a project to permit a judgment based on the record as a whole, that the environmental effects of a project have been adequately mitigated.

**Negative Declaration or Mitigated Negative Declaration.** Section 15070 of the CEQA Guidelines states that a public agency shall prepare a Negative Declaration or Mitigated Negative Declaration for a project subject to CEQA when:

- (a) The Initial Study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment; or
- (b) The Initial Study identifies potentially significant effects but:
  1. Revisions in the project plans or proposals made by, or agreed to by, the applicant before a proposed Mitigated Negative Declaration and Initial Study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and
  2. There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

An IS/ND may be used to satisfy the requirements of CEQA when the physical effects of the proposed project are anticipated to have no significant unmitigable effects on the environment. As discussed further in subsequent sections of this document, implementation of the proposed project would not result in any significant effects on the environment.

## IMPACT ANALYSIS AND SIGNIFICANCE CLASSIFICATION

The following sections of this IS/ND provide discussions of the possible environmental effects of the proposed project for specific issue areas that have been identified in the CEQA Initial Study Checklist. For each issue area, potential effects are discussed and evaluated.

A "significant effect" is defined by Section 15382 of the CEQA Guidelines as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by a project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." According to the CEQA Guidelines, "an economic or social change by itself shall not be

considered a significant effect on the environment, but may be considered in determining whether the physical change is significant.”

The following information applies to the Initial Study Checklist:

- (1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- (2) All answers must take account of the whole action involved, including off site as well as on site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- (3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, and EIR is required.
- (4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level.
- (5) Earlier analyses may be used where, pursuant to the tiering, Program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D) In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
- (6) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - (a) Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
  - (b) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- (7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- (8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
- (9) The explanation of each issue should identify:
  - (a) The significance criteria or threshold, if any, used to evaluate each question; and
  - (b) The mitigation measure identified, if any, to reduce the impact to less than significant.

## INITIAL STUDY CHECKLIST

**Project Title:** Inclusionary Housing Bonus Zoning Ordinance Amendment

**Case Number:** 08-ZOA-002

**Lead Agency Name and Address:** City of Agoura Hills  
30001 Ladyface Court  
Agoura Hills, California 91301

**Contact Person and Phone Number:** Allison Cook – Senior Planner  
City of Agoura Hills  
(818) 597-7310

**Project Location:** Citywide

**Project Sponsor's Name and Address:** City of Agoura Hills  
30001 Ladyface Court  
Agoura Hills, CA 93101

**General Plan Designation:** All designations Citywide

**Zoning:** All zones Citywide

**Project Description:** The project consists of an amendment to Section 9133 Inclusionary Housing of Part 4 of Chapter 1 of Title IX of the Municipal Code. The purpose of the Inclusionary Housing Program is to provide affordable housing opportunities as part of each residential development project constructed in the City. Currently, the Municipal Code requires that residential and mixed-use projects of ten (10) dwelling units or more include a share of housing that is affordable to very low, low and moderate income households. For each such project, at least 15 percent of the total units must be affordable. Of this 15 percent, a minimum six (6) percent of all the units must be sold to or rented to very low income households, and the remaining nine (9) percent must be rented or sold to low or moderate income households. The Code currently allows an alternative to providing these affordable units onsite, which is payment of an in lieu fee to be placed in an affordable housing trust fund. Additionally, the Code allows for construction of the units off-site, if an on-site location is not suitable.

The ZOA is meant to repeal and replace the current Code Section 9133 Inclusionary Housing in its entirety. The ZOA updates the existing Code in two main ways: (1) offers the option of providing a land donation instead of constructing the affordable units; (2) updates the in lieu fee amount. The ZOA also provides more clarification regarding program procedures and affordable housing standards. The Draft Ordinance is included in its entirety as Exhibit 1.

The Ordinance would apply to all areas of the City where residential uses are permitted.

The project being analyzed as part of this environmental document is simply the ZOA, and not any specific development proposal. In the future, each individual residential development project being proposed and requiring inclusionary housing would need to undergo separate and specific CEQA review, beyond this current document.

**Surrounding Land Uses:** Citywide

**Site Description and Environmental Setting:** Citywide

**Other Public Agencies Whose Approval Is Required:** Agoura Hills Redevelopment Agency

**Entitlements:** No entitlements or permits are required for the ZOA.

## ENVIRONMENTAL FACTORS AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that could be lessened to a level of insignificance through incorporation of mitigation.

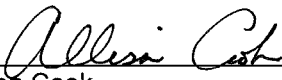
- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Aesthetics              | <input type="checkbox"/> Air Quality                   | <input type="checkbox"/> Biological Resources               |
| <input type="checkbox"/> Cultural Resources      | <input type="checkbox"/> Geology/Soils                 | <input type="checkbox"/> Hazards/Hazardous Materials        |
| <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Noise                         | <input type="checkbox"/> Land Use/Planning                  |
| <input type="checkbox"/> Public Services         | <input type="checkbox"/> Population/Housing            | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Transportation/Traffic  | <input type="checkbox"/> Utilities and Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

### DETERMINATION

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	<b>X</b>
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a "potential significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to an earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	

Report Preparer:

  
 Allison Cook  
 Senior Planner  
 City of Agoura Hills

Date May 19, 2008

## EVALUATION OF ENVIRONMENTAL IMPACTS

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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**(1) LAND USE AND PLANNING.** Would the project:

a) Physically divide an established community?				x
b) Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				x
c) Conflict with any applicable habitat conservation plan or natural communities conservation plan?				x

Discussion:

- a) The project consists of a Zoning Ordinance Amendment (ZOA), and is therefore not a physical development capable of dividing an established community. The proposed changes would not alter the amount of inclusionary housing currently required in the Municipal Code, and would not alter the areas of the City in which residential uses would be allowed. Each individual proposal for residential development would be analyzed pursuant to CEQA, separate from this ND. The project would result in **no impact**.
  
- b) The ZOA would be consistent with the General Plan, which offers broad policies and programs, including the provision of adequate affordable housing. In particular, it is consistent with the City's Housing Element, which includes inclusionary housing requirements as one of key programs of the Element. The ZOA amends the Municipal Code, but is generally consistent with the current Inclusionary Housing Program. The proposed changes would not alter the amount of inclusionary housing currently required in the Municipal Code, and would not alter the areas of the City in which residential uses would be allowed per zoning or land use designations. As noted above under Item a), each proposed residential development project would be analyzed per CEQA as individual project applications come forward. Therefore, there would be **no impact** from implementation of the ZOA.
  
- c) There are no habitat conservation plans or natural communities conservation plans applicable to the geographical area of the ZOA, either within or in the vicinity of, and so the project would result in **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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**(2) BIOLOGICAL RESOURCES.** Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?				x
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b) Have a substantially adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan?				X
g) Result in damage to, loss of, or removal of native oak trees or other locally identified specimen trees of significance?				X

Discussion:

- a) Much of the ZOA project area (and the City as a whole) is already developed with urban uses, and any additional development would be considered infill. Because there are mostly infill lots, the potential habitat is somewhat limited, being adjacent to urban uses and subject to annual brush clearance for fire prevention purposes. In any case, the project consists of a ZOA, and therefore is not a physical development that could adversely affect sensitive biological species. Therefore, there would be **no impact**. Any proposal to build residences would be analyzed separately under CEQA as part of project specific environmental review, which would need to consider the habitat further.
- b), c) Please see the discussion in Item a) above. The project is not a physical development that could adversely affect wetlands, riparian habitat or other sensitive natural communities regulated by the California Department of Fish and Game or the U.S. Fish and Wildlife Service or the Army Corps of Engineers. Therefore, there would be **no impact**. Any future proposals to develop the residential sites would be separate projects under CEQA, and would undergo environmental review, including considering the habitat further, as a specific development proposal comes forward for review.
- d) Please see the discussion in Item a) above. Because the project is not a physical development, it does not have the potential to interfere with the movement of fish or wildlife. Any future proposals to develop the residential sites would be separate projects under CEQA, and would undergo environmental review, including considering wildlife movement further, as a specific development proposal comes forward for review. Therefore, there would be **no impact**.
- e), g) Since the project is not a proposal for a physical development in the area, there would be no impacts to oak trees in the area. Any future proposals to develop these residential sites, which would be a separate project under CEQA, would need to consider the oak trees. However, the current project would not adversely affect the oak trees, and there would be **no impact**.
- f) There are no Habitat Conservation Plans (HCPs) or Natural Communities Conservation Plans (NCCPs) or other conservation plans in or near the project area, nor in the City as a whole, so there would be **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(3) **AIR QUALITY.** Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?				x
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				x
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				x
d) Expose sensitive receptors to substantial pollutant concentrations?				x
e) Create objectionable odors affecting a substantial number of people?				x

Discussion:

- a)-c) The City of Agoura Hills is located within the South Coast Air Basin, and is governed by the South Coast Air Quality Management District (SCAQMD). Since the project is not a proposal for a physical development, there would be no impacts to air quality as a result of the amendments and additions to the Zoning Ordinance. In any case, according to the Air Pollution Control District (APCD) Guidelines, to be consistent with the Air Quality Management Plan (AQMP), a project must conform to the local General Plan and must not result in or contribute to an exceedance of the City's projected population growth forecast. The ZOA requires that, as part of the allowed number of residential units in a project, a certain percentage of these units be reserved for households in the affordable categories. This would not be in addition to, but would be consistent with, any density or dwelling unit limitations or buildout estimates contained in the General Plan and General Plan Environmental Impact Report (EIR), or in the Zoning Ordinance. Therefore, the project would be consistent with the City's General Plan, and does not change the buildout assumptions of the General Plan. As such, there would be **no impact**.
- d)-e) While the project does not include a physical development that could result in air quality emissions, it should be noted nonetheless that residential uses do not typically generate substantial pollutant concentrations or create objectionable odors that could affect nearby sensitive receptors or populations. The project would not adversely affect air quality in these circumstances, and so there would be **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(4) **CULTURAL RESOURCES.** Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				x
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b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
e) Result in physical disruption of an identified sacred place or other ethnographically documented location of significance to native Californians?				X

Discussion:

a)-e) The project is not a physical development capable of impacting cultural resources that may exist on or under the ground, or within a given area. In any case, the remaining vacant lots in the City are not currently known areas of historical, archaeological, or paleontological sensitivity, nor are there any human remains expected to be located here. Additionally, the area is not considered an identified sacred place or other ethnographically documented location of significance to native Californians. None of the proposed regulations under the ZOA would create cultural resource preservation concerns. Any proposal to build residential units would be analyzed separately under CEQA as part of project specific environmental review as a development proposal is submitted to the City, which would need to consider potential site specific cultural resources. Therefore, the current project would result in **no impacts**.

<b>Issues and Supporting Information</b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant Impact with Mitigation Measures</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
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**(5) GEOLOGY AND SOILS.** Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:				
(i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area, or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
(ii) Strong seismic ground shaking?				X
(iii) Seismic-related ground failure, including liquefaction?				X
(iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?				X

Discussion:

- a)-e) Per the City's General Plan Master Environmental Assessment, there are no active or inactive faults within the City limits, and so potential hazard from fault rupture is remote. However, there are several active and/or potentially active faults in the surrounding region that could produce ground shaking in the area. Other geologic or soil conditions are specific to individual sites. Nonetheless, the project that is the subject of this IS/ND is not a physical development with the potential for causing adverse impacts in the area of geology and soils. None of the proposed regulations or changes to the Zoning Ordinance would create additional geologic safety concerns. As previously noted, any proposal to build residential units would need to be analyzed separately under CEQA as part of project specific environmental review. The site specific geologic conditions and the type of development and construction methods would be assessed at that time for the actual development project. Therefore, the current project would result in **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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**(6) HAZARDS AND HAZARDOUS MATERIALS.** Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?				x
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?				x
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				x
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				x
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				x
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				x
g) Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?				x
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wild lands?				x

Discussion:

- a)-d) The underlying zones and land use designations for the project area, being residential and open space, and possibly some areas allocated for mixed-uses, would not typically permit uses capable of containing

substantial hazardous materials, such as manufacturing businesses. Because it is not a physical development proposal, the project would not result in the use of substantial hazardous materials, nor their storage, disposal or transport. The project, being a ZOA, would also not cause an accidental release or upset of such materials. Any future proposal to develop such a use in these residential areas would be considered a separate project under CEQA, and would need to undergo separate project and environmental review per CEQA, aside from the current project, where these environmental issues would be further analyzed. Therefore, the current project would result in **no impact**.

- e)-f) There are no airports or airstrips in the vicinity of the City of Agoura Hills. Therefore, the ZOA project would result in **no impact**.
- g) There are no known currently adopted emergency response plans or emergency evacuation plans in the project area. In any case, the project itself, not being a physical development, would not interfere with such plans if created in the future. None of the proposed regulations or changes to the Zoning Ordinance would interfere with such plans. As specific development projects are proposed, they would be analyzed under separate CEQA review to ensure that they do not conflict with such plans. Therefore, the ZOA project would result in **no impact**.
- h) Some of the residential areas affected by the proposed ZOA are within and/or adjacent to wildland areas. In any case, the project does not include specific physical development proposals. Any future proposal to develop in these residential and open space zones would be considered a separate project under CEQA, and would need to undergo separate project and environmental review per CEQA, aside from the project. The project would result in **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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**(7) HYDROLOGY AND WATER QUALITY.** Would the project:

a) Violate any water quality standards or waste discharge requirements?				x
b) Substantially degrade groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				x
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off site?				x
d) Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				x
e) Otherwise substantially degrade water quality?				x
f) Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				x
g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				x
h) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				x
i) Inundation by seiche, tsunami, or mudflow?				x

Discussion:

- a)-e), i) The project that is the subject of this IS/ND is not a physical development with the potential for causing adverse impacts in the area of hydrology and water quality. None of the proposed regulations or changes to the Zoning Ordinance would adversely affect hydrology and water quality. As noted previously, any proposal to build a residence would be analyzed separately under CEQA as part of project specific environmental review. The site specific hydrology and the type of development and construction methods would be assessed at that time for the actual development project. Therefore, the current project would result in **no impact**.
- f)-h) The project is not a physical development that could cause flood concerns. None of the proposed regulations or changes to the Zoning Ordinance would result in greater flood concerns in the project area. Each specific future development proposal would be considered a separate project under CEQA that would need to undergo separate environmental review, including flood impact analysis. Therefore, the current project would result in **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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**(8) AESTHETICS.** Would the project:

a) Have a substantial adverse affect on a scenic vista?				X
b) Substantially damage scenic resources including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the project site and its surroundings?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
e) Significantly impact any existing streetscape or public space which has been designed to provide areas of public assembly and congregation?				X

Discussion:

- a) The project area consists of a diverse range of neighborhoods and physical – both built and natural – features. The City General Plan Scenic Highways Element identifies Local Scenic Highways, County Scenic Highway, and areas eligible for state scenic highway designation. Many of the City's residential areas provide excellent vistas of Ladyface Mountain and the ridgelines along the south side of the City. Nonetheless, the project consists of a ZOA, and is not a physical development proposal. The project does not involve any direct physical changes to the environment. As such, it would result in **no adverse impact** to scenic vistas. As individual development projects are proposed, and the details of the proposed building design and grading known, CEQA review, separate from this IS/ND, would be required to assess any potential impacts from building construction in the future.
- b) There are no state scenic highways in the project area, although U.S. Highway 101 is eligible for state scenic highway designation. There are no historic buildings or rock outcroppings in or adjacent to the U.S. Highway 101. In any case, since the project is not a specific physical development proposal, the project would result in **no impact**. As individual development projects are proposed, CEQA review, separate from this IS/ND, would be required to assess any potential impacts from building construction on aesthetics.

- c) The project does not involve any direct physical changes to the environment. As such, it would result in **no impact** to the visual character or quality of the area. As individual development projects are proposed, and the details of the proposed building design and grading known, CEQA review, separate from this IS/ND, would be required to assess any potential impacts from building construction in the future.
- d) Since the project is not a physical development proposal, it would not result in impacts from lighting and glare. As previously described, any proposal to build a residence would be analyzed separately under CEQA as part of project specific environmental review, which would include a development project-specific lighting and glare assessment. Therefore, the current project would result in **no impacts**.
- e) The area subject to the ZOA is not located in the immediate vicinity of any known streets or public spaces used for the assembly and congregation of people. Therefore, there would be **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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**(9) NOISE.** Would the project result in:

a) Exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				x
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				x
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				x
d) A substantial, temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				x
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				x
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				x

Discussion:

Noise level (or volume) is generally measured in decibels (dB) using the A-weighted sound pressure level (dBA). The A-weighting scale is an adjustment to the actual sound power levels to be consistent with that of human hearing response, which is most sensitive to frequencies around 4,000 Hertz (about the highest note on a piano) and less sensitive to low frequencies (below 100 Hertz). For the most sensitive uses, such as single family residential, 60 dBA Day-Night average level (Ldn) is the maximum normally acceptable exterior level. Ldn is the time average of all A-weighted levels for a 24-hour period, with a 10 dB upward adjustment added to those noise levels occurring between 10:00 PM and 7:00 AM to account for the general increased sensitivity of people to nighttime noise levels. The Community Noise Equivalent Level (CNEL) is similar to the Ldn except that it adds 5 dB to evening noise levels (7:00 PM to 10:00 PM). The City of Agoura Hills utilizes the CNEL for measuring noise levels. Sensitive noise receptors include residential units, libraries, hospitals and nursing homes. In the project vicinity, the sensitive noise receptors would be residences, schools and homes for the elderly.

- a),c),d) The project would not result in any physical development. The proposed regulations would not result in any changes to the types of uses allowed in the residential and open space zones, or to any noise standards. Any proposal for development in the project area would be analyzed separately under CEQA as part of project specific environmental review. The site specific noise conditions and the type of development and construction methods would be assessed at that time for the actual development project. Therefore, the current project itself would result in **no impacts**.
- b) Because it is not a physical development, the proposed project would not result in any impacts related to excessive groundborne vibration. As specific development projects are proposed, along with information about construction and grading details and methods, these projects would need to undergo separate CEQA review, including analysis of this issue area. Therefore, the current project would result in **no impacts**.
- e),f) The area affected by the proposed project is not located within the vicinity of an airport or private airstrip, and would not be affected by air traffic noise impacts. There would be **no impact**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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**(10) POPULATION AND HOUSING.** Would the project:

a) Result in direct or indirect population related growth inducement impacts (significantly expand employment opportunities, remove policy impediments to growth, or contribute to potential extensions of growth inducing infrastructure)?				x
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				x

Discussion:

- a) The project would not result in any physical development. In any case, regulations proposed by the ZOA would not increase the total number of residential units accounted for in the General Plan (See Section (3) AIR QUALITY), and so there would not be any increase in population above that already accounted for in the General Plan as a result of the project. Therefore, the project would result in **no impacts** to population growth.
- b) The project does not consist of any physical development. Consequently, the proposed regulations do not result in the displacement of current housing. As specific development projects are proposed, along with information about any existing residences on the site, these projects would need to undergo separate CEQA review, including analysis of this issue area. Therefore, there would be **no impacts**.



Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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**(11) PUBLIC SERVICES.** Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, the need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?

a) Fire protection				X
b) Police protection				X
c) Schools				X
d) Parks				X
e) Other public facilities				X

Discussion:

- a),b) The City of Agoura Hills is served by the Los Angeles County Fire Department (LACFD) and the Los Angeles County Sheriff's Department (LACSD). The project itself would not require additional police or fire protection services, as no development is proposed. As such, the project would result in **no impacts**. As individual development projects are proposed in the project area at a later date, separate CEQA review would be undertaken to assess potential fire and police protection services impacts on an individual level. In any case, as the area affected by the project is already within a developed area currently served by these agencies, impacts to such services would likely not be significant, especially regarding the need to expand such services. Any future development project would be required to comply with Fire Code and LACFD standards, including specific construction specifications, access design, location of fire hydrants, and other design requirements.
- c) In 1990, school facilities legislation (California Government Code Section 65995) was enacted to generate revenue for school districts for capital acquisitions and improvements. This legislation allows a maximum one-time fee of \$1.93 per square foot of residential floor area and \$0.31 per square foot of commercial and industrial space for development projects. This fee is divided between the primary and secondary schools and is termed a "Level One Fee." Adjustments to these Level One fees have occurred periodically, and the fees have been increased. The project would not result in impacts to schools, as no physical development is being proposed as part of the project itself. Therefore, there would be **no impacts** from the current project. As individual self-storage development proposals come forward, each development would undergo specific CEQA review and be assessed for school impacts. Such a development project would likely be required to pay school impact fees at the current commercial/industrial development rate to the local school district, Las Virgenes Unified School District.
- d) The project would not result in physical development. As individual development proposals come forward, each development would undergo specific CEQA review and be assessed for parks impacts. Such a development project would likely be required to pay the City park fee. Therefore, there would be **no impacts**.
- e) Since the proposal is for a ZOA, not a development proposal, the project would not contribute to the demand for any other public facilities. Therefore, there would be **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(12) RECREATION. Would the project:

a) Increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

Discussion:

a),b) Since the project is not a particular development proposal, there would be **no impacts** to recreational facilities. As individual development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts to recreation.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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(13) TRANSPORTATION/TRAFFIC. Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards related to existing intersections or roadway design features (e.g., sharp curves or dangerous intersections), or to incompatible uses (e.g., residential traffic conflicts with farm equipment)?				X
e) Result in inadequate secondary or emergency access?				X
f) Result in inadequate parking capacity?				X

Discussion:

a) Since the project is not a particular development proposal, there would be **no impacts** to traffic and circulation. As individual development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts to traffic and circulation.

- b) The Los Angeles County Congestion Management Plan (CMP) requires a regional traffic impact analysis when a project adds 150 or more trips in each direction to a freeway segment. Based on the discussion in Item "a" above, there would be **no impacts**.
- c) There are no airports or airfields in the project vicinity, so the proposal would result in **no impacts**.
- d), e) As discussed in Section (11) PUBLIC SERVICES, the ZOA is not a development proposal and so would not result in traffic-related hazards or impacts to access. As individual residential development projects are proposed, separate CEQA review would be undertaken to determine the specific project's impacts these items. The current project would result in **no impacts**.
- f) The proposed project is not a development proposal and so would not result in impacts to parking. As individual residential development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts on parking capacity. The current project would result in **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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**(14) UTILITIES AND SERVICE SYSTEMS.** Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				x
b) Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				x
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				x
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				x
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				x
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				x
g) Comply with federal, state, and local statutes and regulations related to solid waste?				x

Discussion:

- a) - e) As the project is not a physical development proposal, it would not result in impacts to wastewater, water or storm water. As individual development projects are proposed in the project area, separate CEQA review would be undertaken to determine the specific project's impacts to these services. The current project would result in **no impacts**.
- f) – g) As noted above, the proposed ZOA would not constitute a development proposal and so would not result in impacts to solid waste. As individual development projects are proposed in the ZOA, separate CEQA

review would be undertaken to determine the specific project's impacts to these services. The ZOA would result in **no impacts**.

Issues and Supporting Information	Potentially Significant Impact	Less Than Significant Impact with Mitigation Measures	Less Than Significant Impact	No Impact
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**(15) MANDATORY FINDINGS OF SIGNIFICANCE.**

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?				X
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects)?				X
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X

Discussion:

- a) Given that the project consists of a ZOA, but with no physical development component, it would not have the potential to significantly degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. Therefore, there would be no impacts.
- b) As listed in the specific environmental issue sections, the project is not expected to have any impacts, so there would be no cumulative impacts.
- c) As listed in the specific environmental issue sections, the project is not expected to have any impacts, so there would be no effects that would cause substantial adverse effects on human beings.

**REFERENCES**

Agoura Hills, City of. *General Plan*. May 1993.

Agoura Hills, City of. *Architectural Standards and Guidelines*. November 1992.

Agoura Hills, City of. *Municipal Code*, revised June 2005.

Agoura Hills, City of. *General Plan Master Environmental Assessment*, July 1992.

Agoura Hills, City of. *General Plan EIR*, March 1992.

**D R A F T**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF AGOURA HILLS REVISING REGULATIONS APPLICABLE TO THE PROVISION OF INCLUSIONARY HOUSING, AND AMENDING SECTION 9133 OF PART 4 OF CHAPTER 1 OF TITLE IX OF THE CITY OF AGOURA HILLS MUNICIPAL CODE**

**A. Recitals.**

(i) The purpose of this Ordinance is to amend the City's Municipal Code to update the regulations pertaining to the provision of inclusionary housing units in the City.

(ii) On \_\_\_\_\_, 2008, the Planning Commission of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the Municipal Code amendments contained herein, as required by law. At the conclusion of the hearing, the Planning Commission recommended adoption of said amendments.

(ii) On \_\_\_\_\_, 2008, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the zoning code amendments contained herein as required by law.

(iii) At the public hearing on \_\_\_\_\_, 2008, the City Council received testimony from City staff and all interested parties regarding the proposed amendments.

(iv) All legal prerequisites to the adoption of the Ordinance have occurred.

**B. Ordinance.**

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

**Section 1.** The facts set forth in the Recitals, Part A of this Ordinance, are true and correct.

**Section 2.** The provisions of this Ordinance and the Municipal Code amendments contained herein have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The City Council finds that a Negative Declaration is the appropriate CEQA document for the Ordinance and said Municipal Code amendments.

**Section 3.** Section 9133 of Part 4 of Chapter 1 of Title IX of the Agoura Hills Municipal Code is hereby repealed in its entirety.

**Section 4.** New Section 9133. Inclusionary Housing is hereby added to Part 4 of Chapter 1 of Title IX of the Agoura Hills Municipal Code.

**“Section 9133  
INCLUSIONARY HOUSING**

**Subsections:**

<b>9133.1</b>	<b>Purpose</b>
<b>9133.2</b>	<b>Definitions</b>
<b>9133.3</b>	<b>Applicability</b>
<b>9133.4</b>	<b>Exemptions</b>
<b>9133.5</b>	<b>Inclusionary Unit Requirements</b>
<b>9133.6</b>	<b>Alternatives</b>
<b>9133.7</b>	<b>Procedures</b>
<b>9133.8</b>	<b>Standards</b>
<b>9133.9</b>	<b>Enforcement</b>
<b>9133.10</b>	<b>Regulations</b>
<b>9133.11</b>	<b>Inclusionary Housing Trust Fund</b>
<b>9133.12</b>	<b>Administrative Fees</b>
<b>9133.13</b>	<b>Appeal</b>
<b>9133.14</b>	<b>Taking Determination</b>

**9133.1 Purpose**

The provisions of this section establish standards and procedures that encourage the development of housing affordable to a range of households with varying income levels. The purpose of this section is to encourage the development and availability of such housing by ensuring that the addition of affordable housing units to the City's housing stock is in proportion with the overall increase in new housing units and to provide standards and procedures to that effect.

**9133.2 Definitions**

As used in this section, the following terms shall have the following meanings:

“Adjusted for Household Size Appropriate for the Unit” means for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

"Affordable Housing Cost" means the total housing costs paid by a qualifying household, which shall not exceed a specified fraction of its gross income, adjusted for household size appropriate for the unit, as follows:

- A. Very Low-Income Households, rental or for-sale units: thirty (30) percent of fifty (50) percent of the Los Angeles County median income.
- B. Low Income-Households, rental units: thirty (30) percent of seventy (70) percent of the Los Angeles County median income.
- C. Low Income-Households, for-sale units: thirty (30) percent of seventy (70) percent of the Los Angeles County median income.
- D. Moderate-Income Households, rental units: thirty (30) percent of one hundred and ten (110) percent of the Los Angeles County median income
- E. Moderate-Income Households, for sale units: thirty-five (35) percent of one hundred and ten (110) percent of the Los Angeles County median income.

"Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a residential development.

"Development Agreement" means an agreement entered into between the City and a developer pursuant to Section 65864 of the California Government Code and Sections 9681 and 9682 of Division 1, Part 4 of Title IX of the City of Agoura Hills Municipal Code.

"Director" means the City's Director of Planning and Community Development.

"Discretionary Approval" means any entitlement or approval pursuant to Section 9133 of the Municipal Code, including but not limited to a use permit, variance, design approval, and subdivision map.

"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.

"HCD" The California Department of Housing and Community Development.

"HUD" The United States Department of Housing and Urban Development.

"Inclusionary Housing Agreement" means a legally binding agreement between a developer and the City, in form and substance satisfactory to the Director and City Attorney, setting forth those provisions necessary to ensure that the requirements of this section, whether through the provision of inclusionary units or through an alternative method, are satisfied.



"Inclusionary Housing Plan" means the plan referenced in paragraph "A" of Subsection 9133.8 and further described in the regulations, which sets forth the manner in which the requirements of this section will be implemented for a particular residential development.

"Inclusionary Housing Trust Fund" shall have the meaning set forth in subsection 9133.12.

"Inclusionary Unit" means a dwelling unit that will be offered for rent or sale to and for occupancy by very low, low and moderate-income households, at an affordable housing cost, pursuant to this section.

"In-Lieu Fee" A fee paid to the City by a developer instead of providing the required inclusionary units.

"Low-Income Households" means households whose gross income is greater than 50% and does not exceed eighty (80%) percent of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

"Low-Income Units"; "Moderate-Income Units"; and "Very Low-Income Units" mean inclusionary units restricted for sale or rent to and for occupancy by low, moderate, or very low-income households, respectively, at an affordable housing cost.

"Market Rate Units" means those dwelling units in a residential development that are not inclusionary units.

"Moderate Income Households" means households whose gross income is greater than 80% and does not exceed one hundred and twenty (120%) percent of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

"Off Site Construction" Erection of affordable housing units on land other than that on which the developer intends to place a project within the City.

"Redevelopment Agreement" means an Owner Participation Agreement, Disposition and Development Agreement, Affordable Housing Agreement, Regulatory Agreement or similar agreement entered into between the City of Agoura Hills Redevelopment Agency and a developer.

"Regulations" means the regulations adopted by the Agoura Hills City Council pursuant to Subsection 9133.11 for the implementation and enforcement of the provisions of this section.

"Residential Development" means the construction of projects consisting of ten (10) or more dwelling units.

"Substantial Rehabilitation" or "Substantially Rehabilitated" means the rehabilitation of a dwelling unit(s) for very low and low income households, which has substantial building and other code violations, and has been vacant for at least six (6) months, such that the unit is returned to the City's housing supply as decent, safe, and sanitary housing, and the cost of such work exceeds Forty Thousand Dollars (\$40,000) per unit, as that amount may be adjusted for inflation pursuant to the Regulations.

"Total Housing Costs" means the total monthly or annual recurring expenses required of a household to obtain shelter. For a rental unit, total housing costs include the monthly rent payment and a reasonable allowance for utilities. For an ownership unit, total housing costs include the mortgage payment (principal and interest), mortgage insurance, property taxes, property insurance, utilities, homeowner's association dues, and any other related fees and assessments.

"Very Low Income Households" means households whose gross income is equal to fifty (50%) percent or less of the median income for Los Angeles County as determined annually by HCD based on household income data promulgated by HUD.

### **9133.3            Applicability**

This subsection shall apply to all residential developments, except those that are exempt pursuant to Section 9133.4, and excluding here from residential developments located in the Agoura Hills Redevelopment Project Area, which are separately subject to inclusionary housing requirements under the California Health and Safety Code Section 33000 et seq., and related regulations and policies of the Agoura Hills Redevelopment Agency.

### **9133.4            Exemptions**

The following residential developments are exempt from the requirements of this Section:

- A. Residential developments that obtain a variance, conditional use permit, or design review approval (pursuant to Sections 9676, 9673, and 9677 of Division 6 of Part 3 of Title IX of the Municipal Code, respectively) from the City prior to the effective date of this section, which obtain a building permit pursuant to that discretionary approval within one year of the effective date of this section, and which obtain a certificate of occupancy pursuant to that same discretionary approval.

B. Residential developments that are exempt from this section pursuant to state law, including, but not limited to, those for which the City enters into a development agreement.

C. Residential developments for which the Redevelopment Agency enters into a Redevelopment Agreement, so long as the Redevelopment Agreement is in full force and effect at the time the residential development would otherwise be required to comply with the requirements of this Section, and there is no uncured breach of the Redevelopment Agreement prior to the earlier of a) issuance of Certificate of Completion for the Redevelopment Agreement, or b) issuance of the first certificate of occupancy for the residential development.

### **9133.5 Inclusionary Unit Requirements**

A. Affordable inclusionary units shall be reserved for very low, low and moderate income households. Such units shall be provided at affordable housing cost, as defined by California Health and Safety Code Section 50052.5 for owner-occupied units and Section 50053(b) for rental units, which calculates affordable housing rates for each applicable income category. At least fifteen percent (15%) of all newly constructed dwelling units in residential developments shall be developed, sold to or rented to, and occupied by very low, low and moderate-income households, at an affordable housing cost. A minimum of six percent (6%) of all the units shall be sold to or rented to very low income households; the remaining nine percent (9%) shall be sold to or rented to low or moderate income households.

B. The City shall on an annual basis set the maximum allowable rents and sale prices for inclusionary units, adjusted for family size.

C. The inclusionary unit requirement set forth in Paragraph A of this subsection may be reduced as follows:

1. If very low-income units are provided in lieu of required low income units, a credit of 1.5 units shall be granted for every 1 unit actually provided.

2. If very-low income units are provided in lieu of required moderate income units, a credit of 2 units shall be granted for every 1 unit actually provided.

3. If low-income units are provided in lieu of required moderate income units, a credit of 1.5 units shall be granted for every 1 unit actually provided.

D. In calculating the required number of inclusionary units, fractional units of 0.50 or above will be rounded-up to a whole unit if the residential development consists of ten (10) or more units.

E. In setting priorities among eligible households, first priority shall be given to public safety employees and primary and secondary school teachers. Second priority shall be given to Agoura Hills' residents. Third priority shall be given to persons employed within Agoura Hills. Fourth priority shall be given to all other persons.

### **9133.6 Alternatives**

As an alternative to developing the inclusionary units in the residential development pursuant to Subsection 9133.5, the requirements of this section may be satisfied at the Planning Commission's discretion by off-site development of required units, donation of off-site land, or an in-lieu fee payment. Where provision of affordable units onsite is determined to be economically infeasible, off-site units are preferred, followed by donation of off-site land, to payment of an in-lieu fee. If neither on site or off-site mitigation is feasible, an in lieu housing fee will be collected in accordance with procedures and standards set forth in the regulations.

A. Off-site units. Upon application by the developer and at the discretion of the Planning Commission, the developer may satisfy the requirement of providing inclusionary units as part of the residential development, in whole or in part, by constructing or substantially rehabilitating the required inclusionary units at a site different than the site of the residential development.

B. Land Donation. Upon application by the developer and at the discretion of the Planning Commission, the developer may satisfy the requirement of providing inclusionary units as part of the residential development, in whole or in part, by conveying land to the City for the construction of the required inclusionary units. The donated land must at least be equal in value to the in lieu amount that would be applied to the project, vacant and suitable for development for affordable housing units, and fully served by utilities and related infrastructure improvements.

C. In-Lieu Fee. At the discretion of the Planning Commission, the developer may satisfy the requirement for providing inclusionary units as part of the residential development, in whole or in part, by paying a fee in lieu for all or some of the inclusionary units as follows:

1. The amount of the fee shall be calculated using the fee schedule established by resolution of the City Council.
2. One-half of the in-lieu fee required by this subsection shall be paid (or an irrevocable letter of credit posted) prior to issuance of a building permit

for all or any part of the residential development. The remainder of the fee shall be paid before a certificate of occupancy is issued for any unit in the residential development.

3. The fees collected shall be deposited in the Inclusionary Housing Trust Fund for use exclusively for the development of housing units affordable to very low, low or moderate income households.

#### **9133.7 Procedures**

A. At the times and in accordance with the standards and procedures set forth in the regulations, developers shall:

1. Submit an inclusionary housing plan for approval by the Director, setting forth in detail the manner in which the provisions of this section will be implemented for the proposed residential development.

2. Execute and cause to be recorded an inclusionary housing agreement unless developer is complying with this section pursuant to paragraphs "B" (land donation) or "C" (in lieu fee) of Subsection 9133.6.

B. No discretionary approval shall be issued for all or any portion of a residential development subject to this section until the developer has submitted an inclusionary housing plan.

C. No building permit shall be issued for all or any portion of a residential development subject to this section unless the Director has approved the inclusionary housing plan, and the inclusionary housing agreement, if required, recorded.

D. No certificate of occupancy shall be issued for all or any portion of a residential development subject to this section unless the approved inclusionary housing plan has been fully implemented.

#### **9133.8 Standards**

A. All inclusionary units shall be:

1. Reasonably dispersed throughout the residential development.

2. Proportional, in number, bedroom size and location, to the market rate units.

3. Comparable with the market rate units in terms of the base design, appearance, materials and finished quality.

B. All inclusionary units in a residential development shall be constructed concurrently with or prior to the construction of the market rate units. In the event the City approves a phased project, the inclusionary units required by this section shall be provided within each phase of the residential development.

C. Inclusionary units shall be reserved for very low, low and moderate income households at the ratios established pursuant to California Health and Safety Code Section 33413(b)(2) and shall be provided at the applicable affordable housing cost.

1. An inclusionary unit that is for rent shall remain restricted for occupancy by the target income category at the applicable affordable housing cost for a period of not less than fifty-five (55) years.

2. An inclusionary unit that is for sale shall remain restricted for owner-occupancy the target income category at the applicable affordable housing cost for a period of not less than forty-five (45) years.

The occupancy and rents of the inclusionary units shall be governed by the terms of a deed restriction recorded with the property.

D. Notwithstanding paragraph C (2) of this Subsection 9133.8, if an inclusionary unit for-sale is sold to an above moderate income purchaser, the sale shall result in a recapture by the City or its designee of a financial interest in the unit equal to (1) the difference between the initial affordable sales price and the appraised "fair market" value of the unit at the time of the initial sale, and (2) a proportionate share of any appreciation, provided that there are no more restrictive agreements executed by and between the home owner and the City or Redevelopment Agency, in which case the more restrictive requirement will apply.

E. Where the developer contends that onsite provision of inclusionary units is economically infeasible, the developer may request that the Planning Commission review the proposed residential development for a determination of economic infeasibility. The developer is required to submit to the City all necessary documentation demonstrating economic infeasibility. Upon a determination of economic infeasibility by the Planning Commission, the units may then 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 onsite inclusionary units, as referenced in Paragraph C of Subsection 9133.8..

#### **9133.9 Enforcement**

A. Any violation of this section constitutes a misdemeanor.

B. The provisions of this Section shall apply to all Developers and their agents, successors and assigns proposing a Residential Development. All Inclusionary

Units shall be rented or sold in accordance with this Section and any regulations adopted pursuant to this section.

C. Any individual who sells or rents an Inclusionary Unit in violation of the provisions of this Section shall be required to forfeit all monetary amounts so obtained. Recovered funds shall be deposited into the Inclusionary Housing Trust Fund.

D. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Section, including but not limited to: (1) actions to revoke, deny or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; and (2) actions for injunctive relief or damages.

E. In any action to enforce this Section or an Inclusionary Housing Agreement recorded hereunder, the City shall be entitled to recover its reasonable attorney's fees and costs.

#### **9133.10 Regulations**

The City Council may by resolution establish additional regulations for the implementation of this section.

#### **9133.11 Inclusionary Housing Trust Fund**

There is an established separate fund of the City, known as the Inclusionary Housing Trust Fund. All monies collected pursuant to Paragraph "C" of Subsection 9133.6 shall be deposited in the Inclusionary Housing Trust Fund.

#### **9133.12 Administrative Fees**

The City Council may by resolution establish reasonable fees and deposits for the administration of this Chapter.

#### **9133.13 Appeal**

Within fifteen (15) calendar days after the date of the Director's decision, an appeal may be filed pursuant to Section 9804 of Division 4 of Part 1 of Chapter 8 of Title IX of the Municipal Code in which appeal procedures are set forth.

#### **9133.14 Taking Determination**

A. Commencing upon the approval or disapproval of the inclusionary housing plan by the Planning Commission pursuant to the regulations, and within fifteen

(15) days thereafter, a developer may request a determination that the requirements of this section, taken together with the inclusionary incentives, as applied to the residential development, would legally constitute a taking of property of the residential development without just compensation under the California or Federal Constitutions.

B. The developer has the burden of providing economic information and other evidence necessary to establish that application of the provisions of this section to the residential development would constitute a taking of the property of the proposed residential development without just compensation. The Director shall make the determination, which may be appealed in the manner and within the time set forth in Subsection 9133.13, except that the City Council shall serve as the review body.

C. In making the taking recommendation or determination, the decision maker shall assume each of the following:

1. Application of the inclusionary housing requirement to the residential development;
2. Application of the inclusionary incentives;
3. Utilization of the most cost-efficient product type for the inclusionary units; and
4. External funding where reasonably likely to occur.

D. If it is determined that the application of the provisions of this section would be a taking, the inclusionary housing plan shall be modified to reduce the obligations in the inclusionary housing component to the extent and only to the extent necessary to avoid a taking. If it is determined no taking would occur though application of this section to the residential development, the requirements of this section remain applicable.”

**Section 5.** On or before the date that is forty-two (42) months after the effective date of this Ordinance, the Director shall prepare and present to the City Council an evaluation of the effectiveness of Section 9133 during the first three (3) years of its implementation, and recommendations for changes (if any), to be followed thereafter with an annual summary report.

**Section 6.** If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without



regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

**Section 7.** The City Clerk shall certify the adoption of this Ordinance and cause its publication in accordance with applicable law.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_  
2008 , by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
John M. Edelston, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly M. Rodrigues, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Craig A. Steele, City Attorney



D R A F T

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS RECOMMENDING THAT THE CITY COUNCIL REVISE REGULATIONS APPLICABLE TO THE PROVISION OF INCLUSIONARY HOUSING IN THE CITY OF AGOURA HILLS MUNICIPAL CODE, AND RECOMMENDING THAT THE CITY COUNCIL MAKE ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE # 08-ZOA-002)**

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

WHEREAS, the Planning Commission has considered a Zoning Ordinance Amendment (ZOA) to update the regulations pertaining to the provision of inclusionary units in Section 9133 of Part 4 of Chapter 1 of Title IX of the City of Agoura Hills Municipal Code; and

WHEREAS, a duly noticed public hearing was held on \_\_\_\_\_ 2008 at 6:30 p.m. in the City Hall Council Chambers, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given; and

WHEREAS, evidence, both written and oral, was duly presented to and considered by the Planning Commission of the City of Agoura Hills at the aforesaid public hearing; and

WHEREAS, after close of the public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by City staff, the staff report, the recommendations, and all other pertinent documents and associated actions regarding the proposed ordinance amendment and fee resolution; and

WHEREAS, the inclusionary housing program of the Municipal Code provides parameters that require at least fifteen (15) percent of all newly constructed dwelling units in residential developments to be developed, sold to or rented to, and occupied by very low, low and moderate-income households at an affordable housing cost, and that under certain conditions allow for payment of a fee in lieu of constructing the units; and

WHEREAS, changes need to be made to the Municipal Code to offer the option of providing a land donation instead of constructing the units; to indicate that the amount of the in lieu fee shall be calculated using a fee schedule established by resolution of the City Council; and to provide more clarification regarding inclusionary housing program procedures and affordable housing standards; and

WHEREAS, the proposed amendments to the inclusionary housing program are consistent with the purposes of the General Plan in that they would help to provide a broad range of housing opportunities in the City.

WHEREAS, the provisions of the Municipal Code have been reviewed and considered by the City Council in accordance with the provisions of the California

Environmental Quality Act (CEQA), as amended, and the CEQA Guidelines promulgated thereunder. The Planning Commission held a public hearing on \_\_\_\_\_, 2008 to consider the Negative Declaration. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at this said hearing. The Planning Commission finds that the Negative Declaration has been completed in accordance with the CEQA Guidelines, and there was adequate review given of the Draft Negative Declaration. The Negative Declaration adequately discusses all significant environmental issues, and reflects the independent judgment and analysis of the City. The Planning Commission has considered the contents of the Negative Declaration in its decision-making processes of the Zoning Ordinance Amendment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Agoura Hills recommends that the City Council adopt the ZOA to Section 9133 of Part 4 of Chapter 1 of Title IX of the City of Agoura Hills Municipal Code, and that the City Council adopts the Negative Declaration prepared for the ZOA.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2008, by the following vote to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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John O'Meara, Chair

ATTEST:

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Doug Hooper, Secretary