

Inclusionary Housing Ordinance (IHO) Update (2023)

The Project is a proposed ordinance amending Title 22 (Planning and Zoning) of the Los Angeles County Code to update the County's inclusionary housing requirements. Specifically, the Project will:

- Update the County's inclusionary housing requirements based on the findings of the 2023 financial feasibility study;
- In submarket areas where the 2023 financial feasibility study finds that inclusionary requirements are infeasible, codify the state mandated inclusionary housing policy, which requires housing developments on certain parcels identified in the Housing Element to provide a 20 percent affordable housing set-aside for lower-income households pursuant to Government Code sections 65583.2(c) and (h);
- Codify other state mandates such as AB 491; and
- Harmonize various requirements between Inclusionary Housing, Density Bonus (DBO) and Affordable Housing Preservation Ordinances (AHPO).

Key Components:

1) Inclusionary Requirements

Rental:

- A 20% set-aside at 80% AMI will be required in rental housing projects in the following submarket areas: 1) Coastal South LA; 2) ELA/Gateway; 3) San Gabriel Valley; and 4) Santa Clarita Valley.
- A 20% set-aside at 80% AMI will apply to selected parcels identified by the 2021-2029 Housing Element in the South LA submarket area if the parcels are one of the following:
 - a. Nonvacant, identified to accommodate very low- or lower-income units in the Sites Inventory, and have been included in the 2014-2021 Housing Element;
 - b. Vacant, identified to accommodate very low- or lower-income units in the Sites Inventory, and have been included in both the 2008-2014 and the 2014-2021 Housing Elements; or
 - c. To be rezoned to accommodate very low- or lower-income units.

For-Sale - Condo:

- A 20% set-aside at max. 135% average AMI will be required in condo development in the following submarket areas: 1) Coastal South LA; 2) ELA/Gateway; 3) San Gabriel Valley; 4) Santa Clarita Valley; and 5) Antelope Valley.
- A 20% set-aside at 80% AMI will apply to selected parcels identified by the 2021-2029 Housing Element in the South LA submarket area if the parcels are one of the following:

- a. Nonvacant, identified to accommodate very low- or lower-income units in the Sites Inventory, and have been included in the 2014-2021 Housing Element;
- b. Vacant, identified to accommodate very low- or lower-income units in the Sites Inventory, and have been included in both the 2008-2014 and the 2014-2021 Housing Elements; or
- c. To be rezoned to accommodate very low- or lower-income units.

For-Sale - SFR Subdivision:

- A 20% set-aside at max. 135% average AMI will be required in SFR subdivision in the following submarket areas: 1) San Gabriel Valley and 2) Santa Clarita Valley.
- A 20% set-aside at 80% AMI will apply to selected parcels identified by the 2021-2029 Housing Element in 1) Coastal South LA; 2) ELA/Gateway; and 3) South LA submarket areas if the parcels are one of the following:
 - a. Nonvacant, identified to accommodate very low- or lower-income units in the Sites Inventory, and have been included in the 2014-2021 Housing Element;
 - b. Vacant, identified to accommodate very low- or lower-income units in the Sites Inventory, and have been included in both the 2008-2014 and the 2014-2021 Housing Elements; or
 - c. To be rezoned to accommodate very low- or lower-income units.

2) Frequency of Feasibility Study Update

- Update the frequency of a feasibility study update to every 5 years from the last feasibility study update instead of from the effective date of the Ordinance.

3) Harmonize various requirements between Inclusionary Housing, Density Bonus (DBO) and Affordable Housing Preservation Ordinances (AHPO)

- **Calculations:** Amend the definition for “baseline dwelling units,” and update provisions regarding baseline dwelling units, affordable housing set-aside and density bonus calculations in DBO to be consistent with the Density Bonus Law. Update provisions regarding inclusionary housing applicability and affordable housing set-aside calculation in IHO to align the density bonus program with inclusionary housing to enable developers to off-set the cost of the affordable housing requirement, and to ensure consistency of policy and ease of implementation.
- **Affordable Housing Replacement Units:** Add an exception for for-sale IHO units so that they do not have to be set aside at 120% AMI (moderate income) or 150% AMI (middle income) if such units are required to be at lower income level to fulfill the replacement requirements under AHPO. Current IHO requires for-sale units to be set aside for moderate or middle income households only. If a project also needs to replace a lower or very low income unit under AHPO, under the current code that replacement unit

cannot be counted towards the inclusionary requirement – i.e. the applicant will need to provide the lower income replacement unit or an in-lieu fee in addition to the IHO moderate or middle income units.

- **Location:**
 - a. In all three Ordinances (IHO, DBO, and AHPO), clarify that in a mixed tenure development, rental affordable housing set-aside units shall not be located on the same lot where the for-sale units are located.
 - b. Harmonize DBO and IHO by adding existing IHO provision regarding even distribution of affordable units throughout a project in DBO.
- **Duration of Affordability:**
 - a. Harmonize DBO, IHO, and AHPO to require a 99-year duration of affordability across the board for rental income-restricted units unless the project 1) is subject to AB 2162 (Supportive Housing Streamlining) or 2) financed by tax credits (an exception from AB 634), in which case the duration remains 55 years. Currently, affordable units under IHO or AHPO are either affordable in perpetuity or 55 years if they are also subject to DBO.
 - b. Harmonize DBO, IHO, and AHPO to allow for the initial sale of the income-restricted units to a qualified nonprofit housing corporation. This option was added in the Density Bonus law by SB 728.
- **Comparability Requirements:**
 - a. In all three Ordinances (IHO, DBO, and AHPO), require that in any building with five or more dwelling units that includes income-restricted and market-rate housing units, the occupants of the income-restricted units must have the same access to common entrances, common areas, and amenities of that structure as the occupants of the market-rate units, and the income-restricted units shall not be isolated to a specific floor or an area on a specific floor. These requirements do not apply to a manager's unit. These requirements are from AB 491.
 - b. Harmonize DBO and IHO by adding other existing IHO comparability provisions in DBO. These requirements include the comparability between the finishes and quality of set-aside and non-set-aside units.
- **Timing for Certificate of Occupancy:** In all three Ordinances (IHO, DBO, and AHPO), require income-restricted units to obtain a certificate of occupancy from Public Works prior to or concurrently with the issuance of the certificate of occupancy for the non-income-restricted units. Currently, AHPO and IHO only has this requirement for off-site income restricted units.

4) Update the Housing Permits Chapter (Ch. 22.166) to streamline and improve the implementation of IHO along with DBO and AHPO if applicable, including the monitoring of income-restricted units:

- Require subdivision developments to record the covenant prior to final map clearance for recordation, and require non-subdivision developments to record the covenant prior to building permit issuance.