

Planning Commission Regular Meeting Agenda

October 25, 2021

5:30 P.M.

Council Chamber

22 Civic Center Plaza
Santa Ana, CA

Members of the public may attend this meeting in-person or join via Zoom.

Join from your computer: <https://zoom.us/j/81463212456>

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Dial in from a mobile phone or landline. **(669) 900- 6833; Meeting ID: 81463212456**

*For viewing only: www.youtube.com/cityofsantaanavideos. **Please note:** There is up to a 30 second delay when viewing the meeting via YouTube. If you plan to provide a public comment during the meeting, please join the meeting via Zoom.

For detailed participation and commenting options, please review the instructions provided at the end of this agenda.

To download or view each item, select either Download PDF or View Item Details to the right of the agenda title.



THOMAS MORRISSEY
Chair, Ward 6 Representative

ERIC M. ALDERETE
Citywide Representative

BAO PHAM
*Vice-Chair,
Ward 1 Representative*

MIGUEL CALDERON
Ward 2 Representative

ISURI S. RAMOS
Ward 3 Representative

MARK McLOUGHLIN
Ward 4 Representative

ALAN WOO
Ward 5 Representative

MinhThai
Executive Director

John Funk
Legal Counsel

Fabiola Zelaya Melicher, AICP
Planning Manager

Sarah Bernal
Recording Secretary



In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this Meeting, contact Michael Ortiz, City ADA Program Coordinator, at (714) 647-5624. Notification 48 hours prior to the Meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting. The City Council agenda and supporting documentation can be found on the City's website – www.santa-ana.org/city-meetings.

CALL TO ORDER

Commissioners:

**Thomas Morrissey, Chair
Bao Pham, Vice-Chair
Eric M. Alderete
Miguel Calderon
Mark McLoughlin
Isuri S. Ramos
Alan Woo**

**Executive Director
Senior Asst. City Attorney
Planning Manager
Recording Secretary**

**Minh Thai
John Funk
Fabiola Zelaya Melicher
Sarah Bernal**

ROLL CALL

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS (non agenda items)

CONSENT CALENDAR ITEMS

a. Minutes

Recommended Action: Approve Minutes from the September 27, 2021 meeting.

b. Excused Absences

Recommended Action: Excuse absent commissioners.

****End of Consent Calendar****

BUSINESS CALENDAR

Public Hearing: *The Planning Commission decision on Conditional Use Permits, Variances, Tentative Tract and Parcel Maps, Minor Exceptions, Site Plan Review, and Public Convenience or Necessity Determinations are final unless appealed within 10*

days of the decision by any interested party or group. The Planning Commission recommendation on Zoning and General Plan amendments, Development Agreements, Specific Developments, and Specific Plans will be forwarded to the City Council for final determination. Legal notice was published in the OC Register on October 13, 2021.

1. Zoning Ordinance Amendment No. 2021-03 – Minh Thai, Executive Director

Project Location: Citywide

Project Applicant: City of Santa Ana

Proposed Project: The City is requesting adoption of Zoning Ordinance Amendment No. 2021-03 to amend Section 41-1900 et. al. of the Santa Ana Municipal Code (Chapter 41/Zoning) pertaining to the Housing Opportunity Ordinance (HOO). The proposed amendments will modernize, update and clarify various sections of the HOO and respond to current development and economic trends.

Environmental Impact: The Planning Commission will consider a determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b) (3) of the CEQA Guidelines – General Rule. Notice of Exemption, Environmental Review No. 2021-107 will be filed for this project.

Recommended Action: Recommend that the City Council adopt an Ordinance amending Article XVIII.I. of Chapter 1 of the Santa Ana Municipal Code regarding the Housing Opportunity Ordinance.

****End of Business Calendar****

STAFF COMMENTS

COMMISSIONER COMMENTS

ADJOURNMENT

The next meeting of the Planning Commission will be on November 08, 2021 at 5:30 PM in the Council Chambers located at 22 Civic Center Plaza, Santa Ana, CA 92701.

FUTURE AGENDA ITEMS

- Public Hearing: General Plan Update
- Public Hearing: Conditional Use Permit 2021-13 to allow a new wireless communications facility located at 2112 E. 4TH Street
- Public Hearing: Conditional Use Permit 2021-11 to re-entitle existing major wireless facilities located at 2401 S. Pullman Street

- Public Hearing: Conditional Use Permit 2021-17 to re-entitle existing major wireless facilities located at 601 S. Santa Fe Street

APPEAL INFORMATION

The formal action by the Planning Commission shall become effective after the ten-day appeal period, unless the City Council in compliance with section 41-643, 41-644 or 41-645 holds a public hearing on the matter, then the formal action will become effective on the day following the hearing and decision by the City Council. An appeal from the decision or requirement of the Planning Commission may be made by any interested party, individual, or group. The appeal must be filed with the Clerk of the Council, accompanied by the required filing fee, and a copy sent to the Planning Department, within ten days of the date of the Commission's action, by 5:00 p.m. If the final day to appeal falls on a City Hall observed holiday or a day when City hall is closed, the final day to appeal shall be extended to the next day City Hall is open for public business. Please note: Under California Government Code Sec. 65009, if you challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues which you (or someone else) raised orally at the public hearing or in written correspondence received by the Planning Commission or City Council at or before the hearing.

MEETING INFORMATION

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Submit a written comment

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- **E-mail** PBAComments@santa-ana.org and reference the topic in the subject line.
- **Mail** to Sarah Bernal, Recording Secretary, City of Santa Ana, 20 Civic Center Plaza – M20, Santa Ana, CA 92701.

Deadline to submit written comments is 4:00 p.m. on the day of the meeting. Comments received after the deadline may not be distributed to the Commission but will be made part of the record.

Planning Commission Regular Meeting Agenda

September 27, 2021

5:30 P.M.,

Council Chamber

22 Civic Center Plaza
Santa Ana, CA



THOMAS MORRISSEY

Chair, Ward 6 Representative

ERIC M. ALDERETE

Citywide Representative

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CALL TO ORDER

Commissioners:	Thomas Morrissey, Chair Bao Pham, Vice-Chair Eric M. Alderete Miguel Calderon Mark McLoughlin Isuri S. Ramos Alan Woo
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Executive Director Senior Asst. City Attorney Planning Manager Recording Secretary	Minh Thai John Funk Fabiola Zelaya Melicher Sarah Bernal
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ROLL CALL**PLEDGE OF ALLEGIANCE****PUBLIC COMMENTS (non agenda items)****CONSENT CALENDAR ITEMS****a. Minutes****Recommended Action:** Approve Minutes from August 23, 2021 Regular Meeting.**Moved by Commissioner Ramos, seconded by Commissioner Woo to Approve.****YES:** 7 – Tom Morrissey, Mark McLoughlin, Bao Pham, Isuri Ramos, Alan Woo, Eric Alderete, Miguel Calderon**NO:** 0 – **ABSTAIN:** 0 – **ABSENT:** 0 – **Status:** 7 – 0 – 0 – 0 – **Pass****b. Excused Absences****Recommended Action:** Excuse absent commissioners.

End of Consent Calendar**BUSINESS CALENDAR**

Public Hearing: *The Planning Commission decision on Conditional Use Permits, Variances, Tentative Tract and Parcel Maps, Minor Exceptions, Site Plan Review, and Public Convenience or Necessity Determinations are final unless appealed within 10 days of the decision by any interested party or group (refer to the Basic Meeting Information page for more information). The Planning Commission recommendation on Zoning and General Plan amendments, Development Agreements, Specific Developments, and Specific Plans will be forwarded to the City Council for final determination. Legal notice was published in the OC Reporter on September 13, 2021 and notices were mailed on said date.*

1. Conditional Use Permit No. 2021-14 – Pedro Gomez, Case Planner.

Project Location: 518 North Broadway located in the Transit Zoning Code (SD-84) with Urban Center (UC) land use designation zoning district.

Project Applicant: Khoa Pham, representing The Kickin' Crab, on behalf of KC of Broadway, LLC (Property Owner).

Proposed Project: The applicant is requesting approval of Conditional Use Permit No. 2021-14 to allow a Type 41 Alcoholic Beverage Control (ABC) license for the sale of beer or wine for on-premises consumption at a new proposed restaurant (The Kickin' Crab).

Environmental Impact: The Planning Commission will consider a determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines – Class 1/Existing Facilities. Notice of Exemption, Environmental Review No. 2021-92 will be filed for this project.

Recommended Action: Adopt a resolution approving Conditional Use Permit No. 2021-14 as conditioned.

Minutes: *Chair Morrissey opened the Public Hearing. The applicant spoke in support of the matter and answered questions regarding prior business experience. There were no other speakers and the Public Hearing was closed.*

Commission expressed concern regarding parking, security and integrity of the property.

Moved by Commissioner Woo, seconded by Commissioner Calderon to Adopt Resolution No. 2021-19 with the following added conditions: Staff shall work with the applicant to 1.) incorporate a maintenance and security

plan, 2.) ensure that condition no. 3 specifically cites that it will comply with Chapter 30 of the Santa Ana Municipal Code, and 3.) work with the Public Works Agency to ensure that the trash enclosure complies with the existing municipal code.

YES: 7 – Tom Morrissey, Mark McLoughlin, Bao Pham, Isuri Ramos, Alan Woo, Eric Alderete, Miguel Calderon

NO: 0 – **ABSTAIN:** 0 – **ABSENT:** 0 – **Status:** 7 – 0 – 0 – 0 – **Pass**

Reports

2. General Plan Housing Element Update Overview – Melanie McCann

Recommended Action:

1. Receive and file; and
2. Provide input on the 6th cycle 2021-2029 Housing Element Update.

Minutes: *The following individuals provided a public comment:*

- *Karla Juarez provided feedback on the Housing Element Update.*
- *Dale Helvig provided feedback on the Housing Element Update.*

Moved by Commissioner Ramos, seconded by Commissioner Pham to Receive and file and provide input on the 6th cycle 2021-2029 Housing Element Update.

YES: 7 – Tom Morrissey, Mark McLoughlin, Bao Pham, Isuri Ramos, Alan Woo, Eric Alderete, Miguel Calderon

NO: 0 – **ABSTAIN:** 0 – **ABSENT:** 0 – **Status:** 7 – 0 – 0 – 0 – **Pass**

End of Business Calendar

STAFF COMMENTS

COMMISSIONER COMMENTS

ADJOURNMENT

The next meeting of the Planning Commission will be on October 11, 2021 at 5:30 PM in the

Council Chambers located at 22 Civic Center Plaza, Santa Ana, CA 92701.

APPEAL INFORMATION

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City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Planning Commission Staff Report

Topic: Zoning Ordinance Amendment No. 2021-03 - An Ordinance of the City Council of the City of Santa Ana repealing and reenacting in its entirety Article XVIII.I. of Chapter 41 of the Santa Ana Municipal Code regarding the Housing Opportunity Ordinance

RECOMMENDED ACTION

Recommend City Council adoption of the attached Ordinance amending Article XVIII.I. of Chapter 1 of the Santa Ana Municipal Code regarding the Housing Opportunity Ordinance.

BACKGROUND AND DISCUSSION

On November 28, 2011, the Santa Ana City Council adopted Ordinance No. NS-2825, known as the Housing Opportunity Ordinance and appearing as “Article XVIII.I. – Housing Opportunity Ordinance” (“Housing Opportunity Ordinance”) of Chapter 41 (Zoning) of the Santa Ana Municipal Code. The Housing Opportunity Ordinance was adopted to implement the City’s Housing Element Goal of providing affordable housing within the City.

On September 1, 2015, the City Council adopted Ordinance No. NS-2881, which amended the Housing Opportunity Ordinance in various respects, including applicability, options to satisfy inclusionary requirements, and calculation of the in-lieu housing fee. These amendments were intended to make the inclusionary housing requirements more predictable for housing developers and to incentivize the production of more affordable housing.

In response to impacts of the COVID-19 pandemic on the development and construction of housing in the City, including the reduction of housing starts, the City Council adopted Ordinance No. NS-2994 on September 1, 2020. Ordinance No. NS-2994 further amended the Housing Opportunity Ordinance to lower the in-lieu fee option amount for all projects from \$15 to \$5 per square foot, adjust the trigger of the ordinance, and expand the eligible uses of in-lieu fees collected by the City.

On March 2, 2021, at the direction of the City Council, an Ad Hoc Committee for Housing was formed. The Ad Hoc Committee reviewed the Housing Opportunity Ordinance and

Zoning Ordinance Amendment No. 2021-03

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recommended certain changes. The Ad Hoc Committee’s recommendations were presented, discussed, and commented on by the City Council at their regular meetings of July 6, July 26, and September 7 of 2021. At the meetings, the City Council also provided a forum to receive input from key stakeholders and members of the public. On October 5, 2021, the City Council provided direction to staff to prepare amendments to the Housing Opportunity Ordinance addressing the various key issues as summarized in Table 1 below and to initiate the adoption public hearing process starting with the Planning Commission. A complete redline and clean versions of the draft ordinance are attached as Exhibit 1.

Table 1: Summary of Key Amendments

Code Section	Subject	Summary
Title	Update Title: 2021 AFFORDABLE HOUSING OPPORTUNITY & CREATION ORDINANCE	The updated title will provide clarity and distinction from prior versions of the ordinance.
41-1900	Purpose: Expands the scope of the ordinance	This section has been modified to also require affordable housing for zoning classification changes exceeding permitted densities
41-1901	Definition: Deletes “Entitled Residential Project” and “Prior Project” definition and modifies various definitions to include a new category for extremely low- income	The provisions for “Entitled Residential Projects” and “Prior Projects” no longer apply after October 1, 2021. A new category of extremely low-income has been added to also prioritize production of housing for this income category.

Zoning Ordinance Amendment No. 2021-03

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41-1902	Applicability: Establishes new standards for projects that need to comply with the ordinance	<p>This section is amended to revert the language to the previous HOO before it was previously amended in October 2020. The HOO would apply to projects of 5 or more units that will require a zone change or general plan amendment, including city initiated zone changes and general plan amendments since November 28, 2011 (The current ordinance only applies to projects that are requesting an increase in the density permitted by the General Plan). It also establishes the applicability of the ordinance to projects that have not been issued a building permit or have not paid their HOO in-lieu fee as of November 17, 2021.</p> <p>To incentivize the construction of extremely low-income units and blended income projects, the amendment also adds a percentage of rental units that may be built on-site for extremely low-income households equal to 5 percent of the total number of units, and 10 percent for a blended income project of which, 5 percent, 3 percent, and 2, percent respectively shall be for low, very low, and extremely low income.</p>
41-1903	Exempt Projects: Clarifies which projects are not subject to the ordinance	<p>This section is amended to delete the language regarding applications deemed complete prior to November 28, 2011 and further clarify the exclusions to the HOO that may be agreed upon by City Council in a development agreement.</p>

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41-1904	In-Lieu Fee Option: Revises the in-lieu fee and changes the timing of payment	<p>This section is amended to increase the in-lieu fee from \$5 per habitable square foot to \$15 per habitable square foot.</p> <p>This section also removes the incentive for “Entitled Residential Projects” to obtain building permits during the current economic climate. The provision for “Entitled Residential Projects” no longer applies after October 1, 2021.</p> <p>The amendments also extend the timing of payment from issuance of the building permit to issuance of the certificate of occupancy, allowing a developer the option to pay after the project is developed in order to make the larger fee more reasonable.</p>
41-1904 (c)(1)(i) & (ii)	Skilled and Trained Workforce Incentives and Sliding Scale In-Lieu Fee Schedule: Incentive to utilize a skilled and trained workforce and local hire	<p>This section is amended to incorporate a skilled and trained workforce incentive and a sliding scale for the reduction of the in-lieu fee to \$5 or \$10, depending on the level of utilization of a skilled and trained workforce and local hire.</p> <p>This change also incorporates a local hire incentive where a developer of 15 or more housing units would include a 35-percent minimum local hire component as part of the skilled and trained workforce.</p>

Zoning Ordinance Amendment No. 2021-03

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41-1909	Inclusionary Housing Fund: Clarifies the use of the in-lieu fees collected	This section is amended to further clarify the use of in-lieu fees paid to the City. It provides the Community Development Agency with a priority for the use of the funds for large families and allows the funds to be used for additional one-time programs addressing housing security, eviction prevention, and housing legal assistance for city residents. This section is also amended to strengthen and emphasize the goal for projects that receive inclusionary housing funds to negotiate in good faith to utilize a skilled and trained workforce with a local hire component.
41-1910	In-lieu fee calculation: Provides for periodic review at the option of the City Council; deletes “Prior Projects”	This section is amended to provide for periodic review of the in-lieu fee when determined to be appropriate by the City Council. The amendment also deletes the paragraph on “Prior projects” since it is no longer applicable.

As part of the adoption process, the Planning Commission is required to review and make its recommendation to the City Council regarding the proposed changes. The Planning Commission may elect to take one of the following actions in its recommended action for City Council:

1. Recommend approval;
2. Recommend approval with modifications or additional refinements to consider; or
3. Recommend denial.

To facilitate the review of the proposed changes as discussed and commented by the City Council, staff has attached a redline and a clean version of the draft Ordinance as well as the accompanying staff reports and presentations to the City Council on July 6, July 26, and September 7 of 2021.

ENVIRONMENTAL IMPACT

There is no environmental impact associated with this action. It is recommended that the City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable

Zoning Ordinance Amendment No. 2021-03

October 25, 2021

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indirect physical change in the environment, as there is no possibility it will have a significant effect on the environment and it is not a "project", as defined in Section 15378 of the CEQA Guidelines. Furthermore, the proposed Ordinance falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." Adoption of this Ordinance will not have a significant effect on the environment because the proposed changes will only modernize, update, and clarify existing affordable and inclusionary housing requirements responding to the current economic and housing trends in the City and will not cause a physical change in the environment.

FISCAL IMPACT

There is no fiscal impact associated with this action.

EXHIBIT(S)

1. Redline and Clean Versions of Draft Ordinance Adopting Zoning Ordinance Amendment No. 2021-03
2. City Council Staff Report and Presentation of July 6, 2021
3. City Council Presentation of July 26, of 2021
4. City Council Staff Report and Presentation of September 7, 2021

Submitted and Approved By:

Minh Thai, Executive Director, Planning and Building Agency

ORDINANCE NO. NS-_____

ZONING ORDINANCE AMENDMENT NO. 2021-03 AN
ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA ANA REPEALING AND REENACTING IN ITS
ENTIRETY ARTICLE XVIII.I. OF CHAPTER 41 OF THE
SANTA ANA MUNICIPAL CODE REGARDING THE
HOUSING OPPORTUNITY ORDINANCE

THE CITY COUNCIL OF THE CITY OF SANTA ANA HEREBY ORDAINS AS
FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines,
and declares as follows:

A. On November 28, 2011, the Santa Ana City Council adopted Ordinance No. NS-2825, known as the Housing Opportunity Ordinance and appearing as “Article XVIII.I. – Housing Opportunity Ordinance” (“Housing Opportunity Ordinance”) of Chapter 41 of the Santa Ana Municipal Code. The Housing Opportunity Ordinance was adopted to implement the City’s Housing Element Goal of providing affordable housing within the City.

B. On September 1, 2015, the City Council adopted Ordinance No. NS-2881, which amended the Housing Opportunity Ordinance in various respects, including applicability, options to satisfy inclusionary requirements, and calculation of the in-lieu housing fee. These amendments were intended to make the inclusionary housing requirements more predictable for housing developers and to incentivize the production of more affordable housing.

C. In response to impacts of the COVID-19 pandemic on the development and construction of housing in the City, including the reduction of housing starts, the City Council adopted Ordinance No. NS-2994 on September 1, 2020. Ordinance No. NS-2994 further amended the Housing Opportunity Ordinance to lower the in-lieu housing fee for all projects from \$15 to \$5 per square foot, adjust the trigger of the ordinance, and expand the eligible uses of in-lieu fees collected by the City.

D. On March 2, 2021, at the direction of the City Council, an Ad Hoc Committee for Housing was formed. The Ad Hoc Committee reviewed the Housing Opportunity Ordinance and recommended certain changes. The Ad Hoc Committee’s recommendations were presented and discussed at the City Council Meeting on July 6, 2021.

E. On July 26, 2021, the City Council conducted a work-study session to further evaluate the Committee’s recommendations and to receive input from key stakeholders and members of the public. The City Council provided direction to staff to prepare amendments to the Housing Opportunity Ordinance concerning the applicability

and triggers for the ordinance, adjustments to the in-lieu fee calculation, set-aside units, and options for satisfaction of inclusionary requirements.

F. On September 7, 2021, the City Council further considered this matter and provided additional direction to staff regarding proposed amendments to the Housing Opportunity Ordinance.

G. At the City Council meeting of October 5, 2021, staff received direction to initiate the adoption hearing in order for the City Council to consider the changes recommended by the Housing Ad Hoc Committee.

H. On October 25, 2021, the Planning Commission held a duly noticed public hearing on the proposed amendments and considered the staff report, recommendations by staff, and public testimony concerning the proposed Ordinance. The Planning Commission recommended that the City Council adopt the proposed Ordinance.

I. The Request for City Council Action for this Ordinance dated _____, 2021 and duly signed by the Executive Director of the Planning and Building Agency shall, by this reference, be incorporated herein, and together with this ordinance, any amendments or supplements, and oral testimony, constitute the necessary findings for this ordinance.

Section 2. The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, as there is no possibility it will have a significant effect on the environment and it is not a "project", as defined in Section 15378 of the CEQA Guidelines. Furthermore, the proposed Ordinance falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." Adoption of this Ordinance will not have a significant effect on the environment because the proposed changes will only modernize, update, and clarify existing affordable and inclusionary housing requirements responding to the current economic and housing trends in the City and will not cause a physical change in the environment.

Section 3. Article XVIII.I of Chapter 41 of the Santa Ana Municipal Code is hereby repealed in its entirety.

Section 4. Article XVIII.I. of Chapter 41 of the Santa Ana Municipal Code is hereby reenacted and amended to read in its entirety as follows:

ARTICLE XVIII.I. - 2021 AFFORDABLE HOUSING OPPORTUNITY AND CREATION ORDINANCE

Sec. 41-1900. Purpose.

This article establishes standards and procedures to encourage the development of housing that is affordable to a range of households with varying income levels. The purpose of this article is to encourage the development and availability of affordable housing by requiring the inclusion of affordable housing units within new developments when the number of units exceed the densities permitted under the general plan, zoning classification, or the conversion of rental units to condominium ownership.

Sec. 41-1901. Definitions.

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

Adjusted for household size appropriate for the unit means a household of one person in the case of a studio unit, two (2) persons in the case of a one-bedroom unit, three (3) persons in the case of a two-bedroom unit, four (4) persons in the case of a three-bedroom unit, and five (5) persons in the case of a four-bedroom unit.

Administrative procedures means those regulations promulgated by the executive director pursuant to section 41-1910 of this article.

Affordable housing cost means the total housing costs paid by a qualifying household, which shall not exceed the fraction of gross income specified, as follows:

Extremely low-income households. Thirty (30) percent of the income of a household earning thirty (30) percent of the Orange County median income adjusted for family size appropriate for the unit.

Very low-income households. Thirty (30) percent of the income of a household earning fifty (50) percent of the Orange County median income adjusted for family size appropriate for the unit.

Low-income households. Thirty (30) percent of the income of a household earning eighty (80) percent of the Orange County median income for family size appropriate for the unit.

Moderate-income households. Thirty (30) percent of the income of a household earning one hundred twenty (120) percent of the Orange County median income adjusted for family size appropriate for the unit.

The qualifying limits for extremely low-income, very low-income, low-income and moderate-income households are established and amended annually pursuant to Section 8 of the United States Housing Act of 1937. The limits are published by the Secretary of Housing and Urban Development.

Developer means any association, corporation, firm, joint venture, partnership, person, or any entity or combination of entities, which seeks city approval for all or part of a residential project.

Development agreement means an agreement approved by the city council between a property owner and the city pursuant to Government Code section 65864, et seq.

Executive director means the executive director of community development for the city.

General plan means the adopted general plan for the City of Santa Ana.

Inclusionary housing agreement means a legally binding agreement between the developer and the city, in a form and substance satisfactory to the executive director and the city attorney, and containing those provisions necessary to ensure that the requirements of this article are satisfied, whether through the provision of inclusionary units or through an approved alternative method.

Inclusionary housing fund means the fund created by the city in which all fees collected in compliance with this article shall be deposited.

Inclusionary housing plan means the plan submitted by the developer, in a form specified by the executive director, detailing how the provisions of this article will be implemented for the proposed residential project.

Inclusionary unit means a dwelling unit that will be offered for sale or rent to extremely low, very low, low, or moderate-income households, at an affordable housing cost, in compliance with this article.

Low-income units, very low-income units, and extremely low-income units means inclusionary units restricted to occupancy by low, very low, and extremely low-income households, respectively, at an affordable housing cost.

Market rate units means dwelling units in a residential project that are not inclusionary units.

Moderate-income units means inclusionary units restricted to occupancy by moderate-income households at an affordable housing cost.

Regulatory agreement means an agreement entered into between the City of Santa Ana or the Santa Ana Community Development Agency and a developer by which the developer covenants to keep certain housing units at an affordable housing cost for a specified period of time.

Rehabilitated units/rehabilitation means the improvement of a unit in substandard condition to a decent, safe and sanitary level. Units are in substandard condition when, while they may be structurally sound, they do not provide safe and adequate shelter, and in their present condition endanger the health, safety or well-being of the occupants.

Residential project/project means any of the following:

A subdivision resulting in the creation of five (5) or more residential lots or residential condominium units; or

The new construction of a project consisting of five (5) or more multi-family units; or

The new construction of five (5) or more separate houses or dwelling units; or

The conversion of five (5) or more existing residential rental units to condominium ownership.

Target area means that area designated by the city from time to time, on an as-needed basis, as a priority area for rehabilitation due to health and safety concerns.

Total housing costs the total monthly or annual recurring expenses required of a household to obtain shelter. For a rental unit, total housing costs shall include the monthly rent payment and utilities paid by the tenant (excluding telephone and television). For an ownership unit, total housing costs shall include the mortgage payment (principal and interest), insurance, homeowners' association dues (if applicable), private mortgage insurance (if applicable), taxes, utilities, an allowance for maintenance and any other related assessments.

Sec. 41-1902. Applicability and inclusionary unit requirements.

(a) *Applicability.* The requirements of this article shall apply to any new project comprised of five (5) or more residential lots or residential units which has not been issued a building permit or paid the in-lieu fee as of November 17, 2021, including new construction and condominium conversions, which meets one or all of the following applicability thresholds:

(1) A change in use to allow for residential or that exceeds the general plan or zoning prescribed densities or percentage of residential development of the subject property at the time of application.

(2) Implementation of the permitted residential density or percentage of residential development allowed as a result of city initiated zone changes or city initiated general plan amendments after November 28, 2011.

(3) Increase of the permitted percentage of residential development allowed for a mixed-use development above the percentage permitted under the zoning classification at the time of application.

(4) Development of new residential uses or increase of the permitted residential density or percentage of residential development within an overlay zone approved pursuant to Division 28 of Article I of this Chapter.

(5) Conversion of rental units to condominium ownership.

(b) *Applications.* The inclusionary requirements shall only apply to the incremental units beyond that which is allowed as prescribed in Subsection (a) above.

(c) *Units for sale.* If the new residential project consists of units for sale, then a minimum of ten (10) percent of the total number of units in the project shall be sold to moderate-income households.

(d) *Rental units.* If the new residential project consists of rental units, the inclusionary units shall be constructed as follows:

(1) A minimum of fifteen (15) percent of the units shall be rented to low-income households, or

(2) A minimum of ten (10) percent shall be rented to very low-income households, or

(3) A minimum of five (5) percent shall be rented to extremely low-income households, or

(4) A minimum of ten (10) percent shall be available at an affordable housing cost of which five (5) percent rented to low-income households, three (3) percent rented to very low-income households, and two (2) percent rented to extremely low-income households.

(e) *Rounding of quantities in calculations.* In calculating the required number of inclusionary units, fractional units shall be rounded-up to the next whole unit. The developer may choose to pay an in-lieu fee set forth in section 41-1904(c) for the fractional units, which shall be calculated based on the number of habitable square feet applicable in each case.

(f) *Displacement of existing inclusionary units.* Notwithstanding any other provision of this article, any residential project subject to this article that results in the displacement of extremely low, very low and/or low-income household(s) shall be required to provide on-site inclusionary units as required by this article.

(g) *Compliance with article.* All inclusionary units required by this article shall be sold or rented in compliance with this article.

Sec. 41-1903. Exempt projects.

The following are exempt from the requirements of this article:

(a) *Development agreements.* A residential project that is the subject of a development agreement under applicable provisions of the California Government Code that expressly provides for an exclusion to this article, provides for a different amount of inclusionary units, or provides for a different specified method for determining the in-lieu fee provisions of this ordinance, such as the timing of payment or the point in time for determining the applicable in-lieu fee amount, to satisfy the inclusionary units from that specified by this article.

(b) *Project with regulatory agreement.* A residential project for which a regulatory agreement has been approved, provided that the regulatory agreement is effective at the time the residential project would otherwise be required to comply with the requirements of this article, and there is no uncured breach of the regulatory agreement before issuance of a certificate of occupancy for the project. This may include a residential project that has obtained a density bonus under article XVI.I of the Santa Ana Municipal Code. Such projects cannot be used to satisfy the inclusionary requirement for another project.

(c) *Adaptive Reuse.* Adaptive reuse development projects pursuant to Chapter 41, Article XVI.II - Adaptive Reuse.

Sec. 41-1904. Options to satisfy inclusionary requirements.

(a) *On-site units.* The primary means of complying with the inclusionary requirements of this article shall be the provision of on-site inclusionary units in accordance with section 41-1902 above. A developer may only satisfy the requirements of this article by means of an alternative to on-site inclusionary units in accordance with the requirements and procedures of this section.

(b) *Off-site units.*

(1) *New units.* The developer may satisfy the inclusionary unit requirements for the project, in whole or in part by constructing the required new inclusionary housing at a different location within the city borders at the ratio of one square foot of habitable inclusionary unit space for each required habitable square foot. While the total habitable square footage area of the required new inclusionary units must be the same as the sum-total of the number of habitable square feet for the project as directed by this ordinance, the number of units and bedrooms associated with the off-site units may be approved by the review authority of the city, consistent with the type of affordable housing needed at the time of project review.

(2) *Rehabilitated units outside a designated target area.* The developer may satisfy the inclusionary unit requirements for the project, in whole or in part by substantially rehabilitating existing housing units elsewhere within the borders of the city at a rate of one and one-half (1½) habitable square feet per each required habitable square foot of inclusionary units.

(3) *Rehabilitated units within a designated target area.* Upon application, the developer may satisfy the inclusionary unit requirements for the project, in whole or in part by substantially rehabilitating existing housing units elsewhere within the borders of the city at a rate of one habitable square foot per each required habitable square foot of affordable inclusionary units.

(c) *In-lieu fee.*

(1) *Five (5) or more units.* For a residential project comprised of five (5) or more residential lots or residential units, the developer may elect to satisfy the inclusionary unit requirements for the project, in whole or in part, by payment of a fee in-lieu of constructing some or all of the required units. The total amount of the fee allowed by this section shall be calculated using the In-Lieu Fee Schedule in section 41-1904(c)(1)(i) multiplied by the sum total of the number of habitable square feet within the entire project, as measured from the exterior walls of the residential units. This calculation does not include exterior hallways, common areas, landscape, open space or exterior stairways.

(i) In-Lieu Fee Schedule

Units	Fee Per Square Foot of Habitable Area
5 – 9	\$6.00
10 – 14	\$9.00
15 – 19	\$12.00
20 or more	\$15.00

(ii) **Local Skilled and Trained Workforce Incentive.** The in-lieu fee for fifteen (15) or more units shall be reduced if the developer voluntarily provides the City with an executed enforceable commitment to use a “Skilled and Trained Workforce” as defined in Public Contract Code section 2601 to complete the construction of the project as follows:

Use of Skilled and Trained Workforce	Fee Per Square Foot of Habitable Area
30% of workforce utilizing 2 or more construction trades	\$10.00
60% of workforce utilizing 3 or more construction trades	\$5.00
A minimum of 35% of the above work-hours shall be performed in accordance with local hire policies approved by the City Council.	

(2) **Timing of payment.** The total fee amount for the entirety of a project is calculated, determined, and set at the time of issuance of the first building permit for the project. All in-lieu fees allowed by this section shall be paid no later than prior to issuance of the first occupancy approval for any construction which adds net residential units. The in-lieu fees collected by the city are city funds over which the city has complete and absolute discretion.

(3) **Inclusionary housing fund.** Fees collected in compliance with this section shall be deposited in the inclusionary housing fund.

Sec. 41-1904.1. Inclusionary housing development incentives for production of units.

(a) In order to make the production of new inclusionary units on-site or off-site or off-site rehabilitated units, certain incentives, standards and concessions shall be allowed and prescribed as set forth herein below. Such concessions shall not be available to those developers that choose to pay an in lieu fee rather than build the units. The developer may opt to take advantage of up to two (2) concessions among the following possible concessions:

(1) *Parking concession.* One on-site parking space for each zero to one bedroom unit; two (2) on-site parking spaces for each two (2) to three (3) bedroom unit; two and one-half (2½) parking spaces for each four (4) or more bedroom unit.

(2) Concession on one of the following Zoning Code site development standards:

(i) Setback reduction of up to twenty-five (25) percent reduction on subject property;

(ii) Height increase of up to twenty (20) additional feet.

(b) A developer of a for sale residential project proposing to provide on-site moderate income units and a surrounding community benefit may opt to take advantage of up to three (3) of the above concessions. The surrounding community benefit will include but not be limited to park improvements, urban community gardens, developer-funded down payment assistance, or subsidy of services, activities or programs.

Sec. 41-1905. Housing plan and housing agreement.

(a) *Submittal and execution.* The developer shall comply with the following requirements:

(1) *Inclusionary housing plan.* The developer shall submit an inclusionary housing plan in a form specified by the executive director, detailing how the provisions of this article will be implemented for the proposed residential project. The inclusionary housing plan and its supportive documents, plans, and details shall be submitted at the same time as the site plan and application materials for the original project. All inclusionary housing plans shall be subject to the approval of the executive director and subject to appeal processes and procedures set forth in the Santa Ana Municipal Code.

2) *Inclusionary housing agreement.* The developer shall execute and cause to be recorded an inclusionary housing agreement. The inclusionary housing agreement shall be a legally binding agreement between the developer and the city, executed by the city manager, or his or her designee, and in a form and substance satisfactory to the executive director and the city attorney, and containing those provisions necessary to ensure that the requirements of this article are satisfied, whether through the provision of inclusionary units or through an approved alternative method.

(b) *Discretionary approvals.* No discretionary approval shall be issued for a residential project subject to this article until the developer has submitted an inclusionary housing plan.

(c) *Issuance of building permit.* No building permit shall be issued for a residential project subject to this article unless the executive director has approved the inclusionary housing plan, and any required inclusionary housing agreement has been recorded.

(d) *Issuance of certificate of occupancy.* A certificate of occupancy shall not be issued for a residential project subject to this article unless the approved inclusionary housing plan has been fully implemented.

Sec. 41-1906. Standards.

(a) Location within project, relationship to non-inclusionary units. All inclusionary units shall be:

- (1) Reasonably dispersed throughout the residential project;
- (2) Proportional, in number of bedrooms, gross floor area of habitable space, and location, to the market rate units;
- (3) Comparable to the market rate units included in the residential project in terms of design, materials, finished quality, and appearance; and
- (4) Permitted the same access to project amenities and recreational facilities, as are market rate units.

(b) *Timing of construction.* All inclusionary units in a residential project shall be constructed concurrent with, or before the construction of the market rate units. If the city approves a phased project, a proportional share of the required inclusionary units shall be provided within each phase of the residential project.

(c) *Location outside the proposed original project.* For projects where the developer proposes to either produce new inclusionary units or rehabilitate existing off-site units to meet the inclusionary affordable housing requirements of this ordinance, the off-site project(s) containing the required inclusionary units shall be subject to the following requirements:

- (1) The sum-total area (in habitable square feet) of all the newly constructed off-site inclusionary units shall be the same number of habitable square feet of inclusionary area as required by this ordinance. For the purpose of the calculation of the number of square feet of required inclusionary housing, the total gross habitable square feet of the housing units of the original market rate project shall be used, as measured from exterior walls to exterior walls of the market units provided as the base for calculation. The common areas, exterior hallways, stairways, patios, and balconies shall not be calculated in determining the number of required square feet of inclusionary housing production. All new or rehabilitated units must meet all current zoning and general plan standards.

- (2) While the total number of square feet of inclusionary housing requirement is calculated based on the requirements of this ordinance, the number of units, bedrooms and other amenities on the proposed off-site inclusionary housing location shall be approved by the review authority commensurate with the size and type of units most in demand at the time of submittal of the application.

- (3) Any off-site affordable inclusionary housing project shall be substantially comparable to the market rate units included in the residential project in terms of quality of design, materials and finishes.

(4) If tenants are displaced due to rehabilitation of housing to meet the inclusionary unit requirement, the developer shall be responsible for relocation costs as required by state law.

(5) No city, housing authority, or public funds, subsidies, or participation of any kind shall be expended on the production or building of any inclusionary housing projects associated with meeting the inclusionary unit requirement.

(d) *Timing of construction.* All inclusionary units in a residential project or proposed off-site new inclusionary units or rehabilitated units shall be constructed concurrent with, or before the construction of the market rate units. If the city approves a phased project, a proportional share of the required inclusionary units shall be provided within each phase of the residential project.

(e) *Units for sale.*

(1) *Time limit for inclusionary restrictions.* A unit for sale shall be restricted to the target income level group at the applicable affordable housing cost for a minimum of fifty-five (55) years.

(2) *Certification of purchasers.* The developer and all subsequent owners of an inclusionary unit offered for sale shall certify, on a form provided by the city, the income of the purchaser and that such owners will live in such inclusionary unit as their primary residence.

(3) *Resale price control.* In order to maintain the availability of inclusionary units required by this article, the resale price of an owner occupied inclusionary unit shall be limited to the lesser of the fair market value of the unit as established by a licensed real estate agent based upon three (3) comparable properties or the restricted resale price. For these purposes, the restricted resale price shall be the applicable affordable housing cost.

(4) *Inheritance of inclusionary units.* Upon the death of an owner of an owner-occupied inclusionary unit, title in the property may transfer to the surviving joint tenant or heir (in the case of the death of a sole owner or all owners of the household).

(5) *Forfeiture.* If an inclusionary unit for sale is sold for an amount in excess of the resale price controls required by this section, the buyer and the seller shall be jointly and severally liable to the city for the amount in excess of the affordable housing cost at the time of such sale of the inclusionary unit. Recovered funds shall be deposited into the inclusionary housing fund. Notwithstanding the foregoing, city may allow the buyer and seller to cure any violation of the resale price controls within one hundred eighty (180) days.

(f) *Rental units.*

(1) *Time limit for inclusionary restrictions.* A rental inclusionary unit shall remain restricted to the target income level group at the applicable affordable housing cost for fifty-five (55) years.

(2) *Certification of renters.* The owner of any rental inclusionary unit shall certify, on a form provided by the city, the income of all members of the household above the age of eighteen (18) at the time of the initial rental and annually thereafter.

(3) *Forfeiture.* Any lessor who leases an inclusionary unit in violation of this article shall be required to forfeit to the city all money so obtained. Recovered funds shall be deposited into the inclusionary housing fund.

(g) *Execution and recording of documents.* The executive director may require the execution and recording of whatever documents are required to ensure enforcement of this section; including, but not limited to, promissory notes, deeds of trust, resale restrictions, rights of first refusal, options to purchase, and/or other documents, which shall be recorded against all inclusionary units.

(h) *General prohibitions.*

(1) No person shall sell or rent an inclusionary unit at a price or rent in excess of the maximum amount allowed by any restriction placed on the unit in accordance with this article.

(2) No person shall sell or rent an inclusionary unit to a person or persons that do not meet the income restrictions placed on the unit in accordance with this article.

(3) No person shall provide false or materially incomplete information to the city or to a seller or lessor of an inclusionary unit to obtain occupancy of housing for which that person is not eligible.

(i) *Principal residency requirement.*

1. The owner or lessee of an inclusionary unit shall reside in the unit for not less than ten (10) out of every twelve (12) months.

2. No owner or lessee of an inclusionary unit shall lease or sublease, as applicable, an inclusionary unit without the prior permission of the executive director.

Sec. 41-1907. Reserved.

Sec. 41-1908. Enforcement.

(a) *Violation.* Any violation of this article constitutes a misdemeanor.

(b) *Forfeiture of funds.* Any individual who sells an inclusionary unit in violation of this article shall be required to forfeit any money in excess of the affordable housing cost at

such time. Any individual who rents an inclusionary unit in violation of this article shall be required to forfeit all money so obtained. Recovered funds shall be deposited into the inclusionary housing fund.

(c) *Legal actions.* The city may institute any appropriate legal actions or proceedings necessary to ensure compliance with this article, including actions:

- (1) To disapprove, revoke, or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; and
- (2) For injunctive relief or damages.

(d) *Recovery of costs.* In any action to enforce this article, or an inclusionary housing agreement recorded hereunder, the city shall be entitled to recover its reasonable attorney's fees and costs.

Sec. 41-1909. Inclusionary housing fund.

(a) *Inclusionary housing fund.* There is hereby established a separate fund of the city, to be known as the inclusionary housing fund. All monies collected pursuant to this article shall be deposited in the inclusionary housing fund. Additional monies from other sources may be deposited in the inclusionary housing fund. The monies deposited in the inclusionary housing fund shall be subject to the following conditions:

(1) Monies deposited into the inclusionary housing fund must be used to increase and improve the supply of housing affordable to moderate, low, very low, and extremely low income households in the city as specified in the city's affordable housing funds policies and procedures. A priority will be on the creation of new affordable housing opportunities for large families currently living in the City. Other eligible uses of the inclusionary housing fund include but are not limited to:

(i) Creating affordable units from the existing market rate housing stock including but not limited to, the purchase and rehabilitation of units.

(ii) Funding one-time programs for code enforcement, quality of life, and general health and safety activities.

(iii) Implementing and promoting programs addressing housing security, eviction prevention, and housing legal assistance for city residents.

(iv) Funding reasonable administrative or related expenses associated with the administration of this article.

(2) The fund shall be administered by the executive director, or his or her designee, who may develop procedures in the city's affordable housing funds policies and procedures to implement the purposes of the inclusionary housing fund consistent with the requirements of this article and any adopted budget of the city.

(3) Monies deposited in accordance with this section shall be used in accordance with the affordable housing funds policies and procedures, housing element,

consolidated plan, or subsequent plan adopted by the city council to construct, rehabilitate, or subsidize affordable housing or to recapture affordable housing at risk of market conversion, or to assist other government entities, private organizations, or individuals to do so. Permissible uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development loan funds, participation leases, or other public-private partnership arrangements. The inclusionary housing fund may be used for the benefit of both rental and owner-occupied housing.

(4) A developer receiving funding from the inclusionary housing fund shall implement a local preference in their resident selection criteria and marketing policies meeting guidelines established by the executive director.

(5) A developer receiving funding from the inclusionary housing fund, as well as its contractors and subcontractors at every tier performing work for the new housing units is encouraged and should negotiate in good faith to provide the City with an enforceable commitment that a minimum 30% of the labor utilizing 2 or more construction trades be performed by a “Skilled and Trained Workforce” as defined in Public Contract Code section 2601 to complete the construction of the project and shall also include a minimum of 35% of all work-hours for the project be performed in accordance with local hire policies approved by the City Council.

Sec. 41-1910. Administrative.

(a) *In-lieu fee calculation.* The amount per square foot of the inclusionary housing in-lieu fee shall be subject to city council review and consideration as needed.

(b) *Administration fees.* The council may by resolution establish reasonable fees and deposits for the administration of this article including an annual monitoring fee and an inclusionary housing plan submittal fee.

(c) *Monitoring/audits.* At the time of initial occupancy, and annually thereafter, the city will monitor the project to ensure that the income verifications are correct and in compliance with the inclusionary housing administrative procedures. For ownership units, the city shall monitor to verify that owner-occupancy requirements are maintained. Developer/property owners are required to cooperate with the city in promptly providing all information requested by the city in monitoring compliance with program requirements. The city will conduct periodic random quality control audits of inclusionary units to ensure compliance with rules and requirements. Such audits may include verification of continued occupancy in inclusionary units by eligible tenants, compliance with the inclusionary housing plan and agreement, and physical inspections of the residential project.

(e) *Administrative procedures.* The city manager is hereby authorized and directed to promulgate administrative procedures for the implementation of this article.

Secs. 41-1911—41-1999. Reserved.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 6. This Ordinance shall become effective thirty (30) days after its adoption.

Section 7. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this _____ day of _____, 2021.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: _____
John M. Funk
Sr. Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Daisy Gomez, Clerk of the Council, do hereby attest to and certify the attached Ordinance No. NS-_____ to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council
City of Santa Ana

DRAFT

ORDINANCE NO. NS-_____

ZONING ORDINANCE AMENDMENT NO. 2021-03 AN
ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA ANA REPEALING AND REENACTING IN ITS
ENTIRETY ARTICLE XVIII.I. OF CHAPTER 41 OF THE
SANTA ANA MUNICIPAL CODE REGARDING THE
HOUSING OPPORTUNITY ORDINANCE

THE CITY COUNCIL OF THE CITY OF SANTA ANA HEREBY ORDAINS AS
FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines,
and declares as follows:

A. On November 28, 2011, the Santa Ana City Council adopted Ordinance No. NS-2825, known as the Housing Opportunity Ordinance and appearing as “Article XVIII.I. – Housing Opportunity Ordinance” (“Housing Opportunity Ordinance”) of Chapter 41 of the Santa Ana Municipal Code. The Housing Opportunity Ordinance was adopted to implement the City’s Housing Element Goal of providing affordable housing within the City.

B. On September 1, 2015, the City Council adopted Ordinance No. NS-2881, which amended the Housing Opportunity Ordinance in various respects, including applicability, options to satisfy inclusionary requirements, and calculation of the in-lieu housing fee. These amendments were intended to make the inclusionary housing requirements more predictable for housing developers and to incentivize the production of more affordable housing.

C. In response to impacts of the COVID-19 pandemic on the development and construction of housing in the City, including the reduction of housing starts, the City Council adopted Ordinance No. NS-2994 on September 1, 2020. Ordinance No. NS-2994 further amended the Housing Opportunity Ordinance to lower the in-lieu housing fee for all projects from \$15 to \$5 per square foot, adjust the trigger of the ordinance, and expand the eligible uses of in-lieu fees collected by the City.

D. On March 2, 2021, at the direction of the City Council, an Ad Hoc Committee for Housing was formed. The Ad Hoc Committee reviewed the Housing Opportunity Ordinance and recommended certain changes. The Ad Hoc Committee’s recommendations were presented and discussed at the City Council Meeting on July 6, 2021.

E. On July 26, 2021, the City Council conducted a work-study session to further evaluate the Committee’s recommendations and to receive input from key stakeholders and members of the public. The City Council provided direction to staff to prepare amendments to the Housing Opportunity Ordinance concerning the applicability

and triggers for the ordinance, adjustments to the in-lieu fee calculation, set-aside units, and options for satisfaction of inclusionary requirements.

F. On September 7, 2021, the City Council further considered this matter and provided additional direction to staff regarding proposed amendments to the Housing Opportunity Ordinance.

G. At the City Council meeting of October 5, 2021, staff received direction to initiate the adoption hearing in order for the City Council to consider the changes recommended by the Housing Ad Hoc Committee.

H. On October 25, 2021, the Planning Commission held a duly noticed public hearing on the proposed amendments and considered the staff report, recommendations by staff, and public testimony concerning the proposed Ordinance. The Planning Commission recommended that the City Council adopt the proposed Ordinance.

I. The Request for City Council Action for this Ordinance dated _____, 2021 and duly signed by the Executive Director of the Planning and Building Agency shall, by this reference, be incorporated herein, and together with this ordinance, any amendments or supplements, and oral testimony, constitute the necessary findings for this ordinance.

Section 2. The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, as there is no possibility it will have a significant effect on the environment and it is not a "project", as defined in Section 15378 of the CEQA Guidelines. Furthermore, the proposed Ordinance falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." Adoption of this Ordinance will not have a significant effect on the environment because the proposed changes will only modernize, update, and clarify existing affordable and inclusionary housing requirements responding to the current economic and housing trends in the City and will not cause a physical change in the environment.

Section 3. Article XVIII.I of Chapter 41 of the Santa Ana Municipal Code is hereby repealed in its entirety.

Section 4. Article XVIII.I. of Chapter 41 of the Santa Ana Municipal Code is hereby reenacted and amended to read in its entirety as follows:

ARTICLE XVIII.I. - 2021 AFFORDABLE HOUSING OPPORTUNITY AND CREATION ORDINANCE

Sec. 41-1900. Purpose.

This article establishes standards and procedures to encourage the development of housing that is affordable to a range of households with varying income levels. The purpose of this article is to encourage the development and availability of affordable housing by requiring the inclusion of affordable housing units within new developments ~~or the conversion of rental units to condominium ownership~~ when the number of units exceed the densities permitted under the general plan ~~or~~ zoning classification, or the conversion of rental units to condominium ownership.

Sec. 41-1901. Definitions.

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

Adjusted for household size appropriate for the unit means a household of one person in the case of a studio unit, two (2) persons in the case of a one-bedroom unit, three (3) persons in the case of a two-bedroom unit, four (4) persons in the case of a three-bedroom unit, and five (5) persons in the case of a four-bedroom unit.

Administrative procedures means those regulations promulgated by the executive director pursuant to section 41-1910 of this article.

Affordable housing cost means the total housing costs paid by a qualifying household, which shall not exceed the fraction of gross income specified, as follows:

Extremely low-income households. Thirty (30) percent of the income of a household earning thirty (30) percent of the Orange County median income adjusted for family size appropriate for the unit.

Very low-income households. Thirty (30) percent of the income of a household earning fifty (50) percent of the Orange County median income adjusted for family size appropriate for the unit.

Low-income households. Thirty (30) percent of the income of a household earning eighty (80) percent of the Orange County median income for family size appropriate for the unit.

Moderate-income households. Thirty (30) percent of the income of a household earning one hundred twenty (120) percent of the Orange County median income adjusted for family size appropriate for the unit.

The qualifying limits for extremely low-income, very low-income, low-income and moderate-income households are established and amended annually pursuant to Section 8 of the United States Housing Act of 1937. The limits are published by the Secretary of Housing and Urban Development.

Developer means any association, corporation, firm, joint venture, partnership, person, or any entity or combination of entities, which seeks city approval for all or part of a residential project.

Development agreement means an agreement approved by the city council between a property owner and the city pursuant to Government Code section 65864, et seq.

~~Entitled residential project means a development project that includes residential units subject to the provisions and applicability of this Article XVIII.I. that received entitlement approvals by city council action between August 4, 2015 and August 17, 2020 to construct the residential project and which has not been issued a building permit prior to August 18, 2020. A list of the currently entitled residential projects is attached hereto as Exhibit A and is incorporated by reference.~~

Executive director means the executive director of community development for the city.

General plan means the adopted general plan for the City of Santa Ana.

Inclusionary housing agreement means a legally binding agreement between the developer and the city, in a form and substance satisfactory to the executive director and the city attorney, and containing those provisions necessary to ensure that the requirements of this article are satisfied, whether through the provision of inclusionary units or through an approved alternative method.

Inclusionary housing fund means the fund created by the city in which all fees collected in compliance with this article shall be deposited.

Inclusionary housing plan means the plan submitted by the developer, in a form specified by the executive director, detailing how the provisions of this article will be implemented for the proposed residential project.

Inclusionary unit means a dwelling unit that will be offered for sale or rent to extremely low, very low, low, or moderate-income households, at an affordable housing cost, in compliance with this article.

Low-income units ~~and~~ *very low-income units*, and extremely low-income units means inclusionary units restricted to occupancy by low-~~or~~ and extremely low-income households, respectively, at an affordable housing cost.

Market rate units means dwelling units in a residential project that are not inclusionary units.

Moderate-income units means inclusionary units restricted to occupancy by moderate-income households at an affordable housing cost.

~~*Prior project* means any project for which an application was submitted and the application was deemed complete prior to August 4, 2015.~~

Regulatory agreement means an agreement entered into between the City of Santa Ana or the Santa Ana Community Development Agency and a developer by which the developer covenants to keep certain housing units at an affordable housing cost for a specified period of time.

Rehabilitated units/rehabilitation means the improvement of a unit in substandard condition to a decent, safe and sanitary level. Units are in substandard condition when, while they may be structurally sound, they do not provide safe and adequate shelter, and in their present condition endanger the health, safety or well-being of the occupants.

Residential project/project means any of the following:

A subdivision resulting in the creation of five (5) or more residential lots or residential condominium units; or

The new construction of a project consisting of five (5) or more multi-family units; or

The new construction of five (5) or more separate houses or dwelling units; or

The conversion of five (5) or more existing residential rental units to condominium ownership.

Target area means that area designated by the city from time to time, on an as-needed basis, as a priority area for rehabilitation due to health and safety concerns.

Total housing costs the total monthly or annual recurring expenses required of a household to obtain shelter. For a rental unit, total housing costs shall include the monthly rent payment and utilities paid by the tenant (excluding telephone and television). For an ownership unit, total housing costs shall include the mortgage payment (principal and interest), insurance, homeowners' association dues (if applicable), private mortgage insurance (if applicable), taxes, utilities, an allowance for maintenance and any other related assessments.

Sec. 41-1902. Applicability and inclusionary unit requirements.

(a) *Applicability.* The requirements of this article shall apply to any new residential project comprised of ~~twenty (20)~~ five (5) or more residential lots or residential units ~~located within which has not been issued a building permit or paid the city in-lieu fee as of November 17, 2021,~~ including new construction, and condominium conversions, ~~which exceed~~ meets one or all of the following applicability thresholds:

(1) A change in use to allow for residential or that exceeds the general plan or zoning prescribed densities or percentage of residential development of the subject property at the time of application.

~~(b) Applications. The requirements of this article shall apply to any new residential project proposed in connection with an application to do a~~

(2) Implementation of the ~~following:~~

~~(1) Increase the permitted residential density or percentage of residential development allowed as a result of the subject property above the density permitted by the city initiated zone changes or city initiated general plan at the time of the application. The inclusionary requirements shall only apply to the incremental increase in the number of units beyond that which is allowed by the applicable density permitted by the general plan amendments after November 28, 2011.~~

~~(2)~~

(3) Increase of the permitted percentage of residential development allowed for a mixed-use development above the percentage at the time of the application. The inclusionary requirements shall only apply to the incremental increase in the number of units beyond that which is allowed by the density permitted by the general plan permitted under the zoning classification at the time of application.

~~(3) Convert~~

(4) Development of new residential uses or increase of the permitted residential density or percentage of residential development within an overlay zone approved pursuant to Division 28 of Article I of this Chapter.

(5) Conversion of rental units to condominium ownership.

(b) Applications. The inclusionary requirements shall only apply to the incremental ~~increase in the number of~~ units beyond that which is allowed ~~by the density permitted by the general plan, as prescribed in Subsection (a) above.~~

~~(c) Units for sale.~~ If the new residential project consists of units for sale, then a minimum of ten (10) percent of the total number of units in the project shall be sold to moderate-income households.

~~(d) Rental units.~~ If the new residential project consists of rental units, ~~then the~~ inclusionary units shall be constructed as follows:

(1) A minimum of fifteen (15) percent of the units shall be rented to low-income households, or

(2) A minimum of ten (10) percent shall be rented to very low-income households, or

(3) A minimum of five (5) percent shall be rented to extremely low-income households, or

(4) A minimum of ten (10) percent shall be available at an affordable housing cost of which five (5) percent rented to low-income households, three (3) percent rented to very low-income households, and two (2) percent rented to extremely low-income households.

(e) *Rounding of quantities in calculations.* In calculating the required number of inclusionary units, fractional units shall be rounded-up to the next whole unit. The developer may choose to pay an in-lieu fee set forth in section 41-1904(c) for the fractional units, which shall be calculated based on the number of habitable square feet applicable in each case.

(f) *Displacement of existing inclusionary units.* Notwithstanding any other provision of this article, any residential project subject to this article that results in the displacement of extremely low, very low and/or low-income household(s) shall be required to provide on-site inclusionary units as required by this article.

(g) *Compliance with article.* All inclusionary units required by this article shall be sold or rented in compliance with this article.

Sec. 41-1903. Exempt projects.

The following are exempt from the requirements of this article:

~~(a) Applications deemed complete. Applications that include a residential project for which a development application has been deemed complete prior to November 28, 2011.~~

~~(b) —~~

(a) *Development agreements.* A residential project that is the subject of a development agreement under applicable provisions of the California Government Code that expressly provides for an exclusion to this article, provides for a different amount of inclusionary units, or provides for a different ~~amount of inclusionary units~~ specified method for determining the in-lieu fee provisions of this ordinance, such as the timing of payment or the point in time for determining the applicable in-lieu fee amount, to satisfy the inclusionary units from that specified by this article, ~~provided the development agreement was adopted on or before November 28, 2011.~~

~~(c) —~~

(b) *Project with regulatory agreement.* A residential project for which a regulatory agreement has been approved, provided that the regulatory agreement is effective at the time the residential project would otherwise be required to comply with the requirements of this article, and there is no uncured breach of the regulatory agreement before issuance of a certificate of occupancy for the project. This may include a residential project that has obtained a density bonus under article XVI.I of the Santa Ana Municipal Code. Such projects cannot be used to satisfy the inclusionary requirement for another project.

~~(d) —~~

(c) *Adaptive Reuse.* Adaptive reuse development projects pursuant to Chapter 41, Article XVI.II - Adaptive Reuse.

Sec. 41-1904. Options to satisfy inclusionary requirements.

(a) *On-site units.* The primary means of complying with the inclusionary requirements of this article shall be the provision of on-site inclusionary units in accordance with section 41-~~1904~~, 1902 above. A developer may only satisfy the requirements of this article by means of an alternative to on-site inclusionary units in accordance with the requirements and procedures of this section.

(b) *Off-site units.*

(1) *New units.* The developer may satisfy the inclusionary unit requirements for the project, in whole or in part by constructing the required new inclusionary housing at a different location within the city borders at the ratio of one square foot of habitable inclusionary unit space for each required habitable square foot. While the total habitable square footage area of the required new inclusionary units must be the same as the sum-total of the number of habitable square feet for the project as directed by this ordinance, the number of units and bedrooms associated with the off-site units may be approved by the review authority of the city, consistent with the type of affordable housing needed at the time of project review.

(2) *Rehabilitated units outside a designated target area.* The developer may satisfy the inclusionary unit requirements for the project, in whole or in part by

substantially rehabilitating existing housing units elsewhere within the borders of the city at a rate of one and one-half (1½) habitable square feet per each required habitable square foot of inclusionary units.

(3) *Rehabilitated units within a designated target area.* Upon application, the developer may satisfy the inclusionary unit requirements for the project, in whole or in part by substantially rehabilitating existing housing units elsewhere within the borders of the city at a rate of one habitable square foot per each required habitable square foot of affordable inclusionary units.

(c) *In-lieu fee.*

~~(1) More than twenty (20) units. A residential project comprised of more than twenty (20) residential lots or residential units, the developer may elect to satisfy the inclusionary unit requirements for the project, in whole or in part, by payment of a fee in lieu of constructing some or all of the required units. The amount of the fee allowed by this section shall be five dollars per square foot (\$5.00/ft.²) of the sum total of the number of habitable square feet within the entire project, as measured from the exterior walls of the residential units. This calculation does not include exterior hallways, common areas, landscape, open space or exterior stairways.~~

~~(2) Entitled residential projects. The applicant(s) of an entitled residential project (see Exhibit A) may either construct the inclusionary units or pay an in-lieu fee as follows:~~

~~(i) Twenty (20) or fewer units. In the case of an entitled residential project containing between five (5) and twenty (20)~~

(1) Five (5) or more units. For a residential project comprised of five (5) or more residential lots or residential units, the developer may elect to satisfy the inclusionary unit requirements for the project, in whole or in part, by payment of a fee in lieu of constructing some or all of the required units. The total amount of the fee allowed by this section shall be ~~five dollars per square foot (\$5.00/ft.)~~ of calculated using the In-Lieu Fee Schedule in section 41-1904(c)(1)(i) multiplied by the sum total of the number of habitable square feet within the entire project, as measured from the exterior walls of the residential units. This calculation does not include exterior hallways, common areas, landscape, open space or exterior stairways.

~~(ii) More than twenty (20) units. In the case of an entitled residential project comprised of more than twenty (20) residential lots or residential units, the developer may elect to satisfy the inclusionary unit requirements for the project, in whole or in part, by payment of a fee in lieu of constructing some or all of the required units. The amount of the fee allowed by this section shall be five dollars per square foot (\$5.00/ft.) of the sum total of the number of habitable square feet within the entire project, as measured from the exterior walls of the residential units. This calculation does not include exterior hallways, common areas, landscape, open space or exterior stairways. The in-lieu fee amount allowed herein by this subsection shall revert to fifteen dollars per square foot (\$15.00) on October 1, 2021 for any construction which adds not residential~~

~~units, which has city approved entitlements, that has not been issued a building permit by October 1, 2021.~~

~~(iii) A residential project that has been entitled and approved with conditions to pay a specific in lieu fee or has a city council approved development agreement to pay a specific in lieu fee shall comply with the conditions or the development agreement as approved and shall not be modified by this ordinance.~~

~~(3)~~

(i) In-Lieu Fee Schedule

<u>Units</u>	<u>Fee Per Square Foot of Habitable Area</u>
<u>5 – 9</u>	<u>\$6.00</u>
<u>10 – 14</u>	<u>\$9.00</u>
<u>15 – 19</u>	<u>\$12.00</u>
<u>20 or more</u>	<u>\$15.00</u>

(ii) Local Skilled and Trained Workforce Incentive. The in-lieu fee for fifteen (15) or more units shall be reduced if the developer voluntarily provides the City with an executed enforceable commitment to use a “Skilled and Trained Workforce” as defined in Public Contract Code section 2601 to complete the construction of the project as follows:

<u>Use of Skilled and Trained Workforce</u>	<u>Fee Per Square Foot of Habitable Area</u>
<u>30% of workforce utilizing 2 or more construction trades</u>	<u>\$10.00</u>
<u>60% of workforce utilizing 3 or more construction trades</u>	<u>\$5.00</u>
<u>A minimum of 35% of the above work-hours shall be performed in accordance with local hire policies approved by the City Council.</u>	

(2) *Timing of payment.* The total fee amount for the entirety of a project is calculated, determined, and set at the time of issuance of the first building permit for the project. ~~The developer shall pay the~~ All in-lieu fees allowed by this section shall be paid no later than prior to issuance of the ~~building permit~~first occupancy approval for any construction which adds net residential units. ~~The developer may provide input regarding what project the in-lieu fees should be applied towards, but such input shall not be dispositive. The in-~~in-lieu fees collected by the city are city funds over which the city has complete and absolute discretion.

~~(4)~~

(3) *Inclusionary housing fund.* Fees collected in compliance with this section shall be deposited in the inclusionary housing fund.

Sec. 41-1904.1. Inclusionary housing development incentives for production of units.

(a) In order to make the production of new inclusionary units on-site or off-site or off-site rehabilitated units, certain incentives, standards and concessions shall be allowed and prescribed as set forth herein below. Such concessions shall not be available to those developers that choose to pay an in lieu fee rather than build the units. The developer may opt to take advantage of up to two (2) concessions among the following possible concessions:

(1) *Parking concession.* One on-site parking space for each zero to one bedroom unit; two (2) on-site parking spaces for each two (2) to three (3) bedroom unit; two and one-half (2½) parking spaces for each four (4) or more bedroom unit.

(2) Concession on one of the following Zoning Code site development standards:

(i) Setback reduction of up to twenty-five (25) percent reduction on subject property;

(ii) Height increase of up to twenty (20) additional feet.

(b) A developer of a for sale residential project proposing to provide on-site moderate income units and a surrounding community benefit may opt to take advantage of up to three (3) of the above concessions. The surrounding community benefit will include but not be limited to park improvements, urban community gardens, developer-funded down payment assistance, or subsidy of services, activities or programs.

Sec. 41-1905. Housing plan and housing agreement.

(a) *Submittal and execution.* The developer shall comply with the following requirements:

(1) *Inclusionary housing plan.* The developer shall submit an inclusionary housing plan in a form specified by the executive director, detailing how the provisions of this article will be implemented for the proposed residential project. The inclusionary housing plan and its supportive documents, plans, and details shall be submitted at the same time as the site plan and application materials for the original project. All

inclusionary housing plans shall be subject to the approval of the executive director and subject to appeal processes and procedures set forth in the Santa Ana Municipal Code.

2) *Inclusionary housing agreement.* The developer shall execute and cause to be recorded an inclusionary housing agreement. The inclusionary housing agreement shall be a legally binding agreement between the developer and the city, executed by the city manager, or his or her designee, and in a form and substance satisfactory to the executive director and the city attorney, and containing those provisions necessary to ensure that the requirements of this article are satisfied, whether through the provision of inclusionary units or through an approved alternative method.

(b) *Discretionary approvals.* No discretionary approval shall be issued for a residential project subject to this article until the developer has submitted an inclusionary housing plan.

(c) *Issuance of building permit.* No building permit shall be issued for a residential project subject to this article unless the executive director has approved the inclusionary housing plan, and any required inclusionary housing agreement has been recorded.

(d) *Issuance of certificate of occupancy.* A certificate of occupancy shall not be issued for a residential project subject to this article unless the approved inclusionary housing plan has been fully implemented.

Sec. 41-1906. Standards.

(a) Location within project, relationship to non-inclusionary units. All inclusionary units shall be:

- (1) Reasonably dispersed throughout the residential project;
- (2) Proportional, in number of bedrooms, gross floor area of habitable space, and location, to the market rate units;
- (3) Comparable to the market rate units included in the residential project in terms of design, materials, finished quality, and appearance; and
- (4) Permitted the same access to project amenities and recreational facilities, as are market rate units.

(b) *Timing of construction.* All inclusionary units in a residential project shall be constructed concurrent with, or before the construction of the market rate units. If the city approves a phased project, a proportional share of the required inclusionary units shall be provided within each phase of the residential project.

(c) *Location outside the proposed original project.* For projects where the developer proposes to either produce new inclusionary units or rehabilitate existing off-site units to meet the inclusionary affordable housing requirements of this ordinance, the off-site project(s) containing the required inclusionary units shall be subject to the following requirements:

(1) The sum-total area (in habitable square feet) of all the newly constructed off-site inclusionary units shall be the same number of habitable square feet of inclusionary area as required by this ordinance. For the purpose of the calculation of the number of square feet of required inclusionary housing, the total gross habitable square feet of the housing units of the original market rate project shall be used, as measured from exterior walls to exterior walls of the market units provided as the base for calculation ~~either ten (10) percent for very low income or fifteen (15) percent for low income inclusionary units~~. The common areas, exterior hallways, stairways, patios, and balconies shall not be calculated in determining the number of required square feet of inclusionary housing production. All new or rehabilitated units must meet all current zoning and general plan standards.

(2) While the total number of square feet of inclusionary housing requirement is calculated based on the requirements of this ordinance, the number of units, bedrooms and other amenities on the proposed off-site inclusionary housing location shall be approved by the review authority commensurate with the size and type of units most in demand at the time of submittal of the application.

(3) Any off-site affordable inclusionary housing project shall be substantially comparable to the market rate units included in the residential project in terms of quality of design, materials and finishes.

(4) If tenants are displaced due to rehabilitation of housing to meet the inclusionary unit requirement, the developer shall be responsible for relocation costs as required by state law.

(5) No city, housing authority, or public funds, subsidies, or participation of any kind shall be expended on the production or building of any inclusionary housing projects associated with meeting the inclusionary unit requirement.

(d) *Timing of construction.* All inclusionary units in a residential project or proposed off-site new inclusionary units or rehabilitated units shall be constructed concurrent with, or before the construction of the market rate units. If the city approves a phased project, a proportional share of the required inclusionary units shall be provided within each phase of the residential project.

(e) *Units for sale.*

(1) *Time limit for inclusionary restrictions.* A unit for sale shall be restricted to the target income level group at the applicable affordable housing cost for a minimum of fifty-five (55) years.

(2) *Certification of purchasers.* The developer and all subsequent owners of an inclusionary unit offered for sale shall certify, on a form provided by the city, the income of the purchaser and that such owners will live in such inclusionary unit as their primary residence.

(3) *Resale price control.* In order to maintain the availability of inclusionary units required by this article, the resale price of an owner occupied inclusionary unit shall be limited to the lesser of the fair market value of the unit as established by a licensed real estate agent based upon three (3) comparable properties or the restricted resale price. For these purposes, the restricted resale price shall be the applicable affordable housing cost.

(4) *Inheritance of inclusionary units.* Upon the death of an owner of an owner-occupied inclusionary unit, title in the property may transfer to the surviving joint tenant or heir (in the case of the death of a sole owner or all owners of the household).

(5) *Forfeiture.* If an inclusionary unit for sale is sold for an amount in excess of the resale price controls required by this section, the buyer and the seller shall be jointly and severally liable to the city for the amount in excess of the affordable housing cost at the time of such sale of the inclusionary unit. Recovered funds shall be deposited into the inclusionary housing fund. Notwithstanding the foregoing, city may allow the buyer and seller to cure any violation of the resale price controls within one hundred eighty (180) days.

(f) *Rental units.*

(1) *Time limit for inclusionary restrictions.* A rental inclusionary unit shall remain restricted to the target income level group at the applicable affordable housing cost for fifty-five (55) years.

(2) *Certification of renters.* The owner of any rental inclusionary unit shall certify, on a form provided by the city, the income of all members of the household above the age of eighteen (18) at the time of the initial rental and annually thereafter.

(3) *Forfeiture.* Any lessor who leases an inclusionary unit in violation of this article shall be required to forfeit to the city all money so obtained. Recovered funds shall be deposited into the inclusionary housing fund.

(g) *Execution and recording of documents.* The executive director may require the execution and recording of whatever documents are required to ensure enforcement of this section; including, but not limited to, promissory notes, deeds of trust, resale restrictions, rights of first refusal, options to purchase, and/or other documents, which shall be recorded against all inclusionary units.

(h) *General prohibitions.*

(1) No person shall sell or rent an inclusionary unit at a price or rent in excess of the maximum amount allowed by any restriction placed on the unit in accordance with this article.

(2) No person shall sell or rent an inclusionary unit to a person or persons that do not meet the income restrictions placed on the unit in accordance with this article.

(3) No person shall provide false or materially incomplete information to the city or to a seller or lessor of an inclusionary unit to obtain occupancy of housing for which that person is not eligible.

(i) *Principal residency requirement.*

~~1.~~ The owner or lessee of an inclusionary unit shall reside in the unit for not less than ten (10) out of every twelve (12) months.

~~2.~~ No owner or lessee of an inclusionary unit shall lease or sublease, as applicable, an inclusionary unit without the prior permission of the executive director.

Sec. 41-1907. Reserved.

Sec. 41-1908. Enforcement.

(a) *Violation.* Any violation of this article constitutes a misdemeanor.

(b) *Forfeiture of funds.* Any individual who sells an inclusionary unit in violation of this article shall be required to forfeit any money in excess of the affordable housing cost at such time. Any individual who rents an inclusionary unit in violation of this article shall be required to forfeit all money so obtained. Recovered funds shall be deposited into the inclusionary housing fund.

(c) *Legal actions.* The city may institute any appropriate legal actions or proceedings necessary to ensure compliance with this article, including actions:

- (1) To disapprove, revoke, or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval; and
- (2) For injunctive relief or damages.

(d) *Recovery of costs.* In any action to enforce this article, or an inclusionary housing agreement recorded hereunder, the city shall be entitled to recover its reasonable attorney's fees and costs.

Sec. 41-1909. Inclusionary housing fund.

(a) *Inclusionary housing fund.* There is hereby established a separate fund of the city, to be known as the inclusionary housing fund. All monies collected pursuant to this article shall be deposited in the inclusionary housing fund. Additional monies from other sources may be deposited in the inclusionary housing fund. The monies deposited in the inclusionary housing fund shall be subject to the following conditions:

(1) Monies deposited into the inclusionary housing fund must be used to increase and improve the supply of housing affordable to moderate, low, very low, and extremely low income households in the city as specified in the city's affordable housing

funds policies and procedures. A priority will be on the creation of ~~affordable housing opportunities or units from the existing market rate housing stock rather than construction of new affordable housing units. This includes, but is not limited to, the purchase and rehabilitation of units for sale. Monies may also be used to pay for one-time programs for code enforcement, quality of life and general health and safety activities. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this article.~~ new affordable housing opportunities for large families currently living in the City. Other eligible uses of the inclusionary housing fund include but are not limited to:

(i) Creating affordable units from the existing market rate housing stock including but not limited to, the purchase and rehabilitation of units.

(ii) Funding one-time programs for code enforcement, quality of life, and general health and safety activities.

(iii) Implementing and promoting programs addressing housing security, eviction prevention, and housing legal assistance for city residents.

(iv) Funding reasonable administrative or related expenses associated with the administration of this article.

(2) The fund shall be administered by the executive director, or his or her designee, who may develop procedures in the city's affordable housing funds policies and procedures to implement the purposes of the inclusionary housing fund consistent with the requirements of this article and any adopted budget of the city.

(3) Monies deposited in accordance with this section shall be used in accordance with the affordable housing funds policies and procedures, housing element, consolidated plan, or subsequent plan adopted by the city council to construct, rehabilitate, or subsidize affordable housing or to recapture affordable housing at risk of market conversion, or to assist other government entities, private organizations, or individuals to do so. Permissible uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development loan funds, participation leases, or other public-private partnership arrangements. The inclusionary housing fund may be used for the benefit of both rental and owner-occupied housing.

(4) A developer receiving funding from the inclusionary housing fund shall implement a local preference in their resident selection criteria and marketing policies meeting guidelines established by the executive director.

(5) A developer ~~opting for the in-lieu payment option or~~ receiving funding from the inclusionary housing fund, as well as its contractors and subcontractors at every tier performing work for the new housing units is encouraged and should negotiate in good faith to provide the City with an enforceable commitment that a ~~skilled and trained~~

~~workforce will be used~~ minimum 30% of the labor utilizing 2 or more construction trades be performed by a "Skilled and Trained Workforce" as defined in Public Contract Code section 2601 to complete a contract or project the construction of the project and shall also include a minimum of 35% of all work-hours for the project be performed in accordance with ~~Public Contract Code §§ 2601—2602~~ local hire policies approved by the City Council.

Sec. 41-1910. Administrative.

(a) *In-lieu fee calculation.* The amount per square foot of the inclusionary housing in-lieu fee shall be subject to city council review and consideration ~~before the end of calendar year 2018, but after June 30, 2018. Between July 1, 2018 and December 31, 2018, staff shall report on the effectiveness of this ordinance and provide options for council consideration on the components of this ordinance, including, but not limited to, the monetary amount of inclusionary in-lieu fee per square foot~~ as needed.

~~(b) *Prior projects.* The applicant(c) of any project for which a site plan review application was submitted and such application was deemed complete prior to August 4, 2015, may either construct the inclusionary units pursuant to the prior housing opportunity ordinance (Ordinance No. NS 2825) or pay an in-lieu fee calculated by the formula under the prior housing opportunity ordinance (Ordinance No. NS 2825) or request to revise its inclusionary housing plan and/or inclusionary housing agreement and pay an in-lieu fee of nine dollars and thirty five cents (\$9.35) per square foot of habitable space for the entire project's inclusionary housing obligation.~~

~~(c)~~

(b) *Administration fees.* The council may by resolution establish reasonable fees and deposits for the administration of this article including an annual monitoring fee and an inclusionary housing plan submittal fee.

~~(d)~~

(c) *Monitoring/audits.* At the time of initial occupancy, and annually thereafter, the city will monitor the project to ensure that the income verifications are correct and in compliance with the inclusionary housing administrative procedures. For ownership units, the city shall monitor to verify that owner-occupancy requirements are maintained. Developer/property owners are required to cooperate with the city in promptly providing all information requested by the city in monitoring compliance with program requirements. The city will conduct periodic random quality control audits of inclusionary units to ~~assure~~ ensure compliance with rules and requirements. Such audits may include verification of continued occupancy in inclusionary units by eligible tenants, compliance with the inclusionary housing plan and agreement, and physical inspections of the residential project.

(e) *Administrative procedures.* The city manager is hereby authorized and directed to promulgate administrative procedures for the implementation of this article.

Secs. 41-1911—41-1999. Reserved.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any

court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 6. This Ordinance shall become effective thirty (30) days after its adoption.

Section 7. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this _____ day of _____, 2021.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: _____
John M. Funk
Sr. Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Daisy Gomez, Clerk of the Council, do hereby attest to and certify the attached Ordinance No. NS-_____ to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council
City of Santa Ana

DRAFT



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
July 6, 2021

TOPIC: Housing Ad Hoc Committee Progress Report and Recommendations Regarding the Housing Opportunity Ordinance

AGENDA TITLE:

Housing Ad Hoc Committee Progress Report and Recommendations Regarding the Housing Opportunity Ordinance

RECOMMENDED ACTION

Receive the progress report from the Housing Ad Hoc Committee, discuss the recommendations, and provide direction to staff.

BACKGROUND AND DISCUSSION

At the direction of the Mayor and City Council, the Housing Ad Hoc Committee was formed on March 2, 2021. Committee members consist of Mayor Sarmiento and Councilmembers Lopez and Phan. The Committee convened its first meeting on March 22, 2021 and has since conducted three additional meetings to discuss various housing issues. The first set of recommendations from the Committee are related to the Housing Opportunity Ordinance.

Ad Hoc Review of the Housing Opportunity Ordinance

The HOO was originally adopted in November 2011 to implement the City's Housing Element goal to provide affordable housing within the City. In October 2015, the HOO was amended to make the inclusionary housing requirements more predictable for housing developers and to incentivize more affordable housing production on-site in conjunction with new market rate housing development. Some examples of the ordinance changes included simplifying the complex in-lieu fee calculation and creating additional incentives to allow developers the option of providing inclusionary housing units either on or off-site. In September 2020, the HOO was amended again to decrease the in-lieu fee amount for all projects from \$15 to \$5 per square foot, change the trigger of the HOO, and expand the eligible uses of in-lieu fees collected by the City.

As part of their review of the HOO, the Ad Hoc Committee requested to review the in-lieu fee analysis by Keyser Marston Associates (KMA) completed in May 2020 and requested for the study to be updated with current information. The updated study is attached as Exhibit 1. Specifically, KMA has been engaged to prepare an analysis to estimate the in-lieu fee amounts that can be charged for rental residential and ownership housing developments on a financially feasible basis. The results of KMA’s analysis can be summarized as follows:

Supportable In-Lieu Fee: Housing Opportunity Ordinance Update	
Rental Residential Development	\$17.10 to \$17.80/Sq. Ft. of Leasable Area
Ownership Housing Development	\$13.00/Sq. Ft. of Saleable Area

Additionally, the Committee requested for available data and statistics relating to housing and housing affordability in the City. Staff engaged a third party housing consultant, MDG Associates, Inc. (MDG), for assistance with collecting and presenting the data. The information collected by MDG is attached as Exhibit 2. General findings from MDG’s data shows that: 1) relative to the total housing supply, there is a small amount of affordable housing units (subsidized housing); 2) there is a gap between increasing rents and wages; and 3) zip code 92705 is the most expensive and 92701 is the most affordable based on the current rental rates, with affordability data provided for all zip codes based on unit bedroom size.

Following their review of the information, the Ad Hoc Committee discussed three options to amend the HOO. The three options involved a review of: 1) the project threshold/size of a project that would require compliance with the HOO; 2) the trigger for when a project would be required to comply with the HOO; 3) the set-aside requirements for units for sale and for rent; 4) the options to satisfy the HOO requirements; and 5) additional enhancements to achieve the purpose of the HOO. The Committee provided direction for staff to draft their recommended changes to the HOO for further discussion by the full City Council. Following this deliberative process, the Housing Ad Hoc Committee provided direction to draft amendments to the HOO as described and analyzed in Table 1: Summary of Amendments below. The draft HOO is attached as Exhibit 3 in redline format with the amendments discussed below.

Table 1: Summary of Amendments

Code Section	Subject	Ad Hoc Recommendations
Title	Update Title: 2021 AFFORDABLE HOUSING OPPORTUNITY & CREATION	The updated title will provide clarity and distinction from prior versions of the Ordinance.
41-1901	Definition: Deletes residential definition Entitled project	The new ordinance will be likely be effective after October 1, 2021, and the provision for “Entitled Residential Projects” no longer applies.
41-1902	Applicability: Establishes new standards for projects that need to comply with the ordinance	This section is amended to revert the language to the previous HOO before it was previously amended in October 2021. The HOO would apply to projects that will require a zone change or general plan amendment, including city initiated zone changes and general plan amendments since November 28, 2011. The current ordinance only applies to projects that are requesting an increase in the density permitted by the General Plan. The amendment also adds a percentage of rental units that may be built on-site for extremely low-income households to 5 percent of the total number of units in an effort to incentivize the construction of extremely low-income units.
41-1903	Exempt Projects: Clarifies which projects are not subject to the ordinance	This section is amended to further clarify the exclusions to the HOO that may be agreed upon by City Council in a development agreement.
41-1904	In-Lieu Fee Option: Revises the in-lieu fee and changes the timing of payment	This section is amended to increase the in-lieu fee from \$5 per habitable square foot to \$15 per habitable square foot. This section also removes the incentive for “Entitled Residential Projects” to obtain

		<p>building permits during the current economic climate. The new ordinance will be likely be effective after October 1, 2021, and the provision for “Entitled Residential Projects” no longer applies.</p> <p>The amendments also apply to the timing of payment from issuance of the building permit to issuance of the certificate of occupancy in order to make the larger fee more reasonable to pay after the project is developed.</p>
41-1906	<p>Standards: Revised the term of affordability for ownership and rental units on-site</p>	<p>This section is amended to require units for sale and rental units that are built on-site to be affordable in perpetuity as an enhancement.</p>
41-1909	<p>Inclusionary Housing Fund: Clarifies the use of the in-lieu fees collected</p>	<p>This section is amended to further clarify the use of in-lieu fees paid to the City. It provides the Community Development Agency with a priority for the use of the funds for large families and allows the funds to be used for additional one-time programs addressing housing security, eviction prevention, and housing legal assistance for city residents.</p>
41-1910	<p>In-lieu fee calculation: Provides for periodic review at the option of the City Council</p>	<p>This section is amended to provide for periodic review of the in-lieu fee when determined to be appropriate by the City Council.</p>

Next Steps

If the City Council desires to move forward with the changes recommended by the Housing Ad Hoc Committee, it is feasible to complete the final drafting of the ordinance and initiate the ordinance adoption process within 45 to 60 days upon receiving final direction.

Following approval of the amendments to the HOO, the Housing Ad Hoc Committee will reconvene and continue to discuss the remaining topics below and may return in the future with recommendations for each topic:

- a. Rent Stabilization/Rent Control

b. Just Cause Eviction Policies

Additionally, the Committee also discussed forms of land ownership such as cooperatives & land trusts as well as options for regulatory streamlining and reduction of development impact fees to promote production of housing within the City. The Committee agreed early on that these topics are adequately covered and will be evaluated as part of the upcoming General Plan and Housing Element updates.

ENVIRONMENTAL IMPACT

There is no environmental impact associated with this action.

FISCAL IMPACT

There is no fiscal impact associated with initial direction from City Council. However, the future City Council action to accept some of the recommendations would have an impact on program revenue.

EXHIBIT(S)

1. In-Lieu Fee Analysis by Keyser Marston Associates
2. MDG Housing Data
3. Draft Changes to the HOO for Discussion

Submitted By: Minh Thai, Executive Director of Planning and Building Agency

Approved By: Kristine Ridge, City Manager

CITY COUNCIL HOUSING AD HOC COMMITTEE PROGRESS REPORT & HOO RECOMMENDATIONS

JULY 6, 2021



PURPOSE

For the City Council to:

- ✓ Receive a report on the progress of the Housing Ad Hoc Committee
- ✓ Discuss the changes recommended by the Committee to the Housing Opportunity Ordinance
- ✓ Provide direction to staff



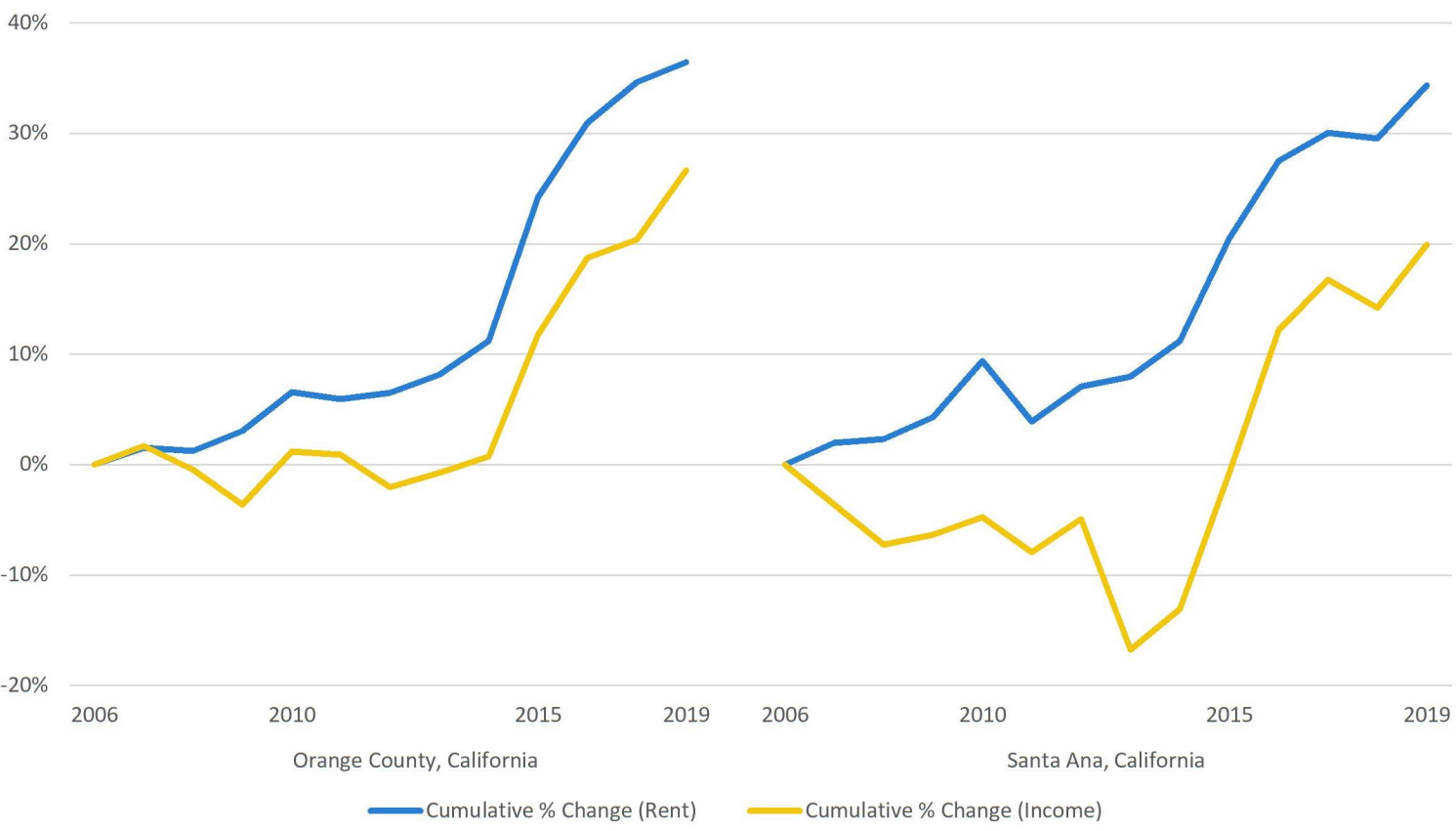
HOUSING AD HOC COMMITTEE

Progress & Recap

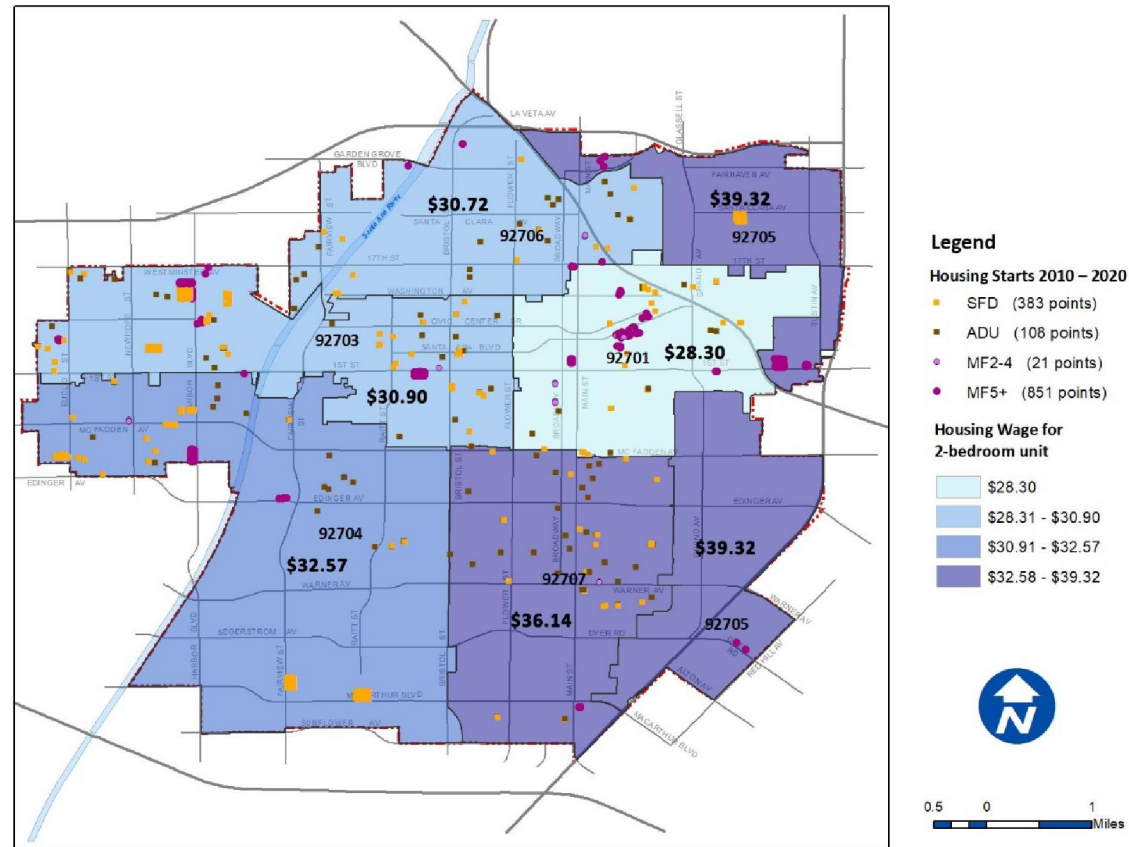
- ✓ Mayor & City Council formed the Housing Ad Hoc Committee on March 2, 2021
- ✓ Key Affordable Housing Discussion Topics
 - a. Housing Opportunity Ordinance
 - b. Rent Stabilization/Rent Control
 - c. Just Cause Eviction Policies
 - d. Forms of land ownership
 - e. Fee Reductions
 - f. Regulatory Streamlining
- ✓ Recommending changes to the HOO
- ✓ Committee will return with additional recommendations regarding rent stabilization & rent control and just cause evictions policies
- ✓ Remaining topics (d-f) to be evaluated and considered as part of the General Plan and Housing Element updates



The Gap: Rent & Income

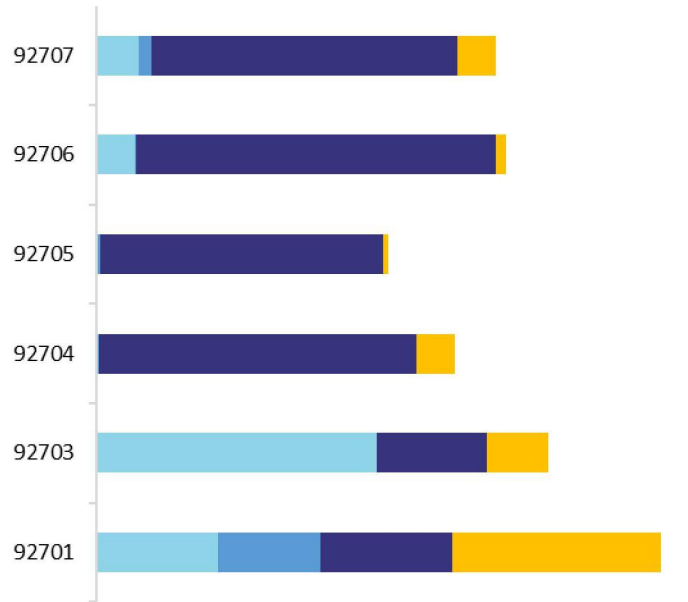


Housing Wage to Afford 2-Bedroom Multi-Family Rental Unit

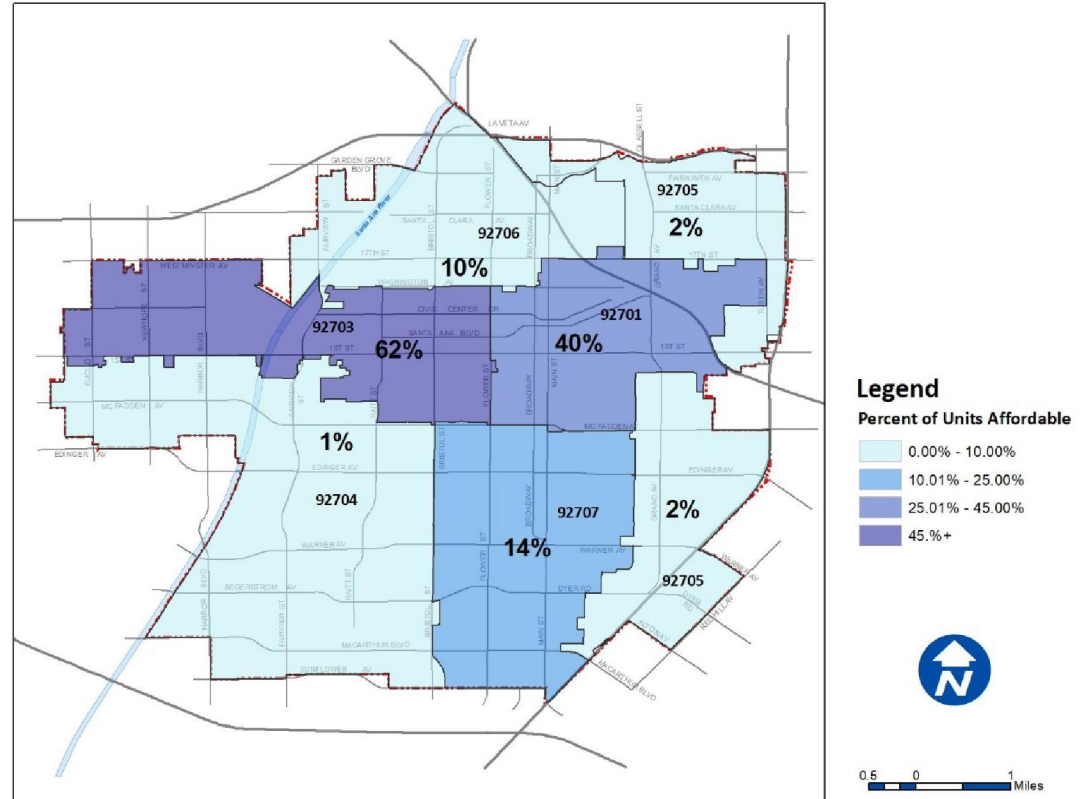


CITY OF SANTA ANA, COMMUNITY DEVELOPMENT AGENCY
20 CIVIC CENTER PLAZA, SANTA ANA, CA 92702

3-Bedroom Affordability for 5-Person Families, by Zip Code



	92701	92703	92704	92705	92706	92707
Subsidized	51	117	-	-	16	18
NOAH	43	-	1	2	1	5
Unaffordable	55	46	133	118	150	128
Market + No rate data	87	26	16	2	4	16



CITY OF SANTA ANA, COMMUNITY DEVELOPMENT AGENCY
20 CIVIC CENTER PLAZA, SANTA ANA, CA 92702

KEY HOO PROVISIONS & COMMITTEE RECOMMENDED CHANGES

	Provision	Recommendation
Applicability	Residential projects with 20 or more units	<ul style="list-style-type: none"> No Change
Trigger	<ul style="list-style-type: none"> Increase in the residential density prescribed by the General Plan or mixed-use development standards Conversions of rental units to condominium ownership Applies to only incremental units above the permitted density Requires construction on site if the project will displace existing low & very low income households 	<ul style="list-style-type: none"> Include increase in the residential density permitted by the zoning classification Inclusive of all City initiated General Plan Amendments and Zone Changes after November 28, 2011
Set-aside		
Units for Sale:	<ul style="list-style-type: none"> 10% Moderate Income (81-120% AMI) 	
Units for Rent:	<ul style="list-style-type: none"> 15% Low Income (51-80% AMI) 10% Very Low Income (31-50% AMI) 	<ul style="list-style-type: none"> 5% Extremely Low Income (0-30% AMI) category for Units for Rent
Options to satisfy inclusionary requirements	<ul style="list-style-type: none"> Build onsite Build offsite Rehabilitate existing housing stock In-Lieu Fee: \$5/sf 	<ul style="list-style-type: none"> Set In-Lieu Fee at \$15/sf
Additional enhancements		In addition to existing eligible uses the inclusionary housing fund, prioritize housing security, eviction prevention, housing legal assistance, and programs promoting creation of large bedroom units and focusing on extremely low income families.



Supportable In-Lieu Fee

Rental Residential Development	\$17.10 to \$17.80/Sq. Ft. of Leasable Area
Ownership Housing Development	\$13.00/Sq. Ft. of Saleable Area

2021 In-Lieu Fee Analysis by KMA



City Council Discussion



CITY OF SANTA ANA, COMMUNITY DEVELOPMENT AGENCY
20 CIVIC CENTER PLAZA, SANTA ANA, CA 92702

9

Statistical Data on Housing Availability, Income and Affordability Levels

CITY COUNCIL AD HOC COMMITTEE ON HOUSING

MAY 27, 2021



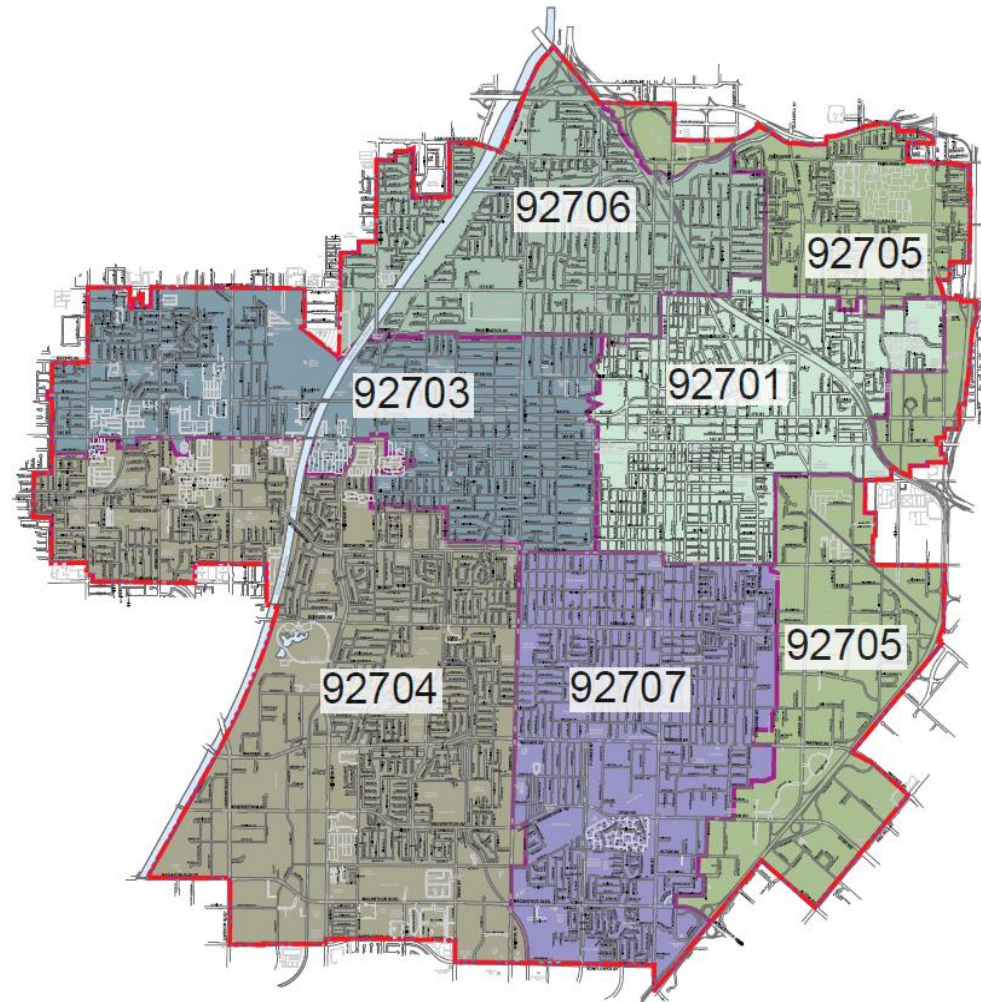
Comparative Baseline Data

Average household size	2017	2018	2019
City of Santa Ana	4.31	4.17	4.11
Orange County	3.03	3.02	3
Median household income	2017	2018	2019
City of Santa Ana	\$65,655	\$65,313	\$70,084
Orange County	\$86,217	\$89,759	\$95,9934
Unemployment rate	12 month high (May 2020)	Current (March 2021)	
City of Santa Ana	15.1%	7%	
Orange County	14.9%	6.4%	
Minimum wage	25 employees or less	26 employees or more	
State of California, 2021	\$13/hour	\$14/hour	

Sources: ACS 1-year estimates, BLS Local Area Unemployment Statistics, CA Department of Industrial Relations



Zip Code Base Map

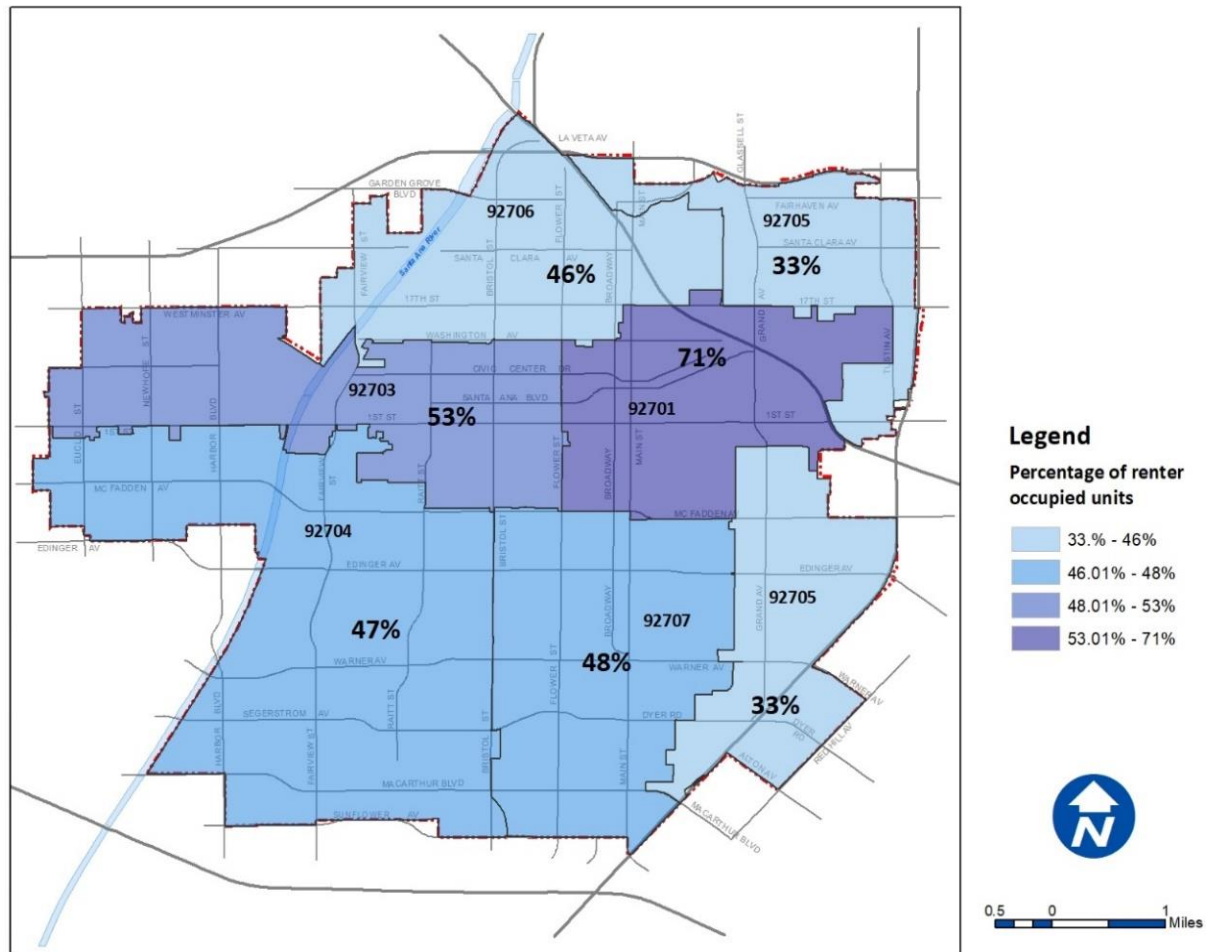


Sources

- CoStar rental data
 - Properties with 5 or more units
 - Location
 - Size
 - Effective rate
 - Star rating
 - Age
- U.S. Department of Housing and Urban Development
 - Comprehensive Housing Affordability Strategy (CHAS) data
- U.S. Census Bureau, American Community Survey
 - Housing and economic statistics
- U.S. Bureau of Labor Statistics
 - Unemployment and occupational wage statistics
- National Preservation Housing Database

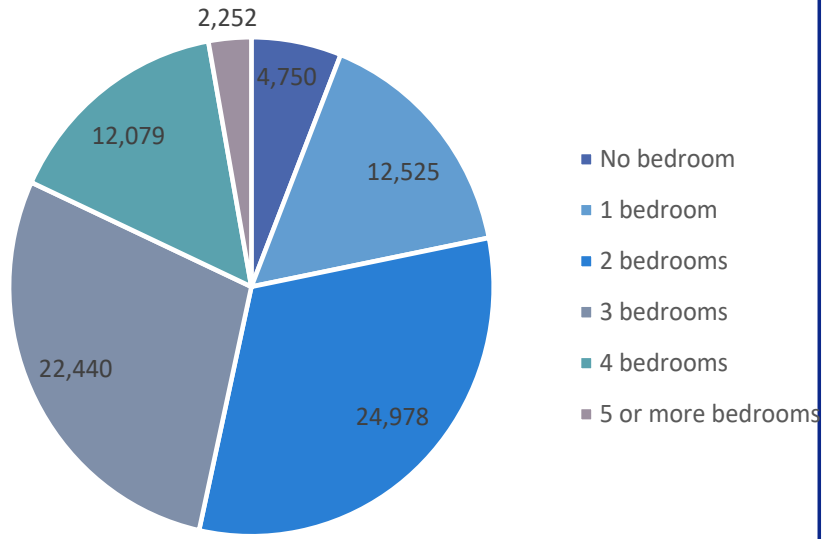


Supply: Tenure

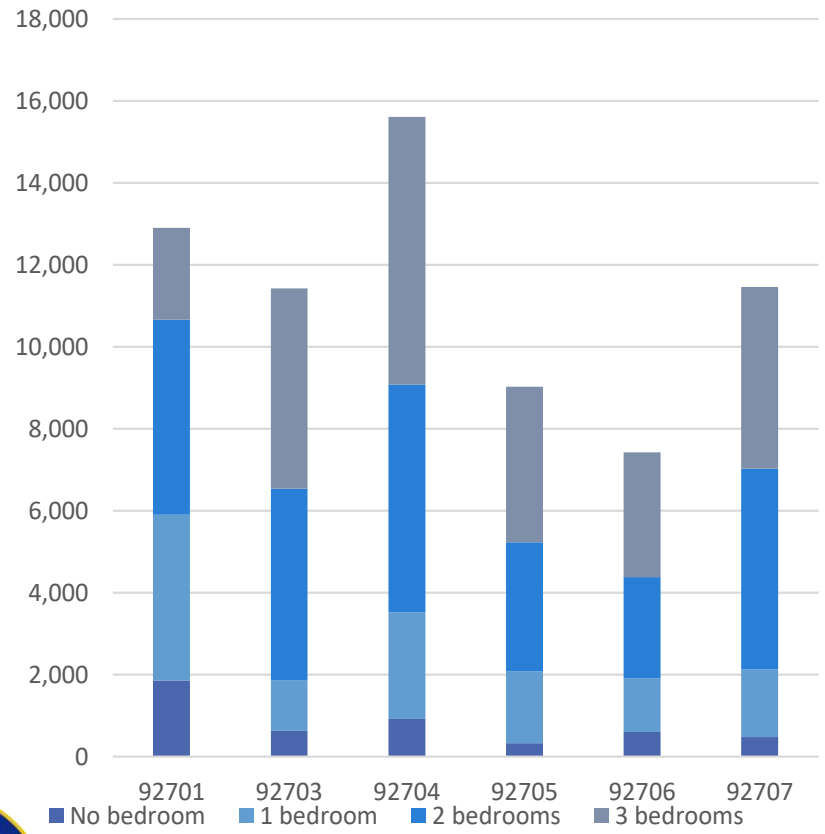


Supply: Number of Unit Types

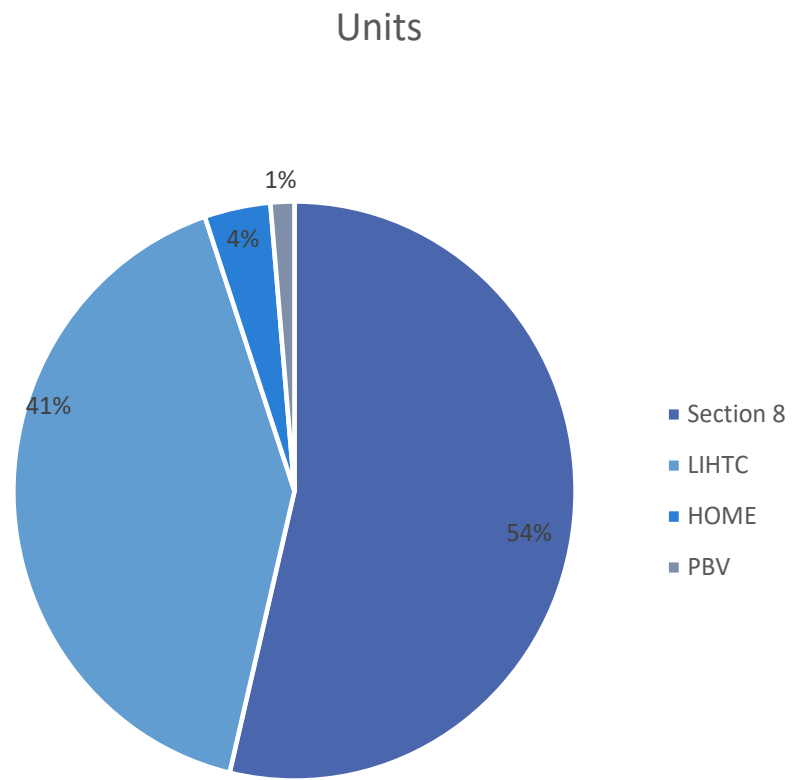
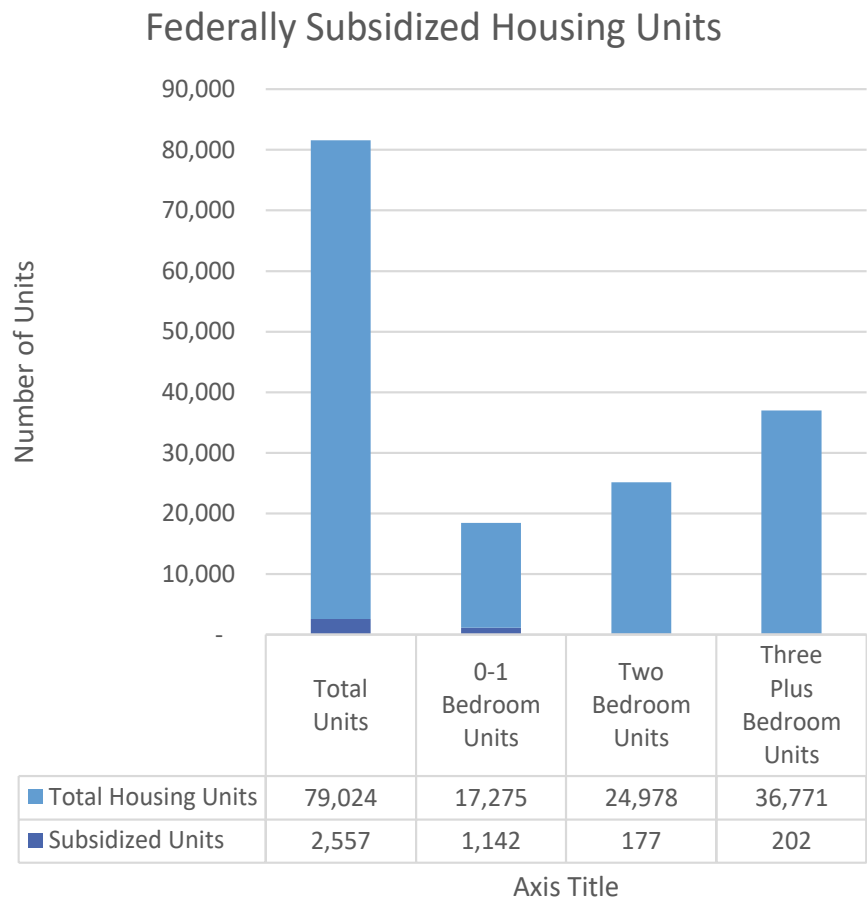
CITYWIDE



ZIP CODE



Supply: Subsidized Units

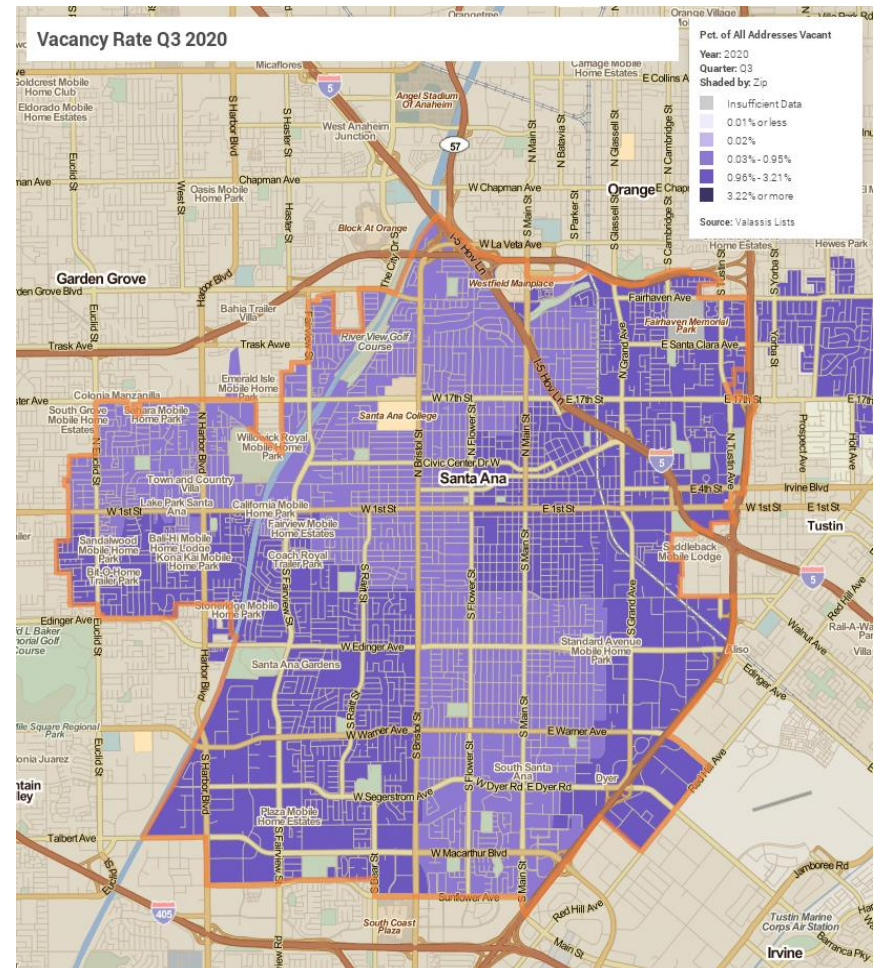


■ Subsidized Units ■ Total Housing Units

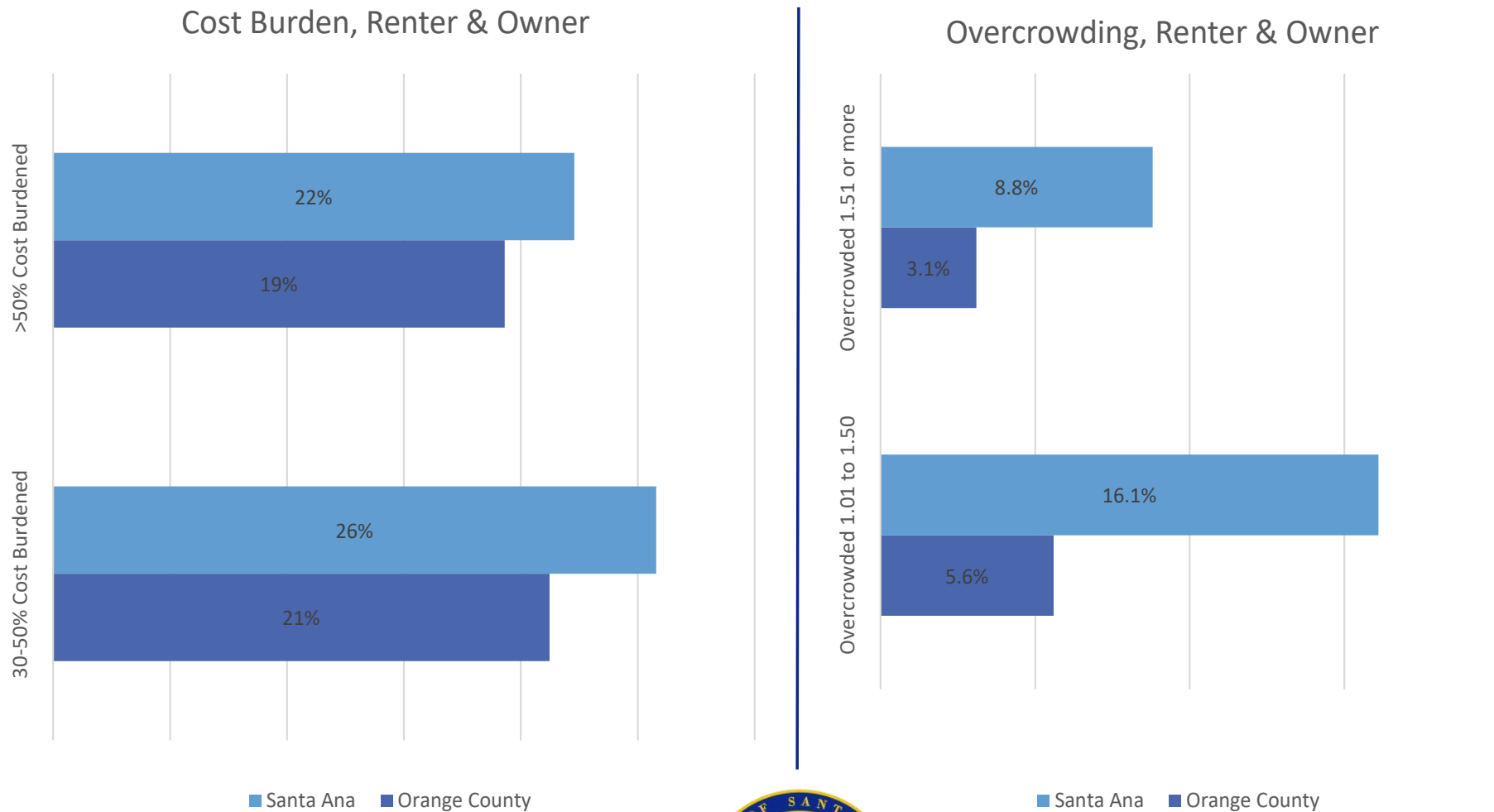


Demand is High

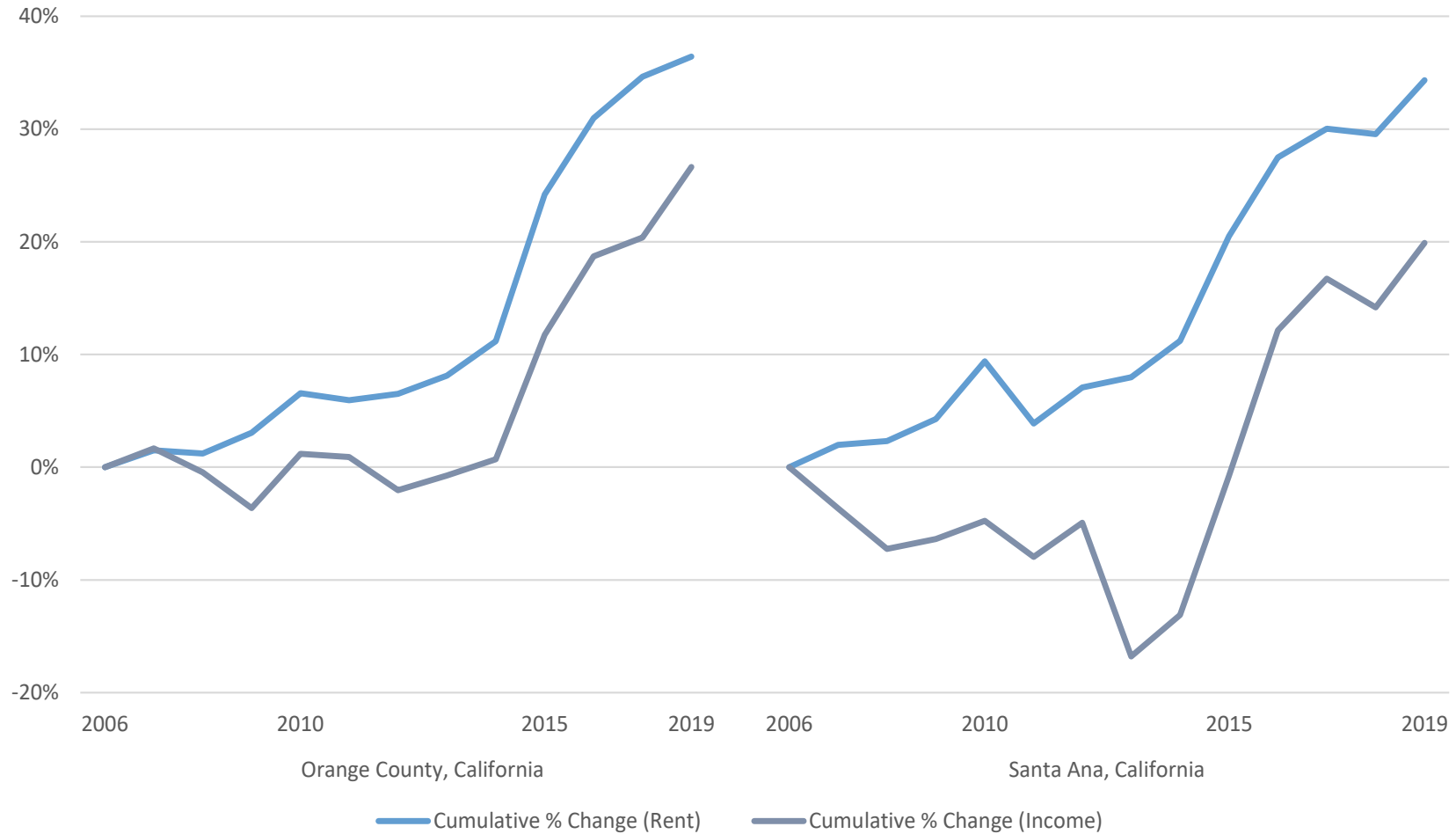
- Vacancy
 - City of Santa Ana
 - 1.45%, Q2 2017
 - 1.32%, Q3 2020
 - Orange County
 - 1.3%, Q2 2017
 - 1.25%, Q3 2020
- Section 8 Housing Choice Voucher Waiting List had 2,352 families on it, as of March 2021.



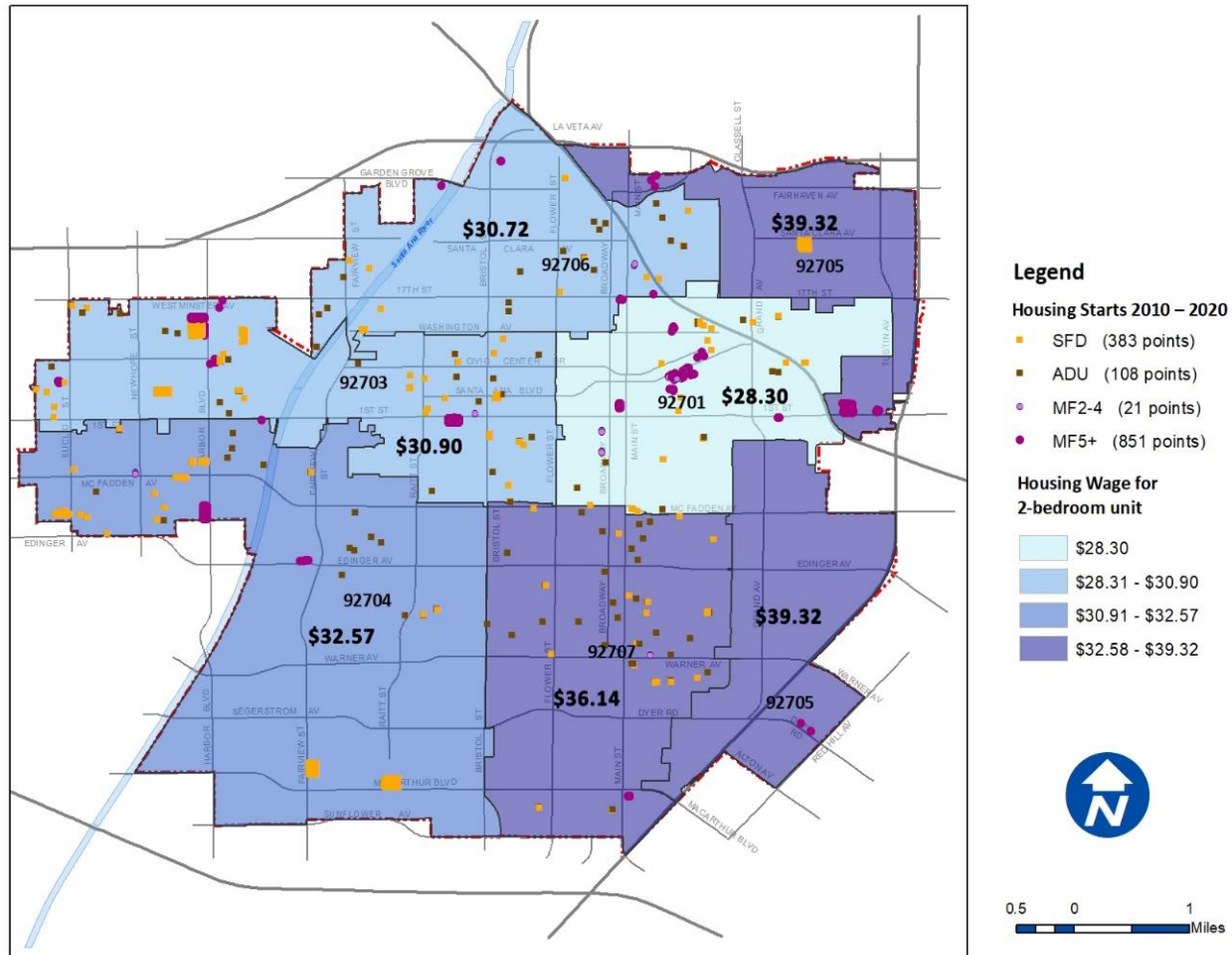
The Gap: Crowding & Cost Burden



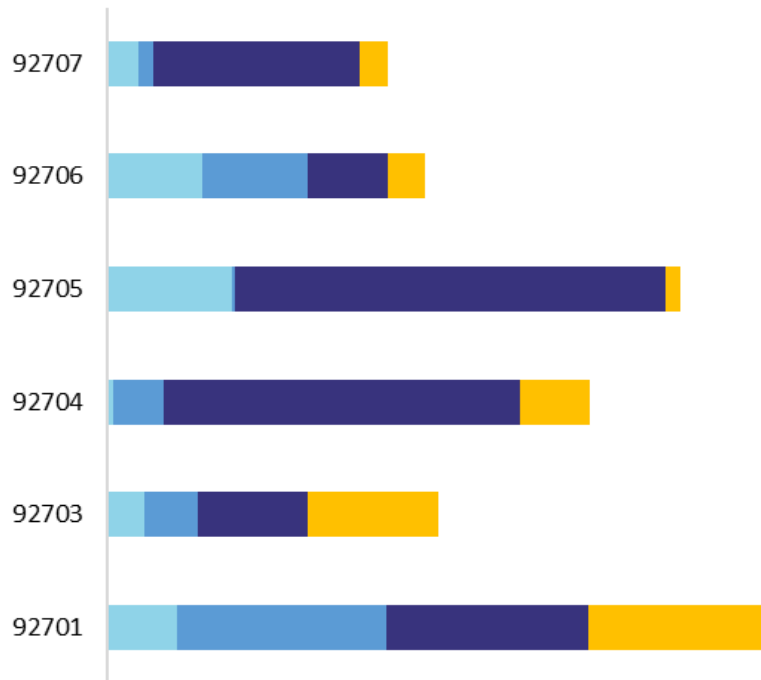
The Gap: Rent & Income



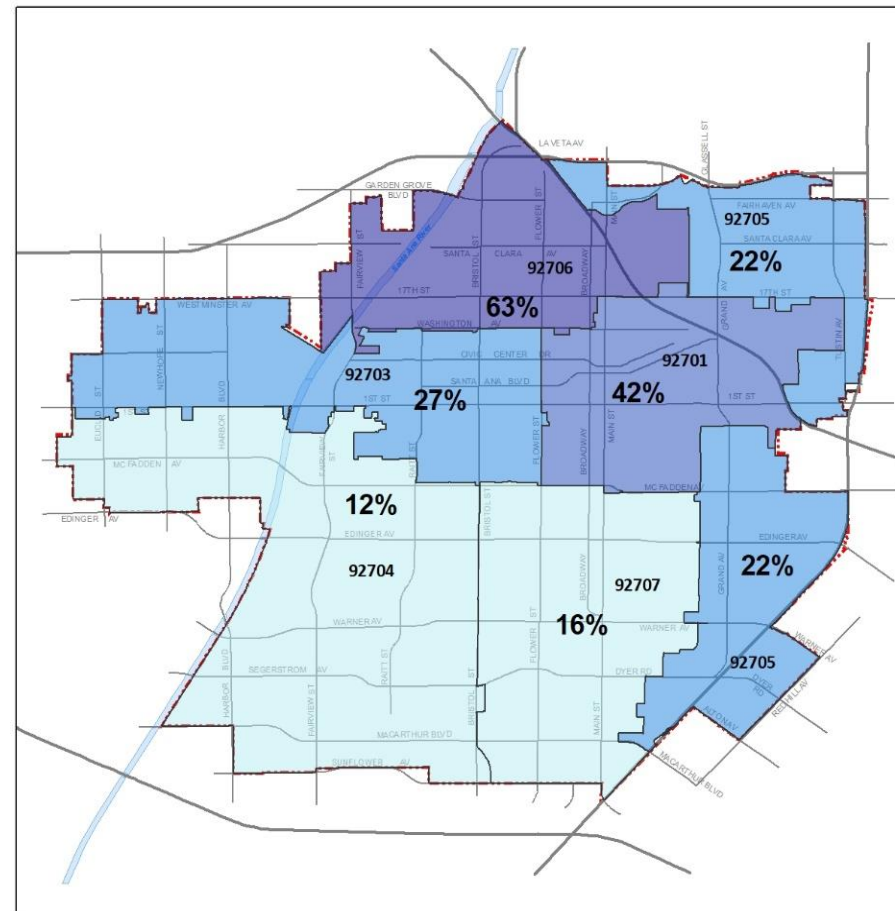
Housing Wage by Zip Code to Afford a 2-Bedroom Unit



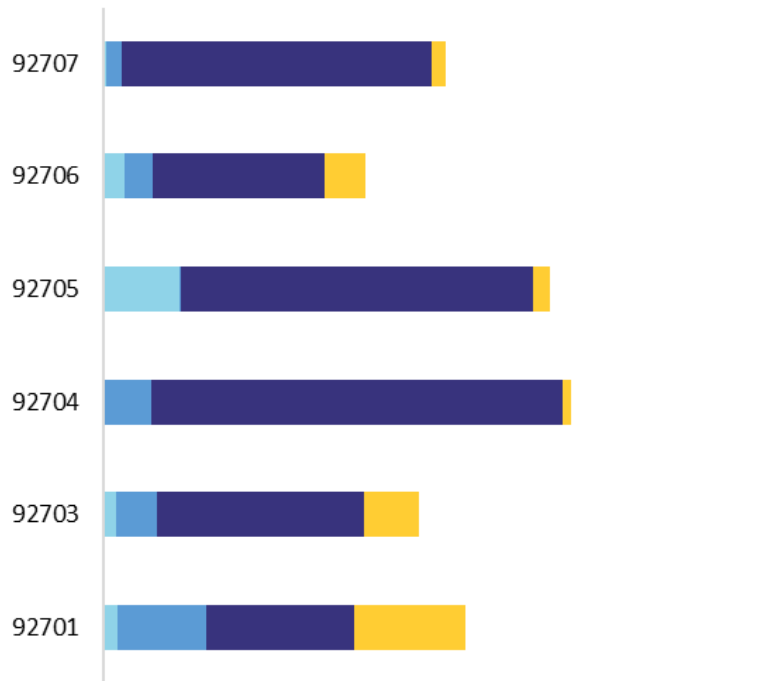
1-Bedroom Affordability for 2-Person Families, by Zip Code



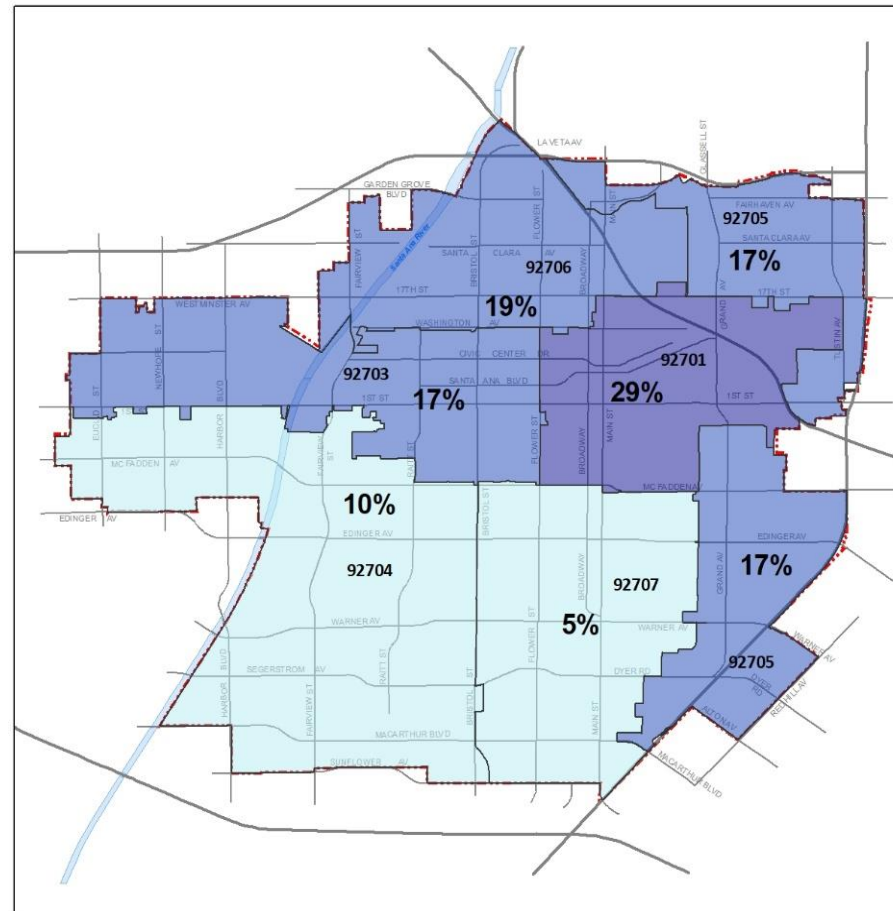
	92701	92703	92704	92705	92706	92707
Subsidized	285	151	20	512	389	128
NOAH	866	220	214	12	440	58
Unaffordable	838	455	1,470	1,780	330	854
Market + No rate data	729	540	290	66	155	117



2-Bedroom Affordability for 3-Person Families, by Zip Code



	92701	92703	92704	92705	92706	92707
Subsidized	59	52	-	315	89	16
NOAH	369	172	199	4	118	61
Unaffordable	607	856	1,699	1,456	710	1,281
Market + No rate data	462	226	36	70	164	55



Legend
Percent of Units Affordable

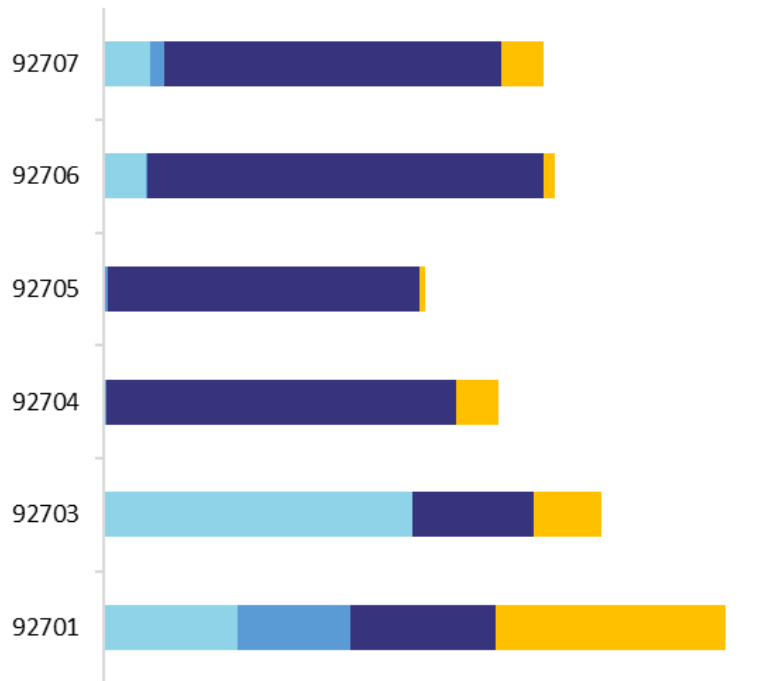
- 0.00% - 10.00%
- 10.01% - 15.00%
- 15.01% - 20.00%
- 20.00% +



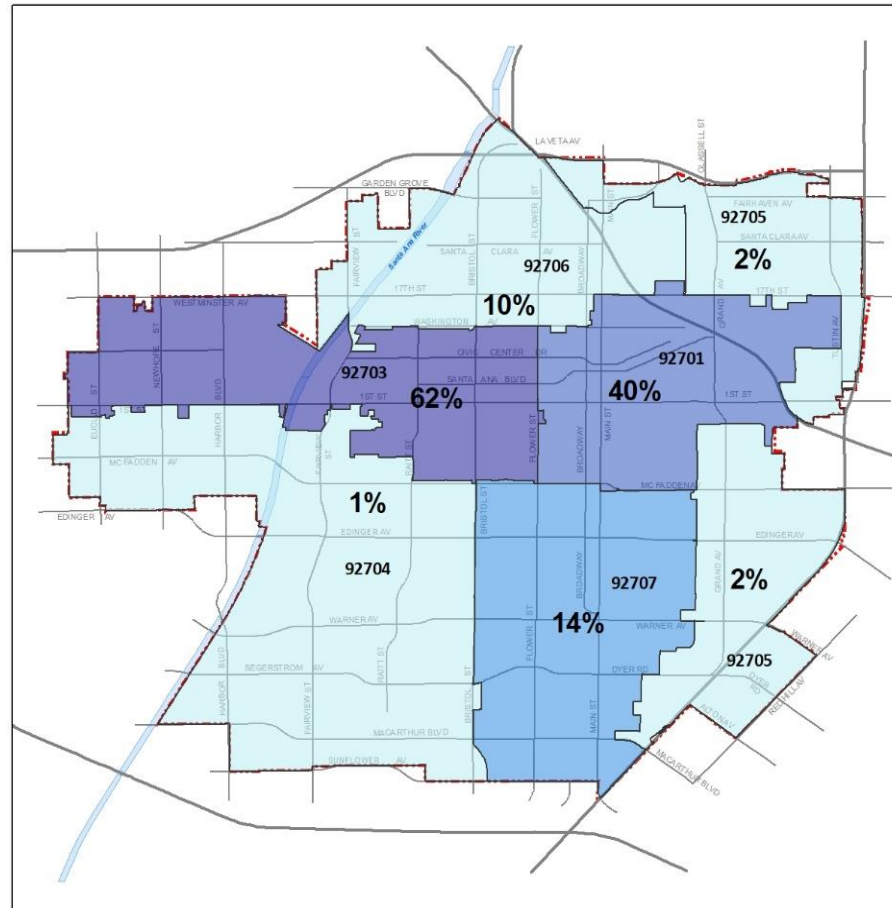
0.5 0 1 Miles



3-Bedroom Affordability for 5-Person Families, by Zip Code



	92701	92703	92704	92705	92706	92707
Subsidized	51	117	-	-	16	18
NOAH	43	-	1	2	1	5
Unaffordable	55	46	133	118	150	128
Market + No rate data	87	26	16	2	4	16



Legend
Percent of Units Affordable

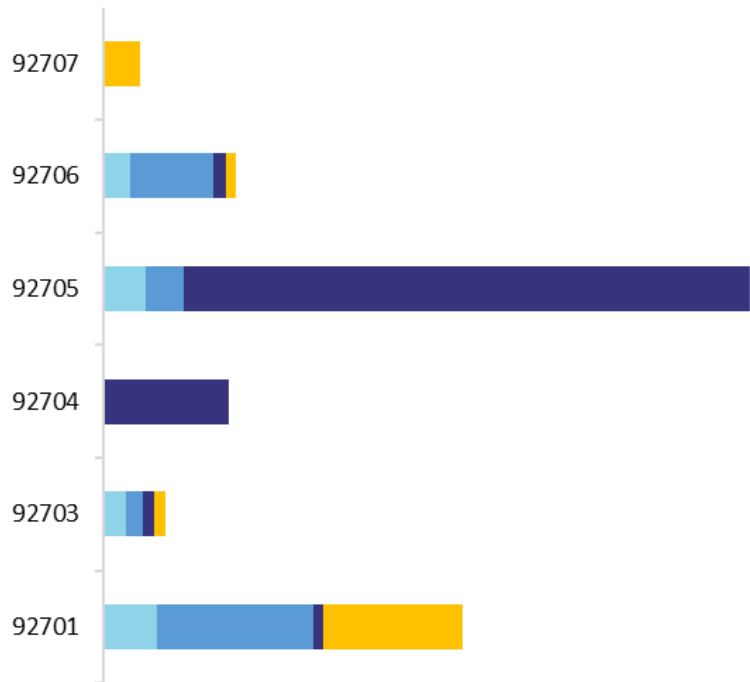
- 0.00% - 10.00%
- 10.01% - 25.00%
- 25.01% - 45.00%
- 45.00%+



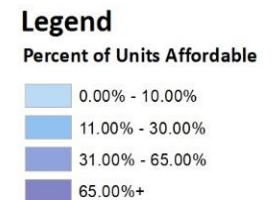
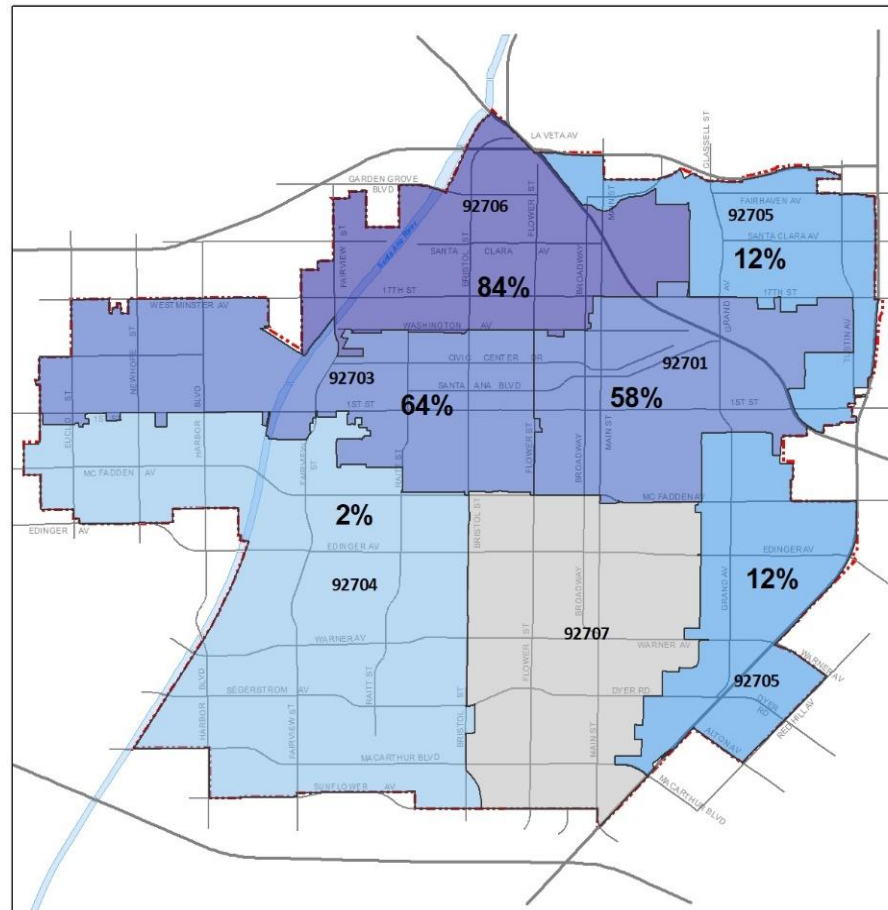
0.5 0 1 Miles



Studio Affordability for 2-Person Families, by Zip Code



	92701	92703	92704	92705	92706	92707
Subsidized	114	48	-	91	59	-
NOAH	332	38	4	80	176	1
Unaffordable	22	23	262	1,203	25	-
Market + No rate data	296	25	-	-	21	78





KEYSER MARSTON ASSOCIATES™
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:
Real Estate
Affordable Housing
Economic Development

BERKELEY
A. Jerry Keyser
Timothy C. Kelly
Debbie M. Kern
David Doezema
Kevin Feeney

LOS ANGELES
Kathleen H. Head
James A. Rabe
Gregory D. Soo-Hoo
Kevin E. Engstrom
Julie L. Romey
Tim R. Bretz

SAN DIEGO
Paul C. Marra

To: Judson Brown, Housing Division Manager
City of Santa Ana

From: Kathleen Head

Date: June 28, 2021

Subject: Housing Opportunity Ordinance: Updated In-Lieu Fee Analysis

At your request, Keyser Marston Associates, Inc. (KMA) updated our May 2020 financial analysis of the in-lieu fee that can be supported by residential development that is subject to the City of Santa Ana (City) Housing Opportunity Ordinance (Ordinance). The following memorandum describes the methodology and assumptions that KMA used in preparing the analysis.

The results of the following analysis can be summarized as follows:

Supportable In-Lieu Fee: Housing Opportunity Ordinance Update	
Rental Residential Development	\$17.10 to \$17.80/Sq. Ft. of Leasable Area
Ownership Housing Development	\$13.00/Sq. Ft. of Saleable Area

BACKGROUND

Existing Ordinance

The Ordinance was originally adopted by the City Council on November 28, 2011. The Ordinance has been amended multiple times; the most recent modifications were adopted in September 2020. The Ordinance imposes inclusionary housing requirements on residential development that embodies any of the following characteristics:

1. The proposed number of units exceeds the density permitted by the City's General Plan.
2. The proposed project could not be developed under the site's existing zoning standards.
3. The proposed project is a conversion of rental units to ownership condominium units.

Proposed Modifications to the Ordinance

The City Council is currently considering options for clarifying and expanding the Ordinance. The potential Ordinance terms that were evaluated in the KMA analysis can be described as follows:

1. The requirements would be triggered by residential projects citywide with 20 or more units that embody one of the following characteristics:
 - a. The proposed project requires a change in use to allow residential development or an increase the number of units above the density allowed by the City's General Plan, zoning standards, or mixed-use development standards, under one of the following criteria:
 - i. The modifications were made by the City to the General Plan, zoning standards, or mixed-use development standards at any time after November 28, 2011; or
 - ii. Modifications that are being requested by a private party following the adoption of the modified Ordinance.
 - b. The proposed project is a conversion of rental units to ownership condominium units.
2. The following income and affordability requirements would be applied to the incremental number of units proposed to be developed above the permitted residential density:

Income and Affordability Requirements		
	Ownership Housing Development	Rental Residential Development ¹
Moderate Income	10%	N/A
Low Income	N/A	15%
Very Low Income	N/A	10%
Extremely Low Income	N/A	5%

3. In general, projects that are subject to the modified Ordinance requirements would be allowed to fulfill the affordable housing requirements in one of the following ways:
 - a. Production of the affordable housing units on site within the proposed market rate project.
 - b. Off-site production of the affordable housing units.
 - c. Rehabilitation of existing units.
 - d. Payment of a fee in-lieu of producing the requisite number of affordable housing units.

4. The proposed project would be required to fulfill the affordable housing requirements within the proposed market rate project if the proposed project would cause the removal of existing units that are occupied by low and/or very low income households.

¹ The Developer would only be required to select one of the identified income categories to fulfill the production requirement.

Caveats

It is important to note that the modified Ordinance should be structured to ensure that the following standard are met:

1. Inclusionary housing requirements cannot be confiscatory or deprive an owner of a fair and reasonable return. Recognizing that the courts have not defined these terms, the City has some discretion in establishing evaluation parameters.
2. California Government Code Section 65583 (a) requires assessments of the potential and actual constraints being placed on the development of housing. Within that context, it is important for affordable housing programs to be set up to balance the interests of property owners and developers against the public benefit created by the production of affordable housing units.

The following KMA analysis is based on an evaluation of the affordable housing requirements that could be supported from an economic perspective. KMA translated the results of this analysis into order-of-magnitude estimates of the in-lieu fee amounts that could be charged on a financially feasible basis.

ANALYSIS ORGANIZATION

The KMA analysis is supported by the following Attachments, Appendices and Exhibits:

Attachment 1: Rental Residential Development

Summary Table

Appendix A: Rent Survey

Appendix B: Affordability Analyses

Exhibit I: Affordable Rent Calculations

Exhibit II: In-Lieu Fee Analysis

Attachment 2: Ownership Housing Development

Summary Table

Appendix A: Home Sales Survey

Appendix B: Affordability Analyses

Exhibit I: Affordable Sales Price Calculations

Exhibit II: In-Lieu Fee Analysis

RENTAL RESIDENTIAL DEVELOPMENT ANALYSIS

Affordable Housing Requirements

To assist in evaluating the supportable in-lieu fee for rental residential development KMA compiled information pertaining to the development scopes and rents for recently constructed projects. Based on this information KMA prepared conceptual pro forma analyses to identify the magnitude of the income and affordability requirements that could feasibly be imposed.

As proposed, the updated Ordinance would allow developers to select from one of the following affordable housing obligations:

1. A 15% set aside for low income households; or
2. A 10% set aside for very low income households; or
3. A 5% set aside for extremely low income households.

The California Government Code Sections 65915 – 65918 (Section 65915) density bonus can provide a valuable tool for mitigating the impact created by the imposition of inclusionary housing requirements. The results of the KMA financial analysis indicate that if the benefits provided by the Section 65915 density bonus can be effectively used, the proposed income and affordability requirements should not create a constraint to development.

The Section 65915 density bonus can only be used for projects that produce the statutorily set number of affordable housing units. It is not possible to pay a fee in lieu of producing the affordable units that generate the density bonus benefits. Therefore,

it is necessary to evaluate the in-lieu fee option in the context of rental residential projects that do not make use of the Section 65915 density bonus.

As can be seen in the Summary Table: Rental Residential Development Analysis, the conceptual analysis prepared by KMA indicates that a 5% to 6% affordable housing requirement could be feasibly imposed on rental residential developments that do not use the Section 65915 density bonus. KMA applied these percentages in our analysis of the in-lieu fee that could be supported by rental residential development.

Development Assumptions

The development scopes used in the rental residential development analyses can be described as follows:

1. The development site area is set at five acres.
2. The prototype project includes the following number of units:
 - a. The base case scenarios include 300 units.
 - b. The Section 65915 scenario includes a 35% density bonus, which results in a total of 405 units.
3. The prototype project includes the following unit mix:

Unit Mix: Prototype Project		
Number of Bedrooms	Average Unit Size (Sq. Ft.)	Percentage of Units
Studio	750	25%
1	900	35%
2	1,140	35%
3	1,445	5%
Weighted Average / Total	974	100%

- The parking provided for the prototype project complies with the City’s parking code.²

Rent Estimates

MARKET RATE UNITS

In June 2021, KMA surveyed rental residential projects in Santa Ana and Anaheim that have been built within the past five years and that received four or more stars in the CoStar quality ranking system. The survey is presented in Attachment 1 – Appendix A.

The purpose of this survey was to assist in estimating the currently achievable market rents for the types of projects likely to be constructed in Santa Ana. However, the characteristics of actual projects will vary to some degree from the prototypes.

The market rate monthly rent estimates that are used in this pro forma analysis are:

Projected Monthly Market Rate Rents – Rental Residential Development	
<u>Average Monthly Rent Per Unit</u>	
Studio Units	\$2,420
One-Bedroom Units	\$2,600
Two-Bedroom Units	\$2,830
Three-Bedroom Units	\$3,750
Weighted Average Rent Per Square Foot of Leasable Area	\$2.86

AFFORDABLE RENT CALCULATIONS

The Ordinance calls for “Affordable Rents” to be calculated using the methodology imposed by California Health and Safety Code (H&SC) Section 50053. The calculations are presented in Attachment 1 – Appendix B – Exhibit I, and the assumptions and results can be summarized as follows:

² The density bonus scenario used to test the on-site production requirement is based on the Section 65915 (p) provision that allows no guest parking requirement to be applied.

1. The household income information used in the calculations is based on 2021 income statistics for Orange County as a whole. The household incomes are published annually by the United States Department of Housing and Urban Development (HUD) and are distributed by the California Department of Housing and Community Development (HCD).
2. The household size appropriate for the unit is based on the H&SC Section 50052.5 standard, which is set at the number of bedrooms in the home plus one. This is not meant to be an occupancy cap; it is simply a benchmark used to create a consistent methodology for calculating the Affordable Rents.
3. The household incomes used in the Affordable Rent calculations are:³
 - a. Very low income at 50% of area median income (AMI); and
 - b. Low income at 60% of AMI.
4. Thirty percent (30%) of defined household income is allocated to housing expenses.
5. KMA's calculations are based on the assumption that the tenants will be required to pay for gas heating, cooking and water heating; and basic electric services. The December 1, 2020 Orange County Housing Authority utilities allowances were applied in this analysis.

The resulting Affordable Rents are presented in the following table:

³ The percentages of the AMI used in the Affordable Rent calculations are benchmarks established by H&SC 50053. The incomes limit used to qualify households to occupy very low income units is defined in H&SC 50105, and the low income limit is defined in H&SC 50079.5. These limits are meant to reflect 80% and 50% of AMI, respectively. However, HUD adjusts the income levels for Orange County to account for conditions that warrant special consideration. The current income qualification limits exceed 80% and 50% of AMI, respectively.

Affordable Rent Calculations – Rental Residential Development		
	Very Low Income	Low Income
Studio Units		
Maximum Monthly Housing Cost	\$934	\$1,121
(Less) Monthly Utility Allowance	(58)	(58)
Affordable Rent	\$876	\$1,063
One-Bedroom Units		
Maximum Monthly Housing Cost	\$1,067	\$1,280
(Less) Monthly Utility Allowance	(67)	(67)
Affordable Rent	\$1,000	\$1,213
Two-Bedroom Units		
Maximum Monthly Housing Cost	\$1,201	\$1,441
(Less) Monthly Utility Allowance	(90)	(90)
Affordable Rent	\$1,111	\$1,351
Three-Bedroom Units		
Maximum Monthly Housing Cost	\$1,344	\$1,601
(Less) Monthly Utility Allowance	(114)	(114)
Affordable Rent	\$1,220	\$1,487

Supportable In-Lieu Fees

KMA estimated the supportable in-lieu fee amounts for rental residential projects based on the “Affordability Gaps” associated with the on-site development of affordable housing units within market rate rental residential projects. The Affordability Gaps for rental residential developments are estimated in Attachment 1 - Appendix B – Exhibit II using the following methodology:

1. The differences between the estimated achievable market rate monthly rents and the defined Affordable Rents are calculated for studio, one-bedroom, two-bedroom and three-bedroom units.
2. KMA assumed that the property taxes for projects that include designated affordable housing units would be based on a lower assessed value due to the reduction in net operating income that would be generated by the project. KMA deducted this lower property tax expense from the estimated rent difference.
3. The estimated annual Affordability Gap is equal to the net rent difference minus the property tax savings.
4. The net Affordability Gaps are estimated by capitalizing the annual Affordability Gaps at the threshold returns derived from the pro forma analysis of a market rate development.
5. The net Affordability Gaps are translated into the supportable in-lieu fees per affordable unit and per square foot of leasable area.

The results of the in-lieu fee analysis are summarized in the following table:

Supportable In-Lieu Fees – Rental Residential Development		
In-Lieu Fee	Very Low Income Alternative	Low Income Alternative
Per Affordable Unit	\$333,000	\$289,000
Per Total Unit in the Project	\$16,700	\$17,300
Per Sq. Ft. of Leasable Area	\$17.10	\$17.80

OWNERSHIP HOUSING DEVELOPMENT ANALYSIS

Affordable Housing Requirements

The current affordable housing requirement for ownership housing development requires 10% of the units in a project that is subject to the modified Ordinance to be sold to moderate income households. As can be seen in the Summary Table: Ownership

Housing Development Analysis, the conceptual analysis prepared by KMA indicates this requirement could be supported under current conditions. As such, KMA applied this percentage in our analysis of the in-lieu fee that could be supported by ownership housing development.

To assist in evaluating the financial characteristics of ownership housing development, KMA compiled information pertaining to the development scopes and sales prices for recently constructed projects. Based on this information KMA prepared conceptual pro forma analyses to identify the magnitude of the income and affordability requirements that could feasibly be imposed.

Development Assumptions

For the following reasons the prototype ownership housing development created by KMA for the pro forma analysis is a condominium project:

1. For single family homes, the average gap between the market rate price and the “Affordable Sales Price” is in the range of \$600,000 for moderate income households.
2. Given the disparate characteristics of the new housing inventory in Santa Ana, and that the same in-lieu fee schedule will be applied to all ownership housing development, it is KMA’s opinion that it is more equitable to base the in-lieu fee on the Affordability Gap associated with condominium development.

As can be seen in the Summary Table: Ownership Housing Development Analysis, the development scope applied in the prototype analysis consists of the following:

1. The development site is set at one acre of land area.
2. The prototype project includes 35 units.
3. The units in the project included a weighted average unit size of 1,720 square feet of saleable area.
4. The parking provided complies with the City’s parking code requirements.

Sales Price Estimates

MARKET RATE UNITS

In June 2021, KMA surveyed ownership housing projects in the Santa Ana vicinity that have been built within the past five years (Attachment 2 – Appendix A). It is important to note that the prototype analysis is intended to reflect average or typical ownership housing projects rather than any specific project. It should be expected that specific projects will vary to some degree from the prototype.

The average sales prices used in the pro forma analysis are set at the following amounts:

Projected Market Rate Sales Prices – Ownership Housing Development	
Three-Bedroom Units	\$690,000
Four-Bedroom Units	\$775,000
Weighted Average Price Per Square Foot of Saleable Area	\$417

AFFORDABLE SALES PRICE CALCULATIONS

The Ordinance calls for Affordable Sales Prices to be set using the H&SC Section 50052.5 calculation methodology. The calculations are presented in Attachment 2 – Appendix B – Exhibit I, and the assumptions and results can be summarized as follows:

1. The household income information used in the calculations is based on 2021 income statistics distributed by HCD.
2. The household size appropriate for the unit is based on the H&SC Section 50052.5 standard of the number of bedrooms in the home plus one. As was the case in the Affordable Rent calculations, this is a benchmark, not an occupancy cap.

3. The household incomes used in the Affordable Sales Price calculations are set at 110% of AMI.⁴
4. Thirty-five percent (35%) of the benchmark household incomes are allotted to housing expenses.
5. Housing expenses are comprised of the following:
 - a. Household utilities costs, which are based on allowances that were published by the Orange County Housing Authority on December 1, 2020;
 - b. Homeowners association dues and homeowners insurance premiums;
 - c. Maintenance costs;
 - d. Property taxes; and
 - e. Mortgage debt service.

The supportable mortgage amount is estimated based on the following:

1. The amount of income available for mortgage debt service after the payment of all the other housing expenses;
2. The application of typical lender underwriting standards; and
3. The current market interest rate plus an upward adjustment to reflect the potential for interest rates to increase between the commencement of construction and the ultimate sale of the affordable unit.

The Affordable Sales Price is equal to the supportable mortgage plus a benchmark down payment. The benchmark down payment is only used for the purpose setting the Affordable Sales Price.⁵

⁴ The percentages of the AMI used in the Affordable Rent calculations are benchmarks established by H&SC 50052.5. The incomes limit used to qualify households to occupy moderate income units is defined in H&SC 50093.

⁵ The actual down payment amount can vary widely, but it does not impact the Affordable Sales Price. Instead, the actual down payment contributed by a home buyer is subtracted from the defined Affordable Sales Price to establish the allowable first trust deed mortgage amount.

Estimating the achievable Affordable Sales Prices for moderate income households is complicated by the fact that KMA believes that the Affordable Sales Prices are too close to the projected market rate sales prices to be marketable when irrevocable resale controls are imposed:

1. It is reasonable to assume that a home buyer will not purchase a home that is subject to long-term covenants unless there they receive a substantial discount from the unrestricted market rate sales price.
2. In KMA’s experience the required discount falls within the range of 30%.
3. When a 30% discount is applied to the projected market rate sales prices, the achievable prices for moderate income units are estimated as follows:
 - a. The achievable price for three-bedroom units is estimated at \$483,000.
 - b. The achievable price for four-bedroom units is estimated at \$542,500.

The resulting Affordability Gaps are estimated as follows:

Estimated Affordability Gaps – Ownership Housing Development		
Sales Prices	Three-Bedroom Units	Four-Bedroom Units
Market Rate Sales Price	\$690,000	\$775,000
Affordable Sales Price	\$483,000	\$542,500
Affordability Gap Per Unit	\$207,000	\$232,500

Supportable In-Lieu Fees

As shown in Attachment 2 – Appendix B – Exhibit II, KMA estimates the supportable in-lieu fees at the following amounts:

Supportable In-Lieu Fees	
Ownership Housing Development	
In-Lieu Fee	10% Moderate Income Units
Per Affordable Unit	\$215,000
Per Total Unit in the Project	\$21,500
Per Sq. Ft. of Saleable Area	\$13.00

SUMMARY

It is important to set the in-lieu fee amounts at defensible amounts for the following reasons:

1. The courts have ruled that inclusionary housing requirements cannot be confiscatory or deprive an owner of a fair and reasonable return;
2. California Government Code Section 65583 (a) prohibits jurisdictions from imposing requirements that constrain the development of housing; and
3. To maximize the production of housing, affordable housing programs should be set up to balance the interests of property owners and developers against the public benefit created by the production of affordable housing units.

Based on the results of the KMA financial analysis, the supportable in-lieu fees are estimated as follows:

Supportable In-Lieu Fee: Housing Opportunity Ordinance Update	
Rental Residential Development	\$17.10 to \$17.80/Sq. Ft. of Leasable Area
Ownership Housing Development	\$13.00/Sq. Ft. of Saleable Area

ATTACHMENT 1

**RENTAL RESIDENTIAL DEVELOPMENT
HOO: IN-LIEU FEE ANALYSIS
SANTA ANA, CALIFORNIA**

SUMMARY TABLE

RENTAL RESIDENTIAL DEVELOPMENT
HOO: IN-LIEU FEE ANALYSIS
SANTA ANA, CALIFORNIA

	MARKET RATE ALTERNATIVE	VERY LOW INCOME ALTERNATIVE	LOW INCOME ALTERNATIVE	VERY LOW INCOME DENSITY BONUS ALTERNATIVE
I. Project Description				
A. Site Area (Sf)	217,800	217,800	217,800	217,800
B. Total Units	300	300	300	450
C. Density (Units/Acre)	60	60	60	90
D. Unit Mix - %				
Studio Units	75	75	75	113
One-Bedroom Units	105	105	105	158
Two-Bedroom Units	105	105	105	158
Three-Bedroom Units	15	15	15	23
Total Units	300	300	300	452
E. Gross Building Area (Sf)	343,676	343,676	343,676	343,676
F. Number of Parking Spaces Provided	510	510	510	633
Parking Spaces Per Unit	1.70	1.70	1.70	1.41
II. Development Costs				
A. Property Acquisition Costs	\$13,068,000	\$13,068,000	\$13,068,000	\$13,068,000
Per Square Foot of Land Area	\$60	\$60	\$60	\$60
B. Direct Costs	\$94,230,000	\$94,230,000	\$94,230,000	\$134,873,000
Per Square Foot of GBA	\$274	\$274	\$274	\$392
C. Indirect + Financing Costs	\$30,965,000	\$31,131,000	\$31,131,000	\$44,780,000
As a % of Direct Costs	33%	33%	33%	33%
Total Development Cost	\$138,263,000	\$138,429,000	\$138,429,000	\$192,721,000
Per Square Foot of GBA	\$402	\$403	\$403	\$561
III. Stabilized Net Operating Income	\$6,413,000	\$6,179,000	\$6,170,000	\$8,969,300
IV. Return on Total Investment	4.6%	4.5%	4.5%	4.7%
V. Supportable Inclusionary Housing Requirement	¹	5%	6%	10%
VI. In-Lieu Fee Per Per Square Foot of Leasable Area		\$17.10	\$17.80	NA

¹ Based on the total number of units in the project.

APPENDIX A

RENTAL RESIDENTIAL DEVELOPMENT

RENT SURVEY

HOO: IN-LIEU FEE ANALYSIS

SANTA ANA, CALIFORNIA

APPENDIX A

RENT SURVEY
 4 STAR PROPERTIES CONSTRUCTED AFTER 2010
 HOO: IN-LIEU FEE ANALYSIS
 SANTA ANA, CALIFORNIA

Name	Address		# of Units	Unit Size (SF)	Average Effective Rent		Year Built
					Total	Per SF	
Studio Units							
888 on Main	888 N Main St	Santa Ana	103	503	\$1,807	\$3.59	2021
The Charlie	3630 Westminster Ave	Santa Ana	23	540	\$2,013	\$3.73	2019
Artist Village Apartments	300-301 W 2nd St	Santa Ana	14	555	\$2,666	\$4.80	2015
Vivere Flats	1725 S Auburn Way	Anaheim	58	557	\$1,961	\$3.52	2017
Jefferson Edge at Platinum Park	1921 Union St	Anaheim	28	579	\$1,778	\$3.07	2019
Jefferson Rise at Platinum Park	1910 S Union St	Anaheim	61	600	\$2,044	\$3.41	2019
Core	1815 S Westside Dr	Anaheim	25	604	\$2,133	\$3.53	2018
The George	2211 E Orangewood Ave	Anaheim	30	608	\$2,360	\$3.88	2017
Gateway II	2100 E Orangewood Ave	Anaheim	25	618	\$1,874	\$3.03	2016
Broadstone Archive	1901 E. Dyer Road	Santa Ana	100	780	\$2,513	\$3.22	2020
Broadstone Arden	1951 E Dyer Road	Santa Ana	976	816	\$2,548	\$3.12	2020
Vivere Lofts	1331 Katella Ave	Anaheim	30	1,080	\$2,650	\$2.45	2012
	Minimum			503	\$1,778	\$2.45	
	Maximum			1,080	\$2,666	\$4.80	
	Weighted Average			755	\$2,408	\$3.22	
One-Bedroom Units							
Artist Village Apartments	300-301 W 2nd St	Santa Ana	77	653	\$1,833	\$2.81	
Jefferson Edge at Platinum Park	1921 Union St	Anaheim	161	713	\$1,972	\$2.77	
The Marke	100 E MacArthur Blvd	Santa Ana	158	749	\$2,381	\$3.18	2014
888 on Main	888 N Main St	Santa Ana	45	751	\$1,963	\$2.61	
The Charlie	3630 Westminster Ave	Santa Ana	90	759	\$2,244	\$2.96	
Prisma	301 Jeanette Ln	Santa Ana	111	762	\$2,227	\$2.92	2018
Core	1815 S Westside Dr	Anaheim	218	766	\$2,255	\$2.94	
Vivere Flats	1725 S Auburn Way	Anaheim	102	770	\$2,274	\$2.95	
Nineteen01	1901 E 1st St	Santa Ana	117	776	\$1,937	\$2.50	2016
The George	2211 E Orangewood Ave	Anaheim	184	776	\$2,724	\$3.51	
Market Lofts DTSA	401 N Bush St	Santa Ana	24	800	\$2,595	\$3.24	2021
Jefferson Rise at Platinum Park	1910 S Union St	Anaheim	174	835	\$2,364	\$2.83	
Broadstone Archive	1901 E. Dyer Road	Santa Ana	103	879	\$2,772	\$3.15	
Gateway II	2100 E Orangewood Ave	Anaheim	220	892	\$2,241	\$2.51	
Broadstone Arden	1951 E Dyer Road	Santa Ana	141	915	\$2,738	\$2.99	
Vivere Lofts	1331 Katella Ave	Anaheim	30	919	\$2,273	\$2.47	
Stadium House	2100 E Katella Ave	Anaheim	80	997	\$2,295	\$2.30	2020
	Minimum			653	\$1,833	\$2.30	
	Maximum			997	\$2,772	\$3.51	
	Weighted Average			804	\$2,316	\$2.89	

APPENDIX A

RENT SURVEY
 4 STAR PROPERTIES CONSTRUCTED AFTER 2010
 HOO: IN-LIEU FEE ANALYSIS
 SANTA ANA, CALIFORNIA

Name	Address		# of Units	Unit Size (SF)	Average Effective Rent		Year Built
					Total	Per SF	
Two-Bedroom Units							
Artist Village Apartments	300-301 W 2nd St	Santa Ana	106	994	\$2,445	\$2.46	
Prisma	301 Jeanette Ln	Santa Ana	71	1,017	\$2,684	\$2.64	
The Charlie	3630 Westminster Ave	Santa Ana	96	1,031	\$2,588	\$2.51	
Vivere Flats	1725 S Auburn Way	Anaheim	84	1,046	\$2,989	\$2.86	
Jefferson Rise at Platinum Park	1910 S Union St	Anaheim	136	1,078	\$2,765	\$2.56	
Jefferson Edge at Platinum Park	1921 Union St	Anaheim	156	1,120	\$2,588	\$2.31	
The Marke	100 E MacArthur Blvd	Santa Ana	128	1,132	\$3,012	\$2.66	
Nineteen01	1901 E 1st St	Santa Ana	118	1,135	\$2,533	\$2.23	
Broadstone Archive	1901 E. Dyer Road	Santa Ana	183	1,146	\$3,229	\$2.82	
Core	1815 S Westside Dr	Anaheim	157	1,154	\$2,843	\$2.46	
The George	2211 E Orangewood Ave	Anaheim	116	1,165	\$3,323	\$2.85	
Broadstone Arden	1951 E Dyer Road	Santa Ana	97	1,170	\$3,136	\$2.68	
Gateway II	2100 E Orangewood Ave	Anaheim	150	1,215	\$2,780	\$2.29	
Vivere Lofts	1331 Katella Ave	Anaheim	32	1,315	\$2,888	\$2.20	
Stadium House	2100 E Katella Ave	Anaheim	162	1,316	\$2,428	\$1.84	
	Minimum			994	\$2,428	\$1.84	
	Maximum			1,316	\$3,323	\$2.86	
	Weighted Average			1,139	\$2,814	\$2.48	
Three-Bedroom Units							
The Charlie	3630 Westminster Ave	Santa Ana	19	1,238	\$3,519	\$2.84	
Jefferson Rise at Platinum Park	1910 S Union St		5	1,350	\$3,604	\$2.67	
Jefferson Edge at Platinum Park	1921 Union St		26	1,356	\$3,288	\$2.42	
The Marke	100 E MacArthur Blvd	Santa Ana	14	1,374	\$3,784	\$2.75	
The George	2211 E Orangewood Ave		10	1,445	\$4,430	\$3.07	
Broadstone Archive	1901 E. Dyer Road	Santa Ana	17	1,527	\$4,243	\$2.78	
Nineteen01	1901 E 1st St	Santa Ana	29	1,598	\$3,545	\$2.22	
Broadstone Arden	1951 E Dyer Road	Santa Ana	7	1,669	\$4,485	\$2.69	
	Minimum			1,238	\$3,288	\$2.22	
	Maximum			1,669	\$4,485	\$3.07	
	Weighted Average			1,443	\$3,732	\$2.60	

Source: CoStar; June 2021.

APPENDIX B

**RENTAL RESIDENTIAL DEVELOPMENT
AFFORDABILITY ANALYSES
HOO: IN-LIEU FEE ANALYSIS
SANTA ANA, CALIFORNIA**

APPENDIX B - EXHIBIT I

AFFORDABLE RENT CALCULATIONS
 2021 INCOME STANDARDS
 RENTAL RESIDENTIAL DEVELOPMENT
 HOO: IN-LIEU FEE ANALYSIS
 SANTA ANA, CALIFORNIA

		Studio Units	One-Bedroom Units	Two-Bedroom Units	Three- Bedroom Units
I. <u>General Assumptions</u>					
Area Median Income (AMI)	1	\$74,700	\$85,350	\$96,050	\$106,700
Monthly Utilities Allowance	2	\$58	\$67	\$90	\$114
II. <u>Affordable Rent Calculations</u>	3				
A. <u>Very Low Income - Rent Based on 50% AMI</u>					
Benchmark Annual Household Income		\$37,350	\$42,675	\$48,025	\$53,350
Percentage of Income Allotted to Housing Expenses		30%	30%	30%	30%
Monthly Income Available for Housing Expenses		\$934	\$1,067	\$1,201	\$1,334
(Less) Monthly Utilities Allowance		(58)	(67)	(90)	(114)
Maximum Allowable Rent		\$876	\$1,000	\$1,111	\$1,220
B. <u>Low Income - Rent Based on 60% AMI</u>					
Benchmark Annual Household Income		\$44,820	\$51,210	\$57,630	\$64,020
Percentage of Income Allotted to Housing Expenses		30%	30%	30%	30%
Monthly Income Available for Housing Expenses		\$1,121	\$1,280	\$1,441	\$1,601
(Less) Monthly Utilities Allowance		(58)	(67)	(90)	(114)
Maximum Allowable Rent		\$1,063	\$1,213	\$1,351	\$1,487

¹ Based on the 2021 Orange County household incomes published by the California Housing & Community Development Department (HCD). The benchmark household size is set at the number of bedrooms in the unit plus one.

² Based on the Orange County Housing Authority utility allowance schedule effective as of 12/1/20. Assumes: Gas Heating, Gas Cooking, and Gas Water Heater; and Basic Electric.

³ Based on the California Health & Safety Code Section 50053 calculation methodology.

APPENDIX B - EXHIBIT II

IN-LIEU FEE ANALYSIS
 RENTAL RESIDENTIAL DEVELOPMENT
 HOO: IN-LIEU FEE ANALYSIS
 SANTA ANA, CALIFORNIA

	Very Low Income	Low Income
I. Rent Difference	1	
A. Studio Units		
Market Rate Units	\$2,420	\$2,420
Affordable Units	876	1,063
Difference	\$1,544	\$1,358
B. One-Bedroom Units		
Market Rate Units	\$2,600	\$2,600
Affordable Units	1,000	1,213
Difference	\$1,600	\$1,387
C. Two-Bedroom Units		
Market Rate Units	\$2,830	\$2,830
Affordable Units	1,111	1,351
Difference	\$1,719	\$1,479
D. Three-Bedroom Units		
Market Rate Units	\$3,750	\$3,750
Affordable Units	1,220	1,487
Difference	\$2,530	\$2,264
II. Distribution of Total Units	2	
Studio Units	25%	25%
One-Bedroom Units	35%	35%
Two-Bedroom Units	35%	35%
Three-Bedroom Units	5%	5%
III. Annual Affordability Gap Per Inclusionary Unit	\$20,093	\$17,468
Less: Property Tax Difference	3 (4,660)	(4,050)
Annual Affordability Gap Per Inclusionary Unit	\$15,433	\$13,418
IV. Net Affordability Gap Per Inclusionary Unit	4 \$333,000	\$289,000
V. In-Lieu Fee		
Per Total Unit in the Project	5 \$16,700	\$17,300
Per Square Foot of Leasable Area	6 \$17.10	\$17.80

¹ The market rents are drawn from the pro forma analyses (See APPENDIX A - EXHIBIT I). The Affordable Rents are based on the H&SC Section 50053 calculation methodology. (See APPENDIX B - EXHIBIT I).

² Based on the unit mix distribution applied in the pro forma analysis.

³ Based on the rent differential capitalized at a 5.0% rate to establish the value, and a 1.16% property tax rate.

⁴ Based on the Annual Affordability Gap Per Inclusionary Unit capitalized at the Threshold Return on Total Investment.

⁵ Based on the Affordability Gap Per Inclusionary Unit multiplied times the Inclusionary Housing Percentage.

⁶ Based on the Affordability Gap Per Inclusionary Unit divided by the average leasable area per unit.

ATTACHMENT 2

**OWNERSHIP HOUSING DEVELOPMENT
HOO: IN-LIEU FEE ANALYSIS
SANTA ANA, CALIFORNIA**

SUMMARY TABLE

**OWNERSHIP HOUSING DEVELOPMENT
HOO: IN-LIEU FEE ANALYSIS
SANTA ANA, CALIFORNIA**

	MARKET RATE ALTERNATIVE	MODERATE INCOME
I. <u>Project Description</u>		
A. Site Area (Sf)	43,560	43,560
B. Total Units	36	36
C. Density (Units/Acre)	36	36
D. Total Units: (Five-Bedroom Units)	0	0
E. Gross Building Area (Sf)	68,707	68,707
F. Number of Parking Spaces Provided	128	128
II. <u>Development Costs</u>		
A. Property Acquisition Costs	\$2,614,000	\$2,614,000
Per Square Foot of Land Area	\$60	\$60
B. Direct Costs	\$14,423,000	\$14,423,000
Per Square Foot of GBA	\$210	\$210
C. Indirect + Financing Costs	\$5,417,000	\$5,343,000
As a % of Direct Costs	38%	37%
Total Development Costs	\$22,454,000	\$22,380,000
Per Unit	\$624,000	\$622,000
III. Net Revenue	\$24,357,000	\$23,551,000
IV. <u>Developer Profit</u>	\$1,903,000	\$1,171,000
As a % of Total Development Cost	8.5%	5.2%
V. Supportable Inclusionary Housing Requirements		10%
VI. In-Lieu Fee Per Square Foot of Saleable Area		\$13.00

APPENDIX A

**HOME SALES SURVEY
OWNERSHIP HOUSING DEVELOPMENT
HOO: IN-LIEU FEE ANALYSIS
SANTA ANA, CALIFORNIA**

APPENDIX A - EXHIBIT I

HOME SALES SURVEY

UNITS CONSTRUCTED AFTER 2010

HOO: IN-LIEU FEE ANALYSIS

SANTA ANA, CALIFORNIA

Address	City	Zip Code	Unit Size (SF)	Sales Price		Year Built
				Total	Per SF	
I. Condominium & Townhome Units						
Three-Bedroom Units						
1434 N Harbor Blvd #1	Santa Ana	92703	1,528	\$640,000	\$419	2018
607 N Garfield St	Santa Ana	92701	1,354	\$576,500	\$426	2014
16042 Newhope Way	Fountain Valley	92708	1,399	\$583,000	\$417	2011
1016 Hope Ln	North Tustin	92705	1,688	\$840,000	\$498	2018
1551 W Walnut St #51	Santa Ana	92703	1,513	\$550,000	\$364	2018
1570 W 1ST St #15	Santa Ana	92703	1,513	\$560,000	\$370	2018
1452 N Harbor Blvd #3	Santa Ana	92703	1,740	\$570,000	\$328	2018
484 N Porter St	Santa Ana	92701	1,358	\$627,000	\$462	2014
1060 S Harbor Blvd #6	Santa Ana	92704	1,598	\$610,000	\$382	2017
806 E Santa Ana Blvd	Santa Ana	92701	1,641	\$600,000	\$366	2014
1416 N Harbor Blvd #4	Santa Ana	92703	1,528	\$660,000	\$432	2018
1310 N Harbor Blvd	Santa Ana	92703	2,195	\$740,000	\$337	2017
1060 S Harbor Blvd #2	Santa Ana	92704	1,588	\$635,000	\$400	2017
609 N Garfield St	Santa Ana	92701	1,461	\$585,000	\$400	2014
Minimum			1,354	\$550,000	\$328	2011
Maximum			2,195	\$840,000	\$498	2018
Average			1,579	\$626,893	\$397	2016
Four-Bedroom Units						
4256 W 5th St	Santa Ana	92703	1,892	\$690,000	\$365	2016
1222 N Harbor Blvd	Santa Ana	92703	2,135	\$720,000	\$337	2017
1440 N Harbor Blvd #3	Santa Ana	92703	1,748	\$673,000	\$385	2018
1080 S Harbor Blvd #7	Santa Ana	92704	1,879	\$630,000	\$335	2017
306 E Jeanette Ln	Santa Ana	92705	2,185	\$635,000	\$291	2010
3336 S Alton Ct	Santa Ana	92704	2,360	\$880,000	\$373	2011
Minimum			1,748	\$630,000	\$291	2010
Maximum			2,360	\$880,000	\$385	2018
Average			2,033	\$704,667	\$347	2015

APPENDIX A - EXHIBIT I

HOME SALES SURVEY
 UNITS CONSTRUCTED AFTER 2010
 HOO: IN-LIEU FEE ANALYSIS
 SANTA ANA, CALIFORNIA

Address	City	Zip Code	Unit Size (SF)	Sales Price		Year Built
				Total	Per SF	
II. <u>Single Family Homes</u>						
Four-Bedroom Units						
221 W Tribella Ct	Santa Ana	92703	2,119	\$743,000	\$351	2016
793 N Concord St	Santa Ana	92701	1,573	\$478,000	\$304	2014
18806 Winnwood Ln	North Tustin	92705	4,620	\$2,100,000	\$455	2021
556 S Harbor Blvd	Santa Ana	92704	1,905	\$650,000	\$341	2017
4284 W 5th St	Santa Ana	92703	2,193	\$730,000	\$333	2015
12791 Panorama Crst	North Tustin	92705	6,227	\$2,900,000	\$466	2015
2138 N Hathaway St	Santa Ana	92705	1,861	\$770,000	\$414	1965
11871 Simon Ranch Rd	North Tustin	92705	3,700	\$1,830,000	\$495	2010
12351 Ranchwood Rd	North Tustin	92705	3,244	\$1,991,000	\$614	2021
524 S Harbor Blvd	Santa Ana	92704	1,894	\$600,000	\$317	2018
13982 Sandhurst Pl	North Tustin	92705	2,660	\$1,845,000	\$694	2017
920 W Tribella Ct	Santa Ana	92703	2,032	\$699,000	\$344	2018
202 W Tribella Ct	Santa Ana	92703	2,119	\$810,000	\$382	2017
2038 Rembrandt	Santa Ana	92704	3,056	\$1,249,000	\$409	2018
11300 Delphinium Ave	Fountain Valley	92708	3,374	\$1,460,000	\$433	2017
13426 Peony Ave	Garden Grove	92840	2,490	\$895,645	\$360	2020
12281 Baja Panorama	Santa Ana	92705	3,850	\$1,510,000	\$392	2020
13462 Peony Ave	Garden Grove	92840	2,699	\$935,000	\$346	2020
Minimum			1,573	\$478,000	\$304	1965
Maximum			6,227	\$2,900,000	\$694	2021
Average			2,868	\$1,233,091	\$430	2014
Five-Bedroom Units						
18808 Winnwood Ln	North Tustin	92705	3,804	\$1,968,000	\$517	2020
18804 Winnwood Ln	North Tustin	92705	4,038	\$1,950,000	\$483	2021
2254 N Lyon St	Santa Ana	92705	3,408	\$1,263,000	\$371	2019
10889 Lotus Dr	Garden Grove	92843	2,992	\$880,000	\$294	2013
10807 Lotus Dr	Garden Grove	92843	2,561	\$839,500	\$328	2013
10781 lotus	Garden Grove	92843	2,992	\$990,000	\$331	2014
10926 Lotus Dr	Garden Grove	92843	2,992	\$835,000	\$279	2014
1615 W Pomona St	Santa Ana	92704	3,897	\$1,350,000	\$346	2019
10787 Lotus Dr	Garden Grove	92843	2,561	\$800,000	\$312	2013
10802 Lotus Dr	Garden Grove	92843	2,561	\$839,500	\$328	2014
Minimum			2,561	\$800,000	\$279	2013
Maximum			4,038	\$1,968,000	\$517	2021
Average			3,181	\$1,171,500	\$368	2016

Source: Redfin. The survey includes executed sales that occurred between June 2020 to June 2021.

APPENDIX B

**AFFORDABILITY ANALYSES
OWNERSHIP HOUSING DEVELOPMENT
HOO: IN-LIEU FEE ANALYSIS
SANTA ANA, CALIFORNIA**

APPENDIX B - EXHIBIT I

AFFORDABLE SALES PRICE CALCULATIONS
 2021 INCOME STANDARDS
 OWNERSHIP HOUSING DEVELOPMENT
 HOO: IN-LIEU FEE ANALYSIS
 SANTA ANA, CALIFORNIA

1

	Condominium & Townhome Units		Single Family Homes	
	Three-Bedroom Units	Four-Bedroom Units	Four-Bedroom Units	Five-Bedroom Units
I. <u>Income Information</u>				
Area Median Income	2 \$106,700	\$115,250	\$106,700	\$115,250
Household Income as a Percentage of AMI	110%	110%	110%	110%
Benchmark Household Income	\$117,370	\$126,775	\$117,370	\$126,775
Percentage of Income Allotted to Housing Expenses	35%	35%	35%	35%
Income Allotted to Housing Expenses	\$41,080	\$44,371	\$41,080	\$44,371
II. <u>Expenses</u>				
Annual Utilities Allowance	3 \$2,976	\$3,756	\$3,756	\$3,780
HOA, Maintenance & Insurance	3,360	3,600	1,920	2,160
Property Taxes @ 1.16% of Affordable Sales Price	6,180	6,580	6,300	6,830
Total Expenses	\$12,516	\$13,936	\$11,976	\$12,770
III. <u>Income Available for Mortgage</u>	\$28,564	\$30,435	\$29,104	\$31,601
IV. <u>Affordable Sales Price</u>				
Supportable Mtg @ 3.88% Interest	4 \$505,900	\$539,000	\$515,400	\$559,700
Home Buyer Down Payment @ 5% Aff Sales Price	26,600	28,400	27,100	29,500
Affordable Sales Price	\$532,500	\$567,400	\$542,500	\$589,200
V. <u>Estimated Achievable Price</u>	\$483,000	\$542,500		

1 Based on 2021 Orange County household incomes published by the California Housing & Community Development Department (HCD). The Affordable Sales Price calculations are based on the California Health and Safety Code Section 50052.5 methodology.
 2 Based on the H&SC Section 50052.5 that sets the benchmark household sizes equal to the number of bedrooms in the unit plus one.
 3 Utilities allowances are based on the Orange County Housing Authority utility allowances effective as of 12/1/20. Assumes: Gas Cooking, Gas Heating, and Gas Water Heater; Basic Electric; Water, Sewer; and Trash.
 4 Based on a 50 basis points premium applied to the Bankrate site average APR as of June 17, 2021 for a fixed-interest rate loan with a 30-year amortization period.

APPENDIX B - EXHIBIT II

IN-LIEU FEE ANALYSIS
 AFFORDABILITY GAP APPROACH
 OWNERSHIP HOUSING DEVELOPMENT
 HOO: IN-LIEU FEE ANALYSIS
 SANTA ANA, CALIFORNIA

		<u>Moderate Income Units</u>
I.	<u>Sales Price Difference</u>	1
	A. <u>Three-Bedroom Units</u>	
	Market Rate Sales Price	\$690,000
	Affordable Sales Price	<u>483,000</u>
	Difference	\$207,000
	B. <u>Four-Bedroom Units</u>	
	Market Rate Sales Price	\$775,000
	Affordable Sales Price	<u>542,500</u>
	Difference	\$232,500
II.	<u>Distribution of Total Units</u>	2
	Three-Bedroom Units	70%
	Four-Bedroom Units	30%
III.	<u>In-Lieu Fee</u>	
	Per Inclusionary Unit	3 \$215,000
	Inclusionary Housing Percentage	10%
	Per Total Unit in the Project	4 \$21,500
	Per Square Foot of Saleable Area	5 \$13.00

1 The market rate sales prices are drawn from the pro forma analyses. (See APPENDIX A - EXHIBIT I). The Affordable Sales Prices are based on the H&SC Section 50052.5 calculation methodology. (See APPENDIX B - EXHIBIT I).

2 Based on the unit mix distribution applied in the pro forma analysis.

3 Based on the weighted average difference between the market rate prices and the Affordable Sales Prices.

4 Based on the Affordability Gap Per Inclusionary Unit multiplied times the Inclusionary Housing Percentage.

5 Based on the Affordability Gap Per Inclusionary Unit divided by the average saleable area per unit.

Special City Council Work Study on Housing Ad Hoc Committee Recommendations to Amend the Housing Opportunity Ordinance

JULY 26, 2021



Recap

- On July 6th, City Council received a report on the progress of the Housing Ad Hoc Committee and discussed the changes to the Housing Opportunity Ordinance recommended by the Committee.
- City Council provided direction to staff to reach out to stakeholders and hold a Work Study session.
- City Council identified over 100 key community stakeholders



Ad Hoc Committee Recommendations on Key HOO Provisions

	Current Ordinance	Ad Hoc Committee Recommendations
Applicability and Triggers for the Ordinance	Only applies to residential projects with 20 or more units	Adjust applicability threshold from 20 units to 5 units, combined with a sliding scale for payment of in-lieu fee
	Only applies to projects where there is an: <ul style="list-style-type: none"> • Increase in the residential density above the density prescribed by the General Plan or mixed-use development standards • Applies only to incremental units above the permitted density 	Include trigger provisions from the previous ordinance: <ul style="list-style-type: none"> • Include increase in the residential density permitted by the zoning classification • Include all City initiated General Plan Amendments and Zone Changes after November 28, 2011
Rental Set-Aside Units	Units for Rent: <ul style="list-style-type: none"> • 15% Low Income (51-80% AMI) • 10% Very Low Income (31-50% AMI) 	Add New Category: <ul style="list-style-type: none"> • 5% Extremely Low Income (0-30% AMI)



Ad Hoc Committee Recommendations on Key HOO Provisions

	Current Ordinance	Ad Hoc Committee Recommendations
Option to Satisfy Inclusionary Requirements	Pay In-Lieu Fee of \$5.00 / square foot	<ul style="list-style-type: none"> • Pay In-Lieu Fee of \$15.00 / square foot for projects with 20 or more units • Apply sliding scale for smaller projects based on In-Lieu Fee Schedule below

In-Lieu Fee Schedule	
# of Units	Fee Per Square Foot of Habitable Area
5 – 9	\$6.00
10 – 14	\$9.00
15 – 19	\$12.00
20 or more units	\$15.00



Ad Hoc Committee Recommendations on Key HOO Provisions

	Current Ordinance	Ad Hoc Committee Recommendations
Payment of the In-Lieu Fee	Prior to issuance of building permit	Prior to issuance of the first occupancy approval
Skilled & Trained Workforce	Encourage a project opting for the in lieu payment option or receiving inclusionary housing fund to provide an enforceable commitment to use a skilled & trained workforce in accordance with Public Contract Code Section 2601-2602	Consider making this provision a mandatory commitment
Affordability Period	55 years	In perpetuity



Ad Hoc Committee Recommendations on Key HOO Provisions

	Ad Hoc Committee Recommendations
Additional Enhancements to the Ordinance	<p>Add to the current eligible uses of the inclusionary housing fund:</p> <ul style="list-style-type: none">• A priority for the creation of new affordable housing opportunities for large families currently living in the City• Programs addressing housing security, eviction prevention, and housing legal assistance for city residents



Work Study Agenda

- Staff Presentation
- Key Stakeholder Comments
- Public Comments
- City Council Discussion and Direction to Staff





City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
September 7, 2021

TOPIC: Housing Opportunity Ordinance

AGENDA TITLE:

Summary of City Council Policy Direction Received on July 26, 2021, and the Corresponding Proposed Amendments to the Housing Opportunity Ordinance

RECOMMENDED ACTION

Receive staff presentation and summary of the City Council policy direction received on July 26, 2021, and provide direction regarding the proposed amendments to the Housing Opportunity Ordinance.

DISCUSSION

On July 6, 2021, City Council received a progress report from the Housing Ad Hoc Committee and discussed the Committee's recommended amendments to the Housing Opportunity Ordinance. On July 26, 2021, City Council conducted a work study session to receive input from the community and stakeholders. Following the work study session, City Council provided direction to staff regarding proposed amendments to the Housing Opportunity Ordinance (HOO).

Following this direction, staff have summarized and incorporated City Council's policy amendments to the HOO. The summary of proposed amendments to the HOO are provided below followed by an analysis and options for implementing a sliding scale in-lieu fee structure when coupled with the requirement to use a skilled and trained workforce.

Summary of City Council Policy Direction Regarding the Housing Opportunity Ordinance

Three members of the City Council are generally supportive of maintaining the existing HOO regulations and policies. Among their points of discussion, the three members share consensus that they would like to see staff develop a reasonable sliding scale incentivizing the employment of a skilled and trained workforce (STW) by a developer opting for the in-lieu fee payment option.

Balancing this policy direction, the remaining majority of the City Council was supportive of the Housing Ad Hoc Committee recommendations to amend the HOO. Staff identified consensus by the majority members to further evaluate the following policies:

- Require a mandatory skilled and trained workforce to create a living wage for projects that trigger the HOO or that receive funding from the inclusionary housing fund.
- Develop a sliding scale for the in-lieu fee for projects that incorporate a skilled and trained workforce.
- Incorporate local hire requirements.
- Prioritize production of housing for large families.
- Prioritize down payment assistance.
- Add rental protections for tenants.
- Address displacement and protection.

Table 1 below is a summary and description of the draft amendments to the HOO which incorporates the recommendations of the Housing Ad Hoc Committee as well as the policy direction received from the City Council on July 6th and July 26th. The draft HOO is attached as Exhibit 1 in red line and clean format with the amendments summarized below.

Table 1: Summary of Amendments

Code Section	Subject	City Council Recommendations
Title	Update Title: 2021 AFFORDABLE HOUSING OPPORTUNITY & CREATION ORDINANCE	The updated title will provide clarity and distinction from prior versions of the ordinance.
41-1901	Definition: Deletes “Entitled Residential Project” and “Prior Project” definition	The provisions for “Entitled Residential Projects” and “Prior Projects” no longer apply after October 1, 2021.

<p>41-1902</p>	<p>Applicability: Establishes new standards for projects that need to comply with the ordinance</p>	<p>This section is amended to revert the language to the previous HOO before it was previously amended in October 2020. The HOO would apply to projects that will require a zone change or general plan amendment, including city initiated zone changes and general plan amendments since November 28, 2011. The current ordinance only applies to projects that are requesting an increase in the density permitted by the General Plan.</p> <p>Pending City Council direction, this section will also be amended with one of two options for applicability of the Ordinance between projects that have received entitlement approvals and projects that been issued a building permit/paid the HOO in-lieu fee.</p> <p>In an effort to incentivize the construction of extremely low-income units the amendment also adds a percentage of rental units that may be built on-site for extremely low-income households equal to 5 percent of the total number of units.</p>
<p>41-1903</p>	<p>Exempt Projects: Clarifies which projects are not subject to the ordinance</p>	<p>This section is amended to delete the language regarding applications deemed complete prior to November 28, 2011 and further clarify the exclusions to the HOO that may be agreed upon by City Council in a development agreement.</p>

41-1904	<p>In-Lieu Fee Option: Revises the in-lieu fee and changes the timing of payment</p>	<p>This section is amended to increase the in-lieu fee from \$5 per habitable square foot to \$15 per habitable square foot.</p> <p>This section also removes the incentive for “Entitled Residential Projects” to obtain building permits during the current economic climate. The provision for “Entitled Residential Projects” no longer applies after October 1, 2021.</p> <p>The amendments also extend the timing of payment from issuance of the building permit to issuance of the certificate of occupancy, allowing a developer the option to pay after the project is developed in order to make the larger fee more reasonable.</p>
41-1904 (c)(ii) 41-1909(a)(5)	<p>Skilled and Trained Workforce and Sliding In-Lieu Fee Schedule: Incorporates a skilled and trained workforce requirement and a local hire requirement</p>	<p>This section is amended to incorporate a skilled and trained workforce requirement and a sliding scale for the payment of an in-lieu fee pending City Council direction.</p> <p>The amendment also incorporates a local hire requirement where a developer of 20 or more housing units must ensure a minimum 30% local hire.</p>
41-1906	<p>Standards: Revised the term of affordability for ownership and rental units on-site</p>	<p>This section is amended to require units for sale and rental units that are built on-site to be affordable in perpetuity as an enhancement.</p>

41-1909	Inclusionary Housing Fund: Clarifies the use of the in-lieu fees collected	This section is amended to further clarify the use of in-lieu fees paid to the City. It provides the Community Development Agency with a priority for the use of the funds for large families and allows the funds to be used for additional one-time programs addressing housing security, eviction prevention, and housing legal assistance for city residents. This section is also amended to require projects that receive inclusionary housing funds to have a skilled and trained workforce and a minimum 30% local hire.
41-1910	In-lieu fee calculation: Provides for periodic review at the option of the City Council; deletes “Prior Projects”	This section is amended to provide for periodic review of the in-lieu fee when determined to be appropriate by the City Council. The amendment also deletes the paragraph on “Prior projects” since it is no longer applicable.

Regarding the other policy areas that were discussed by City Council, these policy areas were also discussed by the Housing Ad Hoc Committee and will be addressed as follows:

- Prioritize production of housing for large families:
 - The summary of amendments to the HOO under Sec. 41-1909(a)(1) includes a priority on the creation of new affordable housing opportunities for large families currently living in the City.
- Prioritize down payment assistance.
 - The Inclusionary Housing Fund eligible activities has already been modified as part of the October 2020 update to include down payment assistance to enable moderate-income families at 120% of the Area Median Income to purchase a home.
- Add rental protections for tenants.
 - This is a policy area that is under review by the Housing Ad Hoc Committee.
- Address displacement and protection.
 - This is a policy area that is under review by the Housing Ad Hoc Committee.

Regulatory Applicability and Vesting

This issue was raised at the July 26th study session and staff are seeking direction from City Council on the applicability of the proposed amendments to the HOO and the vesting trigger. This issue is most critical during the initial implementation of the amended

Ordinance to serve as a cut-off threshold and provide clarity for development project proposals currently undergoing the development approval process with the City. One option is to apply the amended HOO policies to projects that have not yet received final entitlement approvals from the City Council. Alternatively, another option is to apply the amended HOO policies to projects that have not vested their entitlements by obtaining a building permit or have not paid the HOO in-lieu fee payment as of the effective date of the Ordinance. Both vesting options meet legal standards and are commonly practiced by local governments when implementing new regulations and policies effecting land use and development issues. As requested by the City Council, staff have provided maps showing the current HOO and how the amended HOO will apply to various areas of the City (Exhibit 2).

Analysis of Skilled and Trained Workforce and Sliding Scale for In-Lieu Fee

The consensus from the City Council is to evaluate and implement a mandatory skilled and trained workforce requirement to create a living wage for projects that trigger the HOO and develop a sliding scale for the in-lieu fee for projects that incorporate a skilled and trained workforce. To analyze this policy area, staff reached out to three developers (two market-rate and one affordable), The Building Industry Association (BIA) of Southern California, and three labor unions to request data on the financial impact of a requirement to use a skilled and trained workforce. As part of that outreach, staff requested data to provide an understanding of the impacts and to facilitate the development of a sliding scale option of the in-lieu fee amount if a developer provides an enforceable commitment to use a STW. The BIA indicated that their members typically do not share this information; the labor organizations representing the various construction trades in Orange County are not privy to project level financial data; and the development community indicated this type of data was confidential and therefore did not share it.

Staff met with the local labor unions at their request and received input regarding the STW and the various benefits that it will bring to the City and residents. This meeting included the Building and Construction Trades Council, Local 652 of the Laborers' International Union of North America based in Santa Ana, Local 441 of the International Brotherhood of Electrical Workers, Local Union 105, and the Southwest Regional Council of Carpenters (collectively referred to as the building trade labor unions). The labor unions recognize that there is a cost increase when using a skilled and trained workforce and contend that the waterfall of benefits are tangible and address the core of the affordable housing crisis. An employee earning a living wage with employment benefits can attain decent housing and a higher quality of life. Other key benefits include a reliable and stable workforce, reduced public reliance on government assistance programs, higher efficiency from a trained employee, a career pathway to the various construction trades, promote regional jobs-housing balance, promote environmental benefits from reduced vehicle miles traveled, local pride of working on a project developed in Santa Ana, and many other social and economic benefits. The labor unions also expressed support for a sliding scale approach to incentivize the use of a STW.

Staff also met with the BIA and received feedback that the proposed \$15 per square foot cannot be absorbed by a project. While no specific data were provided by the BIA regarding the cost differential using STW, the verbal indication is a STW requirement will significantly impact the feasibility of constructing a project in the City.

As an alternative data source to this outreach, staff obtained data from the Turner Center for Housing and Innovation at the University of California, Berkeley (Turner Center). According to a study, “The Hard Costs of Construction”, completed in March of 2020 by the Turner Center, hard construction costs per square foot from 2008 to 2018 generally fluctuated between \$177 to \$222 per square foot. Hard construction costs include materials and labor only where materials make up approximately 85% of the hard construction costs and labor makes up the remaining 15%. The study also found that prevailing wage requirements are associated with higher hard costs and on the average, add \$30 or more per square foot than those without. While prevailing wage requirements do not have the exact same stringent requirements as a STW represented by a labor organization, they share similar labor monitoring and wage requirements and characteristics. Depending on the per square foot total indicated in the study, the addition of a \$30 per square foot in labor, increases the hard construction costs of a project on the average between 14% to 17%. Anecdotally, verbal feedback received from the development community indicates the average per square foot hard construction costs for a residential project range between \$130 and \$250 depending on construction and housing type and the inclusion of a STW requirement would increase their estimated cost per square foot approximately 15% to 20%. The labor union and BIA representatives all acknowledged the percentage increase in costs and the information that staff had gathered from the research.

Blending the above information collectively, it is reasonable to conservatively estimate that the financial impact of a STW requirement on a residential project opting to pay the in-lieu fee would be approximately 15% or higher of the hard construction costs. Table 2 below shows the estimated total increase to a project’s hard construction costs when combining a STW requirement with the HOO in-lieu fee at \$5 and \$15 per square foot.

Table 2: Estimated Financial Impact of Skilled and Trained Workforce Requirement

Range of Per Square Foot Cost of Labor and Materials Without STW	Range of STW at 15% Per Square Foot	HOO In-Lieu Fee Per Square Foot	Range of Percentage of Financial Increase on Hard Construction Costs (STW + HOO)
\$130 - \$250	\$19.50 - \$37.50	\$15	21% - 27%
		\$5	17% - 19%

As shown in the table above, the conservative estimated impact of including a skilled and trained workforce requirement ranges between \$19.50 and \$37.50 per square foot of hard construction costs. When combined with the HOO per square foot fee at \$5 or \$15, the two amounts increase hard construction costs between 17 to 27 percent depending on the project's baseline hard costs. Using the lowest estimates, even reducing the HOO in-lieu fee to \$0 will not fully offset the estimated amounts. Given benefits such as living wages, a better quality of life for residents who work on the projects, a stable workforce, and other social and economic benefit information shared by the labor unions, the City Council may want to consider a sliding scale for the in-lieu fee wherein projects with 20 or more units provide an enforceable commitment to use a skilled and trained workforce would pay the current fee of \$5 per square foot and projects that do not agree to an enforceable commitment will pay the \$15 per square foot or an amount in between as determined appropriate by the City Council. The requirement to incorporate a STW would not apply to projects with less than 20 units as it will be challenging for small projects to meet the additional requirements.

Similarly, the City Council can also consider a requirement for projects with an enforceable STW commitment to include a local hire requirement. A development with an enforceable STW commitment will be able to negotiate and rely upon the STW labor organizations to draw from the local labor pool.

Next Steps

If the City Council desires to move forward with these proposed amendments to the HOO, it is feasible to complete the final drafting of the ordinance and initiate the ordinance adoption process within 30 to 45 days upon receiving final direction.

Following approval of the amendments to the HOO, the Housing Ad Hoc Committee will reconvene and continue to discuss the remaining topics below and may return in the future with recommendations for each topic:

- a. Rent stabilization/rent control
- b. Rental protections for tenants
- c. Just cause eviction policies
- d. Tenant displacement and protection policies

ENVIRONMENTAL IMPACT

There is no environmental impact associated with this action.

FISCAL IMPACT

There is no fiscal impact associated with initial direction from City Council. However, the future City Council action to accept some of the recommendations would have an impact on program revenue.

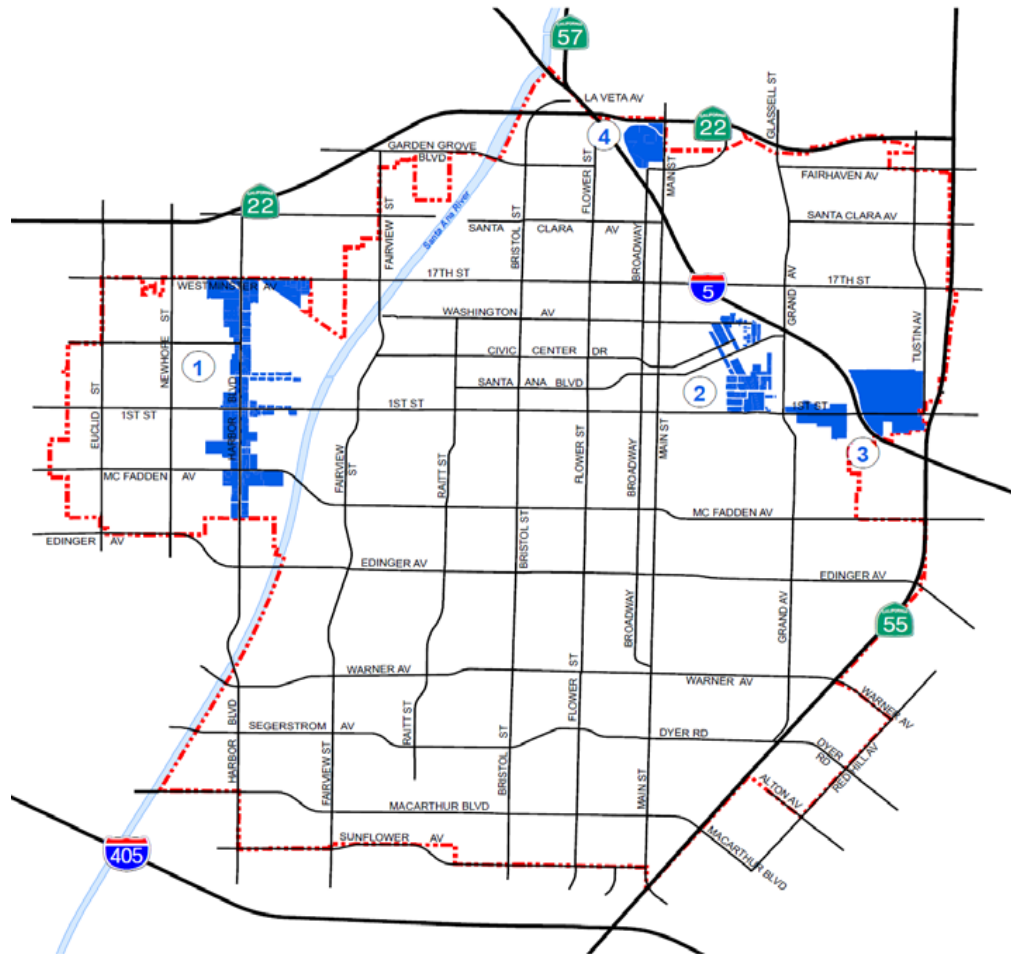
EXHIBIT(S)

1. Proposed Amendments to the HOO for Discussion
2. HOO Maps

Submitted By: Minh Thai, Executive Director of Planning and Building Agency

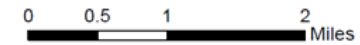
Approved By: Kristine Ridge, City Manager

2015 HOO Applicable Areas

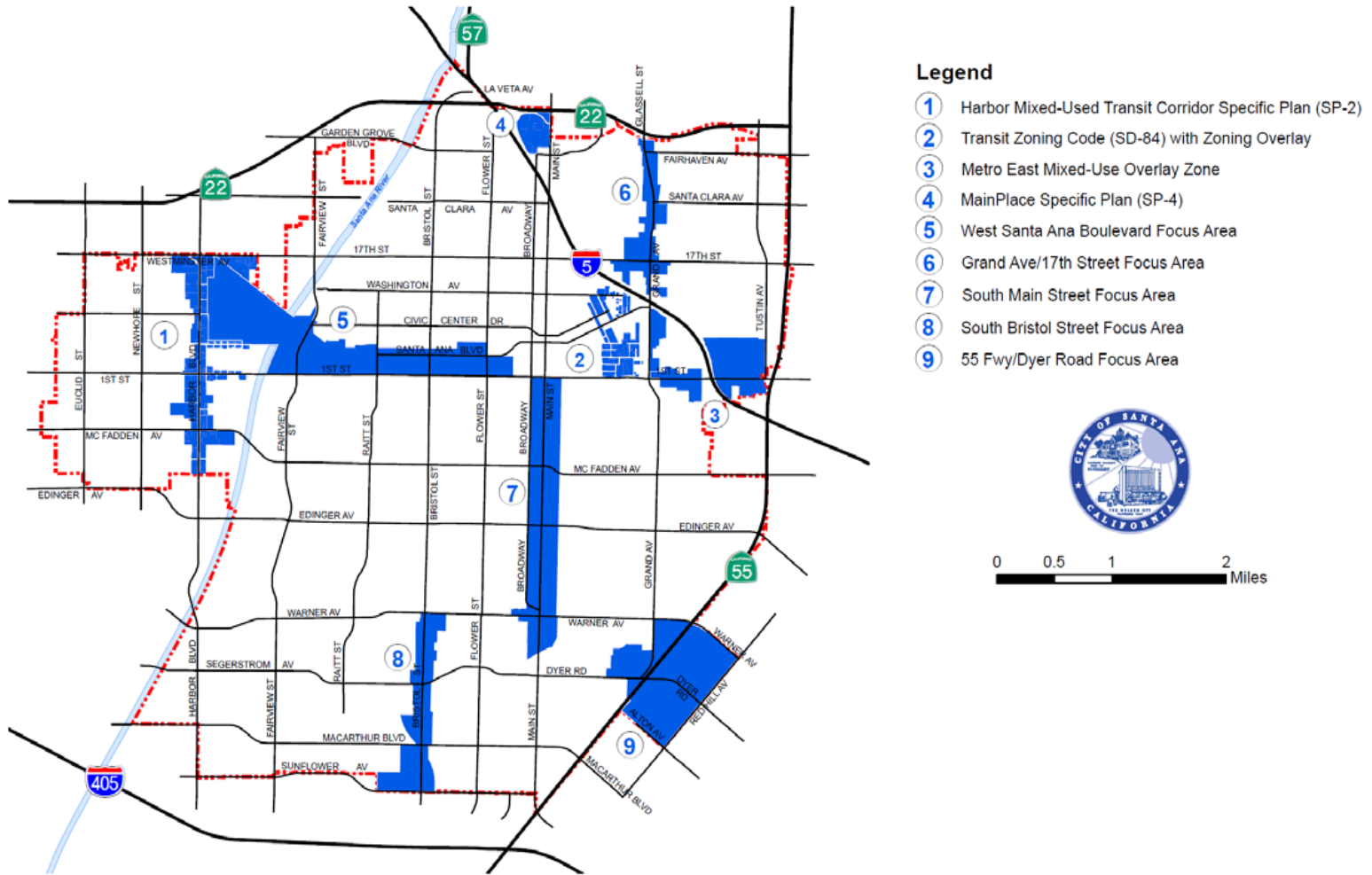


Legend

- ① Harbor Mixed-Used Transit Corridor Specific Plan (SP-2)
- ② Transit Zoning Code (SD-84) with Zoning Overlay
- ③ Metro East Mixed-Use Overlay Zone
- ④ MainPlace Specific Plan (SP-4)



Potential HOO Applicable Areas



2021 Affordable Housing Opportunity & Creation Ordinance

SEPTEMBER 07, 2021

ITEM #35



Recap

- On July 6th, City Council received a report on the progress of the Housing Ad Hoc Committee and discussed the changes to the Housing Opportunity Ordinance recommended by the Committee.
- On July 26th, City Council conducted a work study session to receive input from the community and stakeholders and provide feedback regarding the Housing Ad Hoc Committee recommendations on the HOO
- Staff contacted developers and labor unions to obtain construction and labor costs



Purpose

- Summary of feedback received from City Council
- Review of amendments to HOO
- Obtain City Council direction regarding changes to the HOO



July 26, 2021 City Council Feedback

Policy
Develop a sliding scale for the in-lieu fee for projects that incorporate skilled & trained workforce
Require a mandatory skilled & trained workforce to create a living wage
Incorporate local hire requirements
Prioritize production of housing for large families
Prioritize down payment assistance
Regulatory applicability & vesting
Add rental protection for tenants
Address displacement & protection



Industry Feedback & Perspective

- Staff met with local developers, the BIA & construction unions
 - Building and Construction Trades Council
 - Local 652 of the Laborers' International Union of North America based in Santa Ana
 - Local 441 of the International Brotherhood of Electrical Workers
 - Local Union 105
 - Southwest Regional Council of Carpenters
 - The Building Industry Association (BIA)



BIA Perspective

- The proposed \$15 per square foot HOO fee cannot be absorbed by a residential project
- A STW requirement will significantly impact the feasibility of constructing a project in the City and will drive projects elsewhere
- Indicated no projects have paid the \$15 fee



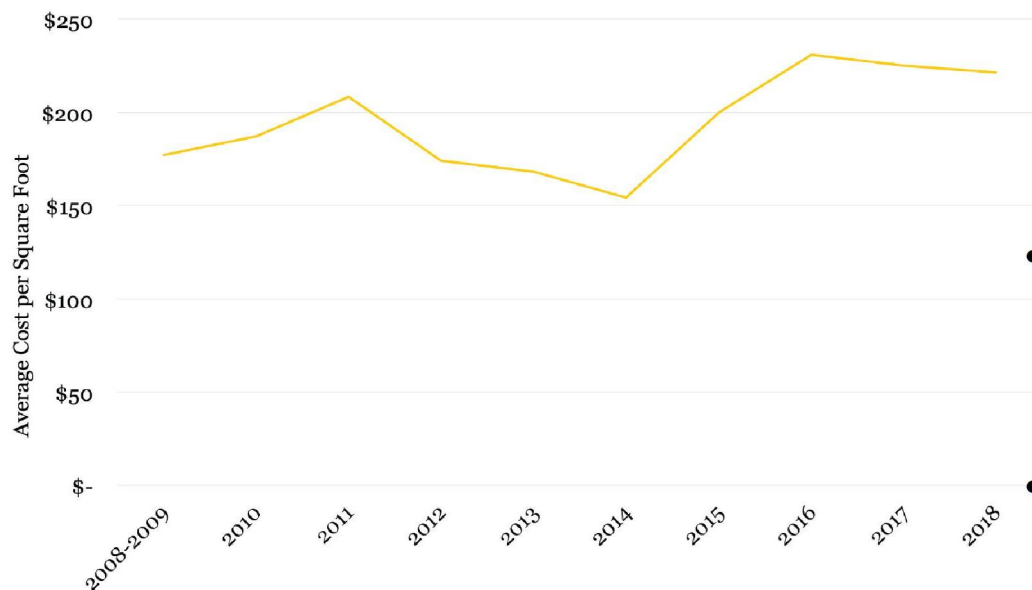
Construction Trades Perspective

- The labor unions acknowledge a cost increase using a STW
- Contend a waterfall of tangible benefits addresses the core of the affordable housing crisis
- An employee earning a living wage with employment benefits can attain decent housing and a higher quality of life
- A reliable and stable workforce
- Reduced public reliance on government assistance programs
- Higher efficiency from a trained employee
- A career pathway to the various construction trades
- Promote regional jobs-housing balance
- Promote environmental benefits from reduced vehicle miles traveled
- Local pride of working on a project developed in Santa Ana
- The labor unions also expressed support for a sliding scale approach to incentivize the use of a STW.



Terner Center 2020 Study Findings

Figure 4: Hard Construction Cost Per Square Foot, California (2018 \$)



- The Terner Study found Hard construction costs fluctuated between \$177 to \$222 per square foot
- STW/Prevailing wage adds approximately \$30 per square foot in labor
- Increases the hard construction costs of a project on the average between 14% to 17%



Development Cost Stack

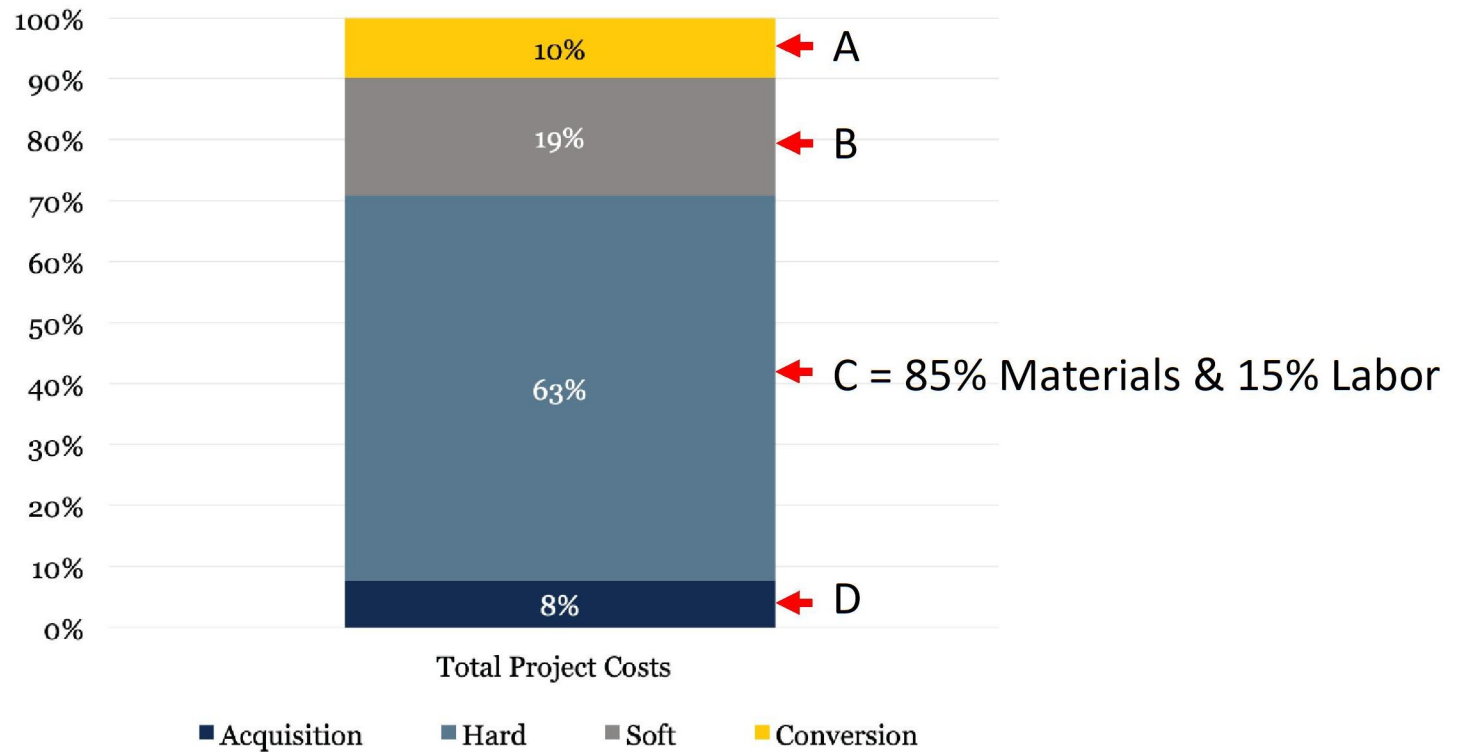


Figure 1: Total Development Costs for Multifamily Projects in California [Completed 2010-2019]



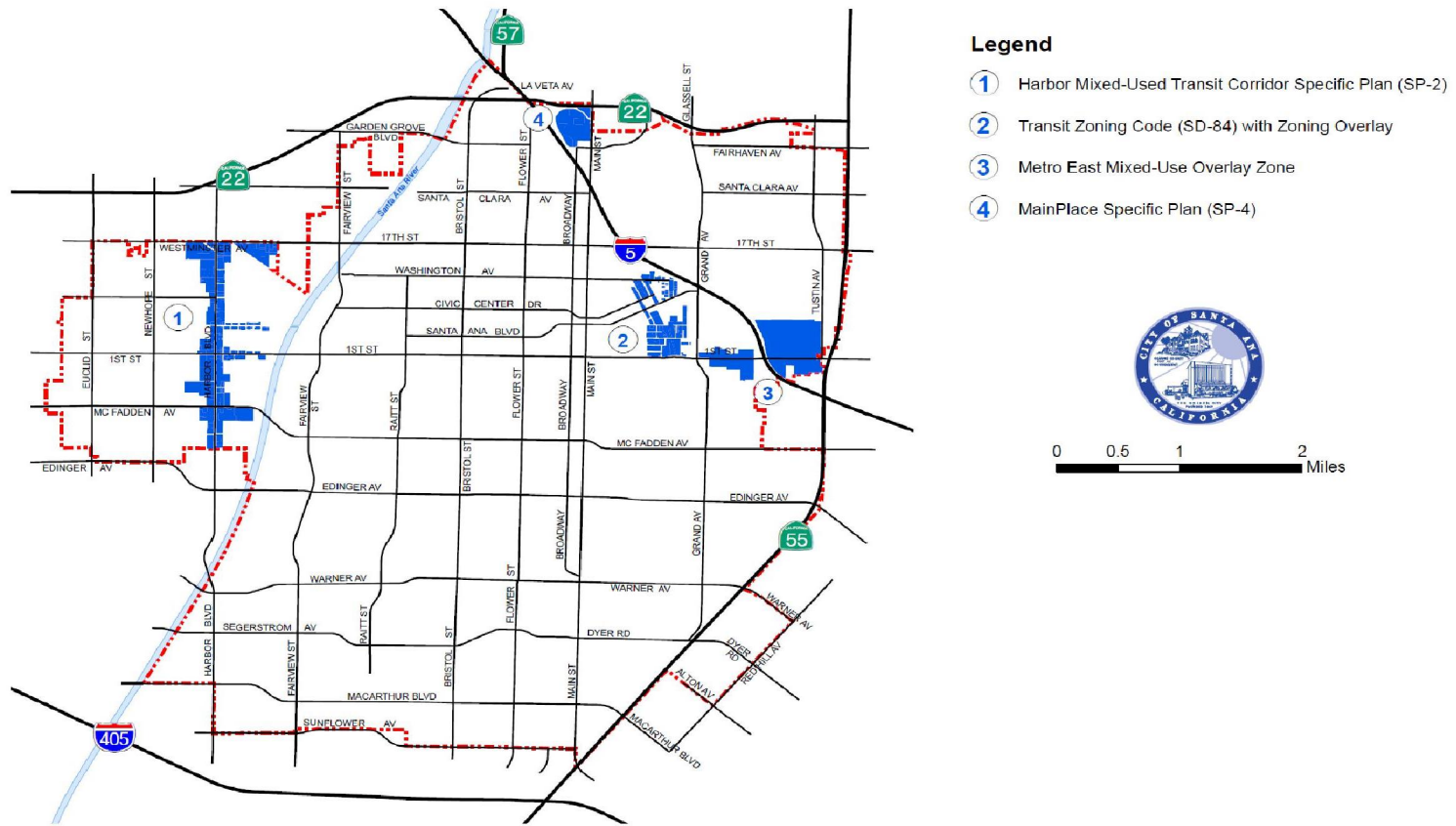
Local Hard Costs

Range of Per Square Foot Cost of Labor and Materials Without STW	Range of STW at 15% Per Square Foot	HOO In-Lieu Fee Per Square Foot	Range of Percentage of Financial Increase on Hard Construction Costs (STW + HOO)
\$130 - \$250	\$19.50 - \$37.50	\$15	21% - 27%
		\$5	17% - 19%

- Estimated local hard costs range between \$130-\$250 depending on housing and construction
- STW adds approximately 15% to 20%
- STW and HOO adds
 - 21%-27% at \$15 per sf
 - 17%-19% at \$5 per sf

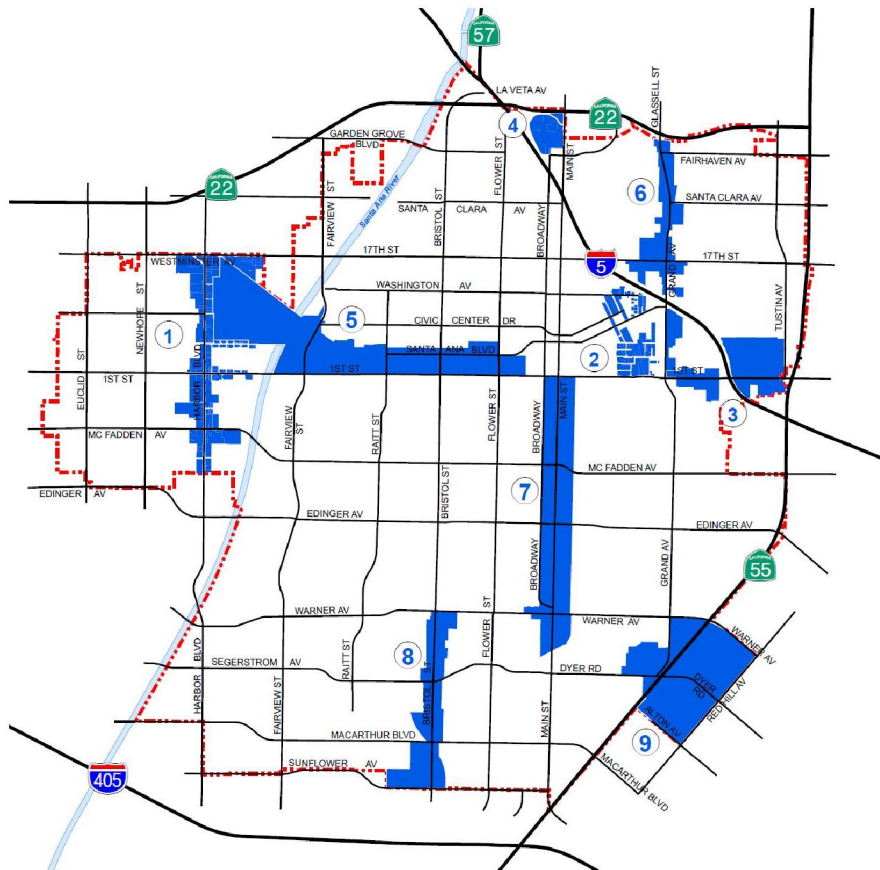


2015 HOO Applicable Areas



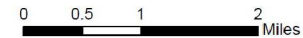
CITY OF SANTA ANA, PLANNING AND BUILDING AGENCY
20 CIVIC CENTER PLAZA, SANTA ANA, CA 92702

Potential HOO Applicable Areas



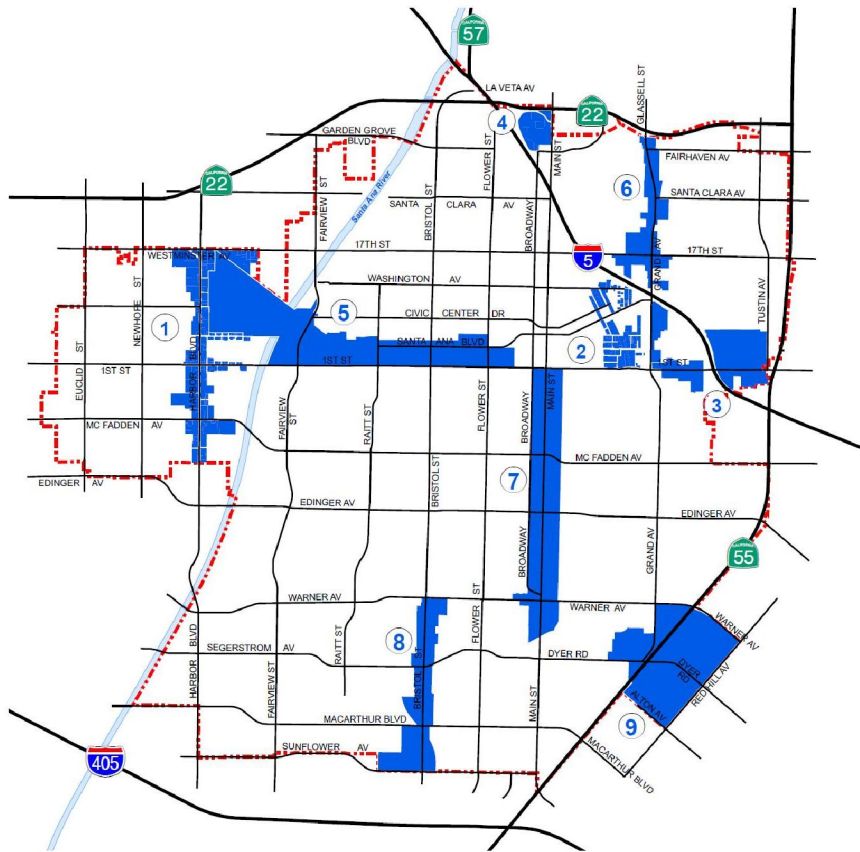
Legend

- ① Harbor Mixed-Used Transit Corridor Specific Plan (SP-2)
- ② Transit Zoning Code (SD-84) with Zoning Overlay
- ③ Metro East Mixed-Use Overlay Zone
- ④ MainPlace Specific Plan (SP-4)
- ⑤ West Santa Ana Boulevard Focus Area
- ⑥ Grand Ave/17th Street Focus Area
- ⑦ South Main Street Focus Area
- ⑧ South Bristol Street Focus Area
- ⑨ 55 Fwy/Dyer Road Focus Area



CITY OF SANTA ANA, PLANNING AND BUILDING AGENCY
20 CIVIC CENTER PLAZA, SANTA ANA, CA 92702

Regulatory Applicability & Vesting Policy



- Raised at the July 26th study session
- Most critical during the initial implementation of the amended Ordinance
- Serve as a cut-off threshold and provide clarity for development project proposals currently undergoing approval process
- HOO applies to projects:
 - without entitlement approvals
 - No building permit or has not paid the HOO
- Both vesting options meet legal standards and are commonly practiced by local governments



City Council Feedback & Draft Refinements

Policy	Proposed Refinement
Develop a reasonable sliding scale in-lieu fee schedule for projects with skilled & trained workforce (STW)	<ul style="list-style-type: none"> • \$15 per sf for projects without STW • Reduce to \$5 per sf for project incorporating a STW
Mandatory skilled & trained labor to address living wage	<ul style="list-style-type: none"> • Applies to 20 or more units & exempt 19 or less units • Applies to projects receiving funding from the Inclusionary Housing Fund
Local hire requirements	<ul style="list-style-type: none"> • Applies to 20 or more units & exempt 19 or less units • Applies to projects receiving funding from the Inclusionary Housing Fund • 30% of total workhours • Policies & guidelines to be approved by City Council
Prioritize production of housing for large families	<ul style="list-style-type: none"> • Yes
Prioritize down payment assistance	<ul style="list-style-type: none"> • Yes
Regulatory Applicability & Vesting	<ul style="list-style-type: none"> • Options: Approved Entitlements or Building Permit Issuance
Rental protection	<ul style="list-style-type: none"> • Housing Ad Hoc
Address displacement & protection	<ul style="list-style-type: none"> • Housing Ad Hoc



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CITY OF SANTA ANA PLANNING
CITY OF SANTA ANA/PLANNING & BUILDING
20 CIVIC CENTER PLAZA 2ND FLR
SANTA ANA, CA 92702

CNS 3520339

COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE
Ad Description NOTICE OF PUBLIC HEARING - 22 Civic Center Plaza

To the right is a copy of the notice you sent to us for publication in the ORANGE COUNTY REGISTER. Please read this notice carefully and call us with any corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

10/13/2021

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Planning Commission Action Items

The Planning Commission will hold a Public Hearing to receive public testimony, and will take action on the item described below. Recommendation on this matter will be forwarded to the City Council at a later date for final determination.

Project Location:

Citywide

Project Applicant:

City of Santa Ana

Proposed Project:

The City is requesting adoption of Zoning Ordinance Amendment No. 2021-03 to amend Section 41-1900 et. al. of the Santa Ana Municipal Code (Chapter 41/Zoning) pertaining to the Housing Opportunity Ordinance (HOO). The proposed amendments will modernize, update and clarify various sections of the HOO and respond to current development and economic trends.

Environmental Impact:

The Planning Commission will consider a determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b) (3) of the CEQA Guidelines - General Rule of Exemption, Environmental Review No. 2021-107 will be filed for this project.

Meeting Details:

This matter will be heard on **Monday, October 25, 2021 at 5:30 p.m.** in the City Council Chambers, 22 Civic Center Plaza, Santa Ana, CA 92701. **Members of the public may attend this meeting in-person or join via Zoom.** For the most up to date information on how to participate

virtually in this meeting, please visit www.santa-ana.org/pb/meeting-participation.

Written Comments:

If you are unable to participate in the meeting, you may send written comments by e-mail to PBACComments@santa-ana.org (reference the agenda topic in the subject line) or mail to Sarah Bernal, Recording Secretary, City of Santa Ana, 20 Civic Center Plaza - M20, Santa Ana, CA 92701. Deadline to submit written comments is **4:00 p.m.** on the day of the meeting. Comments received after the deadline may not be distributed to the Commission but will be made part of the record.

Where To Get More Information:

Additional details regarding the proposed action(s), including the full text of the discretionary item, may be found on the City website 72 hours prior to the public hearing at: <https://santa-ana.primegov.com/public/portal>

Who To Contact For Questions:

Should you have any questions, please contact Minh Thai with the Planning and Building Agency at mthai@santa-ana.org or 714-667-2706.

Note: If you challenge the decision on the above matter, you may be limited to raising only those issues or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Planning Commission or City Council of the City of Santa Ana at, or prior to, the public hearing.

Si tiene preguntas en español, favor de llamar a

Angelina Becerra
(714) 667-2259
N u c n liên lạc ng
t i ng Vi t, xin i n
tho i cho Tony Lai s
(714) 565-2627.

10/14/21
CNS-3520339#
ORANGE COUNTY
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* 10/25/2021 005847855 * 1 - 133
Planning Commission



CITY OF SANTA ANA Planning and Building Agency

20 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pba

NOTICE OF PUBLIC HEARING BEFORE THE SANTA ANA PLANNING COMMISSION

The City of Santa Ana encourages the public to participate in the decision-making process. We encourage you to contact us prior to the Public Hearing if you have any questions.

Planning Commission Action Items - The Planning Commission will hold a Public Hearing to receive public testimony, and will take action on the item described below. Recommendation on this matter will be forwarded to the City Council at a later date for final determination.

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**Si tiene preguntas en español, favor de llamar a Angelina Becerra (714) 667-2259.
Nếu cần liên lạc bằng tiếng Việt, xin điện thoại cho Tony Lai số (714) 565-2627.**

Publish: OC Register
Date: October 14, 2021