



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: SEPTEMBER 13, 2022

DEPARTMENT: COMMUNITY DEVELOPMENT DEPARTMENT

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TITLE: INCLUSIONARY HOUSING ORDINANCE DISCUSSION

RECOMMENDED MOTION:

This is an Administrative Report on the Inclusionary Housing Ordinance and Downtown Area exemption. No action is required.

RECOMMENDATION:

It is recommended that the City Council receive and accept the Administrative Report on the Inclusionary Housing Ordinance and Downtown Area exemption.

EXECUTIVE SUMMARY:

In 2017, following two years of multi-faceted community and stakeholder engagement, comprehensive data collection and analysis, and careful planning and consideration, the City Council adopted its current [Inclusionary Housing Ordinance to amend Article III of Article 17 \(Housing\) of the Salinas Municipal Code](#). In doing so, the Council satisfied its stated intent to provide greater flexibility and additional development options reflective of current market conditions while continuing to support a primary goal of encouraging affordable housing production.

In recognition of the number of inclusionary units and projects that encompass the Central City Overlay District (Downtown Area) and in support of the community perspective outlined in the Downtown Vibrancy as well as findings and recommendation made in a 2017 Housing Target Market Analysis (HTMA) Study, the Council acknowledged the untested residential development potential within the Downtown Area and exercised its authority to implement a market-based exemption to the Ordinance. Based on the 2022 updated HTMA (Attachment 1), City staff is recommending that the exemption remain in place and be re-evaluated as the Inclusionary Housing Ordinance Update is initiated in the summer of 2023.

BACKGROUND:

The City currently has nearly 800 inclusionary housing units (rental and ownership) in its existing housing portfolio. City Council first adopted an Inclusionary Housing Ordinance in 1992 (Ordinance No. 2178). During the 2002 update of the City's General Plan, it was determined that the need for affordable housing was such that inclusionary policies should be reviewed to determine if it was feasible to increase the requirements of the ordinance. On May 1, 2003, the City engaged Bay Area Economics to update the study and to provide additional information regarding options for increasing the required percentage of affordable units within new residential development. In 2005, the City updated and adopted Ordinance No. 2451. Unfortunately, the new ordinance coupled with the Great Recession had a chilling effect on housing production and not a single inclusionary unit was built under the 2005 Ordinance.

As part of the City's 2015-23 General Plan Housing Element update, the City Council authorized direction under "*Action H-8: Inclusionary Housing*" to update the existing Ordinance along with a nexus study. The City was anxious to update the Ordinance in anticipation of the entitlement processes for the West Area and Central Area Specific Plans, which were well underway. To ensure stakeholder engagement, the City Council approved the selection of the Technical Advisory Committee (TAC) to serve as the recommendation committee regarding the ordinance update. The TAC was made up of various members from the development community and community stakeholders. The City also contracted with Baird and Driskell Community Planning to assist with drafting the ordinance update. The TAC began meeting in December of 2014 and after fifteen (15) working group meetings, the amended ordinance was introduced to City Council on May 16, 2017, and subsequently adopted on June 6, 2017.

DISCUSSION:

Inclusionary housing is a complex topic involving many factors which often seeks to balance the socio-economic needs of a jurisdiction with the profit-driven nature of developers. Local policies typically seek to tap the economic gains from rising real estate values and emerging markets to create affordable housing opportunities for lower income families using various development alternatives, incentives or requirements imposed on developers. The Inclusionary Ordinance is one of several tools used by the City to encourage and promote the production of housing that is affordable to low and moderate-income households.

The City's current Inclusionary Housing Ordinance represents a convergence of parallel initiatives, policies, and data-driven decisions that simultaneously emerged and developed from 2015 to 2017. These include the [General Plan Housing Element](#), [Downtown Vibrancy Plan](#) (DVP), [2014-2023 Regional Housing Needs Allocation](#), and [2017 Housing Target Market Analysis for the Downtown, Chinatown, and Alisal neighborhoods](#). The explicit intent of the Ordinance is to provide a range of developer-friendly alternatives and options that will also support the need for housing production within Salinas. Conceptually, these initiatives seek to balance the need for responsible future growth in consideration of existing identified opportunities and socioeconomic conditions.

Inclusionary Housing Ordinance 2017

The goal of the 2017 Inclusionary Housing Ordinance was to present a variety of options that would not be a barrier to the development of inclusionary units on-site. Notable provisions of the ordinance include the establishment of an Inclusionary Housing Trust Fund, on-site inclusionary options for - for sale and rental residential units, in-lieu payment options, limited residential development exemptions, and flexibility that allows City Council to approve an option not on menu.

At the time of its development, the Ordinance had to be consistent with the court decision on the Palmer/Sixth Street Properties L.P. v City of Los Angeles case and the Costa-Hawkins Residential Rent Control Act, which did not allow the City to require on-site inclusionary rental units.

It should be noted that the West Area Specific Plan (WASP) and Central Area Specific Plan (CASP) have approved Development Agreements that lock in the provisions of the 2017 Inclusionary Housing Ordinance. This means that when the Inclusionary Housing Ordinance is updated, the new provisions of that ordinance would not apply to either the WASP or CASP.

On-site Inclusionary Options:

	On-site For-Sale		On-site Rental	Mixed For-Sale/Rental Option
	<i>Option 1</i>	<i>Option 2</i>	<i>Option 3</i>	<i>Option 4</i>
	20%	15%	12%	20%
Very Low	4%	not required	8%	4% Rental / Option to pay rental impact fees
Low	8%	not required	4%	8% Rental / Option to pay rental impact fees
Median	not required	6%	not required	not required
Moderate	4%	6%	not required	4% Ownership
Workforce	4%	3%	not required	4% Ownership

In Lieu Fees:

Developers may pay an in-lieu fee instead of providing the unit on site. The current in-lieu fee for a for-sale unit is \$14.05 per square foot. For a rental unit, the current in-lieu fee is \$2.40 per square foot. As stated above, developers of rental housing may voluntarily elect to mitigate the impact by providing affordable rental housing on site. If the developer chooses to pay the rental housing impact fee, the applicant will also make twelve percent (12%) of the units within the development available to Section 8 Housing Choice Voucher (Section 8) Program participants.

Residential Development Exemptions:

- Developments creating fewer than ten (10) additional dwelling units or lots
- Developments under a development agreement executed prior to the effective date of the Ordinance (June 6, 2017)

- Developments exempted by Government Code section 66474.2 or 66498.1 and in compliance with any predecessor Ordinance in effect on the date the application for the development was complete
- Developments that have submitted a complete planning or building permit application along with full payment of required application fees prior to the effective date of the Ordinance (June 6, 2017), provided it complies with any approved affordable housing plan and any applicable predecessor Ordinance
- Developments in the Downtown Area (Central City Overlay District), unless determined by Council resolution that, based upon market conditions, the provisions of Article 17 would apply

Downtown (Central City Overlay District) Residential Inclusionary Housing Ordinance Exemption

In the Downtown (Central City Overlay District), there are 394 income restricted units (1996-2022) including 6 – Extremely Low, 191 – Very Low, 190 – Low, and 7- Moderate units. This is one of the largest concentrations of affordable housing in the City (see Attachment 2). Chinatown, which is near the Downtown, is home to the most recently completed large affordable housing developments including Hikari, Dai-Ichi, and Moongate Plaza representing 177 units (see Attachment 2 & 3).

While Downtown has experienced significant affordable housing development over the years, market rate housing construction has lagged. In fact, only 24 market rate units have been developed over the last 5 years. In recognition of this challenge, the Downtown Vibrancy Plan (DVP) promoted the production of market-rate housing to bring more residents with disposable income to the Downtown to create vibrancy and income diversity. Because the DVP was developed at the same time the Inclusionary Housing Ordinance was undergoing an update, the DVP specifically recommended an exemption to the Inclusionary Housing Ordinance for Downtown based on the following considerations:

- Most recent housing units built in the downtown are heavily subsidized with restricted rents
- Market-rate housing is desirable for retail businesses
- Favorable existing policies that allow for higher densities, reduced open space, reduced parking, greater height requirements, and the allowed conversion of commercial space to residential use may not be enough
- Absence of a Downtown exemption greatly reduces the profitability of developments
- There are few opportunity sites left in the Downtown
- Downtown housing opportunities promoting market rate housing should be a goal in evaluating and modifying all City policies

While there are encouraging signs of new market rate housing in development including 300 Main Street (Bruhn Building) with 19 units and 301 Main (Rabobank Building) with 49 units, affordable units still represent the preponderance of housing development in the area.

Because of the current Council's interest in the potential removal of the Downtown Area exemption from the Inclusionary Housing Ordinance, City staff initiated an update to the 2017 Housing Target Market Analysis (HTMA) to reflect current market conditions. The findings of the 2017 HTMA and 2022 HTMA Update are similar, and both concluded that the Downtown Area exemption remain in place.

The 2017 HTMA found that:

- There is substantial demand for near-term ownership and rental residential projects in Downtown.
- Consumer preference exists for market rate infill housing opportunities.
- There is traction for Downtown adaptive reuse projects.
- There are significant market risks to Downtown housing development including crime/public safety, homelessness, lack of open space, low school performance, traffic, and an untested market.
- The City should incorporate housing incentives that might contribute to development cost reductions to improve the market for downtown development including the exemption to the Inclusionary Housing Ordinance

2022 HTMA Update found that:

- Implementing inclusionary housing in the Downtown Area would constrain the current momentum of residential development in the Downtown as the early adopters establish proof of market in this nascent environment.
- The housing market in Salinas has become more expensive since the onset of the Covid-19 pandemic.
- Home ownership is becoming less affordable as housing prices continue to increase, rental units generally present a more affordable option for residents.
- Current construction costs are extremely high.
- Market rate rental and ownership RD-60 (density of 60 units per acre) prototypes both have a negative residual value land value (the difference between a project's high construction costs and its lower market value).
- Micro-rental units show the best project feasibility.

Timing of Inclusionary Housing Ordinance Update

The Housing Element recommends that the Inclusionary Housing Ordinance is re-evaluated every five years for a potential update. Since the ordinance was adopted in 2017, technically the City should begin the re-evaluation of the ordinance this year in 2022. Unfortunately, current capacity of Community Development Department Staff is severely limited by the City's pandemic response including administration of Project Roomkey, Project Homekey, the Emergency Rental Assistance Program (ERAP), and HUD COVID-19 Funding. Staff has gone from administering approximately \$3 million in grant funds annually to \$30 million over just two years. In addition, staff must complete the update to the Housing Element by the end of 2023 or lose access to state grant funds. For these reasons the update to the Inclusionary Housing Ordinance will begin in summer 2023, allowing adequate time to close out COVID programming and to complete a draft

of the Housing Element. As part of the update to the Inclusionary Housing Ordinance, the Downtown Area exemption can be more thoroughly analyzed for possible modification.

CEQA CONSIDERATION:

The proposed action of accepting the informational report regarding the Inclusionary Housing Ordinance is not a project as defined by the California Environmental Quality Act (CEQA) per Guidelines Section 15378.

STRATEGIC PLAN INITIATIVE:

The Inclusionary Housing Ordinance supports multiple City of Salinas Strategic Plan 2022-2025 Goals and Strategies including Economic Development, Housing/Affordable Housing, and Effective and Culturally Responsive Government.

DEPARTMENTAL COORDINATION:

Although this informational report was developed by the Community Development Department Housing Division, implementation of the Inclusionary Ordinance is coordinated and supported by multiple Divisions and Departments including, Current Planning, Advanced Planning & Project Implementation, Permit Services, Economic Development, Legal and Public Works.

FISCAL AND SUSTAINABILITY IMPACT:

To provide the necessary data for City Council to consider elimination of the Downtown Inclusionary Housing Ordinance Exemption, a contract with EPS, Inc. was executed to update the Housing Target Market Analysis. EPS updated the HTMA and completed the initial findings memo on August 30, 2022, which is attached to this report. EPS will follow up with a more detailed analysis that looks at different development prototypes and their corresponding financial viability. The contract for EPS to complete the HTMA is at a not to exceed amount of \$24,990.

It is anticipated that consultant costs for a future update of the Inclusionary Housing Ordinance including Legal Counsel will be approximately \$100,000. Next fiscal year, the Department is likely to request funding for this purpose.

ATTACHMENTS:

1. HTMA Downtown 2022 Update – Initial Findings, August 30, 2022
2. Table of Affordable Housing Units Produced in Downtown
3. Map of Downtown and Surrounding Area Map of Affordable Housing Developments
4. Inclusionary Housing Ordinance Study Session Powerpoint