File #:	21-1171	**Version:** 1	**Name:**	DS - Inclusionary No Net Loss Amendment	
Type:	Agenda Item		**Status:**	Approved	
File created:	9/27/2021		**In control:**	City Council	
On agenda:	11/9/2021		**Final action:**	11/9/2021	

Title: Recommendation to request City Attorney to prepare an ordinance amending Long Beach Municipal Code, Chapter 21.67, regarding Inclusionary Housing, to include recommendations proposed herein;

Request City Attorney to prepare an ordinance amending Long Beach Municipal Code, Chapter 21.11, regarding No-Net-Loss, to include recommendations proposed herein; and

Request City Attorney to prepare a resolution amending the method of establishing an Inclusionary Housing In-Lieu Fee, to include recommendations proposed herein. (Citywide)

Sponsors: Development Services

Indexes:

Code sections:

Attachments: 1. 110921-R-49sr&att.pdf, 2. 110921-R-49 PowerPoint.pdf

Date	Ver.	Action By	Action	Result
11/9/2021	1	City Council	approve recommendation	Pass

Recommendation to request City Attorney to prepare an ordinance amending Long Beach Municipal Code, Chapter 21.67, regarding Inclusionary Housing, to include recommendations proposed herein;

Request City Attorney to prepare an ordinance amending Long Beach Municipal Code, Chapter 21.11, regarding No-Net-Loss, to include recommendations proposed herein; and

Request City Attorney to prepare a resolution amending the method of establishing an Inclusionary Housing In-Lieu Fee, to include recommendations proposed herein. (Citywide)

At its January 19, 2021 and February 2, 2021 meetings, the City Council approved Ordinances related to mandatory inclusionary housing (Inclusionary Housing Ordinance) as well as no-net-loss requirements (No-Net-Loss Ordinance), both related to housing construction in Long Beach. The City Council also adopted an Inclusionary Housing In-Lieu Fee Resolution (Resolution). As part of those actions, the City Council requested policy refinements of the inclusionary housing and no-net-loss provisions to:

- Evaluate the ability to extend the affordability covenants beyond 55 years for both Ordinances;
- Ensure that inclusionary in-lieu fees are used to support the production of new very low -income housing units;
- Evaluate tying the annual in-lieu fee adjustments to an annual index based on

construction and land cost;

· Remove the 2025 no-net-loss expiration date; and,

· Evaluate the feasibility of requiring that all no-net-loss units be replaced onsite rather than offsite.

An initial report back to the City Council was provided on June 3, 2021 (Attachment A - June 3, 2021 Memo to Council). Staff reviewed the requested inclusionary housing policy changes with the assistance of Keyser Marston Associates (KMA), who prepared the attached report titled, “Inclusionary Housing Ordinance Potential Modifications” (KMA Report) (Attachment B - KMA Report), and offers the following recommended modifications to the Inclusionary Housing Ordinance and Resolution, and No-Net-Loss Ordinance to address the City Council’s requests:

1. Extend the minimum term of the inclusionary housing affordability covenants from 55 years to 55 years or the life of the project, whichever is longer (Inclusionary Housing Ordinance).

The KMA Report indicates support for extending the affordability covenants for rental units in perpetuity or for as long as the property is developed with a residential use. The KMA Report advises against extending the affordability covenants for affordable ownership units due to limited value appreciation, and the potential for limited owner-investment in maintenance and capital improvements.

The KMA Inclusionary Housing Financial Evaluation prepared prior to the adoption of the Inclusionary Housing Ordinance recommended a 45-year covenant period for ownership units, with the ability for the first owner to sell the unit at market rate. Instead, the Inclusionary Housing Ordinance was adopted with a 55-year covenant for ownership units, with no ability to sell the unit at market rate during that period. Since this structure may already create the negative outcomes mentioned in the previous paragraph, a change from a 55-year term to perpetuity will likely have the same outcome as the existing structure.

Recommendation No. 1: Modify the covenant period from a 55-year term to 55 years or for so long as the property is developed with a residential use, whichever is longer, for both rental and ownership inclusionary units.

2. Evaluate how to ensure Inclusionary In-Lieu Fees (In-Lieu Fees) are dedicated to the production of new very low-income units and not used for rehabilitation or to subsidize existing rental units (Inclusionary Housing Ordinance).

The Inclusionary Housing Ordinance requires In-Lieu Fees to be deposited into the Affordable Housing Trust Fund and accounted for separately in an inclusionary housing program subaccount. The Inclusionary Housing Ordinance also requires that at least 70 percent of the funds be used to assist with the development of low-income units, with the remaining 30 percent allowed to be used for the development of moderate-income units.

In reality, the majority of new affordable housing units are very low-income units, and there are still no programs to fund moderate-income units. That said, the relatively small amount of funding that could be used for moderate-income units would likely be difficult to use for that purpose. Modifying the Inclusionary Housing Ordinance to require the funds to be used for the development of new very low-income rental housing units would be beneficial to the lower-income community.

Recommendation No. 2: Modify the Inclusionary Housing Ordinance to require that all In-Lieu Fees deposited into the Affordable Housing Trust Fund be used for the development of new very low-income rental housing units (no rehabilitation or subsidization of existing units).

3. Request to tie the In-Lieu Fees to an annual index based on changes in construction costs as measured by the Engineering News Records Construction Cost Index; and land costs measured by using the proxy of change in median condominium sales prices (Resolution).

The Resolution, as currently written, does not require an annual adjustment in the In-Lieu Fee amount. Rather, the Resolution proposes that the In-Lieu Fee be reviewed at least every three years and that any changes to the In-Lieu Fee be directed by a future action of the City Council. The KMA Report advises that an annual update methodology should be simple and easily administered and should be tied to a readily accessible published source. Since the proxy of change in median condominium sales prices is not a published source, it will be time consuming and costly to gather this data on an annual basis. Furthermore, KMA, as an expert in economics and housing programs, does not know how it would be possible to combine data from the Engineering News Records Construction Cost Index and land costs measured by using the proxy of change in median condominium sales prices to update the In-Lieu Fee, as they are two separate and unique methodologies.

The KMA Report recommends that the City use an index of the annual percentage change in new home values as the foundation of the annual in-lieu fee adjustments. A home's value is comprised of the land acquisition costs plus the construction costs plus the developer profit. The Real Estate Research Council of Southern California publishes the median price of newly constructed homes in Los Angeles County each year. The KMA Report recommends that the City revise the Resolution to require an annual update of the In-Lieu Fees and tie the update to the annual percentage change in new home values as published by the Real Estate Research Council. This will capture a comprehensive change in land acquisition and construction costs and can be administered efficiently.

Recommendation No. 3: Revise the Resolution to require an annual adjustment of the In-Lieu Fees based on the annual percentage change in new home values as published by the Real Estate Research Council.

4. Extend the minimum term of the no-net-loss affordability covenants from 55 years to 55 years or the life of the project, whichever is longer, and remove the expiration date of 2025 (No-Net-Loss Ordinance).

As with the inclusionary program, staff supports extending the affordability covenants until the end of the life of the project for units produced under the no-net-loss program. Staff also expects a housing affordability crisis to continue beyond 2025 and supports removing the expiration date of 2025.

Recommendation No. 4: Modify the covenant period from a 55-year term to 55 years or the life of the project, whichever is longer, for both rental and ownership no-net-loss replacement units and remove the expiration date of 2025.

5. Require that all no-net-loss units be replaced onsite rather than offsite (No-Net-Loss Ordinance).

Currently, the No-Net-Loss Ordinance allows replacement units to be located onsite or offsite. This applies to both the new construction of a residential building and a change of a principal residential use to another principal use, such as a commercial or commercial office use (Non-Residential). The offsite option is allowed only when affordable housing set-aside units are required pursuant to the City's inclusionary housing requirements, the units are located within two miles of the principal housing development project in an area with known displacement risk, and the construction of such units does not require the removal of more units requiring replacement. The Inclusionary Housing Ordinance does not provide a by-right option to provide offsite units but does allow a developer to provide an offsite plan for consideration by the City Council. When a project is proposed that consists of a Non-Residential use, it would be impossible to require onsite replacement. Also, there are a limited number of lots in the City where residential units cannot be replaced onsite, such as lots subject to sea-level-rise, flooding, or seismic risks that would prohibit new residential construction.

Recommendation No. 5: Modify the No-Net-Loss Ordinance to remove the by-right offsite option for residential projects and require that any offsite residential compliance plans be considered and approved by the City Council; and continue to allow the by-right offsite option for new Non-Residential projects.

This matter was reviewed by Deputy City Attorney Richard F. Anthony on October 20, 2021 and by Budget Management Officer Rhutu Amin Gharib on September 21, 2021.

City Council action is requested on November 9, 2021, to allow these program changes to be made prior to the end of 2021.

The proposed annual update to the Mello Act in-lieu fees will result in in-lieu fees more consistently attune to the housing market than the current triennial update. Given that Mello

Act provisions have not been triggered in the last decade, an estimate of new revenues generated by an annual update cannot be estimated with accuracy at this time. The proposed fee adjustments will be reviewed as part of the Mid-Year Fees and Charges Schedule slated to go to the City Council for approval in mid-Fiscal Year 2022. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. There is no local job impact associated with this recommendation.

Approve recommendation.

[Enter Body Here]

OSCAR W. ORCI
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

THOMAS B. MODICA
CITY MANAGER