THE CITY OF PLEASANTON

CITY COUNCIL
WORKSHOP AGENDA

Tuesday, August 20, 2024
5:00 PM

City Council Chamber
200 Old Bernal Avenue
Pleasanton, CA 94566

The meeting will be held in-person.

Public participation: It is requested that members of the public wishing to address the City Council submit a speaker card. When public comment is opened on an agenda item, individuals may speak once per agenda item.

To submit written public comment regarding an open session item on this meeting agenda visit https://forms.cityofpleasantonca.gov/f/writtenpubliccomment. Comments will be accepted by the City Clerk's Office until 12:00 p.m. on the day of the Council meeting.

In Person at Council Chamber:
• Submit a physical speaker card to the City Clerk at the meeting. When your name is called, please provide comment at the podium.

CALL TO ORDER/ROLL CALL

PUBLIC COMMENT

WORKSHOP

1. Review and provide direction on the following items:

   a. Provide direction on key policy considerations for an update of the Inclusionary Zoning Ordinance and affordable housing fee

   b. Provide direction regarding a public art fee and program

ADJOURNMENT

Notice

Under Government Code §54957.5, any writings/documents regarding an open session item on this agenda and items received by the City Clerk's Office by 12:00 p.m. on the day of the meeting provided to a majority of the City Council after distribution of the agenda packet will be available for public inspection on the City's website https://www.cityofpleasantonca.gov/ and also at the Pleasanton Library located at 400 Old Bernal Ave., Pleasanton, CA 94566.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders, which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure § 1094.6). Further, if you challenge an action taken by the City Council in court, you may be limited, by California law, including but not limited to Government Code §65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

Accessible Public Meetings

The City of Pleasanton can provide special assistance for persons with disabilities to participate in public meetings. To make a request for a disability-related modification or accommodation (e.g., an assistive listening device), please contact the City Clerk's Office at 123 Main Street, Pleasanton, CA 94566 or (925) 931-5027 at the earliest possible time. If you need sign language assistance, please provide at least two working days' notice prior to the meeting date.

Item #1.a.

THE CITY OF PLEASANTON

CITY COUNCIL AGENDA REPORT

August 20, 2024
Community Development

TITLE: PROVIDE DIRECTION ON KEY POLICY CONSIDERATIONS FOR AN UPDATE OF THE INCLUSIONARY ZONING ORDINANCE AND AFFORDABLE HOUSING FEE

SUMMARY

Following the May 7, 2024, City Council workshop, at which initial findings from the evaluation of changes to the City's Development Impact Fees, Sewer and Water Connection Fees, and Inclusionary Housing rate were presented, this second workshop requests further City Council input and direction on the Inclusionary Zoning Ordinance (IZO), inclusionary rate, and fees.

Staff provides the following recommendations, based on City Council discussion at the May meeting, subsequent analysis by Economic & Planning Systems (EPS), and consideration of the balance between securing the largest number of inclusionary units in market-rate projects, while considering project feasibility of new residential development:

- Establish a 15% inclusionary rate for both rental and for-sale projects (all unit types), with rental units at 60% Area Median Income (low-income) and for-sale projects at 120% AMI (moderate income), and reduce “threshold” project size from 15 to 10 units.
- Establish an affordable housing in-lieu fee for projects not subject to inclusionary requirements, or otherwise permitted to pay in-lieu fees, of up to $45.57 per square foot for single-family and townhome projects, and up to $20-25 per square foot for multi-family projects, with these preliminary recommendations subject to refinement as part of the broader consideration of the overall fee program.
- As an interim measure to stimulate multi-family housing production, allow rental apartment projects to pay fees in lieu of constructing on-site housing for up to 30% of the required units.
- Adopt various modifications to the existing IZO to:
    - Make all alternative compliance proposals subject to City Council review and approval, and subject to findings
    - Make proposals fully compliant with the IZO subject to approval at the same level as the underlying project
    - Continue to include a range of alternative compliance options, including payment of in-lieu fees, with such proposals subject to City Council review and approval

- Explicitly disallow ADUs/JADUs to count toward meeting the IZO requirement
- Improve feasibility for on-site inclusionary units by providing additional flexibility as to smaller unit sizes/types, and clustering of inclusionary units in some circumstances
- Add quantitative standards to ensure minimum unit sizes, and other standards are met.

FINANCIAL STATEMENT

The City has collected between approximately $1.75 million and $2.35 million per year in the Lower Income Housing Fund in the last three years (FY21-23); considering offsetting expenditures, the fund has grown annually by between approximately $685,000 and $1.26 million in the same period. Funds contributed to the account in the past three years generally comprise fees paid by projects not subject to the IZO (i.e., small residential and commercial projects).

The effects of changing the inclusionary rate on the amount of fees collected will vary in the future depending on the type and pace of development, as well as any decisions made by City Council to accept payment of in-lieu fees for specific projects. However, calibrating the affordable housing fee more closely to the cost of developing on-site affordable units will likely increase the amount of fees collected (since in most cases, equivalent fees per unit will go up) and provide an additional financial resource to the City to support programs and projects to meet the community's affordable housing needs.

BACKGROUND

Inclusionary Zoning Ordinance–Overview

The IZO Chapter 17.44 of the Pleasanton Municipal Code was adopted in 2000 and has not been updated or amended since then (Attachment 1). Key elements of the current IZO include:

- For projects of 15 or more units, a requirement to include affordable units at a rate of 15% of total units for multi-family projects; and 20% of total units for single-family projects. The IZO does not distinguish between rental and for-sale projects.
- Inclusionary units within multi-family must be affordable to very-low or low-income households; within single-family projects, units can be affordable to very-low, low, and/*or* moderate-income households. The IZO does not establish proportions of units that must be targeted to each of these affordability levels, nor does it specify a specific income limit within the very-low, low- or moderate-income range.
- Commercial, office, and industrial development is required to either pay the Lower Income Housing Fee (LIHF) or provide affordable housing as part of the project.
- Allowance for projects to propose a range of alternatives to building on-site units. These include payment of in-lieu fees, dedication of land, and construction of

units off-site, and other "creative concepts" deemed consistent with the purposes of the IZO.

- For some alternatives, such as dedication of land and off-site construction, and other developer-proposed approaches, the IZO specifies the City Council must approve such approaches (i.e., it is discretionary as to whether such alternatives are allowed). With respect to payment of fees the IZO is permissive, stating that applicants may propose payment of fees, with City Council approval not stipulated and no parameters for approval identified.

The IZO includes some limited parameters for the location and design of the inclusionary units, generally prohibiting clustering the units in a single area of the site, requiring units to incorporate identical exterior materials and finishes as the market-rate units, and allowing for units to be smaller than the market-rate units.

Since its adoption in 2000, the IZO has resulted in the production of hundreds of below-market-rate units and has generated millions of dollars in affordable housing funds that have supported valuable programs and unique affordable housing projects including the Sunflower Hill residential community, Promenade Apartments, and Kottinger Gardens.

While flexibility and the ability to negotiate affordable housing agreements as a component of discretionary project approvals made the IZO's structure logical, State laws have shifted to eliminate much of the City's discretion and negotiating authority with respect to residential projects, and to allow enforcement of only objective standards and requirements. The lack of specificity in the current Ordinance does not serve the City well in ensuring market-rate projects contribute to meeting the City's substantial affordable housing needs and its Regional Housing Needs Allocation (RHNA) obligation.

Objective Design Standards and Housing Overlay Zone–Supplemental Inclusionary Standards

Understanding the existing IZO has some deficiencies, the Objective Design Standards for Housing Element Sites that were adopted in January 2023 (and subsequently amended in May 2023) included more specific parameters with respect to inclusionary units. Those requirements were reflected and further refined as part of the new Housing Opportunity Zone (HOZ) designation, to which each of the Housing Element sites was re-zoned in January 2024.

The ODS and HOZ reflected more strict parameters with respect to affordability mix and bedroom mix, allowances in some circumstances for clustering of required inclusionary units, and more specificity as to the minimum size of inclusionary units compared to market rate units. An excerpted section of the ODS, with respect to Inclusionary Housing requirements is included as Attachment 2. While the standards included provide useful "bridging" guidance in the absence of a more comprehensive update to the IZO, staff believes it is appropriate to revisit and incorporate those new standards (with amendments as needed) into the IZO update.

Affordable Housing Fee – May 7 Findings and City Council Feedback

The May 7, 2024 Background Report provides background on the basis for the current Affordable Housing Fee (see Background Report, Pages 5-7). As described in the report, the current fee (just over $52,203 per unit for detached single-family homes, and $51,077 for townhomes and other attached units), does not meet the equivalent cost of constructing an affordable housing unit, particularly for single-family and townhome units. Establishing a better comparability between the cost to build an on-site inclusionary unit and the amount of the in-lieu fee would disincentivize developers from defaulting to payment of the fee.

EPS evaluated several scenarios, looking at different inclusionary rates and affordability mixes. Each of those scenarios was used to develop a corresponding maximum supportable housing in-lieu fee. EPS also evaluated the financial feasibility of potential fee increases based on current market factors and a range of market-appropriate assumptions.[1] Key findings of the analysis include:

- Current affordable housing fee rates for single-family and for-sale development is significantly discounted compared to the corresponding cost to build affordable units on-site, so there is some capacity to increase affordable housing and other fees for single-family and townhome projects.
- With the City's current 20% inclusionary rate, increasing fees to the maximum level supportable is unlikely to be feasible for most single-family projects.
- Multi-family rental projects have marginal financial feasibility under current economic conditions, and it will be challenging to increase the current 15% inclusionary rate, or substantially increase the affordable housing fee and other fees.
- Any increase in affordable housing fees needs to be considered in the broader context of the overall fee burden, including potential increases to the Capital Facilities and Traffic Impact Fee.

Based on those findings, among staff's initial recommendations were for City Council to consider lowering the current 20% single-family inclusionary rate, and to retain (not increase) the current 15% multi-family rate.

City Council feedback at the May 7 meeting included:

- Concern from some Councilmembers that lowering the inclusionary rate would adversely affect the City's ability meet its RHNA allocation, although others were more comfortable with considering lowering the rate.
- Broad agreement with staff's general premise that setting fees at an appropriate rate that does not work against economic development goals was important.
- Interest in adopting fees formulated on a per-square-foot basis, rather than per unit.
- Interest in allowing for alternatives that still produced inclusionary units but provided some flexibility to developers (e.g., allowing for different product types or for units to be provided off-site).

[1] See link for Background Report above: Background Memo, Pages 13-15, for a summary of the scenarios and comparable in-lieu fees per unit.

- Interest in “affordable by design” approaches.

DISCUSSION

A. Inclusionary Housing Rate, Affordability Mix and Housing Fees

Based on the initial results and feedback at the May 7 meeting, EPS has further refined the inclusionary scenarios. The following sections outline the further inclusionary scenarios analyzed and staff recommendations with respect to for-sale and rental projects.

Tables within each section show the scenarios studied, existing IZO, and equivalent in-lieu fee rate per square foot and per unit for each scenario. (Staff recommends using a per square foot basis for calculation of fees in the updated fee schedule). The tables also identify the maximum feasible fee, under current market conditions, based on EPS’ evaluation of overall development costs, and a reasonable developer expectation around profit margin or yield on cost, which are factors that drive a developer’s decision to proceed, or not, with a project.

1. For Sale Projects

EPS modeled two for-sale project scenarios:

1) Decreasing the current inclusionary rate from 20% to 15%, retaining the affordability at 120% AMI; and

2) Retaining the existing 20% rate but allowing for a mix of 120% and 150% AMI units (a proportion of the units would be required to be sold at 120% AMI).[2]

Tables 1 and 2 illustrate these scenarios and calculate maximum fee rates for two different for-sale products, single-family detached homes, and attached, for-sale townhomes, as described below:

- For single-family detached, while there is room to increase overall in-lieu fee, charging the maximum justifiable rate under either scenario (an equivalent fee per market rate unit of between $380,000 and $477,000) is unlikely to be feasible for most projects.
- For townhomes, there is also room to increase the fee, and the financial feasibility analysis indicates that either a 20% or 15% rate, with an equivalent estimated per unit fee of $84,000 to $95,000 per unit, is likely to be feasible.[3]

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[2] Although 150% AMI reflects an “Above-Moderate” income limit, it still reflects a price point that is a substantial discount over market-rate prices, and of benefit to households of relatively modest means, while improving the financial feasibility of the projects where a higher inclusionary rate is imposed.

[3] For both product types, staff notes that the financial feasibility assessment is a “point in time” evaluation, and factors such as development costs and interest rate changes may affect this calculus. It is further noted that, since the fee is established on a per square foot basis, building larger or smaller units will affect the overall fee amounts paid.

Table 1: For-Sale Projects (Single-Family Detached) - Revised Inclusionary Scenarios)

	Inclusionary Rate	Affordability Mix	In-Lieu Fee/Square Foot*.	Equivalent In-Lieu Fee/Unit
Existing IZO	20%	120% AMI	$17.40	$52,203
Maximum Feasible Fee			*$67.38*	*$202,151*
Scenario 1 (Recommended)	**15%**	**120% AMI**	**$126.38**	**$379,134**
Scenario 2	20%	120% & 150% AMI	$159.28	$477,838

* Assumes typical single-family detached home size of 3,000 sq. ft.

Table 2: For-Sale Projects (Townhomes) – Revised Inclusionary Scenarios

	Inclusionary Rate	Affordability Mix	In-Lieu Fee/Square Foot*	Equivalent In-Lieu Fee/Unit
Existing IZO	20%	120% AMI	$26.10	$52,203
Maximum Feasible Fee			*$45.57*	*$91,144*
Scenario 1 (Recommended)	**15%**	**120% AMI**	**$42.10**	**$84,190**
Scenario 2	20%	120% & 150% AMI	$47.59	$95,174

*Assumes typical townhome size of 1,800 sq. ft.

Conclusions/Recommendations:
Staff recommends **Scenario 1 (15% Inclusionary Rate/120% AMI)** for both single-family detached and townhome projects, for the following reasons:

- The 15% rate is the most feasible for for-sale townhomes and detached single-family homes. Consistent with the ODS, this allows the City to set the affordability limit at 120% AMI, a moderate-income rate that will contribute toward meeting that RHNA segment.

- The City could consider varying the inclusionary percentage for detached single-family homes versus townhomes (i.e., 15% for single-family detached projects, and 20% for townhomes). However, a consistent approach will be more straightforward to implement, and will avoid developers attempting to seek loopholes (for example, building zero-lot line units that are technically detached to qualify for the lower inclusionary rate).

- As shown in Table 5, below, the 15% rate is comparable to peer cities surveyed, including Livermore, Dublin and Fremont; other cities surveyed (Walnut Creek, Danville and San Ramon) have rates or 10% or less.

Staff recommends the fee for both detached single-family and townhome developments be set at **$45.57 per square foot,** which is the maximum feasible rate for townhomes. While this is slightly above the equivalent cost calculation for the 15% inclusionary rate, it can be justified since it would also apply to single-family homes, as a blended rate that factors in the higher justifiable per square foot rate for single-family homes.

For detached single-family homes, the recommended rate reflects a significant increase over the current rate but is less than the full amount that could be justified based on the inclusionary requirements; it is also well within the limits of feasibility. The following considerations support this recommendation:

- There are very few remaining low-density, detached single-family projects remaining to be built that will be subject to the IZO (see Table 4). Even if those projects are permitted to pay in-lieu fees, it will not have a significant impact on the number of inclusionary units produced.

- Remaining single-family sites subject to the IZO are likely to propose meeting their on-site inclusionary requirements with smaller or clustered units (e.g., duets or attached units); the fee rate is more commensurate with this cost to build/deed restrict smaller townhome style units.

- The majority of remaining single-family homes to be built are small-scale (less than 10 units) projects and, in many cases, will be single-unit projects built by individual homeowners. The lower rate will reduce the financial burden on these small projects/owners.

- As shown in Table 5, below, the rate is similar to at least some of the peer cities surveyed, including Fremont ($44.00/square foot) and Livermore ($39.94/square foot). However, it is higher than some others including Dublin, San Ramon, and Walnut Creek (which range from $15.00 to $21.86/square foot).

- Keeping the rate somewhat lower in the Single-Family Residential category will provide capacity for the City to consider increases in other development impact fees, such as the Capital Facilities and Traffic Impact Fees.

2. Rental Projects

EPS modeled two alternative scenarios for multi-family/rental apartment projects:

1) Retain the existing 15% inclusionary rate; and

2) Reduce the rate to 10%. The 10% alternative was modeled in light of the poor current market conditions with respect to rental housing, and the theory that reducing the inclusionary rate could help to incentivize construction of higher-density housing types more generally.

In both scenarios, units are recommended to be restricted to a maximum of 60% AMI, which is within the low-income category.

Per EPS' analysis, under current market conditions, the maximum feasible fee rate is only $8.75 per square foot. All the inclusionary scenarios result in a maximum supportable in-lieu fee well above this amount, which will not be feasible for most projects.

Table 3: Rental Apartments / Multi-family Projects – Revised Inclusionary Scenarios

	Inclusionary Rate	Affordability Mix	In-Lieu Fee/Square Foot*	In-Lieu Fee/Unit
Existing IZO	15%	50%, 60% and 80% AMI	$63.85	$51,077
Maximum Feasible Fee			*$8.75*	*$7,000*
Scenario 1 (Recommended)	**15%**	**60% AMI**	**$61.08**	**$48,867**
Scenario 2	10%	60% AMI	$40.72	$32,578
* Assumes typical apartment size of 800 sq. ft.				

Conclusions/Recommendations:
While lowering the rate to 10% would help the financial feasibility of multi-family rental projects, staff nonetheless recommends retaining the existing inclusionary rate at 15%.

- As outlined in Section 3, below, reducing the rate to 10% would have a significant effect on affordable housing production, since most remaining units, including market rate and affordable/inclusionary units, will be within higher-density, multi-family projects.

- The 15% rate has proven to be viable during other economic cycles and has successfully produced many affordable units over the years. As the rental housing market recovers, the 15% rate is likely to become feasible again.

- As shown in Table 6, below, a 15% inclusionary rate is comparable to the peer cities surveyed, with Livermore, Danville, and San Ramon also setting their rate at 15%. Dublin, Fremont and Walnut Creek all have rates of 10% or less. (See Section 4, below for a comparison of peer cities.)

Recognizing the challenging environment for multi-family projects, staff recommends two related, complementary strategies that could help stimulate or reduce barriers to multi-family development:

- Establish the in-lieu fee at a reduced rate, below the maximum supportable amount – for example, at between $20.00 and $25.00 per square foot (or less). As shown in Table 6, below, most of the peer cities surveyed have in-lieu fees per square foot around or below this level, likely reflecting a similar intent to avoid impediments to multi-family housing production.

- On a short-term/interim basis of up to two years, allow multi-family rental and condominium projects subject to the IZO to pay in-lieu fees for up to 30% of the otherwise required inclusionary units. ("Alternative compliance" requests to pay fees above this increment would require City Council review and approval.)

These proposals would help to incentivize smaller rental projects not subject to the IZO and provide a temporary/short-term stimulus toward larger multi-family development projects (which constitute the bulk of the City's future zoned housing supply), while not significantly affecting long-term affordable housing production.

3. Remaining Residential Capacity/Effect of IZO Amendment Changes

To assist with the City Council's decision-making, staff analyzed potential future residential development capacity, considering a) projects not yet approved or part of an existing development application, and b) of a probable size (10 units or more) that would be subject to the IZO. The properties considered include both sites that were re-zoned as part of the 6th Cycle Housing Element, and those that had residential zoning, and were identified as having residential development capacity in the Housing Element.[4]

The analysis, summarized in Table 4, finds there to be a very limited number of sites (a maximum of only 2-4 sites) that would be likely to yield traditional detached single-family residential projects subject to the IZO, with a total of 50-158 total units. Between existing zoned properties and the Housing Element "re-zone" sites, there are 5-17 "mid-density" sites that could collectively yield 420-560 housing units (generally expected to be for-sale townhomes), and 20-30 high-density housing sites yielding in the range of 4,200-5,600 apartment units, typically rental projects.[5]

Table 4 also provides a comparison of the yield of inclusionary units, based on various assumed inclusionary rates. Modifying the inclusionary rate for lower-density single-family and townhome projects will have relatively little effect on the actual production of affordable units (a difference of 25-40 units); whereas changing the inclusionary rate for apartment units has a much more significant effect on inclusionary production, in the order of 200-300 units.

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[4] A range is shown for each category, because while the Housing Element takes a conservative approach in projecting unit counts (e.g., assuming projects will develop at the low or mid-point of their allowable density), staff wanted to illustrate the maximum impact of an effect in change of the inclusionary rate.

[5] The count and estimate of multi-family sites includes some sites, particularly smaller sites in the Downtown, that may ultimately develop as lower-density townhome projects. If this occurs, the townhome unit count would increase and the multi-family unit count would decrease.

Table 4: Estimates of Inclusionary Units Yields, Remaining Residential Sites*

Residential Density	Typical Unit Type	Number of Projects/Sites Subject to IZO	Total Project Units Subject to IZO	Inclusionary Unit Yield (10%)	Inclusionary Unit Yield (15%)	Inclusionary Unit Yield (20%)
2-8 du/ac	Detached Single-Family	3-5	60-168	n/a	9-25 units	12-34 units
8-29 du/ac	Attached Townhomes	5-17	420-560	n/a	60-95 units	82-126 units
30+ du/ac	Apartments	20-30	4,200 - 5,600	420-560	630-840 units	n/a
"Remaining Residential Sites" include all sites included in Housing Element sites inventory (Tables B-14 and B-15), that are not yet entitled or part of an active development application, and where project size is 10 units or more.)						

4. Comparison to Peer Cities Inclusionary Rates

As a further point of comparison, staff compiled information on inclusionary rates and affordable housing fees for peer cities including Dublin, Livermore, Danville, San Ramon, Walnut Creek, and Fremont. These summaries are included in Tables 5 and 6 below.

Table 5: Peer Cities Comparison, Inclusionary Rates and Fees for Ownership Projects

City	Inclusionary Requirement	Income Targets	In-Lieu Fee[1.]	
			Per Sq. Ft.	Per Unit (Equivalent)[2]
Pleasanton	20%	Moderate	$17.34	$52,023
Danville	10%	Moderate	Market Gap Calculation	
Dublin	15%	Moderate/Low	$15.00	$45,000
Fremont	15%	Moderate/Low	$44.00	$132,000
Livermore	15%	Moderate/Low	$39.94	$119,820
San Ramon	10%	Moderate	$15.70	$47,100
Walnut Creek	10% 7% 6%	Moderate Low Very Low	$21.86	$65,580
1. Circumstances under which payment of in-lieu fees may be paid vary by jurisdiction. In most cases, in-lieu fees apply for projects below a minimum number of units or are subject to approval as part of an alternative compliance proposal. 2. Assumes units are 3,000 sq. ft single-family homes				

Table 6: Peer Cities Comparison, Inclusionary Rates and Fees for Rental Projects

City	Inclusionary Requirement	Income Targets	In-Lieu Fee[1.]	
			Per Sq. Ft.	Per Unit (Equivalent)[2]
Pleasanton	15%	Low, Very Low	$68.85	$52,023
Danville	15%	Moderate	Market-gap calculation	
Dublin	10%	Low	$9.00	$7,200
Fremont	10%	Low	$17.50	$14,000
Livermore	15%	Low, Very Low	n/a [3]	n/a
San Ramon	15%	Low, Very Low	$14.63	$11,704
Walnut Creek	10% 6%	Low Very Low	$21.86	$17,488

1. Circumstances under which payment of in-lieu fees may be paid vary by jurisdiction. In most cases, in-lieu fees apply for projects below a minimum number of units or are subject to approval as part of an alternative compliance proposal.
2. Assumes units are 800 sq. ft apartments
3. Rental projects less than 10 units exempt from in-lieu fee

Inclusionary Zoning Ordinance: Other Policy Considerations

The following policy questions and considerations are proposed for City Council consideration, reflecting some of the key elements of the IZO:

Classification of Unit Types for Applicability of IZO Rate and Affordability Criteria

The existing IZO currently defines and assigns different inclusionary rates and affordability levels based on whether units are classified as “Single-Family” Units, or “Multi-Family” Units.[6]

Among the peer cities reviewed, Pleasanton’s approach is unusual, since most other cities use tenure (i.e., whether the unit is for sale, or a rental unit) to determine inclusionary requirements and affordability limits. Tenure has a much more significant effect on how projects function financially: for example, the affordability limits applied to a rental project typically differ significantly from a for-sale project, based on factors such as household eligibility and income; the gap between market rents/sales price and affordable rent/sales prices varies greatly between rental and for-sale projects.

Staff recommends the IZO be modified to use tenure, versus the current unit type definition, to define the applicable inclusionary rate and income levels.

Threshold Project Size for On-Site Inclusionary Requirements

Staff recommends the minimum project size to which the IZO apply be reduced from 15 units to a project of 10 or more units. As shown in Table 6, this threshold is commensurate with peer cities, and helps to address the modest reduction in total

[6] The distinction between unit types based on the project’s parcelization: A unit that sits on its own parcel of land is considered a “single-family” unit, whereas multiple units located on a single parcel or land are defined as “multi-family” units, irrespective of whether those units are for-sale, or for-rent.

affordable unit production that could come with reducing the inclusionary rate from 20% to 15%, by capturing a small increment of additional projects and inclusionary units.[7] The change would also align the City's ordinance to regional grant programs, particularly the recently adopted ABAG/MTC Transit-Oriented Communities policy, which establishes a 10-unit threshold for a "compliant" inclusionary ordinance.

Inclusionary Unit Standards
The IZO includes provisions that govern the design, siting, and other minimum requirements for inclusionary units. Staff recommends some changes to these provisions, to create more objectivity in some areas, to address certain gaps in the standards, and in some cases to provide additional flexibility so that providing on-site units is more realistic/feasible for projects, as follows:

1. <u>Clustering/Distribution of Affordable Units/Size and Type of Affordable Units</u>: The existing IZO requires the affordable units to be dispersed, rather than clustered in a single area of the project site. This approach helps ensure affordable units are well-integrated into the market-rate project, and do not unnecessarily segregate the affordable units and households. However, while it may be feasible for some projects to meet a very strict application of the standard, applying the policy too rigidly could be counterproductive if it limits flexibility for builders to meet on-site affordable requirements, and instead prompts developers to seek alternatives such as payment of in-lieu fees.

   Furthermore, the existing IZO permits the inclusionary units to be smaller than the market-rate units, but generally assumes they are of a very similar type as the market rate units (e.g., a townhouse project will deed restrict townhouse units).

   In practice, it may be challenging, financially and otherwise, for a single-family detached or townhome development to deed-restrict units identical to the project's market-rate units. In other cases, it may be appropriate and beneficial for a project to commit a portion of its site for a dedicated, affordable project developed by an affordable housing developer. This model can allow the developer to benefit from economy of scale in construction; by virtue of being entirely deed-restricted, such projects may qualify for tax-credit financing or funding not otherwise available if the units are scattered and allow for on-site amenities or supportive services tailored to residents' needs.

   Staff therefore recommends the IZO amendments provide more explicit flexibility to allow for the on-site inclusionary requirements for <u>single-family projects</u>, whether comprising attached townhomes or detached single family homes – including that the on-site requirements can be met by a range of different, more compact unit types, and for clustering of units to be allowed in certain circumstances. To the extent different unit types are allowed, it is also recommended the IZO include minimum unit sizes (see item 3, below), and have

[7] For example, for townhome projects staff estimates that 10-15 additional inclusionary units could be yielded by reducing the threshold project size. This offsets about half the difference between a 15% and 20% inclusionary rate.

access to common amenities, and similar, though not necessarily identical, private amenities as the market-rate units.

2. Use of ADUs or JADUs to Satisfy Inclusionary Requirements: ADUs and JADUs are an increasingly popular feature of developments. Although they do provide housing opportunities, staff recommends they explicitly not be allowed to count toward meeting a project's inclusionary requirements. There are significant practical challenges in managing and monitoring ADU affordability when each unit is being leased by a separate private property owner (e.g., that owner would be responsible for tasks such as determining income-qualification, setting the affordable rent, and so on); more significantly, the City may have limited ability to enforce a requirement for a single-family homeowner to rent or lease the ADU to an income-eligible household or individual, meaning there is no guarantee the unit will provide the intended affordable housing opportunity.

3. Size of Inclusionary Units: As noted above, the existing IZO permits the inclusionary units to be smaller than the market-rate units but provides no parameters for what is acceptable as a minimum size unit. Staff recommends establishing a series of minimums based on tenure and bedroom count. Initial recommendations are below, and are adjusted slightly from the standards as were incorporated in the Housing Element Sites Objective Design Standards, based on input from the City's urban design consultant, Van Meter Williams Pollack (VMWP), who has expertise in architectural design and development of affordable housing projects, including tax-credit eligible developments:

    - For ownership units, the living area of the inclusionary units may be up to 50% smaller than the size of the average market rate unit in the project.

    - For rental units the living area of each unit shall be as follows: (1) a studio shall be at least 450 square feet; (2) a one-bedroom unit shall be at least 600 square feet; (3) a two-bedroom unit shall be at least 750 square feet; (4) a three-bedroom unit shall be at least 1,100 square feet; and (5) for units with more than three bedrooms an additional 200 square feet for each additional bedroom.

Alternative Compliance
The existing IZO includes various methods by which an applicant can comply with the Ordinance. While staff believes these methods generally provide an appropriate menu of options, staff recommends they be fine-tuned in the updated IZO:

- Off-Site Projects: The terms specified in the existing IZO are appropriate, addressing aspects such as meeting the overall affordability requirements; however, staff recommends more specific language be included that off-site projects provide at least the same, or better affordability than an on-site proposal.

- Dedication of Land: Staff recommends modest changes to this section, to provide a method for valuation of the land to be dedicated, and to ensure that it has equivalent or greater value than the cost of providing the on-site units.

- Credit Transfers: The current IZO permits developers who provide more on-site units than the Ordinance requires to apply the excess as a “credit” for another project. No changes are recommended to this section.

- Other Alternative Compliance: The current IZO allows developers to propose alternative “creative concepts” to meet the IZO’s requirement, “in order to bring down the cost of providing inclusionary units,” and subject to City Council approval. Staff recommends continuing to include this provision in the IZO to allow flexibility to consider new or alternative ways to meet the goals and intent of the ordinance.

Payment of In-Lieu Fees
City Councilmembers have expressed concern about projects being allowed to pay the affordable housing fee rather than provide on-site units, with limited discretion for the City to approve or deny such proposals. Indeed, the existing IZO grants developers the option of paying fees, and unlike other alternative compliance methods listed above, <u>does not</u> specify City Council approval of such proposals.

Staff recommends that payment of in-lieu fees still be included among the menu of alternative compliance options. There may be instances where it is appropriate or advantageous to accept payment of fees: for example, building affordable units in an isolated, non-transit accessible part of the community may not be the preferred option. Collecting fees can also give the City the ability to aggregate funds toward housing programs or a dedicated affordable housing project that could create more, or more deeply affordable units than building on-site.

However, approval of such payment <u>should be solely at the discretion of the City Council</u>, with adequate justification provided based on the specific circumstances of the project, and with a clearly stated policy preference for as many units as possible to be constructed on-site.

As described above, it is a further recommendation to allow, on an interim basis, multi-family projects to pay in-lieu fees for up to 30% of their required inclusionary units, as a stimulus to multi-family and rental housing production. Other alternative compliance proposals, such as construction of units at another location, dedication or donation of land, should also be allowed to be proposed, and such proposals subject to City Council approval.

Streamlined/Simplified Approval for Fully-Compliant Affordable Housing Agreements
To further incentivize on-site construction and full compliance with the IZO, and offer a streamlining opportunity, staff further recommends that Affordable Housing Agreements that are <u>fully compliant</u> with the IZO and not including alternative compliance requests be approved at the same level as the underlying project, rather than always subject to City Council review and approval.

REQUEST FOR CITY COUNCIL AND DIRECTION

In summary, staff requests input and direction on the following topics, with staff's recommendations summarized:

1. **Inclusionary rate for for-sale and rental projects**

   Staff Recommendation:
   - *Establish a 15% inclusionary rate for <u>both</u> rental and for-sale projects (all unit types), with rental units at 60% Area Median Income (low-income) and for-sale projects at 120% AMI (moderate income).*
   - *Reduce "threshold" project size for residential developments subject to IZO from 15 to 10 units.*
   - *As an interim measure to stimulate multi-family housing production, allow rental apartment projects to pay fees in lieu of constructing on-site housing for up to 30% of the required units, for up to two years.*

2. **Amount of the affordable housing fee**

   Staff Recommendation:
   - *Establish an affordable housing in-lieu fee for projects not subject to inclusionary requirements, or otherwise permitted to pay in-lieu fees, of up to $45.57 per square foot for single-family and townhome projects, and up to $20-25 per square foot for multi-family projects, with these preliminary recommendations subject to refinement as part of the broader consideration of the overall fee program.*

3. **Modifications and refinements to the existing IZO**

   Staff Recommendation:
   - *Make proposals fully compliant with the IZO subject to approval at the same level as the underlying project*
   - *Make all alternative compliance proposals subject to City Council review and approval, and subject to findings*
   - *Continue to include a range of alternative compliance options, including payment of in-lieu fees, also subject to City Council review and approval*
   - *Explicitly disallow ADUs/JADUs to count toward meeting the IZO requirement*
   - *Improve feasibility for on-site inclusionary units by providing additional flexibility as to smaller unit sizes/types, and clustering of inclusionary units in some circumstances*
   - *Add quantitative standards to ensure minimum unit sizes and other standards are met*

STRATEGIC PLAN/POLICY ALIGNMENT
The recently adopted ONE Pleasanton Strategic Plan includes Goal A: *Funding our Future* – Fiscal Sustainability, Strategy 7 to "Conduct an analysis and update development impact fees to keep pace with new development."

The 6th Cycle Housing Element incorporates Programs 2.1, 2.2, and 2.3 to evaluate and update the City's IZO, consider modifications to the inclusionary rate, and monitor and update the in-lieu housing fee – to support policy goals of having market-rate projects build affordable units, generate funding for affordable housing programs and activities, and mitigate demand for affordable housing while ensuring inclusionary requirements and fees do not constrain market-rate housing production.

IZO AMENDMENTS AND FEES: NEXT STEPS
Staff will prepare an amended draft IZO reflective of the City Council's recommendations for review and recommendation for adoption by the Planning Commission in September. Any other related amendments would be presented at this time, such as conforming amendments to the ODS, and the Housing Opportunity Sites (HOZ) designation.

City Council recommendations for the inclusionary rates will be incorporated into the Draft Fee Study for the Affordable Housing Fee; that study will be brought back as part of a package to City Council in October, along with the Nexus Studies and recommendations for the Capital Facilities Fee and Traffic Impact Fee. Public hearings for adoption of the new fees, and the amended IZO (and related code amendments), are anticipated in November 2024.

Prepared and Submitted by:

Ellen Clark
Director of Community Development

Approved by:

Gerry Beaudin
City Manager

Attachments:
1. PMC Chapter 17.44: Inclusionary Zoning Ordinance
2. Objective Design Standards for Housing Element Sites, Excerpted Pages

Chapter 17.44 INCLUSIONARY ZONING

Article I. General Provisions

17.44.010 Title.

This chapter shall be called the “Inclusionary Zoning Ordinance of the City of Pleasanton.” (Ord. 1818 § 1, 2000)

17.44.020 Purpose.

The purpose of this chapter is to enhance the public welfare and assure that further housing development attains the city’s affordable housing goals by increasing the production of residential units affordable to households of very low, low, and moderate income, and by providing funds for the development of very low, low, and moderate income ownership and/or rental housing. In order to assure that the remaining developable land is utilized in a manner consistent with the city’s housing policies and needs, 15 percent of the total number of units of all new multiple-family residential projects containing 15 or more units, constructed within the city as it now exists and as may be altered by annexation, shall be affordable to very low and low income households. For all new single-family residential projects of 15 units or more, at least 20 percent of the project’s dwelling units shall be affordable to very low, low, and/or moderate income households. These requirements shall apply to both ownership and rental projects. (Ord. 1818 § 1, 2000)

17.44.030 Definitions.

For the purposes of this chapter, certain words and phrases shall be interpreted as set forth in this section unless it is apparent from the context that a different meaning is intended.

“Affordable housing proposal.” A proposal submitted by the project owner as part of the city development application (e.g., design review, planned unit development, etc.) stating the method by which the requirements of this chapter are proposed to be met.

“Affordable rent.” A monthly rent (including utilities as determined by a schedule prepared by the city) which does not exceed one-twelfth of 30 percent of the maximum annual income for a household of the applicable income level.

“Affordable sales price.” A sales price which results in a monthly mortgage payment (including principal and interest) which does not exceed one-twelfth of 35 percent of the maximum annual income for a household of the applicable income level.

“Amenities.” Interior features which are not essential to the health and safety of the resident, but provide visual or aesthetic appeal, or are provided as conveniences rather than as necessities. Interior amenities may include, but are not limited to, fireplaces, garbage disposals, dishwashers, cabinet and storage space and bathrooms in excess of one. Amenities shall in no way include items required by city building codes or other ordinances that are necessary to ensure the safety of the building and its residents.

“Applicant.” Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks city permits and approvals for a project.

“City.” The city of Pleasanton or its designee or any entity with which the city contracts to administer this chapter.

“Commercial, office, and industrial project.” For the purposes of this chapter, any new nonresidential (commercial, office, or industrial) development or redevelopment greater than 10 gross acres 250,000 square feet of gross building area, whichever is less.

“Dwelling unit.” A dwelling designed for occupancy by one household.

“HUD.” The United States department of housing and urban development or its successor.

“Household.” One person living alone; or two or more persons sharing residency whose income is considered for housing payments.

“Household, low income.” A household whose annual income is more than 50 percent but does not exceed 80 percent of the annual median income for Alameda County, based upon the annual income figures provided by the U.S. department of housing and urban development (HUD), as adjusted for household size.

“Household, moderate income.” A household whose annual income is more than 80 percent but does note exceed 120 percent of the annual median income for Alameda County, based upon the annual income figures provided by HUD, as adjusted for household size.

“Household, very low income.” A household whose annual income does not exceed 50 percent of the annual median income for Alameda County, based upon the annual income figures provided by HUD, as adjusted for household size.

“Inclusionary unit.” A dwelling unit as required by this chapter which is rented or sold at affordable rents and/or affordable sales prices (as defined by this chapter) to very low, low, or moderate income households.

“Inclusionary unit credits.” Credits approved by the city council in the event a project exceeds the total number of inclusionary units required in this chapter. Inclusionary unit credits may be used by the project owner to meet the affordable housing requirements of another project subject to approval by the city council.

“Income.” The gross annual household income as defined by HUD.

“Life of the inclusionary unit.” The term during which the affordability provisions for inclusionary units shall remain applicable. The affordability provisions for inclusionary units shall apply in perpetuity from the date of occupancy, which shall be the date the city of Pleasanton performs final inspection for the building permit.

“Lower income housing fee.” A fee paid to the city by an applicant for a project in the city, in lieu of providing the inclusionary units required by this chapter.

“Median income for Alameda County.” The median gross annual income in Alameda County as determined by HUD, adjusted for household size.

“Off-site inclusionary units.” Inclusionary units constructed within the city of Pleasanton on a site other than the site where the applicant intends to construct market rate units.

“Ownership units.” Inclusionary units developed as part of a residential development which the applicant intends will be sold, or which are customarily offered for individual sale.

“Project.” A residential housing development at one location or site including all dwelling units for which permits have been applied for or approved.

“Project owner.” Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which holds fee title to the land on which the project is located.

“Property owner.” The owner of an inclusionary unit, excepting a “project owner.”

“Recapture mechanisms.” Legal programs and restrictions by which subsidies provided to inclusionary units will be controlled and repaid to the city and/or other entity upon resale, to ensure the ongoing preservation of affordability of inclusionary units or to ensure funds for inclusionary units remain within the city’s affordable housing program.

“Rental units”: Inclusionary units which the applicant intends will be rented or leased, or which are customarily offered for lease or rent.

“Resale restrictions.” Legal restrictions which restrict the price of inclusionary units to ensure that they remain affordable to very low, low, and moderate income households on resale.

“Residential project, multiple-family.” A residential project consisting of condominiums, apartments, and similar dwellings attached in groups of four or more units per structure and including multiple units located on a single parcel of land under common ownership.

“Residential project, single-family.” A residential project consisting of detached and attached single-family homes, including paired single-family, duets, duplexes, townhomes, and similar unit types where each unit is located on a separate parcel of land.

“Unit type.” Various dwelling units within a project which are distinguished by number of bedrooms and/or the type of construction (e.g., detached single-family, duets, townhomes, condominiums). (Ord. 1818 § 1, 2000)

Article II. Zoning Requirements

17.44.040 General requirements/applicability.

A. Residential Development. For all new multiple-family residential projects of 15 units or more, at least 15 percent of the project's dwelling units shall be affordable to very low, and/or low income households. For all new single-family residential projects of 15 units or more, at least 20 percent of the project's dwelling units shall be affordable to very low, low, and/or moderate income households. These dwelling units shall be referred to as "Inclusionary Units". Special consideration will be given to projects in which a significant percentage of the inclusionary units are for very low and low income households. The specific mix of units within the three affordability categories shall be subject to approval by the city.

The inclusionary units shall be reserved for rent or purchase by eligible very low, low, and moderate income households, as applicable. Projects subject to these requirements include, but are not limited to, single-family detached dwellings, townhomes, apartments, condominiums, or cooperatives provided through new construction projects, and/or through conversion of rentals to ownership units.

The percentage of inclusionary units required for a particular project shall be determined only once on a given project, at the time of tentative map approval, or, for projects not processing a map, prior to issuance of building permit. If the subdivision design changes, which results in a change in the number of unit types required, the number of inclusionary units required shall be recalculated to coincide with the final approved project. In applying and calculating the 15 percent requirement, any decimal fraction less than or equal to 0.50 may be disregarded, and any decimal fraction greater than 0.50 shall be construed as one unit.

B. Commercial, Office, and Industrial (COI) Development. In lieu of paying the lower income fee as set forth in city Ordinance No. 1488, COI development may provide affordable housing consistent with this chapter. As a result, new COI developments are strongly encouraged to submit an affordable housing proposal as set forth in Section 17.44.090 of this chapter. Upon submittal of the affordable housing proposal, city staff will meet with the developer to discuss the potential for providing incentives to encourage on-site construction of affordable housing units and alternatives to constructing affordable units as set forth in this chapter. In the event a developer requests incentives or alternatives as a means of providing affordable housing in connection with a COI development, the affordable housing proposal will be reviewed as set forth in Section 17.44.090 of this chapter. COI development not pursuing the inclusion of affordable housing shall be subject to the lower income fees as set forth in city ordinance 1488. (Ord. 1818 § 1, 2000)

17.44.050 Inclusionary unit provisions and specifications.

A. Inclusionary units shall be dispersed throughout the project unless otherwise approved by the city.

B. Inclusionary units shall be constructed with identical exterior materials and an exterior architectural design that is consistent with the market rate units in the project.

C. Inclusionary units may be of smaller size than the market units in the project. In addition, inclusionary units may have fewer interior amenities than the market rate units in the project. However, the city may require that the inclusionary units meet certain minimum standards. These standards shall be set forth in the affordable housing agreement for the project.

D. Inclusionary units shall remain affordable in perpetuity through recordation of an affordable housing agreement as described in Section 17.44.060 of this chapter.

E. All inclusionary units in a project shall be constructed concurrently within or prior to the construction of the project's market rate units.

F. For purposes of calculating the affordable rent or affordable sales price of an inclusionary unit, the following household size assumptions shall be used for each applicable dwelling unit type:

Unit Size	HUD Income Category by Household Size
Studio unit	1 person
1 bedroom unit	2 persons
2 bedroom unit	3 persons
3 bedroom unit	4 persons
4 or more bedroom unit	5 or more persons

G. The city's adopted preference and priority system shall be used for determining eligibility among prospective beneficiaries for affordable housing units created through this inclusionary zoning ordinance. (Ord. 1818 § 1, 2000)

17.44.060 Affordable housing agreement.

An affordable housing agreement shall be entered into by the city and the project owner. The agreement shall record the method and terms by which a project owner shall comply with the requirements of this chapter. The approval and/or recordation of this agreement shall take place prior to final map approval or, where a map is not being processed, prior to the issuance of building permits for such lots or units.

The affordable housing agreement shall state the methodology for determining a unit's initial and ongoing rent or sales and resale price(s), any resale restrictions, occupancy requirements, eligibility requirements, city incentives including second mortgages, recapture mechanisms, the administrative process for monitoring unit management to assure ongoing affordability and other matters related to the development and retention of the inclusionary units.

In addition to the above, the affordable housing agreement shall set forth any waiver of the lower income housing fee. For projects which meet the affordability threshold with very low and/or low income units, all units in the project shall be eligible for a waiver of the lower income housing fee. For single-family residential projects which meet the affordability threshold with moderate income units, or multiple-family residential projects which do not meet the affordability threshold, only the inclusionary units shall be eligible for a waiver of the lower income housing fee except as otherwise approved by the city council.

To assure affordability over the life of the unit, the affordable housing agreement shall be recorded with the property deed or other method approved by the city attorney. In the event an inclusionary unit is affordable by design the affordable housing agreement shall stipulate the method for assuring that the units retain their affordability as the housing market changes.

The community development director may waive the requirement for an affordable housing agreement for projects approved prior to the effective hereof and/or for projects that have their affordable housing requirements included in a development agreement or other city document. (Ord. 2000 § 1, 2009; Ord. 1818 § 1, 2000)

17.44.070 Incentives to encourage on-site construction of inclusionary units.

The city shall consider making available to the applicant incentives to increase the feasibility of residential projects to provide inclusionary units. Incentives or financial assistance will be offered only to the extent resources for this purpose are available and approved for such use by the city council or city manager, as defined below, and to the extent that the project, with the use of incentives or financial assistance, assists in achieving the city’s housing goals. However, nothing in this chapter establishes, directly or through implication, a right of an applicant to receive any assistance or incentive from the city.

Any incentives provided by the city shall be set out in the affordable housing agreement pursuant to Section 17.44.060 of this chapter. The granting of the additional incentives shall require demonstration of exceptional circumstances that necessitate assistance from the city, as well as documentation of how such incentives increase the feasibility of providing affordable housing.

The following incentives may be approved for applicants who construct inclusionary units on-site:

A. Fee Waiver or Deferral. The city council, by resolution, may waive or defer payment of city development impact fees and/or building permit fees applicable to the inclusionary units or the project of which they are a part. Fee waivers shall meet the criteria included in the city’s adopted policy for evaluating waivers of city fees for affordable housing projects. The affordable housing agreement shall include the terms of the fee waiver.

B. Design Modifications. The granting of design modifications relative to the inclusionary requirement shall require the approval of the city council and shall meet all applicable zoning requirements of the city of Pleasanton. Modifications to typical design standards may include the following:

Reduced setbacks;

Reduction in infrastructure requirements;

Reduced open space requirements;

Reduced landscaping requirements;

Reduced interior or exterior amenities;

Reduction in parking requirements;

Height restriction waivers.

C. Second Mortgages. The city may utilize available lower income housing funds for the purpose of providing second mortgages to prospective unit owners or to subsidize the cost of a unit to establish an affordable rent or an affordable sales price. Terms of the second mortgage or subsidy shall be stated in the affordable housing agreement. The utilization of these incentives shall not be the sole source of providing the inclusionary units and they are intended to augment the developer’s proposal.

D. Priority Processing. After receiving its discretionary approvals, a project that provides inclusionary units may be entitled to priority processing of building and engineering approvals subject to the approval of the city manager. A project eligible for priority processing shall be assigned to city engineering and/or building staff and processed in advance of all nonpriority items. (Ord. 1818 § 1, 2000)

17.44.080 Alternatives to constructing inclusionary units on-site.

The primary emphasis of this inclusionary zoning ordinance is to achieve the inclusion of affordable housing units to be constructed in conjunction with market rate units within the same project in all new residential projects. However, the city acknowledges that it may not always be practical to require that every project satisfy its affordable housing requirement through the construction of affordable units within the project itself. Therefore, the requirements of this chapter may be satisfied by various methods other than the construction of inclusionary units on the project site. Some examples of alternate methods of compliance appear below. As housing market conditions change, the city may need to allow alternatives to provide options to applicants to further the intent of providing affordable housing with new development projects.

A. Off-Site Projects. Inclusionary units required pursuant to this chapter may be permitted to be constructed at a location within the city other than the project site. Any off-site inclusionary units must meet the following criteria:

1. The off-site inclusionary units must be determined to be consistent with the city’s goal of creating, preserving, maintaining, and protecting housing for very low, low, and moderate income households.

2. The off-site inclusionary units must not result in a significant concentration of inclusionary units in any one particular neighborhood.

3. The off-site inclusionary units shall conform to the requirements of all applicable city ordinances and the provisions of this chapter.

4. The occupancy and rents of the off-site inclusionary units shall be governed by the terms of a deed restriction, and if applicable, a declaration of covenants, conditions and restrictions similar to that used for the on-site inclusionary units.

The affordable housing agreement shall stipulate the terms of the off-site inclusionary units. If the construction does not take place at the same time as project development, the agreement shall require the units to be produced within a specified time frame, but in no event longer than five years. A cash deposit or bond may be required by the city, refundable upon construction, as assurance that the units will be built.

B. Land Dedication. An applicant may dedicate land to the city or a local nonprofit housing developer in place of actual construction of inclusionary units upon approval of the city council. The intent of allowing a land dedication option is to provide the city or a local nonprofit housing developer the free land needed to make an inclusionary unit development feasible, thus furthering the intent of this chapter.

The dedicated land must be appropriately zoned, buildable, free of toxic substances and contaminated soils, and large enough to accommodate the number of inclusionary units required for the project. The city's acceptance of land dedication shall require that the lots be fully improved, with infrastructure, adjacent utilities, grading, and fees paid.

C. Credit Transfers. In the event a project exceeds the total number of inclusionary units required in this chapter, the project owner may request inclusionary unit credits which may be used to meet the affordable housing requirements of another project. Inclusionary unit credits are issued to and become the possession of the project owner and may not be transferred to another project owner without approval by the city council. The number of inclusionary unit credits awarded for any project is subject to approval by the city council.

D. Alternate Methods of Compliance. Applicants may propose creative concepts for meeting the requirements of this chapter, in order to bring down the cost of providing inclusionary units, whether on- or off-site. The city council may approve alternate methods of compliance with this chapter if the applicant demonstrates that such alternate method meets the purpose of this chapter (as set forth in Section 17.44.020 of this chapter).

E. Lower Income Housing Fee Option. In lieu of providing inclusionary units in a project, an applicant may pay the city's lower income housing fee as set forth in Chapter 17.40 of this title. (Ord. 1818 § 1, 2000)

Article III. Miscellaneous

17.44.090 Administration.

An applicant of a project subject to this chapter shall submit an affordable housing proposal stating the method by which it will meet the requirements of this chapter. The affordable housing proposal shall be submitted as part of the applicant's city development application (e.g., design review, planned unit development, etc.) to the planning division in a form approved by the city manager. The community development director may waive the requirement for submittal of an affordable housing proposal for projects approved prior to the effective date hereof and/or for projects that have undergone considerable public review during which affordable housing issues were addressed.

The affordable housing proposal shall be reviewed by the city's housing commission at a properly noticed meeting open to the public. The housing commission shall make recommendations to the city council either accepting, rejecting or modifying the developer's proposal and the utilization of any incentives as outlined in this chapter. The housing commission may also make recommendations to the planning commission regarding the project as necessary to assure conformance with this chapter.

Acceptance of the applicant's affordable housing proposal is subject to approval by the city council, which may direct the city manager to execute an affordable housing agreement in a form approved by the city attorney. The city manager or his or her designee shall be responsible for monitoring the sale, occupancy and resale of inclusionary units. (Ord. 2000 § 1, 2009; Ord. 1818 § 1, 2000)

17.44.100 Conflict of interest.

The following individuals are ineligible to purchase or rent an inclusionary unit: (a) city employees and officials (and their immediate family members) who have policymaking authority or influence regarding city housing programs; (b) the project applicant and its officers and employees (and their immediate family members); and (c) the project owner and its officers and employees (and their immediate family members). (Ord. 1818 § 1, 2000)

17.44.110 Enforcement.

The city manager is designated as the enforcing authority. The city manager may suspend or revoke any building permit or approval upon finding a violation of any provision of this chapter. The provisions of this chapter shall apply to all agents, successors and assigns of an applicant. No building permit or final inspection shall be issued, nor any development approval be granted which does not meet the requirements of this chapter. In the event that it is determined that rents in excess of those allowed by operation of this chapter have been charged to a tenant residing in an inclusionary unit, the city may take appropriate legal action to recover, and the project owner shall be obligated to pay to the tenant, or to the city in the event the tenant cannot be located, any excess rents charged. (Ord. 1818 § 1, 2000)

17.44.120 Appeals.

Any person aggrieved by any action or determination of the city manager under this chapter, may appeal such action or determination to the city council in the manner provided in Chapter 18.144 of this code. (Ord. 1818 § 1, 2000)

Contact:

City Clerk: 925-931-5027

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PART 2
DEVELOPMENT STANDARDS

The following regulations establish quantitative standards in order to realize the desired building, open space, and street character contained in the Design Standards.

In addition to the Design Standards described below; all multifamily residential development shall satisfy other **standards** in this document relating to:

- The provision of pedestrian and bicycle connections (both private and public)
- Group Usable Open Space (Development Standards)
- Landscaped Paseos (A.6)
- Open Space, Landscaping and Lighting (A8, A9, and A10)

And shall also incorporate residential amenities such as play/activity areas, pools, water features, fitness facilities, and community rooms.

Density: Each site has been identified for a range of density expressed in units per acre (see Table 2.1 Housing Sites, for details). These densities are in addition to the on-site retail or service uses that the City may approve as part of a mixed-use project, if such additional development was anticipated in the 2012 Housing Element and Climate Action Plan General Plan Amendment and Rezonings Supplemental EIR, or the 2023-2031 (6th Cycle) Housing Element Update Program EIR, or as approved through any subsequent tiered environmental review.

> Note: *The City interprets the minimum residential density to be an average minimum density to be met over the entirety of the project site (i.e., different portions of the site may have densities that are either higher or lower, but the minimum density is met cumulatively across the entire site).*

Permitted and Conditionally Permitted Uses: In addition to residential uses at the densities assigned in Table 2.1, mixed-use development (commercial uses in conjunction with residential uses) is allowed as follows on sites where such additional development was anticipated in the 2012 Housing Element and Climate Action Plan General Plan Amendment and Rezonings Supplemental EIR, or the 2023-2031 (6th Cycle) Housing Element Update Program EIR, or as approved through any subsequent tiered environmental review.

- Appendix C lists permitted and conditionally permitted uses for designated 5th Cycle (Carryover Sites)
- 6th Cycle Housing Element Sites 18 (Valley Plaza) and Site 2 (Stoneridge Shopping Center), permitted and conditionally permitted uses shall be allowed as specified by their underlying zoning, within mixed use projects on these sites. Vertical mixed use (mixed uses within the same building) or horizontal mixed use (mixed uses within different buildings on the same site) is allowed.

Affordability: All development shall comply with the City's Inclusionary Zoning Ordinance (IZO) through Affordable Housing Agreements entered into between the City and each developer; the agreements will be recorded and will run with the land. Inclusionary units shall be deed-restricted to be affordable in perpetuity. Accessory Dwelling Units or Junior Accessory Dwelling Units shall not be permitted to count towards meeting the IZO's minimum inclusionary requirements.

For rental units, the following affordability mix shall be met, reflecting the rent maximums that may be set among any required inclusionary units:

- A minimum of 25 percent of inclusionary units shall have rents set at no more than 30% of 50% Area Median Income (AMI) for households with incomes up to 50% AMI (Very Low Income Units)
- A minimum of 25 percent of inclusionary units shall have rent set at no more than 30% of 60% AMI for households with incomes of 51% to 60% AMI (Low-Income Units)
- No more than 50 percent of inclusionary units shall have rent set at no more than 30% of 80% AMI for households with incomes of 61% to 80% AMI (Low-Income units)

Actual rents charged shall follow the published schedule of maximum monthly rents, by size and type of units, as provided and updated annually by the City. Qualifying incomes shall be set at the same levels as those described above (i.e., a qualifying household for a 50% AMI rent-restricted unit shall have a maximum annual income of no more than 50% AMI), with such income limits based on the schedule of income limits based on household size published annually by the City and consistent with the U.S. Department of Housing and Urban Development (HUD) annual adjustment in the AMI for the San Francisco-Oakland-Fremont Metropolitan Statistical Area.

In instances where a project proposes to make use of State or Federal programs (e.g., State Housing Density Bonus Law, Low-Income Tax Credits, etc.) then the most restrictive requirements of any applicable income and rent limits established by such programs shall prevail; and for purposes of Density Bonus Law, for low-income households earning 61-80% AMI, the City shall allow, at the applicant's request, rents to be set at 30% of actual income of such qualifying low-income households.

For ownership units, prices shall be set at the following limits to result in a monthly mortgage payment (principal and interest) which does not exceed one-twelfth of 35% of the stated AMI, per Municipal Code Section 17.44.050.F:

- 1 bedroom units to be restricted at 100% AMI
- 2 bedroom condominium units to be restricted at 100% AMI
- 2 bedroom townhome units/single-family units AND 3 bedroom and larger units to be restricted at 120% AMI[1]

Section 8 Rental Assistance Vouchers: Through the affordable housing agreements entered into between the City and each developer, the developments will generally be required to accept HUD Section 8 Rental Vouchers as a means of assisting qualified applicants.

Bedroom Mix of Affordable Units: For each project, a minimum of 10% of the total affordable units will be three-bedroom units; a minimum of 45% of the total affordable units will be two-bedroom units; and the remaining affordable units will be studio or one-bedroom units except that no more than 10% of units may be studios. This requirement shall not apply to age-restricted senior housing or single-family projects.

[1] Household sizes for units shall be calculated based upon two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, as generally set forth in Cal. Health and Safety Code section 50052.5(h).

THE CITY OF PLEASANTON

Item #1.b.

CITY COUNCIL AGENDA REPORT

August 20, 2024
Library and Recreation

TITLE: PROVIDE DIRECTION REGARDING A PUBLIC ART FEE AND PROGRAM

EXECUTIVE SUMMARY

The City of Pleasanton recognizes the important role of public art in fostering civic pride and encouraging a sense of place. Unique or significant public art pieces can become landmarks that people associate with a community. With the support of generous benefactors, the City's public art collection has expanded over many years. Notably, these donations are specifically allocated for the purchase of art and do not cover installation or maintenance of the artwork. By implementing a "percent for art" program, the City could bolster its public art collection by creating a continuous funding source for the installation and maintenance of public art, alongside the existing donor-advised funds, which are projected to grow over time.

Staff recommends the City Council direct staff to develop a "percent for public art" program which would be brought forward for review and approval by the Civic Arts Commission and City Council as a work plan item in Fiscal Year 2024/25.

BACKGROUND

Chapter 13.16 of the Pleasanton Municipal Code (PMC) describes the purpose of "Art in Public Places" (Attachment 1), as being "to promote the acquisition, construction and installment of works of public art in Pleasanton that will foster creativity, engender civic pride, encourage a sense of community, and enrich the lives of our citizens."

The City currently has 46 permanent public art pieces, 20 utility box paintings, and two temporary public art pieces. These works are located in City parks and facilities, as well as on public streets and sidewalks, including areas around the Firehouse Arts Center, Alviso Adobe Community Park, Pioneer Cemetery and along Main Street. One public art piece is located at Kaiser Permanente medical facility on Stoneridge Drive. The City's Public Art Program is currently funded by the General Fund, an Internal Service Fund, and "Another H.A.P.P.Y." (Another Harrington Art Partnership Piece for You). The General Fund supports $40,000 per year for conservation and maintenance (provided as part of the Library and Recreation Department budget). An Internal Service Fund — the Public Art Acquisition and Maintenance Fund (provided as part of the Public Works Department budget) — supports $20,000 per year: $10,000 for art installations, which includes lighting, concrete bases, and plaques, and $10,000 for art acquisition. Another H.A.P.P.Y. is a donor-advised fund established by George Gary Harrington and Nancy R. Harrington and held by the City. The Pleasanton Cultural Arts Council has been assigned the Harringtons' limited control over the fund. As of July 2024, the balance of the H.A.P.P.Y. fund is $121,511.87. These funds can only be used for public art acquisition, not for maintenance. Currently, the City's Master Fee Schedule VIII. Recreation lists Public Art in the “Mostly Community Benefit” category, with a 0-25% cost recovery goal.

There are two existing, though dated, City plans that identify public art priorities: the 2014 Cultural Plan and the 2007 Downtown Public Art Master Plan. Of the many goals outlined in these plans, evolving the City’s “public art program to better serve the needs of the entire community, match the aesthetic standard of the City, and enhance its artistic reach and scope” remains relevant today.

DISCUSSION

Public art amplifies the cultural landscape of a community, offering residents and visitors access to artistic expressions that reflect local values, history, and identity as well as offering notable community benefits. It contributes to the visual appeal of a city, transforming ordinary spaces into visually engaging, shared spaces where people can interact. Public art can also boost local businesses by drawing tourists and encouraging people to spend more time in the area and can serve as an educational tool, offering opportunities for learning about different artistic styles, cultural histories, and social issues. Engaging with art can have a positive impact on mental well-being, providing inspiration, relaxation, and a sense of connection to something greater.

Based on interest from the Civic Arts Commission and the City Council, staff has researched “percent for art” development fee programs in Dubin, Livermore, and San Ramon as a tool to fund and expand public art in Pleasanton. The information gathered is presented below, along with staff’s recommendation for adopting a similar program in Pleasanton.

While any public art program fee will ideally be structured in a manner that is financially feasible for projects to implement, per economic and financial consulting firm Economic and Planning Systems’ (EPS) input, there is no nexus requirement for a percent for public art program or related in-lieu fee, and the fee could be adopted by ordinance.

<u>Review of Comparison Cities</u>

In conversations with staff from the Cities of Dublin, Livermore, and San Ramon, all three spoke positively about their programs. Though each City structures and runs its programs slightly differently, common elements include: the collection of a fee for public art based on a percentage of construction valuation; the option to provide on-site public art, subject to specified criteria, to meet the program's requirements; and exemptions for certain types of projects.

Dublin charges a 0.5% fee for non-residential buildings over 50,000 square feet and residential projects more than 20 units, and 0.45% for non-residential buildings less than 50,000 square feet. Exemptions include low-income housing, non-profits, and residential projects less than 20 units. Funds can be used for acquisition, installation, site preparation, landscaping, promotion, and education of public art. Funds may also be granted to partner agencies to further enhance public art.

Livermore charges a fee in an amount ‘not less than the program allocation amount for acquisition and installation of public art in the private development project,’ with such amount to be determined by the Building Official. Public art is to be installed on the development site in a location that allows the public art to be visible from a public right-of-way or from other public property. This applies to any and all residential development over four units, commercial development, including office and retail uses or office and residential uses, and industrial or light industrial uses throughout Livermore. Exemptions include remodeling, repair or reconstruction of structures which have been damaged by fire, flood, wind, earthquake or other calamity; seismic retrofit and fire sprinkler installation projects as defined by the municipal code; all residential remodeling; all commercial alterations; the installation of any accessory structures; below market rate housing units and structures designated as historic pursuant to the Livermore general plan, the Livermore Development Code or the downtown specific plan. Developers can select a public art project or pay a public art in-lieu fee. Specifically, use of funds can cover up to 10% of staffing costs to administer the program.

San Ramon charges .01% of the construction valuation, as determined by the Building Official, for new residential and commercial development; and .005% of the construction valuation, as determined by the Building Official, for new residential and commercial development additions/alterations to existing residential and commercial development. Exemptions include residential development of less than 10 dwelling units; addition to an existing residential development of less than 500 square feet; alteration and repair of an existing residential development including, but not limited to, re-roofing, kitchen remodeling, and bathroom alteration; construction of an accessory dwelling unit; and addition, alteration, or tenant improvement of an existing commercial development less than one million dollars in building code valuation. Developers can select a public art project or pay a public art in-lieu fee. Funds can be used for acquisition and commissioning of public art.

<u>Recommendations</u>
Public art projects and programs are complex efforts that involve many stakeholders and staff to create a program that works best for the community. Developing clear expectations, ordinances and guidelines around the scope and purpose of the program are important, as is developing guidance for program administration, criteria for what qualifies as a bona fide public art installation on private property, and allowable use/purpose of funds collected.

With this in mind and based on feedback from other local jurisdictions, staff recommends developing and presenting for Civic Arts Commission and City Council consideration:

- A “percent for art” program for Pleasanton based on best practices from neighboring Cities

- Updates to the City's Municipal Code to provide for a "percent for art" and better clarify the public art process and responsibilities
- A public art plan to guide the expansion of the public art program throughout the city

A percent for the art program would complement the Another H.A.P.P.Y. fund to allow funds to be utilized for installation and maintenance. One of the largest challenges to using the Another H.A.P.P.Y. fund has been identifying funding sources for installation and the long-term maintenance of new art pieces.

Should the City Council direct staff to move forward with developing a program, staff will work closely with the Civic Arts Commission to develop details of the program, with strategic input from the City Council on questions such as:

- Does the community want to see more permanent public art in Pleasanton?
- Is the community asking for more art education, programming, or events around public art?
- Should the program have other focus areas?

STRATEGIC PLAN/POLICY ALIGNMENT
The ONE Pleasanton Strategic Plan includes Goal C: *Investing in Our Environment* – Strategy 7 to continue to invest in parks, bicycle and pedestrian infrastructure, and public art to improve traffic safety, promote climate resilience, and increase access to cultural and recreational opportunities.

Prepared and Submitted by:

Heidi M. Murphy

Heidi Murphy
Director of Library and Recreation

Approved by:

Gerry Beaudin
City Manager

Attachment:

1. PMC Chapter 13.16: Art In Public Places

CHAPTER 13.16
ART IN PUBLIC PLACES

§ 13.16.010. Statement of philosophy.

As a community matures, the community turns toward the greater rewards it can provide for its citizens. Typically, a community will turn toward increased cultural activities.

Pleasanton is maturing and becoming more aware of the value of its cultural environment, particularly public art, for its citizens to enjoy.

As stated by the National Endowment for the Arts, "Our need to make, experience, and comprehend art is as profound as the need to speak. It is through art that we can understand ourselves and our potential...and it is through art that we will be understood and remembered by those who will come after us."

Therefore, the city accepts a responsibility for expanding experience with public art.
(Ord. 1676 § 1, 1996)

§ 13.16.020. Purpose and goals.

A. The purpose of this art in public places chapter is to promote the acquisition, construction and installment of works of public art in Pleasanton that will foster creativity, engender civic pride, encourage a sense of community, and enrich the lives of our citizens.

B. Major goals of this chapter include the creation of a civic arts commission to:

   1. Review and recommend action on public art projects;
   2. Encourage commercial, office, and residential projects to incorporate art within the project design;
   3. Promote art within the city;
   4. Work with artists and the Pleasanton cultural arts council;
   5. Oversee the development of a city of Pleasanton cultural plan;
   6. Recommend policies and action regarding the city of Pleasanton's civic arts program;
   7. Guide the future direction of cultural enhancement of the city; and
   8. Develop facility needs, including the exploration of the need for a performing/ visual arts center and gallery.

(Ord. 1676 § 1, 1996)

§ 13.16.030. Definitions.

"Annual public art projects plan" means a prioritized list of public art projects with budgets.

"Art in public places" means any visual work of art displayed for two weeks or more on city property in an open city-owned area, on the exterior of any city-owned facility, public areas, lobbies or public assembly areas, or on any non-city property if the work is installed, financed, either wholly or in part, with city funds, or grants procured by the city.

"City capital project" means any capital improvement project paid for, wholly or in part, by the city of Pleasanton to construct or remodel a building, decorative or commemorative structure, park, street, sidewalk, parking facility or utility or any portion thereof, within the city limits.

"Civic arts commission" means a qualified citizen committee as established by Chapter 2.39 of this code to provide recommendations regarding the administration of the city's civic arts program and the art in public places program, and to recommend scope of projects, artworks and artists for the public art program.

"Public art" means original visual works of art which are accessible to the public and/or public employees, including, but not limited to:

1. "Paintings" of all media, including both portable and permanently affixed works such as murals.
2. "Sculpture" which may be in the round, bas-relief, high relief, mobile, fountain, kinetic, electronic, etc., in any material or combination of materials, including sound and performance.
3. "Other visual media" including, but not limited to, prints, drawings, stained glass, calligraphy, mosaics, photography, film, video, ceramics, fibre and textiles.
4. "Other works" of a wide range of materials, disciplines and media which are of specific duration, including installation and performance arts, and which are documented for public accessibility after the life of the piece has ended.
5. "Functional art works" which possess practical, functional qualities as well as aesthetic ones.
6. "Collaborative design projects" which involve artists and other design professionals.
7. The following items are not to be considered public art works for the purposes of this chapter:
    a. Directional elements such as super graphics, signage, or color coding except where these elements are an integral part of the original art works.
    b. Art objects which are mass-produced from a standard design such as playground equipment, commercially produced fountains, flags, or banners.
    c. Unsigned or mass-produced reproductions of original artworks.
    d. Decorative, ornamental, or functional elements which are designed by the building architect as opposed to an artist commissioned for the purpose of

creating artwork.

e. Landscape architecture and landscape gardening except where these elements are designed by an artist and are an integral part of the artworks by an artist.

f. Services or utilities necessary to operate or maintain the artwork over time.

g. Performing arts events which would normally be considered a part of the traditional performing arts, i.e., dramatic and theatrical productions, musicals, dance, ballet, music recitals and concerts, etc.

"Public art collection" means any public art owned by the city of Pleasanton.

"Public art administration appropriation" means any appropriation from the general fund for educational activities and administration of the public art program.

"Public art fund" means a separate account for the acquisition, construction and installation of public art.

"Public art in private places" means artworks located and financed by private developers within public view or access.

"Public art maintenance appropriation" means any appropriation from the general fund for regular routine maintenance of the city public art collection.

"Public art restoration and conservation fund" means a separate account established by the city for the extraordinary restoration and conservation of artworks in the city public art collection.
(Ord. 1676 § 1, 1996)

§ 13.16.040. Uses of funds and appropriations.

A. Uses of Public Art Fund. Monies from the public art fund shall be used in accordance with the public art project plan and may be used for expenses connected with artists' design concepts, acquisition, purchase, commissioning, placement, installation, rental, lease, exhibition, and/or display of artworks. Artworks may be permanent or temporary, may be integral to the architecture, or may be incorporated into the city construction project.

B. Uses of the Public Art Restoration and Conservation Fund. Monies from the public art restoration and conservation fund shall be used in accordance with the annual public art projects plan. Monies from the public art restoration and conservation fund shall be used for the extraordinary restoration and conservation needs of the city public art collection.

C. Public Art Maintenance Appropriation. The city's general fund operating budget may include an annual appropriation to cover the routine, regular cleaning and maintenance needs of the city public art collection.

D. Public Art Administration Appropriation. The city's general fund operating budget may include an annual appropriation to cover the administration and educational programs of the art in public places program.

(Ord. 1676 § 1, 1996)

§ 13.16.050. Public art in private places program.

A. The city strongly encourages private individuals or corporations to participate in the public art in private places program by placing original works of art in publicly accessible areas in new commercial, office or industrial developments.

B. The public art in private places program is optional to developers with commercial, office or industrial projects in the city of Pleasanton. During the development review process, developers of major new projects are encouraged to provide appropriate art, commensurate with the scale of the proposed building(s), which would complement and enhance their projects. The civic arts commission shall review and make recommendations regarding any public art which is proposed as part of a development.

C. Developers may choose to:

   1. Acquire and install original works of art in publicly accessible areas of their developments.

   2. Make a cash contribution for a city-sponsored public art project; make a sponsorship matching contribution for a work of art, if the city approves; or

   3. Make a cash contribution to the city's art in public places fund.

D. It is not intended that an agreement on the part of a developer to provide artwork will slow or delay processing the development application. During the development review process, an applicant may indicate a willingness to provide such artwork, or may provide a conceptual drawing of the artwork; however, the proposed artwork shall not be reviewed by the civic arts commission until after the project has received all necessary discretionary approvals, except if the proposed artwork were an integral part of the building or site design. In this case, as soon as it is identified that such artwork is proposed to be included as part of a development project, the civic arts commission would be called to review the artwork portion of the project as soon as is practical. A special meeting of the commission may be called to keep the development project on schedule.

E. The civic arts commission will be available to developers, the community development department and other affected city departments to provide policy guidelines, advice, expertise and assistance for public art in private places projects.

(Ord. 1676 § 1, 1996; Ord. 2000 § 1, 2009)

§ 13.16.060. Not-for-profit sector public art projects.

A. The city strongly encourages private and public not-for-profit foundations, service clubs, and arts and cultural organizations to propose and fund art in public places.

B. Organizations may choose to:

1. Propose and fund a specific project, approved by the civic arts commission;
2. Make a cash contribution to a specific city-sponsored public art project;
3. Make a cash contribution to the city's art in public places fund; or
4. Match a grant for the acquisition of a public art project.

C. Organizations proposing a specific project should provide a one-time contribution for installation and long-term maintenance and conservation of the artwork.

D. The civic arts commission should work closely with the organization and affected city departments in order to provide policy guidelines, and expertise regarding any proposed project.

E. The civic arts commission shall review any proposed project as to artistic merit, site appropriateness, installation, maintenance, long-term conservation and funding requirements.

F. Upon completion of the review, the civic arts commission shall make its recommendation to the city council regarding the acceptance or rejection of the proposal.

(Ord. 1676 § 1, 1996)

§ 13.16.070. Gifts and loans of public art.

A. The civic arts commission shall review any proposed donation or loan of public art for artistic merit, site appropriateness, liability questions, and installation and maintenance costs and considerations. The review shall include consultations with all affected city departments.

B. Upon completion of its review the civic arts commission shall make its recommendation for acceptance or rejection of the offer to the city council.

C. A donor who wishes to make an offer of a gift of public art shall provide for review:

1. Documented materials for the artwork being offered for donation including photographs, slides, renderings, descriptions of size, weight, medium, title, year of creation, and a resume of the artist, if possible;
2. Documentation establishing the donor as the clear and unencumbered title holder of the artwork.
3. A release letter by the donor should the city decide to deaccess the artwork in the future.

D. The city will acknowledge receipt of the donated artwork without valuation for tax purposes. The donor must find other means of establishing the value of the artwork.

(Ord. 1676 § 1, 1996)

§ 13.16.080. Gifts of state.

Periodically the city, through its mayor, city council, or various agencies, receives gifts of public art from official representatives of other cities, states, and governmental agencies. All such "gifts of state" shall be referred to the civic arts commission for its recommendation as to site appropriateness, installation, maintenance, long-term conservation and funding requirements. Upon the review of these considerations and the overall circumstances of the gift, the commission shall make a recommendation to the city council as follows:

1. Install the public art at a commission-recommended site;

2. Store the public art until more favorable conditions arise for its installation; or

3. Decline the public art.

(Ord. 1676 § 1, 1996)