PLANNING COMMISSION STAFF REPORT

DATE: April 12, 2023 STUDY SESSION

SUBJECT: CITY OF PALM SPRINGS AND ECONOMIC AND PLANNING SYSTEMS, INC., (EPS) FOR AN UPDATE AND DISCUSSION ON AN ONGOING INCLUSIONARY HOUSING AND COMMERCIAL LINKAGE FEASIBILITY STUDY INFORMING FUTURE CONSIDERATION OF A CITYWIDE INCLUSIONARY HOUSING POLICY (FF/CH).

FROM: Planning Services Department

SUMMARY

The purpose of this study session is to provide an update on the ongoing inclusionary housing and commercial nexus feasibility study being undertaken by Economic & Planning Systems, Inc. (EPS) on behalf of the City of Palm Springs. The study session will allow an opportunity for City staff and EPS to receive early feedback from the Planning Commission and members of the public that will inform both the ongoing analysis required to conclude the study and the development of any policy framework and ordinance that would be considered by the City Council at a future date.

The City Council first directed City staff to evaluate inclusionary housing and commercial nexus fees in 2021 as potential tools to address the City's affordable housing needs. In 2022 EPS was retained to create a feasibility report that would serve as a basis for any future legislation regarding inclusionary housing and commercial linkage impact fees.

RECOMMENDATION:

Provide preliminary comments and feedback to inform future work but take no action.

BACKGROUND INFORMATION:

Following a general discussion at it's meeting of April 8, 2021, the City Council directed staff to provide additional research and recommendations relative to the development of an inclusionary housing ordinance, considering alternatives and commercial linkage fees. Based on that direction, an Inclusionary Housing Workgroup ("workgroup") was assembled by City staff to assist in the compilation of data and to discuss options and alternatives. Workgroup members included the following:

- Lauri Aylaian, City of Palm Springs Planning Commission
- Dennis Cunningham, PS Modern Homes
- Gretchen Gutierrez, Desert Valleys Builders Association
- Taylor Libolt Varner, Lift to Rise
- Kenneth Rodgers, Cochella Valley Housing Coalition

The workgroup held several open meetings that included input from representatives of Inland Equity Partnership and Desert Highland Gateway Neighborhood Organization and their work, together with staff analysis, helped to inform a report to the City Council laying out several items for consideration, including:

- Applicability and scope of any potential ordinance.
- Administrative and staffing considerations.
- Analysis of existing programs throughout California.
- Impacts and effects of inclusionary housing programs.
- Alternative tools to facilitate affordable housing.

That report, presented on September 9, 2021, recommended that an economic feasibility and commercial nexus study be undertaken to inform the viability of any inclusionary or commercial linkage program and potential alternatives, including the appropriate percentage of affordable units or in-lieu fees that could be required of market developments based on local market conditions. Following a procurement process, EPS was engaged to undertake the study which is the subject of this study session. Once completed, the feasibility study will be presented to the City Council for their consideration and for further direction on how to proceed with the development of an inclusionary housing ordinance. The 2021 City Council Staff Report is included as Attachments A to this report.

Inclusionary Housing

As part of their Housing Element Update process, many jurisdictions are considering inclusionary housing programs, as they have proven to be effective at achieving affordable housing in several jurisdictions across the state. Inclusionary housing programs require market-rate housing developments or rental housing developments to include a specified percentage of units that are affordable to low- and moderate-income households. The required percentage of affordable units varies between municipalities and is often between 5% and 25% of the total number of units in the development. Some jurisdictions allow alternatives including permitting affordable units to be constructed off-site, dedication of land, conversion of existing units, or payment of in-lieu fees.

However, inclusionary housing programs are most effective in jurisdictions that are already experiencing or are expecting strong market rate development and there are pros and cons to consider.

Pros

- Increases the City's supply of deed-restricted affordable housing.
- Provides opportunities for more people to share in the benefits of economic inclusion, integration, and citywide economic growth.
- Helps the City meet its Regional Housing Needs Allocation (RHNA) and commitments made in the draft Housing Element currently under review by HCD.
- Works synergistically with the State Density Bonus.
- Helps the City achieve federally-mandated Fair Housing goals by addressing issues of segregation and concentrated poverty.

Cons

- Adds to the cost of developing market-rate housing.
- Inclusionary requirements and in-lieu fees need periodic updating to remain in economic "alignment".
- Requires staff resources to administer the program.

The inclusionary housing economic feasibility analysis tests whether new market-rate residential development in Palm Springs can absorb the financial impact of an inclusionary requirement. This assessment reflects that building affordable units represents a cost to market-rate projects, and it is possible that the additional cost will cause the project to be financially infeasible. Based on information gathered on market rents and sale prices, and the costs to develop new multifamily, condo, townhome, and single-family home units, this analysis indicates if an inclusionary housing program is an appropriate tool to adopt at this time, and, if so, identifies inclusionary requirements that could be feasibly absorbed by different types of new market-rate projects in the City. Additional information on inclusionary housing is included in the FAQs in Attachment C.

Commercial Linkage Fees

Another tool that can supplement an inclusionary housing program and facilitate affordable housing is establishing a commercial linkage fee, also known as a jobs-housing linkage fee. This is a type of development impact fee charged to developers of new nonresidential properties to help support affordable housing for new workers. The conceptual underpinning of the fee is that new nonresidential development creates new jobs, and some of these jobs will pay wages below what is required for a worker to afford a market-rate housing unit in the city. If the cost to construct new housing units is higher than can be supported by the rents or home prices that workers can afford to pay, the difference is considered an "affordability gap." The nexus (or reasonable relationship) established between the projected number of lower-wage jobs created by new development, and the subsidy needed to fund this "affordability gap" and support the creation and maintenance of units that are affordable to workers in these jobs is the basis for the linkage fee.

Typically, a nexus-based analysis results in fees that are much higher than what the City would want to reasonably charge new development. The City may decide to adopt fees below the maximum justifiable levels based on economic or policy considerations, often looking to other cities as an example of appropriate fee levels. The study that is underway will identify both the nexus as well as comparable commercial linkage fee programs from throughout the State that will be used to evaluate how a potential program could operate for the City of Palm Springs. Additional information on commercial linkage fees is included in the FAQs in Attachment D.

CONCLUSION:

While the feasibility study is still underway, the Commission's input will be invaluable in helping to inform that ongoing analysis as well as the development of an inclusionary housing program tailored to the needs of the City of Palm Springs. Following tonight's study session, the Department will ensure the results of the final report are shared with the Commission when available and will continue to provide updates as future work advances.

PREPARED BY:	Christopher Hadwin
REVIEWED BY:	

ATTACHMENTS:

A. City Council Staff Report – September 9, 2021
B. Inclusionary Housing FAQs
C. Commercial Linkage Fee FAQs

ATTACHMENT A

CITY COUNCIL STAFF REPORT

DATE: SEPTEMBER 9, 2021 UNFINISHED BUSINESS

SUBJECT: DISCUSSION OF INCLUSIONARY HOUSING PROGRAM.

FROM: Justin Clifton, City Manager

BY: Development Services Department

SUMMARY:

Following a general discussion of an inclusionary housing ordinance at the meeting of April 8, 2021, the City Council directed staff to provide additional research and recommendations relative to the development of an inclusionary ordinance. This report offers additional detail regarding inclusionary ordinances, a comparison of ordinances adopted by other cities, the impacts and effects of inclusionary ordinances, and possible alternatives to an inclusionary ordinance.

RECOMMENDATION:

Discuss the development of an inclusionary housing ordinance and provide direction to staff.

BACKGROUND:

An initial report on inclusionary housing ordinances was provided to the City Council on April 8, 2021 (see Attachment A). At that meeting, staff was requested to provide additional research and recommendations regarding the development of an inclusionary ordinance. Based on that direction, an Inclusionary Housing Workgroup ("workgroup") was assembled by City staff to assist in the compilation of data and studies, to discuss options and alternatives, and to help in the preparation of this report. Workgroup members included the following:

- Lauri Aylaian, City of Palm Springs Planning Commission
- Dennis Cunningham, PS Modern Homes
- Gretchen Gutierrez, Desert Valleys Builders Association
- Taylor Libolt Varner, Lift to Rise
- Kenneth Rodgers, Cochella Valley Housing Coalition

The City Attorney's office provided legal support for the workgroup. Meetings of the workgroup were open and accessible to the public; representatives of Inland Equity Partnership and Desert Highland Gateway Neighborhood Organization attended the workgroup meetings, provided comments, and offered studies and information to assist in the preparation of this report.

STAFF ANALYSIS:

The following sections of this report provide an analysis of inclusionary ordinances, administration requirements for inclusionary programs, a comparison with other California cities, the impacts and effects of inclusionary ordinances, and potential alternatives to inclusionary ordinances.

Development of an Inclusionary Housing Ordinance

As discussed in the staff report of April 8, 2021, inclusionary housing ordinances require market-rate housing developments or rental housing developments to include a specified percentage of units that are affordable to low- and moderate-income households. The required percentage of affordable units varies between municipalities, and is often between 5% and 25% of the total number of units in the development.

If the City is to proceed with the development of an inclusionary housing ordinance, the following policy issues will need to be determined:

- The percentage of units that must be set aside for affordable housing;
- Prioritization of affordable rental units or affordable for-sale units; and
- Alternatives to the construction of on-site affordable units, such as in-lieu fees, construction of off-site units, or dedication of land.

In determining the percentage of affordable units, it is recommended that the City commission an economic feasibility study to assist in identifying the appropriate percentage based on local market conditions and factors. The economic feasibility study should be able to demonstrate whether local projects can safely support the costs associated with the provision of affordable housing without adversely affecting construction costs or housing values.

Another policy issue for determination is whether the affordable units should be constructed on site, or if the City will allow other options to satisfy the requirement. Typical alternatives include an allowance for the units to be constructed off site, payment of an in-lieu fee, dedication of land, or rehabilitation and conversion of existing market-rate units to affordable units.

The most common alternative to on-site construction is the payment of an in-lieu fee. The effective use of in-lieu fees relies on a number of key resources, including the availability of local nonprofit or private partners with affordable housing development experience, the availability of land for development of affordable housing, and the capacity of staff to manage the housing fund. One of the benefits of an in-lieu fee program is that nonprofit housing developers can often leverage this funding with state and federal resources to produce significantly more units than would have been provided through on-site construction.

Another alternative to on-site housing performance is the ability to build the required affordable units on another site. This is generally done by constructing a dedicated project where all the units are affordable. While this provides flexibility to developers and can increase production, it tends to segregate residents by economic income levels. Other alternatives include allowing developers to dedicate land for the future construction of affordable units, or allowing the developer to purchase and convert existing market-rate units to affordable units. Studies of inclusionary ordinances suggest that successful programs allow for a variety of methods to achieve the development of affordable units.

Inclusionary programs need to be designed with care to ensure that the requirements are economically feasible; poorly designed programs may slow the rate of building and ultimately lead to higher housing costs. An economic feasibility study will assist in correctly tailoring the inclusionary program to local economics.

Administration of an Inclusionary Housing Program

Inclusionary housing programs can require a significant amount of staff time and oversight to shepherd the development process and monitor the continued affordability of units produced. Staff must provide guidance to developers during the entitlement process to interpret and apply the inclusionary policies, as well as being able to suggest alternatives or evaluate waivers. Upon construction of the units, staff must verify that the units are rented or sold to qualified tenants in accordance with the adopted inclusionary policies. On an ongoing basis, staff must verify the continued affordability of rental units, and must review transfers of for-sale units to verify that the sales price is consistent with covenant agreements and that buyers are appropriately qualified.

Should the City adopt an inclusionary ordinance, staffing needs should be assessed to determine if there is adequate personnel to monitor the affordable units that are developed under the ordinance. Many smaller cities utilize a third-party administrator to assist with the task of monitoring and enforcing affordability covenants, which may be an alternative to hiring additional staff. However, the ongoing monitoring of the affordable housing stock is a critical task for the City, and failure to properly manage the program can result in the loss of affordable units.

Applicability and Scope of an Inclusionary Housing Ordinance

An inclusionary housing ordinance, if adopted by the City, would only apply to new housing projects that are entitled after the effective date of the ordinance. Some of the largest active housing developments in the city, such as Escena, Elán, Miralon, and Serena Park, would not be subject to the new ordinance as those projects already have approved and vested entitlements.

The question of how many affordable housing units could be developed on an annual basis through the adoption of an inclusionary housing ordinance needs to be addressed to ascertain the effectiveness of passing such an ordinance. In reviewing building permit data over the last three years, the City has issued permits for an average of 131 single-family residential units, 56 condominium units, and 6 apartment units per year. However, this rate of production will be affected by the amount of undeveloped land that is available for residential construction. In reviewing the amount of undeveloped land, the data that was provided to support the update of the Housing Element indicates that there is approximately 370 acres of land that may be available for future single- and multifamily residential development. This is somewhat more than the acreage of the Miralon development (309 acres and 1,150 total residential units); however, the majority of this acreage is comprised of parcels that are less than five acres in area, signaling a reduction in the production rate and a transition to smaller-scale development in the future. In addition, a significant portion of this land is Allotted Trust Land within the boundaries of the Reservation, which may further impact the projections relative to affordable housing development.

What cannot be easily quantified is the projected amount of multifamily development that could be constructed on commercial or mixed-use land. Numerous recent changes to zoning regulations to facilitate the development of residential development in commercial districts, combined with the limited supply of large tracts of residential land, should ultimately result in an increase in development of residential units in commercial areas.

The results of an inclusionary housing ordinance will be determined by both the rate of development in the city (and any changes to that rate brought as a result of the adoption of inclusionary requirements) and the amount of developable land that is available for production. The lack of large tracts of undeveloped land for residential development will ultimately slow the rate of development, and will impact the number of affordable units produced.

Inclusionary Housing Programs – Other California Cities

A study by the Non-Profit Housing Association of Northern California identifies 170 cities in California that have adopted inclusionary ordinances or policies (see Attachment B). As a means to understand best practices, the workgroup identified a number of comparator cities with inclusionary housing ordinances that were comparable in size and economic characteristics to Palm Springs. The list includes the following California cities:

- Lompoc
- Montclair
- Pittsburg
- Rohnert Park
- West Sacramento
- Woodland

Of these cities, Pittsburg, Rohnert Park, West Sacramento, and Woodland were able to provide statistics regarding the number of units produced during their most recent RHNA (Regional Housing Needs Allocation) cycle. A memorandum with a summary of each of their respective inclusionary programs is included as Attachment C to this report.

While there are some differences in the percentage of affordable units required by each of the cities, there are some similarities in the administration of their ordinances. Each of the cities demonstrates flexibility in the application of the inclusionary requirements, and will work with developers who have creative approaches to meeting the intent of the ordinance. Staff members also recognize the limitations of small developers who are ill-equipped to implement affordable housing programs, and provide assistance in administering program requirements. Another characteristic is that each has periodically updated their ordinance to reflect changing markets, demographics, or unique development conditions.

One factor that may contribute to the success of these ordinances is that the majority of these cities are located in northern California where inclusionary ordinances are more common. While developers who work in those communities may object to producing affordable housing as a condition of building market-rate housing, the requirement is commonplace in the region, and is therefore somewhat standardized in terms of development impacts.

Impacts and Effects of Inclusionary Ordinances

An important consideration in the adoption of an inclusionary housing ordinance is the impact the ordinance will have on the production and cost of housing within the city. The primary criticism of inclusionary ordinances is that they increase developer costs for market-rate units and reduce the production of new units. This in turn impacts the supply of housing, which can lead to an increase in housing prices and thereby exclude additional moderate- and lower-income households from the market.

Studies of inclusionary housing policies offer conflicting information about the impacts of inclusionary zoning. A study by the National Center for Smart Growth Research and Education found that home prices in communities with inclusionary housing policies were typically 2% to 3% higher than those that did not. A study by the Furman Center at New York University found that inclusionary housing policies in Boston-area suburbs modestly decreased the rate of housing production and slightly increased housing cost when compared to nearby jurisdictions without such policies; however, the same study found that similar policies in the San Francisco Bay area had a negligible effect on either production or prices. Researchers acknowledge that the mixed findings in various studies is often due to the unique characteristics of each inclusionary ordinance, differing market conditions, and the narrow focus of some studies.

An issue to take into consideration in reviewing the impacts of an inclusionary ordinance is that no other municipalities in the Coachella Valley currently have inclusionary programs. If the costs of development associated with the inclusionary program increase to the point that Palm Springs is at a significant disadvantage relative to other Coachella cities, the rate of residential construction in the city may decrease, thereby creating issues with the supply and pricing of housing within the city. Consequently, it may be appropriate to consider a regional approach to affordable housing policies due to the dynamics of the local housing market.

The key area of concern for the development community is the costs that market-rate builders will bear in the production of inclusionary units, and the impacts of those costs on production and supply. Not only are production costs impacted, but as developers are also responsible for selling or leasing the affordable units, they must have staff with expertise in marketing and qualifying buyers and/or renters for the affordable units.

Many inclusionary housing programs include developer incentives as way to assist in offsetting any additional costs; these incentives are intended to reduce, but not completely eliminate, the economic impact to developers. Incentives for consideration might include the following:

- Waivers of Development Standards: Waivers of parking requirements, reductions in setback requirements, additional height, and reduction of open space requirements can assist in reducing the cost impacts of an inclusionary program.
- Density Bonuses: Density bonuses can offset the costs of inclusionary requirements; bonuses allow developers to build more units within a project, resulting in extra income to offset the costs of providing affordable units with a negligible reduction in land value. However, density bonuses are of no value where restrictive development standards prohibit the height or lot coverage necessary to achieve any meaningful increase in density. This is particularly true in Palm Springs, where multifamily development standards typically limit height to a maximum of two stories and restrictive open space requirements significantly limit the footprints of residential buildings.
- Expedited Zoning Entitlements/Expedited Permits: Reducing the timeframe for obtaining zoning entitlements and building permits can assist developers in mitigating the impacts of an inclusionary program. Shortening the timeframe for obtaining entitlements (similar to the SB 35 legislation timeframes) and streamlining building permit review assist in reducing the carrying costs of financing, thereby reducing the overall project costs.
- In-Lieu Fees: Many municipalities offer an in-lieu fee option as part of an inclusionary program. One of the cost savings to a developer is that by paying a fee instead of constructing the affordable units on site, they do not need to provide separate marketing and buyer qualification programs for the affordable units.
- SCIP (Statewide Community Infrastructure Program) Financing: The use of SCIP financing is another tool that can reduce the impact to developers. The program finances impact fees and other public infrastructure costs with long-term assessments levied on the developed property, typically over a period of 30 years. The City of Palm Springs already participates in the SCIP program.

Inclusionary housing policies should not make developers solely responsible for resolving the affordable housing needs within a community. Consequently, an inclusionary program should be broader in its approach, and look to multiple sources in the financing and production of affordable units.

Alternatives to Inclusionary Ordinances

An inclusionary housing ordinance is just one tool that can be used to create new affordable housing units, and should be considered in conjunction with other programs that incentivize and fund housing for lower-income households. A multifaceted approach may be more effective in achieving the City's goals for increasing the supply of affordable housing units.

The following list provides a number of alternate programs and actions that could be implemented either in place of or in addition to an inclusionary program:

- Voluntary Affordable Housing Program: Rather than requiring the development of affordable units, some communities have adopted voluntary programs and provided incentives to encourage the development of housing that is affordable to lower-income households. However, the results of these programs are mixed; if the incentives are not valuable to builders, affordable units will not be produced.
- Fee Reductions/Waivers: The reduction or waiver of entitlement application fees, building permit fees, and city-imposed impact fees provide a significant incentive for the development of affordable units. The City of Palm Springs adopted the Affordable and Multifamily Housing Incentive Program in October 2019, which reduces or waives developer fees for the construction of both affordable units and market-rate multifamily units. Programs such as this are one of the key incentives to encourage the development of new affordable units or offset the developer costs of an inclusionary program.
- Density Bonuses: While density bonuses can serve as an incentive for a mandatory inclusionary program, they can also be an incentive for voluntary programs. By allowing for the construction of additional units over and above what the underlying zoning would permit, a developer is able to offset development costs across a greater number of units. However, for this incentive to be successful, development standards must be adequately flexible to permit the additional units. The City of Palm Springs adopted a density bonus ordinance in 2019 in accordance with state statutes.
- Commercial Linkage Program: A commercial linkage program is an impact fee imposed on new commercial development that is used to fund affordable housing. The basis for the fee is that jobs created by new commercial development will generate the need for additional housing units. The establishment of a linkage fee requires a nexus study to show the relationship between job creation and housing demand, and can provide a basis for determining the appropriate fee amount.
- TOT Tax: Several communities have increased their TOT (transient occupancy tax) as a means to generate funding for the development of affordable housing. Ballot measures for the town of Truckee and for Napa County were recently passed to increase TOT for the creation of workforce and affordable housing; the measures increased the TOT in Truckee from 10% to 12%, and increased the TOT

in Napa County from 12% to 13%. The increase in TOT is expected to produce approximately $700,000 each year in the town of Truckee, and over $1,000,000 each year for Napa County. While this may be an option for generating funding for the construction of affordable housing, it is a lengthy and complex process.

- Homebuyer Assistance and Self-Help Housing Programs: Another method to assist in the production of affordable units is to provide financial support for homebuyer assistance programs or self-help housing programs, typically in partnership with a non-profit housing developer. The City has provided funding in the past to several programs that resulted in the development of single-family homes for moderate- and lower-income households in the Desert Highland and Cottonwood/Chuckwalla areas. Redevelopment agency funds were used to support these programs; an alternate funding source would need to be identified if similar programs were to be initiated in the future.
- EIFD (Enhanced Infrastructure Financing District): EIFD's are a type of TIF (tax increment financing) district that municipalities can form to help fund economic development projects, including the development of affordable housing. The City of West Sacramento was the first city in California to establish an EIFD, and uses the tax increment to fund public facility improvements, housing, and economic development programs.
- Revise Exclusionary Zoning Regulations: Regulations that prohibit housing types that could serve lower-income households, such as SRO's (single-room occupancy residences), boarding houses, and "tiny houses" should be revised. In addition, development standards should be relaxed to encourage the development of duplexes and other forms of appropriate multifamily development on infill lots, and the conversion of hotels to residential units.

ENVIRONMENTAL ASSESSMENT:

This action is not subject to environmental review under the California Environmental Quality Act (CEQA), as it constitutes only a study at this point. Should the City Council ultimately adopt an inclusionary housing ordinance, such ordinance may be subject to further environmental review.

FISCAL IMPACT:

Should the City Council direct staff to pursue the development of an inclusionary housing ordinance, an economic feasibility study/nexus study would be necessary to determine in-lieu fees and any potential commercial linkage fees. Such studies typically cost approximately $50,000 to $65,000.

Other potential fiscal impacts include the addition of staff to administer an inclusionary program, as well as the costs of the fee reductions under the Affordable and Multifamily Housing Incentive Program. An assessment of these costs and other budgetary impacts would be provided prior to adoption of an inclusionary ordinance.

CONCLUSION:

An inclusionary housing ordinance can be an effective tool in the production of affordable housing if the requirements are economically feasible. Should the City Council wish to proceed with the development of an inclusionary housing program, it is recommended that an economic feasibility study/nexus study be commissioned to assist in the development of the program.

REVIEWED BY:

Department Director:	Flinn Fagg
City Manager:	

ATTACHMENTS:

A. City Council Staff Report on Inclusionary Housing (04/08/21).
B. List of California Cities with Inclusionary Ordinances and Policies.
C. Memo: Inclusionary Housing Ordinances in Other California Cities.
D. Materials Provided by Desert Valleys Builders Association – Inclusionary Ordinance Studies.
E. Material Provided by Inland Equity Partnership – Inclusionary Ordinance Study.
F. Public Comment Letters: PS Modern Homes (Dennis Cunningham); Desert Highland Gateway Estates Community Action Association; Taylor Libolt Varner; Christopher Hernandez.

ATTACHMENT B

Palm Springs: Inclusionary Housing FAQ

1. ***What is inclusionary housing?***

   Inclusionary housing programs require that new market-rate development projects include a certain percentage of housing units at rents or sale prices that are affordable to lower-income households. Inclusionary housing is often one of several tools cities use to achieve more affordable housing and may be referred to as inclusionary zoning because such policies are implemented through the zoning code.

2. ***Is inclusionary housing legal?***

   Yes. State law allows cities to enact inclusionary housing ordinances. There are nearly 200 inclusionary housing policies adopted by localities throughout California. For several years, because of a legal ruling, inclusionary policies could only be enacted on for-sale developments. However, in 2017 the State passed Assembly Bill 1505, which restored the ability of cities to enact an inclusionary housing policy to apply to rental housing developments as well.

3. ***How does inclusionary housing work?***

   Most inclusionary zoning programs follow a similar framework but the specifics often vary among jurisdictions. When establishing an inclusionary housing program, key considerations include:

   - **Percentage requirement:** Most inclusionary requirements are a percentage of the total units within a development. The most commonly adopted requirements in California range from 10 to 15 percent.
   - **Affordability level:** The required number of inclusionary units usually includes some combination of units affordable to low- and very low-income households. Some ordinances include requirements for units affordable to extremely low-income and/or moderate-income households as well. However, requirements for moderate-income units are only justifiable if the market is not already producing units affordable to those households. Some ordinances provide flexibility in their requirements—for instance, by allowing a smaller percentage of inclusionary units if they are affordable to lower-income levels (i.e., very low- or extremely low-income households), or allowing developers to choose the combination of affordability levels provided among the required number of inclusionary units.
   - **For-sale versus rental housing:** Inclusionary programs can specify different requirements for rental housing projects versus for-sale housing projects. Typically, for-sale inclusionary policies require the affordable units to be provided at moderate-income levels only, as affordable for-sale housing at lower income levels require very significant subsidies that are difficult for market-rate developments to financially absorb.
   - **Applicability threshold:** Some programs exempt small projects or allow small projects to pay an in-lieu fee instead of providing affordable units on-site. However, there are also ordinances that place inclusionary requirements on all residential projects, including one- and two-unit projects. In those cases, payment of in-lieu fees is typically allowed.

- **Affordability length:** Most inclusionary ordinances in California require a 55-year affordability term for rental units, consistent with State Density Bonus Law. However, some jurisdictions choose to lengthen the term to perpetuity. For-sale units are most typically deed restricted for 45 years with resale or equity share provisions.

- **Alternative means of compliance:** Pursuant to California Government Code Section 65850, an inclusionary housing ordinance shall "provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units." In-lieu fees are usually the most preferred alternative method of compliance for developers because it is often cheaper to pay the in-lieu fee than construct affordable units. Therefore, jurisdictions must ensure that in-lieu fees are appropriately set in order to cover the true cost of constructing affordable units. Appropriate in-lieu fees will also ensure that developers only choose this option when it is truly more feasible than providing units on site. Other common alternative means of compliance include the option to build the affordable housing units on a different site than the market-rate project, or dedicating land for the development of affordable housing units.

4. *What are affordable rents or sale prices?*

Affordable rents and sale prices are calculated based on different categories of household income as defined by the State of California's Department of Housing and Community Development (HCD) and the U.S. Department of Housing and Urban Development (HUD). The categories include Extremely-Low Income, Very-Low Income, Low-Income, and Moderate Income, among others. These categories are defined relative to the Area Median Income (AMI) for households in each county in the State and are updated annually. The income level for each category also differs by household size.

The 2022 income levels for Riverside County can be found on HCD's website at the following link: https://www.hcd.ca.gov/docs/grants-and-funding/inc2k22.pdf.

Affordable rents are equivalent to 30 to 35 percent of the income level for a particular category, minus an allowance for utility costs. Affordable sale prices are based on a mortgage payment equivalent to 30 to 35 percent of income level for a particular category, minus an allowance for other costs related to homeownership such as taxes, insurance, and HOA fees.

5. ***How are in-lieu fees calculated?***

   Generally, in-lieu fees are determined by calculating what is called an affordability gap, which is the difference between the cost to develop the affordable unit and the supportable value of the unit based on the rents that lower- and moderate-income households can afford.

6. ***How can a city use in-lieu fees?***

   In-lieu fees are used by cities to support the production and preservation of affordable housing units. One of the major advantages of including in-lieu fees as a component of an inclusionary program is that these funds can be used to address housing needs that are not otherwise being built through the program, such as housing for special needs populations or for households at the lowest income levels. Additionally, the availability of in-lieu fee funds can allow a jurisdiction to provide a local funding match that can be leveraged against other State and Federal funding sources for building affordable units, often in partnership with an affordable housing developer.

7. ***What are some of the pros and cons of inclusionary housing programs?***

   Pros
   - Increases the City's supply of affordable housing
   - Provides opportunities for more people to share in the benefits of economic inclusion, integration, and citywide economic growth
   - Helps the City meet Regional Housing Need Allocation (RHNA)
   - Works synergistically with the State Density Bonus
   - Helps the City achieve federally-mandated Fair Housing goals by addressing issues of segregation and concentrated poverty

   Cons
   - Adds to the cost of developing market rate housing and can impact the production of housing units
   - Inclusionary requirement and in-lieu fee need periodic updating to remain in economic "alignment"
   - Requires staff resources to administer the program

8. ***What other cities have inclusionary housing requirements?***

   Nearly 200 cities and counties in California have adopted some form of an inclusionary housing ordinance, including Calimesa, Jurupa Valley, and Temecula in Riverside County. The City of Riverside is in the process of adopting an inclusionary requirement.

9. ***How might an inclusionary housing program relate to local Housing Elements?***

   Cities are required to meet the Regional Housing Need Allocation (RHNA) reflected in their Housing Elements. Inclusionary housing programs can help cities develop new affordable housing, particularly lower- and moderate-income housing units, contributing towards RHNA. Inclusionary programs can help ensure that new, affordable units are not concentrated in areas of existing economic segregation, which helps address fair housing considerations.

10. ***Can inclusionary units also be used to qualify for the State Density Bonus Program?***

    Yes, inclusionary units may be used to qualify for the State Density Bonus Program.

11. Is there already a required percentage proposed for Palm Springs?

No. There is no specific percentage, or any other requirement, proposed at this time. The consultants are conducting an economic feasibility study to identify and understand the impacts that different affordability requirements would have on new housing development. The goal is to balance the goals of creating more affordable housing and continuing to encourage market-rate development, to best serve the needs of the City.

12. What is the timeline for this study?

EPS is currently conducting market research and an economic feasibility study to provide the data and analysis needed to understand the impact of an inclusionary housing policy on future development. Once the results of the economic feasibility study are understood, the consultants may prepare a draft inclusionary program framework for the City's consideration. If an inclusionary program appears feasible, it is anticipated that this draft framework will be presented in Spring 2023.

Questions or Comments?

Please contact Flinn Fagg, Deputy City Manager, at flinn.fagg@palmspringsca.gov, or our consultant contact, Ashleigh Kanat of Economic & Planning Systems, at akanat@epsys.com.

ATTACHMENT C

Palm Springs: Affordable Housing Commercial Linkage Fee FAQ

1. What is a commercial linkage fee?

A commercial linkage fee, also known as a jobs-housing linkage fee, is a type of impact fee that is charged to developers of new real estate properties—specifically, new commercial and industrial properties—to help support affordable housing in the City.

2. *How is the fee justified?*

The conceptual underpinning of the commercial linkage fee is that new non-residential development creates space that supports new jobs, and some of these jobs will pay wages below what is required for a worker to afford a market-rate housing unit in the city. Therefore, a nexus is established between the projected number of these lower-wage jobs that will be created by new development, and the subsidy needed to support the creation and maintenance of units that are affordable to workers in these jobs. Assessing an impact fee based on an established nexus is allowed under the State of California's Mitigation Fee Act, also known as AB 1600 or California Government Code sections 66000 *et seq*.

3. Why is Palm Springs considering a linkage fee?

To support implementation of the City's Housing Element, the City is working to identify alternative methods of funding affordable housing throughout the City. A commercial linkage fee is one such alternative. The City is additionally considering an inclusionary housing ordinance, which is another tool cities can use to support the development of affordable units. The inclusionary program relates to new residential development, while the linkage fee relates to new non-residential development.

4. How long have linkage fees been around? Do other cities have them?

Commercial linkage fees were established in California cities and counties as early as 1981. Dozens of cities and counties throughout the state levy commercial linkage fees, including Palm Spring's neighbor, Palm Desert.

5. What is the fee study process?

Economic & Planning Systems (EPS) was engaged by the City in August 2022 to prepare a commercial linkage fee nexus study and conduct associated stakeholder and community outreach. In the first few months of the study, EPS is conducting the technical analysis needed to establish the nexus between new nonresidential development that occurs in the City and the need for additional affordable housing as a result of this new development. This will include engagement with targeted community stakeholders who can provide insights into the technical inputs required for the analysis.

Following the completion of the preliminary analysis, EPS and the City will host a virtual town hall meeting to discuss preliminary findings, obtain community input and answer community questions. EPS will present its findings to the Planning Commission and City Council during public meetings. These meetings will occur during the first half of 2023. More information will be available on the City's website in the coming weeks.

6. ***How is the fee calculated?***

The fee is based on assumptions related to the types of new jobs projected to be generated by new commercial development; the number of those jobs likely to pay lower-income wages; the estimated number of households generated by employees in those jobs; and the estimated cost of developing housing units affordable to those employees. These factors vary by the type of commercial buildings being developed and types of businesses that occupy those buildings. This number of lower-income households is multiplied by the typical subsidy required to produce affordable housing units to calculate the maximum fee that could be justified through the nexus analysis. The subsidy required is calculated by comparing typical development costs for new housing units in the City to the value of those units when priced at a level affordable to lower-income households.

While the study will calculate the maximum justifiable fee, the City is not required to charge the fee at that level. Through the study process, the City will consider the implications of charging the maximum fee level and whether a lower fee might be charged to ensure that other policy objectives are being met, such as the City's economic development goals.

7. ***How can the City use the collected fee revenue?***

The collected fees can be used by the City to support the development of affordable units. This can occur through several different means, including subsidizing new development, providing a local match to help a project compete for tax credits, acquisition of market rate units and conversion to deed-restricted units, and preservation of existing deed-restricted units that are at risk of losing their status. While there are many allowable uses for the fees, the nexus underpinning the fee requires that those uses relate to the provision of affordable housing units in the City.

8. ***How can community members and others provide input during the study?***

As stated above, EPS and the City will host a virtual town hall meeting in Spring 2023 to share preliminary findings, obtain community input and answer community questions. More information on that meeting will be available on the City's website in the coming weeks. Members of the community may submit comments during the virtual town hall meeting. These comments will be reviewed by EPS and shared with the City Council.

9. ***What is the timeline for this study?***

EPS is currently completing the technical analysis needed to inform the commercial linkage fee nexus study. Once the preliminary results of the analysis are understood, the consultants will prepare a draft nexus study for the City's consideration in Spring 2023. Preparation of a draft nexus study will not necessarily result in a new ordinance.

Questions or Comments?

Please contact Flinn Fagg, Deputy City Manager, at flinn.fagg@palmspringsca.gov, or our consultant contact, Ashleigh Kanat of Economic & Planning Systems, at akanat@epsys.com.