



December 21, 2005

Ms. Cathy E. Creswell, Deputy Director  
Department of Housing and Community Development  
Division of Housing Policy Development  
1800 Third Street, Suite 430  
Sacramento, CA 95814

RECEIVED  
DEC 27 2005  
DIV. OF HOUSING  
POLICY DEVELOPMENT HCD

**Subject: City of Irvine 2005-2006 Housing Element Annual Report**

Dear Ms. Creswell:

Pursuant to Government Code 65400, the City of Irvine is submitting a report on its progress toward meeting its General Plan Housing Element goals. As a Charter City, the City of Irvine is not required to meet this code section. However, the City is providing the enclosed progress report because it agreed to meet this requirement through its Housing Element.

If you should have any comments regarding the progress report, please contact Amy Urcis, Associate Planner at (949) 724-6546 or via e-mail at [aurchis@ci.irvine.ca.us](mailto:aurchis@ci.irvine.ca.us).

Sincerely,

TINA CHRISTIANSEN  
Director of Community Development

Enclosure

cc: Scott Darrell, Executive Director, Kennedy Commission, 23861 El Toro Road, Ste. 401, Lake Forest, CA 92630  
Brian Fisk, Manager of Planning Services  
Mark Asturias, Housing Manager  
Barry Curtis, Principal Planner  
Tamara Campbell, Senior Planner  
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# City of Irvine Housing Element Annual Report Fiscal Year 2005-2006

## Introduction

The City of Irvine adopted its most current Housing Element on November 27, 2001. The State of California Housing and Community Development Department issued its finding of compliance with State housing law on December 4, 2001.

This report will provide an update on the progress of the City in implementing its housing element and meeting its share of the regional housing needs in accordance with Government Codes 65584 and 65583. In addition, this report describes amendments recently made to the General Plan to further the goals of the Housing Element.

## Goals and Policies

The City's Housing Element contains a comprehensive set of goals and policies for the following major components:

- ◆ Housing Needs Assessment – An analysis of the demographic, household, and housing characteristics and trends;
- ◆ Market and Governmental Constraints – A review of potential market, governmental, and other constraints to meeting the identified housing needs;
- ◆ Housing Resources – An evaluation of the land, financial and other resources available to address housing needs; and
- ◆ Housing Objectives and Policies – A set of objectives and policies to address the housing needs.

## Existing Units

As of September 30, 2005, the City of Irvine had 79,218 dwelling units, of which 45,515 (57 percent) were constructed as for-sale units, 21,296 (27 percent) were constructed for rental purposes, 889 (one percent) were constructed as mobile homes, 86 were constructed for seniors, 619 (one percent) were constructed as congregate care units, and 10,813 dorms were constructed (one percent). In addition, building permits have been issued for 1,833 single-family attached and detached units, 3,829 rental units and 165 senior housing units.

Of the 21,296 rental units, 3,591 (17 percent) are designated affordable to Income Level I/II (extremely low, very low), Level III (low), or Level IV (moderate) households.

## **Implementation of Policy**

The Housing Element outlines objectives to address the housing needs of the City's current and future residents. It thereby provides for safe and decent housing for all economic segments of the community. In order to meet this goal, the Housing Element contains objectives for new residential developments to provide a total of fifteen percent of units to be affordable to Income Levels I/II, III and IV. These objectives are also outlined in Chapter 2-3 of the Zoning Ordinance, which requires that 15 percent of new housing be affordable, whether or not the City offers incentives.

In the event that financial incentives or subsidies are unavailable, developers may choose from the Menu Option(s) outlined in Chapter 2-3 of the Zoning Ordinance and the Housing Element. The menu options include (1) extending the term of affordability for existing affordable units, (2) payment of in-lieu fees, and (3) dedication of land for affordable housing, among others. In-lieu fees collected are deposited in the City's Affordable Housing Fund. These funds are used to fund affordable housing projects and/or to assist first time homebuyers. Since September of 2002, the City has been providing first time homebuyer assistance through the Down Payment Assistance Program (DAP), which provides up to \$110,200.00 (25% of maximum sales price \$440,800.00) in down payment assistance in the form of low-interest loans. The program is funded with Community Development Block Grants and HOME funds.

## **Quantified Objectives**

The City's Housing Element provides a summary of quantified objectives in accordance with the Regional Housing Needs Allocation (RHNA), as determined by the Southern California Association of Governments (SCAG). The RHNA covers the period from January 1, 1998 through June 30, 2005. The tables below illustrate the objectives for housing needs by income category and the City's progress in meeting those objectives:

<b>NEW UNITS CONSTRUCTION – 1998-2005</b>					
	<b>Very Low*</b>	<b>Low**</b>	<b>Moderate</b>	<b>Above Moderate</b>	<b>Subtotal</b>
RHNA Objective	1,942	1,186	2,049	5,605	10,782
Units Constructed/Underway	393	15*	12,785	9,233	22,426
Remaining Units Balance	1,549	1,171	Satisfied	Satisfied	2,720
* An additional 330 very low income rental units and 82 very-low income for-sale units have been approved but have yet to be constructed. ** Currently there are 682 market rate apartments constructed that rent within the low-income range. However, since these units are not income-restricted, the City has not counted these as low-income units. In addition, 52 low-income for-sale units have been approved but have yet to be constructed.					

<b>CONSERVATION OF UNITS – 1998-2005</b>				
	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>	<b>Subtotal</b>
Housing Element Objective	936	355	238	1,529
Units Preserved	437	467	0	904
Remaining Units Balance	499	Satisfied	238	737

<b>REHABILITATION OF UNITS – 1998-2005</b>				
	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>	<b>Subtotal</b>
Housing Element Objective	0	0	0	0
Units Preserved/Underway	35	0	0	35

Although new construction of 2,720 very low and low-income units is needed in order for the City to meet its regional housing needs goal, there are currently 2,098 extremely/very low units and 1,109 low-income units for a total of 3,207 units in the City of Irvine. In addition, there are 384 income restricted moderate units. With the projects currently under review, recent and expected annexation of acres into the City boundaries, and the proposed development of units in undeveloped areas, the City expects to approach its new construction goals and conservation goals (which are met by developers extending the affordability of existing units in order to satisfy the City's affordable housing requirements) over the next few years. The following table summarizes anticipated units in these areas:

Project Area	Anticipated Residential Units	Anticipated New/Extended Affordable Units
<b>ANNEXED</b>		
Northern Sphere	21,253	3,189
The Great Park	3,625	544
<b>UNDEVELOPED PROJECT AREAS</b>		
Planning Area 33	1,550	233
<b>ENTITLED PROJECTS</b>		
Planning Area 36	2,026	449
<b>PROPOSED PROJECTS</b>		
Planning Area 36	4,408	651
<b>TOTAL</b>		<b>5,059</b>

All future residential development is subject to the City's 15 percent affordable housing requirement.

**Status of Housing Opportunity Sites**

The Housing Element identifies sites available for housing and quantifies the number and type of residential units that can be constructed based on the following densities:

- ◆ Low – 5 du/gross acre
- ◆ Medium – 10 du/gross acre
- ◆ Medium-High – 25 du/gross acre
- ◆ High – 40 du/gross acre
- ◆ Multi-Use – 40 du/gross acre

Housing Element Table C-24 below provides an inventory of available sites and the tables below provide an update to that table for the RHNA period through September 30, 2005.

**Table C-24  
 Residential Development Potential (Units) on Vacant Land**

Density	PA 4	PA 10	PA 12	PA 17	PA 18	PA 27	Total
Low							0
Medium	3,766	1,283	523	1,680	200	975	8,427
Medium-High	2,450	146	776	350	550	1,180	5,797
High			500				500
Multi-Use			350				350
Total	6,216	1,429	2,149	2,030	750	2,155	15,074

Note: Planning Areas 17, 18, and 27 are hillside development areas, eligible to utilize the Menu Option to meet the affordable housing goal.

**RHNA Status Report-December 2005  
 Residential Units Constructed 1/98 – 9/05**

Density:	2.1 Estate	2.2 Low	2.3 Medium	2.4 Medium High	2.5 High	3.1 & 5.1 Multi Use	5.0 Mixed Use	5.3 IBC Res.	6.1 Institut.	Total DU's
PA 4			5,102	2,025						7,127
PA 5*		156	456	612						1,224
PA 6*			1							1
PA 8*		1	290							291
PA 9*			851							851
PA 10			592							592
PA 11			2							2
PA 12		190		2,165	52	694				3,101
PA 14				41						41
PA 15*		19	9			140				168
PA 17			2,179							2,179
PA 20		19								19
PA 22	130									130
PA 27			607	747						1,354
PA 36						1,717		1,226		2,943
PA 38*			367							367
TOTAL*										20,390

An additional 11,927 units have been constructed at the University of California, Irvine, which is outside the City's jurisdiction.

\* Note: Vacant sites analysis was prepared in September 1999, while RHNA began in January 1998. Planning Areas with asterisks no longer had vacant sites when the vacant sites analysis was performed, were annexed into the City, were re-zoned or were undeveloped.

**Residential Units Permits Issued (not constructed) 1/98 – 9/05**

Density	PA 4	PA 8	PA 9	PA 10	PA 11	PA 15	PA 17	PA 22	PA 27	PA 33	PA 36	PA 38	Total
Estate								78					78
Medium	298	78	990	1	19		356		100			44	1,886
Medium-High	338	96							117				551
Multi-Use						165					754		919
Mixed-Use											290		290
IBC Residential											1,071		1,071
Urban Commercial										1,032			1,032
<b>Total</b>	<b>636</b>	<b>174</b>	<b>990</b>	<b>1</b>	<b>19</b>	<b>165</b>	<b>356</b>	<b>78</b>	<b>217</b>	<b>1,032</b>	<b>2,115</b>	<b>44</b>	<b>5,827</b>

**Kennedy Commission**

Since 2000, the City of Irvine has worked with the Kennedy Commission to update the Housing Element and to develop inclusionary zoning.

Attachments:

1. Chapter 2-3 of City Zoning Ordinance

## **CHAPTER 2-3. AFFORDABLE HOUSING IMPLEMENTATION PROCEDURE**

### **Sec. 2-3-1. Intent.**

The affordable housing implementation procedure is a means for fulfilling the affordable housing requirements for certain developments or planning areas, as set forth in the General Plan Housing Element (hereinafter the "Housing Element"). The implementation procedure describes the requirements for submitting the affordable housing plan to the City and to ensure that General Plan requirements are met. Except as otherwise provided in the Housing Element, nothing herein is intended, nor does it place any obligation on the City to provide financial incentives or offset the cost of providing affordable housing.

### **Sec. 2-3-2. Applicability;**

The provisions of this Chapter shall be applicable to all residential development proposals, regardless of zoning, within the City of Irvine. However, unless stated otherwise in this Chapter, the terms "applicant," "application," "project," and "development" relate only to residential developments of fifty or more units.

Projects with less than fifty units may utilize one of the menu options listed in Section 2-3-5.B.3, in-lieu of providing affordable units.

### **Sec. 2-3-3. Submittal Requirements.**

- A. An applicant whose proposal is subject to meeting affordable housing requirements shall submit an affordable housing plan to the Community Development Department as follows:
  - 1. Affordable housing plans for an entire planning area(s) shall be submitted in conjunction with the first residential map. No application subject to this section shall be deemed complete without submittal of an affordable housing plan. The plan shall be reviewed and approved by the Planning Commission as part of the entitlement process for a proposed project.
  - 2. Other residential projects shall submit an affordable housing plan in conjunction with an application for a general plan amendment or zone change, or with the conditional use application if no general plan amendment or zone change is proposed. No application subject to this section shall be deemed complete without submittal of an affordable housing plan. The plan shall be reviewed and approved by the Planning Commission as part of the entitlement process for a proposed project.
  
- B. The plan shall include the following components:

1. A description of the affordable housing units to be provided, including type of occupancy, unit mix, income level served by the affordable housing units, and location of the units.
  2. A description of how the affordability of the units will be maintained for the period required by law. The minimum period of affordability for a newly constructed or converted affordable unit is 30 years. The minimum period of affordability for the extension of affordability of an existing affordable unit is 40 years.
  3. Whether or not affordable credits are being requested. Guidelines for the Affordable Credits Program are included in Section 2-3-6 of this Chapter.
- C. In conjunction with the submittal of an affordable housing plan, the applicant shall submit a written request to the City for any specific financial and/or processing incentives requested as a subsidy for the provision of affordable units. Financial and/or processing incentives that the City may provide include, but are not limited to, U.S. Department of Housing and Urban Development (HUD) funds, in-lieu fee proceeds, and the waiver of processing fees.
1. If the applicant is seeking financial, processing or other assistance from the City of Irvine or the Irvine Redevelopment Agency, as such assistance is defined in the Housing Element, the following additional information shall be provided:
    - a. The type and level of financial, processing and/or other assistance being requested.
    - b. An explanation of why the assistance is being requested.
    - c. A justification for the type and level of assistance being requested. Such justification shall be in a format acceptable to the City to allow it to determine the validity of the justification.
    - d. A list of any and all other non-City or non-Redevelopment Agency sources for assistance the applicant has received or applied for in conjunction with the project.
    - e. A list of any and all other non-City or non-Redevelopment Agency sources for assistance the applicant has reviewed and a detailed explanation of why each of the other sources is not being used.
- D. The applicant shall make a good faith effort to obtain funding sources to achieve the affordable housing goal. In the event the proposed funding sources are not available or funding is limited for the development within the planning area, satisfaction of the affordable housing goal shall be achieved through selection of alternatives in the Menu Option defined in Section 2-3-5 B 2.

- E. The City will participate, when possible, in financial partnerships with developers of affordable housing projects as a means of assisting the applicant's endeavor to secure subsidies and financing for the development of Income I, II and III rental or ownership housing. An applicant receiving financial incentives for affordable housing development projects shall be required to comply with the program monitoring guidelines as defined in Section 2-3-6.

**Sec. 2-3-4. Affordable Housing Requirements Defined.**

Residential projects shall provide a minimum of 15 percent of their total units as affordable units, as defined in the Housing Element and herein, unless otherwise required by this Chapter. The 15 percent affordable units shall be allocated in accordance with the following percentages:

- A. Income Levels I and II, as defined in the Housing Element.

Five percent of the actual number of dwelling units shall be affordable as rental or ownership units to households earning less than 50 percent of the County median income as annually defined by the California State Department of Housing and Community Development (Incomes I and II as defined in the Housing Element).

1. To the degree ownership units are provided to Income II households, a 2:1 credit will be attributed toward the achievement of the Income II goal.
2. To the degree Income I units are provided, a 1.6:1 credit is available. However, the number of Income I units in a specific project is subject to approval by the City.
3. To the degree 3-bedroom Income I or II units are provided, a 1.4:1 credit will be attributed toward the achievement of the Income II goal.
4. To the degree 4-bedroom Income I or II units are provided, a 1.6:1 credit will be attributed toward the achievement of the Income II goal.

- B. Income Level III, as defined in the Housing Element.

Five percent of the actual number of dwelling units shall be affordable as either rental or ownership units, with the emphasis on ownership units, to households earning 51 percent to 80 percent of the County median income as annually defined by the California State Department of Housing and Community Development. (Income III as defined in the Housing Element).

1. To the degree ownership units are provided to Income III households, a 2:1 credit will be attributed toward achievement of the Income III goal.
2. To the extent that the affordable units referenced under Section 2-3-4 A, above, are provided with the use of financial and processing incentives in

excess of the 5 percent goal, a 2:1 credit will also be attributed toward the achievement of this goal.

3. To the degree 3-bedroom Income III units are provided, a 1.4:1 credit will be attributed toward the achievement of the Income III goal.
4. To the degree 4-bedroom Income III units are provided, a 1.6:1 credit will be attributed toward the achievement of the Income III goal.

C. Combined Income Levels I, II, and III, as defined in the Housing Element (Alternative to meeting Sections 2-3-4 A and B, above).

In order to allow projects to compete for County affordable housing funds and because this approach provides a greater overall level of affordability, the City will regard the following as meeting the combined affordability goals for Incomes I, II, and III, as set forth in Sections 2-3-4 A and 2-3-4 B of this Chapter:

1. Projects which provide a minimum of 10 percent of the proposed units affordable to households earning 60 percent or less of the County median income as annually defined California State Department of Housing and Community Development.
2. The Planning Commission shall have, on a case-by-case basis, the discretion to consider and approve ratios other than the currently required 5 percent ratios if the Commission determines that a proposal will provide equivalent or enhanced affordability.

D. Income Level IV, as defined in the Housing Element.

Five percent of the total number of dwelling units shall be affordable as rental or ownership units, with emphasis on ownership units in projects offering ownership housing, to households earning 81 percent to 120 percent of the County median income as annually defined by the California State Department of Housing and Community Development. (Income IV as defined in the Housing Element).

**Sec. 2-3-5. Provision of Affordable Units; Menu Option**

A. Location of Affordable Units.

1. Unless an applicant is qualified to utilize the Menu Option listed under Section 2-3-5 B, affordable units must be located within the planning area or on the site of the proposed project. Any affordable units to be developed outside of the planning area shall be proposed and identified as part of the affordable housing plan submitted for the overall development proposal. Provision of units outside of the subject planning area shall count toward the affordable housing goals of the subject planning area, not the planning area receiving the units.

2. The affordable housing units shall be distributed to prevent a concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households. This prohibition also applies to any excessive concentration of housing provided for a single Income Level (e.g., an over-concentration of Income Level I housing in a neighborhood). However, in order to expand the applicant's opportunities to obtain financial assistance for the provision of affordable housing, a project with up to 100 percent affordability will be considered, and may be approved, by the City. A project application offering to provide affordable housing excess of the requirements set forth in this Chapter, or the Housing Element, may only be denied in accordance with the terms of Government Code Section 65589.5(d).

B. Menu Option Alternatives.

1. Intent of Menu Option

The Menu Option is an alternative to the on-site affordable housing requirements set forth in Sections 2-3-4 and 2-3-5 A 1 of this Chapter. The Menu Option is designed to provide to the City affordable housing benefits that are equal in value to the actual provision of on-site units in the quantity and quality that would otherwise be provided. Equivalent values will be determined by taking into account an applicant's ability to reasonably secure financial incentives (leveraging) for the development of affordable units.

2. Applicability of the Menu Option

An applicant may only use the Menu Option if the fulfillment of its affordable housing obligations under this Chapter are otherwise infeasible. The City will consider the fulfillment of affordable housing requirements set forth in Sections 2-3-4 and 2-3-5 A 1 of this Chapter to be "infeasible" under the following circumstances:

- a. The applicant proposes development in the hillside Planning Areas 1, 2, 6, 17, 18, 22, or 27 where development of affordable housing is impacted by the increased cost of development in hillside areas; or
- b. The applicant proposes a zone change and/or general plan amendment to change the land use designation from high, medium, or medium-high residential density to low or estate density which would bring the percentage of residential land in the planning area designated for low or estate density to 75 percent or more; or
- c. The planning area meets all the following criteria:

- (1) The planning area is predominately (over 75 percent of the entitlement) developed.
  - (2) The planning area does not have a City-approved affordable housing program.
  - (3) The undeveloped residential areas have a zoning designation of estate, low, and/or medium density; or
- d. Financial or processing incentives are not available to bridge the gap of developing affordable housing within the planning area. In order to determine whether or not financial and/or processing incentives are available to bridge the gap of developing affordable housing within the project area, the applicant shall submit the following items to the Director of Community Development, who will subsequently provide a written determination regarding the project's ability to utilize the Menu Option:
- (1) A list of any and all other non-City or non-Redevelopment Agency sources for assistance the applicant has reviewed and a detailed explanation of why each of the other sources is not being used.

### 3. Menu Options

Applicants who qualify to choose a Menu Option may choose from one of the following "equivalent value" options:

- a. Convert existing market rate housing to affordable housing for a period of at least 30 years.
- b. Extend the term of affordability for affordable units for a period of at least 40 years.
- c. Payment of in-lieu fees.
- d. Transfer control of units to a nonprofit housing agency.
- e. Transfer of off-site credits for affordable units not provided on the site.
- f. Provision of alternative housing.
- g. Dedication of land for affordable housing.
- h. An alternative option acceptable to the City.

An applicant may use one or more options to satisfy the affordable housing requirement.

4. Annual Study.

To ensure comparable equivalent value of selected Menu Options in exchange for not providing units within the planning area, the City shall conduct an annual reevaluation of the variables used in the in-lieu fee matrix.

5. Implementation of Menu Options.

Should the menu option be utilized in achieving the affordability goal, the following criteria shall be utilized to implement each option as respectively listed in Section 2-3-5 B 3:

- a. Convert market rate housing to affordable housing: The purchase cost of owner occupied or the rent for rental units shall be reduced to provide the same number of units at the same income levels as outlined in Section 2-3-4 for a period of at least 30 years.
- b. Extend the term of affordability of existing program affordable units: For bond units or other program affordable units whose affordability will expire within five years of the approval of the affordable housing plan, the existing level of affordability for the designated income households shall be extended for a period of at least 40 years from the existing expiration date for an equivalent or greater number of units than required in Section 2-3-4.
- c. Payment of in-lieu fees: The applicant may pay an in-lieu fee, based on the total number of units being developed, as determined by City Council resolution and based on the in-lieu fee formula. The in-lieu fee shall be determined at the time building permits are issued for development of a project. Menu Option items are designed to generate a value in furtherance of affordable housing that is equivalent or comparable to the actual value of providing such housing in the planning area as defined in Section 2-3-5 B 1.

Fees collected under the in-lieu fee program will be placed in the City's Affordable Housing Fund (AHF) and will be used to fund projects implementing the City's Housing Element Needs Assessment and/or serving households earning 80 percent or less of the Area Median Income (AMI), as annually defined by the California State Department of Housing and Community Development.

- d. Transfer control of units to a nonprofit housing agency: Dedicate developer-owned units to nonprofit organizations in the same ratio and at the same Income Levels as required in Section 2-3-4.
- e. Transfer of credits for affordable units provided elsewhere in the City: If an applicant has provided affordable housing above the required number of units, the excess units can be used as credit for satisfaction of affordable housing requirements off-site or can be sold to developers who do not provide sufficient affordable units on-site, subject to the Affordable Housing Credits Program guidelines outlined in Section 2-3-6 of this chapter
- f. Provision of alternative housing: The applicant may propose to provide alternative housing, such as special needs housing, single room occupancy hotels, or resident shelters. The number of units, rooms, or beds provided in alternative housing shall be credited on a one-to-one ratio to the total number of units required for the affordable housing needs goal. The same ratio may be applied to alternative housing provided within the planning area. To the degree Income I units are provided, a 1.6:1 credit is available. Menu Option items are designed to generate a value in furtherance of affordable housing that is equivalent or comparable to the actual value of providing such housing in the planning area as defined in Section 2-3-5 B 1.
- g. Dedication of land for affordable housing: Transfer control of land to the City, Redevelopment Agency, or a City-approved non-profit agency to be used for affordable housing projects. The value of land dedication will be the same as the value of the number of affordable units with income levels as defined in Section 2-3-4 which are not provided in the proposed project. The value shall be calculated based on a City-approved appraisal of the land and the Gap Study. Menu Option items are designed to generate a value in furtherance of affordable housing that is equivalent or comparable to the actual value of providing such housing in the planning area as defined in Section 2-3-5 B 1.
- h. Other programs: Alternative programs which provide affordable housing in a manner not specifically described above may be considered by the City provided the requirement of Section 2-3-4 is met either through the provision of units or through the value of the alternative. Multiple credits may be allowed if such programs provide affordable housing in excess of the goals either in terms of the degree of affordability, in the amount of affordable units or both. Such programs may be approved at the discretion of the City as specified in an affordable housing implementation program. Menu Option items are designed to generate a value in furtherance

of affordable housing that is equivalent or comparable to the actual value of providing such housing in the planning area as defined in Section 2-3-5 B 1.

## **Sec. 2-3-6. Affordable Housing Credits Guidelines**

### **A. Introduction**

The purpose of the Affordable Credits (“Credits”) Program is to promote the construction of affordable housing units within the City by establishing a system of Credits that can be earned by developers of residential projects which include higher percentages of affordable units than are currently required by the City’s Inclusionary Housing Program and in turn sold or transferred to developers of other residential projects.

Separate Credit Programs are established for the three categories of affordable homes (Income Levels I/II, III and IV), so that a project can fulfill its affordable requirements on-site at one income level, while using Credits to cover its requirement at another income level. The City will maintain a database to keep track of existing Credits so that developers of market-rate projects can be informed of the availability of such Credits.

### **B. Defined Terms**

The following defined terms are utilized in these guidelines:

“Affordable Housing Credits Agreement” means an agreement required for any residential development project that is involved in the purchase or sale of Credits.

“Affordable Housing In-Lieu Fees” means fees payable by a developer of a Market-Rate Project or a Mixed Project with Affordable Shortfalls, in lieu of the actual construction of Affordable Units on the Project site.

“Affordable Project” means a residential project that includes only Affordable Units.

“Affordable Unit” means a residential dwelling unit that is affordable to and rented or sold to a household with an income of below 120% of the County of Orange Median Income. An Affordable Unit may be designated as falling into one of four income categories (Income Levels I-IV), based on the highest household income that is qualified to purchase or rent that unit.

“Agreement” means an Affordable Housing Credits Agreement.

“City” means the City of Irvine.

“County Median Income” means the current median income in Orange County as determined by the U.S. Department of Housing and Urban Development.

“Credits” means Affordable Housing Credits.

“Excess Affordable Units” means the number of Affordable Units in a residential project that fall within a given Income Level category that exceed the required affordable component for that Income Level.

“Income Level I” means a household income of not more than 30% of the County Median Income, as adjusted for household size.

“Income Level II” means a household income of over 30% but not more than 50% of the County Median Income, as adjusted for household size.

“Income Level III” means a household income of over 50% but not more than 80% of the County Median Income, as adjusted for household size.

“Income Level IV” means a household income of over 80% but not more than 120% of the County Median Income, as adjusted for household size.

“In-Lieu Fees” means Affordable Housing In-Lieu Fees.

“Market-Rate Project” means a residential project that only includes Market-Rate Units.

“Market-Rate Units” mean residential dwelling units that are not Affordable Units.

“Mixed Project” means a residential project that includes both Affordable Units and Market-Rate Units.

“Mixed Project with Excess Affordables” means a Mixed Project in which there are Excess Affordable Units at one or more Income Levels. (Please note that it is possible that a Mixed Project with Excess Affordables for one Income Level category may have a shortage of Affordable Units at other Income Level categories).

“Mixed Project with Affordable Shortfall” means a Mixed Project in which there is a shortage of Affordable Units at one or more Income Levels. (Please note that it is possible that a Mixed Project with Affordable Shortfall at one Income Level category may have sufficient Affordable Units or Excess Affordable Units at other Income Level categories).

“Program” means the City of Irvine Affordable Housing Credits Program.

“Required Affordable Component” means, for any residential project within the City, the percentages of dwelling units that are required to be affordable to households in each of the three Income Level categories listed below:

Income Levels I and II:	5% of Project
Income Level III:	5% of Project
Income Level IV:	5% of Project

### **C. Guidelines**

The Program shall be administered by the City according to the following guidelines:

1. An Agreement must be executed prior to the issuance of building permits for those units in a Market-Rate Project or Mixed Project with Affordable Shortfall that will be satisfying their Required Affordable Component through the use of Credits. The purchaser of Credits, the seller of Credits and the City shall all be signatories to the Agreement. The Agreement shall state the number of Credits involved, and must identify the specific residential projects that will be generating the Credits and will be receiving the Credits. Information on the purchase price or payment arrangements for the Credits shall not be required to be disclosed within the Agreement.
2. Affordable Credits generated by Excess Affordable Units shall become available for use by a Market-Rate Project or Mixed Project after (i) building permits for the Excess Affordable Units have been issued, and (ii) the developer of the Affordable Project or Mixed Project with Excess Affordables has posted a bond to assure the construction of the Excess Affordable Units or a Certificate of Occupancy has been issued for the Excess Affordable Units.
3. Separate Affordable Credits shall be issued for Excess Affordable Units in each of the three Income Level categories (i.e., Income Levels I/II, III and IV).
4. Affordable Projects and Mixed Projects that agree to satisfy the Required Affordable Component for one or more Income Level categories on-site shall not be required to pay In-Lieu Fees or provide Affordable Credits for the Income Level categories anticipated to be provided on-site. Said agreement will be enforced through a condition of the discretionary approval of the project.
5. Until Credits become available, even after the Agreement is executed, the developer of any residential project that is not providing its Required Affordable Component for a given Income Level category on-site must pay In-Lieu Fees at the time of building permit issuance for any Market-Rate Units or Affordable Units not yet covered by Credits for that Income Level category. These In-Lieu Fees shall be reimbursed to the developer of the Market-Rate Project and/or the Mixed Project, without interest, upon availability of the Credits listed in the Agreement (see guideline #2).
6. One Credit for any Income Level category shall release 19 dwelling units in a Market-Rate Project or a Mixed Project with Affordable Shortfall from their Required Affordable Component for that same Income Level category.
7. The following guidelines for granting credits and combining credits for Affordable Units are summarized in Table 1 below:
  - (a) Units that are priced for, sold to and occupied by households in Income Level categories I, II and III shall receive 2.0 Credits in the corresponding Income category.

- (b) 1.6 Income Level I/II Credits shall be granted for each rental Excess Affordable Unit that satisfies the Income Level I category requirement.
  - (c) 3.2 Income Level I/II Credits shall be granted for Excess Affordable Units that satisfy Income Level I category requirements and are priced for, sold to and occupied by households in the Income Level I category.
  - (d) 1.4 Income Level II and III Credits shall be granted in the corresponding Income Level category for rental Excess Affordable Units that include three bedrooms, and 1.6 Income Level II and III Credits shall be granted in the corresponding Income Level Category for rental Excess Affordable Units that include four bedrooms.
  - (e) 2.24 Income Level I/II Credits shall be granted for rental Excess Affordable Units in the Income Level I category that include three bedrooms, and 2.56 Income Level I/II Credits shall be granted for rental Excess Affordable Units in the Income Level I category that include four bedrooms.
  - (f) 2.8 Income Level II and III Credits shall be granted for Excess Affordable Units in the corresponding Income Level categories that include three bedrooms and are priced for, sold to and occupied by households in the corresponding Income Level category.
  - (g) 3.2 Income Level II and III Credits shall be granted for Excess Affordable Units in the corresponding Income Level categories that include four bedrooms and are priced for, sold to and occupied by households in the corresponding Income Level category.
  - (h) 4.48 Income Level I/II Credits shall be granted for Excess Affordable Units in the Income Level I category that include three bedrooms and are priced for, sold to and occupied by households in the Income Level I category.
  - (i) 5.12 Income Level I/II Credits shall be granted for Excess Affordable Units in Income Category I that include four bedrooms and are priced for, sold to and occupied by households in the Income Level I category.
8. All developers of Market-Rate Projects or Mixed Projects with Affordable Shortfalls utilizing the Program shall pay for their share of the administration costs related to the application of Credits to their Project through hourly fees charged by the City. Any administrative costs not covered by the hourly fees shall be paid to the City by the developer of the Market-Rate Project or Mixed Project with Affordable Shortfall prior to the acceptance of the Credits for the specific Project by the City.
9. Credits shall be assigned to developers of Affordable Projects or Mixed Projects with Excess Affordables, based on the guidelines listed above, for (i) the conversion of existing Market-Rate units to Affordable Units for a period of at least 30 years, (ii) the extension of the term of affordability of existing Affordable Units by an additional 40 years, and (iii) the construction of second units that meet the City's affordability guidelines. Credits may be assigned to property owners and developers in return for the dedication of land for affordable housing use and the construction of