



## Administrative Report

### DISCUSSION ITEM

**TO:** HONORABLE CITY COUNCIL

**FROM:** Matthew Summers, City Attorney

**DATE REPORT**

**PREPARED:** November 7, 2023

**MEETING DATE:** November 14, 2023

**SUBJECT:** Introduction of an Ordinance Amending Title 6 (Businesses, Professions, and Trades) of the Ojai Municipal Code to add a New Chapter 8 Titled "Proposed Rental Housing Development Rent Disclosure Ordinance"

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**Recommendation:**

That the City Council:

1. Receive public comment; and,
2. Review and Introduce the Ordinance adding a New Chapter 8 Titled "Proposed Rental Housing Development Rent Disclosure Ordinance" requiring certain rental rate disclosure information for proposed housing development projects; OR,
3. Modify and introduce the draft ordinances as desired; OR
4. Decline to introduce the draft ordinances and provide other direction as desired.

**Background:**

On June 27, 2023, the City Council received a request from the Mayor to consider a rental rate disclosure ordinance. The Mayor's request included the following statement of purpose: "The purpose of this ordinance is to give the public and decision makers easy to access and understandable information about rental rates in all proposed new residential developments in Ojai that if built would have one or more deed restricted affordable housing units." The City Council directed staff to prepare an ordinance for Council review.

**Proposed Ordinance:**

The proposed ordinance is intended to solve the problem inherent in the word "affordable," which means different things to different persons, and yet has a specific legal definition in the context of deed-restricted moderate, low, very-low, extremely low, and acutely low income housing. The disconnect between the commonly understood definition(s) of affordable and the applicable maximum monthly rent amounts for each of those defined income levels can result in failed communication and a lack of public understanding as to a proposed project's intended rental rates.

To remedy this problem, the proposed ordinance requires developers of any proposed multi-

family housing development project in the City of Ojai with four or more rental units and at least one deed-restricted affordable unit to provide specified information in any written communications about the project with the public and the City about the anticipated deed-affordable unit(s)'s anticipated rent amounts, stated in "dollars per month" figures. The proposed ordinance also requires information about the number of income types of each proposed deed-restricted unit, including any unit types not provided in the project, and the inclusion of a caveat that the anticipated rent amounts will change as income limits change. All written information must be provided in at least twelve point font.

The proposed ordinance will be enforced via the City's standard code enforcement procedures. Enforcement will be separate from any proposed project's land use entitlements and development permits, as those permits are governed by separate provisions of the Ojai Municipal Code and applicable provisions of state law.

Attached to this staff report is a table of the current, 2023, income limits for the various unit types for Ventura County and a sample rental rate disclosure for a hypothetical project as a demonstration of the information required to be disclosed by the proposed ordinance.

**Fiscal Impact:**

Amendment of the proposed ordinance does not itself have additional budgetary impact.



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Prepared by:  
Matthew Summers, City Attorney



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Submitted by:  
Mark Scott, Interim City Manager

Attachments

A — Proposed Ordinance

B — Sample Rental Rate Disclosure

**CITY OF OJAI**  
**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF OJAI, CALIFORNIA AMENDING TITLE 6  
(BUSINESSES, PROFESSIONS, AND TRADES) OF THE  
OJAI MUNICIPAL CODE TO ADD A NEW CHAPTER 8  
TITLED “PROPOSED RENTAL HOUSING  
DEVELOPMENT RENT DISCLOSURE ORDINANCE”**

WHEREAS, the City Council of the City of Ojai has adopted a certified 2021-2029 Housing Element, allowing for deed-restricted affordable and other housing in various parts of the City as specified therein; and

WHEREAS, the City of Ojai notes with welcome that many proposed multi-family rental housing projects include deed-restricted affordable housing, helping to improve the City’s affordable housing availability; and

WHEREAS, the City of Ojai finds that that there is a recurring problem that public discussion of proposed multi-family rental housing development projects with deed-restricted affordable units results in failed communication because the commonly understood meaning of “affordable” and the legal meaning of “affordable to persons of moderate, low, very-low, extremely low, or acutely low income” are not the same; and

WHEREAS, the City of Ojai intends to require developers of multi-family rental residential housing projects to provide precise, clear, and transparent information about the anticipated rents for each project’s deed-restricted affordable units, thereby ensuring public clarity and effective communication by converting the abstract affordable levels into anticipated “dollars per month” rent amounts and plainly stating the number of years of each deed-restriction, with necessary caveats stating that the anticipated rent amounts will change as state income limits change; and

WHEREAS, this ordinance is a permissible, reasonable regulation of commercial speech because developers are required to provide neutral, factual information in their written communications to the public about a proposed qualifying project and because the information required to be communicated is a combination of information already required in the development permit application process, namely the types and income levels of each proposed deed-restricted affordable unit, coupled with extrapolated rent levels for each of those types of deed-restricted affordable unit as dictated by applicable state law, and applicable math to convert the state income limits and maximum rent calculations into “dollars per month” maximum rent figures.

**THE CITY COUNCIL OF THE CITY OF OJAI CALIFORNIA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The foregoing recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

**SECTION 2. Code Amendment.** A new Chapter 8 is hereby added to Title 6 of the Ojai Municipal Code to read as follows:

**Chapter 8 – Proposed Rental Housing Development Rent Disclosure Ordinance**

**Section 6-8.01. Purpose.**

The City finds that there is a recurring problem that public discussion of proposed multi-family rental housing development projects with deed-restricted affordable units results in failed communication because the commonly understood meaning of “affordable” and the legal meaning of “affordable to persons of moderate, low, very-low, extremely low, or acutely low income” are not the same. The City adopts this ordinance to regulate certain aspects of written commercial speech by developers to require precision, clarity, and transparency, thereby helping to ensure that written communications by developers about a proposed deed-restricted affordable multi-family rental housing project include accurate information about the anticipated maximum rent levels, stated in publicly understandable “dollars per month” figures.

**Section 6-8.02. Definitions.**

For purposes of this chapter the following terms are defined as follows.

(a) “Developer” means any of the following persons or entities: the applicant of record for any proposed rental housing development project; the property owner or owners of any proposed rental housing development project, if not the same as the applicant of record; and any person or entity acting on their behalf.

(b) “Proposed rental housing development project” means any proposed multi-family housing development project in the City of Ojai with at least one deed-restricted affordable unit.

**Section 6-8.03. Proposed Rental Housing Development Rent Disclosure Requirements.**

A developer of any proposed rental housing development project must include in every written communication to the public and the City regarding the project the following information, in at least twelve point font:

(i) the anticipated maximum rents for each deed-restricted affordable unit stated in dollars owed for rent each month, calculated using the current affordable housing state income limits as published by the state Department of Housing and Community Development effective at the time of the communication for the applicable type of deed-restricted affordable unit for households of 1 person, 2 people, and 4 people;

(ii) a statement that the anticipated maximum deed-restricted affordable unit rents, stated in dollars per month, will change as income limits change under state law;

(iii) the number and type [moderate, low, very low, extremely low, or acutely low income] of deed-restricted affordable units proposed within the project, including “zero” for any unit type not included in the project;

(iv) the number of years of each deed-restricted affordable unit’s deed-restriction;

(v) the number and proposed size, in square feet, of each proposed market rate, unrestricted unit proposed within the project; and

(vi) a statement that the market rate, unrestricted units would have no restrictions on rents, unless otherwise provided by law.

#### **Section 6-8.04. Enforcement.**

(a) Code enforcement officers, and any other person designated by the City Manager shall enforce this chapter and may publish written regulations in the manner required by law for the publication of ordinances and may take any and all other actions rational and necessary to enforce this chapter.

(b) In addition to any other remedies available by law and under this Code, a violation of this chapter is subject to the administrative enforcement provisions of Section 1-2.03 of this Code.

(c) The remedies specified in this chapter shall be cumulative and the City may resort to any other remedy available at law or in equity and resort to any one remedy shall not cause an election precluding the use of any other remedy with respect to a violation.

(d) The city attorney may seek injunctive, legal, or other equitable relief to enforce this chapter.

(e) Violations of this chapter shall not affect the validity or invalidity of any land use entitlement or development permit approved by the City of Ojai. Revocation of any land use entitlement or development permit must proceed separately under other applicable provisions of this Code and state law.

**SECTION 3. Environmental Determination.** The City Council determines that the following findings and conclusions reflect the independent judgment of the City Council. The City Council finds that the adoption of the foregoing amendment to the Ojai Municipal Code is exempt from the California Environmental Quality Act (CEQA) for the following independent reasons:

Under California Code of Regulations, Title 14, Section 15061, subdivision (b)(3), of the CEQA Guidelines, CEQA review is not required if an activity is not a project as defined in California Code of Regulations, Title 14, Section 15378, of the CEQA Guidelines. Under Section

15378, subdivision (b)(5), project for purposes of CEQA does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. This ordinance regulates certain commercial communications, and will not result in any direct or indirect physical changes in the environment. The adoption of this ordinance is therefore exempt from CEQA review pursuant to California Code of Regulations, Title 14, Sections 15060 and 15378, subdivision (b)(5) of the CEQA Guidelines.

**SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

**SECTION 5. Certification.** The City Clerk shall cause this Ordinance to be published as required by law, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

**SECTION 6. Effective Date.** This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937.

CITY OF OJAI, CALIFORNIA

By \_\_\_\_\_  
Betsy Stix, Mayor

ATTEST:

\_\_\_\_\_  
Weston Montgomery, Interim Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Matthew T. Summers, City Attorney

STATE OF CALIFORNIA    )  
COUNTY OF VENTURA    )  
CITY OF OJAI                )

I, Weston Montgomery, Interim Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City

of Ojai held on \_\_\_\_\_ and adopted at a regular meeting held on \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Weston Montgomery

Interim Deputy City Clerk for the City of Ojai

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**Ojai Rental Disclosure Ordinance SAMPLE &  
2023 HCD Income Limits for Ventura County**

Household Size:    1        2        3        4        5        6        7        8 Ppl.

Ventura County Area Median Income: \$123,500	Acutely Low	13000	14850	16700	18550	20050	21500	23000	24500
	Extremely Low	27900	31900	35900	39850	43050	46250	49450	52650
	Very Low Income	46500	53150	59800	66400	71750	77050	82350	87650
	Low Income	74400	85000	95650	106250	114750	123250	131750	140250
	<b>Median Income</b>	86450	98800	111150	<b>123500</b>	133400	143250	153150	163000
	Moderate Income	103750	118550	133400	148200	160050	171900	183750	195600

Generally, monthly affordable rent, inclusive of a reasonable utility allowance, is limited to 30% of the income limit for the unit type, adjusted for household size.

**Example – housing project with two very low income units & eight market rate units:**

- Maximum income for a one-person very low income household is \$46,500, calculated as 50% of median income, adjusted for household size.
  - Maximum monthly affordable rent for a one-person very low income unit, inclusive of a reasonable utility allowance, is: \$1,162.50, calculated as 30% of \$46,500, divided by 12 months.
- Maximum income for a two-person very low income household is \$53,150, calculated as 50% of median income, adjusted for household size.
  - Maximum monthly affordable rent for a two-person very low income unit, inclusive of a reasonable utility allowance, is: \$1,328.75, calculated as 30% of \$53,150, divided by 12 months.
- Maximum income for a four-person very low income household is \$66,400, calculated as 50% of median income, adjusted for household size.
  - Maximum monthly affordable rent for a four-person very low income unit, inclusive of a reasonable utility allowance, is: \$1,660, calculated as 30% of \$66,400, divided by 12 months.

**The required disclosure under the draft ordinance would need to include the following information:**

- Anticipated maximum monthly rent: \$1,162.50 per month for one-person household, \$1,328.75 per month for two-person household, or \$1,660 per month for four-person household, calculated using 2023 HCD income limits [\$46,500 for one-person household, \$53,150 for two-person household, and \$66,400 for four-person household for very-low income].

- These anticipated maximum rent amounts are subject to change as income limits change per state affordable housing law.
- The proposed project contains two proposed units to be deed-restricted for 55 years to persons of very-low income, defined as 50% of the Ventura County median income, adjusted for household size. The proposed project contains zero units to be deed-restricted for 55 years to persons of moderate, low, extremely low, or acutely low income.
- The proposed project also contains eight market-rate, unrestricted units, each approximately 2,000 square feet in size.
- The eight proposed market-rate, unrestricted units would not have any restrictions as to the monthly rent amounts, unless otherwise provided by law.