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**SUBJECT:** Introduce and Waive First Reading of an Ordinance of the City of Brentwood Repealing and Replacing Chapter 17.725 of the City of Brentwood Municipal Code Relating to the Affordable Housing Program

**DEPARTMENT:** Community Development Department

**STAFF:** Alexis Morris, Director of Community Development  
Sylvia Elias, Housing Program Manager

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### **TITLE/RECOMMENDATION**

Introduce and waive the first reading of an Ordinance of the City of Brentwood repealing and replacing Chapter 17.725 of the City of Brentwood Municipal Code Relating to the Affordable Housing Program.

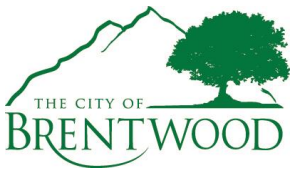
The Ordinance is exempt from review under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq., and the Guidelines for CEQA, 14 CCR §§ 15000, et seq.) because it has no potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR § 15061(b)(3). Further, the Ordinance is also exempt because it does not apply to any particular housing project at this time and it is thus speculative to evaluate any such future project in the context of consideration of this Ordinance.

### **FISCAL IMPACT**

There is no fiscal impact associated with the action. Amending the Affordable Housing Ordinance to an 18% requirement is anticipated to increase affordable housing production.

### **BACKGROUND**

The City of Brentwood has required the provision of some level of affordable housing by residential developers since the 1980s. Since its first adoption, this requirement has been located in Chapter 17.725 of the Municipal Code (the Affordable Housing Ordinance). The ordinance has been amended over time to reflect changing Council direction.



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As stated in the City's 6<sup>th</sup> Cycle Housing Element, the purpose of the Affordable Housing Program is to:

- Enhance the public welfare and assure that further housing development contributes to the attainment of the City's housing goals as described in the Housing Element of the General Plan, by creating, preserving, maintaining, and protecting housing affordable for households of very low-, low- and moderate-income;
- Assure that the remaining developable land in the City's planning area is utilized in a manner consistent with the City's housing policies and needs; Brentwood 2023-2031 Housing Element Section 3: Housing Constraints, Resources, and Fair Housing 3-26
- Increase the number of affordable housing units in Brentwood in recognition of the insufficient number of existing affordable housing units in relation to the community's current and future needs; and
- Assure that new affordable housing units that are constructed are distributed throughout the City as part of mixed-income developments in order to obtain the benefits that flow from economically diverse communities, increase access to opportunity, and affirmatively further fair housing.

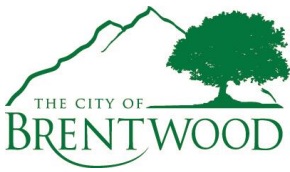
At its March 12, 2024 meeting, the City Council directed staff to bring forth a future agenda item to discuss options related to increasing the Affordable Housing Ordinance's 13% affordable housing obligation. The Council directed staff to provide information related to an increase in the affordable housing obligation to 15% or 20%.

On May 27, 2025, an informational report was presented to the City Council relating to the possible increase of the Affordable Housing Ordinance's 13% obligation to a higher percentage and the possible impact on the City's housing development, State and Federal Housing Laws, Density Bonus activation, and other Constitutional Matters. A copy of the May 27, 2025 staff report is attached for reference.

Upon conclusion of the informational report, the City Council discussed the impact on State and Federal laws, future development, and other Constitutional matters related to the possible increase to the ordinance.

The City Council directed staff to continue with the amendment process, and directed staff to amend the Affordable Housing Ordinance as follows:

- Increase the Affordable Housing Ordinance's obligation to 18%, with the following allocation:
  - Moderate Income – 9%



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- Low Income – 5%
- Very Low Income – 4%
- Do not prepare a feasibility study;
- Keep all other sections (e.g., requirements and alternatives) of the existing ordinance in place;
- Move forward with the amendment process and present a concise version of the May 27, 2025 item to the Planning Commission for review and recommendation.

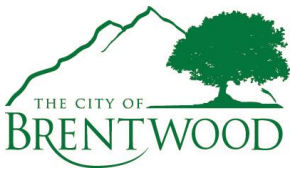
Staff incorporated the City Council’s direction into the draft affordable housing ordinance amendment and presented the draft to the Planning Commission on October 21, 2025. The Planning Commission with a 4-0 vote (1 absent) adopted Resolution No. 25-017 recommending that the City Council adopt an ordinance amending Chapter 17.725 of the City of Brentwood Municipal Code. Subsequent to the Planning Commission’s discussion/recommendation, a scrivener’s error was found in the draft amendment regarding the definition of “Low-income household” (Section 17.725.002, Definitions). The definition of “Low-income household” was amended by the City Council on March 12, 2024 by Ordinance No. 1068, and corrected in the attached draft amendment.

At the November 12, 2025 City Council meeting, staff requested a continuance of this item to a future meeting due to a noticing oversight. The City Council approved the continuance of this item to the December 9, 2025 City Council meeting.

**ANALYSIS**

When the Affordable Housing Ordinance was originally adopted in 2003, the City Council approved the affordable housing ordinance as a “living” document that would need to be amended from time to time. As staff implemented the direction of the ordinance, it was apparent that over time, market conditions may change. The proposed amendments are being requested to adapt to new realities state-wide and on a local level. Policy decisions and strategies regarding the City’s Affordable Housing Ordinance balances the need to meet State and regional housing mandates while addressing the community needs to ensure all income levels are provided affordable housing opportunities, as is recommended by the City’s General Plan and Housing Element goals and policies.

The City Council’s direction to increase the affordability requirement to 18% (9% Moderate / 5% Low / 4% Very Low) is intended to increase affordable housing production in Brentwood. The five percent increase in the affordability requirement would result in a slight increase in the number of units created for eligible projects,



as illustrated in the table below, using a hypothetical single family residential project of 50 units:

<b>Project Size</b>	<b>13% Affordable</b>	<b>18% Affordable</b>
50 Units	7 units (6.5 rounded up per the ordinance)	9 units

The attached affordable housing ordinance amendment (see Exhibit A) includes the above revised percentages. The ordinance also updates the size range of the smaller projects the affordability requirements apply to in order for the new percentages to mathematically yield the correct number of units.

The City Council’s direction to increase the affordability to 18% (9% moderate/ 5% Low / 4% Very Low) should not trigger review by the State Housing and Community Development Department (HCD) because the City has built at least 75% of its above-moderate income homes identified in its Regional Housing Needs Assessment over the last five years, and it has timely submitted its Annual Progress Reports as to the City’s Housing Element the last two consecutive years.

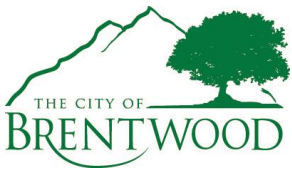
**Regional Inclusionary Housing Requirements**

For Council’s reference, staff conducted a brief survey in 2024 of the affordable housing inclusionary requirements of other cities in the region; these are listed below. (Please note that several cities have varying percentage requirements depending on the target household income for the affordable units.) As the table shows, many cities in the region have an affordable housing inclusionary requirement between 10% and 20%.

**Affordable Housing Inclusionary Ordinance Requirement – Other Cities**

<b>City/County</b>	<b>Population</b>	<b>Affordable Housing Requirement</b>
<b>Contra Costa County</b>		
<b>Brentwood</b>	<b>64,811</b>	<b>13% (current ordinance)</b>
Antioch	115,632	None currently, though 15% requirement is being drafted for City Council consideration <sup>1</sup>
Clayton	10,683	10%
Concord	121,513	6% rental, 15% ownership
Contra Costa County	174,289	15%

<sup>1</sup> Per direction provided to staff at the Antioch City Council’s September 16, 2025 special meeting

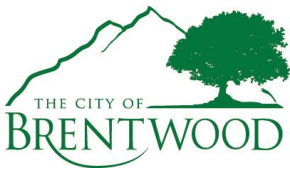


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City/County	Population	Affordable Housing Requirement
Danville	42,567	10% (20 units or less), 15% (21+ units)
El Cerrito	25,700	10% rental, 12% ownership
Hercules	26,063	10%
Lafayette	24,808	15%
Martinez	36,439	None.
Moraga	16,784	10%
Oakley	45,736	None.
Orinda	19,191	None.
Pinole	18,192	15%
Pittsburg	75,085	6%-15% rental, 15%-20% ownership
Pleasant Hill	33,352	5% or 10% for most housing types
Richmond	112,735	9%-10% rental, 7-10% owner
San Pablo	31,088	None.
San Ramon	82,525	15%
Walnut Creek	69,433	6%-10%
<b>Alameda County</b>		
Alameda	78,071	15%
Albany	20,325	15%
Berkeley	125,327	20%
Dublin	72,917	12.5%
Emeryville	13,314	15% rental, 20% ownership
Fremont	229,250	10% rental, 15% ownership
Hayward	159,770	6% rental, 7.5% or 12% ownership
Livermore	84,828	10% in Downtown, 15% outside Downtown
Newark	46,635	Rental only- 10% in Downtown, 15% outside
Pleasanton	75,960	15% multifamily, 20% single family
San Leandro	87,098	15%
Union City	66,432	15%

**Potential Impacts on Development Costs**

On November 19, 2025, the City received a copy of a letter (attached) that the Building Industry Association Bay Area (BIA) sent to HCD asking HCD to require the City to revise its Housing Element and claiming, without evidence, that the City’s increase from 13 percent to 18 percent “...will absolutely pose a constraint to the development and cost of housing in Brentwood.” The development community often



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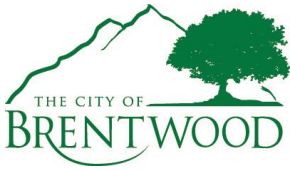
cites local ordinances such as inclusionary housing ordinances as constraints to development. It is possible that the development of affordable units may increase overall development costs and cut developer's profit margins, and increased costs may be passed on to market-rate owners and renters. However, in order to eliminate or reduce constraints in the development of housing in Brentwood, in some circumstances, the City offers concessions and construction incentives. The City may offer incentives or financial assistance to encourage compliance with requirements of the Affordable Housing Program. Such incentives may include, but are not be limited to, any of the following items, applied alone or in any combination upon the City Council's finding that a developer has proven that the incentive is necessary to the financial feasibility of the residential development:

- Development Processing Fee Deferral;
- Development Impact Fee Deferral;
- Density Bonus;
- Flexible Design Standards - including, but not limited to, the following:
  - Reduced lot sizes;
  - Reduced setback requirements;
  - Reduced open space requirements;
  - Construction of duets, duplexes, triplexes or fourplexes on corner lots within single-family areas;
  - Reduced landscaping requirements;
  - Reduced parking requirements;
  - Height restriction waivers.
- Fast Track Processing;
- Direct Financial Assistance; or
- Additional Concessions and Incentives the City Council may consider, on a case-by-case basis, at its sole discretion.

Alternative Equivalents include:

- Dedication of Vacant Developable Land;
- Off-Site Construction of For-Sale or For-Rent Affordable Units or Conversion of Market-Rate For-Sale or For-Rent Units to Affordable Units;
- Dedication of Affordable Units to the City of Brentwood; or
- Other Means of Fulfilling Affordable Housing Requirements subject to City Manager or designee approval.

The off-site construction or conversion of off-site market rate units to affordable units has been the most popular option amongst developers, including the Parkside Villas



project currently under construction. This has proven effective in the ultimate construction of affordable units.

Due to concessions and construction incentives offered to developers, the Housing Element certified by HCD on April 12, 2024, determines that the Affordable Housing Program does not pose a constraint to the development or cost of housing in Brentwood. The concessions and construction incentives offered to developers in Brentwood often result in increased profit margins and project feasibility for developers.

### **CONCLUSION**

In conclusion, the attached proposed ordinance amendment is appropriate and in the public interest, as required by Brentwood Municipal Code Section 17.870.008. This is demonstrated by its consistency with the City's General Plan goals and policies, and in accordance with the City's Housing Element.

### **CITY COUNCIL STRATEGIC INITIATIVE**

Focus Area 4: Community Development. Provide a diversity of housing opportunities, including equitable distribution of affordable housing for all socio-economic segments of the Brentwood community.

### **PREVIOUS ACTION**

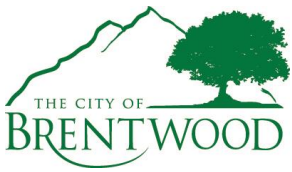
Previous Action by the City Council is included on Attachment 1.

### **DATE OF NOTICE**

The City of Brentwood published a public hearing notice in the Brentwood Press on November 28, 2025.

### **ENVIRONMENTAL DETERMINATION**

The Ordinance is exempt from review under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq., and the Guidelines for CEQA, 14 CCR §§ 15000, et seq.) because it has no potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15061(b)(3). Further, the Ordinance is also exempt because it does not apply to any particular housing project at this time and it is thus speculative to evaluate any such future project in the context of consideration of this Ordinance.



### **ALTERNATIVE OPTION(S)**

The following are alternative options that the City Council may consider:

1. Direct staff to make changes to the attached draft ordinance and direct staff to return to the Planning Commission and the City Council with the revised ordinance.
2. Do not amend the ordinance and leave the affordable housing obligation at its current 13%.

### **ATTACHMENT(S)**

1. Previous Action
2. CC Staff Report of 5/27/25
3. Draft Affordable Housing Ordinance (Exhibit A)
4. November 19, 2025 BIA Bay Area Letter