

Public/Community Land Trusts

This policy/program includes investments or policies that expand the amount of land with permanent affordability protections held by public and nonprofit entities such as cooperatives, community land trusts and land banks. Community land trusts are generally nonprofit organizations that seek to create permanently affordable housing and homeownership opportunities for low- and moderate-income households through cooperatively run land stewardship projects.

Legal Context

What Does State Law Require?

Under California state law, community land trusts (CLTs) can often qualify for the property tax welfare exemption for properties rented to tenants. In 2022, the Legislature passed [AB 1206](#), which allows CLTs to keep their welfare exemption even if one or more residents' incomes increase.

Under [SB 1079 \(2020\)](#), eligible bidders, including CLTs, are granted certain rights and priorities to make bids on a foreclosed property after the initial trustee sale and potentially to purchase the property as the last and highest bidder.

How Can Jurisdictions Implement Programs That Go Beyond State Law?

Jurisdictions can play an active role in building community support, planning for and setting up a CLT and funding ongoing operations. Jurisdictions can also provide regulatory concessions, for example by reducing or waiving application and impact fees or expediting permitting processes for CLTs.

At-A-Glance

RELEVANT STATE LAWS [SB 1079 \(2020\)](#)

POTENTIAL FUNDING SOURCES

(see information below about which funding sources count as “locally generated” for the purposes of TOC Policy compliance)

- Community Development Block Grants (CDBG) funds
- HOME Investment Partnerships Program capacity grants
- Housing Trust funds
- General Fund

COST High

ADMINISTRATIVE BURDEN

 High

Staff capacity needed to identify funding, design a program and secure political approval. Capacity also needed for ongoing operations, including administering funds, monitoring affordability and overseeing operations for the life of the project.

WHICH P? Preservation

POTENTIAL PARTNERS

- Community land trusts
- Community-based organizations


 **OPTION FOR TOC POLICY COMPLIANCE?**
Yes!

Program Design, Implementation and Evaluation Considerations

The callout box below labeled “TOC Policy Requirements” describes the policy features necessary for a jurisdiction to receive credit toward TOC Policy compliance. All other policy features discussed in this document represent details found in existing policies on the subject and a jurisdiction may want to consider them when adopting or implementing a policy, but nothing is required for TOC Policy compliance unless noted as a requirement in the “TOC Policy Requirements” callout box or the [TOC Policy Administrative Guidance](#).

Elements of the Program

- Ongoing funding source
- Affordability requirements
- Technical assistance for CLT formation and operations
- Requirements for CLTs
- A defined reporting and monitoring process



TOC Policy Requirements: To comply with TOC [Preservation Policy 5](#) or [Production Policy 6](#), housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use for affordable housing can be reasonably expected to be approved in subsequent years. The subsequent years’ funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

Funding must be locally generated. Potential local funding sources include commercial linkage fees and housing impact fees, taxes (such as an employee head tax or real estate transfer tax), local bond measures, successor agency funds, business/gross receipts tax on rental property and general

fund allocations. Jurisdictions may include county or regional bond funds expended with the jurisdiction’s participation in affordable housing projects within its boundaries. Jurisdictions may include grants from philanthropic organizations or private contributions made by businesses or individuals. In-kind contributions to developments in the form of fee waivers for building permit fees, impact fees and other fees can also be counted toward the required amount of local affordable housing funding. Staff hours are not eligible for consideration. Federal and state funding (such as HOME/CDBG or PLHA) that is passed through a jurisdiction is not counted as local funding.

The program’s affordability requirements must define affordable units as rental housing available to lower-income households earning 80% of AMI or less, and ownership housing to lower- and moderate-income households earning 120% of AMI or less. Jurisdictions should require deeper levels of affordability where feasible or through offering additional incentives. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program.

Note that these policies may be used to fulfill either the housing production or preservation requirement, but not both.

Program Design Considerations

Jurisdictions may want to consider the following:

FUNDING SOURCES: Providing direct funding to CLTs, designating a portion of affordable housing funding for CLT acquisitions or new development projects and/or explicitly stating that CLTs are eligible borrowers for local affordable housing sources, such as Housing Trust funds.

PERMANENT INVESTMENT: Providing a grant to the CLT or a deferred-payment loan secured by the CLT's interest in the land. This is often preferable to home loans, which must be rolled over at each resale, involving significant legal work and fees. Providing investment early can help establish a CLT's credibility.

STRUCTURE OF FUNDS: Providing grant or loan agreements coupled with covenants or deed restrictions.

OPERATIONS FUNDING: Committing formally or informally to providing a basic level of operating support for multiple years.

AFFORDABILITY REQUIREMENTS: Defining what income levels CLTs must serve if they receive local funding. Some CLTs prioritize lower income households, while others focus on stabilizing households in a broader range of income levels. Acquisition of existing housing requires more flexible and complex affordability requirements - as projects may initially accommodate higher-income households or higher average household incomes as a consideration for stabilizing existing households at the time of acquisition. Jurisdictions can consider allowing affordable housing preservation projects to initially average up to 120% AMI but set a clear goal for the building to eventually achieve an average affordability of 80% AMI through natural attrition as units turn over.

GROUND LEASES: Specifying key terms and key provisions that the CLT ground lease must contain in grant or loan agreements.

CLT REQUIREMENTS: Specifying CLT responsibilities, such as developing and marketing CLT homes, selecting initial prices and maintaining affordability.

TENANT RIGHTS: Ensuring that the tenant rights are preserved for existing residents of any affordable housing preservation projects, for example, habitability plans for rehabilitation and relocation assistance.

COOPERATIVE OWNERSHIP: Requiring CLTs to work with residents to make sure they are ready to take on ownership/management responsibilities in the case of cooperative ownership models, which many CLTs use. For example, the Bay Area Housing Finance Authority (BAHFA) requires operating the building as a traditional rental until the CLT owner demonstrates approval of a conversion from all residents. If the CLT anticipates the ability to secure approval from all residents, it must submit a proposed timeframe and resident engagement and training plan for the conversion. It must also provide all resident and organizational documents supporting the conversion all of which BAHFA must approve. BAHFA also requires cooperative projects to establish ongoing training curriculum milestones to be met during regulatory agreement terms, as well as training protocols for new residents who join the cooperative.

DEVELOPER PARTNERSHIPS: Encouraging private developers of residential projects with a municipally-mandated affordability component to partner with CLTs, for example to manage inclusionary units in for-sale developments.

CROSS-AGENCY COLLABORATION: In the rare case that two government agencies will be routinely supporting one CLT's projects, it can be helpful to ensure that their grant and loan agreements, liens and covenants are consistent.



TOC Policy Requirements: To comply with TOC [Preservation Policy 5](#) and [Production Policy 6](#), the jurisdiction must have a program with secured funding that provides ongoing allocations to the program at or above the level identified in [Appendix B of MTC’s Administrative Guidance](#). The amount contributed can vary by year as long as the total for the relevant four-year One Bay Area Grant (OBAG) cycle meets the specified target for the jurisdiction. Jurisdictions that have committed affordable housing funds prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met: a) The funds are used to support a project or program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to a CLT to use for affordable housing production during the OBAG 4 cycle sometime between 2026 and 2030), and/or b) The funds are expended after January 1, 2025.

In the case of Preservation Policy 5, the program’s funds must be reserved for CLTs and/or cooperatives to use for affordable housing preservation. Additionally, the jurisdiction must establish criteria for borrower eligibility that require funding recipients to have experience with affordable housing preservation.

In the case of [Production Policy 6](#), the program’s funds must be reserved for CLTs and/or cooperatives to use for affordable housing production, or the jurisdiction or other public entities can use the funding to acquire and hold property that will be used for production of affordable housing.

Program Implementation, Administration and Enforcement

Jurisdictions can actively pursue the acquisition of abandoned or tax delinquent properties and the development of land banks (publicly held bodies of land for future development). This can then allow them to use this land for future affordable housing development, including CLTs.

Jurisdictions can consider supporting CLT creation through contributions of city staff, consultant time and grants. They may also want to provide support for ongoing operations, in the form of annual operating support, capacity building and/or technical assistance grants to sustain and strengthen operations. They can also provide regulatory concessions, for example, by reducing or waiving application and impact fees. When levying taxes on CLTs, jurisdictions will want to keep in mind that the resale restrictions significantly reduce the market value of CLT lands and homes.

Most CLTs manage portfolios of shared equity homeownership units, where the CLT owns the land as a means of ensuring long-term affordability. Some jurisdictions have formed partnerships with CLTs to steward publicly funded or inclusionary housing units and support homeowners. CLTs can also support the formation of limited equity cooperatives or other owner-occupant models.

Jurisdictions can play an active role in regulating and monitoring CLTs, ensuring they enforce affordability restrictions and other key restrictions.



TOC Policy Requirements: To comply with both [Preservation Policy 5](#) and [Production Policy 6](#), jurisdictions must have secured and locally-generated funding¹ that meets the minimum requirements for their tier. The funding program must establish a standard set of financing terms. Housing program funds may be considered secured if they are included in a current budget from a source that is expected to continue and where the use for affordable housing can be reasonably expected to be approved in subsequent years. The subsequent years’ funding may require future budget approvals or may be dependent on uncertain but expected revenue sources, so long as there is not a known sunset date or other limit. For bond proceeds or other one-time investments, funding can be considered secured if it will be available for investment at the required level at any point in the four-year planning period, expected to align with the OBAG cycle.

Program Evaluation

To evaluate program effectiveness, jurisdictions can analyze the number of affordable housing units developed or preserved, cost per unit developed or preserved, number of households housed and demographics of households housed.

¹ [MTC Administrative Guidance: Transit-Oriented Communities Policy](#) (pg. 29) outlines restrictions and guidelines that apply when considering whether a funding source counts as “locally generated.”

Complementary Policies

FUNDING TO SUPPORT PRESERVATION

CAPACITY: Funding can help CLTs strengthen their capacity to acquire land, develop affordable housing and manage properties.

INCLUSIONARY ZONING: CLTs can be a good fit for market-rate developers looking to fulfill inclusionary housing requirements. The Irvine Community Land Trust acquires land through both direct land donations and in-lieu fees from developers unable to meet the city’s on-site inclusionary requirement.

Other Resources

EXAMPLES*

[Bay Area Community Land Trust](#)

[Bollinas Community Land Trust](#)

[Community Land Trust Association of West Marin \(Pt. Reyes\)](#)

[Housing Land Trust of the North Bay \(Sonoma and Napa Counties\)](#)

[Northern California Community Land Trust](#)

[OakCLT \(Oakland\)](#)

[Richmond Land](#)

[San Francisco Community Land Trust](#)

[South Bay Community Land Trust \(Santa Clara County\)](#)

[Supportive Housing Community Land Alliance \(Alameda County\)](#)

[Common Counsel’s Community Ownership for Community Power Fund](#)

This document is intended to provide general information and does not constitute legal advice. Additional facts, facts specific to a particular situation, or future developments may affect the subjects discussed in this document. Seek the advice of your jurisdiction's legal counsel before acting or relying upon this information. For specific questions regarding TOC compliance, please reach out to TOCpolicy@bayareametro.gov.

Other Resources Continued

EXAMPLES OF IMPLEMENTATION PARTNERS

[California Community Land Trust Network \(CACLTN\)](#)

OTHER RESOURCES

[Lincoln Institute - The City-CLT Partnership](#)

[Burlington Associates in Community Development - City-CLT Partnerships: In Search of Best Practices](#)

[Grounded Solutions Network - Community Land Trusts](#)

[Center for Community Progress - Land Bank FAQs](#)

[California Center for Cooperative Development - Housing Co-ops](#)

[Metropolitan Transportation Commission - Preservation Policy 5: Public/Community Land Trusts](#)

[Metropolitan Transportation Commission - Production Policy 6: Public/Community Land Trusts](#)

**Note that examples have not been vetted for full TOC Compliance.*