

Chapter 14C - INCLUSIONARY HOUSING ^[42]

⁽⁴²⁾ **Editor's note**— Ord. No. 91-49, § 1, adopted Oct. 23, 1991, repealed former Ch. 14C which pertained to similar provisions and derived from Ord. No. 82-49, § 1, adopted Dec. 15, 1989; and Ord. No. 83-02, § 1, adopted Feb. 9, 1983. Subsequently, Ord. No. 00-241-1, adopted April 12, 2000, repealed Ch. 14C in its entirety and substituted therefore a new chapter 14C to read as herein set out.

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Sec. 14C.1. - Intent.

Housing requirements for low and moderate-income households in residential projects. It is the intent of this chapter to establish requirements for the reservation of housing units for low and moderate-income households in residential projects requiring development plans.

(Ord. No. 91-49, § 2 , 10-23-91; Ord. No. 00-241-1, § 1 , 4-12-00)

Sec. 14C.2. - Applicability.

The provisions of this chapter shall apply to all residential projects of three or more units including without limitation, condominium conversions and time extensions of development plan approval for previously approved residential projects.

(Ord. No. 91-49, § 2 , 10-23-91; Ord. No. 92-05, § 1 , 1-29-92; Ord. No. 00-241-1, § 1 , 4-12-00; Ord. No. 00-278-1, 5-10-00)

Sec. 14C.3. - Exemptions.

a. Any project located within the boundaries of the redevelopment project area shall be exempt from the provisions of this chapter.

(Ord. No. 91-49, § 2 , 10-23-91; Ord. No. 00-241-1, § 1 , 4-12-00)

Sec. 14C.4. - Definitions.

Affordable. For the purpose of this chapter, the term "affordable" shall have the following meanings:

(1) A for-sale housing unit shall be affordable if the sales price does not exceed two hundred fifty (250) percent of the area median income for San Diego County, adjusted for family size/bedroom size, as published by HUD. The family size/bedroom size adjustment shall be as follows:

One-bedroom units shall be based on the median income for a family of two;

Two-bedroom units shall be based on the median income for a family of three;

Three-bedroom units shall be based on the median income for a family of four;

Four-bedroom units shall be based on the median income for a family of five.

(2) Rental housing unit shall be affordable if the total housing cost, including rent and utilities, paid by a household does not exceed thirty (30) percent of the monthly gross income of a household with a monthly income not exceeding sixty (60) percent of the area median income adjusted for household size. A household size used to calculate the maximum affordable rent shall be those indicated in the paragraph above.

Area median income. The median household income of San Diego County or equivalent geographic area as annually estimated by HUD pursuant to Section 8 of the United States Housing Act of 1937. In the event such HUD determinations of area median income are discontinued, the area median income shall be that median household income as established and published by the State of California Department of Housing and Community Development pursuant to Health and Safety Code Section 50093.

Household. A person or persons living together in the same residence.

HUD. The United States Department of Housing and Urban Development.

Low-income household. A person or persons living together as a household unit whose combined incomes do not exceed eighty (80) percent of the median income for San Diego County for an equivalent size household.

Moderate-income household. A person or persons living together as a household unit whose combined income exceeds eighty (80) percent but does not exceed one hundred twenty (120) percent of the median income for San Diego County for an equivalent size household.

Low and moderate-income household. A person or persons living together as a household unit whose combined incomes do not exceed one hundred twenty (120) percent of the median income for San Diego County for an equivalent size household.

Reserved unit. A residential dwelling unit deed restricted for occupancy by a low or moderate-income household pursuant to the requirement of this chapter.

Residential project. Any new construction of dwelling units or condominium conversion.

(Ord. No. 91-49, § 2 , 10-23-91; Ord. No. 00-241-1, § 1 , 4-12-00)

Sec. 14C.5. - Reservation requirements.

(a) *Reservation of for-sale units.*

(1) No development plan for a for-sale residential project of three or more units subject to this

chapter shall be approved in any area of the city unless at least ten (10) percent of such housing units are reserved for sale to low and moderate income households or reserved as rental units for low-income households.

(2) Calculation of reservation requirement. The calculation of the number of housing units to be reserved shall be made utilizing the total number of housing units in the development prior to including any increase in the allowable number of such housing units authorized by any density bonus granted pursuant to Government Code Section 65915 et seq.

If the calculation of the number of housing units to be reserved results in a fraction of a whole number, the developer may either reserve one additional housing unit or pay a partial in-lieu fee equal to the remaining fraction. The amount of the in-lieu fee shall be determined according to Section 14C.6.(b).

(3) Timing for construction of reserved units. The reserved units shall be constructed either prior to or simultaneously with the non-reserved units within the development. If the development is being constructed in phases, the percentage of reserved units to be constructed in each phase shall be equivalent to ten (10) percent of the total number of units being constructed in that phase.

(4) Sales Price. The initial sales price and resale sales price of reserved units shall be limited to ensure that the price is affordable within the definition contained in Section 14C.4.

(5) Sales restriction. Reserved units shall be sold or resold only to eligible low or moderate-income households. The city shall determine the eligibility of such households.

A deed restriction, covenant, and/or other instrument enforceable by the city and approved by the city attorney and director of housing and neighborhood services, limiting the resale of such units to eligible low or moderate-income households shall be recorded against the title of all reserved units at affordable prices as described in subsection (4) immediately above. The duration of such resale restrictions shall be a minimum of fifty-five (55) years.

(6) Rental restriction. The requirements indicated in Section 14C.5(b)(4) shall apply if rental housing is provided as the reserved units.

(b) *Reservation of rental unit.*

(1) No rental residential project subject to this chapter (including time extensions) shall be permitted unless at least ten (10) percent of such housing units are reserved for low-income households.

(2) Calculation of reservation requirement. The provisions of Section 14C.5(a)(2) shall apply to the calculation of the number of housing units to be reserved in any rental housing development.

(3) Design and construction of reserved units. The design and exterior appearance of the reserved units shall be compatible with and substantially the same as the non-reserved units within the development and shall contain proportionately the same or a larger number of bedrooms and square footage per reserved unit as the non-reserved units.

(4) Rental restriction. The rent to be charged for a reserved housing unit shall be so limited as to be affordable within the definition of Section 14C.4(a)(2).

A deed of restriction, covenant, and/or other instrument enforceable by the city and approved

by the city attorney and director of housing and neighborhood services shall be recorded against the title of the property within which the reserved units are located limiting the rental of the reserved units as described immediately above. This rent restriction shall be in effect for a minimum of fifty-five (55) years. Additionally, the property shall be so restricted as to prohibit the conversion of the restricted units for the term of the rent restriction to a condominium, stock cooperative, community apartment, or such other form of ownership which would eliminate the restricted units as rental units.

(Ord. No. 91-49, § 2 , 10-23-91; Ord. No. 92-05, § 2 , 1-29-92; Ord. No. 00-241-1, § 1 , 4-12-00)

Sec. 14C.6. - In-lieu fee alternative.

(a) As an alternative to reserving units as required in Section 14C.5, the developer may pay a fee in-lieu of reservation in an amount established by city council resolution according to the formula set forth in subsection (b), below, sufficient to subsidize the price of a median sales price home in Oceanside to the extent that it brings the sales price of such a home into the affordable range for a moderate income household.

(b) The amount of the in-lieu fee for each required inclusionary unit shall be determined by the director of housing and neighborhood services at the time of issuance of building permits for the first residential units in a development project subject to this chapter by application of the city council resolution adopted pursuant to subsection (a) above, which resolution shall use the following formula:

The median sales price of homes sold in the City of Oceanside based on the last quarter of the calendar year prior to the year in which the building permit is issued

minus

The maximum affordable sales price for a three-bedroom unit as defined in section 14C.4(a)(1). However, the area median income figures in effect during the last quarter of the calendar year prior to the year in which the building permit is being issued shall apply. (Median sales price of new home - affordable three-bedroom sales price = in-lieu fee).

To obtain the per unit in-lieu fee the entire in-lieu fee shall be divided by the total number of units in the project. If the in-lieu fee option is chosen to comply with this chapter, in whole or in part, the per unit in-lieu fee shall be paid for each unit that a building permit is issued.

(c) All in-lieu fees collected hereunder shall be used by the city exclusively to provide housing opportunities for low or moderate-income households anywhere within the city. All in-lieu fees shall be held in a separate account with interest accruing to said account. All funds in the account shall be spent in any manner authorized by law as the city council deems appropriate solely to provide housing opportunities for low or moderate-income households. For the purposes of this subsection, the term "provide housing opportunities for low or moderate-income households" means any expenditure authorized by law which directly or indirectly makes housing units affordable to low or moderate-income households.

(d) If a residential project, subject to this chapter, is required to provide replacement housing pursuant to Government Code Section 65590, then the number of units required to be reserved for low or moderate-income households shall be the larger of the number of units required under Government Code Section 65590 or this chapter. The requirements for inclusionary housing under this chapter shall not be additive to the requirements for replacement housing under Government Code Section 65590.

The provisions of this chapter shall not apply to units provided pursuant to an ordinance adopted as required by Section 65915 of the Government Code.

(Ord. No. 91-49, § 2 , 10-23-91; Ord. No. 00-241-1, § 1 , 4-12-00)

Sec. 14C.7. - Options for providing reserved units.

(a) *On-site reservation.* The required number of reserved units may be provided on the site of the subject development. In this case, the design and exterior appearance of the reserved units shall be compatible with and substantially the same as the non-reserved units within the development and shall contain proportionately the same or a larger number of bedrooms and square footage per reserved unit as the non-reserved units.

(b) *Off-site provision of "for-sale" reserved units.* If an applicant can provide evidence to demonstrate that on-site provision of reserved units is not feasible, with such evidence being deemed reasonable, accurate, and sufficient at the sole discretion of the city, then the reserved units may be provided as "for-sale" units at another site within the city limits of Oceanside conforming with the requirements of section 14C.5.

(c) *Off-site provision of rental reserved units.* If an applicant can provide evidence to demonstrate that on-site provision of reserved units is not feasible, with such evidence being deemed reasonable, accurate, and sufficient at the sole discretion of the city, then the reserved units may be provided as rental units at another site within the city limits of Oceanside, excluding low-income impacted census tracts (i.e. census tracts 181, 182 (excluding blockgroup 3), 184, 186.03). Such reserved units must comply with the requirements of section 14C.5(b).

(d) *Joint venture off-site provision of rental reserved units.* Provided all participating applicants can meet the "non-feasibility" test mentioned above, off-site rental projects may provide the reserved units for multiple applicants.

(e) *Reserved unit credits.* If an applicant provides newly constructed units to meet the requirements for provision of reserved units pursuant to this chapter, and such new units exceed the number of reserved units required by this chapter, then the "excess" units may be used to meet the reserved unit requirements for another applicant. Any sale of "reserved unit credits" shall be an entirely civil transition with no regulation by the city (i.e. reserved unit credits may be sold for "what the market will bear"). Applicants who propose to meet their reserved unit requirement by purchasing reserved unit credits in another project must be able to meet the "non-feasibility" test for on-site provision. All reserved units credits must be deed restricted to comply with the requirements of section 14C.5(b).

(Ord. No. 00-241-1, § 1 , 4-12-00)

Sec. 14C.8. - Periodic review.

Annually, the city council shall review the status of compliance with this chapter, and the degree to which reserved units provided and fees collected pursuant to this chapter are addressing the shortfall of affordable housing units. Not later than five years after the effective date of this chapter, the city council shall consider a report by the city manager reviewing the reservation requirement and fee formula established to implement the provisions of this chapter to determine whether any adjustments in the reservation requirement or fee formula are warranted.

(Ord. No. 91-49, § 2 , 10-23-91; Ord. No. 00-241-1, § 1 , 4-12-00)

Sec. 14C.9. - Administration.

(a) The provisions of this chapter shall be administered by the director of housing and neighborhood services of the City of Oceanside under the direction of the city manager.

(b) The city council may adopt by resolution rules and regulations for the implementation of this chapter.

(c) A developer and/or subsequent purchaser of a reserved unit shall be required to pay such fee as may be established by resolution of the city council to recover the cost to the city of administration of the provisions of this chapter.

(Ord. No. 91-49, § 2 , 10-23-91; Ord. No. 00-241-1, § 1 , 4-12-00)

Sec. 14C.10. - Building permit.

No building permit shall be issued for any residential project subject to this chapter unless the director of housing and neighborhood services has certified that the proposed development has complied with or is otherwise exempt from the provisions of this chapter.

(Ord. No. 91-49, § 2 , 10-23-91; Ord. No. 00-241-1, § 1 , 4-12-00)