

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING CHAPTER 14C OF THE OCEANSIDE CITY CODE MODIFYING THE CITY'S INCLUSIONARY HOUSING REGULATIONS

WHEREAS, the City Council has determined that provisions of the City's Inclusionary Housing Ordinance (City Code Chapter 14C) should be modified in order to: 1) establish new inclusionary housing standards for projects that exceed the City's base density allowances; 2) provide a broader range of options for meeting inclusionary housing standards; and 3) grant regulatory concessions to encourage inclusionary housing in conjunction with projects that exceed the City's base density allowances; and

WHEREAS, on December 10, 2012, the Planning Commission of the City of Oceanside held a duly-advertised public hearing to consider said amendments, and heard and considered written and oral testimony regarding said amendments, and voted 5-0 to recommend City Council approval of said amendments; and

WHEREAS, on January 16, 2013, the City Council of the City of Oceanside held a duly-advertised public hearing to consider said amendments, and the recommendation of the Planning Commission thereon, and heard and considered written and oral testimony regarding said amendments; and

WHEREAS, based upon such evidence, testimony and staff reports, this Council finds that said amendments conform to the General Plan and Local Coastal Program of the City of Oceanside.

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

SECTION 1. The amended text of City Code Chapter 14C, applicable citywide as specified in Exhibit "A", is hereby adopted, and the City Clerk is hereby directed to amend the City Code as specified by this ordinance.

SECTION 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this

1 ordinance. The City Council hereby declares that it would have passed and adopted this
2 ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any
3 one or more sections, subsections, sentences, clauses or phrases be declared invalid or
4 unconstitutional.

5 SECTION 3. The City Clerk of the City of Oceanside is hereby directed to publish this
6 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)
7 days after its passage in the North County Times, a newspaper of general circulation published
8 in the City of Oceanside.

9 SECTION 4. This ordinance shall take effect and shall be in force on the thirtieth (30th)
10 day from and after its final passage.

11 Notice is hereby given that the time within which judicial review must be sought on this
12 decision is governed by Govt. Code Section 65009(c)(1)(B).

13 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
14 California, held on the 16th day of January, 2013 and, thereafter,

15 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
16 Oceanside, California, held on the __th day of __, 2013, by the following vote:

- 17
- 18 AYES:
- 19 NAYS:
- 20 ABSENT:
- 21 ABSTAIN:
- 22

MAYOR OF THE CITY OF OCEANSIDE

23
24 ATTEST:

APPROVED AS TO FORM:

25
26 CITY CLERK _____

Christina Sumellors, ASST.
27
28 CITY ATTORNEY _____

EXHIBIT A

Chapter 14C - INCLUSIONARY HOUSING [42]

Sec. 14C.1. - Intent.

Sec. 14C.2. - Applicability.

Sec. 14C.3. - Exemptions.

Sec. 14C.4. - Definitions.

Sec. 14C.5. - Reservation requirements.

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

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

Sec. 14C.8. - Periodic review.

Sec. 14C.9. - Administration.

Sec. 14C.10. - Building permit.

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 purposes of this chapter, the term "affordable" shall refer to the affordable sales price of a home within the City of Oceanside. The affordable sales price will be calculated based on the following variables:

- a. The area median income for San Diego County based upon a three-bedroom unit and household size of four (4).
- b. The current annual percentage rate for a conventional residential mortgage.
- c. A total housing cost threshold that does not exceed thirty-three (33) percent of the monthly gross income of a household.

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.

Base density. The lowest end of the density range established for residential development within a particular zoning district. The base density is considered the appropriate density for development within each residential land use designation as established by the Land Use Element of the City of Oceanside General Plan.

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; Ord. No. 11-OR0543-1, § 1, 7-5-2011)

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).

For projects that exceed base density allowances and involve between 10 and 19 units at base density, fractional reserved unit requirements of less than 0.75 shall be rounded down. For projects that exceed base density allowances and involve 20 or more units at base density, fractional reserved unit requirements of 0.50 and above shall be rounded up to the next whole number.

(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.

(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; Ord. No. 11-OR0543-1, § 1, 7-5-2011)

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

- (a) As an alternative to reserving units as required in section 14C.5, the developer projects that conform to the base density allowance for the applicable zone may pay a fee in-lieu of reservation in an amount 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 neighborhood services director at the time of issuance of building permits for the first residential units in a development project subject to this chapter. The developer may request a deferral of this fee prior to the issuance of a certificate of occupancy for the unit. The fee amount will be adjusted annually on July 1st of each year based on the sales price data and the affordable housing cost calculations per section 14C.4 of this chapter for the preceding calendar year. The fee will be calculated based upon the following methodology:
 - (1) The affordability gap per inclusionary unit is equal to the difference between the median sales price and the affordable sales price.
 - (2) To derive the affordable gap per market rate unit, the affordability gap per inclusionary unit will be multiplied times the ten-percent inclusionary housing obligation.
 - (3) The resulting affordability gap per market rate unit will be divided by the average square footage of residential units sold during the preceding calendar year.

(4) The result of the in-lieu fee calculation represents the fee that will be charged per square foot of the building area in new residential development.

(c) For projects that exceed the base density allowance for the applicable zone and involve 10 or more units at base density, units achieved above the base density allowance shall be subject to a fee in-lieu of reservation in an amount determined by the City Council. Said fee shall not exceed the cost of subsidizing 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 low income household. Projects that exceed the base density allowance shall be afforded additional options for meeting the requirements of this chapter, as specified in section 14C.7(f). Projects that exceed the base density allowance within the RS, RM, R-3, RH, and R-T zoning districts and elect to meet the requirements of this chapter through the on-site or off-site reservation of units as enumerated in sections 14C.7 shall be eligible for concessions to certain development standards as specified under applicable zoning provisions.

(d) 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.

(e) 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; Ord. No. 11-OR0543-1, § 1, 7-5-2011)

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).
- (f) Projects that exceed the base density allowance for the applicable zone and provide reserved units without the option of payment of a fee in-lieu of reservation shall be eligible for the options for providing reserved units specified in Sec. 14C.7.(a) through (e), without the obligation to demonstrate that on-site provision of reserved units is infeasible. Projects that exceed the base density allowance for the applicable zone shall have the option of providing reserved units by the following additional means:
 - (1) The purchase, rehabilitation, and reservation of existing market-rate units, with the obligation to render these units consistent with current building and safety standards prior to recordation of affordability covenants;

- (2) The donation of land of adequate size and under appropriate zoning to accommodate the required number of reserved units, with the City maintaining sole discretion to approve such donation, pursuant to a legally binding agreement;
- (3) Purchase of reserved unit credits in another project, without the obligation to demonstrate the non-feasibility of on-site provision, with the City maintaining sole discretion to approve such purchase, pursuant to a legally binding agreement.

(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)

FOOTNOTE(S):

(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. (Back)