

STAFF REPORT*CITY OF OCEANSIDE*

DATE: January 24, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Housing and Neighborhood Services Department

SUBJECT: **REVISIONS TO THE INCLUSIONARY HOUSING ORDINANCE
(CHAPTER 14C OF THE CITY CODE)**

SYNOPSIS

Staff recommends that the City Council introduce an ordinance to amend Chapter 14C (Inclusionary Housing) of the Oceanside City Code (OCC) to:

- 1) Change the applicability and reservation requirements for residential projects from three (3) units to projects of ten (10) or more units;
- 2) Increase the requirement to reserve housing for low and/or moderate-income households from ten (10) percent to fifteen (15) percent;
- 3) Require that reserved units within a multifamily residential project provide for a proportionate unit mix, based on bedroom count, as to the market rate units, be dispersed throughout the residential project, and have access to the same amenities as market units; and,
- 4) Clarify the use of Accessory Dwelling Units (ADUs) as an alternative housing type that may be incorporated into a single-family residential project to satisfy such inclusionary housing requirement.

The requested amendments would initially apply only to the properties outside the Coastal Zone. A separate, subsequent action to apply these changes to areas within the Coastal Zone will be brought forward to Council at a later date as part of a Local Coastal Program (LCP) amendment.

BACKGROUND

The City's Inclusionary Housing Ordinance (Chapter 14C of the OCC) requires that residential projects of three or more units reserve ten percent of the units for occupancy by and at affordable housing costs to low or moderate-income households. At an August 30, 2023, workshop on Affordable Housing Production Strategies, the City Council directed staff to prepare amendments to Chapter 14C to facilitate and encourage the construction of additional reserved units to address the need for affordable housing opportunities of low- and moderate-income households in Oceanside.

On December 6, 2023, at a public hearing of the City Council, staff introduced an ordinance amending various sections of Chapter 14C to revise and implement regulations to require new residential projects provide affordable housing for low- and moderate-income households. After hearing staff's report and considering all written and oral testimony, the City Council passed a motion to introduce an ordinance to amend Chapter 14C to:

- 1) Increase the threshold project size subject to the reservation requirements from three (3) units to ten (10) units;
- 2) Maintain the ten (10) percent reservation requirement, except for applicable projects within the boundaries of the pending Smart and Sustainable Corridors Plan where the requirement will be raised to twenty (20) percent;
- 3) Require that reserved units within a multifamily residential project provide for a proportionate unit mix, based on bedroom count, as market rate units, be dispersed throughout the residential project, and have access to the same amenities as market units; and,
- 4) Clarify the use of Accessory Dwelling Units as an alternative housing type that may be incorporated into a single-family residential project in satisfaction of the inclusionary housing requirement.

Subsequently, at its meeting of December 20, 2023, where adoption of the Ordinance was considered, the City Council voted to not adopt the introduced Ordinance and instead directed staff to prepare additional text amendments to Chapter 14C and introduce such Ordinance at a future public hearing of the City Council.

Previous staff reports presented to the City Council can be accessed at the following links:

- December 6, 2023:
<https://records.ci.oceanside.ca.us/civicax/filebank/blobdload.aspx?blobid=61091>
- December 20, 2023
<https://records.ci.oceanside.ca.us/civicax/filebank/blobdload.aspx?blobid=61154>

ANALYSIS

On December 6, 2023, the City Council held a public hearing to consider amendments to the text of OCC Chapter 14C that would Increase the requirement to reserve housing for low and/or moderate-income households from ten (10) percent to fifteen (15) percent, with the exception of new residential projects developed within the Residential Single Family (RS) or Residential Estate (RE) districts, as well as actions to foster inclusive multifamily communities and provide access to all residents and clarify the use of ADUs as an alternative for single family developments. At such hearing, a motion was passed by the City Council to modify the text amendments to:

- 1) Maintain the ten (10) percent inclusionary housing requirement, with the exception of applicable projects within the boundaries of the pending Smart and Sustainable Corridors Plan (SSCP) where the requirement would increase to twenty (20) percent; and,

- 2) Increase the threshold project size subject to the reservation requirements from three (3) units to ten (10) units.

Subsequently, on December 20, 2023, given the strong possibility of the State Department of Housing and Community Development's (HCD's) potential to review inclusionary housing policies requiring more than 15 percent of rental residential projects as affordable to low-income households and the current status of the SSCP as yet to be adopted, the City Council directed staff to prepare and re-introduce an ordinance to amend Chapter 14C to:

- 1) Increase the threshold project size subject to the reservation requirements from three (3) units to ten (10) units;
- 2) Increase the requirement to reserve housing for low- and/or moderate-income households from ten (10) percent to fifteen (15) percent;
- 3) Require that reserved units within a multifamily residential project provide for a proportionate unit mix, based on bedroom count, as market rate units, be dispersed throughout the residential project, and have access to the same amenities as market units; and,
- 4) Clarify the use of Accessory Dwelling Units as an alternative housing type that may be incorporated into a single-family residential project in satisfaction of the inclusionary housing requirement.

Increasing the inclusionary requirement from 10 percent to 15 percent will assist the City in addressing the need for housing affordable to the City's lower income household. To mitigate economic impacts to smaller residential developments and single-family residential developments, it is recommended to raise the threshold project size to ten units and allow ADUs as an alternative type of housing for to satisfy the inclusionary housing requirements for single family developments.

FISCAL IMPACT

Amending the City Code to increase the City's inclusionary housing requirements may result in the collection of additional in-lieu fees if the developers of such projects elect to pay the fee, rather than build reserved units. By increasing the project threshold to ten units, the City would see a decrease in in-lieu fees previously collected for projects within the three to ten unit range.

INSURANCE REQUIREMENTS

Does not apply.

COMMISSION OR COMMITTEE REPORT

On November 6, 2023, the Planning Commission approved by motion, on a vote of 5-2, Planning Commission Resolution No. 2023-P28 recommending the City Council approve the amendments to Chapter 14C of the OCC based on staff’s recommendations at that time.

CITY ATTORNEY’S ANALYSIS

The supporting documents have been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff recommends that the City Council introduce an ordinance to amend Chapter 14C (Inclusionary Housing) of the Oceanside City Code (OCC) to:

- 1) Change the applicability and reservation requirements for residential projects from three (3) units to projects of ten (10) or more units;
- 2) Increase the requirement to reserve housing for low and/or moderate-income households from ten (10) percent to fifteen (15) percent;
- 3) Require that reserved units within a multifamily residential project provide for a proportionate unit mix, based on bedroom count, as to the market rate units, be dispersed throughout the residential project, and have access to the same amenities as market units; and,
- 4) Clarify the use of Accessory Dwelling Units (ADUs) as an alternative housing type that may be incorporated into a single-family residential project to satisfy such inclusionary housing requirement.

The requested amendments would initially apply only to the properties outside the Coastal Zone. A separate, subsequent action to apply these changes to areas within the Coastal Zone will be brought forward to Council at a later date as part of a Local Coastal Program (LCP) amendment.

PREPARED BY:



Leilani Hines
Housing and Neighborhood
Services Director

SUBMITTED BY:



Jonathan Borrego
City Manager

ATTACHMENTS:

- 1. City Council Ordinance (w/Exhibit A)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING CHAPTER 14C OF THE OCEANSIDE CITY CODE TO ESTABLISH REVISED INCLUSIONARY HOUSING REGULATIONS

WHEREAS, on August 30, 2023, at a workshop of the City Council on Affordable Housing Production Strategies, Council provided direction to staff to prepare amendments to Chapter 14C-Inclusionary Housing of the Oceanside City Code (OCC) to: 1) Increase the production of housing for lower-income households towards the City's Regional Housing Needs Allocation goals; 2) Affirmatively further fair housing, and 3) Facilitate the use of Accessory Dwelling Units as an alternative housing type; and

WHEREAS, the City Council conducted a duly-noticed public hearing on December 6, 2023, to consider proposed amendments to the City's inclusionary housing provisions, and the recommendation of the Planning Commission, considered adoption of an Ordinance for such amendments on December 20, 2023, and heard and considered written and oral testimony regarding the amendments; and

WHEREAS, after receiving direction from the City Council at the August 30, 2023 workshop and its subsequent meetings on December 6 and 20, 2023, staff prepared amendments to Chapter 14C of the OCC to: 1) Change the applicability and reservation requirements for residential projects containing three (3) units to projects of ten (10) or more units; 2) Increase the requirement to reserve housing for low and/or moderate-income households from 10 percent to 15 percent; 3) Require that reserved units within a multifamily residential project provide for a proportionate unit mix, based on bedroom count, as to the market rate units, be dispersed throughout the residential project, and have access to the same amenities as market units; and, 4) Clarify the use of Accessory Dwelling Units (ADUs) as an alternative housing type that may be incorporated into a single-family residential project to satisfy such inclusionary housing requirement; and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on November 4, 2023, to consider the suggested amendments to the City's inclusionary housing

1 provisions and heard and considered written and oral testimony regarding said amendments and
2 voted 5-2 to recommend the City Council approval of said amendments at that time; and

3 WHEREAS, the City Council conducted a duly-noticed public hearing on January 24,
4 2024, to consider the proposed amendment to the City's inclusionary housing provisions, and the
5 recommendation of the Planning Commission, and heard and considered written and oral
6 testimony regarding the amendments; and,

7 WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of
8 Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and
9 State Guidelines.

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

11 SECTION 1. The amended text of City Code Chapter 14C, attached hereto as Exhibit A
12 and applicable in areas outside of the Coastal Zone is hereby adopted and, the City Clerk is hereby
13 directed to amend the City Code as specified by this Ordinance.

14 SECTION 2. The amendments to Chapter 14C applicable in the Coastal Zone shall not
15 be effective until certification of Local Coastal Plan Amendment 23-00001 by the California
16 Coastal Commission.

17 SECTION 3. Severability. If any section, sentence, clause or phrase of this Ordinance is
18 for any reason held to be invalid or unconstitutional by a decision of any court of competent
19 jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
20 The City Council hereby declares that it would have passed and adopted this Ordinance and each
21 section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections,
22 subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

23 SECTION 4 . The City Clerk of the City of Oceanside is hereby directed to publish this
24 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15) days
25 after its passage in a newspaper of general circulation published in the City of Oceanside.

26 SECTION 5. This ordinance shall take effect and be in force on the thirtieth (30th) day
27 from and after its final passage.

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1 INTRODUCTION at a regular meeting of the City Council of the City of Oceanside,
2 California, held on the 24th day of January, 2024, and, thereafter,

3 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
4 Oceanside California, held on the ____ day of _____, 2024, by the following vote:

5 AYES:

6 NAYS:

7 ABSENT:

8 ABSTAIN:

9
10 MAYOR OF THE CITY OF OCEANSIDE

11 ATTEST:

APPROVED AS TO FORM:

12
13 _____
14 CITY CLERK

15
16 
17 _____
18 CITY ATTORNEY

Chapter 14C

INCLUSIONARY HOUSING¹

Sec. 14C.1. Intent.

Housing requirements for lower and moderate-income households in residential projects. It is the intent of this chapter to establish requirements for the provision of housing opportunities for lower- and moderate-income households, in residential projects requiring development plans. Such opportunities provide a public benefit of making housing available to all economic segments of the population that may not otherwise be accessible in the market. It is further the intent of this chapter to define a variety of ways that the requirement for inclusionary housing may be satisfied, inclusive of on- or off-site alternatives, housing for sale or for rent, or a payment of an in-lieu fee so as not to unduly burden the production of housing.

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Sec. 14C.2. Applicability.

- (a) The provisions of this chapter shall apply to all residential projects of ~~three-ten (310)~~ or more units including, without limitation, mixed-use developments with residential units, condominium conversions and time extensions of development plan approval for previously approved residential projects.
- (b) This chapter shall not apply to the following:
 - (1) The construction of a new residential structure of ~~three-ten (310)~~ or more units which replaces a residential structure that was destroyed or demolished within two (2) years prior to the application for a building permit for the new residential structure, provided that the number of residential units is not increased from the number of residential units of the previously destroyed or demolished residential structure or expanded or enlarged by five hundred (500) square feet or more of habitable space;
 - (2) Residential projects for which an application for a planning permit has been deemed complete no later than the effective date of this chapter, provided that such residential projects shall comply with any predecessor ordinance, resolution, or policy in effect on the date the application for the development was deemed complete.

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Sec. 14C.3. Reserved.

¹Editor's note(s)—Ord. No. 22-OR0848-1 , § 1(Exh. A), adopted Dec. 21, 2022, repealed the former Ch. 14C, §§ 14C-1—14C-10, and enacted a new Ch. 14C as set out herein. The former Ch. 14C pertained to similar subject matter and derived from Ord. No. 91-49, § 2, adopted Oct. 23, 1991; Ord. No. 92-05, §§ 1, 2, adopted Jan. 29, 1992; Ord. No. 00-241-1, § 1, adopted April 12, 2000; Ord. No. 00-278-1, adopted May 10, 2000; Ord. No. 11-OR0543-1, § 1, adopted July 5, 2011; Ord. No. 13-OR0083-1, § 1(Exh. A), adopted Jan. 30, 2013; and Ord. No. 20-OR0563-1 , §§ 1—4, adopted Sept. 9, 2020.

Sec. 14C.4. Definitions.

Affordable. For the purposes of this chapter, the term "affordable" shall refer to the affordable sales price or rent defined herein.

Affordable housing means dwelling units required by this chapter to be reserved as affordable to and occupied by lower- or moderate-income households.

Affordable housing agreement means a legally binding agreement between an applicant and the city to ensure that the inclusionary [housing](#) requirements of this chapter are satisfied. The agreement establishes, among other things, the number of required reserved units, the unit sizes, location, affordability tenure, terms and conditions of affordability and unit production schedule.

Affordable housing guidelines means any requirements for implementation and administration of this chapter adopted by the city council in accordance with section 14C.9 of this chapter.

Affordable housing trust account means a fund or account designated by the city to maintain and account for all monies received pursuant to this chapter.

Affordable rent means the maximum monthly rent, including an allowance for tenant paid utilities (HUD Allowances for Tenant-Furnished Utilities for the Housing Choice Voucher program) calculated at the specified income level in accordance with California Health and Safety Code Section 50053 and implementing regulations. Consistent with California Government Code Section 65915 (c)(1)(B), for housing developments with one hundred (100) percent of all units in the development, including total units and density bonus units, but exclusive of a manager's unit or units, for lower income households, the rent shall be as follows:

- (1) The rent for at least twenty (20) percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.
- (2) The rent for the remaining reserved units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

Affordable sales price means the maximum purchase price that will be affordable to the specified household at the specified income level, calculated in accordance with California Health and Safety Code Section 50052.5 and implementing regulations. The affordable sales price shall include a reasonable down payment, and monthly housing payments (including interest, principal, mortgage insurance, property taxes, homeowner's insurance, homeowner's association dues, and a reasonable allowance for property maintenance, repairs, and utilities), all as determined by the city.

Area median income means 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.

Extremely low-income household means a person or persons living together as a household unit whose combined incomes do not exceed thirty (30) percent of the median income for San Diego County for an equivalent size household, as determined annually by the U. S. Department of Housing and Urban Development, and as defined in California Health and Safety Code Section 50106 and published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

Financial assistance means assistance to include, but not be limited to, the subsidization of fees, infrastructure, land costs, or construction costs, the use of redevelopment set-aside funds, community

development block grant (CDBG) funds, HOME funds, or the provision of other direct financial aid in the form of cash transfer payments or other monetary compensation, by the City of Oceanside.

Household means a person or persons living together in the same residence.

HUD means the United States Department of Housing and Urban Development.

Incentives or concessions shall have the same meaning as defined in Section 3032 of the Oceanside Zoning Ordinance.

Low-income household means 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, as determined annually by the U. S. Department of Housing and Urban Development, and as defined in California Health and Safety Code Section 50079. 5 and published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

Lower-income household means low-income, very low-income, and extremely low-income households, inclusively.

Market-rate unit means a dwelling unit where the rental rate or sales price is not restricted either by this chapter or by requirements imposed through other local, state, or federal affordable housing programs.

Moderate-income household means 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, as determined annually by the U. S. Department of Housing and Urban Development, and as defined in California Health and Safety Code Section 50093 (b) and published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

Net building area means the aggregate gross floor area of all of the unrestricted dwelling units within a development excluding (i) areas outside the dwelling unit's habitable space such as garages, carports, parking areas, porches, patios, and open space, and (ii) common areas such as lobbies, common hallways, stairways, elevators, and equipment spaces.

Planning permit means any discretionary approval of a residential project, including, but not limited to, a general or specific plan adoption or amendment, rezoning, tentative map, parcel map, conditional use permit, variances, design review, or coastal development permit.

Rental unit means a residential unit with no condominium or other subdivision map allowing units to be sold individually.

Reserved unit means a residential dwelling unit deed restricted for occupancy by and affordable to a lower- or moderate-income household pursuant to the requirement of this chapter and collectively known as the "inclusionary housing requirement".

Residential project means any new construction of ~~three-ten~~ (310) or more dwelling units or condominium conversion as referenced in this chapter 14C, for which a planning permit or building permit is required.

Very low-income household means a person or persons living together as a household unit whose combined incomes do not exceed fifty (50) percent of the median income for San Diego County for an equivalent size household, as determined annually by the U. S. Department of Housing and Urban Development, and as defined in California Health and Safety Code Section 50105 and published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Sec. 14C.5. Reservation requirements for affordable housing.

(a) No development plan for a residential project of ~~three-ten (310)~~ or more units subject to this chapter shall be approved in any area of the city unless at least ~~ten-fifteen (150)~~ percent of such housing units are reserved for sale to lower- and moderate-income households or reserved as rental units for low-income households, the inclusionary housing requirement, as follows, unless an alternative is approved as described in section 14C.8:

- (1) *Reservation for ownership projects.* At least ~~ten-fifteen (150)~~ percent of such housing units are reserved for sale to lower- and moderate-income households or reserved as rental units for lower-income households.
- (2) *Reservation for rental residential projects.* At least ~~ten-fifteen (150)~~ percent of such housing units are reserved for lower-income households.
- (3) *Reservation of combined for-sale and rental units.* When a residential project includes both ownership and rental dwelling units, the provisions of this chapter that apply to the ownership residential project shall apply to that portion of the development that consists of ownership dwelling units, while the provisions of this chapter that apply to the rental residential project shall apply to that portion of the development that consists of rental dwelling units.

(b) *Calculation of reservation requirement.* The calculation of the number of housing units to be reserved by this section shall be made utilizing the total number of housing units in the residential project 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., as codified in section 3032 of the Oceanside Zoning Ordinance.

If the calculation of the number of housing units to be reserved results in a fractional unit of one-half ($\frac{1}{2}$) or more, one (1) additional reserved unit shall be provided. When the calculation results in a fraction of less than one-half ($\frac{1}{2}$), the applicant may either reserve one (1) additional housing unit or pay a partial in-lieu fee equal to the remaining fraction according to section 14C.7.

(c) *Replacement housing.* If a residential project, subject to this chapter, is required to provide replacement housing pursuant to Government Code Sections 65915 or 65590, then the number of units required to be reserved for lower- or moderate-income households shall be the larger of the number of units required under Government Code Sections 65915, 65590 or this chapter. The requirements for reserved housing under this chapter shall not be additive to the requirements for replacement housing under Government Code Sections 65915 or 65590. ~~The provisions of this chapter shall not apply to units provided pursuant to section 3032 of the Oceanside Zoning Ordinance and Section 65915 of the Government Code.~~

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Sec. 14C.6. Affordable housing standards and incentives.

(a) *Affordable housing standards.* Reserved units must be constructed on the site of the residential project unless the city approves an alternative as provided under section 14C.8. Reserved units must conform to the standards of this section 14C.6, to be set forth in the affordable housing agreement and where applicable, subsequent deed restrictions or regulatory agreements.

- (1) *Rental restrictions.* Reserved units shall remain restricted and affordable to the designated income group for fifty-five (55) years. In addition to the income of a designated group, limitations on assets may also be used as a factor in determining eligibility for rental or ownership units. Notwithstanding anything to the contrary in this chapter, no reserved unit shall be rented for an amount which exceeds

ninety (90) percent of the actual rent charged for a comparable market unit in the same development, if any.

- (2) *Sales restrictions.* After the initial sale of the reserved ownership units at a price affordable to the target income level group, reserved ownership units shall remain affordable to subsequent income eligible buyers pursuant to a resale restriction with a term of fifty-five (55) years or ownership units may be sold at a market price to other than targeted households provided that the sale shall result in the recapture by the city or its designee of a financial interest in the units equal to the amount of subsidy necessary to make the unit affordable to the designated income group and a proportionate share of any appreciation. Funds recaptured by the city shall be used in assisting other eligible households with home purchases at affordable prices. To the extent possible, projects using ownership units to satisfy inclusionary [housing](#) requirements shall be designed to be compatible with conventional mortgage financing programs including secondary market requirements.
 - (3) *Design and construction of reserved units.* The design and exterior appearance of the reserved units shall be reasonably consistent or compatible with the design of the total project development in terms of exterior appearance, materials, and finished quality. Interior finishes and amenities may differ from those provided in the non-reserved units within the development but neither the workmanship nor the products may be of substandard or inferior quality as determined by the city. The unit mix based on bedroom count provided for reserved units shall be a general mix in response to affordable housing demand priorities of the city and shall be set forth in the affordable housing agreement. [When reserved units are provided on-site and interspersed with market-rate units in a multifamily residential development, reserved units shall be of a unit mix, based on bedroom count, proportional to the unit mix of market-rate units, dispersed throughout the residential project, and provided the same amenities as the market-rate units, including the same access to and enjoyment of common open space, parking, storage, and other facilities in the residential project.](#)
 - (4) *For sale and rental developments.* When a residential project proposes both for sale and for rent units, the reserved units shall be dispersed proportionally between for sale and for rent units.
 - (5) *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 or an alternative schedule for development as agreed upon. The timing and schedule for the provision of the reserved units, including any arrangements to meet the [reserved-unit-inclusionary housing](#) requirements through other alternatives as permitted by section 14C.8, shall be set forth in the affordable housing agreement.
- (b) [Accessory dwelling units \(ADUs\) may be constructed on-site to satisfy an inclusionary housing requirement for a single-family residential development. ADUs shall be rent restricted at affordable rental rates and renters shall be income-qualified in compliance with the requirements of this chapter, to be specified in the applicable affordable housing agreement. ADUs shall not be used as reserved credits available as an alternative to satisfy an inclusionary housing requirement of another applicant.](#)
- (c) *Affordable housing incentives or concessions.* The applicant of a residential project providing reserved units may, at the applicant's sole option and concurrently with the submittal of the planning permit, submit a written request for one (1) or more of the following affordable housing development incentives or concessions:

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- (1) Density bonus and other regulatory incentives pursuant to Government Code Section 65915 and the provisions of article 30 section 3032 of the Oceanside Zoning Ordinance, if the residential project contains sufficient units to qualify for a density bonus. If the applicant requests a density bonus, the other incentives listed below in this subsection (b) may be provided only if each is individually requested as a regulatory incentive under section 3032 [of the Oceanside Zoning Ordinance]. Those affordable dwelling units that qualify as a residential project for a density bonus shall also be counted toward satisfying the ~~reserved~~-inclusionary housing requirements of this chapter.
 - (2) *Financial assistance.* The applicant may apply for financial assistance from city-administered funds for the difference in costs that results if the applicant provides more reserved units than are required by this chapter, or provides reserved units to households in income classifications that are lower than required. The city shall consider making financial assistance available to applicants when necessary to enable residential projects to provide a preferable product type or affordability in excess of the requirements of this chapter.
 - a. Evaluation of requests for financial assistance shall be based on the effectiveness of the assistance in achieving a preferable product type and/or affordability objectives as set forth within the city's housing element; the capability of the development team; the reasonableness of development costs and justification of subsidy needs; and the extent to which other resources are used to leverage the requested financial assistance and incentives.
 - (3) Incentives may be offered by the city to the extent that resources and programs for this purpose are available to the city and applicant for such use, and to the extent that the residential project, with the use of incentives, assists in achieving the city's housing goals. To the degree that the city makes available programs to provide incentives, applicants may apply for such programs.
 - (4) Nothing in this chapter establishes, directly or through implication, a right to receive any financial assistance or incentives from the city or any other party or agency to enable an applicant to meet the obligations established by this chapter.
- (c) *Affordable housing plan.* Any assistance and/or incentives requested by the applicant and how the development will comply with the provisions of this chapter shall be included in the proposed affordable housing plan for the residential project submitted at the time of application for the first approval, consistent with section 14C.9 below.

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Sec. 14C.7. In-lieu fee alternative.

- (a) As an alternative to reserving units as required in section 14C.5, residential projects may pay a fee in-lieu of reservation in accordance with the terms set forth below:
 - (1) The amount of the in-lieu fee for each required reserved unit shall be determined at the time of issuance of building permits for the first residential units in a development project subject to this chapter. The applicant may request a deferral of this fee prior to the issuance of a certificate of occupancy for the unit, in accordance with section 32B.7(e) of the City Code. Said fee shall be assessed against the market-rate lots/units of the residential project and will be charged per square foot of the net building area in the new residential development.
 - (2) The fee amount shall be established from time to time by resolution of the city council and will be administratively adjusted annually at such time all other applicable development impact fees are updated, typically July 1 of each year based on the Engineering News Record Construction Cost Index ("CCI") for the Los Angeles region, or similar construction industry index selected by the city manager if the CCI index is discontinued.

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- a. The fee will be based upon and not exceed the subsidy needed to make affordable to a lower- and moderate-income household a newly constructed, typical attached-housing unit with an assumed affordability tenure of at least fifty-five (55) years.
 - (3) No building permit shall be issued by the city for any market-rate unit in the residential project until in-lieu fees for the residential project have been paid to the city or such requirements of section 14C.5 are otherwise satisfied.
 - (4) All in-lieu fees shall be deposited in the affordable housing trust account described in subsection 14C.7(b) below.
 - (5) Projects requesting a density bonus, incentive or concession, waiver, or parking ratio under Government Code Section 65915 or section 3032 of the Oceanside Zoning Ordinance shall not be permitted to pay in-lieu fees as an alternative to satisfying the affordable-inclusionary housing requirements of this chapter.
- (b) All in-lieu fees collected hereunder shall be used by the city exclusively to provide housing opportunities for lower- or moderate-income households anywhere within the city. All in-lieu fees shall be held in a separate account with interest accruing to said affordable housing trust account. All funds in the account shall be spent in a manner as the city council deems appropriate, upon recommendation of the housing commission, solely to provide housing opportunities for lower- or moderate-income households and any special needs populations in the city, consistent with the goals and policies contained in the city's housing element, and for administration and compliance monitoring of the affordable housing program consistent with the purpose of the chapter. For the purposes of this subsection, the term "provide housing opportunities for lower- or moderate-income households" means any expenditure authorized by law which directly or indirectly makes housing units affordable to lower- or moderate-income households.

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Sec. 14C.8. Alternative options for providing reserved units.

- (a) *Off-site provision of 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 discretion of the city manager, then the applicant may propose to construct the reserved units at another site within the city limits of Oceanside conforming with the requirements of section 14C.5., excluding low-income impacted census tracts (i.e., census tracts 181, 182 (excluding blockgroup 3), 184, 186.03) for reserved rental units. The city may approve the off-site construction if the proposal meets the following requirements:
- (1) The developer has demonstrated that the goals of this chapter and the city's housing element would be better served by allowing some or all of the reserved units required by section 14C.5 to be produced and operated at an alternative site or sites.
 - (2) The off-site construction project represents a more effective and feasible means of implementing this chapter and the goals of the city's housing element. Factors to be weighed in this determination include: the feasibility of the on-site option considering project size, site constraints, competition from other projects, difficulty in integrating due to significant price and product type disparity, lack of capacity of the on-site developer to produce or operate affordable housing. Also to be considered are whether the off-site option offers greater feasibility and cost effectiveness, particularly regarding potential financial assistance or other public subsidy and any adopted affordable housing guidelines, location advantages such as proximity to jobs, schools, transportation, and services, diminished impact on other existing developments, capacity of the proposed affordable housing developer to deliver and

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- operate the project, and satisfaction of multiple developer obligations that would be difficult to satisfy on multiple projects.
- (3) Financing or a viable financing plan, which may include public funding, shall be in place for the off-site reserved units.
 - (4) The off-site location is suitable for the proposed affordable housing, consistent with any adopted affordable housing guidelines and the city's housing element, will not tend to cause residential segregation, and is located with appropriate infrastructure and services. The off-site alternative complies with the applicable density, intensity and objective development standards that are permitted under the zone or general plan for the site.
 - (5) All agreements between parties regarding off-site construction of the reserved units will be made a part of the affordable housing agreement required for the site(s) and will be subject to review and approval by the city manager or designee.
- (b) *Joint venture off-site provision of reserved units.* Provided all participating applicants meet the requirements of subsection (a) above, off-site projects may provide the reserved units for multiple applicants.
 - (c) *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~~inclusionary housing 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~~inclusionary housing requirement by purchasing reserved unit credits in another project must meet the requirements for off-site provision of reserved units in subsection (a) above. All reserved unit credits must be deed restricted to comply with the requirements of section 14C.6.
 - (d) *Purchase, rehabilitation, and reservation of existing market rate units.* The applicant may propose to satisfy the requirements of section 14C.5, by the purchase, rehabilitation, and reservation of existing market rate units for the targeted income group, if the conversion of these units is consistent with Government Code Section 65583.1 and these units are compliant with building and safety standards prior to recordation of affordability covenants;
 - (e) *Preservation existing affordable units.* The applicant may propose to satisfy the requirements of section 14C.5, by the preservation of existing affordable units at risk of loss, if the preservation of these units is consistent with Government Code Section 65583.1 and allows the city to substitute the preservation of these units for the obligation to identify adequate sites.
 - (f) *In-lieu fees.* The requirements of section 14C.5 may be satisfied by the payment of a fee to the city in-lieu of constructing the reserved units within the residential project in accordance with section 14C.7.
 - (g) *Dedication of land.* The applicant may propose to satisfy the requirements of section 14C.5 by the donation of land of adequate size and appropriate to accommodate the required number of reserved units to the city or to an affordable housing developer who has secured financing to construct the reserved units, with the city maintaining sole discretion to approve such donation, pursuant to a legally binding agreement. In its consideration of appropriateness, the city shall consider if the location will not tend to cause residential segregation, has appropriate infrastructure and services, and the off-site project will comply with the applicable density, intensity and objective development standards that are permitted under the zone or general plan for the site. The property shall be dedicated prior to issuance of any building permit for the residential project.

(h) ~~Accessory dwelling units (ADUs) constructed to satisfy an inclusionary housing requirement shall be rent restricted to affordable rental rates and renters shall be income-qualified in compliance with the requirements of section 14C.5, to be specified in the applicable affordable housing agreement. ADUs shall not be used as reserved credits available as an alternative to satisfy an inclusionary requirement of another applicant.~~

(i) ~~Other alternative compliance methods.~~ An applicant may propose an alternative compliance method to provide reserved units through other means. The city may approve or conditionally approve such an alternative only if the city manager determines, based on substantial evidence, that such alternative compliance will provide as many or more reserved units at the same or lower-income levels, will not tend to cause residential segregation, and will otherwise provide greater public benefit than would provision of the reserved units on site.

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Sec. 14C.9. Application and review procedures.

- (a) *Affordable housing plan.* An application for the first approval of a residential project shall include an affordable housing plan, which may be deemed consistent with the affordable housing plan and density bonus addendum required under section 3032 (H) and (I), Affordable Housing Density Bonus, of the Oceanside Zoning Ordinance, describing how the development will comply with the provisions of this chapter and subject to the following terms:
- (1) The affordable housing plan shall be processed concurrently with all other permits required for the residential project. A condition shall be attached to the first approval of any residential project to require recordation of an affordable housing agreement setting forth the conditions and guidelines to be met in the implementation of this chapter prior to the approval of any final or parcel map or building permit for the residential project.
 - (2) An affordable housing plan shall include, but not be limited to, the following:
 - a. The number of reserved units proposed;
 - b. The unit square footage, and number of bedrooms for market rate and reserved units and tenure (ownership or rental);
 - c. The proposed location of the reserved units (on or off-site);
 - d. Level of affordability for inclusionary units (extremely low, very low, low, or moderate);
 - e. Schedule for production of dwelling units;
 - f. Incentives or concessions requested; and
 - g. Evidence to justify any requested alternative under section 14C.8.
- (b) *Affordable housing agreement.* The applicant shall enter into an affordable housing agreement with the city, in a form approved by the city attorney, to be executed by the city manager, to ensure that all the requirements of this chapter are satisfied. The affordable housing agreement shall be recorded against the residential project prior to approval of any final or parcel map, or issuance of any building permit, whichever occurs first, and the relevant terms and conditions therefrom filed and subsequently recorded as a separate deed restriction or regulatory agreement on the affordable project individual lots or units of property which are designated for the location of reserved units. This agreement shall serve as the governing document demonstrating compliance of the residential project with this chapter.

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- (1) An affordable housing agreement, for which the ~~reserved unit~~inclusionary housing requirement will be satisfied through the new construction of units, either on-site or off-site, shall specify, but not be limited to, the number, type, location, size, and phasing of all reserved units, amenities and services provided, such as daycare, after school programs, transportation, job training/employment services and recreation, and where applicable, requirements for other documents to be approved by the city, such as marketing, leasing and management plans, particularly related to the provisions for income certification and screening of potential purchasers or renters of units, resale control mechanisms, and monitoring and compliance plans, consistent with any adopted affordable housing guidelines, as determined by the city manager or designee.
 - (2) An affordable housing agreement will not be required for projects which will be satisfying their inclusionary housing requirement through payment to the city of an in-lieu fee.

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Sec. 14C.10. Continued affordability.

- (a) Any affordable housing agreement or adopted affordable housing guidelines may include standard documents for execution by the city manager, in a form approved by the city attorney, to ensure the continued affordability of the reserved units approved for each residential project and standards for determining household income, affordable housing cost, provisions for continued monitoring of tenant eligibility, and other eligibility criteria. The documents, when deemed necessary by the city to ensure occupancy and affordability by the targeted income group, shall be recorded against the residential project, all reserved units, and any site, subject to the provisions of this chapter.
- (b) *Sales price/rental restriction.* The initial sales price or 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 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 shall be recorded against the title of the property within which the reserved units are located, or limiting the rental of the reserved units at affordable prices in accordance with the affordable housing standards as described in 14C.4(a)(1) and (2). The rent restriction shall be in effect for a minimum of fifty-five (55) years and shall apply to all successors in interest. 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.
- (c) Any eligible household that occupies a reserved unit must occupy that unit as its principal residence, unless otherwise approved in writing for rental to a third-party eligible household for a limited period of time due to household hardship, as may be specified in any adopted affordable housing guidelines or in the affordable housing agreement or other agreement.
- (d) Officials, employees, or consultants of the city and members of city boards and commissions shall comply with all applicable laws, regulations, and policies relating to conflicts of interest as to their eligibility to develop, construct, sell, rent, lease, occupy, or purchase a reserved unit. Any adopted affordable housing guidelines shall include conflict of interest provisions relating to the administration of this chapter and the eligibility of persons to occupy affordable units.

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Sec. 14C.11. 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 (5) 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. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Editor's note(s)—Ord. No. 22-OR0848-1 , § 1(Exh. A), adopted Dec. 21, 2022, set out provisions intended for use as § 14C.10. Inasmuch as there were already provisions so designated, said section has been codified herein as § 14C.11 at the discretion of the editor.

Sec. 14C.12. 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, serving as affordable housing guidelines, for the implementation of this chapter.
- (c) An applicant 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, which fees may be updated periodically, to recover the cost to the city of administration of the provisions of this chapter and monitoring of the reserved units.

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Editor's note(s)—Ord. No. 22-OR0848-1 , § 1(Exh. A), adopted Dec. 21, 2022, set out provisions intended for use as § 14C.11. Inasmuch as there were already provisions so designated, said section has been codified herein as § 14C.12 at the discretion of the editor.

Sec. 14C.13. Building permit.

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

(Ord. No. 22-OR0848-1 , § 1(Exh. A), 12-21-2022)

Editor's note(s)—Ord. No. 22-OR0848-1 , § 1(Exh. A), adopted Dec. 21, 2022, set out provisions intended for use as § 14C.12. Inasmuch as there were already provisions so designated, said section has been codified herein as § 14C.13 at the discretion of the editor.