

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHULA VISTA MUNICIPAL CODE (CVMC) TITLE 19 (PLANNING AND ZONING) CHAPTER 19.90 (AFFORDABLE HOUSING INCENTIVES), SECTION 19.58.460 (OBJECTIVE DESIGN STANDARDS FOR QUALIFYING MULTIFAMILY RESIDENTIAL AND MIXED-USE PROJECTS); AND ADDING CHAPTER 19.91 (INCLUSIONARY HOUSING), CHAPTER 19.93 (RESIDENTIAL FOR-SALE AFFORDABLE UNIT REQUIREMENTS), AND CHAPTER 19.94 (MARKETING, APPLICATION, LOTTERY, AND WAITLIST REQUIREMENTS FOR AFFORDABLE RENTAL HOUSING PROJECTS)

WHEREAS, the City of Chula Vista strives to ensure the City supports varied housing opportunities for the diverse needs of residents including the establishment of permanent affordable housing opportunities for low- and moderate- income households and rental affordable housing opportunities for very low-, low-, and moderate- income households; and

WHEREAS, California Government Code Section 65915 et seq. (“State Density Bonus Law”) is a state law granting developers the ability to develop housing at greater intensity than would otherwise be allowed by local land use regulations; and

WHEREAS, State Density Bonus Law is amended frequently by the legislature of the State of California, and therefore amending Chula Vista’s density bonus law to defer to State Density Bonus Law wherever possible will reduce the frequency of future amendments to Chula Vista Municipal Code (“CVMC”) Chapter 19.90; and

WHEREAS, the Balanced Community Policy was adopted in the 1981 Housing Element as a way to create affordable units through inclusionary housing; and

WHEREAS, in 2005 an in-lieu fee was established as an alternative means of compliance, and in 2012 guidelines were established to provide better clarity to the policy, establish incentives for providing lower threshold units, and adopt specific measures to adjust to market conditions; and

WHEREAS, Policy 3.4 of the 2021-2029 Housing Element identified reviewing the Balanced Communities Policy for its feasibility in making progress to low- and moderate-income Regional Housing Needs Allocation for the City; and

WHEREAS, in the spring of 2023 Housing staff contracted with a third-party consultant, RSG, to conduct a feasibility analysis, hold multiple public stakeholder meetings, and draft an inclusionary ordinance; and

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WHEREAS, due to the proposed amendment of CVMC Chapter 19.90 and addition of Chapter 19.91, amendments to Section 19.58.460 are necessary to ensure that the section aligns with said chapters; and

WHEREAS, Housing Policy 3.7 of the 2021-2029 Housing Element aims to “Increase homeownership rates, particularly in the Northwest and Southwest Planning areas, as a means to build individual wealth and stabilize existing residential neighborhoods”; and

WHEREAS, in order to provide consistency in the implementation of affordable homeownership opportunities, Council Policy No. 453-02 via Council Resolution No. 2003-492 was established and has subsequently been amended, most recently on August 21, 2013 via Council Resolution No. 2013-154, establishing the procedures and guidelines for the development of affordable for sale housing for first-time low- and moderate- income buyers; and

WHEREAS, proposed CVMC Chapter 19.93 ensures that a for-sale unit shall be affordable to the buyer while maintaining the market value of the property through a Value Recapture Agreement and outlines the development guidelines and program requirements, including underwriting criteria and the buyer selection criteria that shall pertain to any for-sale development proposed to have affordable units within the City and not otherwise regulated by other funding sources, inclusive of CVMC Chapter 19.90 and 19.91, that provide for-sale products; and

WHEREAS, in accordance with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, California’s Fair Employment and Housing Act, and other applicable local, state, and federal laws, residents or applicants for housing shall not be discriminated against on the basis of race, color, religion, national origin, disability status, family status, veteran or military status, gender or sexual orientation, source of income, or any other protected class or arbitrary characteristic; and

WHEREAS, a key means of implementing fair housing policies is through the marketing and selection of tenants in affordable housing; and

WHEREAS, to mitigate concerns and promote equity in the process, affordable housing owners shall be required to carry out robust marketing efforts, with special outreach to groups least likely to apply for such housing and select tenants via randomized lottery; and

WHEREAS, in order to provide consistency in the implementation of affordable rental opportunities, the following ordinance provides a priority system to ensure those at greatest risk of displacement and those already living or working within the City are prioritized for affordable housing developments.

WHEREAS, the Director of Development Services reviewed the proposed legislative action for compliance with the California Environmental Quality Act (“CEQA”) and determined that the action qualifies for the “common sense” exemption under State CEQA Guidelines Section 15061(b)(3). The action involves updates, modifications, and organizational changes to the CVMC relating to section titles, definitions, groups covered under density bonus, percentages, etc. Furthermore, the action of updating and modifying the CVMC with procedural and clerical changes will not result in an intensification of uses or a change in development potential within

the City above what already is permitted under the existing land use and zoning policies of the CVMC that are being updated. Based on an analysis of the nature and type of these procedural and clerical changes to the CVMC, there is a certainty that there is no possibility that the action may have a significant effect on the environment; and

WHEREAS, the policy updates, including the Housing Authority Bond Policy, were presented to the Housing and Homeless Advisory Committee in concept at their October 25, 2023, January 24, 2024, and May 8, 2024 meetings, which recommended adoption; and

WHEREAS, the Planning Commission held an advertised public hearing on the subject Ordinance and voted 6-0 to adopt Resolution No. 2024-08, and thereby recommends that the City Council adopt the Ordinance with one modification; and

WHEREAS, the City Council set the time and place for a hearing on the subject CVMC amendments and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, at least ten (10) days prior to the hearing.

NOW THEREFORE the City Council of the City of Chula Vista does hereby find and ordain as follows:

Section I. Findings

The City Council of the City of Chula Vista finds that the proposed amendments to the CVMC identified in this Ordinance No. qualifies for the “common sense” exemption under State CEQA Guidelines Section 15061(b)(3). The action involves updates, modifications, and organizational changes to the CVMC relating to section titles, definitions, groups covered under density bonus, percentages, etc. Furthermore, the action of updating and modifying the CVMC with procedural and clerical changes will not result in an intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies of the CVMC that are being updated. Based on an analysis of the nature and type of these procedural and clerical changes to the CVMC, there is a certainty that there is no possibility that the action may have a significant effect on the environment.

Section II. The Chula Vista Municipal Code Title 19 (Planning and Zoning) is hereby amended, as follows:

**Title 19
PLANNING AND ZONING**

[Chapters 19.02 – 19.56 remain unchanged.]

**Chapter 19.58
USES**

[Sections 19.58.010 - 19.58.450 remain unchanged.]

19.58.460 Objective design standards for qualifying multifamily residential and mixed-use projects.

A. *Intent.* To provide the public, professionals, and decision-makers with the City's objective criteria for approval of multi-family residential and mixed-use projects containing two or more residential units that meet the applicable requirements of California Government Code Section 65913.4. Subject to California Government Code Section 65915 as applicable, these objective design standards, which involve no personal or subjective judgment as further specified in California Government Code Section 65913.4(a)(5), shall be interpreted as requirements rather than general guidelines. All multi-family residential and mixed-use projects applying under the Housing Accountability Act (California Government Code Section 66300) protections and other ministerial project review under state law, shall comply with the provisions under this section. Projects must also comply with all applicable objective zoning code requirements within this title including but not limited to height, setbacks, and floor area ratio, and any applicable California Building Code requirements.

B. *Building Architecture.*

1. Through the verification of colors and materials on architectural plans or drawings, buildings shall be designed with the same approach to form and massing, roof design, wall and window design, and materials and colors on all elevations. No particular architectural style is required; however, high quality architecture is encouraged.
2. Buildings at and over three stories tall must have walls that recess a minimum three feet, at least every 100 feet of wall length, to provide relief along the wall plane.
3. Entirely blank walls are not allowed. A minimum of two architectural details from the following list shall be provided on all building facades at minimum every 50 feet of street frontage:
 - a. Windows;
 - b. Trellises;
 - c. Balconies;
 - d. Differentiation in exterior material;
 - e. Awnings.

4. All street corners shall be enhanced to provide a tower element or an additional architectural detail (list above) to make it distinct from the rest of the building.

5. Where buildings are proposed adjacent to a single-family residential zone, windows, balconies or similar openings shall be oriented so as not to have a direct line-of-sight into adjacent units or onto private patios or back yards adjoining the property line. This can be accomplished through one of the following techniques:

- a. Upper story stepback;
- b. Window placement;
- c. Use of glass block or opaque glass;
- d. Placement of mature landscaping, or vertical landscaping (such as the use of columnar-shaped plants) within the rear or side setback areas.

6. Roof design shall be of a single style and slope throughout the project. On a building with a pitched roof, no portion of the main roof shall be flat.

7. Roof lines shall be vertically articulated, at least every 50 feet along the street frontage, through the use of one or more of the following architectural elements:

- a. Parapets;
- b. Varying cornices;
- c. Reveals;
- d. Clerestory windows;
- e. Varying roof height and/or form.

C. *Site Design.*

1. Where buildings front along a street, residential units shall have a ground-level primary building entry facing the primary street. Along buildings not located facing a primary street, front entryways of units shall be oriented to face common open space areas such as landscaped courtyard, plaza, or paseo.

- a. For mixed-use projects, commercial/office unit entrances shall be oriented to the street, a parking area, or an interior common space. Additionally, community leasing offices do not count towards the commercial requirements. For the purposes of this section, commercial uses are also open for unit residents and the general public.

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2. Covered and uncovered parking areas, as well as parking structures, shall be screened from public street frontages. Screening may be accomplished through building placement, landscaping, fencing, or some combination thereof. Where landscaping is used for screening purposes, it shall be no less than four feet tall. Fencing shall comply with subsection (H) within this section.

3. All pedestrian walkways shall be a minimum of four feet in width.

D. *Affordable Housing.* Projects with inclusionary units shall comply with the applicable requirements set forth within CVMC Section 19.91.090. Additionally, projects using density bonus shall comply with the CVMC Section 19.90.040.

E. *Open Space.*

1. Common open space are amenities to the surrounding community in addition to required public parkland, and shall meet following criteria:

a. Developed with recreational uses, including both passive (landscaping) and active amenities (tot lots, picnic areas, etc.)

b. Consist of large areas that are not fragmented by unrelated uses or improvements.

c. A minimum of 200 square feet of usable open space per dwelling unit shall be provided. In addition, it shall have a linear dimension no less than 10 feet.

2. Private open space for residential units can take the form of yard area, porches, verandas, courtyards, patios, and balconies. The total amount provided shall be in accordance with the following, based on unit sizes:

a. Multi-family with one bedroom: 60 square feet;

b. Multi-family with two bedrooms: 80 square feet;

c. Multi-family with three or more bedrooms: 100 square feet;

d. Each additional bedroom over three: 20 additional square feet.

F. *Parking.*

1. The Project shall comply with the off-street parking ratio requirements set forth in CVMC Sections 19.62.010 through 19.62.130. If the project is using density bonus, the developer may request the parking ratio set forth in California Government Code Section [65915](#).

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2. Parking shall not be located between the building frontage and a public sidewalk.
3. Additionally, parking areas for more than five vehicles shall be effectively screened by a minimum of 10-foot-wide landscaped strip and a masonry wall or fence of acceptable design between the parking area and the public right-of-way. This strip shall effectively screen the parking lot from the public right of way to a minimum height of three-and-a-half feet. Any approved combination of planting mounds, walls, and/or decorative features, which are visually compatible with the proposed development and the surrounding neighborhood, may be utilized.
 - a. Every 10 parking stalls shall include a landscaped area with one (1) tree and a minimum width of five (5) feet.
4. Any carports adjacent to a single-family residential zone, parking lot areas and carports shall not be located along the single-family neighborhood street frontages. Additionally, the design of carports shall match the Project's overall design theme.
5. *Bike Parking.* The minimum number of spaces provided shall be 10 percent of the total residential units. Additionally, an inverted "U" bike rack shall be the type of space provided, and, shall not be separated from building entrances by a road, parking area, or structure.

G. *Walls and Fences.*

1. The following standards apply to walls and fences:
 - a. Walls shall be architecturally treated on both sides and incorporate landscaping.
 - b. Brick, slump stone, tile, textured concrete, stucco on masonry or steel framing, wrought iron, tubular steel fencing, solid decorative walls, or other material walls which require little or no maintenance are required.
 - c. Wall caps are to be incorporated as a horizontal design element at the top of walls and should not exceed four inches vertical.
 - d. Plain concrete block walls and chain link fencing are not permitted.

H. *Landscaping.* All landscaping shall conform to the requirements as specified in the City's Landscaping Manual, Design Manual, Shade Tree Policy, and Water Conservation Ordinance, and as approved by the Director of Development Services, or designee.

I. *Lighting.*

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1. All structures, entries, parking areas, refuse enclosures, active outdoor/landscape areas, and pedestrian pathways shall include overnight lighting for safety and security.
2. Lighting shall be recessed or hooded, downward directed, and located to illuminate only the intended area. It shall not spill beyond the intended area and shall not extend across a property line.
3. Timers and sensors shall be incorporated to avoid unnecessary lighting and avoid unnecessary energy use.

J. *Utilities and Trash Enclosure Areas.*

1. Utilities, utility vaults, and all mechanical equipment (ground and roof-mounted) shall be screened or hidden from view from the public street.
2. Trash enclosure areas shall be provided in accordance with CVMC 19.58.340.
3. Trash enclosures shall be constructed of the same primary wall material and color as the most adjacent building within the development.
4. Enclosures shall be located in convenient but unobtrusive areas, well screened with landscaping and positioned so as to protect adjacent uses from noise and odors.

[Chapters 19.60 – 19.89 remain unchanged.]

**Chapter 19.90
DENSITY BONUS**

Section:

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19.90.010 Purpose

The City of Chula Vista declares that the provision of housing in a suitable living environment for all residents is a priority of the highest order and is consistent with State, regional and national policies. The purpose of this chapter is to provide incentives for the production of affordable housing in accordance with those contained in California Government Code Section [65915](#) (“state density bonus law”). Terms and provisions not contained in this Chapter shall be defined in state density bonus law.

This Chapter is intended to materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities throughout the City. It is intended that this Chapter facilitate the development of affordable housing development projects and implement the goals, objectives and policies of the City of Chula Vista General Plan Housing Element.

Nothing in this Chapter shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act.

19.90.020 Applicability

The provisions of this Chapter shall apply to a housing development as defined in state density bonus law.

19.90.030 Density Bonus Allotment

A housing development shall be entitled to receive a density bonus and incentives, concessions, waivers, or reductions of development standards as set forth in state density bonus law.

19.90.040 Density Bonus Development Standards

A. Concurrent Development. Affordable units shall be constructed concurrently with market-rate units unless both the City and the developer agree within the density bonus agreement to an alternative schedule for development.

B. Location and Dispersal of Units. Affordable units and density bonus units shall be built on site (within the boundary of the proposed development) and dispersed throughout the housing development subject to the review and approval of the City; notwithstanding the foregoing, the City may allow affordable units to be provided in a separate structure if it is determined that such an arrangement is necessary to secure an allocation of Low Income Housing Tax Credits or other affordable housing financing.

C. Bedroom Unit Mix. The housing development shall include a mix of affordable units (by number of bedrooms) consistent with the unit mix of market-rate units.

D. Compliance with Development Standards and Codes. Density bonus projects shall comply with all applicable development standards, except those which may be modified as an incentive/concession or will have the effect of physically precluding the construction of a development providing the affordable units at the permitted density.

E. Design Consistency. The design and appearance of the affordable units shall be consistent or compatible with the design of the market-rate units in terms of appearance, materials, and finish quality.

F. Amenities. Residents of affordable units shall be permitted the same access to project amenities and recreational facilities as market rate units.

19.90.050 Affordability Restrictions

The occupancy, rent, and income limitations and time periods of restriction of the same for housing developments using the density bonus shall be as set forth in state density bonus law.

19.90.060 Application Requirements and Review

A. Preliminary Application. A developer proposing a density bonus project pursuant to state density bonus law may submit a preliminary application prior to the submittal of any formal request for approval. Developers are encouraged to schedule a preapplication conference with designated staff of the Development Services Department and Housing and Homeless Services Department to discuss and identify potential application issues, including prospective incentives or concessions.

B. Application. The developer shall submit a density bonus application, which will be treated as a part of any other required development application, which shall set forth the requested density bonus, incentives, concessions, waivers and/or reductions of development standards. The proposed housing development may require other project development applications (e.g., tentative map, parcel map, design review, conditional use permits). Under such circumstances, the density bonus application shall be processed concurrently.

C. Approval of an Application. When a project involves a request for a density bonus, incentives, concessions, waivers or reductions of development standards, the decision-making body shall make a written finding that the project is consistent with the provisions of this chapter, as part of the approval of the development applications. The approval shall take place prior to final map approval, if applicable. If no additional development applications are required, the application shall be approved prior to the execution of the density bonus agreement. The granting of an incentive, concession, waiver, or reduction of development standards shall not, in and of itself, require a General Plan, local coastal plan, or zoning amendment or any other discretionary approval.

D. Denial of Application. In rejecting such development applications, the decision-making body shall make written findings in compliance with Government Code Section 65589.5(b) and based upon substantial evidence in the record.

19.90.070 Density Bonus Agreement

A. Execution of Agreement. Housing developments obtaining a density bonus shall execute a density bonus agreement with the City.

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B. Recordation. Following execution of the density bonus agreement by all parties, the completed density bonus agreement shall be recorded against the housing development senior to all monetary liens. Recordation shall occur concurrently with the final map recordation, or where a map is not being processed, prior to issuance of building permits for such parcels or units. The density bonus agreement shall be binding in all future owners and successors in interest to the housing development.

C. Provisions. The following terms are required in the density bonus agreement:

1. Number of Units. The total number of units, the number of density bonus units, and the number of affordable units approved for the housing development.
2. Term of Affordability. The number of years the occupancy and affordability restrictions for affordable units remain in place.
3. Phasing Schedule. A schedule of production and occupancy of affordable units, if applicable.
4. Incentives, Concessions, Waivers, and/or Reductions in Development Standards. A description of the incentives, concessions, waivers, and/or reduction in development standards.
5. Operation and Maintenance. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies, operating and maintaining affordable units for qualified tenants.
6. Ongoing Monitoring. Provisions requiring developers to demonstrate compliance with this chapter.
7. Initial Sale. Where applicable, terms and conditions governing the initial sale of for-sale affordable units in compliance with Chapter 19.93 Residential For-Sale Affordable Housing.
8. Initial Lease. All affordable rental projects shall comply with Chapter 19.94 Marketing, Application, Lottery, and Waitlist Requirements for Affordable Rental Housing Projects.
9. Remedies. A description of remedies for breach of the agreement by either party.
10. Other Provisions for Compliance. Other provisions as the City may require to ensure implementation and continued compliance with this chapter and the state density bonus law.

D. Inclusionary Housing Agreement. Projects that require both an inclusionary housing agreement and density bonus agreement may be combined into one single housing regulatory agreement.

19.90.080 Agreement Processing and Administrative Fee

During the term of the density bonus agreement, the City will either directly or via one or more third parties, review applications for affordable units and monitoring of such units. The City Council may establish an administrative fee to fully recover the costs associated with such administration and monitoring, the amount of which shall be established in the Master Fee Schedule.

19.90.090 Savings Clause

A. If any provision of this chapter or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, the remainder of the chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

B. Should any conflict exist between this chapter and any other land use ordinance, regulation, resolution, policy or prior decision of the City, this chapter shall control all applicable land use applications which do not have final approval on the effective date of this chapter.

Chapter 19.91

INCLUSIONARY HOUSING

Section:

- 19.91.010 Determinations
- 19.91.020 Purpose
- 19.91.030 Definitions
- 19.91.040 Applicability and Exemptions
- 19.91.050 Inclusionary Requirements
- 19.91.060 Relationship to Density Bonus Provisions
- 19.91.070 Housing In-Lieu Fees
- 19.91.080 Alternative Compliance
- 19.91.090 Inclusionary Unit Development Standards
- 19.91.100 Inclusionary Housing Plan and Affordability Agreement
- 19.91.110 Petition for Waiver or Reduction
- 19.91.120 Administration and Enforcement

19.91.010 Determinations

The City of Chula Vista declares that the provision of housing in a suitable living environment for all residents is a priority of the highest order and is consistent with State, regional and national policies. The goal of the City is to achieve a balanced community with housing available for persons of all income levels. There exists within the City a shortage of housing that is affordable to households of lower and moderate incomes. Federal and State housing finance subsidy programs are not sufficient by themselves to satisfy these income housing needs. The City finds that the

housing shortage for households of lower and moderate income is detrimental to the public health, safety, and welfare and, further, that it is a public purpose of the City to seek assistance and cooperation from the private sector in making available an adequate supply of housing for persons of all economic segments of the community.

19.91.020 Purpose

The purpose of this Chapter is to enhance the public welfare and assure the compatibility between future housing development and the Housing Element of the City of Chula Vista General Plan through increasing the production of housing units affordable to households of lower and moderate incomes. It is the purpose of this Chapter to meet the City's General Plan goals to expand the supply of housing available to lower and Moderate-Income Households.

19.91.030 Definitions

A. "Affordability Agreement," means a legally binding, written agreement between an Applicant and the City, in form and substance satisfactory to the City Attorney, ensuring compliance with the requirements of this Chapter.

B. "Affordable Housing Cost" shall be as currently defined in Section 50052.5 of the California Health and Safety Code and any subsequent amendments or revisions.

C. "Affordable Rent" shall be as currently defined in Section 50053 of the California Health and Safety Code and any subsequent amendments or revisions. Notwithstanding the foregoing, the City or Housing Authority shall retain discretion to restrict units at Affordable Rents consistent with the maximum rents as published annually by the California Tax Credit Allocation Committee ("CTCAC").

D. "Applicant" means one (1) or more person(s) or entity(ies) that applies for a Residential Development in the City, regardless of whether the person(s) or entity(ies) have an ownership or leasehold interest in the property on which the development is proposed.

E. "Community Care Facilities" means facilities, places or buildings which are maintained and operated, subject to licensing by the California Department of Social Services, to provide nonmedical residential care, which may include home finding and other services, for children and/or adults, including: the physically handicapped; mentally impaired, mentally disordered, or incompetent; developmentally disabled; court wards and dependents; neglected or emotionally disturbed children; the addicted; the aged. Community Care Facilities include continuing care and retirement communities.

F. "Development Agreement" means an agreement entered into between the City and a developer pursuant to California Government Code Section 65864 et seq.

G. "For-Sale" means any dwelling unit, including but not limited to a condominium, townhome, other attached or detached single family dwelling unit, for which a parcel or tentative and final map is required for the lawful subdivision of the parcel upon which the dwelling unit is located for the creation of the unit in accordance with the Subdivision Map Act (California Government Code Section 66410 et seq.).

H. "Health Care Facilities" means facilities, places or buildings other than hospitals which are maintained and operated as a residence for patients and to provide long-term medical care,

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including nursing homes, intermediate care facilities, extended care facilities, hospice homes, and similar facilities which are licensed by the California State Department of Health Services, and defined in Health and Safety Code, Section 1200, et seq., which may include a lab, radiology, pharmacy, rehabilitation, and other similar services as accessory uses.

I. “Housing Authority” means the Chula Vista Housing Authority.

J. “Housing In-Lieu Fee” means a fee paid by an Applicant as an alternative to providing an Inclusionary Unit or a fraction of an Inclusionary Unit.

K. “Inclusionary Unit” means a newly constructed “Rental” or “For-Sale” dwelling unit which is: (1) provided (or caused to be provided) by an Applicant under the provisions of this Chapter; (2) made available and occupied by a lower-, Low- or Moderate-Income Household, as required under the provisions of this Chapter; (3) subject to occupancy and Affordable Rent for a period of not less than 55 years, or Affordable Housing Cost or sales price controls for a period of not less than 45 years, unless otherwise restricted through a value recapture agreement; (4) compatible with the design of other units in the residential housing development of which it is part in terms of exterior appearance, materials and quality finish; and (5) a similar unit type and bedroom mix to the overall Residential Development.

L. “Low-Income Household” shall have the same definition as “lower income households” in Section 50079.5 of the California Health and Safety Code and any subsequent amendments or revisions.

M. “Low-Income Unit” means a unit restricted to a Low-Income Household and rented or sold at an Affordable Rent or Affordable Housing Cost.

N. “Moderate-Income Household” shall have the same definition as “persons and families of moderate income” in Section 50093 of the California Health and Safety Code and any subsequent amendments or revisions.

O. “Moderate-Income Unit” means a unit restricted to a Moderate-Income Household and rented or sold at an Affordable Rent or Affordable Housing Cost.

P. “Rental” means a dwelling unit that is not a For-Sale dwelling unit.

Q. “Residential Development” means a project containing at least one residential unit, including mixed use developments. For the purposes of this Chapter, a “Residential Development” also includes a subdivision or Common Interest Development, as defined in Section 4100 of the California Civil Code, approved by the City which consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of California Government Code Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.

R. “Review Authority” means the individual or official City body which has the responsibility and authority to review, and approve or disapprove, applications for land use entitlements.

S. “Single Room Occupancy Unit” is a residential unit with living space with a minimum floor area of 150 square feet and a maximum of 400 square feet restricted to occupancy by no more than two persons. Kitchen and bathroom facilities may be wholly or partially included in each living space or may be fully shared.

T. “Very Low-Income Household” shall be as currently defined in Section 50105 of the California Health and Safety Code and any subsequent amendments or revisions.

U. “Very Low-Income Unit” means a unit restricted to a Very Low-Income Household and rented or sold at an Affordable Rent or Affordable Housing Cost.

19.91.040 Applicability and Exemptions

A. The inclusionary requirements of this Chapter apply to all Residential Developments whose applications for building permits, subdivisions or development permits are deemed complete on or after July 1, 2024, where the lots or units will be offered for sale or rent, including the residential component of mixed-use developments.

B. Notwithstanding subsection A, to the following shall be exempt from this Chapter:

1. Projects that are not Residential Developments.
2. Any project for which the city enters into a Development Agreement pursuant to California Government Code Section 65964 that provides inclusionary housing obligations comparable to this Chapter and alternative community benefits or for any project that is otherwise exempt under State law.
3. Units to be constructed pursuant to an agreement with the City or other local government agency that restricts occupancy to Low- or Moderate-Income Households at an Affordable Housing Cost for a period of not less than 55 years (or 45 years for ownership units).
4. Homeless shelters, Community Care Facilities, Health Care Facilities, and Single Room Occupancy Units.
5. Dwelling units to replace previously existing dwelling units on the same lot, if the previous dwelling units were demolished or destroyed within the last five years prior to the date the building permit application for the replacement unit is submitted to the Development Services Department.
6. Construction of accessory dwelling units as defined by California Government Code Section 65852.2(j).
7. Home remodels and additions.
8. Density bonus units.
9. Mobile homes.
10. A residential project that was approved by the City prior to adoption of this Chapter. Notwithstanding the foregoing, this Chapter shall apply to any residential project that

applies to modify its project after it has been approved by the City, and the modification increases the density of the project. In that scenario, this Chapter shall only apply to the additional units created by the modification.

19.91.050 Inclusionary Requirements.

A. Residential or mixed-use development projects with fewer than ten units shall not be required to meet the provisions of this Chapter.

B. For residential or mixed-use development projects of ten or more For-Sale units, except those projects complying with this Chapter in an alternative manner consistent with Section 19.91.080 below, 10% of the units shall be restricted For-Sale at an Affordable Housing Cost, as follows:

1. The first Inclusionary Unit required by this Chapter shall be restricted For-Sale at an Affordable Housing Cost to a Moderate-Income Household;
2. The second Inclusionary Unit required by this Chapter shall be restricted For-Sale at an Affordable Housing Cost to a Low-Income Household;
3. All subsequent Inclusionary Units shall follow a similar order of distribution as above such that, to the extent possible, 50% of Inclusionary Units will be restricted For-Sale to Moderate-Income Households, and 50% to Low-Income Households.

C. For residential or mixed-use development projects of ten or more Rental units, except those projects complying with this Chapter in an alternative manner consistent with Section 19.91.080 below, 10% of the units shall be restricted at an Affordable Rent, as follows:

1. The first Inclusionary Unit required by this Chapter shall be restricted as a Moderate-Income Unit;
2. The second Inclusionary Unit required by this Chapter shall be restricted as a Low-Income Unit; and
3. All subsequent Inclusionary Units shall follow a similar order of distribution as above such that, to the extent possible 50% of Inclusionary Units will be designated as affordable to Moderate-Income Households, and 50% to Low-Income Households.

D. Fractional Inclusionary Units that may result from the application of these requirements may be met by rounding up to provide an additional Inclusionary Unit consistent with this Section 19.91.050(C), or by paying a fractional Housing In-Lieu Fee as noted in Section 19.91.070.

E. If a proposed Residential Development project would result in the elimination of existing deed restricted affordable housing units, the affordable units must be replaced on a one-for-one basis with equally affordable deed restricted units with a new Affordability Agreement recorded that results in resetting and making consistent the duration of affordability consistent with the requirements of this Chapter.

19.91.060 Relationship to Density Bonus Provisions

An Applicant proposing Inclusionary Units, consistent with this Chapter 19.91, which also applies for a density bonus, consistent with Chapter 19.90 of this code, may count units affordable to lower or Moderate-Income Households toward both requirements, and shall be eligible to receive one or more incentives or concessions, pursuant to California Government Code Section 65915. Additional units allowed by the density bonus shall not be included in the total project units when determining the proportion of required Inclusionary Units in a Residential Development.

19.91.070 Housing In-Lieu Fees

Developing the required Inclusionary Units within the Residential Development, as required under Section 19.91.050, is preferred. However, as an alternative to those requirements, or for fractional units that result from application of Section 19.91.050, the requirement may be satisfied as follows:

A. The Applicant may satisfy the on-site Inclusionary Unit requirements, or fractional unit requirements, of Section 19.91.050 through payment of a Housing In-Lieu Fee in an amount that shall be calculated using the fee schedule established by resolution of the City Council.

B. In accordance with this paragraph, the Applicant may satisfy the Inclusionary Unit requirements of Section 19.91.050 by providing some of the required Inclusionary Units on-site and paying a Housing In-Lieu Fee for any required Inclusionary Units that are not included in the project. The amount of the Housing In-Lieu Fee shall be calculated by using the fee schedule established by resolution of the City Council.

C. The full Housing In-Lieu Fee shall be paid to the City prior to the issuance of the first building permit for the Residential Development project.

D. Except as otherwise provided in this Chapter 19.91, all Housing In-Lieu Fees paid under this Chapter shall be paid to the City and deposited into the Housing Inclusionary Fund maintained by the City for use in producing, protecting, and preserving affordable housing, including site acquisition, development, rehabilitation, or preservation of affordable housing, homelessness prevention programs, first time homebuyer programs, or other affordable housing programs, and for affordable housing program administration, either directly by the City or in partnership with the Housing Authority or third-party affordable housing developers.

19.91.080 Alternative Compliance

The primary means of compliance with this Chapter shall be on-site Inclusionary Units or payment of Housing In-Lieu Fees consistent with Sections 19.91.050 and 19.91.070. The City will consider at its discretion certain alternatives to the provision of on-site Inclusionary Units or payment of the Housing In-Lieu Fee including the provision of Inclusionary Units off-site, directly by Applicant or through an agreement with a third party; dedication or conveyance of land; conversion of market rate units to affordable; credit for naturally occurring affordable housing; preservation of at-risk housing; or use of inclusionary credits. All alternative compliance measures must produce at least the same number and affordability of units that would have been provided on-site and are subject to review and approval by the City.

A. Inclusionary Units Provided Off-Site. An Applicant may provide (or may cause a third party to provide) Inclusionary Units off-site (“off-site units”).

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1. Inclusionary Units provided off-site must be located within one mile of the development or located in an area within Chula Vista designated as “highest resource,” “high resource,” or “moderate resource” according to opportunity maps published by the California Tax Credit Allocation Committee at the time of permit application.

2. As part of the application submittal materials, if the Applicant itself will provide the Inclusionary Units off-site, the Applicant shall submit evidence that the Applicant owns, leases (pursuant to an executed a ground lease of at least the 55 years from the date offsite units would be produced), or has an irrevocable option to purchase, the site where the off-site Inclusionary Units are proposed to be located; alternatively, if Applicant enters into an agreement with a third party to provide the Inclusionary Units off-site, then the Applicant shall cause such third party to submit evidence that the third party owns, or has an irrevocable option to purchase, the site where the off-site Inclusionary Units are proposed to be located.

3. The City shall not issue a building permit for the Residential Development project until the Inclusionary Units off-site, whether they are to be constructed by the Applicant or third party, are under construction. Any agreement entered into by the Applicant and a third party to construct Inclusionary Units off-site is subject to review and approval by the City and must contain a clause that allows the City to enforce the rights in the agreement.

B. Land Dedication or Conveyance Alternative. An Applicant may offer to dedicate or convey land to the City or Housing Authority, situated on-site or off-site.

1. Land offered under this section must be within the City’s boundaries and must be designated for a general plan land use which allows multifamily units.

2. The Applicant shall provide a financial analysis which demonstrates that the land offered is suitable for affordable housing development in terms of size; location; general plan land use designation; availability of sewer, water and transit services; absence of toxics; absence of environmental constraints; site characteristics and surroundings. Staff will recommend to the Review Authority whether the dedication should be accepted.

3. The Applicant shall also submit evidence that the Applicant owns, or has an irrevocable option to purchase, the site proposed for dedication or conveyance.

4. Land conveyed under this section shall be used for the development of affordable housing for households of lower income.

5. Land shall be identified and offered for dedication or conveyance at the time of development application submittal. If the offer is accepted by the Review Authority, the land must be donated to the City or Housing Authority no later than the date of approval of the final subdivision map, parcel map or housing development application, and must have all the permits and approvals, other than building permits, necessary for development with the required number of Inclusionary Units.

6. Concentration Determination. Each site proposed to be dedicated or conveyed to the City for construction of Inclusionary Units or proposed for one or more off-site Inclusionary Units shall be evaluated as to whether the placement of such units will overly

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impact an area with lower income units. If the site is within 1,000 feet of one or more existing or approved developments in which more than 50 percent of the units are, or will be, restricted to occupancy by households of lower incomes, impactation shall be found. The Review Authority may override a determination of impactation by making findings that local schools, services and adjacent uses will not be negatively impacted by the construction of Inclusionary Units at the proposed site.

C. Conversion of Market Rate Units to Affordable. An Applicant may propose to convert existing market rate units within the City to affordable units in an amount equal to or greater than the required on-site inclusionary housing requirement, including any needed rehabilitation to ensure compliance with building, health and safety standards. In considering such proposals, the City will evaluate the public benefit to be gained from conversion, including the value of any rent reductions, scope of building rehabilitation, and resolution of nuisance activities.

D. Preservation of At-Risk Housing. An Applicant may offer to purchase long term affordability covenants on an existing deed restricted affordable housing project at imminent risk of contract termination and conversion to market rate housing. The number of units preserved shall be equal to or greater than the required on-site inclusionary housing requirement and an additional 55 years beyond the expiring covenant(s). For the purposes of this section, “imminent risk” shall mean expiration of all affordability covenants within two years from the date of Applicant’s proposal. Applicant must demonstrate that affordability covenants are unlikely to be renewed in the absence of such action.

E. Credit for Additional Affordable Units. If an Applicant completes construction on a site of a greater number of affordable units than required by this Chapter, the additional units may be credited towards meeting the requirements of this Chapter for a future project unless otherwise regulated by a Sectional Planning Area Affordable Housing Plan. The Applicant may use credits in a future project or transfer the credits in writing to another developer. Credits will only be counted toward required affordable units with the same bedroom count, the same type (Rental or ownership), and required affordability targets. The credits must be used within 10 years of issuance. Projects which have received a density bonus, or which were constructed with an allocation of low-income housing tax credits, tax-exempt bonds, or other public subsidy, shall not be eligible for credits.

F. Incentive Credit. The City has a greater need for housing for Very Low- and Low-Income Households. To encourage developers to provide for these households, the City can in effect reduce the required affordable housing obligation when the Developer opts to provide Very Low- or Low-Income Units rather than Low- or Moderate-Income Units that are required under Section 19.91.050. The incentive credit shall be calculated as follows:

1. A credit of 6.0 units will be applied for every For-Sale unit restricted at an affordable cost for a Very Low-Income Household in lieu of a For-Sale Moderate-Income Unit otherwise required, and a credit of 3.5 units will be applied for every Rental unit restricted at an affordable cost for a Very Low-Income Household in lieu of a Rental Moderate-Income Unit otherwise required.
2. A credit of 5.0 units will be applied for every For-Sale unit restricted at an affordable cost for a Low-Income Household in lieu of a For-Sale Moderate-Income Unit

otherwise required, and a credit of 3.0 units will be applied for every Rental unit restricted at an affordable cost for a Low-Income Household in lieu of a Rental Moderate-Income Unit otherwise required.

3. A credit of 1.5 units will be applied for every For-Sale or Rental unit restricted at an affordable cost for a Very Low-Income Household in lieu of a For-Sale Low-Income Unit or Rental unit otherwise required.

19.91.090 Inclusionary Unit Development Standards

A. Subject to the review and approval of the City, all Inclusionary Units shall be:

1. Dispersed throughout the residential project;
2. Proportional, in number of bedrooms, to the market rate units;
3. Comparable to the market rate units included in the residential project in terms of size, design, materials, finish quality, and appearance; and
4. Permitted the same access to project amenities and recreational facilities as market rate units.

B. Notwithstanding the foregoing, the City may allow Inclusionary Units to be provided in a different manner in a separate structure if it is determined that such an arrangement is necessary to secure an allocation of Low-Income Housing Tax Credits or other affordable housing financing.

C. Timing of Construction. All Inclusionary Units in a project shall be constructed concurrent with, or before the construction of the market rate units. If the City approves a phased project, a proportional share of the required Inclusionary Units shall be provided within each phase of the residential project.

D. Accessory dwelling units shall not be counted towards meeting a project's inclusionary requirements.

E. Units for Sale. All properties offering For-Sale Inclusionary Units shall abide by Chapter 19.93 to offer the units at affordable prices.

F. Rental Units.

1. Time Limit for Inclusionary Restrictions. A Rental Inclusionary Unit shall remain restricted to the target income level group at the applicable Affordable Rent for fifty-five (55) years.

2. Certification of Renters. The owner of any Rental Inclusionary Units shall certify to the City, on a form provided by the City, the income of the tenant at the time of the initial Rental and annually thereafter.

3. Forfeiture. Any lessor who leases an Inclusionary Unit in violation of this Chapter shall be required to forfeit to the City all money so obtained. Recovered funds shall be deposited into the Housing Inclusionary Fund.

4. All properties offering Rental Inclusionary Units shall abide by Chapter 19.94 regarding Affordable Housing Marketing and offer the units at affordable prices.

G. General Prohibitions.

1. No person shall sell or rent an Inclusionary Unit at a price or rent in excess of the applicable Affordable Housing Cost or Affordable Rent placed on the unit in accordance with this Chapter.

2. No person shall sell or rent an Inclusionary Unit to a person or persons that do not meet the income restrictions placed on the unit in accordance with this Chapter.

3. No person shall provide false or materially incomplete information to the City or to a seller or lessor of an Inclusionary Unit to obtain occupancy of housing for which that person is not eligible.

H. Principal Residency Requirement.

1. The owner or lessee of an Inclusionary Unit shall reside in the unit as such person's principal residence except as may be otherwise required due to active military deployment, medical reasons, or other hardship, subject to the City's review and approval

2. No owner or lessee of an Inclusionary Unit shall lease or sublease, as applicable, an Inclusionary Unit without the prior permission of the City.

19.91.100 Inclusionary Housing Plan and Affordability Agreement

A. The Applicant shall comply with the following requirements at the times and in compliance with the standards and procedures in the City's regulations for the implementation of this Chapter.

1. Inclusionary Housing Plan. Upon application to the City for discretionary approval which would alter or vary from the requirements of this Chapter, an Applicant shall submit an inclusionary housing plan detailing how the provisions of this Chapter will be implemented for the proposed project. If the inclusionary housing plan includes alternatives to on-site units, then the inclusionary housing plan shall be subject to the review and approval of the City Council. All other inclusionary housing plans shall be subject to the approval of the City, subject to appeal to the Planning Commission. Any such appeal shall be filed within ten working days of the City's decision.

2. Affordability Agreement. Prior to building permit issuance, an Applicant shall execute and cause to be recorded an Affordability Agreement. Once the Residential Development including Inclusionary Units has received its final discretionary approval, the Applicant shall file an application, including payment of any processing and monitoring fees, with the Development Services Department for approval and finalization of the Affordability Agreement.

B. An Applicant for a project providing Inclusionary Units consistent with this Chapter, as well as affordable units consistent with the provisions of Chapter 19.90 of this code, shall enter into a single affordable housing agreement with the City.

C. Discretionary Approvals. No discretionary approval shall be issued for a project subject to this Chapter until the Applicant has submitted an inclusionary housing plan.

D. Issuance of Building Permit. No building permit shall be issued for a project subject to this Chapter unless the Department of Housing and Homeless Services has approved the inclusionary housing plan, if such a plan is required by this Chapter, and any required Affordability Agreement has been recorded encumbering the project site.

19.91.110 Petition for Waiver or Reduction

An Applicant may request a waiver or reduction in the requirements of this Chapter 19.91, provided that the Applicant provides evidence of economic hardship, such as inability to achieve a reasonable commercial profit, which must be verified by an independent third-party, chosen by the City, at the Applicant's sole cost. Such review would include a comparison of the Applicant's projected costs and Rental/sale revenue assumptions with current market standards, including a market rate of return on cost. The waiver or reduction request may be processed ministerially by the City Manager or designee, with the option of review and approval by the City Council.

19.91.120 Administration and Enforcement.

A. The City Council, by resolution, may from time to time adopt procedures, policies, rules, guidelines, and requirements, including the adoption of processing and administrative fees, to implement, administer, and/or enforce the provisions of this Chapter.

B. The City Manager or designee is authorized to determine the number of dwelling units contained within a particular Residential Development, if a determination is needed to resolve a disagreement. When a question arises regarding the meaning or interpretation of any provision of this Chapter to any specific circumstances or situation, the City Manager or designee is authorized to render a decision thereon in writing.

C. The City shall keep on file and available for public review a copy of the current income schedules and utility allowances.

D. Any violation of this Chapter constitutes a misdemeanor and may be subject to the penalties and remedial procedures set forth in this Code.

E. The provisions of this Chapter shall apply to all owners, Applicants, developers, their agents, successors, and assigns that propose a Residential Development, occupy an Inclusionary Unit, or both. All Inclusionary Units shall be sold or rented in accordance with this Chapter and any regulations and administrative guidelines adopted pursuant to this Chapter.

F. Any individual who sells or rents an Inclusionary Unit in violation of the provisions of this Chapter, the guidelines, or the Affordability Agreement shall be required to forfeit to the City all monetary amounts obtained in violation of those provisions. Recovered funds shall be deposited into the Housing Inclusionary Fund.

G. The City Attorney may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Chapter, including, but not limited to:

1. Actions to revoke, deny, or suspend any permit, including a building permit,

certificate of occupancy, or discretionary approval; and

2. Actions for injunctive relief or damages.

H. In any action to enforce this Chapter or an Affordability Agreement recorded hereunder, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs.

[Chapter 19.92 remains unchanged.]

Chapter 19.93

RESIDENTIAL FOR-SALE AFFORDABLE UNIT REQUIREMENTS

Section:

- 19.93.010 Findings and Purpose
- 19.93.020 Promulgation of Administrative Regulations
- 19.93.030 Definitions
- 19.93.040 Program Requirements
- 19.93.050 Sale Terms and Value Recapture
- 19.93.060 Homebuyer Requirements

19.93.010 Findings and Purpose

A. The purpose of this Chapter is to establish the procedures for the Development of affordable for-sale housing for very low-, low- and moderate- Income buyers under various programs within the City of Chula Vista, including Density Bonus Chapter 19.90 and Inclusionary Housing Chapter 19.91.

B. The provisions of this Chapter shall apply to any Development which is satisfying its affordable housing obligation to the City by providing for-sale Affordable Units, which are not otherwise regulated by any other funding sources. Any Development satisfying its affordable housing obligation by providing affordable for-sale Affordable Units within the City must comply with this Chapter.

19.93.020 Promulgation of Administrative Regulations

A. The City Manager or designee is authorized to establish, consistent with the terms of this Chapter, Administrative Regulations necessary to carry out the purposes of this Chapter. Administrative Regulations shall be published on the City's website and maintained and available to the public in the Office of the City Clerk. Administrative regulations promulgated by the City Manager or designee shall become effective and enforceable under the terms of this Chapter thirty (30) days after the date of publication on the City's website.

19.93.030 Definitions

Any term herein expressed in the plural may also apply to the singular. The following terms shall have the meanings set forth herein:

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- A. “Administrative Regulations” means regulations that implement this Chapter authorized by the City Manager or designee pursuant to Section 19.63.020
- B. “Affordable Housing Cost” shall have the meaning set forth in California Health and Safety Code Section 50052.5 and the attendant Administrative Regulations.
- C. “Affordable Unit” means a unit restricted for sale to very low-Income, Low-Income or Moderate-Income Households and sold at an Affordable Housing Cost.
- D. “AMI” shall have the same meaning as “area median income” set forth in California Health and Safety Code Section 50093.
- E. “City” means the City of Chula Vista.
- F. “Development” means a Project that contains residential dwelling units.
- G. “Developer” means any person obligated to provide Affordable Units as part of a Development.
- H. “Eligible Household” means any person meeting the criteria set forth in any City-imposed requirements applicable to an Affordable Unit.
- I. “Equity” means the difference between, the unrestricted fair market value of the Affordable Unit on the date of the first resale of the Affordable Unit, as determined by an appraisal approved by the City, minus the sum of: (i) the original unrestricted fair market value of the Affordable Unit at the time of its acquisition by the Eligible Household, plus (ii) the actual costs of any City-approved improvements to the Affordable Unit; and (iii) the down payment. If the foregoing calculation of Equity results in a negative number, then the Equity shall be deemed to be zero.
- J. “First-Time Homebuyer” means no member of the Household has had Ownership anywhere, other countries included, during the three-year period prior to the date of application.
- K. “Homebuyer” means the Eligible Household who has entered into a Value Recapture Agreement with the City.
- L. “Household” means all persons who have resided together for at least one year (except in the case of a newborn child) and will continue to reside in the residence being purchased. A Household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit.
- M. “HUD” means the United States Department of Housing and Urban Development.
- N. “Income” means the gross amount of all Income for all applicants and adult Household members that is to be received during the coming twelve (12) months, as defined by HUD’s technical guide for determining Income and allowances, including all Income derived from any

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source, including but not limited to wages (gross pay), overtime, pensions, military service connected disability/veteran's compensation, bonuses, public assistance, social security Income, alimony, child support, adoption support, foster care support, dividends and interest.

O. "Initial Benefit" means the difference between the sale price and the unrestricted fair market value of the Affordable Unit at the time of purchase.

P. "Low-Income Household" or "Lower Income Households" has the same meaning as "lower income households" set forth in California Health and Safety Code Section 50079.5, as amended.

Q. "Moderate-Income Household" has the same meaning as "persons or families of low or moderate income" set forth in California Health and Safety Code Section 50093, as amended.

R. "Ownership" means any of the following interests in residential real property: fee simple interest, joint tenancy, tenancy in common, interest of a tenant-shareholder in a cooperative, life estate interest held in trust for the applicant that would constitute a present Ownership interest if held by the applicant. Ownership does not include a remainder interest, a lease with or without an option to purchase, or any interest acquired on the execution of the purchase contract.

S. "Principal Residence" means the primary home which all of all the Homebuyers reside in for not less than ten (10) months out of each calendar year.

T. "Value Recapture Agreement" means an agreement by and between the City and the Homebuyer recorded against the Affordable Unit in the official records of the County of San Diego, which satisfies the requirements of this Chapter.

U. "Underwriting" means the process by which a lender determines whether an applicant is eligible to receive a loan.

19.93.040 Program Requirements

A. Additional Developer Obligations. Each Developer shall satisfy the following requirements:

1. Developer shall meet the requirements of all other regulations, policies, laws and programs applicable to the Affordable Units.
2. If the City Manager or designee adopts Administrative Regulations, Developer shall meet the requirements of the Administrative Regulations.
3. Developer shall follow the priority system for determining eligible buyers set forth in the Administrative Regulations.
4. The Developer shall provide information and disclosures to each Homebuyer detailing the responsibilities of all the involved parties, including the lender, City, Developer and Homebuyer.

B. Lenders. Developer may elect to designate a lender to assist with sales of the Affordable Units to Homebuyers. Each lender providing funding to Homebuyers shall meet the requirements of the Administrative Regulations.

1. Prospective Homebuyers must be pre-qualified by a lender, to purchase an Affordable Unit. A Homebuyer may obtain permanent financing from any licensed mortgage broker or lender of their choosing. Homebuyers shall notify City staff in writing of their selected lender at least 30 days before escrow closing.

2. Each lender shall determine each Homebuyer's eligibility to purchase an Affordable Unit.

3. The Administrative Regulations shall establish basic Underwriting standards for private loans in connection with Homebuyer acquisitions of Affordable Units. All loans are subject to the City's review and written approval.

4. All documents the lender is required to provide to the City under the Administrative Regulations shall be provided to the City a minimum of thirty (30) days prior to the escrow closing date.

19.93.050 Sale Terms and Value Recapture

A. Purchase Price. In accordance with California Health & Safety Code Section 50052.5, the price for lower Income units shall not exceed 30% of 70% of AMI, and for Moderate-Income Households shall not exceed 30% of 110% of AMI.

B. Homebuyer Eligibility. All applicants must be First-Time Homebuyers and provide documentation as proof of no Ownership.

C. Value Recapture and Equity Share. The City and each Homebuyer shall enter into a Value Recapture Agreement that complies with the requirements of the program requiring the Affordable Units and with the Administrative Regulations. The Value Recapture Agreement shall set forth the Initial Benefit and the methodology for Equity sharing between the Homebuyer and the City. The Equity share due to the City shall be as set forth in the Value Recapture Agreement. The Value Recapture Agreement shall comply with California Government Code Section 65915(c)(2).

19.93.060 Homebuyer Requirements

A. Primary Residence. The Affordable Unit shall be the Principal Residence of the Homebuyer during the entire term of the Value Recapture Agreement. The Homebuyer shall certify to the City annually under penalty of perjury that the Affordable Unit is the Principal Residence of the Homebuyer. The Affordable Unit may not be rented on a long-term or short-term basis while subject to affordability restrictions.

B. Changes in Household Composition. The homeowner shall notify the City of any changes in Household composition. The addition of any person to title to the Affordable Unit shall be

subject to the City's advanced written approval. Any such approval shall be subject to confirmation that the Household will continue to meet the requirements of the Value Recapture Agreement after the addition of any persons.

C. Conveyances. Any sale, transfer, refinance, conveyance or change in title of the Affordable Unit shall be subject to the City's advanced written approval in the manner set forth in the attendant Administrative Regulations.

Chapter 19.94

MARKETING, APPLICATION, LOTTERY, AND WAITLIST REQUIREMENTS FOR AFFORDABLE RENTAL HOUSING PROJECTS

Section:

- 19.94.010 Purpose and Intent
- 19.94.020 General Applicability
- 19.94.030 Definitions
- 19.94.040 Marketing and Management Plan Review and Approval
- 19.94.050 Marketing to Prospective Tenants
- 19.94.060 Application Process
- 19.94.070 Lottery and Waitlist
- 19.94.080 Priority Policy
- 19.94.090 Applicant Screening
- 19.94.100 Fees
- 19.94.110 Reasonable Accommodations
- 19.94.120 Record Retention
- 19.94.130 Right to Modify

19.94.010 Purpose and Intent

The purpose of this Chapter is to create clear and concise requirements for the marketing, application, selection priorities, Lottery, and Waitlist processes for affordable rental housing Projects in the City of Chula Vista.

19.94.020 General Applicability

The provisions of this Chapter shall apply to Projects subject to Restrictions.

19.94.030 Definitions

When used in this Chapter, the following words and phrases shall have the meanings ascribed to them below. Words and phrases not specifically defined below shall have the meanings ascribed to them elsewhere in this Code or shall otherwise be defined by common usage. For definitions of nouns, the singular shall also include the plural; for definitions of verbs, all verb conjugations shall be included. Any reference to any law, statute or regulation, is deemed to include any successor or amended version of the such law, statute or regulation consistent with the terms of this Chapter.

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- A. “Applicant” means a person applying to lease a Restricted Unit.
- B. “Lottery” means a Lottery to randomly select Applicants as set forth in this Chapter using a methodology approved by the City Manager or designee.
- C. “Low-Income Household” shall have the same definition as “lower income households” in Section 50079.5 of the California Health and Safety Code.
- D. “Marketing and Management Plan” means a document or documents approved by the City Manager or designee, which meet all of the requirements of this Chapter and contain all of the following, unless otherwise agreed in the discretion of the City Manager or designee:
1. Identification of groups of people in need of special outreach efforts.
 2. Identification of marketing outlets which will be utilized for advertising the Restricted Units.
 3. The timeframes and deadlines for advertising the Restricted Units.
 4. The methodology for advertising to and communicating with persons who do not speak English.
 5. The procedures for and target date of the Lottery.
 6. Tenant eligibility criteria, such as minimum and maximum household sizes, minimum and maximum income limits, and Applicant’s rental history.
 7. The procedure for submitting and reviewing grievances by and appeals of Applicants.
 8. The procedure for submitting and reviewing requests for Reasonable Accommodations.
 9. A list of grounds for denial of applications for Restricted Units.
 10. A policy for review and processing of transfers of households between units, including as a request for Reasonable Accommodations, changes in household composition, and other circumstances.
 11. The Project’s record retention policy.
 12. Samples of potential advertisements.
 13. A sample lease agreement for the Restricted Unit(s), which sample lease agreement shall include the requirement that tenants are responsible for submitting documentation to the City on an annual basis which proves such tenant’s continued eligibility to occupy the

Restricted Unit. Such provisions may be contained in a lease addendum or lease rider.

- E. “Moderate-Income Household” shall have the same definition as “persons and families of moderate income” in Section 50093 of the California Health and Safety Code.
- F. “Owner” a person that owns a Project.
- G. “Project” means real property subject to Restrictions.
- H. “Reasonable Accommodation” has the meaning set forth in the Fair Housing Act (42 U.S.C. §§ 3601 – 3619).
- I. “Restricted Unit(s)” means a dwelling unit or dwelling units which are occupancy restricted pursuant to Restrictions.
- J. “Restrictions” means a document or instrument that meets both of the following requirements: (i) the document or instrument restricts the occupancy of at least one residential dwelling unit for occupancy by Very Low-Income Households, Low-Income Households, or Moderate-Income Households; and (ii) the City, Housing Authority, and/or Successor Agency is a party to such document or instrument OR the City, Housing Authority, and/or Successor Agency has the right to enforce such document or instrument OR the document or instrument is made in favor of the City, Housing Authority, and/or Successor Agency.
- K. “Very Low-Income Household” shall have the meaning set forth in Section 50105 of the California Health and Safety Code.
- L. “Waitlist” means a list of Applicants who were not selected to lease Restricted Units.

19.94.040 Marketing and Management Plan Review and Approval

- A. Every Owner of a Project subject to a regulatory agreement effective on or after the effective date of this ordinance shall submit a Marketing and Management Plan to the City for the City’s review and approval or rejection. Each Project that did not obtain a certificate of occupancy on or before July 1, 2024, shall submit a Marketing and Management Plan to the City not less than ninety (90) days prior to issuance of a temporary certificate of occupancy for the Project.
- B. The City shall accept or provide notice of any objections to each Marketing and Management Plan. Such acceptance or objection shall be made in the discretion of the City Manager or designee, provided that any objections shall be solely based upon a failure of the Marketing and Management Plan to meet the requirements of this Chapter. If the City delivers a notice of any objections, the Owner shall cause the Marketing and Management Plan to be revised accordingly and shall resubmit the revised Marketing and Management Plan to the City for review and approval as set forth in this Section.
- C. The approved Marketing and Management Plan shall be binding upon the Owner. The Owner shall comply with and follow the requirements, policies and procedures set forth in the

approved Marketing and Management Plan. The Marketing and Management Plan may be amended from time to time by the Owner with the approval of the City Manager or designee.

19.94.050 Marketing to Prospective Tenants

A. The Marketing and Management Plan shall include two or more of the following methods of advertising and marketing the Restricted Units, including at least one web-based method and at least one offline method:

1. Distribution of City-approved flyers and blank applications to local organizations in Chula Vista that service a wide range of prospective Applicants, such as social service providers (e.g., food banks, legal-aid offices, emergency shelters, health clinics), employers, advocacy organizations, city hall, and community gathering places such as senior centers, recreation centers, libraries, schools, and places of worship.
2. Creation and maintenance of a website with clear information about the availability of the Restricted Units, tenant eligibility requirements, a description of the application process and the deadline for submission of applications.
3. Advertising with local radio stations, newspapers, and newsletters.
4. Advertising in commonly used real estate websites, such as Zillow, Trulia, Craigslist or Apartments.com.
5. Posting advertisements in public places, such as on buses, trains, and billboards.
6. Providing a leasing office where Applicants may submit applications and ask questions.

B. The Marketing and Management Plan shall include special outreach efforts to demographic groups least likely to apply for the Restricted Units without special outreach efforts. “Least likely to apply” means that there is an identifiable presence of a specific demographic group in Chula Vista, the members of which are not likely to apply for Restricted Units without targeted outreach. Reasons groups least likely to apply for the Restricted Units may include, but are not limited to, insufficient information about housing opportunities, language barriers, or transportation impediments. Owners may utilize Department of Housing and Urban Development (HUD) Form 935.2A to identify demographic groups least likely to apply for Restricted Units. Outreach efforts to demographic groups least likely to apply may include distributing flyers to organizations serving people in demographic groups least likely to apply; posting flyers at grocery stores frequented by people in demographic groups least likely to apply; publishing advertisements in languages spoken by people in demographic groups least likely to apply; or providing marketing and advertising materials in alternative formats for persons with disabilities.

C. Marketing efforts shall commence at least thirty (30) days prior to any Restricted Unit being leased. The information on all marketing materials, including all flyers, websites, advertisements, and other marketing materials, shall be subject to the review and approval of the City Manager or designee.

D. Persons that seek additional information from the Owner shall be provided with the income requirements for the Restricted Units, initial monthly rents for the Restricted Units, eligibility criteria, Project and Restricted Unit amenities, accessibility features for persons with disabilities, and a description of the Lottery process. The full Marketing and Management Plan shall be made available to the public upon request.

19.94.060 Application Process

A. Applications for Restricted Units shall:

1. Be available for in person pick-up and on the internet.
2. Be accepted online and by mail or drop-off at a physical location.
3. Be accessible for pickup and drop-off outside of regular business hours, including evenings and weekends.
4. Be distributed and accepted for a period of no less than two weeks.
5. Describe the method to request a Reasonable Accommodation.

B. After receiving applications, Owner shall eliminate any duplicate applications, substantially incomplete applications, and applications which fail to meet the application requirements or requirements of the Restrictions.

19.94.070 Lottery and Waitlist

A. Selection of tenants of Restricted Units shall be made randomly by Lottery. The Lottery may be held virtually or in person. The marketing and advertising materials shall include the projected date and time of the Lottery. The City and members of the public may observe the Lottery. The Owner shall record the Lottery proceedings and preserve the records confirming that Applicants were selected randomly in conformance with the priorities set forth in Section 19.94.080.

B. Applicants selected for occupancy of a Restricted Unit shall be contacted by Owner using the contact method set forth in the Applicant's application. The Owner may set reasonable deadlines for selected Applicants to submit income eligibility documentation and meet all application and screening requirements.

C. Applicants who are not selected through the Lottery shall be placed on the Waitlist maintained by Owner. Applicants may submit applications and join the Waitlist at any time. After all Restricted Units are leased, then upon vacancy of each Restricted Unit, a new tenant of such Restricted Unit shall be selected in the order set forth on the Waitlist. Waitlist Applicants shall be contacted at least once every other year using the contact method set forth in the Applicants' applications to determine whether such Applicants desire to maintain their status as Applicants. Applicants who are no longer interested or do not respond shall be removed from the Waitlist. If no persons are on the Waitlist, the Owner shall follow the advertising and marketing requirements

set forth in the Marketing and Management Plan and this Chapter and a new Lottery shall be held, and a new Waitlist shall be created.

D. Special needs or supportive housing Projects may select Applicants via a referral system approved by the City Manager or designee, such as a Coordinated Entry System (CES). Special needs or supportive housing Projects that select Applicants via a referral system approved by the City Manager or designee shall be exempt from this Chapter.

19.94.080 Priority Policy

A. The following levels of priority shall apply to all Applicants, subject in all circumstances to applicable limitations imposed by law, including the Fair Housing Act. The following priorities shall not be enforced where prohibited by law or any funder with respect to the Project.

1. *First Priority.*
 - a. Applicants which are referred by the City of Chula Vista and actively engaged with the Housing and Homeless Services Department; or
 - b. Applicants which meet at least one of the following criteria: (i) Applicants displaced from their primary residence of at least two years as a result of an action of the City or any of its agencies, (ii) Applicants displaced from their primary residence of at least two years as a result of a condominium conversion, (iii) Applicants displaced from their primary residence of at least two years as a result of the expiration of affordable housing covenants, or (iv) Applicants displaced from their primary residence of at least two years as a result of closure of a mobile home or trailer park community.
2. *Second Priority.* Applicants displaced from their primary residence as a result of a no-fault just cause termination of tenancy from a rental unit subject to Chapter 9.65, if such termination was noticed within two years of the date of application. Tenants shall be required to provide proof of such termination in a form acceptable to the City to qualify for such priority.
3. *Third Priority.*
 - a. Applicants with at least one household member whose primary place of residence is in Chula Vista; or
 - b. Applicants with at least one household member who works within or has been hired to work within the Chula Vista, as that person's place of full-time employment; or
 - c. Applicants with at least one household member who has received and accepted a bona fide offer of employment within Chula Vista.
4. *Fourth Priority.* Any Applicants who do not meet the criteria for first priority,

second priority or third priority.

19.94.090 Fees

Application fees shall not be charged until the Applicant has been selected from the Lottery or Waitlist.

19.94.100 Reasonable Accommodations

A. The Owner shall review and respond to all Reasonable Accommodation requests in a timely manner and provide Reasonable Accommodations to eligible Applicants.

B. Applicants and tenants shall not be required to disclose any disability, except as may be necessary to process a request for Reasonable Accommodation. Any such disclosures of disability status shall be kept confidential, except as needed for compliance purposes.

19.94.110 Record Retention

Owner shall preserve records of all marketing efforts, Lottery proceedings, Waitlist data, denials of applications, grievances and appeals, and other marketing and tenant screening records for a minimum period of five years.

19.94.120 Right to Modify

The City Manager or designee may waive or permit deviations from any provision of this Chapter in the discretion of the City Manager or designee.

[Chapter 19.100 remains unchanged.]

Section III. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be, invalid, unenforceable or unconstitutional; by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section IV. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section V. Effective Date

SECOND READING AND ADOPTION

This Ordinance shall take effect and be in force on the thirtieth (30th) day after its final passage.

Section VI. Publication.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Stacey Kurz
Director of Housing & Homeless Services

Marco A. Verdugo
City Attorney