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ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA ADDING
CHULA VISTA MUNICIPAL CODE (CVMC) TITLE 19
(PLANNING AND ZONING) CHAPTER 19.93 (RESIDENTIAL
FOR-SALE AFFORDABLE UNIT REQUIREMENTS)

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

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, the two primary components of this development process include the establishment of a loan, through a Second Trust Deed, between the Homebuyer and the City and an equity share system based upon the Homebuyer’s length of occupancy; and

WHEREAS, the process ensures that the unit shall be affordable to the buyer while maintaining the market value of the property through a Second Loan in favor of the City; and

WHEREAS the policy outlines the development guidelines, 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 the City’s Inclusionary Housing program, Chula Vista Municipal Code Chapter 19.91, and Density Bonus projects, Chula Vista Municipal Code Chapter (“CVMC”) 19.90, that provide for-sale products.

WHEREAS, staff presented the conceptual draft code amendments to the Housing and Homeless Advisory Committee, which recommended adoption at their January 24, 2024 meeting; and

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. 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

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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 Planning Commission held an advertised public hearing on the subject Ordinance and voted _____ to adopt Resolution No. _____, and thereby recommends that the City Council adopt the Ordinance; 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:

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. 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 I. Addition of CVMC Chapter 19.93 (Residential For-Sale Affordable Unit Requirements). The Chula Vista Municipal Code is hereby amended as follows:

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:

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.

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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 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.

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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

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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.

Section II. 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

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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 III. 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 IV. Effective Date

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

Section V. 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