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ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA ADDING
CHAPTER 19.94 TO THE CHULA VISTA MUNICIPAL CODE
TO IMPLEMENT 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 rental affordable housing opportunities for very low-, low-, and moderate- income households; and

WHEREAS, in accordance with Title VI of the Civil Rights Act of 1964, the Federal 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, necessary amendments to the Chula Vista Municipal Code ("CVMC") have been identified to set standards in accordance with industry best practices and align with State and federal laws such as Title VI of the Civil Rights Act of 1964, the Federal Fair Housing Act, California's Fair Employment and Housing Act; and

WHEREAS, staff presented the draft code amendments to the Housing and Homeless Advisory Committee, which recommended adoption; 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 within the City above what already is permitted under the existing land use and zoning policies of

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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 19.94 (Marketing, Application, Lottery, and Waitlist Requirements for Affordable Rental Housing Projects). The Chula Vista Municipal Code is hereby amended as follows:

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

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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.

- 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:

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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.

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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.

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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

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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.*

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- (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.

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 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