

ORDINANCE NO. 2959

AN ORDINANCE OF THE CITY OF REDLANDS AMENDING TITLE 18 (ZONING REGULATIONS) OF THE REDLANDS MUNICIPAL CODE BY ADDING CHAPTER 18.230 FOR AN INCLUSIONARY HOUSING PROGRAM FOR THE CITY OF REDLANDS

WHEREAS, the City has initiated Ordinance Text Amendment No. 367 in accordance with Chapter 18.204 of the Redlands Municipal Code; and

WHEREAS, the Planning Commission finds that the City of Redlands faces a serious housing problem and the lack of access to affordable housing has a direct impact upon the health, safety, and welfare of the residents of the City; and

WHEREAS, the California Legislature has consistently recognized the continuing need for affordable housing in California, stating in Government Code Section 65580, that "the availability of housing is of vital statewide importance, and the early attainment of decent housing... is a priority of the highest order" and, further, that, "local... governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community"; and

WHEREAS, affordable housing is regulated by a variety of state and local laws, ordinances, and policies, and the Regional Housing Needs Assessment (RHNA) requires the City to provide for the development of a specified number of housing units. The City's Housing Production allocation for the 2021-2029 allocation cycle calls for the development of 2,234 new affordable housing units as follows: 652 units are needed for moderate-income households; 615 units are needed for low-income households and 967 units are needed for very low and extremely low-income households; and

WHEREAS, the City desires to explore and, to the extent feasible, use all available tools to meet its mandated regional housing goals; and

WHEREAS, a lack of new units affordable to very-low, low and moderate-income households within the City will have a substantially negative impact because: (1) housing will have to be built far from employment centers, which will increase commuting and negatively impact traffic, air and noise pollution, and (2) the City and employers within the City will find it difficult to recruit and retain employees; and

WHEREAS, the City Council considered the findings, recommendations, and analysis contained in the report entitled Inclusionary Housing: Policy Recommendations (dated January 23, 2023) and the report entitled Inclusionary Housing: Financial Evaluation (dated January 23, 2023), both prepared by Keyser Marston Associates, and has determined that it is in the furtherance of the public health, safety, and welfare to require new Residential Development to incorporate affordable housing units within their development or otherwise take measure to further the development of affordable housing within the City; and

WHEREAS, the State of California requires each city to develop a general plan establishing policies for future development. As specified in the Government Code, the general plan must: (i) encourage the development of a variety of housing types for all income levels; (ii) assist in the development of adequate housing to meet the needs of low and moderate-income households; and (iii) conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action; and

WHEREAS, the City has authority under its police power to protect the public health, safety, and welfare, by imposing land use regulations that that will provide additional housing that is affordable to all income levels that is dispersed throughout the City; and

WHEREAS, the implementation of an inclusionary housing requirement in accordance with this proposed ordinance will provide a mechanism for all Residential Development containing ten (10) or more units to provide a contribution to affordable housing consistent with the goals of the City's adopted Housing Element; and the implementation of the ordinance will aid the City in achieving the goal of making affordable housing diverse, dispersed, and inclusionary; and

WHEREAS, an affordable inclusionary housing requirement for all new developments containing ten (10) or more residential units, in the City of Redlands will serve to contribute to meeting the City's overall future need of affordable housing and to help meet its RHNA allocations; and

WHEREAS, on February 14, 2023, the Planning Commission held a noticed public hearing and considered the staff report, oral report, the testimony and written evidence submitted by City staff; and

WHEREAS, on February 14, 2023, the Planning Commission held a noticed public hearing and considered the testimony and any written evidence submitted by the public; and

WHEREAS, on April 25, 2023, the Planning Commission held a noticed public hearing and considered the staff report, oral report, the testimony and written evidence submitted by City staff; and

WHEREAS, on April 25, 2023, the Planning Commission held a noticed public hearing and considered the testimony and any written evidence submitted by the public; and

WHEREAS, on April 25, 2023, the Planning Commission unanimously recommended to the City Council that Ordinance Text Amendment No. 367 be approved; and

WHEREAS, in accordance with Government Code section 65090, on or about May 26, 2023, the City Clerk gave notice by publication in a newspaper of general circulation of the holding of a public hearing at which Ordinance No. 2959 would be considered by City Council; and

WHEREAS, on June 20, 2023, the City Council held a noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Ordinance No. 2959; and

WHEREAS, adoption of the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) of the California Environmental Quality Act Guidelines; and

WHEREAS, after closing the public hearing and deliberating upon the matter, the City Council finds that approval of the proposed amendment to Title 18 (Zoning Regulations) of the Redlands Municipal Code will be in the best interests of the public health, safety, and general welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDLANDS DOES ORDAIN AS FOLLOWS:

SECTION 1. California Environmental Quality Act. The proposed Ordinance Text Amendment No. 367 qualifies for exemption from environmental review and the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3). Under section 15061(b)(3), the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the project is exempt from CEQA. This Ordinance Text Amendment will not affect the physical environment by permitting a new use or intensifying an existing use. Instead, the Ordinance Text Amendment establishes affordable housing requirements through a range of means for individual projects. There is no potential for the changes to result in a significant effect on the environment.

SECTION 2. APPROVAL OF ORDINANCE TEXT AMENDMENT NO. 367. The proposed amendment to Title 18 (Zoning Regulations) of the Redlands Municipal Code is hereby adopted to add Chapter 18.230, entitled “Inclusionary Housing,” which shall read as follows:

“CHAPTER 18.230 INCLUSIONARY HOUSING”

18.230.010: PURPOSE:

The City’s purpose in enacting this title are as follows:

- (a) To ensure the development and availability of decent, affordable housing to a broad range of households with varying income levels throughout the City.
- (b) To promote the City's goal to add affordable housing units to the City's housing stock.
- (c) To ensure the long-term affordability of units and availability for income-eligible households in years to come.
- (d) To ensure that the private sector, in addition to public sector, participates in the provision of affordable housing for current and future residents of the City of Redlands.
- (e) To ensure that affordable housing will be dispersed throughout the City and not be segregated from market-rate housing.

18.230.020: DEFINITIONS:

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this title, except where the context clearly indicates a different meaning:

“Affordable Housing Cost” means the housing cost for for-sale Inclusionary Units as defined by California Health & Safety Code section 50052.5 for owner occupied housing, as applicable to the moderate-income households.

“Affordable Housing Agreement” means a legally binding agreement between an applicant and the City, in a form and substance satisfactory to the City Manager and City Attorney and suitable for recording, setting forth those provisions necessary to ensure that the requirements of this chapter are, and will continue to be, satisfied.

“Affordable Rent” means the affordable rent for rental dwelling units as defined in California Health and Safety Code Section 50053.

“Affordable Sales Price” means the maximum sales price for which a for-sale Inclusionary Unit may be sold, that will result in the purchaser paying an Affordable Housing Cost for the for-sale Inclusionary Unit, assuming a benchmark mortgage interest rate and minimum down payment as may be established by the City from time to time.

“Applicant” or *“developer”* means a person, persons, or entity that applies to the City for one or more discretionary or residential permits required for the development of a Residential Development and also includes the owner or owners of the property if the Applicant does not own the property on which the development is proposed.

“Area Median Income” means the annual median household for San Bernardino County, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision.

“Building Permit” means full structural building permits as well as partial permits such as foundation-only permits.

“Certificate of Occupancy” means the permit issued by the City of Redlands building division authorizing the initial occupancy of a residential unit, including a temporary certificate of occupancy.

“City Manager” means the City of Redlands City Manager or designee.

“Density Bonus Units” mean dwelling units approved in a Residential Development pursuant to California Government Code section 65915 *et seq.* and the City Density Bonus Ordinance (Redlands Municipal Code chapter 18.228) that are in excess of the maximum residential density otherwise permitted by the City of Redlands General Plan or Zoning Ordinance, and any applicable Specific Plan.

“Dwelling Unit” shall have the definition given for dwelling unit in subsection 18.08.225 of the Redlands Municipal Code.

“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.).

“Household” means one person living alone or two or more persons sharing residency.

“Inclusionary Housing Fund” means the fund established pursuant to subsection 18.230.170(B) of this chapter, which is designated by the City to maintain and account for all funds received pursuant to this title, including but not limited to, all In-lieu Fees.

“Inclusionary Housing Plan” means a plan containing all the information specified in and submitted in conformance with subsection 18.230.140 of this chapter specifying the manner in which Inclusionary Units will be provided in conformance with this chapter.

“Inclusionary Unit” means a dwelling unit that is designated to meet the requirements set forth in this chapter, and that must be made available at an Affordable Housing Cost or an affordable rent to eligible moderate-, low- or very low-income households, as applicable to the unit.

“In-lieu Fee” means a fee paid by an applicant into the City’s Inclusionary housing fund in-lieu of constructing Inclusionary Units pursuant to this chapter. Payment of In-lieu Fees shall be allowed as an option in accordance with subsection 18.230.120(A) of this title.

“Low-Income Household” means a household whose income does not exceed the qualifying limits for lower income families as established and amended from time to time for San Bernardino County pursuant to Section 8 of the United States Housing Act of 1937. The income limit for low-income households, adjusted for family size, is published periodically in the California Code of Regulations, Title 25, Section 6932.

“Low-income Unit” means a dwelling unit that is required to be sold or rented to a low-income household at an Affordable Sales Price or an affordable rent, as applicable.

“Market-Rate Unit” means a dwelling unit in a Residential Development that is not an Inclusionary Unit.

Moderate-Income Household shall have the same definition of “persons and families of low or moderate-income as set forth in California Health & Safety Code Section 50093. The income limit for moderate-income households, adjusted for family size, is published periodically in the California Code of Regulations, Title 25, Section 6932.

“Moderate-Income Unit” means a dwelling unit that is required to be sold or rented to a moderate-income household, or a low-income unit that is able to qualify to rent or purchase the moderate-income unit.

“Rental” means a dwelling unit that is not a for-sale dwelling unit, and does not include any dwelling unit, whether offered for rental or sale, that may be sold as a result of the lawful subdivision of the parcel upon which the dwelling unit is located or creation of the unit in accordance with the Subdivision Map Act (Government Code section 66410 et seq.).

“Resale Restriction Agreement” means a legally binding agreement between the City and the purchaser of a for-sale Inclusionary Unit, in a form as approved by the City Attorney, which requires that the Inclusionary Unit to be occupied by the purchaser for the term of the agreement or sold to another Moderate-Income Household at an Affordable Sales Price.

“Residential Development” means any development project for which an application for any ministerial or discretionary permit has been submitted to the City, and where the development would create new or additional dwelling units by the construction or alteration of structures, the conversion of a use to residential from any other use, or the conversion of a use to for-sale residential from rental residential use.

“Utilities” means garbage collection, sewer, water, electricity, gas and other heating, cooling, cooking and refrigeration fuels.

“Very Low-income Household” means a household whose income does not exceed the qualifying limits for very low-income families as established and amended from time to time for San Bernardino County pursuant to Section 8 of the United States Housing Act of 1937. The income limits for very low-income households, adjusted for family size, is published periodically in the California Code of Regulations, Title 25, Section 6932.

“Very Low-income Unit” that is required to be rented to a very low-income household at an affordable rent.

18.230.030: INCLUSIONARY HOUSING REQUIREMENTS:

A Residential Development that includes ten (10) or more Dwelling Units shall be subject to the provisions of this chapter.

A. Inclusionary Requirements for For-Sale Dwelling Units: Residential developments that include for-sale single-family detached dwelling units, townhomes, and condominiums shall include for-sale moderate-income units equal to five percent (5%) of the total number of dwelling units in the Residential Development. If a residential condominium development is developed with the intent to initially rent the dwelling units, the Residential Development shall comply with the inclusionary requirements for rental dwelling units set forth in subsection B below, and any future sale of the Inclusionary Units shall be addressed in the Affordable Housing Agreement for

the Inclusionary Units for-sale dwelling units shall provide Inclusionary Units through one of the following means:

B. Inclusionary Requirements for Rental Dwelling Units: Residential Developments that are comprised of Rental dwelling units shall include, within the residential development, one of the following as a percentage of the total number of Dwelling Units:

1. 5% Low Income Units and 7% Moderate Income Units; or
2. 5% Very Low Income Units and 5% Moderate Income Units; or
3. 9% Low Income Units

C. Notwithstanding the requirements contained in 18.230.030(A) and (B), projects for which the City has received a development application on or before March 1, 2023 may fulfill the requirements of this title by providing 5% Very Low-Income rental units.

D. Density Bonus Units: For purposes of calculating the number of Inclusionary Units required, any additional units authorized as density bonus units will not be counted in determining the required number of Inclusionary Units.

E. Fractional Units: If, in computing the total number of Inclusionary Units required in a Residential Development, there is a fractional unit required, the Applicant shall pay an In-lieu Fee in the amount determined pursuant to subsection 18.230.120(A)(4) of this title, equal to the amount calculated for that fractional unit on a per Dwelling Unit basis.

F. Residential Development with a Combination of For-sale and Rental Dwelling Units: When a Residential Development includes a combination of for-sale and rental Dwelling Units, the number and income levels for Inclusionary Units required for the Residential Development shall be calculated for each category of dwelling units (i.e., for-sale and rental) individually, and combined to comprise the Residential Development's total inclusionary housing requirement pursuant to this title.

18.230.040: DURATION OF AFFORDABILITY COVENANTS:

A. For-sale Inclusionary Units produced pursuant to this chapter must be legally restricted to sale to and occupancy by households of the income levels for which the units were designated for a single cumulative term of 55 years. During that term, the for-sale Inclusionary Units may only be sold and resold to Moderate or Low-Income Households at an Affordable Sales Price for Moderate-Income Households.

B. Rental units produced pursuant to this chapter must be legally restricted to rental to and occupancy by households in the income level for which the Inclusionary Units are developed for a term of not less than fifty-five (55) years. At the end of the fifty-five-year term, the restrictions on rental of the Inclusionary Units may only be removed in the event that the property upon which the rental Inclusionary Unit or units are located is rezoned and used for non-residential use.

C. To ensure compliance with the durational requirement, Affordable Housing Agreements, and resale restriction agreements for For-sale Inclusionary Units, shall be recorded in the chain of title for every Inclusionary Unit as provided in subsection 18.230.140(E) of this title.

18.230.050: DEVELOPMENT STANDARDS FOR FOR-SALE INCLUSIONARY UNITS:

Unless otherwise specified by the City Council, Inclusionary Units shall be developed and incorporated into the applicable Residential Development in a manner consistent with the following requirements:

A. For-sale Inclusionary Units shall be reasonably dispersed throughout a Residential Development and not clustered in a specific portion of the development, and the location of the for-sale Inclusionary Units within a Residential Development shall be designated before issuance of building permits for the development.

B. The for-sale Inclusionary Units shall be built concurrently with the market rate units in the Residential Development. The Inclusionary Units may be constructed in phases if the market rate units are constructed in phases, provided that the percentage of Inclusionary Units developed in each phase shall be equivalent to or greater than the total percentage of Inclusionary Units to be developed as part of the Residential Development until such time that all the Inclusionary Units have been built.

C. For-sale Inclusionary Units shall be comparable in infrastructure (including sewer, water and other utilities), construction quality and exterior design to the market-rate units.

D. The bedroom mix for the for-sale Inclusionary Units must be proportional to the bedroom mix of the market rate units, but the for-sale Inclusionary Units may be smaller in square footage than the market rate units.

E. The interior finishes and features for the Inclusionary Units must be comparable to the base level interior finishes for the market-rate units, and the appliance packages in the for-sale Inclusionary Units must be the same as the appliance packages provided in the base level market rate units.

18.230.060: DEVELOPMENT STANDARDS FOR RENTAL INCLUSIONARY UNITS:

A. The rental Inclusionary Units developed in a rental Residential Development shall be designated before issuance of building permits for the development and shall be reasonably dispersed throughout the Residential Development.

B. The rental Inclusionary Units shall be built concurrently with the market rate units in the rental Residential Development.

C. The bedroom mix for the rental Inclusionary Units in a rental Residential Development must be proportional to the bedroom mix of the market rate units, but the Inclusionary Units may be smaller in square footage than the market rate units.

D. The interior improvements for the rental Inclusionary Units must be consistent with defined housing quality standards as established for Inclusionary Units by the City. If no such housing quality standards have been established by the City, the improvements shall comply with the standards established or approved by the California Tax Credit Allocation Committee for residential units developed pursuant to the federal low-income housing tax credit program. The market rate units can include enhanced interior improvements.

18.230.070: DEVELOPMENT STANDARDS FOR OFF-SITE INCLUSIONARY UNITS:

Inclusionary units that are constructed to satisfy this title that are outside the boundaries of the market-rate Residential Development shall comply with the following requirements:

A. The Inclusionary Units constructed must be rental dwelling units.

B. The parcel upon which the rental Inclusionary Units are constructed must be constructed within one mile of the boundary of the market rate Residential Development that is subject to the requirements of this title.

C. The Inclusionary Units shall not create an over concentration of deed restricted affordable housing units in any specific neighborhood. For purposes of this title, “over concentration” is defined as more than fifty (50) deed restricted very low or low-income dwelling units within ¼ mile of the site of the proposed Inclusionary Units, or more than two hundred (200) of such units within one-half (½) mile of the site of the proposed Inclusionary Units.

D. The developer of the for-sale Residential Development may enter into an agreement with a separate affordable housing developer to construct, own and operate the rental Inclusionary Units, subject to the following requirements:

1. The affordable housing developer must have relevant recent experience developing affordable housing and be approved by the City in its sole discretion; and

2. The affordable housing developer may not request any financial assistance from the City.

3. The affordable housing developer may apply to use the density bonus, incentives and concessions available pursuant to Government Code section 65915 for the Residential Development based on the Inclusionary Units developed outside the boundaries of the Residential Development as provided in this subsection.

E. Design, building quality and maintenance standards must be consistent with defined housing quality standards as established for Inclusionary Units by the City. If no such housing

quality standards have been established by the City, the improvements shall comply with the standards established or approved by the California Tax Credit Allocation Committee for residential units developed pursuant to the federal low-income housing tax credit program.

F. The bedroom mix for the rental Inclusionary Units shall not be required to be proportionate to the for-sale residential units, provided that the rental Inclusionary Units shall be consistent with the following requirements:

1. No more than fifteen percent (15%) of the rental Inclusionary Units may be studio units.
2. At least forty percent (40%) of the rental Inclusionary Units must include two or more bedrooms.
3. The remaining units must be one or more bedrooms.

G. The rental Inclusionary Units shall be built prior to or concurrently with the market rate units in the Residential Development that triggered the requirements for the Inclusionary Units. If the market rate units are constructed in phases, the rental Inclusionary Units must be constructed prior to or concurrently with the first phase of the market rate Residential Development. The developer shall not commence construction on the second phase of the Residential Development until the required rental Inclusionary Units are completed.

18.230.080: ACCESS TO COMMON AMENITIES:

Residents and tenants of Inclusionary Units located within the Residential Development shall be provided the same rights and access to common amenities in the development project as residents and tenants occupying market-rate units.

18.230.090: INCLUSIONARY HOUSING POLICIES AND PROCEDURES:

The City will prepare manuals that detail the Inclusionary Housing policies and procedures that will be applied to residential projects that are subject to the Inclusionary Housing program requirements. Separate manuals will be prepared for For-sale and Rental housing developments.

18.230.100: MARKETING OF INCLUSIONARY UNITS:

Developer shall use commercially reasonable efforts to market the Inclusionary Units to eligible residents of the City of Redlands, consistent with the City’s Inclusionary Housing Policies and Procedures.

18.230.110: ALTERNATIVE MEANS OF FULFILLING INCLUSIONARY HOUSING OBLIGATIONS:

A. Payment of In-lieu Fee

As an alternative to constructing Inclusionary Units as required by this title, all or a portion of the inclusionary housing requirement may be fulfilled through the payment of an In-lieu Fee pursuant to an In-lieu Fee schedule adopted by the City pursuant to this title, subject to the following:

1. For-sale Residential Developments of any size may pay an In-lieu Fee by-right.
2. Rental Residential Developments with twenty two (22) or fewer units may pay an In-lieu Fee by-right.
3. Rental Residential Developments with twenty three (23) or greater units may pay an In-lieu Fee, subject to approval by the City Council, upon a demonstration that providing the affordable units in the Residential Development would create an unreasonable economic hardship due to such factors as project size, site constraints, and/or excessively large affordability gaps.
4. Prior to the effective date of this title, and from time to time thereafter, the City Council shall adopt by resolution a schedule of In-lieu Fees that shall be levied based on the square footage of the saleable area of For-sale Residential Developments or leasable area of Rental Residential Developments, but excluding the affordable units in a project that received a density bonus in accordance with Government Code section 65915.1. The amount of In-lieu Fees shall be established by resolution of the City Council. The In-lieu Fee schedule shall be updated periodically by the City Council.
5. The required In-lieu Fees shall be paid at the time that the first building permit is obtained for the Residential Development, except that, for phased projects, the developer may pay a pro rata share of the In-lieu Fee, based on the number and size of phases in the development, concurrently with the issuance of the first building permit for each phase of the Residential Development.
6. All In-lieu Fees collected under this title shall be deposited in the Inclusionary Housing fund established by the City pursuant to subsection 18.230.170(B) of this title.

B. Off-site Development of Affordable Units

Residential Developments can fulfill Inclusionary Housing requirements by renting 9% of the total number of units in the development at the Low-income standard in one of the following ways:

1. Off-site production of affordable rental units; or
2. Creation of a parcel within a For-sale Housing Development site on which affordable rental units are constructed.

C. Land Dedication

As an alternative to constructing the required inclusionary units in accordance with this title, the City Council may, in its discretion, allow an applicant to dedicate real property to the City for the purpose of developing affordable housing, provided that the real property dedicated to the City must satisfy all of the following requirements:

1. The real property must be conveyed to the City at no cost.
2. At the time the applicant submits a proposal to dedicate real property to the City pursuant to this title, the applicant must provide evidence satisfactory to the City that the property meets the following requirements:
 - a. The applicant has control over the property through fee ownership, an option to purchase the property, or other property interest demonstrating site control satisfactory to the City, and the real property is free of any monetary liens. In the event that there are any encumbrances or easements that adversely impact title to the property, those encumbrances or easements must be disclosed and factored into the estimated value of the real property interest to be conveyed to the City.
 - b. The applicant must provide evidence satisfactory to the City that the property does not contain any hazardous materials at the time of conveyance; must disclose whether any hazardous materials were previously found on the property; and if hazardous materials were previously remediated from the property, the applicant must provide evidence satisfactory to the City that such hazardous materials were remediated in accordance with all applicable laws and regulations.
 - c. The property cannot have been improved with any residential use for at least five years prior to the submission of the proposal for dedication of the property to the City pursuant to this title.
 - d. The property must be located within one mile of the property upon which the applicant proposes to develop the market rate residential development that has triggered the requirements of this title.
 - e. The property must have a general plan designation that authorizes residential uses and is zoned for residential development at a density to accommodate at least a number of dwelling units equal to at least 10% of the number of dwelling units proposed in the Applicant's residential development.
 - f. The property must be suitable for development of inclusionary units equal to at least 10% of the number of dwelling units proposed in the applicant's residential development, in terms of configuration, physical characteristics,

location, access, adjacent uses, and other relevant planning and development criteria including, but not limited to, factors such as the cost of construction or development arising from the nature, condition, or location of the property.

- g. Infrastructure to serve the property, including but not limited to streets and public utilities, must be available at the property line and have adequate capacity to serve the maximum allowable residential development pursuant to zoning regulations.
3. In order to assist the City in evaluating a proposal by an applicant to dedicate property pursuant to this title, the applicant shall submit the following documents:
 - a. A conceptual site plan and narrative description of a residential development that could be developed on the property.
 - b. An identification of the income and affordability restrictions proposed to be imposed on the property.
 - c. A pro forma analysis that quantifies any financial gap associated with the identified development scope and describes how this financial gap will be filled.
 - d. If the applicant believes a density bonus would be required pursuant to Government Code Section 65915, the terms of the requested density bonus; and the incentives, concessions, and development waivers that applicant anticipates will be requested for the development of the property.
 4. Prior to scheduling a proposal for dedication of property pursuant to this title for consideration by the City Council, City staff will independently evaluate the applicant's proposal and provide the City Council with an analysis of whether the proposal meets the required standards set forth in this title.

D. The alternative means of compliance set forth herein are intended to implement the City's authority to promote the development of affordable housing, in accordance with California Government Code § 65850, subdivision (g), and shall not be considered or construed as an ad hoc exaction, a mandated fee required to develop a specific property, or a fee imposed to offset the development impacts of a specific project.

18.230.120: EXEMPTIONS:

The requirements of this chapter do not apply to:

- A. Residential developments of nine (9) or fewer housing units.

B. The reconstruction of any structures that have been destroyed by fire, flood, earthquake, or other act of nature provided that the reconstruction of the site does not increase the number of residential units by three or more.

C. Residential building additions, repairs or remodels, provided that such work does not increase the number of existing units by three or more.

D. Residential developments that have been deemed complete by the City pursuant to Government Code Section 65589.5 or 65943 as of the effective date of this title. Further, for Residential Developments that have been deemed complete by the City pursuant to Government Code Section 65589.5 or 65943 within forty-five (45) days of the effective date of this title, the inclusionary housing requirement imposed pursuant to this chapter shall be reduced by fifty percent (50%).

18.230.130: COMPLIANCE PROCEDURES:

A. No Residential Development subject to this title shall be approved or deemed approved without approval of an Inclusionary Housing Plan as provided herein.

B. Submittal of Inclusionary Housing Plan: The applicant for a residential project subject to this title shall submit an Inclusionary Housing Plan in conjunction with its application for discretionary approvals required of the City for the Residential Development, or if no discretionary approvals are required, in conjunction with the application for the first ministerial permit or approval required for the Residential Development. The Inclusionary Housing Plan shall be in a form as required by the City and must include the following information as applicable based on the applicant's method of compliance with this title:

1. Whether the Residential Development is For-sale or Rental;
2. How the inclusionary housing requirement will be satisfied pursuant to this title;
3. The number, unit type, tenure, number of bedrooms, approximate location, size and design, construction and completion schedule of all Inclusionary Units;
4. For off-site development of Inclusionary Units, such information as is required to demonstrate compliance with subsection 18.230.120(B);
5. Phasing of Inclusionary Units in relation to market rate units;
6. The amount of In-lieu Fees to be paid by applicant, if applicable.
7. Any other information reasonably requested by the City Manager to assist with evaluation of the plan under the requirements of this ordinance.

8. Acknowledgement that an instrument as specified by the City restricting the Inclusionary Unit(s) as affordable shall be recorded against every Inclusionary Unit and that a recordable Affordable Housing Agreement shall be entered into by the applicant and any other necessary party, and/or that all required In-lieu Fees shall be paid at the time set forth in subsection 18.230(A)(5).

C. Approval of Inclusionary Housing Plan.

1. In the event that the Residential Development requires discretionary approvals in order to be developed, the Inclusionary Housing Plan shall be considered with the application for such inclusionary approvals by the entity responsible for reviewing such discretionary approvals and may be appealed in accordance with the appeals procedures established for such approvals.

2. In the event that the Residential Development does not require discretionary approvals in order to be developed, the Inclusionary Housing Plan shall be considered by the City Manager and must be approved prior to the issuance of any ministerial permits required for the Residential Development. The City Manager's decision is final unless a written appeal is filed with the City Clerk's office within ten days from the date of issuance of the City Manager's decision under this title. The City Council's decision on appeal shall be final.

3. Notwithstanding the foregoing, in the event the applicant desires to comply with this title by means of a method that specifically requires City Council approval pursuant to this title, the Inclusionary Housing Plan shall be considered by the City Council either prior to or concurrently with consideration by the required decision-making body for the approvals required for the Residential Development.

D. Form of restrictions: The forms of the Affordable Housing Agreement and any related declarations, resale restrictions, deeds of trust, and other documents authorized by this title shall be in a general form as prescribed by the City and shall be approved by the City Manager and approved as to form by the City Attorney prior to being executed with respect to any Residential Development subject to this program.

E. Recording of Affordable Housing Agreements.

1. An Affordable Housing Agreement in a form approved by the City must be recorded against Inclusionary Units or the Residential Development in its entirety, as deemed appropriate by the City Manager in consultation with the City Attorney, prior to the issuance of any building permit for the Residential Development. The Affordable Housing Agreement shall ensure that the applicant develops the required Inclusionary Housing Units and complies with all other terms of the approved Inclusionary Housing Plan and this title.

2. Resale restrictions, deeds of trust, and/or other documents as deemed necessary or appropriate by the City Manager shall be recorded against For-Sale Inclusionary Units to ensure the continued affordability of the For-Sale Inclusionary Units in compliance with this title.

F. Building permits: The City shall not issue a building permit for a Residential Development subject to the requirements of this title without an Affordable Housing Agreement executed by the owner, the applicant (if not the owner) and the City Manager, and approved as to form by the City Attorney, and recorded against the property, or payment of In-lieu Fees in accordance with this title.

18.230.140: REQUIREMENTS FOR FOR-SALE INCLUSIONARY UNITS:

A. Initial sales price and resale: The initial sales price and resale price of the For-sale Inclusionary Unit will be at an Affordable Sales Price that will ensure that the purchaser of the Inclusionary Unit will pay an Affordable Housing Cost for the unit. The City shall, from time to time, set a benchmark mortgage interest rate and an assumed home buyer down payment amount to be used to calculate the Affordable Sales Price. The City Manager may establish and adjust such benchmark mortgage interest rates, establish an assumed home buyer down payment amount, along with a range of allowable home buyer down payments pursuant to the delegated authority set forth in 18.230.170(A). Such standards shall be in writing and available to the public upon request.

B. Transfer: A resale restriction agreement will be entered into on each change of ownership of For-sale Inclusionary Units, to maintain the household income restriction on the Inclusionary Unit prior to the expiration of the affordability period established pursuant to subsection 18.230.040.

C. Owner occupancy required: All for-sale Inclusionary Units are subject to the following regulations:

1. *Principal residence.* The purchaser of the Inclusionary Unit shall use and occupy the Inclusionary Unit as purchaser's principal place of residence.
2. *No rental.* Owner is expressly prohibited from leasing or renting the Inclusionary Unit unless the City has given its prior written consent to such lease or rental on the basis of a demonstrated hardship by the owner.
3. *Annual report.* The City from time to time may require certification of continuing occupancy of the Inclusionary Unit by owner, which shall be verified by owner to the reasonable satisfaction of the City by means of a written report by owner to the City setting forth the income and family size of the occupants of the Inclusionary Unit. Such report shall be submitted to the City annually. Owner shall not be deemed to be in default of the

affordable agreement and this program for any failure to deliver such annual report until 30 days after receipt by owner of written notice from the City requesting such report. The City shall have the option of establishing the type of form to be used for the report.

18.230.150: OCCUPANCY OF RENTAL UNITS:

A. Occupancy of Rental Units: Unless determined otherwise by the City Council, all rental Inclusionary Units required by this title shall be only rented to households in the appropriate income category for the Inclusionary Units, as set forth in this title.

B. Use and occupancy of rental Inclusionary Units: The applicant shall designate and offer rental Inclusionary Units for rent to households in the appropriate income category, based on the approved Inclusionary Housing Plan.

C. Establishment of rental rates: The maximum allowable rent of Inclusionary Units will be the Affordable Rent as defined herein, based on the applicable income levels for the Inclusionary Units, and shall be confirmed by the City on an annual basis.

D. Annual report: The owner shall submit an annual report summarizing the occupancy of each Rental Inclusionary Unit for the year. The City may require additional information if deemed necessary. The owner must obtain and review documents that demonstrate the prospective renter's total income, such as income tax returns or W-2s for the previous calendar year, and submit such information on a form approved by the City.

18.230.160: ADJUSTMENTS, WAIVERS:

The requirements of this ordinance may be adjusted or waived if the applicant demonstrates to the City Manager that applying the requirement of this ordinance would take property in violation of the United States or California Constitutions.

A. Timing: For an adjustment or waiver to be considered, the applicant must apply for the same at the time of an application for the Residential Development.

B. Adjustment or waivers: If the City Manager determines that applying the requirement of this program, considered together with any variances, or regulatory concessions or incentives that may be applied to the proposed residential project, would take property in violation of the United States or California Constitutions, the requirements of this program shall be modified, adjusted or waived to reduce the obligations but only to the extent necessary to avoid an unconstitutional result. If the City Manager determines no violation of the United States or California Constitutions would occur through application of this ordinance, the requirements of this ordinance remain applicable.

C. Decision and further appeal: The City Manager will determine the adjustment or waiver application and issue a written decision. The City Manager's decision may be appealed to the City Council in the manner and within ten days of issuance of the written decision by the City Manager. In making the (adjustment or waiver) determination, the City Manager or City Council, as applicable shall assume each of the following:

1. Application of the inclusionary housing requirement to the Residential Development;
2. Application of any applicable inclusionary or density bonus concessions, incentives or waivers;
3. Utilization of the most cost-efficient product type for the Inclusionary Units; and
4. The potential for the external funding, including but not limited to, governmental grants, loans, or subsidies of any nature where reasonably likely to occur.

18.230.170: ADMINISTRATION AND ENFORCEMENT:

A. Program administration: The City Manager is hereby given authority to initiate any administrative procedures or implementation guidelines as may be necessary to implement and carry out the purpose and intent of this title. Further, the City Manager may, in the implementation of this program, develop application forms and submittal requirements reasonably related to the implementation of this title.

Forms or materials needed for implementation of this title may be introduced and utilized by the City as the City Manager deems may be necessary or desirable. All form changes or administrative procedures initiated by the City Manager, and all administrative determinations or exercises of delegated authority by the City Manager, shall be carried out in a manner consistent with, and reasonably related to, the purposes and intent of this title, the housing element and all other elements of the City's General Plan, and the furtherance of state and local housing policies and goals, while respecting at all times the rights of property owners and applicants.

B. Inclusionary Housing Fund:

1. Unless otherwise required by law, all In-lieu Fees and any other funds collected under this title shall be deposited into a separate account to be designated as the City of Redlands Inclusionary Housing Fund.
2. The moneys in the inclusionary housing fund and all earnings from investment of the moneys in the inclusionary housing fund shall be expended exclusively to provide housing affordable to Very Low-income, Low-income, and Moderate-income households in the City of Redlands leveraging funds, and administration and compliance monitoring of the Inclusionary Housing Program.

C. Enforcement:

1. The City Attorney shall be authorized to enforce the provisions of this title and all Affordable Housing Agreements, resale restrictions, deed of trust, and other requirements placed on Inclusionary Units by civil action and any other proceeding or method permitted by law. The City may, at its discretion, take such enforcement action as is authorized under this code and/or any other action authorized by law or by any regulatory document, restriction, or agreement executed under this title.

2. Failure of any official or agency to fulfill the requirements of this title shall not excuse any applicant or owner from the requirements of this title. No permit, license, map, or other approval or entitlement for a Residential Development shall be issued, including without limitation a final inspection or certificate of occupancy, until all applicable requirements of this title have been satisfied.

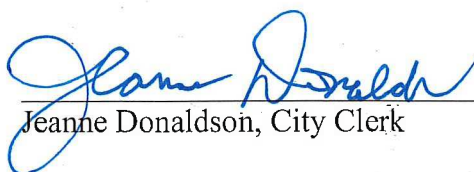
3. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the city from any other remedy or relief to which it otherwise would be entitled under law or equity.”

SECTION 3. If any section, sentence, clause or phrase of this ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are severable. The City Council of the City of Redlands hereby declares that it would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign this ordinance and the City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published once in a newspaper of general circulation within the City, and thereafter, this ordinance shall take effect as provided by law.


Eddie Tejada, Mayor

ATTEST:


Jeanne Donaldson, City Clerk

I, Jeanne Donaldson, City Clerk, City of Redlands, hereby certify that the foregoing Ordinance was duly adopted by the City Council at the regular meeting thereof, held on the 5th day of July, 2023, by the following vote:

AYES: Councilmembers Davis, Guzman-Lowery, Saucedo; Mayor Tejada
NOES: None
ABSENT: Councilmember Barich
ABSTAINED: None



Jeanne Donaldson, City Clerk