

ORDINANCE 14-4

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST SACRAMENTO AMENDING CHAPTER 15.40 RELATED TO AFFORDABLE HOUSING

The City Council of the City of West Sacramento does ordain as follows:

Section 1. Amendment: Chapter 15.40 of the West Sacramento Municipal Code is hereby amended in its entirety to read as follows:

15.40.010 Purpose and Intent

The purpose of this Chapter is to:

Provide a Chapter implementing Program 1.2, Inclusionary Housing Requirements for Residential Development, of the City's Housing Element.

Promote the provision of housing for all economic segments of the community.

Ensure that affordable rental housing is managed, maintained and operated consistently with its status as an important community asset.

15.40.020 Findings

The City Council finds that:

The City, as a member of the Sacramento Area Council of Governments has received housing development goals, which require the use of a variety of tools and methods to address the housing needs of very low, lower and moderate income households.

The Housing Element of the City's General Plan, which guides and directs new growth and development, calls for an implementing Chapter to further the affordable housing goals of the City and address State housing requirements, including the City's regional "fair share" allocation pursuant to Government Code Section 65584. The lack of affordable housing has a direct impact upon the health, safety and welfare of City residents.

Federal and State housing subsidy programs are insufficient to address the housing needs of very low and lower income households.

Affordable rental housing developed under this Chapter represents a unique and valuable community asset. Unlike for-sale housing, the households benefiting directly from affordable rental housing have only a limited ability to control such issues as maintenance and repair of units, leasing and operating practices, and on-site security. Ensuring that this asset is well managed and maintained for the duration of the affordability controls furthers important public goals by providing a safe and healthy living environment for households most in need, and by ensuring that rental housing developments do not deteriorate and create or exacerbate urban blight within the City.

Certain for-sale housing developments contain significant areas and buildings that are under common ownership and control, typically through a homeowner's association, and thus present some of the same issues that arise in the case of rental housing. For that reason it is important to ensure that such common areas and buildings are also well managed and maintained.

15.40.030 Definitions

- A. "Affordable Housing Agreement" means the agreement described in Section 15.40.100 of this Chapter between the Developer of a Residential Project and the City detailing how a Residential Project's inclusionary requirements will be met.
- B. "Affordable Housing Cost" means, for Residential Projects with for-sale units, a monthly payment which shall not exceed the product of 30 percent of 70 percent of the Area Median Income, adjusted for household size appropriate for the unit and inclusive of mortgage principal and interest, property taxes, insurance, and any applicable special taxes or homeowners' association dues. As used in this section, "appropriate for the unit" means a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.
- C. "Affordable Rent" means an affordable rent determined in accordance with any state or federal funding program actually used to finance development or construction of the Units within a particular Residential Project. If no such state or federal funding program is involved, or if the program does not specify how affordable rent is to be determined, "Affordable Rent" shall have the meaning as set forth in Health and Safety Code Section 50053, as that section may be amended from time to time.
- D. "Affordable Unit" means a Dwelling Unit which, pursuant to a recorded instrument, may only be sold or rented to a household of a designated income or for a restricted sale price or rent.
- E. "Area Median Income" means area median income for Yolo County as published by the California Department of Housing and Community Development pursuant to Health and Safety Code Section 50093.
- F. "City" means the City of West Sacramento.
- G. "City Manager" means the city manager of the City or the city manager's designee.
- H. "Developer" means the Owner of any real property upon which a Residential Project is to be constructed or the Owner's duly authorized designee.
- I. "Development Standards" means the standards governing development of real property within the City as set forth in the City's Municipal Code, uncodified ordinances, and any applicable regulations adopted pursuant thereto.
- J. "Dwelling Unit" or "Unit" has the meaning set forth in the Zoning Regulations. For purposes of this Chapter, the term "Dwelling Unit" does not include "secondary units" as defined in Chapter 17.41.

- K. "Feasible" means that even after complying with the requirements of this Policy, the Residential Project as a whole remains reasonably capable of being financed, built and marketed, given the economic conditions prevailing at the time of approval of the Affordable Housing Agreement and taking into account the incentives and alternatives that may be made available to the Residential Project and under this Chapter. In all cases, Feasibility shall be determined by the City Council in its sole discretion.
- L. "For-Sale Units" means attached or detached Dwelling Units developed as part of a Residential Project which the Developer intends will be offered for individual sale or which are customarily offered for individual sale, including but not limited to single-family detached homes, duplex units, condominiums and cooperatives.
- M. "General Plan" means the General Plan of the City of West Sacramento, as it may be amended from time to time.
- N. "Household" has the same meaning as "family" as set forth in the Zoning Regulations.
- O. "Housing Trust Fund" means a separate fund administered by the City into which In-Lieu Fees are deposited. Funds deposited into the Housing Trust Fund shall be used to assist in the development of affordable housing within the City.
- P. "Inclusionary Units" means those Dwelling Units developed in accordance with an Affordable Housing Agreement to satisfy the requirements of this Chapter, including For-Sale Inclusionary Units available at an Affordable Housing Cost, and Rental Inclusionary Units available at an Affordable Rent.
- Q. "Lower Income" means lower income as defined in Health and Safety Code Section 50079.5 as amended from time to time.
- R. "Rental Units" means Dwelling Units developed as part of a Residential Project which the Developer intends will be offered for lease or rent or which are customarily offered for lease or rent.
- S. "One Location" means all adjacent land within the City owned or controlled by the same Developer or Owner, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road or other public or private right-of-way.
- T. "Over-concentration" shall mean that not more than forty percent of the Units within a Residential Project or building phase thereof are Inclusionary Units.
- U. "Owner" includes the person, persons, corporation, or public or private entity having sufficient legal interest in real property to commence and maintain development of a Residential Project on the real property, or the Owner's agent, assignee or successor in interest.
- V. "Ordinance" means this Inclusionary Housing Ordinance of the City of West Sacramento.

- W. "Residential Lot" or "Lot" means any parcel of land that has been legally created with the intention that it will be used for the development of one or more Dwelling Unit(s).
- X. "Residential Project" means any project involving the construction of five or more Dwelling Units at One Location and requiring the issuance of a building permit, or the creation of five or more Residential Lots at One Location, including in the aggregate all Dwelling Units or Residential Lots for which building permits or discretionary approvals have been applied for from or granted by the City. Where all or a portion of the Inclusionary Units for a Residential Project are built off-site, the term "Residential Project" shall also include all residential units built at the off-site location(s), including all Inclusionary Units and market-rate units built as part of the same development.
- Y. "Very Low Income" means Very Low Income as set forth in Health and Safety Code Section 50105, as that section may be amended from time to time.
- Z. "Zoning Regulations" means Title 17 of the Municipal Code of the City, as it may be amended from time to time.

15.40.040 Applicability—General

All Residential Projects within the City shall comply with the requirements set forth in this Chapter, with the following exceptions:

- A. Residential Projects which have acquired a vested right under California law to proceed with development without complying with this Chapter.
- B. Residential Projects with existing Affordable Housing Agreements executed prior to the effective date of this Chapter shall comply with the terms of those agreements.
 - 1. The City Council may approve amendments to existing Affordable Housing Agreements executed prior the effective date of this Chapter to include alternatives in Section 15.40.070.B to allow the Developer to satisfy all or part of the Inclusionary Housing requirement.

15.40.050 No City Approvals Until Compliance

No building permit shall be issued and no use permit, final parcel or subdivision map or other agreement with the City shall be approved in connection with any Residential Project until the City Manager confirms in writing one of the following:

- A. An Affordable Housing Agreement has been executed by the Developer and the City and a memorandum of that agreement recorded with the Yolo County recorder.
- B. The Developer has requested and the City Council has determined that it is not Feasible to comply with the requirements of this Chapter. Full compliance shall be presumed Feasible unless the City Council expressly determines otherwise. Any request by a Developer for such a determination shall be made no later than the time of application for the City approval that triggers the obligation to comply with this Chapter.

15.40.060 Standards for Implementation

- A. Calculation of inclusionary housing requirements.
1. Rental Units. Ten percent of all Rental Units in a Residential Project shall be made available at Affordable Rents to Very Low and Low Income Households. Five percent shall be affordable to Very Low Income Households and five percent shall be affordable to Lower Income Households.
 2. For-Sale Units. Ten percent of all For-Sale Units in a Residential Project shall be made available at an Affordable Cost to Low Income Households.
 3. Application of Fractional Remainders. If the Developer elects to build Inclusionary Units and the calculation of inclusionary housing requirements yield fractional remainders, the remainders shall be rounded up to the nearest whole number.
 4. Substitution of Rental Units for For-Sale Units. The City shall permit a Developer to substitute Rental Units to meet all or a portion of the inclusionary obligation for the Residential Project. Such Units shall be made available at Affordable Rents in accordance with Section 15.40.060.A.1. The decision to substitute rental Units for For-Sale Units shall be made prior to approval of the Affordable Housing Agreement for the Residential Project.
- B. General standards for development. Except as may otherwise be provided in the Affordable Housing Agreement for a Residential Project, a Developer shall comply with all of the following requirements in fulfilling the obligations under this Chapter:
1. Location of Inclusionary Units. Inclusionary Units shall be built on site, within the Residential Project. Inclusionary Units shall generally be dispersed so as to avoid the Over-concentration of Inclusionary Units within one portion of the overall Residential Project.
 2. Timing of Development. Inclusionary Units shall generally be constructed and offered for sale or rent in accordance with this Chapter concurrently with or prior to completion of market rate Units within the Residential Project or phase thereof. As used in this Chapter, "concurrently" means that a proportionate share of Inclusionary Units must be completed by the time each 25% of the market rate units within a Residential Project are completed.
 3. Exterior Appearance. Inclusionary Units shall be visually and architecturally consistent with and similar in quality of construction materials to market-rate Units within the Residential Project or phase thereof.
 4. Size of Inclusionary Units. Inclusionary Units may be smaller than the market rate Units within the Residential Project, provided that the Inclusionary Units contain not less than 90 percent of the interior living space of the smallest market rate unit within the Residential Project. The number of bedrooms in Multifamily Rental Inclusionary Units shall be generally consistent with the bedroom mix of market rate Units within the same Residential Project.

5. Development Standards. Inclusionary Units shall comply with the same Development Standards applicable to market rate Units within the Residential Project.

15.40.070 Incentives and Alternatives

A. Incentives.

1. Requests for regulatory and/or financial incentives will be considered on a project-by-project basis. All requests for incentives under this Chapter shall be accompanied by such information as the City deems necessary in order to evaluate the request. Incentives may include, but are not limited to:
 - a. Regulatory Incentives such as:
 - i. Reduced parking in relationship to parking requirements associated with each residential zoning category.
 - ii. Priority permit processing.
 - iii. Waiver or modification in Development Standards.
 - iv. Technical assistance in project development.
 - b. Financial incentives, to the extent the City has specific programs. Requests for financial incentives must be made in accordance with the terms of those programs.
2. Incentives must be approved by City Council except to the extent the authority to review and approve such incentives has been delegated to the City Manager.

B. Alternatives.

1. The City Council may allow the Developer to satisfy all or part of the Inclusionary Housing requirement through one of the alternative methods described in this section if the City Council determines, at its sole discretion, that the alternative will achieve goals set forth in the City's Housing Element. In approving any alternative, the City Council may impose such conditions as it deems appropriate in order to further the purposes of this chapter.
 - a. Housing Trust Fund Program. The City Council may allow the Developer to satisfy all or part of the Inclusionary Housing requirement by participating in the Housing Trust Fund Program described in the Book of City Imposts, Section VIII-N, as that section may be amended from time to time.
 - b. Other Alternatives. The City Council, at its sole discretion, may allow the Developer to satisfy all or part of the Inclusionary Housing requirement through another alternative method if the City Council determines, at its sole discretion, that the proposed alternative meets

the general standards for approval set forth in Section 15.40.070.B.2. Possible alternatives may include:

- i. Acquisition, Rehabilitation, and Conversion. The Developer may propose to acquire, rehabilitate, and convert existing market rate Units to Inclusionary Units. Duration of affordability restrictions shall meet standards in Section 15.40.100.C.
 - ii. Off-Site Construction. The Developer may propose to construct Inclusionary Units at an off-site location.
 - iii. Preservation of At-Risk Units. The Developer may propose the acquisition and preservation of at-risk Affordable Rental Units. In order for the proposed Units to qualify as Inclusionary Units, the City Manager must determine that the units are currently Affordable Units available at Affordable Rents but are at-risk of converting to market rate Units within the next five years due to expiring affordability covenants. Duration of affordability restrictions shall comply with standards in Section 15.40.100.C.
2. General Standards for Approval. Any proposed alternative by a Developer must comply with the following general standards.
- a. City Approval of Third-Party Developer. If the Developer is proposing to partner with another Developer to carry out the alternative, such as a Developer specializing in affordable housing, the City Council must approve the third-party Developer.
 - b. Financing Plan for Inclusionary Units. The Developer must submit a financial analysis for the proposed alternative project (pro forma) and such additional information as the City Council deems necessary to demonstrate that sufficient funding will be available to complete, operate, and maintain the Affordable Units developed through the proposed alternative.
 - c. Suitability of Alternative Site. If the Developer is proposing to construct Inclusionary Units off-site, the proposed site must be appropriately zoned to allow for the proposed development, be physically and environmentally suitable to develop housing, be of sufficient acreage to develop the required number of Inclusionary Units.

The proposed off-site development must include full on- and off-site infrastructure including paved street access, frontage improvements (curb, gutter, sidewalk, streetlights, etc.), and utility service

connections (installed underground if otherwise required by the City for the development of the site.

- d. **Timing of Development.** Inclusionary Units developed through the proposed alternative shall generally be constructed concurrently with or prior to completion of market rate Units within the Residential Project. If the Inclusionary Units will not be available for occupancy concurrently with market rate Units within the Residential Project, the City Council may require that the Developer provide performance security in an amount determined to be sufficient to secure completion of the Inclusionary Units.

15.40.080 Administration

- A. The City Manager may promulgate guidelines for the implementation of this Chapter.
- B. The City Council may, by resolution, establish a reasonable fee for the administration of this Chapter, including, but not limited to, the annual monitoring of Units.
- C. Except as otherwise required by this Chapter, the City Manager is authorized to approve Affordable Housing Agreements. A decision by the City Manager approving or denying an Affordable Housing Agreement, or denying any incentive requested by the Developer that the City Manager is authorized to approve, may be appealed to the City Council in accordance with Chapter 1.08. On appeal, the City Council shall determine whether the City Manager's decision conforms to the requirements of this Chapter. No appeal shall be filed under this Chapter for the purpose of seeking City Council review of the underlying merits of the Residential Project.
- D. Affordable Housing Agreements may be referred to the Housing Advisory Commission or other City boards or commissions for a recommendation prior to action on the Agreement.

15.40.90 Monitoring

Inclusionary Units will be monitored annually by the City to verify that the Dwelling Units are and continue to be affordable.

15.40.100 Affordable Housing Agreement

- A. Evidence of compliance with this Chapter shall be in the form of an Affordable Housing Agreement between the Developer and the City.
- B. Affordable Housing Agreements shall require full compliance with this Chapter and shall specifically address all of the following:
 1. Number, location, household incomes targeted and affordability of Inclusionary Units.

2. Calculation of Affordable Housing Price for For-sale Units and Affordable Rent for Rental Units.
 3. Duration of affordability of the Inclusionary Units.
 4. In the case of Residential Projects containing rental units or with significant areas or buildings under common ownership or control (for example, condominiums and apartments), provisions designed to ensure that the Residential Project will be well managed and maintained throughout the term of the affordability controls. Prior to initial occupancy, the Developer shall be required to provide, for City review and approval, a management plan that addresses in detail issues such as maintenance of common areas and buildings (including the provision of adequate reserves), operations, and leasing practices. The Management Plan shall provide for City enforcement of its terms.
 5. In the case of Residential Projects that satisfy all or a portion of the requirements of this Chapter through an alternative, the Affordable Housing Agreement shall specify how the proposed alternative is consistent with Section 15.40.070.
 6. Any other provisions required by the City to document the obligations imposed by this Chapter.
- C. Duration of affordability restrictions:
1. Rental Dwelling Units shall remain affordable for no less than fifty-five (55) years.
 2. For-sale Units shall be regulated with the goal of preserving affordability for forty-five (45) years. Upon a showing that the owner of the Inclusionary Unit has been unable to identify a qualified buyer for the Unit after a good faith affirmative marketing effort, the City Manager may:
 - a. Permit the owner to sell the Unit to a buyer who is not income qualified but who will remain obligated to resell the Unit at an Affordable Price to an income qualified Household; or
 - b. Permit the early termination of the affordability restrictions on the Unit as part of a program that will ensure that the City recaptures an amount that reflects the gap between the affordable and market prices for the Unit at the time of the Unit's sale to the current owner.
- D. Master Affordable Housing Agreement. A Developer may propose a Master Affordable Housing Agreement for any Residential Project which the Developer anticipates will be developed over an extended period of time. Developers are encouraged to request Master Affordable Housing Agreements for Residential Projects containing a mixture of For-Sale and Rental Units, or when the Developer believes that the Project can be enhanced and the purposes of this Chapter better served by modifying the standard requirements of this Chapter. The Master Affordable Housing Agreement will contain the general rules that will govern the

development of the Inclusionary Units for the Residential Project. It is anticipated that details such as, for example, the specific location of the Inclusionary Units within the overall project will be addressed through map- or project-specific Affordable Housing Agreements that will incorporate the terms set out in the Master Agreement.

15.40.110 Judicial Review

Nothing in this Chapter shall in any way preclude or limit any aggrieved party from seeking judicial review after such person has exhausted the administrative remedies provided in this Chapter. However, it shall be conclusively presumed that a litigant has not exhausted administrative remedies of any and all issues not raised in the administrative proceedings authorized herein.

Section 2. Severability

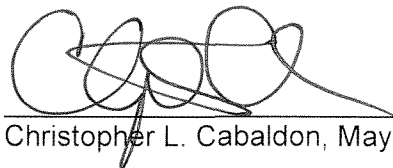
If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance for any reason shall be held to be invalid or unconstitutional, the decision shall not affect the remaining portions of the Ordinance. The Council of the City of West Sacramento hereby declares that it would have passed this Ordinance and each article, section, subsection, paragraph, sentence, clause or phrase which is a part thereof, irrespective of the fact that any one or more articles, sections, subsections, paragraphs, sentences, clauses or phrases are declared to be invalid or unconstitutional.

Section 3. Effective Date and Publication

This ordinance shall take effect thirty (30) days after its adoption and, pursuant to Resolution 99-46, shall be published in summary format prior to adoption, and within fifteen (15) days after adoption, in a newspaper of general circulation published and circulated within the City of West Sacramento.

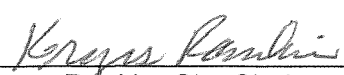
PASSED AND ADOPTED by the City Council of the City of West Sacramento this 30th day of April, 2019 by the following vote:

AYES: Johannessen, Kristoff, Ledesma, Sandeen, Cabaldon
NOES: None
ABSENT: None




Christopher L. Cabaldon, Mayor

ATTEST:



Kryss Rankin, City Clerk

APPROVED AS TO FORM:



Jeffrey Mitchell, City Attorney

CODIFY XX UNCODIFY___