



The City of San Diego

Staff Report

DATE ISSUED: 7/13/2018

TO: City Council

FROM: Council Districts 3 and 9

SUBJECT: Request an Update to The City of San Diego Inclusionary Affordable Housing Regulations, in Municipal Code Chapter 14, Article 2, Division 13

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Council District(s): Citywide

OVERVIEW

Request an update to the City's Inclusionary Affordable Housing Regulations in Municipal Code Chapter 14, Article 2, Division 13, sections 142.1301-142.1311, in response to the passage of Assembly Bill 1505, which authorizes municipalities to require inclusionary development as a condition of development of residential rental units.

PROPOSED ACTIONS:

- (1) Direct Council District 9 and the San Diego Housing Commission to work with the City Attorney's office to update the City's Inclusionary Affordable Housing Ordinance pursuant to Assembly Bill 1505.
- (2) Present a draft ordinance and associated actions to the Smart Growth and Land Use Committee in Fall 2018 for consideration prior to moving on to the full City Council.

DISCUSSION OF ITEM:

## Purpose

It is evident that an update to the City's Inclusionary Affordable Housing Regulations (Inclusionary Ordinance) is necessary to address the City's dire affordable housing needs. As our city struggles to facilitate the development of sufficient housing and address our housing crisis, we need to consider a variety of short and long-term opportunities to develop new housing units, with a focus on affordable and workforce housing.

One of the initiatives that was outlined in the 2018 Smart Growth and Land Use Committee Work Plan (Attachment 1), Councilmember Gómez's July 2017 Housing Action Plan, as well as Councilmember Ward's October 23, 2017 memorandum (Attachment 2) is revising the City's Inclusionary Ordinance (Attachment 3). Inclusionary housing is a way to encourage developers of market-rate housing to set aside a specified percentage of units for lower income residents. It has been proven to be an extremely effective tool for producing new homes that are affordable to working families while also creating vibrant, diverse neighborhoods with a range of housing choices.

## Background

In 2003, the City of San Diego adopted an Inclusionary Ordinance that requires multifamily building developers set aside 10 percent of units onsite as income-restricted or pay an in-lieu fee. In 2009, two published Court of Appeal decisions together upended previous understandings about the validity of inclusionary housing ordinances. As a result, since 2009 the onsite inclusionary provision has not been enforced. However, in September 2017 the Governor signed into law Assembly Bill 1505 (Attachment 4), which authorizes municipalities to require inclusionary development as a condition of development of residential rental units.

## Proposed Framework

On July 31, 2018, Council President Cole will convene a Housing Action Day to address the need for additional housing supply and the affordability of housing throughout the City. It is vital that we understand how our existing Inclusionary Ordinance is performing, how many units are needed to satisfy future affordable housing demand, and review inclusionary practices in other California cities per the Independent Budget Analyst Report 18-21 that was issued on July 12, 2018.

This update to the City's Inclusionary Ordinance must maximize production of new affordable housing. If implemented properly, updated inclusionary policies can help address the shortage of affordable housing while creating socially and economically integrated communities. We offer the following initial general framework for consideration while we

begin the update to the program. As we develop the new regulations and policies, additional items may be added to the following framework for consideration, including but not limited to:

- Inclusionary on-site requirement above the current 10%, increasing the base-level requirement for on-site affordable housing units;
- Additional percentage requirements for projects that involve a zoning increase, are built on City-owned land, or utilize public financial assistance;
- Additional percentage requirements that recapture the increase in land value resulting from zoning increases;
- Additional percentage requirements when affordable units would be provided offsite and when affordable units would be provided outside the project's Community Plan Area;
- Modification of income levels and set-asides; and
- Providing alternative options to replace an in-lieu fee on large-scale projects and restricting in-lieu fee payments to small projects below a certain number of units.

The City's current Inclusionary Ordinance is over 15 years old and is overdue for a comprehensive update. Now is the time to bring stakeholders together and have an open conversation about how to deploy our limited resources to create transformative change in our housing landscape, driven by our common interest in making San Diego a better place to live, work, and play.

Fiscal Considerations: None with this Action.

City Strategic Plan Goal(s)/Objective(s): Goal #3: Create and sustain a resilient and economically prosperous City with opportunity in every community; Objective #1: Create dynamic neighborhoods that incorporate mobility, connectivity, and sustainability.

Environmental Impact: This item is informational and no discretionary action is required; therefore, pursuant to Section 15060(c)(1), it is not considered an activity subject to CEQA and would not result in a direct or indirect physical change in the environment.

Equal Opportunity Contracting Information (if applicable): Not Applicable.

Previous Council and/or Committee Actions: On June 3, 2003, the City Council adopted Ordinance No. O-19189 establishing the Inclusionary Affordable Housing Regulations. On June 3, 2003, the City Council adopted Ordinance No. 19190 establishing the Affordable Housing Fund to include both the Inclusionary Housing Fund and Housing Trust Fund and revising and amending San Diego Municipal Code sections 98.0501 through 98.0518 regarding the San Diego Housing Trust Fund. Additionally, each year the Housing

Commission develops an Affordable Housing Fund Annual Plan for the use of the Affordable Housing Fund revenues and submits for City Council approval. The FY19 Affordable Housing Fund Annual Plan was adopted on June 11, 2018 by unanimous consent.

Key Stakeholders and Community Outreach Efforts: Key stakeholders include the San Diego Housing Commission, the development community, community and neighborhood groups, residents seeking additional housing opportunities, and property owners.

Lara Gates

Dominika Bukalova

Chief of Policy, Council District 9

Chief of Staff, Council District 9

Attachment(s):

1. 2018 Smart Growth and Land Use Committee Work Plan
2. Councilmember Ward October 23, 2017 memorandum – “Recommendations for Revisions to the City of San Diego’s Inclusionary Affordable Housing Regulations Pursuant to Assembly Bill 1505 to Address Housing Affordability Crisis”
3. City of San Diego Inclusionary Affordable Housing Regulations
4. Assembly Bill No.1505