

# Attachment 1

(O-2005-XXX)

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

ADOPTED ON \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 14, ARTICLE 2, OF THE SAN DIEGO MUNICIPAL CODE, BY AMENDING SECTIONS \_\_\_\_\_ AND ADDING SECTION 142.1320, ALL PERTAINING TO THE PROVISION OF AFFORDABLE HOUSING THROUGH INCLUSIONARY ZONING.

WHEREAS, ; NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 14, Article 2, of the San Diego Municipal Code is amended by amending Section 142.1302, to read as follows:

## **§ 142.1302 When Inclusionary Affordable Housing Regulations Apply**

This Division applies to all residential ~~development~~ uses except as provided in Section 142.1303. The requirements of this Division shall not be cumulative to state or other local affordable housing requirements where those units are subject to an affordability restriction recorded against the property by the state or local agency. To the extent that state or local regulations are inconsistent with the requirements of this Division for the length of the restriction, ~~or~~ the level of affordability, or the level of in-lieu fee, the more restrictive of the two shall apply.

Section 2. That Chapter 14, Article 2, of the San Diego Municipal Code is amended by amending Section 142.1303, to read as follows:

## **§ 142.1303 Exemptions From the Affordable Housing Inclusionary Regulations**

This Division is not applicable to the following:

- (a) [No change]
- (b) Proposed *development* that has obtained a ~~variance or waiver~~ in accordance with Sections ~~142.1304~~ and 142.1305.
- (c) Residential *development* or portion of the *development* that meets the following criteria:
  - (1) The unit is being sold to persons who own no other real property and will reside in the unit;
  - (2) The unit is affordable to and sold to households earning less than one hundred fifty percent (150%) of the *area median income*;
  - (3) The unit has two (2) or more bedrooms; and
  - (4) The unit(s) has recorded against it an agreement between the *applicant* and the San Diego Housing Commission assuring that the provisions of Section 142.1303(c) have been met.

~~(d) Condominium conversions in accordance with Chapter 12, Article 5, Division 4.~~

~~(e)~~(d) [No change]

~~(f)~~(e) [No change]

(f) Certain Residential uses:

(1) Border and Lodging Accommodations

(2) Companion Units

(3) Fraternity Housing, Sorority Housing and Student Dormitories

(4) Group Living Accommodations

(5) Guest Quarters

- (6) Residential Care Facilities
- (7) Transitional Housing Facilities
- (8) Time Shares
- (h) Residential *development* subject to a Vesting Tentative Map deemed complete prior to June 3, 2003
- (i) Residential *development* subject to or Development Agreement approved prior to June 3, 2003

Section 3. That Chapter 14, Article 2, of the San Diego Municipal Code is amended by amending Section 142.1310, to read as follows:

**§ 142.1310 In Lieu Fee Regulations**

In accordance with Section 142.1306(b)(4), an *applicant* may pay an in lieu fee subject to the following regulations and the Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual:

- (a) [No change]
- (b) The amount of the in lieu fee shall be the sum of the applicable per square foot charge multiplied by the aggregate *gross floor area* of all of ~~the units~~ *within* the residential *development*.
- (c) through (e) [No change]

Section 4. That Chapter 14, Article 2, of the San Diego Municipal Code is amended by amending Section 142.1311, to read as follows:

**§ 142.1311 Declaration of Covenants, Conditions and Restrictions**

All *development* in accordance with Section ~~142.1309~~ 142.1306, except Section ~~142.1309(b)(4)~~ 142.1306(b)(4), shall be subject to the following regulations and the Inclusionary Affordable Housing implementation and Monitoring Procedures Manual.

(a) through (c) [No change]

Section 5. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 6. This ordinance shall take effect and be in force on the thirtieth day from and after its passage and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefor was made prior to the date of adoption of this ordinance.

APPROVED: CASEY GWINN, City Attorney

By \_\_\_\_\_  
Mary Jo Lanzafame  
Deputy City Attorney

MJL:  
DRAFT: 8/26/04  
Or. Dept: SDHC  
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