

CITY COUNCIL OF THE CITY OF OXNARD

UNCODIFIED ORDINANCE NO. 2980

ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA, CONCERNING AFFORDABLE HOUSING REQUIREMENTS FOR NEW DEVELOPMENTS AND IN-LIEU AFFORDABLE HOUSING PAYMENTS

WHEREAS, the State of California has declared that the provision of affordable housing in all communities for all segments of the population is a matter of statewide importance and concern; and

WHEREAS, the State of California requires all cities and counties to adopt and implement a general plan which governs many of the overall land use and planning issues for the local agency to use as a guideline for future development, including affordable housing; and

WHEREAS, the City of Oxnard adopted the 2030 General Plan which includes several specific elements, including the Growth Management Element, the Land Use Element, and a Housing Element, which all contain certain goals, objectives and policies concerning affordable housing; and

WHEREAS, the 2030 General Plan Growth Management Element encourages the adoption of implementation measures which would promote a match between the price of housing and the household income of all Oxnard residents; and

WHEREAS, the 2030 General Plan Land Use Element requires a balanced community that meets the housing needs of all segments of the community and also provides for a balance between jobs and housing within the community; and

WHEREAS, the 2030 General Plan Housing Element contains a requirement that the City provide for a variety of housing types throughout the City which meet the needs of all economic segments of the community, including affordable housing units; and

WHEREAS, State law provides that legal actions may be brought to prohibit new residential housing if the 2030 General Plan Housing Element is not complied with; and

WHEREAS, the City Council has received an affordable housing report which found that low and very low income families, especially large and farm worker families, in the community are experiencing a housing shortage; and

WHEREAS, the City Council has stated in the 2030 General Plan and the Housing and Land Use Elements, that one of the major goals of the City is to achieve a balanced community with housing available for households of all income levels, so that the low and very low income families may have housing available at an affordable cost; and

WHEREAS, the affordable housing report further found that low and very low income families are living within the community in severely overcrowded housing and/or in housing that is not decent, safe and sanitary; and

WHEREAS, the affordable housing report further found that federal and state housing subsidy programs are not sufficient by themselves to satisfy all of the housing needs of low and very low income households, which has further exacerbated the availability of affordable housing; and

WHEREAS, the affordable housing report found that the housing shortage of new housing affordable to low and very low income families is detrimental to the public health, safety and welfare and that the City is required by California public policy to make available an adequate supply of housing for persons of all economic segments of the community, including low and very low income families; and

WHEREAS, the City Council finds that new residential development enjoys the benefits of public resources and City facilities and must participate in protecting and enhancing the public welfare by helping to meet the goals and objectives for affordable housing set out in the 2020 General Plan and its various elements; and

WHEREAS, the City Council finds that new residential development that does not include affordable housing on site reduces the limited inventory of real property in the city that may be used to develop affordable housing; and

WHEREAS, the City Council desires to establish a policy for the provision of affordable housing on a City-wide basis for all new development; and

WHEREAS, the City Council desires that a program exist to allow new residential development to provide an in-lieu affordable housing payment in place of providing affordable housing units on site, which in-lieu payment would allow other affordable housing goals and objectives to be met throughout the City; and

WHEREAS, based on the foregoing recitals, on April 20, 1999, the City Council adopted Resolution No. 11,570, establishing affordable housing requirements and in-lieu fees; and

WHEREAS, on October 5, 1999, the City Council adopted Resolution No. 11,645, amending Resolution No. 11,570, and on October 19, 1999, adopted Resolution No. 11,651, repealing Resolution No. 11,645; and

WHEREAS, on October 19, 1999, the City Council adopted Resolution No. 11,652, amending Resolution No. 11,570 to exempt certain projects there from; and

WHEREAS, on October 26, 1999, the City Council adopted Ordinance No. 2506, establishing the affordable housing requirements contained in Resolution Nos. 11,570 and 11,652 by ordinance; and

WHEREAS, on December 5, 2000, the City Council adopted Ordinance No. 2545, making certain adjustments to Ordinance No. 2506; and

WHEREAS, on March 5, 2002, the City Council adopted Ordinance No. 2594, providing a procedure to appeal application of Ordinance No. 2545, and any successor ordinance, on the basis that its application to a specific project was unconstitutional; and

WHEREAS, December 3, 2002, the City Council adopted Ordinance No. 2615, replacing Ordinance No. 2545; and

WHEREAS, on June 28, 2005, the City Council adopted Ordinance No. 2688, making adjustments to Ordinance No. 2615; and

WHEREAS, on July 18, 2006 the City Council adopted Ordinance No. 2721, making adjustments to Ordinance No. 2688; and

WHEREAS, the City Council now desires to amend Part 10 of Ordinance No. 2721 and make other minor adjustments thereto and reenact Ordinance No. 2721 as amended; and

WHEREAS, as this ordinance does not establish a new affordable housing program, but only makes certain adjustments to Ordinance No. 2721, the City Council finds that there is no possibility that adoption of this ordinance may have a significant effect on the environment; that the in-lieu Affordable Housing Payments adopted by this ordinance create government funding mechanisms that do not involve any commitment to any specific project and thus do not constitute a project, as defined by Section 15378(b)(4) of the State California Environmental Quality Act (CEQA) Guidelines; and that consequently adoption of this ordinance is not subject to CEQA.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Part 1. All recitals set forth hereinabove are found and determined to be true and correct and are incorporated into this ordinance by this reference.

Part 2. The findings and references to affordable housing that are contained in the 2020 General Plan, as set out in Attachment 1 to the staff agenda report on affordable housing, dated April 8, 1999, and the staff reports considered at the City Council meetings held on November 14, 2000, in connection with the adoption of Ordinance No. 2545, the staff report considered on January 29, 2002 in connection with the report of the ad hoc affordable housing committee, and the staff report dated July 20, 2004, all on file with the City Clerk, are incorporated by reference as findings in support of the affordable housing requirements set out in this ordinance.

Part 3. All new residential projects containing ten or more dwelling units to be offered for sale shall include a number of dwelling units equal to not less than 10% of the total number of dwelling units offered for sale in the project that shall be sold at an

affordable housing cost to persons and families of lower income, as defined in California Health and Safety Code Section 50079.5. Each such affordable dwelling unit shall have at least three bedrooms, provided that if a project contains at least ten two bedroom units, two bedroom affordable units may be provided in the same percentage ratio to all affordable units as the percentage ratio of two bedroom market rate units bears to the total number of market rate units in the project. For purposes of this ordinance, the term "units offered for sale" includes units classified as condominium units under California law.

Part 4. All new residential projects containing ten or more dwelling units to be offered for rent shall include a number of dwelling units equal to not less than 5% of the total number of dwelling units in the project offered for rent that shall be rented at an affordable rent to persons and families of very low income, as defined in California Health and Safety Code section 50105, and shall include an additional number of dwelling units equal to not less than 5% of the total number of dwelling units in the project offered for rent at an affordable rent to persons and families of lower income, as defined in California Health and Safety Code section 50079.5. If the number of bedrooms per unit varies within a project, the number of low and very low income units of each bedroom numbers must meet the requirements of this part 4, i.e., affordable units shall be proportionately distributed throughout the project by bedroom size.

Part 5. As used in this ordinance, the term "housing cost" includes the costs described in 25 California Code of Regulations section 6920, except that in determining housing cost under this ordinance the amount paid for maintenance and utilities will not be included. For purposes of calculating mortgage loan cost, a prevailing market interest rate for a fixed interest rate loan will be used. As used in this ordinance, the word "rent" has the meaning ascribed to such word in 25 California Code of Regulations section 6918. For purposes of this ordinance, "affordable housing cost or rent" shall mean:

- (a) With respect to a low income person or family, rent or housing cost not in excess of 30% of 80% of the Area Median Income for the Ventura County Metropolitan Statistical Area, adjusted for family size appropriate for the unit in question, as set forth in Section 6932 of Title 25 of the California Code of Regulations; and
- (b) With respect to a very low income person or family, rent or housing cost not in excess of 30% of 50% of the Area Median Income for the Ventura County Metropolitan Statistical Area, adjusted for family size appropriate for the unit in question, as set forth in Section 6932 of the Title 25 of the California Code of Regulations.

Prior to offering for sale or rental the first unit which the developer intends to qualify as an affordable unit under Part 3 or Part 4 of this ordinance, the developer shall submit to the City's Housing Director the proposed sale price or rental amount for all the affordable units and the dates upon which the affordable units will be offered for sale or rental, and thereafter, any other information requested by the City's Housing Director. The Housing

Director shall review the information submitted, and within 30 days of receipt of all requested information, shall determine whether the sales price or rental amount is affordable as provided in Parts 3 and 4. Thereafter, if the developer desires to increase the sales price or initial rental amount for any for sale affordable units, the developer must obtain the approval of the Housing Director. A developer may appeal a decision of the Housing Director made pursuant to this Part 5 within the time and following the procedures (including payment of the fee) set forth in the Oxnard City Code section 16-545 et seq. for appeal of a decision of the Planning Commission denying a special use permit.

Part 6. Not later than the date of application for the first building permit for a project that is subject to Part 3 or 4 of this ordinance, the developer shall cause to be recorded in the office of the Ventura County Recorder covenants approved in form and substance by the Housing Director. Such covenants shall identify the affordable dwelling units, restrict the qualifying income of purchasers and tenants of such units, specify the maximum housing cost for such units, and require that such units remain affordable for at least 20 years. The covenants shall provide that the developer shall require any purchaser of an affordable unit or project to execute a resale restriction agreement in form and substance satisfactory to the City's Housing Director, which resale restriction agreement shall provide for continuing affordability in the sale or rental of units for at least 20 years. The covenants shall run with the land. If the original developer or a subsequent owner complies with the covenants and/or resale restriction agreement by conveying the project or unit only to an eligible low or very low income transferee at an affordable cost as provided in this ordinance, the developer or such owner shall not be responsible for any violation of such covenants or resale restriction agreement by future transferees.

Part 7. Such affordable units shall be designed and constructed so as to be architecturally consistent with and qualitatively similar to other (unrestricted) units in the project. Generally, affordable units shall be dispersed throughout the project. As part of the developer's application for any land use approvals required for the project and prior to the date upon which the application is deemed complete, the developer shall submit to the City planning staff such documents and plans as planning staff determines are necessary and appropriate for the City to determine that the requirements of this ordinance have been met and that the design and placement of the affordable units will not affect the quality of the project or the affordable units, and will not result in discrimination on any legally prohibited basis. The City Council, Planning Commission, or other decision making person or body with final approval over the project shall make such determination. The determination of such decision making body shall be made exercising its sole, good faith, discretion.

Part 8. As part of the developer's application for land use approvals required for the project and prior to the date upon which the application is deemed complete, the developer of a project that is subject to this ordinance may request in writing that instead of providing such affordable housing within the proposed project, the developer shall provide such affordable housing on specified off-site land. The request shall be presented to the City Council, which shall determine in its sole discretion whether the land is suitable for affordable housing. If the City Council determines that the land is suitable, the developer shall enter into an agreement with the City to provide affordable housing on such land. The agreement shall provide for affordable units in a number not less than the number of on-site units required by this ordinance for the

project. The agreement shall contain conditions and provisions requiring the construction of such affordable units prior to or concurrent with construction of the project, unless the City Council determines in its sole discretion that such a condition is not necessary to ensure that the affordable units are constructed. The agreement may contain such other terms and conditions as the City Council determines are necessary or appropriate.

Part 9. The developer shall establish and at all times maintain a written list of Oxnard residents qualified to purchase or rent each of the affordable units. The developer shall offer the affordable units to qualified Oxnard resident buyers or renters on the waiting list first and give preference to them until there are no qualified Oxnard residents on the waiting list. At such time, the developer may make units available to all other prospective buyers or renters meeting the income limitations for such units.

10. A developer may, following the procedure set forth in this Part 10, make a written request that instead of providing such affordable housing units within the proposed project or off site, the developer make an in-lieu Affordable Housing Payment ("Payment") to the City's Affordable Housing In-Lieu Fee Fund.

(a) All projects for which the developer makes a request to make a Payment shall be subject to the City's pre-application process. During the pre-application process, the City Council shall determine whether a Payment may be made.

The City Council shall consider the following factors in determining whether to grant a request:

- a. the size, type and nature of the lots and homes and/or apartment buildings and units proposed for the development;
- b. the prices for which the developer plans to sell the market rate homes or rent market rate apartment units;
- c. the extent to which the proposed development may be designed or redesigned to allow the production of quality units at lower costs; and
- d. the extent to which City is meeting the affordable housing goals of its 2030 General Plan.

(b) If the request is granted, the Payment shall be calculated using the City's adopted affordable housing in-lieu fee schedule. The fee for each unit shall be paid when the developer pulls a building permit for each unit.

(c) Beginning on July 1, 2021, and every July 1st thereafter, the Housing Director shall adjust the Fee by the percentage increase or decrease for the prior twelve months as determined by the Engineering News Record Building Cost Index for the Los Angeles Region.

Part 11. If a developer's request to make a Payment is granted, the fee for each unit shall be paid when the developer pulls a building permit for each unit. Within 60 days after a developer's request to make a Payment is granted, the developer may request in writing that the City allow the developer to satisfy all or part of the Payment by dedicating specified off-site land to the City. With such request, the developer shall submit a written M.A.I. appraisal of the land. The City may require that the developer pay for an additional M.A.I. appraisal obtained by the City. The City Council shall determine the market value of the land, based on the appraisals provided or paid for by the developer and any other reliable data. The City Council shall also determine whether the land is suitable for affordable housing and meets the City's needs for sites for affordable housing. If the City Council so determines and the Mayor executes a certificate of acceptance for the land, the City shall apply the market value of the land to the Payment owed. If the market value of the land is less than the Payment, the developer shall pay the difference. If the market value of the land is more than the Payment, dedication of the land shall be deemed the equivalent of making the Payment, and the developer shall not be entitled to any payment for the excess market value. The developer shall deed to the City land so accepted before the developer applies for the first building permit for the project.

Part 12. As provided by Ordinance No. 2594, a developer may appeal to the City Council a decision of the Planning Commission requiring compliance with this ordinance, on the ground that such application of this ordinance to the developer's project results in an unconstitutional taking of property or that there is no reasonable relationship between the impact of the project and such requirements.

Part 13. All in-lieu Affordable Housing Payments shall be deposited in the City's Affordable Housing Trust Fund and used exclusively to provide affordable housing and affordable housing assistance to persons and families of lower and very low income.

Part 14. This ordinance does not apply to the following new residential projects of ten or more dwelling units:

- (a) Projects located in areas that are subject to a specific plan adopted by the City that requires such projects to provide as many or more affordable units for lower and very low income persons and families as does this ordinance.

Part 15. In a project that receives a density bonus pursuant to Government Code Section 65915 or 65915.5, the calculation pursuant to Part 3 or Part 4 of this ordinance of the number of dwelling units to be offered for sale or rent shall be based on the number of units before the density bonus is applied. Affordable units provided pursuant to this ordinance shall not be included in the calculation of affordable units provided pursuant to density bonus statutes, ordinances or resolutions.

Part 16. This ordinance shall be uncodified.

Part 17. This ordinance shall apply to applications for land use approvals that are filed on or after the effective date of this ordinance and to applications for land use approvals that have been filed but have not been accepted as complete as of the effective date of this ordinance.

Part 18. This ordinance replaces Ordinance No. 2721 as to applications for land use approvals described in Part 17. However, Ordinance No. 2721 is not repealed. If all or any part of this ordinance be declared invalid by the courts, and Ordinance No. 2721 be not declared invalid, Ordinance No. 2721 shall apply to the subjects addressed by the portions of this ordinance declared invalid, or, if this ordinance is declared invalid in its entirety, shall supplant this ordinance.

Part 19. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the City. Ordinance No. 2980 was first read on May 19th, 2020, and finally adopted on June 2nd, 2020 to become effective sixty days thereafter.

AYES: Councilmembers Basua, Flynn, Lopez, Madrigal, Perello and Ramirez.

NOES: Councilman MacDonald.

ABSENT: None.

ABSTAIN: None.

  
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Tim Flynn, Mayor

ATTEST:

  
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Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

  
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Stephen M. Fischer, City Attorney