

# **DEVELOPER'S GUIDE TO THE CITY OF CARLSBAD'S INCLUSIONARY HOUSING ORDINANCE**

## **I. Introduction**

This document is intended to provide an overview of the City of Carlsbad's Inclusionary Housing Ordinance.

### **What is the Inclusionary Housing Ordinance?**

The City of Carlsbad adopted the Inclusionary Housing Program in 1993 as an outgrowth of the 1990 Housing Element review. The Program was designed to assist the City in reaching its lower-income housing goals.

To implement the Inclusionary Housing Program, the City Council adopted the Inclusionary Housing Ordinance in May of 1993, and updated it in April of 2000. The ordinance states that not less than fifteen percent (15%) of all residential units in any master plan, specific plan, or residential subdivision be set aside for occupancy by and be affordable to lower income households. Additionally, for those developments that are required to provide ten or more units affordable to lower income households, at least ten percent of the lower income units shall have three or more bedrooms.

Chapter 21.85 of the Carlsbad Municipal Code sets forth specific information on the requirements of the Inclusionary Housing Ordinance, related development standards and provisions to guarantee continued affordability of the units over time.

### **What is the Purpose of the Inclusionary Housing Ordinance?**

The Housing Element of the City of Carlsbad's General Plan concludes that there exists a considerable demand for, yet an inadequate supply, of housing within the City which is affordable to lower income households. The Carlsbad City Council adopted the Inclusionary Housing Ordinance in an effort to meet the housing needs of lower income households. In effect, the Inclusionary Housing Ordinance brings the private sector of the economy into the business of providing affordable housing, making it a fact of the marketplace within Carlsbad.

## What is a Lower Income Household?

"Lower Income Household" refers to low, very low and extremely low income households. The City's Inclusionary Housing Ordinance defines lower income households as follows:

**Extremely Low:** A household whose gross annual income is equal to or less than thirty (30%) percent of the median income for San Diego County as determined annually by the U.S. Department of Housing and Urban Development (HUD).

**Very Low:** A household whose gross annual income is more than thirty (30%) percent but does not exceed fifty (50%) of the median income for San Diego County as determined annually by HUD.

**Low (rental):** A households whose gross annual income is more than fifty (50%) percent but does not exceed seventy (70%) percent of the median income for San Diego County as determined annually by HUD.

**Low (for-sale units):** A households whose gross income is more than fifty (50%) percent but does not exceed eighty (80%) percent of the median income for San Diego County as determined annually by HUD.

## What is an Affordable Housing Cost?

In order for housing costs to be considered affordable, these costs may not exceed 30% of the gross annual household income of any given income group. For example, under current standards (year 2000), a low income family of four with a gross annual income of \$40,600 should pay no more than \$1,015 per month for housing. For a rental unit, total housing costs include the monthly rent payment as well as consideration for a utility allowance. With for-sale units, total housing costs include the mortgage payment (principal and interest), homeowners association dues, taxes, mortgage insurance and any other related assessments.

The U.S. Department of Housing and Urban Development (HUD) provides income charts that identify the annual and monthly maximum incomes for lower income households as well as the monthly housing expenditure that lower income households within San Diego County can afford to pay. These income and related rent charts are shown in EXHIBIT B, and are available at the Carlsbad Housing and Redevelopment Department.

[▲ top](#)

## II. Inclusionary Housing Requirements

### Residential Units Subject to the Inclusionary Housing Requirements

Generally, all residential market rate dwelling units resulting from new construction or conversion are subject to one of the City's Inclusionary Housing Requirements as follows:

An **Inclusionary Housing In-Lieu Fee** applies to residential projects of 6 or fewer dwelling units. The In-Lieu Fee amount is currently \$4,515 (year 2000) per market-rate

dwelling unit. The fee is subject to change by resolution of the City Council. The fee is paid at the time of building permit issuance, or for conversion of existing apartments to condominiums prior to the recordation of a final map and/or issuance of a certificate of compliance.

An **Inclusionary Housing Impact Fee** applies to any residential project for which the application for discretionary approval was deemed complete prior to May 21, 1993 (the effective date of the ordinance). The Housing Impact Fee amount is currently \$2,925 (year 2000) per market-rate dwelling unit. The fee is subject to change by resolution of the City Council. The fee is paid at the time of building permit issuance, or for conversion of existing apartments to condominiums prior to the recordation of a final map and/or issuance of a certificate of compliance.

The **construction of new inclusionary housing units** applies to all residential projects of 7 or more units. Subject to adjustments for incentives, the required number of lower-income inclusionary units shall be fifteen (15%) percent of the total residential units, approved by the final decision-making authority of the City. If the inclusionary units are to be provided within an offsite combined or other project, the required number of lower income inclusionary units shall be fifteen (15%) percent of the total residential units to be provided both onsite and/or offsite. Subject to the maximum density allowed per the growth management control point or per specific authorization granted by the Planning Commission or City Council, fractional units for both market rate and inclusionary units of .5 will be rounded up to a whole unit. If the rounding calculation results in a total residential unit count which exceeds the maximum allowed, neither the market rate nor the inclusionary unit count will be increased to the next whole number.

**Example 1:**

Total residential units = 15% Inclusionary units plus 85% Market rate units. If the final decision making authority approves 100 total residential units, then the Inclusionary requirement equals 15% of the "Total" or 15 units ( $100 \times .15 = 15$ ). The allowable market rate units would be 85% of the "Total" or 85 units (for a more detailed example, please see EXHIBIT D).

**Example 2:**

If the inclusionary units are to be provided offsite, the total number of inclusionary units shall be calculated according to the total number of market rate units approved by the final decision-making authority. If 100 market rate units are approved, then this total is divided by .85, which provides a total residential unit count ( $100 \div .85 = 117$ ). The 15% requirement is applied to this "Total" (117 units), which equals the inclusionary unit requirement ( $117 \times .15 = 17.6$  units).

An Affordable Housing Agreement (see below) must be executed, and a Site Development Plan (SDP) must be approved, to outline the manner in which a developer will meet an obligation to construct new inclusionary housing units. A developer will not be allowed to proceed with development of market rate units within any given housing project until the City approves the Affordable Housing Agreement and related SDP.

## Carlsbad Municipal Code

[Up](#)      [Previous](#)      [Next](#)      [Main](#)      [Search](#)      [Print](#)      [No Frames](#)

[Title 21 ZONING](#)

[Chapter 21.10 R-1 ONE-FAMILY RESIDENTIAL ZONE](#)

### 21.10.030 Second dwelling units.

A. The public good is served when there exists in a city housing which is appropriate for the needs of and affordable to all members of the public who reside within that city. Among other needs, there is in Carlsbad a need for affordable rental housing. Therefore, it is in the public interest for the city to promote a range of housing alternatives in order to meet the affordable rental housing needs of its citizens. This section is intended to provide a rental housing alternative by establishing a procedure to create new second dwelling units.

B. The provisions of this section shall apply to single-family zones R-A, R-E and R-1, areas designated by a master plan for single-family detached dwellings in P-C zones and lots within multifamily zones R-2, R-3, R-P, R-T, R-W and RD-M, which are developed with single-family residences.

C. Second dwelling units developed within the coastal zone require a minor coastal development permit issued according to the provisions of Section [21.201.080](#) and a building permit. Second dwelling units outside of the coastal zone require a building permit.

D. The completed minor coastal development permit and/or building permit application for a second dwelling unit shall include the following information:

1. The name(s) of the owner(s);
2. The address of the dwelling units;
3. The assessor's parcel number;
4. Building elevations and a general floor plan of the second dwelling unit;
5. A scaled drawing showing the lot dimensions, the location of the primary and second dwelling unit, location of all vehicular parking and the total square footage of both units;
6. Description and location of water and sanitary (sewer) services; and
7. An owner signed and notarized a notice of restriction, to be recorded against the property, declaring that:
  - a. The property owner(s) shall reside in either the main dwelling unit or the second dwelling unit, unless a lessee leases both the main dwelling and the second dwelling unit;
  - b. The obligations and restrictions imposed on the second dwelling unit per this chapter are binding on all present and future property owners.

E. Second dwelling units shall comply with the following:

1. The second dwelling unit shall either be attached to the main dwelling unit and located within the habitable area of the main dwelling unit or detached from the main dwelling unit and located on the same lot as the main dwelling unit;
2. The second dwelling unit shall have a separate entrance;
3. The second dwelling unit must meet the setback, lot coverage and other development standards applicable to the zone which are not addressed within this subsection. In the coastal zone, any housing development processed pursuant to this chapter shall be consistent with all certified local coastal program provisions, with the exception of density, or as otherwise specified within this subsection;
4. Attached second dwelling units shall conform to the height limits applicable to the zone and detached second dwelling units shall be limited to one story, except that second dwelling units constructed above detached garages shall be permitted and shall conform to the height limits applicable to the zone;
5. Garage conversions are prohibited unless replacement off-street garage parking is provided concurrently and in compliance with the requirements of Chapter [21.44](#);
6. Second dwelling units shall not be permitted on a lot or parcel having guest or accessory living quarters, or a residential care facility. Existing guest or accessory living quarters may be converted into a second dwelling unit provided that all zoning and structural requirements are met;

7. One additional paved off-street (covered or uncovered) parking space shall be provided for the second dwelling unit and shall comply with the requirements of Chapter 21.44. The additional parking space may be provided through tandem parking (provided that the garage is set back a minimum of twenty feet from the property line) or in the front yard setback;
8. Adequate water and sewer capacity and facilities for the second dwelling unit must be available or made available;
9. All necessary public facilities and services must be available or made available;
10. The second unit may be rented and shall not be sold separately from the main dwelling unit unless the lot on which such units are located is subdivided. The lot upon which the second unit is located shall not be subdivided unless each lot which would be created by the subdivision will comply with the requirements of this title and Title 20; and further provided, that all structures existing on each proposed lot will comply with the development standards applicable to each lot;
11. The total area of floor space for an attached or detached second unit shall not exceed six hundred forty square feet;
12. The second dwelling unit shall be architecturally compatible with the main dwelling unit, in terms of appearance, materials and finished quality;
13. A second dwelling unit which conforms to the requirements of this section shall be allowed to exceed the permitted density for the lot upon which it is located and shall be deemed to be a residential use consistent with the density requirements of the general plan and the zoning designation for the lot;
14. Second dwelling units intended to satisfy an inclusionary requirement shall comply with the requirements of Chapter 21.85, including but not limited to the applicable rental rates and income limit standards. (Ord. CS-178 § IX, 4-24-2012; Ord. CS-166 §§ 1, 2, 12-13-2011; Ord. CS-102 § XX, 8-24-2010; Ord. NS-718 § 7, 2004)

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