Chapter 19.535. INCLUSIONARY HOUSING

19.535.010 Purpose and intent.

The purpose of this Chapter include:

A. To ensure the development and availability of decent housing to a broad range of households of varying income levels throughout the City.

B. To add affordable housing units to the City's housing stock.

C. To ensure the long-term affordability of units and availability for income-eligible households.

D. To ensure that the public and private sector partner in providing affordable housing for current and future residents of the City.

E. To integrate housing units for all income levels in new multi-family housing development and disperse units throughout the City so as not to segregate affordable housing.

19.535.020 Exemptions.

The requirements of this Chapter do not apply to:

A. Residential development projects resulting in the construction of one (1) or two (2) housing units and residential subdivisions resulting in two (2) lots.

B. The reconstruction of any structures that have been destroyed by fire, flood, earthquake or other act of nature provided that the reconstruction of the site does not increase the number of residential units by three or more.

C. Residential building additions, repairs or remodels provided that such work does not increase the number of existing units by three or more.

D. Residential development projects that have submitted all required application materials for land use entitlement(s), provided that those applications have been accepted for review by the City as of the effective date of this article or December 31, 2022, whichever is earlier.

19.535.030 Inclusionary requirements.

Any residential development project or parcel map that includes three (3) or more dwelling units shall provide affordable units as defined in this Section.

A. For the purposes of determining inclusionary housing requirements pursuant to this Chapter, the following income limits, as published and periodically updated for Riverside County by the State Department of Housing and Community Development, shall apply:

   1. Very Low-Income – household income shall not exceed fifty percent (50%) of the area median income (AMI).

   2. Low-Income – household income shall not exceed seventy percent (70%) of the AMI.

   3. Moderate-Income – household income shall not exceed one hundred ten percent (110%) of the AMI.

B. **For-sale dwelling units**. Residential development projects that include for-sale dwelling units shall provide affordable units as follows:

   1. Within the boundaries of residential development project.

      a. In all low-density residential development projects, five (5) percent of the total number of dwelling units shall be sold at an affordable sale price for moderate-income households.

b. In all moderate-density or high-density dwelling unit developments:

i. Ten (10) percent of the total number of dwelling units shall be sold at an affordable sale price for low-income households.

ii. If any development was developed with the intent to rent the dwelling units and is converted to for-sale, inclusionary requirements for rental dwelling units shall apply.

c. The aforementioned affordability requirements shall apply to vacant development parcels resulting from the subdivision of land by a parcel or tentative and final map.

2. Outside the boundaries of residential development project.

a. For all low-density residential development projects outside the market-rate development boundaries, eight (8) percent of the total number of dwelling units shall be sold at an affordable sale price for moderate-income households.

b. For all moderate-density or high-density residential development projects, fifteen (15) percent of the total number of dwelling units shall be sold at an affordable sale price for low-income households.

C. **Rental dwelling units**. Residential development projects that include rental dwelling units shall provide inclusionary units as follows:

1. Within the boundaries of residential development project, regardless of density, ten (10) percent of the total number of dwelling units shall be rented at an affordable rent for low-income households

2. Outside the boundaries of residential development project, regardless of density, fifteen (15) percent of the total number of dwelling units shall be rented at an affordable rent for low-income households.

3. The developer may, at its discretion, provide the required inclusionary units at an affordable rent for very low-income and low-income households.

D. Additional Requirements.

1. Any additional market-rate units that are allowed per Chapter 19.545 – Density Bonus will not be included in the unit count used to calculate a project's Inclusionary Housing requirements.

2. Fractional housing units or parcels shall pay an in-lieu fee in the amount determined pursuant to 19.535.080.

3. When a residential development project includes a combination of differing densities and/or tenure types (for-sale or rental) the required number of units by income level shall first be calculated for each category of dwelling units individually and then combined to determine the total inclusionary housing requirement.

19.535.040 Duration of affordability.

A. For-Sale Inclusionary Units.

1. Units must be legally restricted as for-sale and occupied by households of the income levels for which the units were designated for a term of not less than 55 years.

2. During that legally restricted term:

a. The units may be sold and resold to households of the income levels for which the units were designated at an affordable sales price for those households; or

b. The sale shall be subject to an equity reimbursement requirement pursuant to this Chapter.

B. Rental Inclusionary Units.

1. Units must be legally restricted as rental and occupied by households in the income level for which the units are developed for a term of not less than 55 years.
2. Units developed on property owned by the City, and leased to a residential developer, must be legally restricted as rental and occupied by households in the income level for which the units were developed for the duration of the land lease term.

C. To ensure compliance with the duration requirement, an Affordable Housing Agreement and, if applicable, a Resale Restriction Agreement shall be recorded for every inclusionary unit as prescribed by the City.

19.535.050 Development standards.

A. All Inclusionary units – On-site – Unless otherwise specified by the City Council, inclusionary units shall be developed and incorporated in the residential development project in a manner consistent with the following requirements:

1. Location.
    a. Inclusionary units shall be integrated throughout a residential development project and not clustered in a specific portion of the development.
    b. The location of the inclusionary units within a residential development project shall be designated before issuance of building permits for the development.
2. The bedroom mix for the inclusionary units must be proportional to the bedroom mix of the market rate units.
3. The floor area of inclusionary units may be up to 10 percent smaller than the market-rate units in the project.
4. The interior finishes, features, and appliance packages must be comparable to the base level interior finishes for the market-rate units.
5. For-sale inclusionary units shall provide comparable infrastructure services (including sewer, water and other utilities), construction quality and exterior design to the market-rate units.
6. Residents and tenants of affordable units shall be provided the same rights and access to common amenities as residents and tenants occupying market-rate units.
7. Construction Timing.
    a. The inclusionary units shall be built concurrently with the market rate units in the residential development project.
    b. The inclusionary units may be constructed in phases if the market rate units are constructed in phases, provided that the percentage of inclusionary units is equivalent to or greater than the percentage of market rate units during each phase.

B. Inclusionary units outside the boundary of residential development projects – Unless otherwise specified by the City Council, inclusionary units constructed outside the boundaries of the market-rate residential development project shall comply with the following requirements:

1. The developer of the market-rate residential development project may enter into an agreement with an affordable housing developer to construct, own and operate the inclusionary units, subject to the following requirements:
    a. The affordable housing developer:
        i. Must provide support information for similar projects/experience within the last 3-5 years developing affordable housing.
        ii. Shall be responsible for all financing all inclusionary units.

b. A market-rate residential development project that satisfies its inclusionary requirement with off-site inclusionary units shall not be eligible for a density bonus, concessions, incentives or waivers pursuant to Chapter 19.545 – Density Bonus.

c. The inclusionary units constructed outside the boundary of the market-rate residential development project to satisfy the inclusionary requirement shall be eligible for a density bonus pursuant to 19.545.

d. All discretionary approvals and financing for the inclusionary units must be secured prior to the market-rate, for-sale component commencing construction.

2. All units developed outside the boundaries of the residential development project must be constructed within the same Ward of the City as the market-rate residential development project.

3. The inclusionary units shall not create an over-concentration as follows:

a. No more than 100 deed restricted very low- or low-income dwelling units within 500 feet of the proposed inclusionary units; or

b. No more than 400 deed restricted very low- or low-income dwelling units within 1500 feet of the proposed inclusionary units.

4. The bedroom mix for the inclusionary units must be proportional to the bedroom mix of the market rate project.

5. The floor area of inclusionary units may be up to 10 percent smaller than the units in the market-rate project.

6. The interior finishes, features, appliance packages, and infrastructure services for inclusionary units shall comply with the standards established or approved by the California Tax Credit Allocation Committee for residential units developed pursuant to the federal low-income housing tax credit program.

19.535.070 Marketing inclusionary units.

A. The developer must market the inclusionary units to eligible residents of the City of Riverside.

B. Marketing includes, at a minimum, the following:

1. Notifying local government and nonprofit agencies serving income-qualified households in the City of Riverside, as identified by the City, of the availability of affordable units no later than 90 days after the issuance of building permits.

2. Placing a sign on the property advertising the availability of the affordable units including contact information.

3. Advertising the availability of the affordable units on social media outlets and local newspapers in multiple languages.

19.535.080 In-Lieu Fee Alternative.

A. As an alternative to constructing inclusionary units as required by this Chapter, all or a portion of the inclusionary housing requirement may be fulfilled through the payment of in-lieu fees, pursuant to the fee schedule adopted by the City Council.

B. The in-lieu fees shall be based on the percentage of affordable units required if the inclusionary units were provided outside the boundaries of the market-rate residential development project, pursuant to 19.535.030.

C. Calculation of Fees.

1. In-lieu fees shall be paid for any fractional inclusionary unit based on the calculation of the required number of inclusionary units.
2. The developer may voluntarily commit to round the fractional inclusionary unit up to the next whole unit for the in-lieu fee.

D. Payment of Fees.

1. The required in-lieu fees shall be paid at the issuance of the first building permit for the residential development project.
2. For phased projects, the developer may pay a pro rata share of the in-lieu fee, based on both the number of phases and units in each phase, at the issuance of the first building permit for each phase of the residential development project.

E. All collected in-lieu fees for inclusionary housing units shall be deposited in the Inclusionary Housing Fund pursuant to 19.535.130.

19.535.090 Requirements For Selling For-Sale Inclusionary Units.

A. The initial sales price, and any resale price, will be at an affordable sales price for the income level for which the units are designated for the duration of affordability per 19.535.040.

B. At the time of sale, the City will determine the Initial Equity for the unit, which will equal the difference between the Fair Market Value of the unit as determined by an FHA-style appraisal and the affordable sales price.

C. A Resale Restriction Agreement must be entered into for any change of ownership maintaining the household income restriction for the duration of affordability per 19.535.040.

D. All for-sale inclusionary units are subject to the following:

1. The person that purchases the inclusionary unit, owner, shall use and occupy it as their principal/primary dwelling.
2. The owner is expressly prohibited from leasing or renting the inclusionary unit unless the City has given prior written consent to such lease or rental on the basis of a demonstrated hardship by the owner.
3. Certificate of Continued Occupancy.
   a. A Certificate of Continued Occupancy shall be submitted annually to the City on a City-provided form.
   b. Default.
      i. If the owner fails to submit the annual report in as required, notice will be given by the City of Riverside.
      ii. If within 30-days after receiving the notice from the City, a Certificate of Continued Occupancy is not submitted, the owner will receive a second notice.
      iii. If within 30-days after receiving the second notice from the City, a Certificate of Continued Occupancy is not submitted, the matter will be referred to the City Attorney's Office.

E. Initial Equity Reimbursements.

1. If the owner plans to sell the inclusionary unit during the duration of affordability, and the potential owner's household income exceeds the income level, and/or at a price that exceeds the affordable housing cost for which the units are designated, the owner shall pay to the City a percentage of the Initial Equity as calculated per this Chapter.
2. The percentage of the Initial Equity to be paid to the City shall be determined as follows:

a. Between years 0 and 10, 100%;

b. Between years 11 and 20, 80%;

c. Between years 21 and 30, 60%;

d. Between years 31 and 40, 40%;

e. Between years 41 and 50, 20%; and

f. Between years 51 and 55, 10%.

3. No percentage of the Initial Equity shall be required for any sale occurring after the duration of affordability.

19.535.100 Requirements for Occupancy of Inclusionary Rental Units.

A. All rental inclusionary units shall be rented to households in the appropriate income category for the inclusionary units.

B. The developer shall designate and offer rental inclusionary units for-rent to households in the appropriate income category, based on the approved Inclusionary Housing Plan.

C. The maximum allowable rent of inclusionary units will be based on the applicable income levels for the inclusionary units.

D. Annual report.

1. The owner of the rental property shall submit an annual report to the City on a City-provided form.

2. The annual report shall include the following:

a. A summary of documents reviewed by the owner for each inclusionary unit that demonstrate the prospective renter's total income (such as income tax returns or W-2s for the previous calendar year).

b. The occupancy of each rental inclusionary unit for the year.

3. Default

a. If the owner of the rental property fails to submit the annual report in as required, notice will be given by the City of Riverside.

b. If within 30-days after receiving the notice from the City, an annual report is not submitted, the owner will receive a second notice.

c. If within 30-days after receiving the second notice from the City, an annual report is not submitted, the matter will be referred to the City Attorney's Office.

19.535.110 Adjustments or Waivers to Inclusionary Requirements.

A. Any developer must apply for an adjustment or waiver of these requirements with their application for any discretionary or ministerial permit for the residential development project.

B. Reasons for Adjustments or Waivers.

1. The requirements of the Chapter may be adjusted or waived if the applicant demonstrates that applying the requirement would take property in violation of the United States or California Constitutions.

a. If the City Manager, or his/her designee, determines that applying the requirements of this Chapter, including any variances or regulatory concessions/incentives would take property in violation of the United States or California Constitutions, the requirements of this program may be

modified, adjusted or waived to reduce the obligations to the extent necessary to avoid an unconstitutional result.

b. If the City Manager, or his/her designee, determines no violation of the United States or California Constitutions would occur through application of this Chapter, the requirements remain applicable.

2. The City Manager, or his/her designee, shall review any requests for an adjustment or waiver application and issue a written decision.

C. In making the (adjustment or waiver) determination, the City Manager or City Council, as applicable shall assume each of the following:

a. Application of the inclusionary housing requirement to the residential development project;

b. Application of any applicable inclusionary or density bonus concessions, incentives or waivers;

c. Utilization of the most cost-efficient product type for the inclusionary units; and

d. The potential for the external funding, including but not limited to, governmental grants, loans, or subsidies of any nature where reasonably likely to occur.

19.535.120 Appeals of City Manager Decisions on Inclusionary Requirements.

A. The decision of the City Manager, or his/her designee, may be appealed by submitting, in writing, the basis for the appeal.

B. The appeal shall be submitted to the City Clerk within ten (10) days of receipt of the decision.

C. The City Council shall hear the appeal at a time agreed by the appellant and the City.

D. The decision of City Council's decision shall be final.

19.535.120 Compliance Requirements and Procedures.

E. Inclusionary Housing Plan.

1. As part of any application for residential development projects, an Inclusionary Housing Plan shall be required for all residential development projects subject to this Chapter as prescribed by the City.

2. The Inclusionary Housing Plan shall be approved concurrently with the residential development project application and shall include the following:

a. Project specifics.

i. Description of the residential development project including the number of for-sale or rental units.

ii. Methods to meet the inclusionary housing requirements.

iii. The number, unit type, tenure, number of bedrooms, approximate location, size and design, construction and completion schedule of all inclusionary units.

iv. Compliance with all outside the boundary requirements for the residential development project.

v. If applicable, phasing plans including the relationship of construction timing for inclusionary units and market rate units.

vi. If applicable, the in-lieu fees to be paid by applicant.

vii. Any other information requested by the City Manager, or his/her designee, that will assist with evaluation of the plan under the requirements of this Chapter.

b. Recording requirements include:

i. A legal instrument, as specified by the City, shall be recorded against every inclusionary unit to ensure its affordability.

ii. A recordable Affordable Housing Agreement, as defined in this Chapter, entered into by the applicant and any other necessary party.

c. All required in-lieu fees shall be paid at the time per 19.535.080.

3. Discretionary Decisions.

a. If the residential development project requires discretionary approval, the Inclusionary Housing Plan shall be considered with the project application.

b. Discretionary decisions related to residential development projects that include inclusionary units may be appealed in accordance with the appeals procedures in this Title.

4. Ministerial Approval.

If the residential development project does not require discretionary approvals, the Inclusionary Housing Plan shall be approved by the Community & Economic Development Director, or his/her designee, prior to issuing the ministerial permit.

F. Affordable Housing Agreement.

1. An approved Affordable Housing Agreement shall be required for residential development projects subject to this Chapter.

2. Form of Agreement.

a. The Affordable Housing Agreement, and any related declarations, resale restrictions, deeds of trust, and other documents, shall be in a form as prescribed by the City;

b. The Affordable Housing Agreement shall be approved by the City Manager, or his/her designee, and approved as to form by the City Attorney prior to final execution.

3. Recording Requirements.

a. The Affordable Housing Agreement must be recorded against every individual inclusionary unit or the residential development project in its entirety.

b. Building permits shall not be issued for any residential development project until:

i. The Affordable Housing Agreement is executed by the owner, the applicant (if not the owner) and the City;

ii. The Agreement is recorded against the property; and

iii. The payment of in-lieu fee is paid, if applicable.

c. The Affordable Housing Agreement shall specify that the applicant must develop the required inclusionary housing units and comply with all terms of the approved Inclusionary Housing Plan as defined in this Chapter.

d. Resale restrictions, deeds of trust, and/or other documents as deemed necessary by the City Manager, or his/her designee, shall be recorded against all for-sale inclusionary units.

19.535.130 Administration.

A. The City Manager, or his/her designee, is authorized to initiate any administrative procedures necessary to implement the purpose and intent of this Chapter.

B. The City Manager, or his/her designee, may prepare necessary forms related to the implementation of this Chapter.

1. Forms needed for implementation may be introduced as deemed necessary.

2. All forms or administrative procedures shall be carried out in a manner consistent with the purposes and intent of this Chapter and the City's General Plan.

C. In-Lieu Fees – Inclusionary Housing Fund

1. Unless otherwise required by law, all in-lieu fees and funds collected pursuant to this Chapter shall be deposited into a separate account designated as the City of Riverside Inclusionary Housing Fund, to be established by resolution of the City Council.

2. The moneys in the Inclusionary Housing Fund, and all earnings from investment of the moneys, shall be expended exclusively to provide housing affordable to extremely low-income, very low-income, low-income, and moderate-income households in the City of Riverside inclusive of administration and compliance monitoring.

19.535.140 Enforcement.

A. The City Attorney shall be authorized to enforce the provisions of this Chapter and all requirements placed on inclusionary units by civil action and any other proceeding or method permitted by law.

B. The City may, at its discretion, take such enforcement action as is authorized by the Riverside Municipal Code and/or any other action authorized by law or any regulatory document, restriction, or agreement executed under this Chapter.

C. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any applicant or owner from the requirements.

D. No permit, license, map, or other approval or discretionary approval for a residential development project shall be issued, including without limitation a final inspection or certificate of occupancy, until all applicable requirements are satisfied.

E. Any remedies provided shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

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