



City of Calimesa
Special Joint Workshop of the
City Council and Planning Commission
AGENDA

Tuesday, February 14, 2012

6:00 p.m.

Norton Younglove Multipurpose Senior Center
908 Park Avenue, Calimesa

Ella Zanowic, Mayor ♦ Bill Davis, Mayor Pro Tem
Jeff Hewitt, Council Member ♦ Jim Hyatt, Council Member ♦ Joyce McIntire, Council Member
Randy Anstine, City Manager ♦ Kevin Ennis, City Attorney

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a City meeting or other services offered by this City, please contact the City Clerk's Office, (909) 795-9801. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Any public writings distributed by the City to at least a majority of the Council Members regarding any item on this regular meeting agenda will be made available at the public counter at City Hall located at 908 Park Avenue, Calimesa, CA 92320.

CALL TO ORDER

ROLL CALL

CITY COUNCIL: MAYOR ZANOWIC, MAYOR PRO TEM DAVIS, COUNCIL MEMBER HEWITT, COUNCIL MEMBER HYATT, AND COUNCIL MEMBER MCINTIRE.

PLANNING

COMMISSION: CHAIRPERSON BARRON, VICE-CHAIRPERSON MOLINA, COMMISSIONERS BRITTINGHAM, KEITH AND MATLOCK.

STAFF:

CITY MANAGER ANSTINE, CITY CLERK GERDES AND COMMUNITY DEVELOPMENT DIRECTOR ROMO.

PLEDGE OF ALLEGIANCE

COMMUNICATIONS FROM THE PUBLIC

Anyone wishing to address the Council on any item within the Council's jurisdiction that is not on the agenda, may do so at this time. This is not a time for Council Member comment or action, but the Council may ask questions for clarification or make a referral to staff for factual information to be reported back to the Council at a later meeting.

WORKSHOP ITEM

1. DISCUSSION OF PROPOSED ORDINANCE NO. 320, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALIMESA, CALIFORNIA AMENDING CHAPTER 18.130 OF THE CALIMESA MUNICIPAL CODE TO CLARIFY THE DEFINITION OF "AFFORDABLE SALES PRICE" IN THE CITY'S INCLUSIONARY HOUSING ORDINANCE AND CONSIDER THE SUSPENSION OF THE INCLUSIONARY HOUSING ORDINANCE UNTIL JANUARY 1, 2014 [Page 3](#)

RECOMMENDATION: That the City Council and the Planning Commission review the report and provide direction to staff as appropriate.

ADJOURNMENT

City Council Adjourn to their regular meeting of Tuesday, February 21, 2012 at 6:00 p.m.

Planning Commission Adjourn to their regular meeting of Monday, March 12, 2012 at 6:00 p.m.



MEMORANDUM

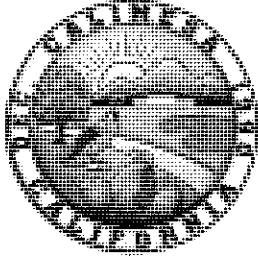
DATE: February 14, 2012
FROM: Gus Romo, Community Development Director
TO: City Council and Planning Commission
SUBJECT: Joint Workshop to Discuss Proposed Amendments to the City's Inclusionary Housing Ordinance

On October 10, 2011, a proposed amendment to the City's Inclusionary Housing Ordinance was presented to the Planning Commission in an effort to clarify the definition of "Affordable Sales Price" for new residential development. The amendment was the result of a complaint from a local developer who stated the City's existing formula was not clear. The developer had objected after receiving comments from staff on a proposed residential subdivision requesting compliance with the Inclusionary Housing Ordinance. However, even after proposing the amended formula and definition on October 10th, the developer continued to object, stating that the ordinance altogether makes the proposed development impractical financially. As such, the developer requested that the Planning Commission continue the public hearing once again to consider adding a temporary suspension clause to the ordinance. Based on the existing economic climate, the Planning Commission agreed to continue the hearing and have staff research the possibility of adding language to the ordinance that would suspend it for a couple of years.

On November 14, 2011, staff returned to the Planning Commission with an alternate Inclusionary Housing Ordinance with language identifying a temporary suspension until January 1, 2014. However, staff admonished the Planning Commission that a temporary suspension could likely make the State Department of Housing and Community Development question its recent certification of the City's Housing Element since an Inclusionary Housing Ordinance was shown as a tool to be used by the City to accomplish the development of affordable housing. The Planning Commission elected to withhold adoption of the ordinance and directed staff to hold a joint workshop between the City Council and Planning Commission for further discussion.

Attachments:

- A - November 14, 2011 Planning Commission Staff Report
- B - Draft Planning Commission Resolution 2011-12 and Draft Ordinance No. 320
- C - Existing Inclusionary Housing Ordinance No. 304



STAFF REPORT

CITY OF CALIMESA PLANNING COMMISSION MEETING

SUBJECT: Public Hearing - Ordinance No. 320: "An Ordinance of the City of Calimesa, California amending Chapter 18.130 in the Municipal Code to clarify the definition of "Affordable Sales Price" in the City's Inclusionary Housing Ordinance, and suspending the Inclusionary Housing Ordinance until January 1, 2014."

MEETING DATE: November 14, 2011

APPLICANT: City of Calimesa

LOCATION: City-wide

PRESENTED BY: Gus Romo, Community Development Director

PREPARED BY: Gus Romo, Community Development Director
Kevin G. Ennis, City Attorney

RECOMMENDATION:

That the Planning Commission open the public hearing, consider public comments, and take one of the following actions:

1. Adopt Resolution 2011-12 recommending that the City Council approve and adopt Ordinance No. 320 to clarify the definition of the term "Affordable Sales Price" in the City's Inclusionary Housing Ordinance, and suspend the inclusionary housing ordinance until January 1, 2014.

OR

2. Adopt Resolution 2011-12 WITHOUT the language that suspends the inclusionary housing ordinance until January 1, 2014, and recommend the revised ordinance to the City Council without further review.
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BACKGROUND AND DISCUSSION:

On May 16, 2011, the City Council adopted Ordinance No. 304 to add Chapter 18.130 to the City's Municipal Code ("Inclusionary Housing Ordinance"). In order to help the City meet its affordable housing goals, which are set forth in the 2010 Housing Element, the Inclusionary Housing Ordinance requires that five (5) percent of all "residential developments" be offered for sale as inclusionary units for Low Income Households.



After the adoption of Ordinance No. 304, a local developer raised the question as to how to calculate the "Affordable Sales Price" under the Inclusionary Housing Ordinance. As adopted, Ordinance No. 304 provided a definition of "Affordable Sales Price" that required the developer to estimate the annual household cost of property taxes, maintenance, insurance, and other miscellaneous costs related to the ownership of the home. The developer indicated that it was not possible to determine this estimated figure until the sales price was first determined.

To assist developers in applying the Inclusionary Housing Ordinance, Staff has revised the definition of the term "Affordable Sales Price" in two respects. First, the definition provides more step-by-step guidance as to how to calculate each factor that goes into the "Affordable Sales Price" determination. Second, rather than having the developer determine the property tax and insurance payments under the old formula, the new formula estimates that 20 percent of a household's annual housing allowance will be used to pay for the insurance, maintenance, property taxes, and other costs required to own the home. The remaining 80 percent of the household's annual housing allowance will be available for mortgage payments. The use of these standard estimates will make it easier for developers to calculate the total "Affordable Sales Price" for the home and thereby comply with the Inclusionary Housing Ordinance.

Aside from the formula for calculating "Affordable Sales Price," the developer expressed a more fundamental concern with the Ordinance. That concern is that the implementation of the Inclusionary Housing Ordinance in the current real estate market could actually serve to *reduce* housing development in the City. That is, the inclusionary housing requirement could make housing development less feasible from a financial perspective so as to either deter developers from recommencing housing development in the City or push new housing development to other jurisdictions in the County that do not have an inclusionary housing requirement. The principal concern is that, in this depressed housing market, developers cannot afford to achieve the inclusionary requirement while at the same time selling housing units at the current depressed housing market prices. Accordingly, the developer asked the City to repeal the ordinance.

In considering this request, staff analyzed alternatives to repeal. One alternative was to suspend the ordinance until the housing market recovers to a point that the inclusionary requirement can be accomplished without stifling housing development. Thus, without removing the inclusionary housing ordinance from the City's Municipal Code, staff has included the alternative of adding language to the Ordinance that suspends it from being applied until January 1, 2014. That date was chosen because it does not extend past the current Housing Element cycle. If the economy does not improve by 2014, the City Council may amend the Municipal Code to extend the suspension until the housing market improves. If the suspension continues, the City will need to include alternative programs in the Housing Element to promote the development of affordable housing.

One issue with the proposed suspension is that it does not allow the City to implement one program (the Inclusionary Housing) contained in the City's adopted Housing Element to the extent that the Housing Element states an Inclusionary Housing Ordinance will be used as a tool to obtain affordable housing. By suspending the Ordinance, the Department of Housing and Community Development (HCD) may want the City to continue the program or find other tools to make up for its suspension.



ATTACHMENTS:

Attachment A: Resolution 2011-12 and Draft Ordinance No. 320
Attachment B: Ordinance No. 304

RESOLUTION NO. 2011-12**A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF CALIMESA APPROVAL OF ORDINANCE NO. 320 AMENDING CHAPTER 18.130 IN THE MUNICIPAL CODE TO CLARIFY THE DEFINITION OF "AFFORDABLE SALES PRICE" IN THE CITY'S INCLUSIONARY HOUSING ORDINANCE, AND SUSPENDING THE INCLUSIONARY HOUSING ORDINANCE UNTIL JANUARY 1, 2014.**

WHEREAS, on May 16, 2011, the City Council adopted Ordinance No. 304 to establish the City's "Inclusionary Housing Ordinance" as a new Chapter 18.130 in the Calimesa Municipal Code; and

WHEREAS, the City has decided to clarify the definition of the term "affordable sales price" to make it easier for applicants to comply with the requirements of the inclusionary housing ordinance; and

WHEREAS, pursuant to the required findings of fact identified in Sections 18.15.060 (E) (Development Code Amendments) and 18.15.150 (F) (Zone Changes) of the Calimesa Municipal Code, the proposed amendment is consistent with the Calimesa General Plan; and

WHEREAS, the purpose of this Ordinance is to ensure that the City abides by the goals within its adopted Housing Element, which is a requirement of the State of California, wherein there is a requirement to adopt a comprehensive, long-term general plan for the physical development of the City, and the housing element is one of the seven mandated elements of the local general plan; and

WHEREAS, the Planning Commission held a duly noticed public hearing to consider the adoption of Ordinance No. 320 on November 14, 2011; and

WHEREAS, following the close of the public hearing, the Planning Commission adopted this resolution to recommend that the City Council approve and adopt Ordinance No. 320, amending Chapter 18.130 to revise the definition of the term "Affordable Sales Price" in the Inclusionary Housing Ordinance and suspend the Inclusionary Housing Ordinance until January 1, 2014.

NOW, THEREFORE, the Planning Commission of the City of Calimesa does hereby find, determine and resolve as follows:

Section 1. Environmental Findings. The proposed amendment was reviewed in accordance with the California Environmental Quality Act, Public Resources Code Section 21000 et seq. ("CEQA") and CEQA Guidelines, 14 Cal. Code Regs. § 15000 et seq. ("CEQA Guidelines"). In adopting Ordinance No. 304, the City Council has merely clarified the steps applicants should use to calculate the maximum sales price for Inclusionary Units. The Planning Commission finds that no further environmental review is required pursuant to Section 15162 of the CEQA Guidelines and Section 21166 of the Public Resources Code. The proposed amendment does not involve significant new effects, does not change the baseline environmental conditions, and does not represent new information of substantial importance that will have one or more significant effects not previously discussed in the Negative Declaration. Accordingly, the amendment does not require the preparation of an Environmental



Impact Report or Mitigated Negative Declaration because none of the conditions described in Section 15162 of the CEQA Guidelines exist.

Section 2. Based on the findings and determinations made herein and all evidence in the record of proceedings in this matter, the Planning Commission recommends that the City Council adopt Ordinance No. 320, as set forth in Exhibit A to this Resolution.

PASSED, APPROVED AND ADOPTED, this 14th day of November 2011.

Mike Barron, Chair

ATTEST:

I, Gus Romo, the undersigned, hereby certify that I am the Planning Commission Secretary of the Planning Commission of the City of Calimesa, California; that Resolution 2011-12 was duly passed and adopted at a meeting of the Calimesa Planning Commission, held on the 14th day of November 2011.

Gus Romo, Secretary to the Planning Commission

EXHIBIT A OF PLANNING COMMISSION RESOLUTION NO. 2011-12

ORDINANCE NO. 320

AN ORDINANCE OF THE CITY OF CALIMESA, CALIFORNIA, AMENDING CHAPTER 18.130 IN THE MUNICIPAL CODE TO CLARIFY THE DEFINITION OF "AFFORDABLE SALES PRICE" IN THE CITY'S INCLUSIONARY HOUSING ORDINANCE, AND SUSPENDING THE INCLUSIONARY HOUSING ORDINANCE UNTIL JANUARY 1, 2014.

THE CITY COUNCIL OF THE CITY OF CALIMESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings and Purpose.

- A. The State Legislature has declared that the lack of affordable housing is a critical problem that threatens the economic, environmental, and social quality of life in California because it limits economic activity that is dependent on workers at all income levels. The State has also declared that cities and counties are responsible for planning and identifying appropriate procedures for the production of affordable housing.
- B. The City Council has determined that the proposed amendment contained in this Ordinance has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City's Local CEQA Guidelines. The City Council has determined that no additional environmental documentation is required to be prepared and no additional public notice is required to be given in accordance with Section 15162 of the Guidelines for the California Environmental Quality Act. Pursuant to CEQA Guidelines Section 15162, no further environmental documentation is required for this minor amendment to the Inclusionary Housing Ordinance because:
1. The proposed project does not involve any new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 2. There are no changes with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
 3. No new information of substantial importance identifies a significant effect, and no significant effects or mitigation measures were associated with the previously prepared negative declaration.

Therefore, the original negative declaration represents the independent judgment of the City and there is no substantial evidence that the approval of the

amendment may have any significant environmental impact. The documents and other material that constitute the record on which this decision is based are located in the Department of Community Development.

- C. This Ordinance is adopted by the City Council pursuant to the City's police powers to protect the health, safety, and general welfare of the public.
- D. The City Council finds that: (i) requiring developments to reserve a certain percentage of units for low income households will contribute to greater housing options for households of all income levels; (ii) providing for affordable housing units in the City will assist in providing housing for all segments of the City's workforce and help employers and the local economy; (iii) development procedures that require the development of affordable housing for developments of twenty (20) or more dwelling units affirm the goals and objectives set forth in the City's Housing Element; and (iv) clarifying the definition of "Affordable Sales Price" will allow the City to more easily implement the Inclusionary Housing Ordinance.
- E. The City Council further finds that implementation of the Inclusionary Housing Ordinance in the current, distressed real estate market would actually result in the deterrence of housing development in the City. By suspending the implementation of the Ordinance until 2014, the City Council seeks to maintain policies that will promote affordable housing development in the future, but recognizes that the goal of providing for affordable housing will not be achieved if the City's policies deter *all* housing development. Thus, the City Council finds that the Ordinance should be suspended until the real estate market improves to a point at which the Ordinance's implementation will not effectively deter housing development in the City.
- F. The Planning Commission held a duly noticed public hearing on the adoption of this Ordinance on November 14, 2011, and following the close of the public hearing, adopted Resolution No. 2011-12 recommending approval of this Ordinance.
- G. The City Council held a duly noticed public hearing on the adoption of this Ordinance on December 5, 2011, and following receipt of all testimony, closed the public hearing.

Section 2. Section 18.130.010 of Title 18 (Zoning Land Use and Development Regulations) of the Calimesa Municipal Code is hereby amended to read as follows:

"18.130.010 Purpose and Intent.

The purpose and intent of this Chapter, which shall be known as the "Calimesa Inclusionary Housing Ordinance," are the following:

- A. To encourage the development and availability of housing affordable within the City to a broad range of households with varying income levels;

- B. To promote the City's goal of adding affordable housing units to the City's housing stock;
- C. To increase the availability of housing opportunities for Low and Moderate Income households within the City limits in order to protect the economic diversity of the City's housing stock, and to ultimately reduce traffic, commuting and related air quality impacts within the region, and to encourage the quality of life unique to the City of Calimesa;
- D. To implement policies of the Housing Element of the General Plan, including:
 - 1. Adopting an inclusionary housing program to meet the housing needs of those not currently served by other housing programs; and
 - 2. Encouraging the development of housing for first-time home buyers, including low income households; and
- E. To mitigate the fact that new housing developments increase the local demand for services and thereby expands the need for new low wage jobs, increasing the demand for low income housing in the City.
- F. To ensure that the imposition of the inclusionary housing requirements occurs at a time when the housing market has improved to a level that the requirements do not unduly hinder or impede housing development projects in the City."

Section 3. The definition of the term "Affordable Sales Price" in Section 18.130.020 of Title 18 (Zoning Land Use and Development Regulations) of the Calimesa Municipal Code is hereby amended to read as follows:

"Affordable Sales Price" means the maximum sales price to be paid by a Low Income Household for an Inclusionary Unit, to be determined as follows:

- a. Determine the "annual income for a lower income household" as follows:
 - 1. Determine the average number of bedrooms per unit in the proposed Residential Development.
 - 2. Round up the number of bedrooms from Section (a)(1) to the next whole number to determine the applicable household size.
 - 3. Determine the Area Median Income, as defined in this Section 18.130.020, for a household of the size determined in Section (a)(2).
 - 4. Multiple the Area Median Income determined in Section (a)(3) by 0.80 to determine the "annual income for a lower income household."
- b. Determine the "monthly household allowance available for a mortgage payment" as follows:
 - 1. Multiply the "annual income for a lower income household" determined in Section (a)(4) by 0.35 to determine the "annual housing allowance."
 - 2. Divide the "annual housing allowance" by 12 to determine the "monthly housing allowance."

3. Multiply the "monthly housing allowance" by 0.80 to determine the "monthly household allowance available for a mortgage payment."
- c. Determine the "maximum mortgage" that can be financed as follows:
1. Find the "prevailing interest rate," which shall be the historical daily required net yield for the prior month for a 30-year fully amortized fixed-rate single-family home mortgage, as identified by Fannie Mae;
 2. Determine the "maximum mortgage" that can be financed at the "prevailing interest rate" determined in Section (c)(1) based on the "monthly household allowance available for a mortgage payment" determined in Section (b)(3).
- d. Determine the "Affordable Sales Price" by dividing the "maximum mortgage" determined in Section (c)(2) by 0.80."

Section 4. Chapter 18.130 (Inclusionary Housing) of Title 18 (Zoning Land Use and Development Regulations) of the Calimesa Municipal Code is hereby amended to add a new Section 18.130.130 to read as follows:

"18.130.130 Temporary Suspension.

The provisions of this Chapter 18.130 are temporarily suspended as of the effective date of Ordinance No. 304 and shall automatically become reinstated and take effect on January 1, 2014. The City Council may revise the effective date to be earlier or later based upon its determination that the real estate market has recovered sufficiently to allow the implementation of this Chapter 18.130 without unduly hindering or impeding the development of housing in the City."

Section 5. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance for any reason is held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity or the remaining portions of this ordinance. The City Council of the City of Calimesa hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions were to be declared invalid or unconstitutional.

Section 6. Effective Date; Publication

This ordinance shall take effect thirty (30) days after its final passage, and within fifteen (15) days after its passage, the City Clerk shall cause this ordinance or a summary hereof to be published and or posted as required by law and by the City's ordinances and resolutions.

INTRODUCED AND PASSED UPON FIRST READING by title only, upon the following roll call vote, this 5th day of December, 2011:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

PASSED, APPROVED AND ADOPTED this [] day of [] upon the following roll call vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

ELLA ZANOWIC, MAYOR

ATTEST:

DARLENE GERDES, CITY CLERK

APPROVED AS TO FORM:

KEVIN G. ENNIS, CITY ATTORNEY

ORDINANCE NO. 304

AN ORDINANCE OF THE CITY OF CALIMESA ESTABLISHING AN "INCLUSIONARY HOUSING" ORDINANCE FOR THE PURPOSE OF REQUIRING THE DEVELOPMENT AND CONSTRUCTION OF AFFORDABLE FOR-SALE HOUSING AS PART OF RESIDENTIAL DEVELOPMENTS AND AMENDING THE CALIMESA MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF CALIMESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings and Purpose.

- A. The State Legislature has declared that the lack of affordable housing is a critical problem that threatens the economic, environmental, and social quality of life in California because it limits economic activity that is dependent on workers at all income levels. The State has also declared that cities and counties are responsible for planning and identifying appropriate procedures for the production of affordable housing.
- B. The City Council has determined that the proposed amendments contained in this Ordinance have been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, *et seq.* ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*), and the City's Local CEQA Guidelines.
- C. This Ordinance is adopted by the City Council pursuant to the City's police powers to protect the health, safety, and general welfare of the public.
- D. The City Council finds that: (i) requiring developments to reserve a certain percentage of units for low income households will contribute to greater housing options for households of all income levels; (ii) providing for affordable housing units in the City will assist in providing housing for all segments of the City's workforce and help employers and the local economy; and (iii) development procedures that require the development of affordable housing for developments of twenty (20) or more dwelling units affirm the goals and objectives set forth in the City's Housing Element.
- E. The Planning Commission held a duly noticed public hearing on the adoption of this Ordinance on April 11, 2011, and following the close of the public hearing, adopted Resolution No. 2011-02 recommending approval of this Ordinance.
- F. The City Council held a duly noticed public hearing on the adoption of this Ordinance on May 2, 2011, and following receipt of all testimony, closed the public hearing.

Section 2. Title 18 (Zoning, Land Use and Development Regulations) of the Calimesa Municipal Code is hereby amended to add a new Chapter 18.130 to read as follows:

“Chapter 18.130

INCLUSIONARY HOUSING

Sections:

- 18.130.010 Purpose and Intent.**
- 18.130.020 Definitions.**
- 18.130.030 Inclusionary Requirements.**
- 18.130.040 Exemptions.**
- 18.130.050 Affordable Housing Standards.**
- 18.130.060 Inclusionary Housing Plan.**
- 18.130.070 Alternative Means of Compliance.**
- 18.130.080 Inclusionary Housing Affordability Covenant.**
- 18.130.090 Eligibility for Inclusionary Units; Owner-Occupancy Required.**
- 18.130.100 Affordable Sales Price and Long-Term Affordability Restriction.**
- 18.130.110 Adjustments and Waivers.**
- 18.130.120 General Prohibitions and Enforcement.**

18.130.010 Purpose and Intent.

The purpose and intent of this Chapter, which shall be known as the “Calimesa Inclusionary Housing Ordinance,” are the following:

- A. To encourage the development and availability of housing affordable within the City to a broad range of households with varying income levels;
- B. To promote the City’s goal of adding affordable housing units to the City’s housing stock;
- C. To increase the availability of housing opportunities for Low and Moderate Income households within the City limits in order to protect the economic diversity of the City’s housing stock, and to ultimately reduce traffic, commuting and related air quality impacts within the region, and to encourage the quality of life unique to the City of Calimesa;
- D. To implement policies of the Housing Element of the General Plan, including:
 - 1. Adopting an inclusionary housing program to meet the housing needs of those not currently served by other housing programs; and
 - 2. Encouraging the development of housing for first-time home buyers, including low income households; and
- E. To mitigate the fact that new housing developments increase the local demand for services and thereby expands the need for new low wage jobs, increasing the demand for low income housing in the City.

18.130.020 Definitions.

The terms used in this Chapter shall have the meanings set forth below:

“Affordable Sales Price” means the maximum sales price to be paid by a Low Income Household for an Inclusionary Unit, to be determined as follows:

- A. First, multiply thirty-five (35) percent by eighty (80) percent of the Area Median Income, adjusted for household size, to determine the "annual housing allowance";
- B. Second, subtract annual housing expenses, including property taxes, homeowner association dues, utilities, insurance, and home maintenance costs, from the annual housing allowance determined in subsection (a);
- C. Third, given the annual income available for mortgage payments determined in subsection (b), determine the mortgage available to the household at the prevailing interest rate for a Fannie Mae 30-year mortgage;
- D. Fourth, determine the amount of a required twenty percent (20%) down payment by dividing the total available mortgage determined in subsection (c) by .8;
- E. Fifth, add the amounts from subsection (c) and subsection (d) to determine the "Affordable Sales Price" to be paid for an Inclusionary Unit.

"Area Median Income" means the median household income, provided in Section 50093(c) of the California Health and Safety Code, as amended, that is applicable to Riverside County and adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

"Applicant" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities that seeks City approvals for all or part of a Residential Development.

"CMC" means the Calimesa Municipal Code.

"Household" means one person living alone or two or more persons sharing a residency whose income is considered for housing payments.

"Inclusionary Housing Plan" means the Applicant's proposal for compliance with this Chapter for a particular Residential Development.

"Inclusionary Unit" means a dwelling unit that will be offered for-sale to low income households, at an Affordable Sales Price, in compliance with this Chapter.

"Low Income Household" means a household whose income does not exceed 80 percent of Area Median Income.

"Market-Rate Unit" means a dwelling unit in a Residential Development that is not an Inclusionary Unit.

"Residential Development" means any of the following: (a) a subdivision resulting in the creation of 20 or more residential lots or residential units; (b) the new construction of a project consisting of 20 or more for-sale dwelling units, whether in a multi-family development or a development of single-family homes; or (c) the conversion of 20 or more rental units to condominium ownership.

"Unit Size" means all of the usable floor area within the perimeter walls of a dwelling unit, exclusive of open porches, decks, balconies, garages, basements, cellars that extend no more than two (2) feet above finished grade, and attics that do not exceed a floor-to-ceiling height of five (5) feet.

18.130.030 Inclusionary Requirements.

- A. General Requirement. For all Residential Developments, as defined in Section 18.130.020, at least five percent (5%) of the total lots or units created must be offered for sale as Inclusionary Units restricted for owner-occupancy by Low Income Households.
- B. Rounding. In determining the number of Inclusionary Units required by this Section, any decimal fraction less than 0.5 shall be rounded down to the nearest whole number, and any decimal fraction of 0.5 or more shall be rounded up to the nearest whole number.
- C. Affordable Sales Price. Inclusionary Units must be sold at a price affordable to Low Income Households, calculated according to the definition in Section 18.130.020, or as otherwise described in a City Affordable Housing Policy effective on the date of the Planning Commission's approval of the Inclusionary Housing Plan.

18.130.040 Exemptions.

The requirements of this Chapter shall not apply to the following types of development projects:

- A. Residential dwelling units that are offered for lease rather than for sale.
- B. The reconstruction of any residential units or structures which have been destroyed by fire, flood, earthquake or other act of nature, which are being reconstructed in a manner consistent with the requirements of CMC Title 15.
- C. Residential developments that comply with the Density Bonus Ordinance pursuant to CMC Chapter 18.125.
- D. Applications deemed complete prior to the effective date of this Chapter.
- E. A residential project that is the subject of a development agreement or regulatory agreement that expressly provides for exemption from this Chapter or provides for a different inclusionary requirement from that specified by this Chapter.

18.130.050 Affordable Housing Standards.

Inclusionary Units must conform to the following standards:

- A. Design. Inclusionary Units must be comparable in construction quality and exterior design to the Market-Rate Units. Inclusionary Units may have different interior finishes and features than Market-Rate Units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing.
- B. Size. The average number of bedrooms in the Inclusionary Units must equal or exceed the average number of bedrooms in the Market-Rate Units. Inclusionary Units shall have the number of bathrooms equal to that of a Market-Rate Unit of the same number of bedrooms. The average Unit Size of each Inclusionary Unit shall equal or exceed the average Unit Size of the Market-Rate Units.
- C. Timing. Inclusionary Units shall be provided concurrently with or prior to the related Market-Rate Units. In phased developments, Inclusionary Units shall be

provided in proportion to the number of units in each phase of the Residential Development.

- D. Duration of Affordability Requirement. As stated in the Inclusionary Housing Affordability Covenant, Inclusionary Units shall be restricted for a minimum of 55 years to ownership by Low Income Households.
- E. Location. Except as otherwise provided in this Chapter, Inclusionary Units shall be constructed on-site and shall be reasonably dispersed throughout the Residential Development.
- F. Access to Amenities. Households occupying Inclusionary Units shall have the same access to the amenities and recreational facilities in the Residential Development as households occupying the Market-Rate Units.

18.130.060 Inclusionary Housing Plan.

- A. Every Residential Development to which this Chapter applies shall include an Inclusionary Housing Plan as part of the initial application for the development plan, tentative map, or other discretionary approval to which this Chapter applies.
- B. No application for a development plan, tentative map, or discretionary approval for a Residential Development to which this Chapter applies may be deemed complete until the accompanying Inclusionary Housing Plan, containing the requirements of this Section, is received and deemed complete by the Community Development Director.
- C. At any time during the review process, the Community Development Director may require from the Applicant additional information reasonably necessary to clarify and supplement the Inclusionary Housing Plan, or determine the consistency of the Project's proposed Inclusionary Housing Plan with the requirements of this Chapter.
- D. An Inclusionary Housing Plan must include the following:
 - 1. The number, location, structure (attached, semi-attached, or detached), and size of the proposed Market-Rate and Inclusionary Units and the basis for calculating the number of Inclusionary Units;
 - 2. A floor or site plan depicting the location of the Inclusionary Units and the Market-Rate Units;
 - 3. The income levels to which each Inclusionary Unit will be made affordable;
 - 4. The methods to be used to advertise the availability of the Inclusionary Units and select the eligible purchasers;
 - 5. For any phased development, a phasing plan that provides for the timely development of the number of Inclusionary Units proportionate to each proposed phase of development;
 - 6. Any alternative means designated in Section 18.130.070 proposed for the Development along with information necessary to support the findings required by Section 18.130.070 for approval of such alternatives; and

7. Any other information reasonably requested by the Community Development Director to assist with evaluation of the Plan under the standards of this Chapter.

18.130.070 Alternative Means of Compliance.

An Applicant may submit an Inclusionary Housing Plan that proposes one of the alternative methods of compliance described in this Section. The City may approve, conditionally approve, or deny such a proposal in accordance with the findings described herein.

- A. Off-Site Construction. The required Inclusionary Units may be constructed off-site if the Planning Commission (or the City Council on appeal) finds as follows:
 1. The Unit Size and number of bedrooms of the proposed off-site Inclusionary Units would be greater than that of the Inclusionary Units if they were built on-site;
 2. The off-site Inclusionary Units would allow for significantly reduced sales prices;
 3. The off-site Inclusionary Units would be provided prior to the completion of the Market-Rate Units;
 4. The proposed location of the off-site Inclusionary Units would be accessible to public transit, commercial areas, or public services.
- B. Dedication of Land. In lieu of building Inclusionary Units on or off-site, an Applicant may dedicate land to the City (or a City-designated non-profit housing developer) if the Planning Commission (or the City Council on appeal) finds as follows:
 1. The land to be dedicated is appropriately zoned and otherwise suitable for construction of the number and type of Inclusionary Units that would be required to be built on-site; and
 2. The value of the land to be dedicated is roughly equivalent to the value of the land and amount it would cost the Applicant to construct the required number of Inclusionary Units on-site; and
 3. The City, or the City-designated nonprofit housing developer, has adequate funding sources to construct the required Inclusionary Units on the dedicated land; and
 4. The proposed location of the off-site Inclusionary Units would be accessible to public transit, commercial areas, or public services; or
 5. In the alternative, in the event that (a), (b), (c), and (d), or any one of those, is not satisfied, the dedication of land would accomplish specific housing goals set forth in the City's General Plan.

18.130.080 Inclusionary Housing Affordability Covenant.

- A. Prior to issuance of a grading permit or building permit, whichever is requested first, an Inclusionary Housing Affordability Covenant must be approved and executed by the Community Development Director and the Applicant/Owners, and recorded against the title of each Inclusionary Unit.

- B. If the Residential Development involves the subdivision of land or airspace into individual lots or units and a final map has not been approved and recorded at the time the Applicant requests a grading permit or building permit, an interim Inclusionary Housing Affordability Covenant shall be recorded against the whole of the property to be subdivided, and shall be replaced by separate recorded Inclusionary Housing Affordability Covenants for each lot or unit prior to the sale of any lot, airspace or condominium unit.

18.130.090 Eligibility for Inclusionary Units; Owner-Occupancy Required.

- A. Eligibility for Inclusionary Units. No Household may purchase or occupy an Inclusionary Unit unless the City has approved the Household's eligibility as a "Low Income Household," and the Household and City have executed and recorded an Inclusionary Housing Affordability Covenant in the chain of title of the Inclusionary Unit, as required by Section 18.130.080.
- B. Owner Occupancy. A household that purchases an Inclusionary Unit must occupy that unit as its principal residence, as that term is defined for federal tax purposes by the United States Internal Revenue Service.

18.130.100 Affordable Sales Price and Long-Term Affordability Restriction.

- A. Initial Sales Price. The initial sales price of an Inclusionary Unit shall be set at the Affordable Sales Price.
- B. Transfers and Conveyances. A new Inclusionary Housing Affordability Covenant shall be executed upon each change of ownership of an Inclusionary Unit and upon any transfer or conveyance (whether voluntarily or by operation of law) of an Inclusionary Unit.
- C. Resale Price. In order to maintain the availability of Inclusionary Units required by this Chapter, the resale price of an Inclusionary Unit shall be limited to the lesser of the following:
 - 1. The fair market value of the Inclusionary Unit, as established by a licensed real estate agent based upon three comparable properties;
 - 2. The Affordable Sales Price based on the Area Median Income at the time of resale; or
 - 3. The sum of:
 - a. The selling party's initial purchase price;
 - b. Escrow costs, title insurance premiums paid, and other customary closing costs and fees as described in Section 2(f) hereof;
 - c. The adjusted amount of any capital improvements for which a building permit has been issued by the City and a certification of occupancy or similar final certification has been filed, or other improvements which adds assessed value to the Inclusionary Unit; and
 - d. Any applicable transaction fee charged by a real estate professional.

- e. If the occupant has allowed the unit to deteriorate due to deferred maintenance, the restricted resale price shall be discounted in an amount equal to the costs necessary to bring the unit into conformity with the CMC.
- D. **Inheritance of Inclusionary Units.** Upon the death of an owner of an owner-occupied Inclusionary Unit, title in the property may transfer to the surviving joint tenant without respect to the income-eligibility of the household. Upon the death of a sole owner or of all owners of an Inclusionary Unit and the inheritance of the property by one or more non-income eligible persons, the property shall be sold to an income eligible household within one year of the time when the deceased's estate is settled.
 - E. **Forfeiture.** If an Inclusionary Unit is sold for an amount in excess of the resale price controls required by Section (C) hereof, the buyer and the seller shall be jointly and severally liable to the City for the entire purchase price of the unit. Recovered funds shall be used by the City to accomplish its affordable housing goals. Notwithstanding the foregoing, it shall be within the discretion of the City Manager to allow the buyer and seller 180 days to cure any violation of the resale price controls.

18.130.110 Adjustments and Waivers.

- A. The requirements of this Chapter may be adjusted or waived (in whole or in part) by the City if the Applicant demonstrates to the Planning Commission (or the City Council on appeal) that applying the requirement of this Chapter would constitute a taking of property without just compensation under the California or Federal Constitutions.
- B. The Applicant has the burden of providing economic information and other evidence necessary to establish that application of this Chapter to the specific Residential Development would constitute a taking of the property of the proposed Residential Development without just compensation.
- C. **Application for Adjustment or Waiver.** An application for an adjustment or waiver shall be accompanied by all of the following information:
 1. The estimated fair market value of the property prior to the application for a development plan, tentative map, or discretionary approval for a Residential Development to which this Chapter applies.
 2. The estimated fair market value of the property after completion of the Residential Development, including the reservation of five percent (5%) of the total units for sale to Low Income Households.
 3. The estimated fair market value of the property after completion of the Residential Development without the reservation of five percent (5%) of the total units for sale to Low Income Households.
 4. The estimated cost of any alteration, demolition, and construction required to complete the Residential Development.
 5. The amount paid for the property if purchased within the previous thirty six (36) months, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or Applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.

6. Any listing of the property for sale, prices asked, and offers received within the two (2) years prior to the application for a development plan, tentative map, or discretionary approval for a Residential Development to which this Chapter applies.
- D. **Timing of Waiver Request.** To receive an adjustment or waiver, the Applicant shall make a request of the Planning Commission for such an adjustment or waiver and demonstrate the appropriateness of the adjustment or waiver when first applying to the Planning Commission for review and approval of the development plan, tentative tract map, or other discretionary approval triggering compliance with this Chapter.
 - E. **Assumptions.** In making a determination on an application to adjust or waive the requirements of this Chapter, the Planning Commission (or the City Council on appeal) may assume each of the following when applicable:
 1. That the Applicant is subject to the inclusionary housing requirement;
 2. That the Applicant is obligated to provide the Inclusionary Units in only the most economical manner feasible in terms of construction, design, and location.
 - F. **Written Determination.** Within sixty (60) days of the public hearing on the adjustment or waiver request, the Planning Commission (or the City Council on appeal) shall deny the request unless it finds that:
 1. Denial of the request would deny the Applicant all economically viable use of the property; or
 2. Denial of the request would substantially interfere with the Applicant's distinct investment-backed expectations, which expectations may be formulated in part based on land acquisition costs, construction costs, financing costs, or other costs of development; or
 3. Denial of the request would otherwise constitute a taking pursuant to the federal or state Constitutions.
 - G. **Modifications to Reduce Obligations.** If it is determined that the application of the provisions of this Chapter would constitute a taking, the Inclusionary Housing Plan shall be modified to reduce the obligations of this Chapter to the extent, and only to the extent necessary, to avoid a taking. If it is determined that no taking would occur, the requirements of this Chapter shall apply.
 - H. **Appeal to the City Council.** Any action taken by the Planning Commission made pursuant to a request for an adjustment or waiver pursuant to this Section, may be appealed to the City Council in accordance with the appeal procedures of CMC Section 18.15.080 (Hearings and Appeals).

18.130.120 General Prohibitions and Enforcement.

- A. No person shall sell an Inclusionary Unit at a price in excess of the maximum amount allowed by any restriction placed on the unit in accordance with this Chapter.
- B. No person shall sell an Inclusionary Unit to a person or persons that do not meet the income restrictions placed on the unit in accordance with this Chapter.

- C. No person shall provide false or materially incomplete information to the City or to a seller of an Inclusionary Unit to obtain occupancy of housing for which that person is not eligible.
- D. Enforcement.
 - 1. Any violation of this Chapter constitutes a misdemeanor.
 - 2. Forfeiture of funds. Any individual who sells an Inclusionary Unit in violation of this Chapter shall be required to forfeit all money so obtained. Recovered funds shall be relinquished to the City and used for the development of affordable housing in the City.
 - 3. Legal action. The City may institute any appropriate legal action or proceedings necessary to ensure compliance with this Chapter, including actions:
 - a. To disapprove, revoke, or suspend any permit, including a Building Permit, Certificate of Occupancy, or discretionary approval; and
 - b. For injunctive relief or damages.
 - 4. Recovery of costs. In any action to enforce this Chapter or an Inclusionary Housing Affordability Covenant recorded hereunder, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

Section 3. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance for any reason is held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity or the remaining portions of this ordinance. The City Council of the City of Calimesa hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions were to be declared invalid or unconstitutional.

Section 4. Effective Date; Publication

This ordinance shall take effect thirty (30) days after its final passage, and within fifteen (15) days after its passage, the City Clerk shall cause this ordinance or a summary hereof to be published and or posted as required by law and by the City's ordinances and resolutions.

INTRODUCED AND PASSED UPON FIRST READING by title only, upon the following vote, this 2nd day of May, 2011:

AYES: Zanowic, Davis, Hyatt and McIntire

NOES: Hewitt

ABSENT: None

ABSTAIN: None

PASSED, APPROVED AND ADOPTED this 16th day of May upon the following vote:

AYES: Zanowic, Davis, Hyatt and McIntire

NOES: Hewitt

ABSENT: None

ABSTAIN: None



ELLA ZANGOWIC, MAYOR

ATTEST:



DARLENE GERDES, CITY CLERK

APPROVED AS TO FORM:



KEVIN G. ENNIS, CITY ATTORNEY

STATE OF CALIFORNIA }
COUNTY OF RIVERSIDE }
CITY OF CALIMESA } SS.

I, **DARLENE GERDES**, City Clerk of the City of Calimesa, California, DO HEREBY CERTIFY, that the aforementioned is a true and correct copy of **Ordinance No. 304** known as:

AN ORDINANCE OF THE CITY OF CALIMESA ESTABLISHING AN "INCLUSIONARY HOUSING" ORDINANCE FOR THE PURPOSE OF REQUIRING THE DEVELOPMENT AND CONSTRUCTION OF AFFORDABLE FOR-SALE HOUSING AS PART OF RESIDENTIAL DEVELOPMENTS AND AMENDING THE CALIMESA MUNICIPAL CODE.

And which is on file in the Office of the City Clerk, City of Calimesa California.

Said Ordinance was adopted by the said City Council at a regular meeting thereof held on the 16th day of May 2011 by the following vote:

AYES: Davis, Hyatt, McIntire and Zanowic
NOES: Hewitt
ABSENT: None
ABSTAINED: None


DARLENE GERDES, CITY CLERK

Dated this 17th day of May, 2011.