

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALLEJO ADDING
CHAPTER 16.XXX TO THE VALLEJO MUNICIPAL CODE RELATING TO
AFFORDABLE HOUSING REQUIREMENTS**

THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:

SECTION 1. A new Chapter 16.XXX is hereby enacted to read as follows:

**Chapter 16.XXX
AFFORDABLE HOUSING REQUIREMENTS**

Section 16.XXX.01 Purpose.

A. *Purpose.* The purpose of this chapter is to promote the public welfare and ensure that new residential development contributes to the achievement of the city's housing goals by increasing the production of units affordable to households of moderate-, low-, and very low-income; and generating funds for the development of moderate-, low-, and very-low income housing.

B. *Findings.* The City Council finds that the citizens of the city are experiencing a housing shortage for moderate-, low-, and very-low income households. A goal of the city is to achieve a balanced community with housing available for households over a range of income levels. Increasingly, persons with moderate-, low-, and very-low incomes who work and/or live within the city are unable to locate housing at prices they can afford and are increasingly excluded from living in the city. Federal and state housing subsidy programs are not sufficient by themselves to satisfy the housing needs of moderate-, low-, and very-low income households. The city finds that the high cost of newly constructed housing does not, to any appreciable extent, provide housing affordable by moderate-, low-, and very-low income households while at the same time generates increased demand for lower wage service jobs to maintain public and/or common infrastructure, and that continued new development which does not include lower cost housing will serve to further aggravate the current housing shortage by reducing the supply of developable land. The city further finds that the housing shortage for persons of moderate-, low-, and very-low incomes is detrimental to the public health, safety and welfare, and further, that it is a public policy of the state of California as mandated by the requirements for a housing element of the General Plan, to make available an adequate supply of housing for persons of all economic segments of the community.

Section 16.XXX.02 Affordable Units or Fee Required.

Requirement. All residential projects of twenty (20) or more residential units shall be designed and constructed to include the number of affordable units required by Section 16.xxx.03 unless the

body with review authority over the residential project has approved an in-lieu fee or alternative means of compliance pursuant to this chapter. No application for a general plan amendment, specific plan amendment, rezoning, tentative map, use permit, variance, design review, development review, or building permit for a residential project shall be approved without compliance with this chapter.

B. *Exemptions.* This chapter shall not apply to:

1. The reconstruction of any dwelling units that were destroyed by fire, flood, earthquake or other act of nature.
2. Accessory Dwelling Units and Junior Accessory Dwelling Units.
3. Residential care facilities where otherwise regulated by this title.
4. A land use/development application that has been accepted as complete prior to the effective date of this chapter.

Section 16.XXX.03 Number of Affordable Units.

A. The number of affordable units required in a residential project are as follows:

1. *Rental Projects of Over 20 Units.* A rental project shall include one (1) percent of the total number of dwelling units for rent to households earning not more than Very Low Income; and four (4) percent of the total number of dwelling units for rent to households earning not more than Low Income. Monthly rents shall not exceed one-twelfth (1/12) of thirty percent (30%) of the applicable maximum annual household income, less a monthly utility allowance, as determined by the City.
2. *Ownership Projects of 20-100 Units.* An ownership project consisting of twenty (20) to one hundred (100) dwelling units shall include affordable units for sale to households earning not more than Low Income in an amount equal to three (3) percent of the total number of dwelling units, and affordable units for sale to households earning not more than Moderate Income in an amount equal to two (2) percent of the total number of dwelling units.
3. *Ownership Projects of Over 100 Units.* An ownership project consisting of more than one hundred (100) dwelling units shall include affordable units for sale to households earning not more than Low Income in an amount equal to five (5) percent of the total number of dwelling units, and affordable units for sale to households earning not more than Moderate Income in an amount equal to three (3) percent of the total number of dwelling units.

B. *Fractional Units.* When the application of the percentages specified above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is 0.50 or more. If the result includes a fraction below 0.50, the developer shall have the option of rounding up to the next whole number and providing the

affordable unit on-site or paying an in-lieu fee instead of providing an additional affordable unit. The in-lieu fee shall be calculated in accordance with Section 16.xxx.04.

- C. *Replacement Units.* If a proposed residential project would result in the elimination of existing deed-restricted affordable dwelling units, such units must be replaced on a one-for-one basis with equally affordable or more affordable deed-restricted units.

Section 16.XXX.04 In-Lieu Fees.

- A. A developer proposing to construct a residential project may pay a fee in lieu of providing some or all of the affordable units required by Section 16.xxx.03. The option to pay in-lieu fees shall be made in writing at the time the developer submits the application for the residential project.
- B. In-lieu fees shall be paid prior to issuance of building permits and shall be deposited into a separate City fund designated for the development of affordable housing. The City Council shall establish the amount of such fees by resolution.

Section 16.XXX.05 Alternatives.

- A. The developer may request an alternate means of compliance with this chapter as part of a development application in accordance with the following provisions:
 - 1. *Off-Site Construction.* Affordable units may be constructed on a site or sites not contiguous to the residential project, provided that such site or sites are located within the same census tract as the residential project, at the discretion of the body with review authority over the residential project upon a finding that off-site construction equally or better serves city interests because of factors involving the residential project including, but not limited to, overall project size, density, character and location, accessibility to public transportation, and proximity to retail and service establishments. The approval of off-site construction of affordable units shall be subject to Section 16.xxx.06(D), and such terms and conditions as may be imposed by the body with review authority.
 - 2. *On-Site Rental Units.* When on-site inclusionary for-sale units are required by this chapter, a developer may instead construct on-site inclusionary rental units. If a developer chooses to construct on-site inclusionary rental units in lieu of on-site inclusionary for-sale units, the requirements for such on-site rental inclusionary units shall be the same as if the residential development were a rental residential development project.

Section 16.XXX.06 Affordable Unit Standards.

- A. *Mix, Size, and Number of Bedrooms.*
 - 1. Affordable units in an ownership project shall be proportional in unit mix including but not limited to the number of bedrooms and unit size as the market rate units. The affordable ownership units need not exceed 1,400 square feet and three bedrooms when

included in a development of market rate units for ownership that exceed 1,400 square feet and three bedrooms.

2. Affordable units in rental projects shall be proportional in unit mix including but not limited to the number of bedrooms and unit size as the market rate units. The affordable rental units need not exceed 1,000 square feet and three bedrooms when included in a development of market rate rental units that exceed 1,000 square feet and three bedrooms.

- B. *Location and Design.* Affordable units shall be dispersed throughout a residential project to the extent feasible and be comparable in construction quality and exterior design to the market rate units. However, interior materials and appliances may differ in quality.
- C. *Equal Access.* The affordable units shall have equal access to all on-site amenities available to market rate units.
- D. *Timing of Construction.* All affordable units must be constructed and occupied prior to or concurrently with the construction and occupancy of market rate units unless an alternative construction timing schedule has been approved by the body with review authority.
- E. *Duration of Affordability Requirement.* Affordable units shall be legally restricted to occupancy by households of the income levels for which the units were designated, for a minimum period of 55 years from the date of first occupancy for rental units, and 55 years from the date of first sale for owner-occupied units, unless the requirements of a California law require a shorter period of duration.

Section 16.XXX.07 Eligibility for Occupancy of Affordable Units.

A. *General Eligibility.* No household may occupy an affordable unit unless the city or its designee has approved the household's eligibility or has failed to make a determination of eligibility within the time or other limits provided by the affordable rental housing agreement or affordable ownership and resale restrictions provided for in this chapter. If the city or its designee maintains a list or identifies eligible households, initial and subsequent occupants shall be selected first from the list of identified households, in compliance with any rules approved by the city.

B. *Occupancy as Principal Residence.* A household who occupies a rental affordable unit or who purchases an affordable unit in an ownership project shall at all times occupy the unit as the household's principal residence.

Section 16.XXX.08 Affordable Housing Agreement Requirement.

A. *Affordable Housing Agreement.* Each developer, as a condition of approval for a residential project subject to this chapter, shall be required to execute the Affordable Housing Agreement in the form provided by the city. Each Affordable Housing Agreement shall include the following:

1. A description of the residential project, including whether the affordable units will be rented or owner-occupied;
 2. The number, size and location of the affordable units;
 3. Provisions and/or documents for resale restrictions, deeds of trust, right of first refusal or rental restrictions;
 4. Provisions for monitoring the ongoing affordability of the affordable units, and the process for qualifying prospective resident households for income eligibility;
 5. Any additional obligations relevant to the compliance with this chapter; and
 6. Provision for the city to recoup costs for implementation and monitoring of the agreement(s).
- B. *Recording of Agreement.* Each Affordable Housing Agreement shall be recorded against owner-occupied affordable units and the residential projects containing rental affordable units. Additional rental or resale restrictions, deeds of trust, rights of first refusal and/or other documents acceptable to the city shall also be recorded against owner-occupied affordable units. In cases where the requirements of this chapter are satisfied through the development of off-site affordable units, the Affordable Housing Agreement shall simultaneously be recorded against the property where the off-site units are to be developed.
- C. *Time of Recordation.* For residential projects for which a parcel or tentative map has been approved, the Affordable Housing Agreement shall be recorded concurrently with the recording of the final map for the residential project. For residential projects not subject to parcel or tentative maps, the Affordable Housing Agreement shall be recorded prior to the issuance of a building permit.
- D. *Purchasers of Affordable Units.* Each purchaser of an affordable unit in an ownership project, whether that purchaser bought the affordable unit from the developer or from a previous owner of the affordable unit, shall be required to execute an agreement in the form provided by the city which contains resale restrictions including, but not limited to, restrictions on who may purchase the affordable unit and restrictions on the maximum sales price permitted on resale. The resale restrictions may also allow the city a right of first refusal to purchase the affordable unit. This agreement shall be recorded against the affordable unit as part of the closing documents for the sales transaction.

Section 16.XXX.09 Affordable Housing Plan Application.

- A. *Applications.* Applications for residential projects subject to this chapter shall include an Affordable Housing Plan. The Affordable Housing Plan shall include the following information in addition to information otherwise required under this title.

B. Required Affordable Housing Plan Information:

1. The location, structure, proposed occupancy (rental or ownership) and size of the proposed market rate and affordable units;
2. The calculations used to determine the number of required affordable units;
3. A floor plan or site plan depicting the location of the affordable units;
4. The income level targets for each affordable unit;
5. For phased developments, a phasing plan;
6. A marketing plan stating how qualified households will be reviewed and selected to either purchase or rent the affordable units; and
7. Any other information requested by the Planning and Development Services Director to assist in the evaluation of the plan for compliance with the standards of this chapter.

Section 16.XXX.10 Waiver or Adjustment.

Notwithstanding any other provision in this chapter, the requirements of this chapter shall be waived, adjusted or reduced if the developer demonstrates that there is no reasonable relationship between the impact of a proposed residential project and the requirements of this chapter, or that applying the requirements of this chapter would take property in violation of the United States or California Constitutions. To receive an adjustment or waiver, the developer must include all relevant information in support of a waiver or adjustment at the time the developer submits its application for the residential project. The developer shall also present all arguments in support of a waiver or modification before the city body with review authority over the residential project.

SECTION 2. CEQA.

SECTION 3. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact one or more provisions may be declared invalid.

SECTION 4. Effective Date.

This Ordinance shall take effect and be in full force and effect from and after one-hundred and eighty (180) days after its final passage.

PASSED and ADOPTED by the City Council of the City of Vallejo at a regular meeting held on the ___ day of _____, 2026.

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