

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH
AMENDING SECTION 230.26 OF THE HUNTINGTON BEACH ZONING AND
SUBDIVISION ORDINANCE TITLED AFFORDABLE HOUSING PROVISIONS
(ZONING TEXT AMENDMENT NO. 18-003)**

WHEREAS, pursuant to the California State Planning and Zoning Law, the Huntington Beach Planning Commission and Huntington Beach City Council have held separate, duly noticed public hearings to consider Zoning Text Amendment No. 18-003, which amends Section 230.26 of the Huntington Beach Zoning and Subdivision Ordinance relating to affordable housing requirements.

After due consideration of the findings and recommendations of the Planning Commission and all other evidence presented, the City Council finds that the aforesaid amendment is proper and consistent with the General Plan;

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. That Section 230.26 of the Huntington Beach Zoning and Subdivision Ordinance titled Affordable Housing is hereby amended to read as set forth in Exhibit A.

SECTION 2. All other provisions of Chapter 230 not modified herein shall remain in full force and effect.

SECTION 3. This ordinance shall become effective immediately 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the ____ day of _____, 2018.

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

REVIEWED AND APPROVED:

INITIATED AND APPROVED:

City Manager

Community Development Director

Exhibit A: Legislative Draft

DRAFT

EXHIBIT A LEGISLATIVE DRAFT

230.26 Affordable Housing

A. Purpose.

1. The purpose and intent of this chapter is to implement the goals, objectives and policies of the City's Housing Element. It is intended to encourage low- and moderate-income housing, which is integrated, compatible with and complements adjacent uses, and is located in close proximity to public and commercial services.
2. The affordable housing program is one tool the City utilizes to meet its commitment to provide housing affordable to all economic sectors, ~~and to meet its regional fair-share requirements for construction of affordable housing,~~ **and to prevent and end homelessness.**
3. As a result of being located within a redevelopment area and/or Specific Plan area, additional restrictions or requirements may apply.

B. Applicability. This section shall apply to new residential projects three or more units in size.

1. A minimum of 10% of all new residential construction shall be affordable housing units. The whole number established by dividing the total unit count proposed by 10 shall be affordable housing units unless paragraph (B)(4) of this section applies. Any fractional amount may be paid with an equivalent in-lieu fee.
2. Rental units included in the project shall be made available to low-income households as defined by [Health and Safety Code](#) Section 50079.5, or a successor statute. Rental units included in the project may be made available to moderate-income households as defined by [Health and Safety Code](#) Section 50093, or a successor statute if the moderate-income units are located on-site within the project.
3. For sale units included in the project shall be made available to moderate-income households, as defined by [Health and Safety Code](#) Section 50093, or a successor statute.
4. Developers of residential projects consisting of 30 or fewer units **or consisting of entirely for-sale units** may elect to pay a fee in lieu of providing the units on-site to fulfill the requirement of this section, unless the affordable housing requirement is outlined as part of a Specific Plan project.
5. Developers of residential projects may elect to provide the affordable units at an off-site location pursuant to subsection B of this section unless otherwise outlined as part of a Specific Plan project. If affordable units are off-site, they must be under the full control of the applicant, or other approved party.
6. New residential projects shall include construction of an entirely new project or new units added to an existing project. For purposes of determining the required number of affordable housing units, only new units shall be counted.

C. Fees in Lieu of Construction.

1. Fees paid to fulfill the requirements of this section shall be placed in the City's Affordable Housing Trust Fund, the use of which is governed by subsection E of this section.
2. The amount of the in-lieu fees shall be calculated using the fee schedule established by resolution of the City Council.
3. One hundred percent of the fees required by this section shall be paid prior to issuance of a building permit.

EXHIBIT A LEGISLATIVE DRAFT

[Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily deferred the payment of certain Development Impact Fees.]

4. Fees paid as a result of new residential projects shall be based upon the total number of the new residential units which are to be constructed.

D. Off-Site Construction of Affordable Units. Except as may be required by the California Coastal Act and/or the [Government Code](#) Section 65590 or a successor statute, developers may provide the required affordable housing off-site, at one or several sites, within the City of Huntington Beach. **However, recognizing that homelessness is a regional issue, emergency shelters and/or navigation centers provided pursuant to this section may be provided within the County of Orange.**

1. Off-site projects may be new construction or substantial rehabilitation, as defined by [Government Code](#) Section 33413 affordable housing production requirements, of existing non-restricted units conditioned upon being restricted to long-term affordability. “At risk” units identified in the Housing Element or mobile homes may be used to satisfy this requirement.
2. All affordable off-site housing shall be constructed or rehabilitated prior to or concurrently with the primary project. Final approval (occupancy) of the first market rate residential unit shall be contingent upon the completion and public availability, or evidence of the applicant’s reasonable progress towards attainment of completion, of the affordable units.

E. Miscellaneous Provisions.

1. The conditions of approval for any project that requires affordable units shall specify the following items:
 - a. The density bonus being provided pursuant to Section 230.14, if any;
 - b. The number of affordable units;
 - c. The number of units at each income level as defined by the [Health and Safety Code](#); and
 - d. A list of any other incentives offered by the City.
2. An Affordable Housing Agreement outlining all aspects of the affordable housing provisions shall be executed between the applicant and the City and recorded with the Orange County Recorder’s Office, or the applicable in-lieu fee shall be paid in full, prior to issuance of the first building permit.
3. The agreement shall specify an affordability term of not less than 55 years for rental housing or 45 years for ownership housing.
4. All affordable on-site units in a project shall be constructed concurrently with or prior to the construction of the primary project units unless otherwise approved through a phasing plan. Final approval (occupancy) of the first market rate residential unit shall be contingent upon the completion and public availability, or evidence of the applicant’s reasonable progress towards attainment of completion, of the affordable units.
5. All affordable units shall be reasonably located throughout the project unless otherwise designed through a master plan, shall contain on average the same number of bedrooms as the

EXHIBIT A LEGISLATIVE DRAFT

market rate units in the project, and shall be comparable with the market rate units in terms of exterior appearance, materials and finished quality.

6. Affordable Housing Trust Funds shall be used for projects which have a minimum of 50% of the dwelling units affordable to very low- and low-income households, with at least 20% of the units available to very low-income households. Concurrent with establishing the annual fee schedule pursuant to subsection C of this section, the City Council shall by resolution set forth the permitted uses of Affordable Housing Trust Funds. All new or substantially rehabilitated units that obtain Affordable Housing Trust Funds shall maintain the affordability of the units for a minimum of 55 years. Use of the The funds may, shall be at the discretion of the City Council, and may be used for pre-development costs, land or air rights acquisition, rehabilitation, land write downs, administrative costs, gap financing, or to lower the interest rate of construction loans, ~~or~~ permanent financing, and Tenant Based Rental Assistance programs.

7. New affordable units shall be occupied in the following manner:

- a. If residential rental units are being demolished and the existing tenant(s) meets the eligibility requirements, he/she shall be given the right of first refusal to occupy the affordable unit(s); or
- b. If there are no qualified tenants, or if the qualified tenant(s) chooses not to exercise the right of first refusal, or if no demolition of residential rental units occurs, then qualified households or buyers will be selected.

F. **Price of Affordable Units.** Affordable housing cost shall be calculated in accordance with Health and Safety Code Section 50052.5 standards for ownership units and Health and Safety Code Section 50053 standards for rental units. This methodology is fully described in the City's adopted housing policies.

G. **Reduced Fees for Affordable Housing.** Projects that exceed inclusionary requirements on-site will be eligible for reduced City fees, pursuant to an Affordable Housing Fee Reduction Ordinance, upon adoption by the City Council.

H. **Annual Program Review and Periodic Adjustment of the Fee.** Within 180 days after the last day of each fiscal year, the City Council shall review the status of the City's Affordable Housing Trust Fund, including the amount of fees collected, expenditures from the Affordable Housing Trust Fund, and the degree to which the fees collected pursuant to this chapter are assisting the City to provide and encourage low- and moderate-income housing. The fee shall be updated annually using the Real Estate and Construction Report published by the Real Estate Research Council of Southern California. The fee change shall be based on the percentage difference in the new home prices in Orange County published in the fourth quarter report for the then current year versus the immediately preceding year. (3687-12/04, 3827-4/09, 3829-6/09, 3879-6/10, 4040-12/14)