



# City of Huntington Beach

**File #:** 21-720

**MEETING DATE:** 10/5/2021

## REQUEST FOR CITY COUNCIL ACTION

**SUBMITTED TO:** Honorable Mayor and City Council Members

**SUBMITTED BY:** Oliver Chi, City Manager

**PREPARED BY:** Ursula Luna-Reynosa, Director of Community Development

**Subject:**

**Approve Zoning Text Amendment (ZTA) No. 19-004 by adopting Ordinance No. 4235 amending Section 230.26 (Affordable Housing) of the Zoning and Subdivision Ordinance - Vote: 6-1 (Peterson - No)**

**Statement of Issue:**

Ordinance No. 4235 approved for introduction on September 21, 2021, requires adoption.

**Financial Impact:**

Not applicable.

**Recommended Action:**

Adopt Ordinance No. 4235 "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" (Attachment No. 2).

**Alternative Action(s):**

The City Council may make the following alternative motions:

1. Do not adopt Ordinance No. 4235.

**Analysis:**

**A. PROJECT PROPOSAL:**

Applicant: City of Huntington Beach

Zoning Text Amendment (ZTA) No. 19-004 is a request to amend Section 230.26 - Affordable Housing of the Huntington Beach Zoning and Subdivision Ordinance to update and expand the options for projects to meet affordable housing requirements and provide an updated in-lieu fee schedule and methodology to reflect current market conditions.

A description of the proposed ZTA as well as a General Plan and Zoning conformance

analysis can be found in the August 24, 2021, Planning Commission staff report (Attachment No. 6).

**B. BACKGROUND:**

The existing Affordable Housing ordinance is codified as Section 230.26 - Affordable Housing within the Huntington Beach Zoning and Subdivision Ordinance. The City's Affordable Housing policies were established in the mid 1990's and codified in 2005. The current affordable housing ordinance requires new residential projects proposing three or more units to provide at least 10 percent of the total units as affordable to either moderate or lower income households. The existing ordinance provides several options for a project to meet the affordable housing obligation. A project may provide affordable units within the proposed project for onsite compliance. Further, the affordable units are permitted to be provided at an off-site location, and may be new construction or substantial rehabilitation of existing units. Preservation of at-risk units identified in the Housing Element may also satisfy the affordable housing obligation. All off-site inclusionary units must be constructed or rehabilitated prior to or concurrently with the primary project.

The City has contracted with an economic consultant, Keyser-Marston Associates (KMA), to assist in technical analysis (Attachment No. 5) and proposes the following changes to the ordinance:

- Updates and expands the options for projects to meet affordable housing requirements.
- Revises the in-lieu fee payment option and fee calculation methodology for ownership and rental housing projects. Notably, the option to pay in-lieu fees is recommended to be expanded for ownership projects of any size and rental projects with up to 100 units. Currently, the in-lieu fee option is limited to projects consisting of 30 units or less.
- Clarifies that rental projects must provide affordable units at the lower income level.
- Overall minor clarifications and revisions, including adding a "Definitions" section.

The City's inclusionary housing program is not mandated by the State. The program is a policy tool that the City has utilized since the 1990's to produce housing units affordable to all economic segments of the community. All residential development proposals must comply with the inclusionary housing requirements; however, approval of an updated ordinance itself does not propose or permit the construction of any new dwelling units.

The KMA report recommends updating the existing in-lieu fee methodology. The current in-lieu fee is calculated on a per-unit basis. The KMA report recommends calculating the fee on a per square-foot of net saleable or leasable area. The City engaged with the development community and Building Industry Association early on and throughout the process of developing revisions to the in-lieu fee methodology. Staff recommends to cap the total in-lieu fee for ownership units over 2,000 square feet at the total fee for a 2,000 square foot unit. The draft revised affordable housing in-lieu fee methodology and calculations are provided in the KMA study (Attachment No. 5).

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**C. PLANNING COMMISSION MEETING AND RECOMMENDATION:**

On August 24, 2021, the Planning Commission held a public hearing on the ZTA. There was one public speaker at the public hearing and approximately 214 written comments were received. The comments discussed issues relating to local control, rezoning parcels, and rights of charter cities. Staff recommended approval of the ZTA because it is consistent with the general land uses, programs, goals, and policies of the General Plan. In addition, it addresses a community need to update the existing ordinance to implement Housing Element programs, facilitate the provision of housing opportunities for all economic segments of the community, and reflect current market conditions. Although the updated fee schedule in Resolution No. 2021-50 is not subject to the discretionary action or recommendations by the Planning Commission, information about the revised fee methodology and calculation was included for informational purposes.

The Planning Commission discussed that the proposed updates would not change the zoning designation of any parcel, updates an existing program that has been codified for approximately 15 years, and no new development would be constructed as part of the proposed changes. The Planning Commission recommended approval of the request to the City Council with a modification to revise the term “low-income” to “lower income” in Section 230.26(A)(1) for consistency with the definitions section.

**Planning Commission Action on August 24, 2021:**

A motion was made by Scandura, seconded by Perkins, to find and determine that the project is exempt from the California Environmental Quality Act, recommend approval of ZTA No. 19-004 with a modification to revise the term “low-income” to “lower income” in Section 230.26(A)(1) for consistency with the definitions section, and forward to the City Council for consideration carried by the following vote:

AYES: Perkins, Scandura, Acosta-Galvan, Rodriguez

NOES: Ray

ABSTAIN: None

ABSENT: Mandic

**MOTION PASSED****D. STAFF ANALYSIS AND RECOMMENDATION:**

The proposed updates to Section 230.26 do not change the Zoning designation of any property or construct any housing units on any property. The following provides a review of the proposed amendments.

**1. General Reorganization and Renumbering**

The existing ordinance requires the public to read through several sections to gather all the information needed. The proposed update reorganizes the ordinance into a few key sections: Definitions, Applicability, On-Site Options, Alternatives to On-Site Options, and Miscellaneous

Provisions. Notably, several requirements that were previously in the Miscellaneous Provisions section have been reorganized under each applicable section in order to increase readability for the public. For example, each option that permits a phasing plan to construct the market rate units and affordable units in phases is proposed to state this within its section.

## 2. Applicability

The existing ordinance requires that a minimum of 10% of all new residential projects proposing three or more units shall be affordable housing units. There is no proposed change to the minimum percentage of affordable units, except for the following options:

- Minimum 15% inclusionary requirement: Off-site production
- Minimum 20% inclusionary requirement: Acquisition/rehabilitation projects and land dedication

An applicant would only be required to provide more than 10% affordable units if they were to choose one of the above options to fulfill the inclusionary requirement. Projects located in Specific Plan areas will defer to the inclusionary requirements of each Specific Plan, if applicable.

## 3. On-Site Affordable Housing

The existing ordinance includes provisions for fulfilling the inclusionary requirements on-site within a market rate project. The existing ordinance permits rental units to be made available to low-income or moderate-income households and ownership units to moderate-income households. The proposed amendments would require rental units to be made available to lower income households, which is inclusive of low, very low, and extremely low-income households.

The revised ordinance proposes more specific provisions for the existing options to provide affordable units on-site, including the following items:

### *Ownership Units*

- Affordable to moderate-income households
- Bedroom mix shall be proportional to the bedroom mix of the market rate units
- Affordable units may be no more than 20% smaller in square footage than the average square footage of the market rate units
- Exterior and interior improvements, finishes, appliance packages, etc of the affordable units must be comparable to the base level market rate units

### *Rental Units*

- Affordable to lower income households
- Bedroom mix shall be proportional to the bedroom mix of the market rate units
- Affordable units may be no more than 20% smaller in square footage than the average square footage of the market rate units
- Interior improvements shall comply with the Low-Income Housing Tax Credit (LIHTC) minimum construction standards

The revised ordinance proposes to expand the on-site affordable housing option to permit construction of affordable rental units within a market rate ownership housing project. If a developer chooses this option, they may create a separate affordable housing parcel within the market rate project site for the affordable rental units. The developer may enter into an agreement with an Affordable Housing Developer to construct, own, and operate the affordable housing units. Several provisions for the affordable units are proposed, such as a minimum of 40% of the units shall include at least two bedrooms and the Affordable Housing Developer shall enter into an Affordable Housing Agreement with the City.

#### 4. Alternatives to On-Site Affordable Housing

The existing ordinance includes three alternative options to onsite production for fulfilling the inclusionary requirements. The existing ordinance permits offsite production of affordable units, acquisition and rehabilitation of existing units, and payment of in-lieu fees. The revised ordinance proposes specific provisions for each of these options and updates each option in response to market trends. A new option to dedicate land in-lieu of constructing affordable units is also proposed.

##### *Offsite Production of Affordable Units*

The existing ordinance permits offsite construction of affordable units. The proposed update expands this section to include the following provisions:

- Minimum 15% inclusionary requirement
- Minimum 40% of units shall include at least two bedrooms
- Bedroom mix of affordable units shall be proportional to the bedroom mix of the market rate units that generated the inclusionary requirement
- Affordable units can be a maximum of 20% smaller than the average size of the market rate units

##### *Acquisition and Rehabilitation of Existing Units*

The existing ordinance permits acquisition and rehabilitation of deed-restricted affordable units identified as at-risk of conversion to market rate units in the Housing Element. Units are typically identified as at-risk if affordability restriction periods are set to expire within the next five years. The proposed update expands this section to include the conversion of motels to rental units. It is also proposed for the inclusionary requirement to be set at 20% for developers choosing this option.

##### *Land Dedication*

The existing ordinance does not include a land dedication option to fulfill inclusionary housing requirements, although this option is available in the existing density bonus ordinance. The proposed land dedication option allows the City Council the discretion to approve a developer's proposal to dedicate property in-lieu of constructing affordable units. Several provisions are proposed regarding land dedication, including the following:

- Minimum 20% inclusionary requirement
- The property shall be located within the City of Huntington Beach
- The developer shall convey the property to the City at no cost

- The existing General Plan and zoning standards shall allow for a residential use at a density sufficient to allow for the required number of affordable units to be constructed
- The site shall be suitable in terms of size, configuration, and physical characteristics to allow for the required number of affordable units to be developed on a cost efficient basis
- The developer shall provide a title report, appraisal, Phase I Environmental Site Assessment (ESA), and conceptual site plan and narrative describing a potential affordable development project at the site

#### *In-Lieu Fee Payment*

The existing ordinance permits the affordable housing obligation to be satisfied through the payment of in-lieu fees for new residential construction projects up to 30 units. As such, the current ordinance also includes provisions for the methodology, collection, and use of the affordable housing in-lieu fees. The option to pay in-lieu fees is recommended to be expanded to include all ownership projects of any size and rental projects with up to 100 units.

KMA recommends a revised in-lieu fee methodology to calculate fees on a per square foot basis instead of the existing per unit methodology. The proposed fee will be calculated on a per square-foot basis of net saleable or leasable area. Ownership units over 2,000 square feet are proposed to be capped at the total fee for a 2,000 square foot unit. The draft revised affordable housing in-lieu fee methodology and fee calculations are provided in Resolution No. 2021-50 (Attachment No.4). Background information regarding the proposed methodology is included in the KMA study (Attachment No. 5).

In-lieu fees paid to fulfill inclusionary requirements are placed in the City's Affordable Housing Trust Fund (AHTF). There are no proposed changes to this section of the ordinance. The existing ordinance provides several provisions for using the AHTF monies, including the following:

- Constructing residential projects with a minimum 50% of units affordable to very low and low-income households
- Units constructed using AHTF monies must be affordable for a minimum of 55 years
- City Council has discretion to use AHTF for other related costs such as gap financing, predevelopment costs, rehabilitation, and administrative costs

#### 5. General Clarifications and Revisions

The proposed updates to the ordinance include several clarifications and revisions.

#### *Definitions Section*

The existing affordable housing ordinance and proposed update include several technical terms that do not appear elsewhere in the HBZSO. The proposed definitions section is included in order to define existing and new terms in the ordinance.

#### *Reduced Fees for Affordable Housing*

The existing affordable housing ordinance includes section 230.26(G), which states that

projects exceeding the minimum inclusionary requirement on site would be eligible for reduced city fees pursuant to adoption of an Affordable Housing Fee Reduction Ordinance by the City Council. This section was effectively completed through adoption of the Development Impact Fee (DIF) ordinances, which included fee exemptions for affordable housing units made available to lower income households. As such, this section is proposed to be deleted.

#### *Accessory Dwelling Units*

Recent state laws have expanded the option and ability of property owners to construct accessory dwelling units (ADU) on single-family or multi-family properties. The proposed update includes a provision which notes that construction of an ADU does not satisfy the inclusionary housing requirement nor do they generate an affordable housing obligation. ADUs are typically much smaller in size than the associated market rate units. It can also become burdensome to ensure that all affordable housing monitoring and compliance regulations are adhered to. For example, deed-restricting an ADU as an affordable unit when it is on the same property as a market rate single-family residence would require the single-family property owner to income qualify each tenant of the ADU.

#### E. SUMMARY:

Staff and the Planning Commission recommend approval of ZTA No. 19-004 based on the following:

1. It is consistent with general land uses, programs, goals, and policies of the General Plan, as described in the attached findings and Planning Commission staff report.
2. It addresses a community need to update the existing ordinance to implement Housing Element programs, to facilitate the provision of housing opportunities for all economic segments of the community, and reflect current market conditions.

#### **Environmental Status:**

ZTA No. 19-004 does not propose directly or indirectly development that would result in physical changes to the environment. As such, ZTA No. 19-004 would also be exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines, which exempts activities where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

#### **Strategic Plan Goal:**

Economic Development & Housing

#### **Attachment(s):**

1. Suggested Findings of Approval ZTA No. 19-004
2. City Council Ordinance No. 4235
3. Legislative Draft for Ordinance 4235
4. Resolution No. 2021-50
5. Exhibit A to Resolution 2021-50 - Keyser Marston and Associates Report
6. August 24, 2021 Planning Commission Staff Report