



**CONSENT CALENDAR**

**Agenda Item # 7**

**AGENDA REPORT SUMMARY**

**Meeting Date:** September 25, 2018

**Subject:** Ordinance No. 2018-449: Affordable Housing Ordinance Amendment

**Prepared by:** Zachary Dahl, Planning Services Manager

**Reviewed by:** Jon Biggs, Community Development Director

**Approved by:** Chris Jordan, City Manager

**Attachments:**

1. Ordinance No. 2018-449

**Initiated by:**

City Council

**Previous Council Consideration:**

September 11, 2018

**Fiscal Impact:**

None

**Environmental Review:**

This ordinance is exempt from review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §§15378 and 15061(b)(3). The ordinance also is exempt because it is not intended to apply to specifically identified housing projects and, as such, it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approvals for such projects are considered and/or the ordinance is not intended to, nor does it, provide CEQA clearance for any future development-related projects. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

**Policy Questions for Council Consideration:**

- Does this amendment support the goals, policies and programs contained in the City's Housing Element?
- Does this amendment support the City Council's 2018 priority to expand affordable housing in the City?
- Does this amendment adequately address the Santa Clara County Civil Grand Jury Report's recommendation that the City's inclusionary BMR percentage requirements be increased to at least 15 percent?



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**Summary:**

- The ordinance will amend the Zoning Code to increase the minimum affordable housing requirement from 10% to 15% for all multiple-family residential projects that include five (5) or more new dwelling units
- The Planning Commission voted to recommend adoption of the ordinance on July 19, 2018
- The City Council voted to introduce and waive further reading of the ordinance on September 11, 2018

**Staff Recommendation:**

Adopt Ordinance No. 2018-449 to amend Chapter 14.28 of the Los Altos Municipal Code pertaining to the City's affordable housing requirements



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### **Purpose**

Adopt an ordinance that amends the City's Affordable Housing Ordinance and increases the affordable housing requirement from 10% to 15% for multiple-family projects that contain five or more new dwelling units.

### **Background**

On September 11, 2018 the City Council held a public hearing and voted to introduce and waive further reading of Ordinance No. 2018-449, which will increase the affordable housing requirement from 10% to 15% for multiple-family projects that contain five or more new dwelling units. As part of the action, the following direction was provided:

- a. Update Section 14.28.020 to require projects with 5-9 units to provide 15% affordable, but not specify an income category and allow for payment of fee in-Lieu of building units;
- b. Update City policy to require affordable units to be affordable for at least 55 years;
- c. Change the term "impact fee" to "in-Lieu fee;" and
- d. Explore feasibility of whether the City can acquire a first option to purchase when an affordable unit is sold or transferred.

### **Discussion/Analysis**

In response to the Council direction, the Ordinance has been updated (changes highlighted in yellow). Regarding the 55-year requirement, staff has already implemented this policy for all pending and future projects with affordable units. However, to allow staff to work with the City Attorney to explore options for requiring affordable for terms longer than 55 years, this requirement is being implemented as a policy and is not included in the Zoning Code. Staff will also work with the City Attorney to evaluate first purchase options for affordable housing units.

This Ordinance will go into effect 31 days after adoption.

### **Options**

- 1) Adopt Ordinance No. 2018-449

**Advantages:** The City will achieve more below market rate units and improve its ability to achieve its Regional Housing Need Allocation by 2023

**Disadvantages:** None

- 2) Do not adopt Ordinance No. 2018-449

**Advantages:** None



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**Disadvantages:** The City will achieve fewer below market rate units over time and may not be able to achieve its Regional Housing Need Allocation by 2023

**Recommendation**

The staff recommends Option 1.

**ORDINANCE NO. 2018-449**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING ZONING CODE CHAPTER 14.28 PERTAINING TO THE CITY'S AFFORDABLE HOUSING REQUIREMENTS AND MAKING FINDINGS OF CEQA EXEMPTION**

**WHEREAS**, the City of Los Altos initiated an application (18-CA-04) to amend Title 14 of the Los Altos Municipal Code pertaining to the City's affordable housing requirements, referred herein as the "CA"; and

**WHEREAS**, it is a top priority of the Los Altos City Council to further the housing goals identified in the Housing Element of the Los Altos General Plan and expand affordable housing opportunities in the City; and

**WHEREAS**, the CA is in the best interest for the protection or promotion of the public health, safety, comfort, convenience, prosperity, or welfare and is in conformance with the Los Altos General Plan; and

**WHEREAS**, the CA was processed in accordance with the applicable provisions of the California Government Code and Chapter 14.86 of the Los Altos Municipal Code; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on the CA on July 19, 2018 and the City Council held a duly noticed public hearing on the CA on September 11, 2018; and

**WHEREAS**, the location and custodian of the documents or other materials, which constitute the record of proceedings upon which the City Council's decision are based, are in the Office of the City Clerk.

**NOW THEREFORE**, the City Council of the City of Los Altos does hereby ordain as follows:

**SECTION 1. AMENDMENT OF CODE:** The title of Chapter 14.28, and sections 14.28.010, 14.28.020 and 14.28.030 in Title 14 of the Los Altos Municipal Code are hereby replaced as follows:

**Chapter 14.28 – MULTIPLE FAMILY AFFORDABLE HOUSING**

**14.28.010 - Purpose.**

This chapter provides the requirements and provisions for the production of affordable housing. The definitions contained in Section 14.28.040.B., unless otherwise apparent from the context, shall be applicable to this Chapter.

**14.28.020 - Applicability**

All multiple-family residential projects that create five or more new dwelling units shall provide affordable housing as follows:

- A. For projects with five (5) to nine (9) units, affordable housing units shall be provided as follows:
  - 1. Fifteen (15) percent of the total units shall be designated as affordable, rental or ownership, at the moderate-, low- or very-low income level.
  - 2. As an alternative to providing the required affordable housing units, payment of an in-lieu fee is permitted.
- B. For projects with ten (10) or more units, affordable housing units shall be provided as follows:
  - 1. Rental units. Twenty (20) percent designated as affordable at the low-income level or fifteen (15) percent designated as affordable at the very-low income level.
  - 2. Ownership units. Fifteen (15) percent total, with a majority of the units designated as affordable at the moderate-income level and the remaining units designated as affordable at the low- or very-low income level.

**14.28.030 – Standards**

Applicable housing development projects shall be subject to the following standards:

- A. Calculations for the required affordable housing resulting in fractional units shall be rounded up to the next whole number.
- B. The action that approves the project shall contain sufficient conditions to ensure compliance with the provisions of this chapter.
- C. Unless otherwise approved by the city council, all affordable units in a project shall be constructed concurrently with market rate units, shall be dispersed throughout the project, and shall not be significantly distinguishable by size, design, construction or materials.
- D. As an alternative to providing the affordable housing units required by this Chapter, payment of an in-lieu fee may be approved by the city council.
- E. The requirement to provide affordable housing may be waived, adjusted or reduced by the city council if the developer can demonstrate, based on substantial evidence, that providing onsite affordable housing units will be financially infeasible.

**SECTION 2. CONSTITUTIONALITY.** If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 3. CEQA.** This ordinance is not subject to review under the California Environmental Quality Act (Public Resources Code §§21000, *et seq.*, as further governed by the Guidelines for CEQA, 14 CCR §§15000, *et seq.*) because the ordinance has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, per 14 CCR §15378. The ordinance amends Los Altos Municipal Code provisions pertaining to the City’s affordable housing requirements, but it does not commit the City of Los Altos or any other party to any direct course of action, other than to review applications for compliance with the amended requirements as described herein and will not result in any physical changes in and of itself. Moreover, to the extent the ordinance was determined to be subject to CEQA, it would be exempt from further review

pursuant to the ‘common sense’ exemption (14 CCR §15061(b)(3)), as it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment. The ordinance also is exempt from CEQA review because it is not intended to apply to specifically identified projects and, as such, it is speculative to evaluate any such future project now and, moreover, such projects will be subject to appropriate environmental review at such time as approval for such projects are considered and/or it is not intended to, nor does it, provide CEQA clearance for future development-related projects by mere establishment of the requirements herein. Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance.

**SECTION 4. PUBLICATION.** This ordinance shall be published as provided in Government Code section 36933.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on September 11, 2018 and was thereafter, at a regular meeting held on September 25, 2018 passed and adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Jean Mordo, MAYOR

Attest:

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Jon Maginot, CMC, CITY CLERK