

ORDINANCE NO. NS-2825

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA AMENDING CHAPTER 41 OF THE SANTA ANA MUNICIPAL CODE ADDING HOUSING OPPORTUNITY STANDARDS AND PROCEDURES TO ENCOURAGE THE DEVELOPMENT OF HOUSING THAT IS AFFORDABLE TO A RANGE OF HOUSEHOLDS WITH VARYING INCOME LEVELS

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

- A. The City of Santa Ana is initiating a request to create a Housing Opportunity Ordinance to ensure that future residential development projects contribute to the attainment of the affordable housing goals set forth in the Housing Element of the City's General Plan.
- B. The Housing Element of the General Plan identifies the long range plans for housing throughout the city. The Element further identifies a vision, goals, policies and programs to address housing issues within the city. The Housing Opportunity Ordinance helps to implement a component of the Housing Element assisting to play an active role in the provision of affordable housing within the City of Santa Ana.
- C. Each city in California is required to adopt and implement a Housing Element as part of its General Plan. The Housing Element must be updated every eight years and it must establish goals and policies to ensure that regional housing needs can be met. Chief among satisfying future housing projections is the need to provide for housing that is affordable to people who make less than, or only slightly more than, the county median income. Housing that meets this criteria is referred to "affordable housing." The current median income for a family of four in Orange County is \$87,200. While the City is not required to build affordable housing, it must show that adequate development sites are available for the production of such housing and it must show evidence of policies that support the production of affordable housing.

- D. The State establishes target housing production goals for each city to meet through the Regional Housing Needs Assessment or RHNA. For the 2006-2014 planning period the City of Santa Ana's RHNA target is 3,393 units. This number is based on regional population growth estimates and each city is allotted a portion. In addition, the State establishes the number of units within a range of income categories which must be provided. For Santa Ana 1,932 of the 3,393 units should be constructed within the moderate, low, very low and extremely low income categories. The proposed ordinance is intended to assist the City in meeting a portion of the RHNA requirement.
- E. In 2009, the City adopted the General Plan Housing Element for the 2006-2014 update cycle. This updated Housing Element was also certified by the State Department of Housing and Community Development making the City of Santa Ana compliant with State housing law. The Element establishes a policy framework upon which goals and implementation measures are based. The overarching policy statement, as adopted by the City Council, states: "Santa Ana residents have an equal right and opportunity to find suitable housing in quality residential neighborhoods that allow themselves, their families, and neighbors to live the fullest lives. We support an inclusive community that is multigenerational, culturally diverse, sustainable, and economically broad. The City will facilitate the production, rehabilitation, and improvement of rental and homeownership opportunities at different affordability levels."
- F. Following from the policy statement the Housing Element then establishes four key issue areas: Housing and Neighborhoods, Housing Supply and Diversity, Housing Assistance, and Special Needs. Each of these key issue areas then has goals and policies in order to implement the Housing Element. The creation of affordable housing is a recurring theme throughout each of these key issue areas and is supported through the policy statements and goals (HE-2.3, HE-2.6, HE-2.8, HE-3.1, HE-3.2, HE-3.3, HE-3.5, HE-3.7, HE-4.1, HE-4.2).
- G. Following the establishment of the goals and policies the City must also show specific implementation measures, as well as an estimated time deadline for their completion. The City must also produce an annual report detailing the progress on each of these implementation measures, which must be submitted to the State Department of Housing and Community Development. Implementation Measure No. 25 of the Housing Element lists a number of Affordable Housing Incentives, including the potential for the establishment of an inclusionary housing ordinance in order to

create new affordable housing. Inclusionary housing ordinances are tools used by cities to ensure that a certain percentage of new housing developments are available at affordable levels. This requirement can generally be met through the inclusion of such units within the project itself, rehabilitation or construction of units off site, or through the payment of an in-lieu fee. The units are covenanted to ensure that they remain affordable over time. As of 2007 nearly one-third of California jurisdictions had adopted inclusionary housing programs. At the time that the Housing Element was drafted it was recommended that the feasibility of an inclusionary housing ordinance should be studied and implemented within the 2006-2014 framework.

- H. On June 7, 2010, several months prior to the adoption of the Housing Element, the City Council adopted the Transit Zoning Code. As part of this action the City Council directed staff to begin a process to draft an inclusionary housing ordinance for those properties within the M1 and M2 Industrial Overlay Zones of the Transit Zoning Code. This direction was given, in part, to address the community's concerns about the provision of affordable housing within re-zoned areas of the Transit Zoning Code, as well as to implement the City's Housing Element and address State Redevelopment Law.
- I. State law requires that when new housing is constructed within redevelopment project areas there must also be affordable housing constructed that equals 15% of the total number of units constructed within the project area (Health and Safety Code, Section 33413). Due to the fact that significant areas within the Transit Zoning Code formerly zoned as Industrial now have the ability to convert to mixed-use residential development at the property owners' discretion, the potential exists for a substantial number of new units to be constructed within these Overlay Zone areas. As the majority of these areas are located within redevelopment project areas (Central City, Inter City, North Harbor, South Harbor, Bristol and South Main) new residential development would trigger the requirement for new affordable housing development pursuant to state law. If this new development is not included within the projects themselves, the Redevelopment Agency would be responsible for funding and constructing such housing. The only available funding source for this housing construction would be affordable housing set-aside monies. Given the uncertainty of the availability of these funds over the long term, the burden of the funding of new affordable housing construction could fall to other funding sources, such as the City's general fund. It is therefore necessary to ensure that the 15% affordability

requirement be captured within the new development themselves and the Housing Opportunity Ordinance would enable the City to meet this mandate.

- J. Following the adoption of the Transit Zoning Code the City was awarded a Compass Blueprint Grant from the Southern California Association of Governments (SCAG) to study new development opportunities for the Harbor Boulevard Corridor that would improve access to housing served by transit, as well as to further various state and regional sustainability goals. This project was also embarked upon in furtherance of the Housing Element implementation measure to re-zone areas to create the opportunity for new housing creation. The Harbor Boulevard Corridor was specifically identified in the Housing Element as an opportunity area due to the availability of large underutilized and sometimes vacant parcels of land and its use as a major transit corridor (Housing Implementation Program 16). The outcome of the Harbor Boulevard Corridor Study will also result in the adoption of new zoning that will allow for the construction of new housing on property that currently has commercial zoning. Similar to the Transit Zoning Code M1 and M2 Industrial Overlay Zones, Harbor Boulevard corridor identified in the Housing Element is located within a redevelopment project area, North Harbor. The production of new housing in this area would also trigger the 15% affordable housing redevelopment requirement. With this in mind, as well as looking to the future, staff recommended that the Housing Opportunity Ordinance be developed on a city-wide basis.
- K. The draft ordinance was developed with the input of a variety of stakeholders and interest groups. The draft ordinance, entitled the Housing Opportunity Ordinance, was presented to the City Council during a study session held on January 18, 2011. At that meeting the City Council directed staff to complete the draft document and begin the public hearing adoption process.

Section 2. Section 41-1900 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Article XIX - Housing Opportunity Ordinance

Sec. 41-1900. Purpose

This Article establishes standards and procedures to encourage the development of housing that is affordable to a range of households with varying income levels. The purpose of this Article is to encourage the development and availability of affordable housing by requiring the inclusion of affordable housing units within

developments that involve an increase in the density otherwise available under applicable zoning and development standards; a change in land use designation from a zoning regulation that does not permit residential uses to one that does permit residential uses; or the conversion of rental units to condominium ownership.

Section 3. Section 41-1901 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Sec. 41-1901. Definitions

As used in this Article, the following terms shall have the following meanings:

“Adjusted for Household Size Appropriate for the Unit” means a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

“Affordable Housing Cost” means the total housing costs paid by a qualifying household, which shall not exceed the fraction of gross income specified, as follows, in accordance with Sections 50052.5 and 50053 of the Health & Safety Code:

Very Low-Income Households. Thirty percent of the income of a household earning 50 percent of the Orange County median income adjusted for family size appropriate for the unit.

Low-Income Households. Thirty percent of the income of a household earning 70 percent of the Orange County median income for for-sale units, and 30 percent of the income of a household earning 60 percent of the Orange County median income for rental units, adjusted in either case for family size appropriate for the unit.

Moderate Income Households. Thirty-five percent of the income of a household earning 110 percent of the Orange County median income for for-sale units, and 30 percent of the income of a household earning 110 percent of the Orange County median income for rental units, adjusted in either case for family size appropriate for the unit.

In the event of a conflict between the fractions specified in this definition and those found in Sections 50052.5 and 50053 of the Health & Safety Code, the fractions specified by State law shall control.

“Developer” means any association, corporation, firm, joint venture, partnership, person, or any entity or combination of entities, which seeks City approval for all or part of a Residential Project.

“Executive Director” means the Executive Director of Community Development for the City of Santa Ana.

“Inclusionary Housing Agreement” means a legally binding agreement between the Developer and the City, in a form and substance satisfactory to the Executive Director and the City Attorney, and containing those provisions necessary to ensure that the requirements of this Article are satisfied, whether through the provision of Inclusionary Units or through an approved alternative method.

“Inclusionary Housing Fund” means the fund created by the City of Santa Ana in which all fees collected in compliance with this Article shall be deposited.

“Inclusionary Housing Plan” means the plan submitted by the Developer, in a form specified by the Executive Director, detailing how the provisions of this Article will be implemented for the proposed Residential Project.

“Inclusionary Unit” means a dwelling unit that will be offered for sale or rent to low or Moderate-Income Households, at an affordable housing cost, in compliance with this Article.

“Low-Income Households” means “lower income households” as that term is defined by Section 50079.5 of the Health & Safety Code.

“Low-Income Units, Moderate-Income Units, and Very Low-Income Units” means Inclusionary Units restricted to occupancy by low, moderate, or Very Low-Income Households, respectively, at an affordable housing cost.

“Market Rate Units” means dwelling units in a Residential Project that are not Inclusionary Units.

“Moderate-Income Households” means “persons and families of low or moderate income” as that term is defined by Section 50093 of the Health & Safety Code.

“Administrative Procedures” means those regulations promulgated by the Executive Director pursuant to Section 41-1910 of this Article.

“Regulatory Agreement” means an agreement entered into between the City of Santa Ana or the Santa Ana Community Redevelopment Agency and a Developer by which the Developer covenants to keep certain housing units at an affordable housing cost for a specified period of time.

“Residential Project” means any of the following:

A subdivision resulting in the creation of 5 or more residential lots or residential condominium units; or

The new construction of a project consisting of 5 or more multi-family units;
or

The new construction of 5 or more separate houses or dwelling units; or

The conversion of 5 or more rental units to condominium ownership.

"Total Housing Costs" the total monthly or annual recurring expenses required of a household to obtain shelter. For a rental unit, total housing costs shall include the monthly rent payment and utilities paid by the tenant (excluding telephone and television). For an ownership unit, total housing costs shall include the mortgage payment (principal and interest), insurance, homeowners' association dues (if applicable), private mortgage insurance (if applicable), taxes, utilities, an allowance for maintenance and any other related assessments.

"Very Low-Income Households" means "very low income households" as that term is defined by Section 50105 of the Health & Safety Code.

Section 4. Section 41-1902 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Sec. 41-1902. Applicability and Inclusionary Unit Requirements

- (a) Zone Changes. The requirements of this Article shall apply to any Residential Project located within a zone that has been changed to allow for residential uses where such uses were not previously allowed, or where the zone change allows an increase to the existing residential density permitted by the zoning in place as of the effective date of this ordinance.
- (b) Applications. The requirements of this Article shall apply to any Residential Project proposed in connection with an application to do any of the following:
 - (1) Increase the permitted residential density of the subject property above the density permitted by applicable zoning at the time of the application.
 - (2) Increase the permitted percentage of residential development allowed for a mixed-use development above the percentage at the time of the application.
 - (3) Convert commercial or industrial land to residential uses; including, but not limited to, the conversion of a hotel to residential use.
 - (4) Approval of an overlay zone site plan permitting residential land uses pursuant to Division 28 of this Chapter.

- (5) Convert rental units to condominium ownership.
- (c) Units for sale. If the Residential Project consists of units for sale, then a minimum of 15-percent of the total number of units in the project shall be sold to Moderate-Income Households, or lower.
- (d) Rental units. If the Residential Project consists of rental units, then a minimum of 15-percent of the units shall be rented to low or Very Low-Income Households.
- (e) Allowable credits. The Inclusionary Unit requirements of this Section may be reduced at the discretion of the Executive Director if a greater level of affordability is provided.
- (f) Rounding of quantities in calculations. In calculating the required number of Inclusionary Units, fractional units shall be rounded-up to the next whole unit. The Developer may choose to pay an in-lieu fee set forth in Section 41-1904(c) for the fractional units, which shall be calculated based on a percentage of the per unit cost.
- (g) Displacement of existing Inclusionary Units. Notwithstanding any other provision of this Article, any Residential Project subject to this Article that results in the displacement of Very Low, Low, and/or Moderate Income Household(s) shall be required to provide on-site Inclusionary Units as required by this Article.
- (h) All Inclusionary Units required by this Article shall be sold or rented in compliance with this Article.

Section 5. Section 41-1903 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Sec. 41-1903. Exempt projects

The following are exempt from the requirements of this Article:

- (a) Applications deemed complete. A Residential Project for which a development application has been deemed complete prior to December 29, 2011.
- b) Development Agreements. A Residential Project that is the subject of a development agreement under applicable provisions of the California Government Code that expressly provides for an exclusion to this Article or provides for a different amount of Inclusionary Units from that specified by this Article.

- (c) Project with Regulatory Agreement. A Residential Project for which a Regulatory Agreement has been approved, provided that the Regulatory Agreement is effective at the time the Residential Project would otherwise be required to comply with the requirements of this Article, and there is no uncured breach of the Regulatory Agreement before issuance of a Certificate of Occupancy for the project. This may include a Residential Project that has obtained a Density Bonus under Article XVI.I of the Santa Ana Municipal Code.

Section 6. Section 41-1904 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Sec. 41-1904. Alternatives

- (a) On site units. The primary means of complying with the inclusionary requirements of this Article shall be the provision of on-site Inclusionary Units in accordance with Section 41-1901, above. A Developer may only satisfy the requirements of this Article by means of an alternative to on-site Inclusionary Units in accordance with the requirements and procedures of this Section.
- (b) Off-site units. Upon application by the Developer and at the discretion of the City Council, the Developer may satisfy the Inclusionary Unit requirements for the project, in whole or in part, by constructing a mix of affordable units or substantially rehabilitating existing rental units. For purposes of providing off-site units, substantially rehabilitating means rehabilitating a dwelling unit that has substantial building and other code violations, and has been vacant for at least 90 days, such that the unit is returned to the City's housing supply as decent, safe and sanitary housing, and the cost of the work exceeds twenty-five percent of the market value of the unit after rehabilitation. The number of substantially rehabilitated units that will be required under the off-site unit provision will be determined based on a calculation of the affordability gap associated with on-site provision of the units. This affordability gap will then be translated into the number of off-site units that can be produced at a financial gap equal to the affordability gap associated with on-site provision of the units.
- (c) In-lieu fee.
 - (1) 20 or fewer units. In the case of a Residential Project containing between 5 and 20 residential lots or residential units, the Developer may elect to satisfy the Inclusionary Unit requirements for the project, in whole or in part, by payment of a fee in lieu of constructing some or all of the required units.

- (2) More than 20 units. In the case of a Residential Project comprised of more than 20 residential lots or residential units, the Developer may apply to pay a fee in lieu of constructing some or all of the required units, and such application shall be subject to the review and approval of the City Council, which may grant such the Developer's request if substantial evidence supports a finding that the cost of providing Inclusionary Units on-site would substantially exceed the amount of the applicable in-lieu fee.
- (3) Calculation of fee. The amount of the fees allowed by this Section shall be calculated in accordance with the methodology to be set forth in the Administrative Procedures. The calculation methodology is based on the affordability gap associated with fulfilling the required affordable housing units on site within the proposed Residential Project.
- (4) Timing of payment. The Developer shall pay any in-lieu fees allowed by this Section in full before issuance of a Building Permit for any portion of the Residential Project, including any non-residential portions of a mixed-use development.
- (5) Inclusionary Housing Fund. Fees collected in compliance with this Section shall be deposited in the Inclusionary Housing Fund.

Section 7. Section 41-1905 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Sec. 41-1905. Housing Plan and Housing Agreement

- (a) Submittal and execution. The Developer shall comply with the following requirements.
 - (1) Inclusionary Housing Plan. The Developer shall submit an Inclusionary Housing Plan, in a form specified by the Executive Director, detailing how the provisions of this Article will be implemented for the proposed Residential Project. If the inclusionary housing plan includes alternatives to on-site units that require the approval of the City Council, then the Inclusionary Housing Plan shall be subject to the review and approval of the City Council. All other Inclusionary Housing Plans shall be subject to the approval of the Executive Director, subject to appeal to the City Council. Any such appeal shall be filed within fifteen (15) days of the decision of the Executive Director.
 - (2) Inclusionary Housing Agreement. The Developer shall execute and cause to be recorded an Inclusionary Housing Agreement. The

Inclusionary Housing Agreement shall be a legally binding agreement between the Developer and the City, in a form and substance satisfactory to the Executive Director and the City Attorney, and containing those provisions necessary to ensure that the requirements of this Article are satisfied, whether through the provision of Inclusionary Units or through an approved alternative method.

- (b) Discretionary approvals. No discretionary approval shall be issued for a Residential Project subject to this Article until the Developer has submitted an Inclusionary Housing Plan.
- (c) Issuance of Building Permit. No Building Permit shall be issued for a Residential Project subject to this Article unless the Executive Director has approved the Inclusionary Housing Plan, and any required inclusionary Housing Agreement has been recorded.
- (d) Issuance of Certificate of Occupancy. A Certificate of Occupancy shall not be issued for a Residential Project subject to this Article unless the approved Inclusionary Housing Plan has been fully implemented.

Section 8. Section 41-1906 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Sec. 41-1906. Standards

- (a) Location within project, relationship to non-Inclusionary Units. All Inclusionary Units shall be:
 - (1) Reasonably dispersed throughout the Residential Project;
 - (2) Proportional, in number of bedrooms, and location, to the market rate units;
 - (3) Comparable to the market rate units included in the Residential Project in terms of design, materials, finished quality, and appearance; and
 - (4) Permitted the same access to project amenities and recreational facilities, as are market rate units.
- (b) Timing of construction. All Inclusionary Units in a Residential Project shall be constructed concurrent with, or before the construction of the market rate units. If the City approves a phased project, a proportional share of the required Inclusionary Units shall be provided within each phase of the Residential Project.

(c) Units for sale.

- (1) Time limit for inclusionary restrictions. A unit for sale shall be restricted to the target income level group at the applicable affordable housing cost for a minimum of 45 years.
- (2) Certification of purchasers. The Developer and all subsequent owners of an Inclusionary Unit offered for sale shall certify, on a form provided by the City, the income of the purchaser.
- (3) Resale price control. In order to maintain the availability of inclusionary units required by this Article, the resale price of an owner occupied Inclusionary Unit shall be limited to the lesser of the fair market value of the unit as established by a licensed real estate agent based upon three comparable properties or the restricted resale price. For these purposes, the restricted resale price shall be the applicable Affordable Housing Cost.
- (4) 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 or heir (in the case of the death of a sole owner or all owners of the household.)
- (5) Forfeiture. If an Inclusionary Unit for sale is sold for an amount in excess of the resale price controls required by this Section, 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 deposited into the Inclusionary Housing Fund. Notwithstanding the foregoing, it shall be within the discretion of the Executive Director to allow the buyer and seller to cure any violation of the resale price controls within 180 days.

(d) Rental units.

- (1) Time limit for inclusionary restrictions. A rental unit shall remain restricted to the target income level group at the applicable affordable housing cost for 55 years.
- (2) Certification of renters. The owner of any rental Inclusionary Units shall certify, on a form provided by the City, the income of all members of the household above the age of 18 at the time of the initial rental and annually thereafter.
- (3) Forfeiture. Any lessor who leases an Inclusionary Unit in violation of this Article shall be required to forfeit to the City all money so

obtained. Recovered funds shall be deposited into the Inclusionary Housing Fund.

- (e) The Executive Director may require the execution and recording of whatever documents are required to ensure enforcement of this Section; including but not limited to promissory notes, deeds of trust, resale restrictions, rights of first refusal, options to purchase, and/or other documents, which shall be recorded against all Inclusionary Units.
- (f) General Prohibitions.
 - (1) No person shall sell or rent an Inclusionary Unit at a price or rent in excess of the maximum amount allowed by any restriction placed on the unit in accordance with this Article.
 - (2) No person shall sell or rent an Inclusionary Unit to a person or persons that do not meet the income restrictions placed on the unit in accordance with this Article.
 - (3) No person shall provide false or materially incomplete information to the City or to a seller or lessor of an Inclusionary Unit to obtain occupancy of housing for which that person is not eligible.
- (g) Principal Residency Requirement.
 - (1) The owner or lessee of an Inclusionary Unit shall reside in the unit for not less than ten out of every twelve months.
 - (2) No owner or lessee of an Inclusionary Unit shall lease or sublease, as applicable, an Inclusionary Unit without the prior permission of the Executive Director.

Section 9. Section 41-1907 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Sec. 41-1907. Takings Determination

- (a) Determination of a taking of property without just compensation. In accordance with the procedures provided by this Section, a Developer may request a determination as to whether the requirements of this Article, taken together with the inclusionary incentives as applied to the Residential Project, would constitute a taking of property without just compensation under the California or Federal Constitutions.
 - (1) The Developer may request the Executive Director to make a takings determination within fifteen (15) days of approval or disapproval of

the Inclusionary Housing Plan. The Developer may file an appeal of the takings determination of the Executive Director within fifteen (15) calendar days after the date of the decision. Any appeal shall be subject to the provisions of Chapter III of the Santa Ana Municipal Code.

- (b) Presumption of facts. In making the takings determination, the Executive Director, shall presume each of the following facts:
 - (1) Application of requirements. Application of the inclusionary housing requirement to the Residential Project;
 - (2) Incentives. Application and utilization of all density bonuses and incentives available under State and local law;
 - (3) Product type. Utilization of the most cost-efficient product type for the Inclusionary Units that would meet the standards of this Article; and
 - (4) External funding. The reasonable availability of external funding.
- (c) Modifications to reduce obligations. If it is determined that the application of the provisions of this Article would be a taking, the Inclusionary Housing Plan shall be modified to reduce the obligations in the inclusionary housing component to the extent, and only to the extent necessary, to avoid a taking. If it is determined no taking would occur through application of this Article to the Residential Project, the requirements of this Article remain applicable.

Section 10. Section 41-1908 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Sec. 41-1908. Enforcement

- (a) Any violation of this Article constitutes a misdemeanor.
- (b) Forfeiture of funds. Any individual who sells or rents an Inclusionary Unit in violation of this Article shall be required to forfeit all money so obtained. Recovered funds shall be deposited into the Inclusionary Housing Fund.
- (c) Legal actions. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Article, including actions:
 - (1) To disapprove, revoke, or suspend any permit, including a Building Permit, Certificate of Occupancy, or discretionary approval; and
 - (2) For injunctive relief or damages.

- (d) Recovery of costs. In any action to enforce this Article, or an Inclusionary Housing Agreement recorded hereunder, the City shall be entitled to recover its reasonable attorney's fees and costs.

Section 11. Section 41-1909 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Sec. 41-1909. Inclusionary Housing Fund

- (a) Inclusionary Housing Fund. There is hereby established a separate fund of the City, to be known as the Inclusionary Housing Fund. All monies collected pursuant to this Article shall be deposited in the Inclusionary Housing Fund. Additional monies from other sources may be deposited in the Inclusionary Housing Fund. The monies deposited in the Inclusionary Housing Fund shall be subject to the following conditions:
 - (1) Monies deposited into the Inclusionary Housing Fund must be used to increase and improve the supply of housing affordable to Moderate, Low and Very Low Income Households in the City. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this Article.
 - (2) The fund shall be administered by the Executive Director, or his or her designee, who may develop procedures to implement the purposes of the Inclusionary Housing Fund consistent with the requirements of this Article and any adopted budget of the City.
 - (3) Monies deposited in accordance with this Section shall be used in accordance with the City's Housing Element, Redevelopment Plan, Consolidated Plan, or subsequent plan adopted by the City Council to construct, rehabilitate, or subsidize affordable housing or assist other government entities, private organizations, or individuals to do so. Permissible uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development loan funds, participation leases, or other public-private partnership arrangements. The Inclusionary Housing Fund may be used for the benefit of both rental and owner-occupied housing.

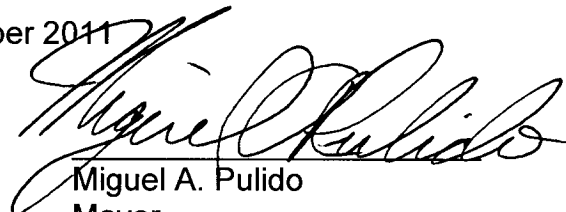
Section 12. Section 41-1910 is added to Chapter 41 of the Santa Ana Municipal Code to read in full as follows:

Sec. 41-1910. Administrative

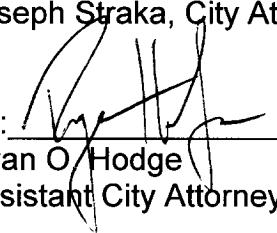
- (a) Fees. The Council may by resolution establish reasonable fees and deposits for the administration of this Article.
- (b) Administrative Procedures. The City Manager is hereby authorized and directed to promulgate Administrative Procedures for the implementation of this Article.

Section 13. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana 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 be declared invalid or unconstitutional.

ADOPTED this 28th day of November 2011


Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Joseph Straka, City Attorney

By: 
Ryan O. Hodge
Assistant City Attorney

YES: Councilmembers: Alvarez, Benavides, Bustamante, Martinez, Pulido, Tinajero, Sarmiento (7)

NOES: Councilmembers: None (0)

ABSTAIN: Councilmembers: None (0)

NOT PRESENT: Councilmembers: None (0)

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-2825 to be the original ordinance adopted by the City Council of the City of Santa Ana on November 28, 2011 and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: 11-30-11

Rose Ann Guizillo
for Clerk of the Council
City of Santa Ana