

ORDINANCE NO. 908

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADOPTING MUNICIPAL CODE AMENDMENT 22-02 REPEALING CHAPTER 19.30 “INCLUSIONARY HOUSING” AND MODIFYING CHAPTER 19.10 “RESIDENTIAL ZONES” AND CHAPTER 19.160 “DEFINITIONS” WITHIN TITLE 19 “DEVELOPMENT CODE” OF THE CITY OF DUARTE MUNICIPAL CODE THEREBY TERMINATING THE CITY’S INCLUSIONARY HOUSING PROGRAM

WHEREAS, on May 24, 2005, the City adopted Ordinance No. 778 (Municipal Code Amendment 05-1), enacting what is currently Chapter 19.30 “Inclusionary Housing” of the Duarte Development Code, which established a City-wide Inclusionary Housing Program; and

WHEREAS, in the years following the creation of the Inclusionary Housing Program, a combination of circumstances, including the dissolution of Redevelopment Agencies and associated elimination of the required 20% set-aside funds for low-and-moderate-income housing, as well as the Great Recession of 2007-2009, ultimately resulted in the production of zero inclusionary housing units and an insufficient amount of in-lieu funds necessary to effectively provide additional affordable housing; and

WHEREAS, on June 28, 2016, the City adopted Ordinance No. 865 (Municipal Code Amendment 16-02), temporarily suspending the Inclusionary Housing Program for a five-year period between July 31, 2016 and July 31, 2021 allowing the City the opportunity to monitor housing developments and trends, and evaluate the Inclusionary Housing Program’s efficacy in facilitating the development of affordable housing within the City; and

WHEREAS, several legislative changes related to density bonus requirements, accessory dwelling units, and affordable housing funding mechanisms have occurred in the time since the Inclusionary Housing Program was suspended, offering additional tools to encourage and promote the development of affordable housing; and

WHEREAS, during the suspension period the City has seen an exponential rise in housing development with a combination of more than 900 residential units in the entitlement process, approved, or under construction; and

WHEREAS, the findings of the analyses the City conducted during the suspension period demonstrated that the Inclusionary Housing Program may have a negative impact on residential construction and that alternative incentives and policy measures may be more effective and productive at furthering the City’s goal of providing affordable housing; and

WHEREAS, the City remains committed to advancing efforts to provide affordable housing within the City and the findings of the analyses completed within recent years support the repeal of the City’s Inclusionary Housing Ordinance so as not to impede the development of affordable housing within the City; and

WHEREAS, Section 19.142.030 through 19.142.060 of the Duarte Development Code authorizes both the Planning Commission and the City Council to consider such requests subject to certain findings; and

WHEREAS, the Community Development Department has reviewed the project with respect to environmental impact and has determined that the application is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273 of Title 14 of the California Code of Regulations and exempt pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations; and

WHEREAS, a notice of a public hearing on the proposed Municipal Code Amendment was published in the local newspaper and posted at three (3) public locations pursuant to Duarte Development Code Chapter 19.146 and in accordance with applicable State law; and

WHEREAS, the Planning Commission of the City of Duarte held a duly noticed public hearing on February 28, 2022 at 7 PM, whereupon the Planning Commission received and considered the staff report and all of the information, evidence, and public testimony presented in connection with the foregoing public hearing on the proposed Municipal Code Amendment; and

WHEREAS, after careful study and the holding of a duly noticed public hearing, the Planning Commission adopted a resolution recommending that the City Council adopt and approve Municipal Code Amendment 22-02 repealing Chapter 19.30 “Inclusionary Housing” of the Duarte Development Code, and modifying Chapter 19.10 “Residential Zones” and Chapter 19.160 “Definitions” of the Duarte Development Code to remove references to Chapter 19.30 and the Inclusionary Housing Program; and

WHEREAS, notice of a public hearing on Municipal Code Amendment 22-02 was provided pursuant to Duarte Development Code Chapter 19.146 and in accordance with applicable State law; and

WHEREAS, the City Council has considered the analysis and recommendation provided in the staff report for Municipal Code Amendment 22-02, and all information, evidence, and public testimony received at the public meeting held on March 22, 2022 in the City Council Chambers.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Recitals above are true and correct, and incorporated herein by this reference.

SECTION 2. Chapter 19.30 “Inclusionary Housing” of Article 3 “Regulations Applicable to All Zones” to Title 19 “Development Code” of the City of Duarte Municipal Code is hereby repealed in its entirety.

SECTION 3. The following chapters of the Duarte Development Code are amended to read as follows:

Modifications to Chapters 19.10 “Residential Zones” and 19.160 “Definitions”

(DELETIONS SHOWN AS ~~DOUBLE STRIKE THROUGH~~):

- A. Modify 19.10.090 “Other applicable regulations” of Chapter 19.10 “Residential Zones” of Article 2 “Zones, Allowable Uses, and Development Standards” to Title 19 “Development Code” of the City of Duarte Municipal Code as follows:

19.10.090 – Other applicable regulations.

In addition to the requirements contained in this Chapter 19.10 (Residential Zones), regulations contained in the following Chapters may apply to development in residential zones.

~~Chapter 19.30, Inclusionary Housing.~~

Chapter 19.32, Site Planning and General Development Standards.

Chapter 19.34, Accessory Structures.

Chapter 19.36, Fences, Walls, and Hedges.

Chapter 19.38, Off-Street Parking Regulations and Design.

Chapter 19.40, Landscaping.

Chapter 19.42, Signs.

Chapter 19.44, Architectural and Design Standards.

Chapter 19.48, Property Maintenance.

Chapter 19.50, Performance Standards.

Chapter 19.52, Sustainable Development Practices.

Article 4, Standards for Specific Land Uses and Activities.

- B. Modify “Inclusionary Housing Agreement,” “Inclusionary Housing Plan,” “Inclusionary Units,” and “In-lieu Fee” of 19.160.100 “‘I’ Definitions” of Chapter 19.160 “Definitions” of Article 9 “Definitions” to Title 19 “Development Code” of the City of Duarte Municipal Code as follows:

~~*Inclusionary Housing Agreement.* A legally binding agreement between a developer and the city in form and substance satisfactory to the director and city attorney, setting forth those provisions necessary to ensure that the requirements of this chapter, whether through the provision of inclusionary units or through an alternative method permitted by this Chapter, are satisfied.~~

~~*Inclusionary Housing Plan.* The plan referenced in Section 19.30 and further described in the regulations, which sets forth the manner in which the requirements of this chapter will be implemented for a particular residential development.~~

~~*Inclusionary Units.* A dwelling unit that will be offered for rent or sale to very low, low, or moderate income households, at the applicable affordable housing cost, pursuant to this chapter.~~

Industry. Establishments engaged in the manufacturing of finished parts or products, either from raw materials or previously prepared materials, within an enclosed structure. Includes processing, fabrication, assembly, treatment, testing (e.g., laboratories), packaging, incidental office storage, sales, and distribution of the parts or products; and laundry and dry cleaning plants. Excludes vehicle/equipment rentals (“Vehicle/Equipment Rentals”), vehicle repair and service (“Vehicle Repair and Service”), vehicle sales (“Vehicle Sales”).

- *Light.* The manufacture and/or processing of consumer-oriented goods in a manner that does not produce noticeable odors, air emissions, or other environmental effects, and that has limited associated trucking activity. Light industries generally require limited amounts of raw materials to produce goods. Examples of light industries include, but are not limited to, the manufacture of clothes, shoes, furniture, consumer electronics, and household items.
- *Heavy.* The manufacture and/or processing of materials and goods utilizing large quantities of raw materials, and generally requiring high capitalization and production of large quantities of output. Heavy industry often sells output to other business users rather than consumers. Characteristics of heavy industry include, but are not limited to, heavy trucking activity, noise, emissions requiring federal or state environmental permits, use of large quantities of hazardous materials as defined the U.S. Environmental Protection Agency, and requirement for specialized permits from federal and state occupational health and safety agencies.

Inflation Rate. The rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

~~*In-lieu Fee.* The fee-based alternative to the provision of on-site affordable units. See Section 19.30.040 (In-Lieu Fee).~~

Internet/Cyber Café. An establishment that provides more than three computers and/or other electronic devices, for access to that system commonly referred to as the “internet,” e-mail, playing video games over the Internet or other network system, and/or access to other computer software programs, to the public for

compensation and/or for public access. Internet café is also synonymous withPC café, cyber café, internet gaming center, computer/internet rental and cyber centers. See “Commercial Recreation and Entertainment.”

SECTION 4. The City Council finds and determines that this ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273 of Title 14 of the California Code of Regulations and exempt pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. Therefore, no further environmental review is required in accordance with CEQA Guidelines, and a Notice of Exemption has been prepared for this project.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published using the alternative summary and posting procedure authorized under Government Code Section 36933(c) by publishing the following:

SUMMARY OF ORDINANCE NO. 908

NOTICE IS HEREBY GIVEN that the Duarte City Council, at its regular meeting of March 22, 2022, introduced for first reading, Ordinance No. 908 which will adopt Municipal Code Amendment 22-02 repealing Chapter 19.30 “Inclusionary Housing” and modifying Chapter 19.10 “Residential Zones” and Chapter 19.160 “Definitions” within Title 19 “Development Code” of the City of Duarte Municipal Code thereby terminating the City’s Inclusionary Housing Program.

A certified copy of the Ordinance is available for review in the City Clerk’s Office at City Hall, located at 1600 Huntington Drive, Duarte, California 91010. The Ordinance is scheduled to be considered and potentially adopted at the regularly scheduled City Council meeting of March 22, 2022. The Ordinance will take effect 30 days after second reading and adoption.

After second reading/adoption of this Ordinance, if adopted:

SUMMARY OF ADOPTED ORDINANCE NO. 908

NOTICE IS HEREBY GIVEN that on _____, 2022, the City Council adopted Ordinance No. 908.

ORDINANCE NO. 908

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ADOPTING MUNICIPAL CODE AMENDMENT 22-02 REPEALING CHAPTER 19.30 “INCLUSIONARY HOUSING” AND MODIFYING CHAPTER 19.10 “RESIDENTIAL ZONES” AND CHAPTER 19.160 “DEFINITIONS” WITHIN TITLE 19 “DEVELOPMENT CODE” OF THE CITY OF DUARTE MUNICIPAL CODE THEREBY TERMINATING THE CITY’S INCLUSIONARY HOUSING PROGRAM

I, ANNETTE JUAREZ, City Clerk of the City of Duarte, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 908 was duly passed and adopted at a regular meeting of the City Council held on _____, 2022, by the following vote, to wit:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

THE FOREGOING ORDINANCE IS PASSED, APPROVED, AND ADOPTED by a vote of no less than a majority of City Council at a regular meeting of the City Council of the City of Duarte held on the 12th day of April, 2022.

Margaret Finlay
Mayor

APPROVED AS TO FORM:

Thai Viet Phan
City Attorney

ATTEST:

Annette Juarez
City Clerk

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|-----------------------|-------|
| STATE OF CALIFORNIA | } |
| COUNTY OF LOS ANGELES | } ss. |
| CITY OF DUARTE | } |

I, Annette Juarez, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Ordinance No. 908 was adopted by the City Council of said City of Duarte at a regular meeting of said Council held on the 12th day of April 2022, by the following vote:

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|----------|--|
| AYES: | KANG, LEWIS, SCHULZ, TRUONG, GARCIA, PARAS-CARACCI, FINLAY |
| NOES: | NONE |
| ABSTAIN: | NONE |
| ABSENT: | NONE |

Annette Juarez
City Clerk