

ORDINANCE NO. 2660 (N.C.S.)

AN ORDINANCE AMENDING ARTICLE III CHAPTER 17 OF THE SALINAS MUNICIPAL CODE (INCLUSIONARY HOUSING REQUIREMENTS) TO ELIMINATE THE EXEMPTION FOR CERTAIN RESIDENTIAL DEVELOPMENTS IN THE CENTRAL CITY OVERLAY DISTRICT (DOWNTOWN AREA)

City Attorney's Impartial Analysis

The proposed Ordinance amends a portion of the City's Inclusionary Housing Ordinance (Chapter 17 of the Salinas Municipal Code) to limit those projects which are exempt from the Ordinance's requirements. Specifically, the proposed Ordinance eliminates the exemption for new residential development projects within the Central City Overlay District that do not qualify as adaptive reuse projects.

WHEREAS, on June 6, 2017, following two years of multi-faceted community and stakeholder engagement, comprehensive data collection and analysis, and careful planning and consideration, the City Council adopted its current Inclusionary Housing Ordinance to amend Article III of Chapter 17 (Housing) of the Salinas Municipal Code; and

WHEREAS, in recognition of the number of inclusionary units and projects that encompass the Central City Overlay District (Downtown Area) and in support of the community perspective outlined in the Downtown Vibrancy as well as findings and recommendations made in a 2017 Housing Target Market Analysis (HTMA) Study, the Council acknowledged the untested residential development potential within the Downtown Area and exercised its authority to implement a market-based exemption to the Ordinance; and

WHEREAS, the Housing Element recommends that the Inclusionary Housing Ordinance is re-evaluated every five years for a potential update, which means that technically the City should begin the re-evaluation of the ordinance this year in 2022; and

WHEREAS, due to limited capacity of Community Development Department, which was responsible for the City's pandemic response including administration of Project Roomkey, Project Homekey, and the Emergency Rental Assistance Program (ERAP) totaling over \$58 million, staff was unable to restart the Inclusionary Housing Ordinance update process; and

WHEREAS, on September 13, 2022, Community Development Department staff presented an Administrative Report to the City Council on this ordinance and the Downtown Area Exemption; and

WHEREAS, during the September 13, 2022 City Council meeting, Council members Barrera and Rocha requested that that exemption provided to residential developments in the downtown area ("downtown exemption") be brought back to the City Council for further discussion and consideration; and

WHEREAS, on October 18, 2022, after lengthy discussion the City Council recommended that the downtown exemption be amended to only include adaptive reuse projects because the

conversion of older, in some cases historic, buildings is costly and risky and because of this, these buildings are more likely to remain underutilized and vacant; and

WHEREAS, the City recognizing these barriers established an Adaptive Reuse Ordinance in 2018 that relaxes or eliminates identified development standards to incentivize the conversion of these older, underutilized commercial buildings and the additional costs associated with implementation of the Inclusionary Housing Ordinance has the potential to make conversion economically infeasible.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS AS FOLLOWS:

SECTION 1. Chapter 17, Housing of the Salinas Municipal Code is hereby amended as follows (Revisions are shown in underline/strikethrough text):

Article III. – Inclusionary Housing Requirements.

Sec. 17-8. - Exemptions

This article shall not apply to any of the following:

- a) Projects that are not residential developments as defined in Section 17-7(x), including but not limited to those residential developments creating fewer than ten additional dwelling units or lots.
- b) Residential developments which are developed pursuant to the terms of a development agreement executed prior to the effective date of this ordinance or which have otherwise received a vested right to proceed without conforming to this article under state law, provided that such residential developments shall comply with any affordable housing requirements consistent with the development agreement.
- c) Residential developments exempted by Government Code section 66474.2 or 66498.1, provided that such residential developments shall comply with any predecessor ordinance in effect on the date the application for the development was deemed complete.
- d) ~~Residential developments~~ Adaptive reuse projects as defined by Section 37-50.015 in the Zoning Code that are located in the downtown area (Central City Overlay District). ~~–unless the city council by resolution determines that, based on market conditions, the provisions of this article will be applied in the downtown area.~~
- e) Residential developments that have submitted a complete planning or building permit application along with full payment of required application fees to the city prior to the effective date of this ordinance, provided that such residential developments shall comply with any approved affordable housing plan and any predecessor ordinance applicable to the development.

- f) One-hundred percent affordable low-income housing projects with either a recorded deed restriction, restrictive covenant or regulatory agreement of no less than thirty years.

SECTION 2. CEQA CONSIDERATIONS. The adoption of this Ordinance is “Not a Project” as defined by the California Environmental Quality Act (CEQA) Section 15378. In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Salinas City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in force thirty days from and after its adoption.

PASSED AND ADOPTED this 15th day of November 2022, by the following vote:

AYES: Councilmembers: Barrera, Cromeenes, Gonzalez, McShane, Osornio, Rocha and Mayor Craig

NOES: None

ABSTAIN: None

ABSENT: None

APPROVED:

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Kimbley Craig

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Kimbley Craig, Mayor

APPROVED AS TO FORM:

DocuSigned by:

Christopher A. Callihan

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Christopher A. Callihan, City Attorney

ATTEST:

DocuSigned by:

Patricia Barajas

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Patricia Barajas, City Clerk