

LEGISLATIVE DIGEST

[Planning Code – Amending Inclusionary Housing Ordinance.]

Ordinance amending the Planning Code by amending the Residential Inclusionary Affordable Housing Program, Section 315 et seq. (the "Program") to change the name of the Program to the Affordable Housing Program and to require all project applicants to pay the Affordable Housing fee unless they are eligible for an alternative; making other amendments to the Program including expanding the uses of the Citywide Affordable Housing Fund, deleting provisions relating to certain requirements for off-site units, and deleting provisions requiring a refund of fees after issuance of certificate of occupancy; amending Section 827 to delete the requirement that 50% of on- or off-site affordable housing units provided under Section 315 et seq. in the Rincon Hill Area Plan be provided as rental; and making findings including findings under the California Environmental Quality Act.

Existing Law

The Residential Inclusionary Affordable Housing Program, Planning Code Section 315 et seq. ("Program") currently requires all residential developments of 5 units or more to provide 15 percent of the units on-site of the development as affordable units. The Program also gives all developers the option to meet the Program requirements through the provision of 20% of the units as affordable off-site units or to pay an in lieu fee equivalent to the number of off-site units. All in lieu fees are paid to the Citywide Affordable Housing Fund. The funds can be used to increase the supply of affordable housing and for certain "small sites" projects subject to various limitations. The Program also currently provides that, in general, applicants must insure that off-site units are located within a one mile radius of the principal project but that 25% of off-site units constructed per year shall be permitted by the Planning Department to be located outside of that radius. The Program provides that the City shall refund fees under certain circumstances including a provision that allows for a proportionate refund of in lieu fees after a certificate of occupancy is issued and during the life of the project. The Rincon Hill Area Plan provisions of the Planning Code contain requirements that differ from the Program including, but not limited to a requirement that 50% of all on- or off-site affordable units must be provided as rental units.

Amendments to Current Law

The Amendments to the Program would change the primary requirement of the Program such that all developers would be required to pay an Affordable Housing Fee ("fee"). The fee would be set at the same level as the current in lieu fee. Only developers who can meet certain requirements would be eligible for the alternative to provide on- or off-site affordable units. In addition, the uses of the Citywide Affordable Housing Fund would be expanded to include providing down payment assistance to low and moderate income homebuyers. The

amendments delete the exception to the rule that all off-site units need to be built within one mile of the principal project. The amendments retain refunds for projects that do not obtain their certificate of occupancy but delete a refund provision that requires refunds after issuance of a certificate of occupancy through the life of the project. The amendments delete the Rincon Hill Area Plan requirement that 50% of all on- or off-site affordable units must be provided as rental units.