



## Council Agenda Correspondence

**DATE:** March 20, 2023

**TO:** Mayor and Council

**FROM:** Michael Codron, Community Development Director

**VIA:** Kyle Bell, Housing Coordinator

**SUBJECT:** ITEM 7A - INTRODUCE AN ORDINANCE AMENDING TITLE 17 (ZONING REGULATIONS) TO PROVIDE A DOWNTOWN FLEXIBLE DENSITY PROGRAM (CODE-0017-2023)

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The following memorandum provides City staff responses to comments received from a Council member regarding the Downtown Flexible Density Program. Staff determined it would be helpful to provide this memo to all Council Members and the public, as the responses offer clarification regarding the proposed program.

1. **Owner Occupancy.** *“...to prevent new units built under flexible density from becoming vacant second homes in the downtown. I’m wondering: (1) If an owner occupancy requirement is legally permissible? (2) If not, is there something that may have a similar effect?”*

Response: As proposed, the Downtown Flexible Density Program allows for ownership units to be created, but is expecting the vast majority of units to be rentals. There are very few owner-occupied housing units in the City that are the size of flexible density units (600 square feet or less). The only required units to be owner-occupied in the City have been on a volunteer basis by the property owner/developer. That said, the ability to impose an owner-occupancy requirement may be feasible given the voluntary nature of the program (e.g. it is a program that a developer may elect to participate in). If the Council would like for staff to pursue an owner-occupancy requirement for flexible density units, additional time would be needed to research legal issues and develop appropriate municipal code language.

2. **Inclusionary Housing Exemption.** *“I’m curious if the determination to waive the inclusionary housing requirements came out of an economic analysis that led us to believe that the IHO would make building these types of units too expensive for developers to profit?”*

Response: The recommendation is not based on an economic analysis, but follows direction provided by the City Council when the Inclusionary Housing Ordinance was updated on August 16, 2022. As part of the update, Council eliminated Table 2A

(Inclusionary Housing Adjustment Factors) and advised staff to explore other options for incentivizing housing production of smaller units. The Flexible Density Program is intended to accomplish this by allowing more residential density without increasing affordable housing requirements. However, these projects are not exempt from the Inclusionary Housing Ordinance in total. Inclusionary Housing Requirements would remain in effect for all other components of a project, including the commercial linkage fee for retail floor area, and the in-lieu fee for the residential units that are larger than 600 square feet.