



June 4, 1998

Agenda: June 9, 1998

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

## **RE: INCLUSIONARY HOUSING REQUIREMENTS AMENDMENT TO CHAPTER 17.10**

Members of the Board:

Last fall, your Board, in response to concerns raised by Supervisor Belgard, directed that revisions be prepared to the inclusionary housing requirements of County Code Chapter 17.10. The Planning Department, working with County Counsel and the Redevelopment Agency, has prepared a draft ordinance changing the County's inclusionary housing regulations based on that direction, and the Housing Advisory Commission has reviewed and made recommendations on the changes. The draft ordinance is now ready for consideration by your Board.

### **CHANGES TO INCLUSIONARY HOUSING REGULATIONS - Chapter 17.10**

Several Sections of County Code Chapter 17.10 have been revised to include the changes to the inclusionary housing requirements for residential development projects based on your Board's direction as summarized in the Minute Order of September 23, 1997 (see Attachment 4). The revised text has also been reorganized to provide better understanding and clarity and to include some existing policies and procedures not previously documented in the Chapter. These changes to Chapter 17.10 include the following general revisions to the County's inclusionary housing requirements:

- *Retention of the existing requirement for residential development projects to include the construction of affordable housing **within the project**, with the addition of specific provisions for **projects that involve bonus density, priority processing and congregate senior housing based on existing policies and regulations.***

This maintains the basic requirement, as provided in Measure J, that affordable housing be constructed as a part of a project.

- *Changes in the option for **construction** of off-site affordable dwelling units to require that the off-site development be approved by the Board of Supervisors and to include specific provisions for projects involving partnerships **with non-profit housing developers.***

These ordinance amendments will add a new way to provide off-site affordable housing, through partnerships with non-profit housing agencies. The negotiated participation by the developer must meet certain criteria and, as with all off-site affordable housing, must be approved by your Board. One issue that has been considered by staff but not resolved is the issue of where off-site affordable units may be approved in relation to the location of the market rate project. The Board has previously discussed various approaches to address this issue. Potential ways to address this issue would be 1) elimination of the option for developers to build off-site units that are not partnership units; 2) restricting off-site units to areas that are not considered over concentrated with affordable units; 3) requiring off-site units to meet specified findings to be determined by your Board. If your Board wishes to pursue any of these approaches, we would suggest that staff be directed to return at a later date.

- *Creation of an option to allow either housing developments or lot subdivisions to pay an in-lieu fee in place of building affordable housing, with the funds to be placed in a separate trust fund to be expended for affordable housing purposes at the discretion of the Board of Supervisors.*

This extends the lot subdivision in lieu fee to all types of residential projects and establishes the amount of the fee based on the average market rate lot or home sales price. This allows the developer to make a decision early in the process regarding which method of meeting the project's affordable housing obligation to choose.

- *Changes the option to dedicate building sites for affordable housing to allow such dedications. for both housing developments and lot subdivisions and to delete the provisions to pay a lot in-lieu fee (replaced by the new affordable housing in-lieu fee).*
- *Elimination of the previous option that allowed the transfer of affordable housing credits from other projects to satisfy the inclusionary housing requirement.*

The transfer of credit program will be replaced by the in lieu fee and the non-profit partnership alternatives noted above.

In your Board's action on September 23, 1997, you requested that the revised regulations provide that if the collected affordable housing in-lieu funds were not expended by the County within a specified period of time, that the funds would be transferred to another affordable housing entity. Following further staff discussions, it was determined that it would be preferable to have the Board of Supervisors retain discretion over the use of the funds and provide periodic reports to the Board on the fund status. The revised regulations therefore do not include a "use it or lose it" provision.

## **AFFORDABLE HOUSING IN-LIEU FEE**

As previously discussed with your Board, the new affordable housing in-lieu fee has been structured to encourage the construction of affordable housing units within modestly priced housing

developments and to provide greater flexibility for developers of more expensive units to meet their housing obligation. The amount of the in-lieu fee is specified in the table contained in Section 17.10.034(b) of the draft ordinance. The proposed in-lieu fee is based on the average sales price of market rate units or lots in the development, and runs between \$100,000 for lower priced developments to \$220,000 in very high priced projects, for each affordable unit not constructed. To encourage construction of the affordable housing in modestly priced developments, the proposed fee schedule establishes a minimum in-lieu fee of \$100,000 which would apply to developments where the average lot price is below \$105,000. Staff analysis indicates that the building site represents about 40% of the cost of a new home. Therefore, the equivalent range of housing prices would be represented by an average housing price below \$262,500. This minimum fee level makes it economically advantageous for a developer to construct the affordable housing for sale within lower cost developments.

For intermediately priced projects with an average lot price between \$105,000 and about \$150,000, the proposed fee is intended to be about equal to the average lot price. This range of in-lieu fees would apply to housing developments with an average housing price of \$262,500 to \$375,000, based on the equivalent value of the building site. At this level, it is expected that the fee would generally cost the developer the same as building the unit within the project, so that the choice of whether to construct the units or pay the fee could be based on other than economic considerations.

For higher priced developments with an average lot price exceeding \$150,000 or an average house price exceeding \$375,000, the proposed in-lieu fee would be based on a declining proportion of the average lot price or of the estimated average value of the building sites. In such developments, it would be economically advantageous for the developer to pay the in-lieu fee rather than to include the affordable units within the project. The in-lieu fees obtained from the higher priced developments could then be used to subsidize affordable housing in projects and locations where it would be more cost effective to develop affordable housing.

## **HOUSING ADVISORY COMMISSION RECOMMENDATION**

The County's Housing Advisory Commission reviewed the proposed changes to the inclusionary housing regulations on December 3 and 10, 1997. As a result of their review, the Commission unanimously recommended the adoption of the revised regulations with the following changes to the draft version submitted to them:

- Inclusion of adequate language in Section 17.10.030(a) to insure that subsequent divisions of the land in a project (e.g. remainder lots or sequential minor land divisions) do not escape the affordable housing obligation;
- Specification in Section 17.10.032(a)(4) that the requirement for no differences in external design between the affordable housing and other units in a project apply based on the visibility from the street;
- Clarification of the table of in-lieu fees in Section 17.10.034(b) by clearly specifying the fees

applicable to projects based housing sales prices and to project based on lot sales prices;

- Specification in Section 17.10.034(c) that a proportion of the in-lieu fee be paid from the sale of each unit in the development, rather than in a lump sum following the sale of a group of units; and
- Specification in Section 17.10.034(e) that the use of the in-lieu fee trust fund be limited to expenditures only for the development of “newly constructed” affordable housing including the replacement of damaged or destroyed units.

All of these recommendations have been reflected in the revised draft presented to your Board for adoption with the exception of the last recommendation. Your Board previously considered how the in-lieu fee trust fund should be expended, and concluded that such expenditures should be left to the discretion of the Board of Supervisors. The draft ordinance presented for your adoption therefore does not restrict trust fund expenditures to new construction.

## **ENVIRONMENTAL REVIEW**

The proposed amendments to County Code Chapter 17.10 constitute a “Minor Alteration in Land Use Limitations” which qualify for a categorical exemption from the requirement for environmental review under the California Environmental Quality Act. A Notice of Categorical Exemption has been prepared and is provided in Attachment 2 to this letter.

## **RECOMMENDATION**

As directed by your Board, amendments to County Code Chapter 17.10 have been prepared to address various methods to satisfy the County’s affordable housing requirements. It is, therefore, **RECOMMENDED** that your Board:

- 1) Approve in concept the draft Ordinance Amending Chapter 17.10 Relating to Affordable Housing Requirements (Attachment 1); and
- 2) Direct the Clerk of the Board to place the ordinance on the next Board of Supervisors agenda for final adoption.

Sincerely,



ALVIN D. JAMES  
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO  
County Administrative Officer

Attachments: 1. Draft Ordinance Amending Chapter 17.10 Relating to Affordable Housing Requirements  
2. CEQA Notice of Exemption  
3. Existing County Code Chapter 17.10  
4. Board of Supervisors Minute Order of 9-23-97

cc: Housing Advisory Commission  
Redevelopment Agency  
County Counsel

526ltr.bs.wpd

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE AMENDING CHAPTER 17.10  
OF THE SANTA CRUZ COUNN CODE RELATING TO  
AFFORDABLE HOUSING REQUIREMENTS**

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The Board of Supervisors of the County of Santa Cruz ordains as follows:

**SECTION I**

Existing Sections 17.10.030, 17.10.035 and 17.10.040 of the Santa Cruz County Code are hereby repealed.

**SECTION II**

The following new Sections are hereby added to Chapter 17.1 O.of the Santa Cruz County Code:

**17.10.030 Inclusionary Housino Requirements for Residential Development Projects**

(a) Projects Subject to Inclusionary Housing Requirements. The following residential development projects consisting of the construction of new dwelling units and/or the creation of new parcels intended for permanent residential occupancy shall be subject to the inclusionary housing requirements of this Chapter:

1. Residential Project At One Location. An application for a residential development at one location, whether to be constructed at one time or in phases, shall be subject to the requirements of this Chapter if it will result in the creation of:

- (i) five (5) or more new dwelling units or
- (ii) parcels providing building sites for a total of five (5) or more new dwelling units; or
- (iii) a combination of new dwelling units and parcels together providing for a total of five (5) or more new dwelling units.

For purposes of this paragraph, "one location" shall include all adjacent parcels of land owned or controlled by the applicant, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way, or separated only by the lands owned or controlled by the applicant .

2. Concurrent Adjacent Residential Projects. Applications for concurrent adjacent residential developments which together will result in the creation of five (5) or more new dwelling units, parcels providing building sites for a total of five (5) or more new dwelling units, or a combination of new dwelling units and parcels together providing for a total of five (5) or more new dwelling units, developed by applicants on adjacent properties either at one time or in phases shall be subject to the requirements of this Chapter. For purposes of this paragraph: "adjacent properties" shall include all adjacent parcels of land owned or controlled by the applicants, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way, or separated only by the lands owned or controlled by the applicants; and "concurrent" applications shall include all applications which have been submitted to and are concurrently being processed for action by the County. If the property ownership and application for one project contain no parties in whole or part, or their spouses, who are also a party to the property ownership and application of the concurrent adjacent development, the concurrent applications may be granted an exception to the affordable housing requirements imposed by this Chapter upon a showing satisfactory to the decision-making body that neither project receives direct financial benefit by virtue of the concurrent adjacent development.

3. Sequential Adjacent Residential Projects. Applications by the same owner or applicant for sequential adjacent residential developments which together will result in the creation of five (5) or more new dwelling units, parcels providing building sites for a total of five (5) or more new dwelling units, or a combination of new dwelling units and parcels together providing for a total of five (5) or more new dwelling units, developed on the same or adjacent properties either at one time or in phases shall be subject to the requirements of this Chapter. For purposes of this paragraph: "same owner or applicant" shall include any person who participates in the development as a full or partial owner or applicant, or a spouse of such person; "adjacent properties" shall include all adjacent parcels of land owned or controlled by the owner and/or applicant, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way, or separated only by the lands owned or controlled by the owner and/or applicant; and "sequential" projects shall include all projects for which applications have been submitted to the County within a period of ten (10) years.

(b) Inclusionary Housing Requirement. Those residential development projects identified in Subsection (a) shall provide the following minimum number of affordable dwelling units constructed within the project pursuant to the requirements of Section 17.10.032, or alternately shall meet the affordable housing requirement through the options provided in Subsection (c) below:

1. Standard Development. Standard development projects shall include the construction of affordable dwelling units equivalent in number to a minimum of fifteen percent (15%) of the total number of new dwelling units and new undeveloped residential building sites in the project;
2. Bonus Density Development. Development Projects qualifying for bonus zoning density pursuant to Section 13.10.391 shall include the construction of affordable dwelling units, including those required for the bonus density, equivalent in number to no less than fifteen (15%) of the total number of all new dwelling units and new undeveloped residential building sites in the project;
3. Priority Processing Development. Development projects qualifying for priority processing pursuant to the requirements of County Code Sections 17.10.040 (standard priority processing) or 13.10.393(b) (bonus density priority processing) shall include the construction of affordable dwelling units equivalent in number to a minimum of twenty-five percent (25%) or thirty-five percent (35%), respectively, of the total number of new dwelling units and new undeveloped residential building sites in the project;
4. Congregate Senior Housing Development. Congregate Senior Housing development projects developed pursuant to County Code Section 13.10.342 shall include the construction of affordable congregate care units equivalent in number to a minimum of thirty five percent (35%) of the total number of congregate care units in the project.

Where an applicant proposes to satisfy the affordable housing requirement in whole or part through development of affordable residential units on a different site, the affordable unit requirement shall be based on the total number of new dwelling units and new undeveloped residential building sites included at both sites. In determining the number of affordable units required for a project, any decimal fraction less than or equal to 0.50 shall be disregarded, and any decimal fraction greater than 0.50 shall be construed as requiring one affordable unit.

(c) Alternative Options to Satisfy Inclusionary Housing Requirement. As an alternative to the construction of each affordable dwelling unit within a project as required pursuant to Subsection (b), the affordable housing requirements of this Chapter may be satisfied by one or a combination of the following options:

1. Payment of an in-lieu fee pursuant to Section 17.10.034 in place of constructing a required affordable dwelling unit; or

2. Construction off-site of an affordable dwelling unit for rent or sale pursuant to Section 17.10.036 in place of constructing a required affordable dwelling unit on-site; or
3. Dedication of a residential parcel for the construction of an affordable dwelling unit for rent or sale pursuant to Section 17.10.038 in place of constructing a required affordable dwelling unit.

(d) Unit Affordability Requirements

1. Term of Restrictions. Affordable ownership and rental units shall be subject to the requirements of this Chapter for the life of the unit.
2. Sales Price. The maximum allowable sales price for all affordable housing units created pursuant to the requirements of this Section shall be limited to be affordable to moderate income households, unless otherwise required to be affordable to lower income or very low income households in order for the project to qualify for bonus zoning density pursuant to Section 13.10.391 and/or public funding programs. The County shall establish maximum allowable affordable unit sales prices pursuant to the pricing guidelines in the Affordable Housing Guidelines adopted by the Board of Supervisors.
3. Rental Price. The maximum allowable rental price for all affordable housing unit created pursuant to the requirements of this Section shall be limited to be affordable to lower income households unless otherwise required to be affordable to very low income households in order for the project to qualify for bonus zoning density pursuant to Section 13.10.391 and/or public funding programs. The County shall establish maximum allowable affordable unit rental prices pursuant to the pricing guidelines in the Affordable Housing Guidelines adopted by the Board of Supervisors.
4. Unit Occupancy. The income and assets of owner-occupant households shall not exceed the limits for a moderate income household, and for tenant households shall not exceed the limits for a lower income household, unless more stringent limits are required in order for the project to qualify for bonus zoning density pursuant to Section 13.10.091 and/or public funding programs. The County shall establish maximum allowable household income and asset levels in the Affordable Housing Guidelines adopted by the Board of Supervisors. Sales and rental contracts for affordable units shall not be enforceable, and sale and occupancy of units shall not be allowed until the purchasing and/or occupying household is certified by the County as meeting the established income and asset limits,

(e) Development Permit and Tentative Map Procedures.

1. Development Application. All appropriate maps and other materials submitted with an application for approval of a Residential Development Permit and/or Tentative Map for a project subject to the affordable housing requirements of this Chapter shall explicitly identify those residential units and/or residential parcels within the project sufficient to satisfy the project's affordable housing requirements, and shall also indicate the affordable housing option(s) pursuant to Subsections (b) and (c) that the developer will utilize to fulfill the requirements of this Chapter. The identification of affordable units and/or parcels within the project shall be provided to insure compliance with the requirement of this Chapter regardless of which of the affordable housing options the applicant selects to satisfy the requirements of this Chapter.

2. Development Conditions. The conditions of approval of a Residential Development Permit and/or Tentative Map shall identify residential units and/or residential parcels within the project adequate to satisfy the project's affordable housing requirements. Such identification of affordable units shall be provided to insure compliance with the requirement of this Chapter regardless of which of the affordable housing options provided in Subsections (b) and (c) that the applicant intends to eventually pursue.

(f) Participation Agreement Procedures. Prior to the recording of the Final Subdivision Map or the issuance of any Building Permits for residential units within the project whichever event occurs first, an Affordable Housing Program Participation Agreement shall be signed by the Planning Director, or his or her designee, on behalf of the County and by the owners of the property having authorization to encumber the property and by any existing holders of trust deeds on the property. The Participation Agreement shall be binding on the heirs, assigns and successors in interest of the property owner, and shall be recorded in the Official Records of Santa Cruz County. The Participation Agreement shall include, at the minimum, the following provisions:

1. Binding of the Project Site. The Participation Agreement shall contain the affordable housing requirements established for the project pursuant to this Chapter and shall encumber the entire property on which the project is to be developed with the obligation to fulfill such affordable housing requirements.

2. Lien on Designated Parcels. The Participation Agreement shall create an enforceable lien on each of the affordable parcels designated in the conditions of project approval, or alternately on every parcel in a project where the in-lieu fee option is chosen, to allow for collection of an in-lieu fee pursuant to Section 17.10.034 regardless of the option selected to satisfy the affordable housing requirement for the project. This lien is intended to allow for collection of such in-

lieu fee(s) if needed to enforce compliance with the requirements of this Chapter and shall be released by the County upon fulfillment of the affordable housing obligations pursuant to this Chapter.

3. Binding of Off-Site Project. If the development of off-site affordable residential units is authorized to satisfy the affordable housing requirements of the project, the Participation Agreement shall additionally bind the off-site project property and establish an enforceable lien on the designated off-site affordable units in the same manner as in paragraphs (1) and (2) above.

4. Selection of Affordable Housing Option. The Participation Agreement shall designate the option selected by the applicant for satisfying the affordable housing requirements of this Chapter. Where allowed by specific reference elsewhere in this Chapter, the project developer may subsequently change the designated option for satisfying the project's affordable housing obligations with the written approval of the Planning Director upon a written finding that all applicable requirements for the option selected shall be met. In making his or her finding, the Director may impose reasonable conditions upon the applicant to ensure compliance with the provisions of this Chapter.

5. Project Covenants, Conditions and Restrictions. The Participation Agreement shall include a provision prohibiting any amendments to a project's Covenants, Conditions and Restrictions that would increase the proportion of the homeowners association assessment payable by any affordable housing unit, and shall create a right of judicial enforcement of this requirement by the County and/or the owner of any affected affordable unit exclusively in favor of the owner of each affordable unit in the development.

6. Enforcement. The Participation Agreement shall include a provision providing for the payment by the owner to the County of a reasonable rental value of an affordable unit from the date of any unauthorized occupation, and for the recovery by the County of reasonable attorney fees and costs required to pursue legal action to enforce the Agreement.

#### 17.10.032 Development of On-site Affordable Dwelling Units

(a) Affordable Unit Standards. Affordable dwelling units may be constructed within a residential project with reduced size and interior amenities compared to the market rate units provided that the affordable units comply with all development standards enumerated in the Affordable Housing Guidelines as well as the following development standards:

1. Unit location. The affordable dwelling units shall be distributed throughout the

development project. This distribution requirement may only be waived by the decision-making body upon a finding that such distribution is infeasible for one or more of the following reasons:

- (i) Significant topographic or other constraints exist rendering such distribution infeasible;
- (ii) Substantially improved site design will result from such waiver;
- (iii) Substantially improved building design and an improved unit amenity level will result from such waiver; or
- (iv) Significant economic hardship that does not apply to other projects in the County will result from such distribution.

2. Parcel Size. The parcels on which the affordable units are located shall be no smaller than the smallest parcel on which market rate units in the project are to be located.

3. Bedroom Count. The average bedroom count in the affordable units shall not be less than the average bedroom count in the market rate units in the project.

4. Exterior Design. The exterior design of the affordable units shall be consistent with the market rate units in the development based on exterior design details, materials and number of stories, with no significant identifiable differences between the units visible from the street. In addition, the size of affordable units shall be reasonably consistent with the rest of the project, with an affordable unit size not less than 75% of the average size of market rate units, unless a smaller unit size is allowed by the decision-making body at the time of project approval and with the written findings that a smaller size will provide adequate and decent affordable housing, the affordable units will provide housing units compatible with the remainder of the development, and that a larger unit size would impose a financial hardship on the project developer. In no case shall an affordable unit size be less than the minimum specified by the Affordable Housing Guidelines.

(b) Timing of Completion. Affordable units shall be made available for occupancy either prior to or concurrently with the date that the market rate units in a project are made available for occupancy, and in the same ratio as the affordable unit requirement which is applicable to the project. For example, for a project with a twenty-five percent (25%) affordable housing requirement, at least one affordable unit shall receive final Building Permit inspection clearances concurrently with or prior to the final clearance of every third market rate unit constructed in the project until all of the affordable housing units required in the project have been constructed. For a project with a fifteen percent

(15%) affordable housing requirement, at least one affordable unit shall receive final Building Permit inspection clearances concurrently with or prior to the final clearance of every sixth market rate unit constructed in the project until all of the affordable housing units required in the project have been constructed. In no case shall the last market rate unit in the project receive final Building Permit inspection clearances until the last affordable unit in the project has received final Building Permit clearance.

(c) Recording of Declaration of Restrictions. Prior to the issuance of a Building Permit for an affordable dwelling unit, the property owner having authority to encumber the property and any existing holders of trust deeds on the property shall sign an Affordable Housing Program Declaration of Restrictions which subjects the affordable unit to the requirements of this Chapter and the County's Affordable Housing Guidelines, both as amended from time to time, including the specific ownership and occupancy restrictions established for the unit pursuant to Section 17.10.030(d). The Declaration of Restrictions shall be permanently binding on the heirs, assigns and successors in interest of the property owner, and shall be recorded in the Official Records of Santa Cruz County.

#### 17.10.034 Affordable Housing In-Lieu Fee.

(a) Fee Authorization. An in-lieu fee may be paid for each affordable unit required pursuant to Section 17.10.030(b) in place of constructing the affordable housing within the project. If the in-lieu fee option is designated in the recorded Participation Agreement for the project, the Participation Agreement shall create a lien on each dwelling unit or parcel in that portion of the development generating the affordable housing requirement in order to provide for payment of the in-lieu fee pursuant to this Section. If the in-lieu fee option is not designated in the Participation Agreement, the project developer may subsequently exercise this option by submitting a request to the Planning Director prior to issuance of Building Permits for any portion of the project for which the affordable housing obligation will be met through payment of the in-lieu fee. The Planning Director may then approve this option pursuant to Section 17.10.030(f)(4) and upon liens being recorded on each unit to provide for payment of the in-lieu fee pursuant to this Section.

(b) In-Lieu Fee Calculation. The fee is keyed to the average price of the ultimate market rate units or lots developed and is structured to provide developers with an alternative way to meet their affordable housing obligation. The amount of an affordable housing in-lieu fee shall be determined based on the following Table Of In-Lieu Fees and the average sales price of the market rate dwelling units and/or parcels in a project sold to bona fide purchasers for value:

TABLE OF IN-LIEU FEES

AVERAGE HOUSE PRICE		AVERAGE LOT PRICE		IN-LIEU FEE
From	To less than	From	To less than	
\$0	\$262,500	\$0	\$105,000	\$100,000
\$263,000	\$275,000	\$105,000	\$110,000	\$105,000
\$275,000	\$287,500	\$110,000	\$115,000	\$110,000
\$287,500	\$300,000	\$115,000	\$120,000	\$115,000
\$300,000	\$312,500	\$120,000	\$125,000	\$120,000
\$312,500	\$325,000	\$125,000	\$130,000	\$125,000
\$325,000	\$337,500	\$130,000	\$135,000	\$130,000
\$337,500	\$350,000	\$135,000	\$140,000	\$135,000
\$350,000	\$362,500	\$140,000	\$145,000	\$140,000
\$362,500	\$375,000	\$145,000	\$150,000	\$144,000
\$375,000	\$400,000	\$150,000	\$160,000	\$148,000
\$400,000	\$425,000	\$160,000	\$170,000	\$154,000
\$425,000	\$450,000	\$170,000	\$180,000	\$160,000
\$450,000	\$475,000	\$180,000	\$190,000	\$165,000
\$475,000	\$500,000	\$190,000	\$200,000	\$169,000
\$500,000	\$550,000	\$200,000	\$220,000	\$173,000
\$550,000	\$600,000	\$220,000	\$240,000	\$179,000
\$600,000	\$650,000	\$240,000	\$260,000	\$185,000
\$650,000	\$700,000	\$260,000	\$280,000	\$190,000
\$700,000	\$750,000	\$280,000	\$300,000	\$195,000
\$750,000	\$825,000	\$300,000	\$330,000	\$199,000
\$825,000	\$900,000	\$330,000	\$360,000	\$203,000
\$900,000	\$1,000,000	\$360,000	\$400,000	\$207,000
\$1,000,000	\$1,125,000	\$400,000	\$450,000	\$212,000
\$1,125,000	\$1,250,000	\$450,000	\$500,000	\$216,000
\$1,250,000		\$500,000		\$220,000

(c) Fee Payment Process. A proportionate part of the in-lieu fee shall be paid out of the sales escrow for the sale to a bona fide purchaser for value of each dwelling unit or parcel in the project for which the fee requirement was established. For example, for a five (5) unit project with a fifteen percent (15%) affordable housing requirement resulting in an obligation to provide one affordable unit, a partial in-lieu fee shall be paid out of the sales escrow for each of the units sold in the amount of one-fifth (1/5) of an in-lieu fee based on the sales price of each unit. All in-lieu fee payments shall be non-refundable once they have been received by the County.

(d) Release of Project Encumbrances. Concurrent with the partial payment of an in-lieu fee from the sale of each unit in a project, the County shall record a release of the affordable housing encumbrances imposed on that unit through the recorded Participation Agreement.

(e) In-Lieu Fee Trust Fund. All affordable housing in-lieu fees received pursuant to this Chapter shall be deposited into a separate trust fund maintained by the County. The trust funds shall be expended at the discretion of the County Board of Supervisors for the purposes of developing affordable housing units in the County.

#### 17.10.036 Development of Off-site Affordable Units

(a) Authorization of Off-Site Units. The affordable dwelling units required by this Chapter may be constructed by the developer of the market rate project at a location other than the site of the development project generating the need for the units only in those special circumstances where such off-site construction is authorized by the Board of Supervisors. Prior to the recording of the Participation Agreement for the development project utilizing the option to construct off-site affordable dwelling units, necessary authorization shall be obtained from the Board of Supervisors for off-site construction, and the off-site development project shall receive all required County approvals for its Tentative Map and Development Permit.

(b) Off-Site Development Criteria. Off-site affordable dwelling units shall meet all of the development requirements of Subsections 17.1 0.032(a)3, (a)4, (b) and (c), except that the design and size criteria for the affordable units shall also be compatible with the off-site project in which they are located. The off-site affordable units shall meet all other requirements of this Chapter and the County's Affordable Housing Guidelines and shall be of a suitable aesthetic and construction quality for the area in which the units are being constructed. In approving off-site development of affordable housing units in partnership with non-profit housing developers pursuant to Subsection (c) below, the Board of Supervisors may approve variations to these development criteria and requirements for timing of unit completion and occupancy where such variations are found necessary for the feasibility of the affordable housing project.

(c) Off-Site Affordable Housing Partnerships. A developer of a market rate project may meet the project's affordable housing obligation off-site in an affordable housing development undertaken in partnership with a non-profit developer when approved by the Board of Supervisors based on the following findings:

1. The off-site affordable housing project receiving a financial contribution from the market rate developer contains more than the number of affordable units which would otherwise have been required for the combined projects (beyond the 15% affordable housing requirement), or contains an equal number of affordable units required by both projects if the site is constrained under the provisions of the General Plan and/or zoning regulations;
2. Based on a review of the financial and legal agreements between the market rate developer and the non-profit partner, the County has determined that the market rate developer is providing reasonable financial and other support to the affordable housing project in exchange for being allowed to satisfy the developer's affordable housing obligation;
3. The affordable housing partnership either owns, has an option to purchase! or otherwise has the right to build on the property on which the off-site affordable housing project will be developed;
4. The site for the off-site affordable housing project has in place the proper zoning and general plan designation for the proposed off-site project and the developer's application initiating the land use review process has been deemed complete;
5. The non-profit affordable housing developer has obtained full legal commitments for all necessary financing for the project or the County has approved a plan for the financing of the project;
6. The affordable housing project can reasonable be expected to be constructed and occupied within two years of completion of the associated market rate project; and
7. The off-site affordable housing contribution is equivalent to the affordable housing required from the market rate project.

The financial contributions of the market rate developer to the affordable housing partnership shall be held in trust by the County for distribution to the non-profit housing developer at such time as other financing has been obtained and the project is ready for construction. In the event that the affordable housing project is not constructed

within a two year period of the completion of the market rate project, or if the County otherwise determines that the affordable project is not likely to ever be constructed, the County may transfer such funds to be irrevocably deposited in the in-lieu fee trust fund established pursuant to Section 17.10.034(e).

More than one market rate developer may participate in an off-site housing partnership with the same affordable housing development as long as all the findings of this section are made for each market rate development.

(d) Release of Project Encumbrances. Following the recording of the Declaration of Restrictions for each off-site affordable unit, the County shall record a release of the affordable housing encumbrances and liens previously imposed on that market rate component of the project which created the subject affordable unit obligation. Where the Board of Supervisors has approved exceptions to the timing of off-site affordable housing construction, encumbrance and liens on the project's market rate units as otherwise required by this Chapter may be omitted where the affordable housing construction or payment of in-lieu fees has been guaranteed by adequate bonding.

#### 17.10.038     Dedication of Residential Parcels

(a) Dedication of Affordable Parcels. A legal, developable parcel within a project may be dedicated to the County for the subsequent on-site construction of affordable housing for each affordable unit required pursuant to Section 17.10.030 in place of other options for satisfying the affordable housing requirement of this Chapter. If this option is designated in the project's recorded Participation Agreement, the parcels shall be irrevocably offered for dedication to the County with the recording of the Subdivision Final Map. If this option is not selected in the recorded Participation Agreement, the dedication of parcels may be subsequently approved by the Planning Director pursuant to Section 17.10.030(f)(4) at the request of the developer and with the concurrent dedication of the subject parcels to the County and bonding for improvement and maintenance pursuant to paragraph (c) below. At any time prior to the County's acceptance of the dedicated affordable parcel(s), the developer may substitute the payment of an affordable housing in-lieu fee for one or more of the dedicated parcels upon the full payment of the applicable in-lieu fee pursuant to Section 17.10.034. If the County accepts the in-lieu fee in place of accepting the parcel dedication, the County shall release the offer of dedication.

(b) Affordable Parcel Standards. The location and size of parcels to be dedicated for affordable housing purposes shall meet the standards specified in Subsection 17.10.032(a)(1) and (2) above.

(c) Affordable Parcel Improvement. Parcels dedicated for affordable housing purposes

NOTICE OF EXEMPTION  
FROM THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT

**ATTACHMENT 2**

The County of Santa Cruz has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15329 of CEQA for the reason(s) which have been checked on this document.

Application No.: N/A

Assessor Parcel No.: N/A

Project Location: COUNTY-WIDE

Project Description: COUNTY CODE AMENDMENTS TO CHAPTER 17. IO REGARDING TRANSFERS OF CREDIT, IN LIEU FEES AND OTHER ALTERNATIVES FOR MEETING THE AFFORDABLE HOUSING REQUIREMENTS.

Person or Agency Proposing Project: COUNTY OF SANTA CRUZ

- A. ☐ The proposed activity is not a project under CEQA Guidelines, Sections 1928 and 501.
- B. ☐ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgement.
- C. ☐ Statutory Exemption other than a Ministerial Project.  
Specify type:

D. Categorical Exemption

- |  |   |
|--|---|
| <input type="checkbox"/> 1. Existing Facility  | <input type="checkbox"/> 17. Open Space Contracts or Easements                                  |
| <input type="checkbox"/> 2. Replacement or Reconstruction                                    | <input type="checkbox"/> 18. Designation of Wilderness Areas                                    |
| <input type="checkbox"/> 3. New Construction of Small Structure                              | <input type="checkbox"/> 19. Annexation of Existing Facilities / Lots for Exempt Facilities     |
| <input type="checkbox"/> 4. Minor Alterations to Land  | <input type="checkbox"/> 20. Changes in Organization of Local Agencies                          |
| xx <input checked="" type="checkbox"/> 5. Alterations in Land Use Limitation                 | <input type="checkbox"/> 21. Enforcement Actions by Regulatory Agencies                         |
| <input type="checkbox"/> 6. Information Collection   | <input type="checkbox"/> 22. Educational Programs   |
| <input type="checkbox"/> 7. Actions by Regulatory Agencies for Protection of the Environment | <input type="checkbox"/> 23. Normal Operations of Facilities for Public Gatherings              |
| <input type="checkbox"/> 8. Actions by Regulatory Agencies for Protection of Nat. Resources  | <input type="checkbox"/> 24. Regulation of Working Conditions                                   |
| <input type="checkbox"/> 9. Inspection   | <input type="checkbox"/> 25. Transfers of Ownership of Interests in Land to Preserve Open Space |
| <input type="checkbox"/> 10. Loans   | <input type="checkbox"/> 26. Acquisition of Housing for Housing Assistance Programs             |
| <input type="checkbox"/> 11. Accessory Structures  | <input type="checkbox"/> 27. Leasing New Facilities   |
| <input type="checkbox"/> 12. Surplus Govt. Property Sales                                    | <input type="checkbox"/> 28. Small Hydroelectric Projects at Existing Facilities                |
| <input type="checkbox"/> 13. Acquisition of Land for Wild-Life Conservation Purposes         | <input type="checkbox"/> 29. Cogeneration Projects at Existing Facilities                       |
| <input type="checkbox"/> 14. Minor Additions to Schools                                      |   |
| <input type="checkbox"/> 15. Functional Equivalent to EIR                                    |   |
| <input type="checkbox"/> 16. Transfer of Ownership of Land to Create Parks                   |   |

E. ☐ Lead Agency Other Than County: \_\_\_\_\_

Staff Planner: Mark M. Deming  
Mark M. Deming, AICP

Date: MAY 1, 1998

CHAPTER 17.10AFFORDABLE HOUSING REQUIREMENTSSections:

- 17.10.010 Declaration of Findings and Legislative 'Intent
- 17.10.020 Definitions
- 17.10.030 Affordable Housing Requirements and Incentives for Residential Development Projects
- 17.10.035 Affordable Housing Requirements and Incentives for Land Divisions
- 17.10.040 Transfer of Credit
- 17.10.050 Investor-Owner (Rental) Unit Requirements
- 17.10.060 Owner-Builder Unit Requirements
- 17.10.070 Ownership Unit Requirements
- 17.10.075 Lease-Purchase Unit Requirements
- 17.10.080 Eligibility for Rent or Purchase
- 17.10.090 Default, Foreclosure, and Loss of the Unit
- 17.10.100 Conflict of Interest
- 17.10.105 Violations
- 17.10.110 Enforcement
- 17.10.120 Appeals
- 17.10.130 Annual Report and Administration

CHAPTER 17.1017.10.010 DECLARATION OF FINDINGS AND LEGISLATIVE INTENT.

The County of Santa Cruz declares that the citizens of the county with average and below average incomes are experiencing a housing shortage. Whereas the goal of the County is to achieve a balanced community with housing available for households of all income levels, there exists within the county a /shortage of housing that is affordable to persons with average and below average incomes. Increasingly, persons with average and below average incomes who work and/or live within the county are unable to locate housing at prices they can afford; economically disadvantaged households are increasingly excluded from living in Santa Cruz County.

Federal and state housing subsidy programs are not sufficient by themselves to satisfy the housing needs of average and below average income households. The County finds that the high cost of newly constructed housing is not conducive to the provision of housing affordable to average and below average income households, and that continued new development which does not include lower cost housing will serve further to aggravate the current housing shortage.

The County finds that the housing shortage for persons of average and below average incomes is detrimental to the public health, safety and welfare. The County further finds that it is a public purpose of the County as mandated by Measure J, a voter-adopted referendum measure, that housing be made available

for persons with average and below average incomes, and that such supply of housing remains affordable to subsequent purchasers. The County further finds that it is a public policy of the State of California, as mandated by the requirements for the Housing Element of the County General Plan and the Local Coastal Plan, to make available an adequate supply of housing for persons of all economic segments of the community, and to insure that such supply of housing remains affordable to subsequent purchasers.

The purpose of this Chapter is to enhance the public welfare, and to assure that future housing development contributes to the provision of housing units affordable by households of average and below average income. It is an additional purpose of this Chapter to achieve affordable housing at minimal additional cost to housing consumers and taxpayers. A further purpose is to achieve the housing objectives contained in State law, and in the Santa Cruz County General Plan and the Local Coastal Program Land Use Plan. (Ord. 3002, 10/28/80; 3025, 12/23/80; 3039, 1/20/81; 3329, 11/23/82; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90)

**17.10.020 DEFINITIONS.** For the purpose of this chapter, the following words and phrases shall be defined as set forth in this section.

(a) **Administering Agency:** The Redevelopment Agency of the County of Santa Cruz, the Santa Cruz County Planning Department or any other agency as determined by the Board of Supervisors, which is involved in the administration of the County's Affordable Housing Program

(b) **Affordable Housing:** Housing which is affordable to average or below average income households, as required, regulated and allowed by this Chapter. Affordable housing units are the same as inclusionary units for the purposes of this Ordinance.

(c) **Applicant:** Any person, firm, partnership, association, joint venture, corporation, entity, or combination of entities seeking County permits and approval.

(d) **Assisted Housing:** Any project receiving all or a portion of its development funding from any local, State or Federal governmental or non-profit funding source which meets the criteria for affordable housing specified in the Income, Asset and Unit Price Guidelines.

(e) **At One Location:** All adjacent land owned or controlled by the applicant, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way, or separated only by other lands owned or controlled by the applicant.

(f) **Average (Moderate) Income Households:** Households with incomes between 80 and 120 percent of the median household income for the Santa Cruz Primary Metropolitan Statistical Area (PMSA), as determined periodically by the U.S. Department of Housing and Urban Development (HUD). The definition for average income households for the purposes of this ordinance corresponds to the definition of moderate income households for State and Federally assisted housing programs.

(g) Below Average (Lower) Income Households: Households with annual incomes less than 80 percent of median household income for the Santa Cruz PMSA. The definition for below average income households for the purposes of this ordinance corresponds to the definition of low income households used for State and Federally assisted housing programs.

(h) Congregate Senior Housing: Senior housing with individual living units which provides residents with central management, a minimum of two meals per day in a central dining facility, and transportation services. Congregate housing also provides recreational and social activities and facilities. Maid and linen service, sundries, beautician, banking and other similar services may also be made available where they are appurtenant to the congregate use on the site. Another term used for congregate housing is Life Care Facility, which is a congregate development as described above in conjunction with a nursing and medical facility.

(i) Dwelling Unit: A dwelling designed for occupancy by one family or household. -

(j) Eligible Purchaser: A household which is qualified by the administering agency, according to procedures established by the County, as meeting the requirements of this chapter for the purchase of affordable units; or a public body providing affordable housing; or an investor-owner as defined in Subsection (r) of this Section.

(k) Eligible Renter: A household qualified by the administering agency, according to procedures established by the County, as meeting the requirements of this Chapter for the rental of affordable units.

(l) Final Inspection: Inspection performed by the administering agency to verify completion of the housing project per approved plans and to allow occupancy of housing units.

(m) Housing Costs: The monthly mortgage, principal and interest, property taxes, association fees, and required homeowner's insurance for ownership units, and the monthly rent for rental units.

(n) HUD: The U.S. Department of Housing and Urban Development.

(o) Inclusionary Housing Units: Housing units which are affordable to average or below average income households as required, regulated, and allowed by this Chapter. Inclusionary housing units are the same as affordable housing units for the purposes of this Chapter.

(p) Investor-Owner: An individual, partnership or corporation which develops or purchases affordable housing units for rental to below average income households. ,

(q) Market Rate Unit: A dwelling unit which is not subject to the rental, sale or resale regulations of this Chapter.

(r) Median Income: The median income for the Santa Cruz PMSA, unless otherwise stipulated, as periodically determined by HUD. The current

County median income figure is contained in the County's Income, Asset and Unit Price Guidelines.

(s) Owner-Builder: An individual or household who proposes to build a unit, with or without the assistance of a contractor, for his/her primary place of residence.

(t) Project: A residential development or land subdivision proposal for which County permits and approvals are sought.

(u) Resale Controls: Legal restrictions by which the price of affordable units will be controlled by this chapter for a specified period of time.

(v) Section 8: The major federal housing program in which eligible very low income and low income households receive financial assistance to rent housing units.

(w) Very Low Income Households: Households with annual incomes less than 50 percent of median household income for the Santa Cruz PMSA. The definition of very low income households is used for State and Federally assisted programs and is included in the below average income household category for purposes of this ordinance. (Ord. 3002, 10/28/80; 3329, 11/23/82; 3502, 3/6/84; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90; 4425, 8/13/96) -

#### 17.10.030 PROJECT DEVELOPMENT REQUIREMENTS AND INCENTIVES.

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(a) Housing Units: At least 15 percent of the total number of units to be constructed pursuant to any project developed by an applicant at one location, whether at this time or in the future, designed for permanent occupancy and containing five or more units shall be affordable by households of average or below average income and shall be subject to the following conditions:

1. The requirements of this section may also be satisfied by a transfer of credit approved pursuant to the provisions of Section 17.10.040.
2. In determining the number of affordable units required, any decimal fraction less than or equal to 0.50 shall be disregarded, and any decimal fraction greater than 0.50 shall be construed as requiring one dwelling unit.
3. Any such project proposal shall specify in the tentative map application the number, type (single family detached, town-house, etc.), number of bedrooms, location, size and construction scheduling of all dwelling units and/or affordable lots and shall indicate which units are proposed for rental or ownership for the purpose of satisfying the affordable housing requirement.

4. Inclusionary units shall be distributed throughout the project.
5. The applicant may reduce both the size and amenity of the inclusionary units as long as these units contain on the average no less than the same number of bedrooms as the market rate units in the development, there are not significant identifiable differences in the units visible from the exterior and the units are reasonably consistent with the rest of the project. All units shall conform to the requirements of the applicable building and housing codes and the County's Income, Asset and Unit Price Guidelines..
6. All inclusionary units in a project and phases of a project shall be constructed concurrently with, or prior to, the construction of market rate units; or, at the option of the developer, the inclusionary units shall be constructed progressively as the project is constructed in the same ratio as the affordable unit requirement which is applicable to the project. For example, for a project with a 25 percent affordable housing requirement, at least one of the required affordable units shall be constructed to every three market rate units constructed in the project until all of the affordable housing units required in the project have been constructed. For a project with a 15 percent affordable housing requirement, at least one affordable unit shall be constructed for every six market rate units constructed in the project until all of the affordable housing units required in the project have been constructed. If only five or six housing units are in the project, then the fifth or sixth unit, respectively, to be constructed shall be an affordable unit. If the project consists of seven or more housing units, then at least the seventh unit to be constructed shall be an affordable housing unit and at least every seventh unit constructed thereafter shall be an affordable unit. In order to ensure that affordable units are constructed, the last market-rate unit built before the affordable unit shall not be finished before the affordable unit is finished. (Ord. 4361, 4/25/95)
7. The requirement for distribution of units throughout the project may be waived upon the making of a finding by the decision-making body that such distribution is infeasible for one or more of the following reasons:
  - (i) Significant topographic or other constraints exist rendering such distribution infeasible;
  - (ii) Substantially improved site design will result from such waiver;
  - (iii) Substantially improved building design and an improved unit amenity level will result from such waiver;

- (iv) Significant economic hardships will result from such distribution that does not apply to other projects in the County.
8. Affordable rental and ownership units shall be subject to the requirements of this chapter for the life of the unit.
- (i) Prior to the issuance of building permits, the developer shall submit a document, known as the Certification and Participation Agreement, subjecting the units to the requirements of this Chapter for approval by the County.
- If approved, such developer shall submit a recording fee to the County, and the County will record the Certification and Participation Agreement. Prior to the sale of such units, the buyer shall sign an agreement with the County agreeing to the restrictions of this Chapter, known as the Declaration of Restrictions, which agreement shall be binding on the heirs, assigns, and successors in interest to the buyer, and which agreement shall be recorded. The recorded agreement shall contain a provision providing for the recovery by the County of reasonable attorney fees and costs in bringing any legal action to enforce the agreement or, in the alternative, for the recovery of the reasonable rental value of the unit from the date of unauthorized occupation. (Ord. No. 3990, 5/16/89; 4386, 11/14/95)
- (ii) The Certification and Participation Agreement shall include, if the unit is subject to Covenants, Conditions, and Restrictions (CC & R's) of the residential development project, a provision prohibiting amendments to the CC & R's that would increase the proportion of the homeowners association assessment payable by any affordable housing unit, and creating a right of judicial enforcement of these requirements exclusively in favor of the owner of each affordable unit in the development. (Ord. 4386, 11/14/95)
9. Affordable housing units may be utilized as any-one of the following to fulfill requirements for participation in the Affordable Housing Program
- (i) As investor-owner (rental) units, subject to the requirements of Section 17.10.050.
  - (ii) As owner-builder units, subject to the requirements of Section 17.10.060;
  - (iii) As ownership units, subject to the requirements of Section 17.10.070;
  - (iv) As lease-purchase units, subject to the requirements of Section 17.10.075;

10. A project may be eligible for a residential density bonus or other incentives if the requirements of County Code Sections 13.10.390 through 13.10.397 are met. (Ord. 3881, 12/15/87; 4081, 10/16/90; 4425, 8/13/96)
11. A project which provides inclusionary units equal to 25 percent or more of the total units of the project shall be entitled to priority processing. Upon certifying that the application is complete and eligible for priority processing, a project shall be immediately assigned to development review staff. The project shall be processed by development review staff in advance of all non-priority items. The project will then be scheduled for, environmental review (if required); and, upon completion of the environmental process, the proposal shall be scheduled for the next available meeting of the Planning Commission and/or Board of Supervisors.'
12. Affordable housing sites designated in the County's Local Coastal Plan which are not developed as assisted housing and not purchased by the County shall be developed with a minimum of 35 percent of affordable housing. (Ord. 3002, 10/28/80; 3013, 11/25/80; 3234, 5/18/82; 3329, 11/23/82; 3502, 3/6/84; 3758, 4/22/86; 3802, 12/16/86; 3826, 4/7/87; 3881, 12/15/87; 4081, 10/16/90)
13. Affordable inclusionary units may be constructed off-site, provided that:
  - (i) The off-site affordable inclusionary units are constructed by the same applicant as for the market rate project; and
  - (ii) The off-site affordable inclusionary units are constructed in the same planning area as the market rate project; and
  - (iii) The affordable housing requirement shall be calculated based on the total number of affordable and market rate units constructed by the applicant on-site and off-site; and
  - (iv) The off-site affordable units are occupied concurrently with or prior to occupancy of the market rate units; and
  - (v) The off-site affordable units are substantially similar in quality to the quality of the units that would be required if the units were constructed on-site, and the off-site affordable units receive, at a minimum, a Level IV permit (Ord. 3922, 6/28/88); and
  - (iv) The off-site affordable units shall be on a bedroom for bedroom basis of one affordable bedroom for each market-rate bedroom (Ord. 4081, 10/16/90)

7.10.035 AFFORDABLE HOUSING REQUIREMENTS AND INCENTIVES FOR LAND DIVISIONS

Land divisions shall provide for the construction of affordable housing pursuant to the following conditions:

- (a) At least 15 percent of the total number of parcels created pursuant to the following land divisions shall be made available for the provision of housing units affordable by households of average or below average income:
- (1) Any land division creating five or more residential parcels; and
  - (2) Any concurrent adjacent land divisions creating a total of five or more residential parcels. For purposes of this Chapter, "concurrent adjacent land divisions" shall be divisions of existing parcels which are adjacent to one another (or separated only by a roadway or easement) where applications for such land divisions have been filed and are concurrently in process (for approval of a tentative map). Where an applicant who files is neither the same owner or same applicant as any party to a concurrent adjacent minor land division, such requirement may be granted an exception to the affordable housing imposed by this Subsection upon a showing satisfactory to the County that such applicant obtains no benefit by virtue of the concurrent adjacent minor land division; and
  - (3) Any same owner sequential adjacent land divisions creating a total of five or more residential parcels. For purposes of this Chapter, "same owner sequential adjacent land divisions" shall be divisions of existing parcels which are adjacent to one another (or separated only by a roadway or easement) and where sequential applications for such land divisions by or on behalf of the same owner, or one of the same owners, (or by one or both spouses in the case of ownership by a married couple) are made within four years of one another.
- (b) In determining the number of inclusionary parcels units required, any decimal fraction less than or equal to 0.50 may shall be disregarded, and any decimal fraction greater than 0.50 shall be construed as requiring one dwelling unit.
- (c) If a proposed land division is intended to create new lots to be sold to parties other than the subdivider, the subdivider shall execute a certification, known as a Certification and Participation Agreement, which shall be recorded, that the project is a lot subdivision, and that the new lots to be created will be sold for construction to parties other than the subdivider. Said Certification shall be recorded prior to recording of the final map. Said Certification shall state that, in the event more than one-third of all of the lots are retained by the developer or sold to one individual, any in-lieu fees paid pursuant to Subsection 17.10.035(d) may, within three years from the date of payment to the County, at the County's discretion, be refunded and the developer

shall be subject to the inclusionary requirements of Section 17.10.030 herein upon order of the Board of Supervisors after at least 10 calendar days, and notice to the applicant or his successor in interest. Amendments to this Certification shall require processing as a Level V tentative map amendment.

(d) Land divisions which are lot subdivisions as defined in Subsection (c) above, shall meet the requirements of this Section through one of the following:

- (1) Construction of affordable housing on the designated parcel or parcels, or off-site pursuant to the requirements of Section 17.10.030.11(a)13; or
- (2) Dedication to the County of the parcel or parcels designated for affordable housing; or
- (3) Payment of an in-lieu fee for each parcel designated for affordable housing pursuant to Section 7b of the Income, Asset and Unit Price Guidelines. The in-lieu fee shall be used by the County to promote affordable housing, and shall be non-refundable once paid to the County, except as provided by Subsection 17.10.035(c) above. The in-lieu fee shall be calculated, using either the Appraisal or Sales Price Method as selected by the subdivider and defined below:

(i) Appraisal Method

- a. The amount of the in-lieu fee shall be equal to the appraised value of the designated parcel or parcels upon completion of site and frontage improvements.
- b. The appraisal shall be performed by a certified appraiser approved in writing by the County prior to commencing the appraisal and at the subdivider's expense.
- c. The appraisal shall determine the fair market value of the designated parcel, assuming that no affordable housing price restrictions of any kind apply to said parcel, using a standard methodology and analysis acceptable to the County.
- d. Once submitted and deemed acceptable to the County, the appraisal shall be valid for a six month period from the date it is accepted in writing by the County. If the in-lieu fee is not paid to the County within the six month period, an updated appraisal shall be conducted at the subdivider's expense, to reflect any change in market value and the cost of site and frontage improvements which affect the designated affordable parcel. The in-lieu fee paid during that period shall reflect the appraised value determined during that period.
- e. The in-lieu fee, as determined by the County, shall be paid upon completion of site and frontage improvements to

one or more market-rate parcels. The Subdivider shall notify the County within five days of completion of said improvements and shall pay the in-lieu fee to the County within ten days thereafter.

(ii) Sales Price Method

- a. The in-lieu fee shall be equal to the market price of the first market-rate parcel sold.
  - b. The Subdivider shall notify the County at least 30 days prior to the close of escrow on the first sale of a market rate parcel and the County shall be paid the in-lieu fee pursuant to its written demand made on the escrow holder prior to the close of escrow.
- (e) Proposals for land divisions shall include identification of those parcels designated for affordable housing. Parcels designated for affordable housing shall be no smaller than the smallest parcel in the subdivision which is not designated for affordable housing, and shall be distributed throughout the project, whenever possible.
- (f) The requirements of this Section shall be met prior to or concurrent with the filing of the final map.
- (g) Prior to the approval of the final map, the subdivider shall submit for approval by the County the deed of applicable covenants, conditions and restrictions. This deed is known as the Certification and Participation Agreement, and subjects the parcels in the land division, or the affordable units, to the requirements of this Chapter for approval by the County. If the deed is approved by the County, the subdivider shall submit a recording fee to the County and the County will record the deed of applicable covenants, conditions and restrictions. Prior to the sale of any such parcels in the land division, in those cases where the affordable housing requirements have not already been met through development of affordable units, the buyer shall sign an agreement with the County agreeing to the restrictions of this Chapter; which agreement shall be binding on the heirs, assigns, and successors in interest to the buyer, and which agreement shall be recorded, until such time as the affordable housing requirements shall have been met.
- (h) A subdivision may be eligible for a residential density bonus or other incentives if the proposed project meets the requirements of County Code Section 13.10.390 through 13.10.397. (Ord. 4425, 8/13/96)
- (i) A subdivision which provides affordable parcels equal to 25 percent or more of the total parcels of the subdivision shall be entitled to priority processing. Upon certifying that the application is complete and eligible for priority processing, a subdivision shall be immediately assigned to development review staff. The project shall be processed by development review staff in advance of all non-priority items. The project will then be scheduled for environmental review (if required); and, upon completion of the environmental process, the proposal shall be scheduled for the next available meeting of the Planning Commission

and/or Board of Supervisors. Priority processing does not guarantee the issuance of building permits.

- (j) Affordable housing sites designated in the County's Local Coastal Plan which are not developed as assisted housing and not purchased by the County shall be developed with a minimum of 35 percent of affordable housing.

(Ord. 3002, 10/28/80; 3013, 11/25/80; 3234, 5/18/82; 3329, 11/23/82; 3502, 3/6/84; 3758, 4/22/86; 3802, 12/16/86; 3881, 12/15/87; 3922, 6/28/88; 4081, 10/16/90; 4328, 9/13/94)

#### 17.10.040 TRANSFER OF CREDIT.

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(a) Credit for affordable units may be transferred from one site to another within the unincorporated County provided that the site from which the transfer is allowed is developed with a minimum of 35 percent affordable housing on site. A request for a transfer of credits by a developer of affordable housing units for a transfer of credits shall be made on an application form provided by the Planning Department and shall be accompanied by a filing fee as specified from time to time by resolution of the Board of Supervisors. Proposals for transfers from affordable projects shall be subject to Level VII approval by the Board of Supervisors.

(b) There is hereby created an affordable housing transfer of credit certificate. Upon approval by the Board of Supervisors of a transfer of credit for an affordable project, Planning Department staff will set aside a series of numbered certificates equal to the number of transfers approved. At the time of sale of each transfer, the affordable housing developer shall report the transaction to Planning Department staff, who will issue a certificate to the prospective purchaser and record the transaction by certificate number.

(c) Proposals by developers of market rate projects to use transfers of credit purchased from an affordable project shall receive a Level III staff approval prior to use. All transfers between affordable and market rate projects must meet the following criteria:

1. The transfer of credit shall be on a bedroom-for-bedroom basis, of one affordable bedroom for each market-rate bedroom proposed.
2. No transfer of credit may be approved after issuance of building permits for any project involved, except that in the case of a transfer of credit from a 100 percent affordable project, such transfer of credit may be authorized by the Board of Supervisors subse-

quent to issuance of building permits for such an affordable project.

3. The transfer of credit must be determined to be consistent with the County's goal of creating, preserving, maintaining, and protecting housing for average and below average income households.

4. The transfer of credit must not result in a serious impact of affordable units in any particular neighborhood. Credits derived from affordable developments in the Live Oak Planning Area may only be used by market-rate projects located within the same planning area.

5. A credit shall not be transferred more than once.

6. The affordable units for which credit is transferred must be occupied concurrently with, or prior to, occupancy of the market rate units in the project for which credit is granted.

7. The developer may be required to provide a bond, letter of credit, escrow, deposit, or other assurance satisfactory to County such that if said affordable units are not occupied by eligible affordable housing participants, the consideration paid to said developer for transfer of credits thereon (or an amount equal thereto) shall not be received by the developer', but rather shall be paid to the County..

(i) Any interest accrued on such assurance prior to payment to the County shall be paid to the developer.

(ii) Such assurance shall be provided concurrent with the transfer of credit and until the affordable units for which credit is transferred are occupied.

(iii) In the event such affordable units, as are required by this Ordinance, are not sold or rented within three years of the approval of the transfer of credit, such assurance shall be paid to and become the property of the County.

8. Notwithstanding the foregoing under (7), the developer may be required to provide a bond, letter of credit, escrow, deposit, or other. assurance satisfactory to the County such that if said affordable units are not available for occupancy by a specified date, the amount of the security will be forfeited to the County for use for construction of affordable. housing units elsewhere in the County.

9. Credits may be banked by applicants for subsequent

transfer under the following conditions:

(i) Authorization to bank credits for subsequent transfer must be obtained at the time of, or prior to, final approval of the project from which such credits originate.

(ii) The banked credits shall be available for transfer for a maximum period of three years from the date authorization to bank credits for subsequent transfer is obtained. The Board of Supervisors may extend this three-year time period for up to an additional two years upon the making of a finding of hardship.

(iii) The banked credits may be used for any project except as restricted in the terms of approval or by the provisions of this Section. The banked credits may be purchased for use for any market rate project upon receipt of a Level III approval except as otherwise restricted by the provisions of this section.

10. The maximum number of credits that may be transferred from any project shall be determined as follows:

(i) For projects consisting of 100 percent affordable units, credits shall be transferred for no more than 50 percent of the total units in the project.

(ii) For projects which are less than 100 percent affordable, credits may be transferred when the number of affordable units exceeds 35 percent of the total units in the project, up to a maximum of 50 percent of the number of affordable units in the project. (Ord. 3002, 10/28/80; 3025, 12/23/80; 3329, 11/23/82; 3502, 3/6/84; 3673, 8/20/85; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90)

11. The Board of Supervisors may waive compliance with the provisions of 17.10.040(c) (2) and (6) above regarding a transfer of credit for an affordable housing project to be developed by the Housing Authority under the following conditions:

(i) The affordable housing project has received all required development approvals; and

(ii) The affordable housing project is to be completed within one year from the date of approval of any transfer of credit.

Projects of the Housing Authority eligible for a

transfer of credit under the provisions of this section include both new projects and projects to replace existing substandard housing units.

12. Developers of market-rate projects for which a tentative map was approved prior to May 3, 1988, may construct affordable units off-site on a 1 for 1 basis, provided that the affordable units are constructed concurrently with the associated market-rate project and are not used for meeting the affordable housing requirements of any other project. (Ord. 3922, 6/28/88; 4081, 10/16/90)

**17.10.050 INVESTOR-OWNER (RENTAL) UNIT REQUIREMENTS.** Affordable units may be marketed as investor-owner rental units, subject to the following requirements:

- (a) Developers of projects in which affordable units are built pursuant to the requirements of this chapter may retain all or a portion of the units as investor-owners to be rented to eligible renters in accordance with this Section.
- (b) Investor-owners may purchase affordable units either individually or in groups of units within a project for subsequent rental to eligible renters in accordance with this Section. Units sold to investor-owners shall be sold in accordance with Section 17.10.070 of this Chapter and with the provisions of the Income, Asset and Unit Price Guidelines, except that investor-owners need not be of average or below-average income. Units sold to investor-owners must be subsequently rented to program eligible individuals per the requirements of said Guidelines.
- (c) Affordable ownership units may be converted to affordable investor-owner (rental) units. The owner shall file a Notice of Intent to Rent with the administering agency prior to offering a unit for rent and shall be bound by the requirements of this Section and the Income, Asset and Unit Price Guidelines. The owner shall also record an amended Declaration of Restrictions stating that the unit is a rental unit as defined and governed by County Code Chapter 17.10 and the Income, Asset and Unit Price Guidelines.
- (d) All affordable rental units shall be rented either: (i) to households participating in the Housing Authority of the County of Santa Cruz Section 8 Housing Assistance Program; (ii) to any households earning below average income; (iii) to households participating in programs such as the (a) HUD Section 8 New Construction program (b) the California Housing Finance Agency multiple-family lending program, or (c) other programs whereby projects receive direct Federal or State assistance to make units affordable to below average income households.

- (e) Developers of projects not receiving direct federal or state assistance shall prepare and submit to the administering agency a certification of the availability of the affordable rental unit prior to final inspection of the project by the County. In the event of a subsequent vacancy, the owner shall notify, using a Notice of Intent to Rent, the administering agency that the unit is available for rental pursuant to this chapter. The units shall be rented to households certified by the administering agency as meeting the requirements of the Income, Asset and Unit Price Guidelines of the affordable housing program established by Board of Supervisors Resolution as required by section 17.10.080 of this Chapter. The owner shall have discretion in the selection of eligible renters, provided that, except for the amount of rent to be charged pursuant to this Chapter, the same rental terms and conditions are applied to tenants of affordable units as to all other tenants, and no other or additional fees are charged.
- (f) All households renting affordable rental units shall be offered leases of at least 12 months in duration. The rent stipulated in this lease shall not be higher than the maximum allowed by the Income, Asset and Unit Price Guidelines in effect when the lease is signed. The owner of an affordable rental unit shall notify the tenants 120 days prior to the termination of the restrictions of this Chapter, or the conversion of the unit to an affordable ownership unit and that this termination or conversion may mean that rents will be increased or the unit sold.
- (g) The owner may convert an affordable rental unit to an affordable ownership unit by notifying the administering agency, in writing, of his intent to sell. The sales price shall be set at the level allowed under the Income, Asset and Unit Price Guidelines in effect at the time of the sale.

(Ord. 3002, 10/28/80; 3234, 5/18/82; 3329, 11/23/82; Ord. 3502, 3/6/84; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90; 4425, 8/13/96) (v001)

#### 17.10.060 OWNER-BUILDER UNIT REQUIREMENTS.

- (a) An owner-builder who meets the eligibility criteria established by the Income, Asset and Unit Price Guidelines shall be eligible to obtain an affordable housing building permit.
- (b) Only one owner-builder building permit shall be issued under this section to any single applicant and such a building permit shall not be transferable. No parcel for which a building permit is issued under this section shall be eligible for minor land division or subdivision during the term of the resale restrictions imposed by this Chapter.
- (c) The owner-builder unit shall be considered an ownership unit. (Ord. 3002, 10/28/80; 3234, 5/18/82; 3329, 11/23/82; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90; 4081, 10/16/90; 4425, 8/13/96)

17.10.070 OWNERSHIP UNIT REQUIREMENTS.

- (a) The owner of an affordable ownership unit, on its sale or resale, shall sell the unit to an average or below average income household for a price mutually agreed upon by the buyer and seller provided that this price is not in excess of the maximum sales price set according to the formula contained in the Income, Asset and Unit Price Guidelines.
- (b) Prior to offering a unit for sale, the owner shall send a written Notice of Intent to Sell to the administering agency.

The administering agency will then notify the owner of the current maximum sales price. Prior to the close of the sale, the owner shall notify the administering agency of the proposed sale price and the administering agency shall review the application of the formula to assure conformance with this chapter and with the Income, Asset and Unit Price Guidelines.

- (c) Upon the sale of an affordable housing unit, the purchaser shall be required to enter into a new Affordable Housing Declaration of Restrictions which incorporates all current policies contained within the Affordable Housing Ordinance and Income, Asset and Unit Price Guidelines.
- (d) Closing costs and title insurance shall be paid pursuant to the custom and practice in the County of Santa Cruz at the time of opening of escrow. No charges or fees shall be imposed by the seller on the purchaser of an affordable unit which are in addition to or more than charges imposed upon purchasers of market rate unit, except for administrative fees charged by the administering agency established in the Income, Asset and Unit Price Guidelines.
- (e) The purchaser of an ownership affordable unit shall verify in a form acceptable to the County that the unit is being purchased for the purchaser's primary place of residence, and that if this unit ceases to function as his or her primary residence, it will either be sold according to the requirements of this chapter or rented to an eligible below average income household as certified by the administering agency in accordance with the requirements of Subsection 17.10.050 (c) and (d) below.
- (f) The following transfers of title or any interest therein are not subject to the option provisions of this section provided, however, that the Affordable Housing Restrictions shall continue to run with the title to said unit following such transfers:
  - (1) Transfers by gift, devise or inheritance to the purchaser-owner's spouse or children, or
  - (2) Transfers of title to a spouse as part of a divorce or dissolution proceeding, or

- (3) Acquisition of title or interest therein in conjunction with marriage, or
- (4) Acquisition of the unit by an employer pursuant to an employer sponsored relocation program and subsequent sale by the employer to an eligible purchaser or the County. In order for this exception to be applied, a new Affordable Housing Declaration of Restrictions shall be recorded, both when the employer acquires the unit and when the unit is sold to an eligible purchaser. No rental of the unit is permitted pursuant to this exception.

- (g) The Board of Supervisors may provide, by resolution for a shared equity option, to allow the builder and purchasers of affordable ownership units to share in the ownership of such units.

(Ord. 3002, 10/28/80; 3234, 5/18/82; 3329, 11/23/82; 3502, 3/6/84; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90; 4425, 8/13/96)

**17. 10. 075 LEASE-PURCHASE UNIT REQUIREMENTS.** Affordable units may be marketed on a lease-purchase basis, subject to the following requirements:

- (a) Affordable lease-purchase units shall be subject to all provisions of this Chapter governing rental units while being leased and governing ownership units at the time the purchase option is exercised, except as otherwise provided in this section.
- (b) No lease-purchaser shall be eligible to participate in occupying or owning a lease-purchase unit unless such participant, prior to either occupation or ownership, is determined by the administering agency to meet the requirements of the Income, Asset and Unit Price Guidelines for ownership units.
- (c) Rental payments for lease of a lease-purchase unit may exceed the amount set forth in the Income, Asset and Unit Price Guidelines; provided, however, that the amount by which such rent exceeds said rent schedule amount shall be credited to the purchaser's payment of the purchase price. If the purchase-option is not exercised, said amount shall be refunded immediately by the lessor-seller to the lease-purchaser.
- (d) The entire amount of any advance payment to the lessor-seller as prepayment of rent, cleaning or security deposit, or other substantially equivalent payment, shall be credited to the purchaser's payment of the purchase price. If the purchase-option is not exercised, said amount shall be subject to state law governing same.
- (e) Each and every lease-purchase agreement for a lease-purchase unit shall provide that the maximum term of said lease shall not exceed twelve months. If, at the end of the twelve month period, lessee-purchaser does not exercise the purchase option on a lease-purchase

unit, said unit must be sold according to the regulations in this chapter and the Income, Asset and Unit Price Guidelines.

- (f) Escrow proceedings for lease-purchase units shall not exceed the twelve-month option period by more than an additional 60 days.
- (g) If a-lessee-purchaser does not exercise the purchase-option on a lease-purchase unit and does not involuntarily vacate the premises, the lessor-seller shall, without cost to the County, immediately proceed to require the lease-purchaser to vacate said unit, including by appropriate legal action, if necessary. If, in the sole discretion of the County, the County determines that the lessor-seller is not reasonably performing said obligation, the County may commence appropriate legal action to require the lease-purchaser to vacate said unit. The lessor-seller shall execute all documents necessary or convenient for this purpose and shall be liable for the costs, (including staff and court) expenses, and attorney's fees so incurred by the County.
- (h) The maximum sales price at the time of exercise of the purchase option shall be the amount in effect at the time the lease-purchase agreement is entered into. (Ord. 3666, 8/6/85; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90; 4425, 8/13/96)

#### 17.10.080 ELIGIBILITY FOR RENT OR PURCHASE.

- (a) The County shall establish, by resolution, income requirements for average or below average income households; asset requirements for purchasers or renters of affordable units; and formulas for establishing maximum housing unit monthly rents and maximum sales prices. In establishing levels of very low, below average and average household income, the County shall consider median household income and household size. The County may adopt additional administrative guidelines as necessary to provide for additional eligibility criteria, or to assure affordability of units.
- (b) The administering agency shall review the assets and income of prospective purchasers and renters of affordable units and shall inform them of the requirements of this program

(Ord. 3002, 10/28/80; 3329, 11/23/82; 3234, 5/18/82; 3502, 3/6/84; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90; 4425, 8/13/96)

#### 17.10.090 DEFAULT, FORECLOSURE, AND LOSS OF THE UNIT.

- (a) In the event a Notice of Default is recorded on a completed habitable single family dwelling, townhouse, or condominium unit, which has been designated as an affordable unit pursuant to the provisions of this Chapter, an eligible purchaser shall have the option to purchase the unit following the recording of the Notice of Default. This purchase may be made by an eligible purchaser, as designated by the administering agency, or by the County itself, paying the amount that the owner would have received on

the date of the foreclosure sale under the sale or resale formula set in the Income, Asset and Unit Price Guidelines. Out of this sum, the lien holder(s) shall be paid the amount of any funds due including but not limited to encumbrance(s), taxes and assessments; and the owner shall be paid any remaining funds.

In the event an eligible purchaser does not exercise its option to purchase the completed single family dwelling, townhouse, or condominium unit prior to the trustee's sale or judicial foreclosure, the unit shall be free from the restrictions of this chapter, and the owner shall be deemed in compliance with the provisions of this chapter with the exception of the provisions of subsection (b) below. Single family units which has not been completed for occupancy and multiple family apartments shall not be released from the restrictions of this Chapter through a trustee's sale or judicial foreclosure.

(b) In the event that:

- (i) the unit is sold at a trustee's sale or judicial foreclosure; or
- (ii) destroyed and insurance proceeds are distributed to grantee instead of being used to rebuild, or
- (iii) in the event of condemnation, if proceeds thereof are distributed to owner, or in the event of termination, if proceeds thereof are distributed to owner; or
- (iv) in the event of termination of the condominium, liquidation of the association and distribution of the assets of the association to the members thereof, including the owner;

then any surplus of proceeds so distributed remaining after payment of encumbrances on the unit shall be distributed as follows: '

1. That portion of the surplus shall be distributed to the owner up to, but not to exceed, the net amount (after the payment of encumbrances) that the owner would have received under the formula set forth by the Income, Asset and Unit Price Guidelines had the County been able to exercise its option to purchase the unit on the date of the foreclosure sale, destruction, condemnation, evaluation, or liquidation, or upon the first sale of the unit for fair market value after 30 years.
2. County and shall be held in trust for the development of affordable housing.

(c) In the event that the unit is destroyed, or condemned, or the condominium association is liquidated, and the proceeds are

utilized for the purpose of rebuilding, the unit constructed shall be bound by the terms of this chapter for the remaining term of the resale restrictions.

- (d) The owner of an affordable unit shall not use this property as collateral for an amount exceeding the maximum unit sales price allowed in the Income, Asset and Unit Price Guidelines unless specifically allowed in writing by the County.

(Ord. 3002, 10/28/80; 3329, 11/23/82; 3234, 5/18/82; 3502, 3/6/84; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90; 4425, 8/13/96)

**17.10.100 CONFLICT OF INTEREST.** Following are those individuals

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who, by virtue of their position or relationship, are found to be ineligible to purchase or rent an affordable unit as their residence:

- (a) All employees and officials of the County of Santa Cruz or the Administering Agency who have, by the authority of their position, policymaking authority or influence affecting County housing programs.

- (b) The developer or owner of the affordable unit to be purchased or rented.

- (c) The immediate relatives, employees, and anyone gaining significant economic benefit from a direct business association with public employees, officials, developers, or owners who are not eligible to purchase or rent an inclusionary unit.

- (d) The provisions of this section shall not apply to special purpose projects or owner-builder units.

(Ord. 3002, 10/28/80; 3329, 11/23/82; 3502, 3/6/84; 3802, 12/16/86; 4081, 10/16/90)

**17.10.105 VIOLATIONS.**

- (a) It shall be unlawful and a violation of this Chapter for the developer or owner of an affordable housing unit or any employee or agent of such developer or owner to sell or rent an affordable unit to anyone who has not first been qualified as eligible by the administering agency.
- (b) It shall be unlawful and a violation of this Chapter for the developer or owner of an, affordable unit or any employee or agent of such developer or owner to sell or rent an affordable unit to any person who has a conflict of interest as defined in Section 17.10.100.

- (c) It shall be unlawful and a violation of this Chapter for the developer or owner of an affordable unit or any employee or agent of such developer or owner to sell an affordable unit for an amount which exceeds the maximum selling price or to rent an affordable unit for an amount which exceeds the maximum rent prescribed for the affordable unit under this Chapter; and it shall be further unlawful and a violation of this Chapter for any such person to solicit, require or accept in connection with the sale or rental of an affordable unit any payment or other contribution of cash, property, or services, from a purchaser or renter, the value of which when added to the purchase price or rent paid for an affordable unit would exceed the maximum selling price or maximum rent prescribed for the affordable unit under this Chapter.
- (d) It shall be unlawful and a violation of this Chapter for any person to willfully and knowingly make a false statement or representation, or knowingly fail to disclose a material fact, for the purpose of qualifying as eligible to purchase or rent an affordable unit under this Chapter or to obtain an owner-builder building permit.

(Ord. 3502, 3/6/84; 3802, 12/16/86; 4081, 10/16/90; 4425, 8/13/96)

#### 17.10.110 ENFORCEMENT. —

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(a) The provisions of this chapter shall apply to all agents, successors and assigns of an applicant. No building permit or occupancy permit shall be issued, nor any development approval be granted which does not meet the requirements of this chapter. The County shall suspend or revoke any building permit or development approval upon finding a violation of any provision of this chapter.

(b) In addition, to, or in lieu of, the provisions of subsection (a) of this section, the County shall institute injunction, mandamus, or any other appropriate legal actions or proceedings for the enforcement of this chapter.

(c) Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable for each offense by a fine of not more than \$500 or by imprisonment in the County jail for a term not exceeding six months, or by both fine and imprisonment. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this chapter is commenced, continued, or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

(d) In the event that it is determined that rents in excess of

those allowed by operation of this ordinance and the Income, Asset and Unit Price Guidelines have been charged to a tenant residing in an affordable housing rental unit, the landlord shall be obligated to pay to the tenant, or to the County in the event the tenant cannot be located, any excess rents charged.  
(Ord. 3002, 10/28/80; 3329; 11/23/82; 3234, 5/18/82; 3802, 12/16/86; 4081, 10/16/90)

**17.10.120 APPEALS.**  
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(a) Any applicant or other person whose interests are adversely affected by any determination in regard to the requirements of this chapter may appeal in accordance with the provisions of Section 18.10.320 of the County Code, governing appeal of Level III staff approvals. The appeal shall set forth specifically wherein the action taken fails to conform to the provisions of this chapter.

(b) Any person aggrieved by any action involving denial, suspension or revocation of a building or occupancy permit or denial, suspension or revocation of any development approval, or any other action involving the provisions of this chapter may appeal such action or determination in accordance with the provisions of Sections 13.10.240 of the Santa Cruz County Code. (Ord. 3002, 10/28/80; 3329, 11/23/82; 3802, 12/16/86; 3881, 12/15/87; 4081, 10/16/90)

**17.10.130 ANNUAL REPORT AND-ADMINISTRATION.**

(a) The administering agency shall prepare an annual report to the Board of Supervisors on the status of the affordable units constructed under the provisions of this chapter. The report shall include the number, size, type, tenure, and general location of the affordable units as well as the number of resales and rental vacancy rate. The report shall provide a basis for an evaluation of the overall effectiveness of this chapter.

(b) In addition to any other powers or duties heretofore prescribed for the administering agency, the administering agency shall have the following powers and duties:

1. To monitor compliance with the provisions of this chapter and to refer to the Board of Supervisors for appropriate action any person violating the provisions of this ordinance.
2. To provide for the administration of this chapter and to make recommendations to the Board of Supervisors regarding program changes.

(Ord. 3002, 10/28/80; 3329, 11/23/82; Ord. 3502, 3/6/84; 3802, 12/16/86; 4081, 10/16/90; 4425, 8/13/96)



AT THE BOARD OF SUPERVISORS MEETING

On the Date of September 23 , 1997

REGULAR AGENDA Item No. 059

(Continued consideration of report and recommendations regarding inclusionary housing requirements; directed Planning, with County Counsel and RDA to prepare draft ordinance revisions and guidelines to amend County Code Chapter 17.10 to accomplish the following: to continue the on-site inclusionary units without revisions, to revise the in-lieu fee to apply to market rate housing developers as well as lot subdividers and to adopt pricing guidelines to encourage inclusionary units, to revise the off-site unit option to allow market rate developers to work with affordable housing developers to meet the inclusionary requirement and to require Level VII approval of off-site construction, to specify criteria for calculating affordable off-site units based on the total number of units, assuring that off-site units be of similar quality to inclusionary units and that off-site units will be built on a bedroom for bedroom basis, - and to deposit fee revenue in the Housing Fund with its use to be determined by the Board, and to incorporate a "use it or lose it" provision for the use of funds generated by the inclusionary housing fees; directed Planning to forward these draft ordinance revisions and guidelines to the Housing Advisory Commission for review at its November meeting and to return to the Board with proposed ordinance amendments and guidelines on or before January 27, 1998...

Continued consideration of report and recommendations regarding inclusionary housing requirements;

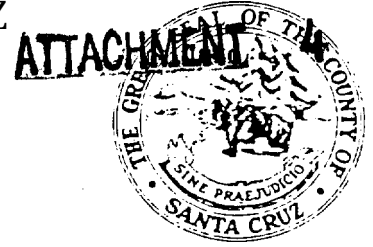
Upon the motion of Supervisor Beautz, duly seconded by Supervisor Symons, motion was made to direct Planning, with County Counsel and Redevelopment Agency to prepare draft ordinance revisions and guidelines to amend County Code Chapter 17.10 to accomplish the following: to continue the on-site inclusionary units without revisions, to revise the in-lieu fee to apply to market rate housing developers as well as lot subdividers and to adopt pricing guidelines to encourage inclusionary units, to revise the off-site unit option to allow market rate developers to work with affordable hous-

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Super-visors.

COUNTY OF SANTA CRUZ

STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING

On the Date of September 23, 1997

REGULAR AGENDA Item No. 059

ing developers to meet the inclusionary requirement and to require Level VII approval of off-site construction, to require off-site housing in the same planning area, to specify criteria for calculating affordable off-site units based on the total number of units, assuring that off-site units be of similar quality to inclusionary units and that off-site units will be built on a bedroom for bedroom basis, and to deposit fee revenue in the Housing Fund with its use to be determined by the Board, and to incorporate a "use it or lose it" provision for the use of funds generated by the inclusionary housing fees; to direct Planning to forward these draft ordinance revisions and guidelines to the Housing Advisory Commission for review at its November meeting and to return to the Board with proposed ordinance amendments and guidelines on or before January 27, 1998;

Upon the motion of Supervisor Almquist, duly seconded by Supervisor Belgard, with Supervisor Symons and Beautz voting "no", the Board, amended main motion to delete the requirement that off-site housing be built in the same planning area; approved main motion, as amended, by unanimous vote

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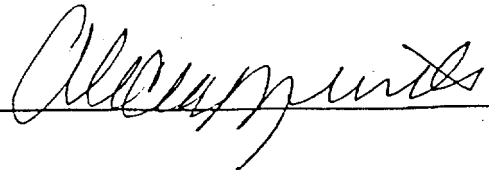
CAO  
Planning  
RDA  
County Counsel

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State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors, on September 30, 1997.

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by , Deputy Clerk