

ORDINANCE NO. _____

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

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Existing Sections 17.10.030, 17.10.035 and 17.10.040 of the Santa Cruz County Code are hereby repealed.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 17.10 of the Santa Cruz County Code:

17.10.030 Inclusionary Housing 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:

2. Financial contribution to a non-profit sponsored affordable housing project 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 Aoreement 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. 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.

4. 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.

5. 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 and accrued interest 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 or preserving affordable housing units in the County.

(f) Annual Adjustment of In-Lieu Fee. At the time of the annual review of the Affordable Housing Guidelines, the in-lieu fee shall be reviewed. The review shall utilize the latest real estate data regarding the sales prices of lots and homes in Santa Cruz County. If determined to be necessary by the Board of Supervisors, the Table of In-Lieu Fees shall be amended by Ordinance.

17.10.036 Development of Off-site Affordable Units By Affordable Housing Partnerships

(a) 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 an equal number of affordable units required by both projects but at a greater level of affordability.
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 average number of bedrooms per unit in the non-profit affordable housing project is equivalent to the average number of bedrooms per unit of the market rate project for that portion of the affordable housing project receiving the financial contribution from the market rate developer; or the non-profit affordable housing project is designed to serve a special segment of affordable housing which would not require an equivalent number of bedrooms per unit.

(b) 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).

(c) 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.

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 shall be provided with full off-site and frontage improvement, utility connections, and site grading and drainage improvements adequate to accommodate the future construction of affordable housing on the site. The project developer shall protect and maintain the dedicated parcel and associated improvements in a safe and usable condition until the property is accepted by the County. The project developer shall provide bonding adequate to guarantee the improvement and maintenance of the dedicated parcels until accepted by the County, or alternatively to guarantee payment of applicable affordable housing in-lieu fees pursuant to Section 17.10.034 if the County determines that the parcels are not suitably improved and maintained for use as affordable housing sites. The project developer shall also agree to defend, indemnify and hold the County harmless from claims of liability to third parties until the dedicated parcel is accepted by the County.

17.10.040 Priority Processing. Applications for approval of Tentative Maps and Residential Development Permits which meet the requirements below shall qualify for priority processing by the County, which provides that once an application is certified by the Planning Department as complete and eligible for such processing, the project will be immediately assigned to staff for processing in advance of all non-priority applications including scheduling for environmental review (if required) and subsequent scheduling for public hearing and final action by the Planning Commission and/or Board of Supervisors. The following residential development projects consisting of

either the construction of residential units and/or the creation of residential parcels shall be eligible for priority processing:

(a) Standard Density Projects. Projects which are developed within the standard density limits of the applicable zone district, and in which twenty-five percent (25%) or more of the project units are affordable to moderate, lower or very low income households, shall be entitled to priority processing of the discretionary permits required for the development.

(b) Bonus Density Projects. Projects which are developed with bonus density allowed in the zone district pursuant to County Code Section 13.10.391 shall be entitled to priority processing of the discretionary permits required for the development if the project meets the requirements of County Code Section 13.10.393(b)

SECTION III

This ordinance shall take effect on the 31 st day after the date of final passage.

PASSED AND ADOPTED this ____ day of _____, 1998, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:

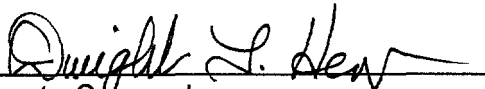
NOES:

ABSENT:

ABSTAIN:

Chairperson of the Board of Supervisors

ATTESTED: _____
Clerk of the Board

APPROVED AS TO FORM: 
County Counsel

DISTRIBUTION: County Counsel
Redevelopment Agency
Planning
CAO

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING

On the Date of August 11, 1998

REGULAR AGENDA Item No. 051

(CONTINUED consideration of amendments to Chapter 17.10
(Affordable Housing) regarding inclusionary housing
requirements;
(1) read title and waived detailed reading of complete
ordinance;
(2) approved ordinance "in concept" to return August 25,
1998 for final adoption with the following changes:
(page 3, subsection 2, substitute 25% for 15%; page 3,
paragraph 5, change language to indicate that this
relates to in-lieu projects, not off-site projects;
(page 6, delete subsection 3; page 10(e), add language
to read "...in-lieu fees and accrual of interest

(received... for the purpose of developing or preserving
affordable housing..."...

Continued consideration of amendments to Chapter 17.10
(Affordable Housing) regarding inclusionary housing requirements;

Upon the motion of Supervisor Wormhoudt, duly seconded by Su-
pervisor Belgard, the Board, by unanimous vote, read title and
waived detailed reading of complete ordinance;

Upon the motion of Supervisor Wormhoudt, duly seconded by Su-
pervisor Belgard, the Board, by unanimous vote, approved ordinance
"in concept" to return August 25, 1998 for final adoption with the
following changes: page 3, subsection 2, substitute 25% for 15%;
page 3, paragraph 5, change language to indicate that this relates
to in-lieu projects, not off-site projects; page 6, delete subsec-
tion 3; page 10(e), add language to read "...in-lieu fees and accru-
al of interest received... for the purpose of developing or preserv-
ing affordable housing"

cc:

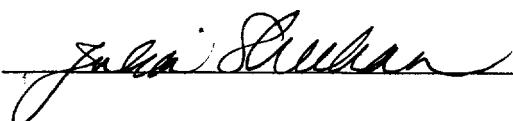
CAO
Housing Advisory Commission
County Counsel
Redevelopment Agency

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.

Page 1 of 1

18

 Deputy Clerk, on August 14, 1998.