



# COUNTY OF SANTA CRUZ

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## PLANNING DEPARTMENT

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**KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR**

October 30, 2014

TO: HOUSING ADVISORY COMMISSION  
FROM: Julie Conway, Housing Coordinator  
SUBJECT: Update of Affordable Housing Regulations

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The County of Santa Cruz Planning Department retained the services of Keyser Marston Associates (KMA) who worked with Goldfarb Lipman LLP to conduct an analysis of the County's Affordable Housing Program. The Housing Advisory Commission (HAC) discussed the consultant recommendations at its July 16, 2014 meeting. On August 19, 2014 the Board of Supervisors received the report on the Housing Program along with comments from your Commission. At that time the Board provided guidance as to the primary elements of the recommendation, and directed that an ordinance be drafted responsive to Board guidance and brought before the Housing Advisory Commission and Planning Commission for further discussion and recommendations. Attachment 4 provides the guidance voted upon by the Board at its August 19<sup>th</sup> meeting.

The proposed amendments to Chapters 17.10, 17.12, 13.10 (Attachment 1) and the Affordable Housing Guidelines (Attachment 2) are attached to this report, and this set of proposed regulations reflects the guidance provided by the Board.

Staff and the consultants are largely in agreement with the guidance provided by the Board. However, additional analysis has been completed to illustrate the potential result of implementing the Board's direction. Based on that analysis, this report also presents a new suggestion that could be considered as an additional element to the Board's direction. The reasons for the additional suggestion relate to the Board's discussion and seeming interest in "affordable by design" concepts, as well as ensuring a viable and equitable local program.

It is recommended that the Commission discuss the proposed ordinance and guideline amendments and then develop a recommendation for consideration by the Board of Supervisors. The Planning Commission will be holding a public hearing at its November 12<sup>th</sup> meeting and also developing a recommendation for Board consideration.

### **Summary of Proposed Ordinance and Guidelines Amendments**

Both your Commission and the Board of Supervisors expressed substantial agreement with most of the program recommendations proposed by KMA and those elements are included in the proposed ordinance and guideline amendments. Sections 1 through 6 below briefly summarize those program elements. This report also includes information and analysis regarding an additional suggested program element that is recommended by staff and the consultants, relating to a tiered impact fee structure that would apply to 1- and 2-unit developments. The nexus study supports imposition of an affordable housing impact fee for all market rate residential development, and it could be considered more equitable to have all new

residential unit and non-residential development contribute to addressing the affordable housing impacts. The impact fee program will not come close to replacing the Redevelopment Housing Program revenues, but a viable local impact fee program can play a role in addressing our county's affordable housing crisis, and can enable partnerships with non-profit housing partners in a way that leverages these local funds and attracts a much greater level of state and federal funds (especially with the tax credit program) to construct new affordable rental housing.

**1. Ordinance amendments needed to respond to legal issues**

Chapters 17.10 (Affordable Housing Regulations), 17.12 (Density Bonus Regulations) and 13.10 (Zoning Ordinance) have been modified to comply with the two issues settled by recent court cases. The proposed amendments remove the requirement for rental housing projects to provide on-site affordable housing (inclusionary units). In addition, the density bonus provisions will be implemented in compliance with State law; for example, this will allow any project that includes 15% affordable units on site to receive a 10% density bonus.

**2. Proposed requirements for Ownership Projects with 5+ Units**

- a. On Site Requirement. As your Commission is aware, voter-approved Measure J states that it is the County's policy that at least 15 percent of new housing in the County be affordable to average income households and below. This percentage is supported by the findings of the consultants' nexus analysis, which indicates a supportable inclusionary range of 15% to 28% (depending on housing type) to mitigate affordable housing impacts of market rate residential development.<sup>1</sup> In accordance with the Board's direction, ownership projects with 5 or more units will continue to be obligated to provide 15% of the units as on-site deed-restricted affordable units.

The current program's provision that allows a developer to request that the approving body authorize an alternative to providing affordable units on the site of a housing project – such as payment of an in-lieu or impact fee, would be retained. Initially, staff and the consultants had recommended that the manner of satisfying the affordable housing requirement should be at the option of the developer, so that revenues could be directed toward creating rental housing for low and very low income households. However the Board of Supervisors indicated on August 19<sup>th</sup> a preference for the County to retain authority over whether to allow alternatives to on-site housing for projects of 5 or more units.

If payment of a fee is allowed, under the proposed regulations the current in-lieu fee will become a housing impact fee and it will be based on habitable square footage of all market rate units rather than the current approach of basing an in-lieu fee on average sales price. The initial rate would be set at \$15 per square foot for each unit, for projects that involve 5 or more units. Affordable housing obligations that are a fraction of a unit will be satisfied through the payment of an affordable housing impact fee, also at the \$15 per square foot based on the average of the sizes of all the units in the housing project.

The following is an example of the calculation of a 5+ unit project's affordable housing requirement. Assume a project has 25 units, with an average unit size of 2,000 square feet. In this example, the project's total affordable housing obligation is 3.75 units (25 x

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<sup>1</sup> It is worth noting that the County has been able to meet the mandate of Measure J substantially because of the projects leveraged using redevelopment funds in partnership with non-profit housing developers.

15%). The project is obligated to provide 3 affordable on-site units and pay an impact fee to satisfy the requirement for 0.75 units. The "per unit fee amount" is \$200,000 (2,000 SF x \$15 / 15%). The amount owed by the project is \$150,000 (\$200,000 x 0.75).

- b. Maximum Affordable Home Prices Calculated at 110% AMI. The financial feasibility analysis concluded that under some circumstances an on-site inclusionary obligation yields substandard profit margins and therefore acts as a disincentive to the creation of housing. It is recommended that the pricing of affordable units be calculated to be affordable to households earning 110% of Area Median Income (AMI) rather than the current pricing at 100% of AMI. The Affordable Housing Guidelines have been revised to reflect this calculation.

### **3. Requirements for Ownership Projects of Three or Four Units**

The County's current program imposes a fee of \$15,000 on the third and fourth units of a housing development with three or four units. It was not clear in the Board's August 19<sup>th</sup> direction whether this rate was to continue, a new flat fee proposed, or the \$15 per square foot impact fee be applied. Staff and the consultants have considered these alternatives, and developed a graduated fee structure for consideration. The proposed regulations reflect this new proposal for a graduated per square foot impact fee structure that increases with the size of the unit, based on habitable square footage. This would respond to Board and public interest in a structure that acknowledges the concept of "affordable by design", with smaller units assessed lower fees. The proposed graduated fee structure would impose impact fees on all of the habitable square footage of each unit in the project, as outlined below and discussed in greater detail later in this report.

- \$5 per square foot for 0 to 1,500 square feet of each unit;
- \$10 per square foot to be applied to 1,501 to 3,000 square feet; and
- \$15 per square foot to be applied to the square footage of each unit beyond 3,001 square feet.

### **4. Requirements for Rental Unit Projects, including non-deed-restricted Accessory Dwelling Units (ADUs)**

Rental Projects. In conformance with recent court cases and the findings of the nexus analysis, the proposed regulations do not require rental projects to provide on-site affordable units. Instead, as supported by the nexus analysis, all rental projects would be required to pay an affordable housing impact fee based on the habitable square footage of the rental project. While the nexus analysis concluded that an impact fee on rental units of up to \$23.70 per square foot is supported to mitigate the demand for affordable units created by market rate rental units, the financial feasibility analysis indicates that new rental project development is financially challenging. In recognition of current financial constraints, it is recommended that the impact fee on rental units be set at \$2 per square foot of habitable area and that the fee amount be revisited periodically. Impact fees will not be levied on affordable rental projects that include affordability restrictions on the units.

ADUs. The Board's discussion on August 19<sup>th</sup> included a question to the Planning Director about whether ADUs would be subject to impact fee requirements. Staff erroneously related this question to whether 1- and 2-unit housing projects would be subject to impact fees, but should have responded that since ADUs are by definition rental units, that the \$2 per square foot fee would apply.

It is worth noting that staff and many community stakeholders strongly support the ADU program and want to incentivize creation of ADUs. In the coming months, as the Housing Element is being updated, staff plans to develop a set of recommendations for how to further incentivize creation of ADUs. The recommended \$2 per square foot would result in the following one-time fees for various typical sizes of ADUs, which would not be expected to affect a “go/no go” financial feasibility decision about whether to build an ADU, as the levels are generally less than one month’s rent for ADUs at these sizes.

640 SF	\$1,280
800 SF	\$1,600
1,000 SF	\$2,000
1,200 SF	\$2,400

**5. *Forty Percent affordable housing obligations***

**a. Commercial to residential rezoning**

The draft ordinance revision removes the current requirement imposing a 40% affordable housing obligation for properties rezoned from non-residential to residential uses. The reason for this is that the 40% requirement is not supported by the findings of the nexus analysis and it can render proposed projects financially infeasible. If the conversion is approved, these projects would be subject to the same affordable housing requirements (15% on-site for ownership projects, and impact fees for smaller ownership projects and for market rate rental projects) that apply to all residential projects. The Board can establish policies and criteria to govern the review of rezoning conversion applications in its General Plan and/or Zoning Ordinance, and the Planning Commission will consider drafts of such policies. It is recommended that applications proposing a conversion from commercial use be required to demonstrate that the proposed conversion meets the Board’s policy criteria and will result in a net benefit to the public health, safety or welfare.

**b. Regional Housing Need R Combining Districts**

The findings of the nexus analysis do not support the 40% obligation currently required for properties within the R-Combining Districts. This District allows by-right development of these sites at a density of 20 units per acre. The proposed amendments subject these properties to the standard affordable housing requirements (15% on-site for ownership projects and impact fees for market rate rental projects) unless there are resources available to help create additional affordable units. Recommended policy actions include prioritizing the use of available County affordable housing funds for the R Combining District sites and for other developments that maximize density in order to leverage low income housing tax credits and other State and federal housing programs.

**6. *Impact Fees on Non-Residential Development***

The nexus analysis on four types of commercial and industrial buildings supports the establishment of affordable housing impact fees that would be paid by non-residential developments. Given the County’s desire to encourage job growth, it is recommended that the fee be set at \$2.00 per square foot of net new building area. The fee will not apply to governmental buildings.

### **Suggested Additional Program Elements**

Further discussions with the consultants as well as with community groups since the Board discussion have suggested additional program elements, as summarized below.

a) Rental Impact Fees on Accessory Dwelling Units.

As discussed earlier in this report, it is recommended that ADUs pay the \$2 per habitable square foot impact fee rate that would apply to rental projects.

b) Graduated Impact Fees on Ownership Projects of 1 to 2 Units.

Consistent with direction by the Board, the proposed ordinance revision exempts projects of 1 or 2 units from any affordable housing requirement. However, based on the information and analysis provided in the next section of this report, staff and the consultants recommend that the graduated impact fee structure proposed for 3- and 4-unit projects also apply to 1- and 2-unit projects (additions to homes are NOT proposed to be subject to impact fees).

The key arguments for including new units in 1- and 2-unit projects include:

- o The premise of the impact fee approach is that all new development generates a need for affordable housing and that all new development should participate in addressing the need at a level that is financially feasible and sustainable, in other words “everyone creates a need, everyone pays”. This approach can be considered more equitable than one which exempts 1- and 2-unit projects.
- o Since the majority of projects that occur in the unincorporated county are 1- and 2-unit projects, in order to have a viable program that can play a role in ensuring continuation of a functional Measure J program and have local resources available for leveraging to create affordable rental housing.

Given that one and two unit projects have the same impact on the need for affordable housing as do projects with 3+ units and the application of the graduated fee schedule to these units would generate approximately \$450,000 per year of revenue (as reviewed in the next section of this report), staff recommends that the Board of Supervisors consider adopting the graduated fee schedule to projects of 1 and 2 units. The inclusion of 1 and 2 unit projects would accelerate the rate at which the County can accumulate sufficient funds to support the construction of new rental projects and provide the County with funding needed to administer the existing affordable housing stock.

### **Analysis of Estimated Impact Fee Revenue**

In order to study the effect of the proposed Affordable Housing Impact Fees on different development types, Building Permit activity for a two year period was analyzed. The period of time reviewed was Fiscal Years 2012-13 and 2013-14. These periods were selected because data is readily available through the County's relatively new land use management system. The square footage of the Building Permits issued in those periods was reviewed and the proposed fees were applied in order to project potential fee revenue and impacts.

Attachment 3 presents the results of the analysis. The first chart summarizes all construction activity during the two-year period. Construction activity was dominated by the development of one and two unit single family homes. There were 40 rental units developed during the period;

all were deed restricted affordable units within the Aptos Blue project, but such a project would not pay impact fees. The second chart shows the estimated impact fee revenue under a program consistent with the Board's August 19<sup>th</sup> guidance, which does not include payment of impact fees by ADUs or 1- and 2-unit projects. Based on the last two years' activity, a program of that August 19<sup>th</sup> structure would generate an estimated \$162,000 per year in impact fees.

The third chart shows the level of impact fees that would be generated if 1- and 2-unit projects were required to pay the graduated/scaled impact fees in the same manner as 3- and 4-unit projects. The fees from 1- and 2- unit projects, and rental ADUs at \$2/sf, would generate approximately \$441,000 of annual impact fee revenue, which is almost three times the revenue generated by all of the other construction components combined.

Finally, the fourth chart of Attachment 3, which is also presented below, shows the estimated impact fees that would be generated under the alternate impact fee structure proposed by staff and the consultants, using the graduated impact fee structure for 1- to 4-unit projects, and including ADUs as rental units.

Annual Revenue Estimate for Staff and Consultant's Recommended Alternate Program

FIGURE 4: Annual Impact Fee Revenue based on Alternate Program		
1 and 2 unit Projects	Assumes scaled fee schedule based on square footage of units	\$440,725
3 and 4 unit projects	Scaled fee schedule	\$103,000
5+ Units	Occasional projects of 5 or more units will be allowed to pay a fee rather than provide a unit but it will be hard to predict.	?
ADUs	\$2 per square foot, unless affordability restrictions are recorded on the deed	\$28,700
Rental Projects	\$2 per square foot unless deed restricted as affordable units	nominal
Commercial Projects	\$2 per square foot	59,000
One Year Projected Revenues based on actual permits		\$631,425

**POLICY RECOMMENDATIONS FOR USE OF THE HOUSING FUND**

The voters of Santa Cruz County passed Measure J in 1978 partially in response to a housing shortage that has only gotten worse in the intervening years. As SCC Code Chapter 17.10 states

"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 of Santa Cruz as mandated by Measure J, a voter adopted referendum measure, that housing be made available for persons with average and below average incomes."

Recent experience and analysis could add that housing shortages and affordability challenges necessitate long commutes, create increasingly untenable traffic problems, and adversely affect personal, family and community quality of life.

Our community is experiencing a housing shortage and it is important that policies not impede development. Ensuring that any proposed policies do not cause a barrier to housing development was the primary reason why the feasibility analysis was undertaken along with the nexus study to update the housing program. When redevelopment was eliminated by the legislature in 2011 the County of Santa Cruz committed the funds it had available to affordable projects that were ready to go ahead immediately. That effort resulted in 242 affordable homes that have been developed in the three years since. Those homes are vital to meeting a critical shortage of housing. The need for these homes is highlighted by the high number of applicants for affordable units—there were hundreds of applicants for the 88 units at the Schapiro Knolls project. But the feasibility study demonstrates that in this difficult market the housing needs of a substantial portion of our community—those with incomes below 80% of the Area Median Income (AMI) can't be met by market driven development without leveraging outside resources.

The Nexus Study reflects the impact of housing development on working households and because of this, it is recommended that the fees generated by the Housing Impact Fee be deposited in an Affordable Housing Fund and that policies for its use be adopted that will ensure that the fund is used substantially to support the creation of workforce housing with the focus used to assist with creation of rental housing affordable to extremely low, very low and low income households. Homes developed on-site for projects of five or more units will continue to address the needs of moderate income households, as deed-restricted units are included within developments of 5 or more units.

### **Conclusion/Recommendation**

The recommendations and analysis provided by KMA provide the County with the opportunity to update its housing policies to be consistent within the current legal framework and can provide resources for the County to address its critical need for affordable housing. Staff recommends that this report be discussed and recommended to the Board of Supervisors as follows:

1. Recommend adoption of the proposed ordinance revision as described in sections 1 through 6 above;
2. Recommend addition of the following elements to the program: (a) include 1- and 2-unit projects into the graduated impact fee schedule used for 3- and 4-unit projects; and (b) apply the \$2 per square foot rental housing fee to Accessory Dwelling Units; and
3. Recommend policies that prioritize use of Affordable Housing Fund for affordable rental projects.

Attachment 1:	Proposed Ordinance Amendments
Attachment 2:	Proposed Affordable Housing Guidelines
Attachment 3:	Analysis of Estimated Impact Fee Revenue
Attachment 4:	Summary of Current Affordable Housing Resources
Attachment 5:	Minutes of August 19, 2014 Board of Supervisors Meeting

Link to Full Report: <http://www.sccoplanning.com/PlanningHome/Housing/>

**Chapter 17.10**  
**AFFORDABLE HOUSING REQUIREMENTS**

**Sections:**

17.10.010 Declaration of findings and legislative intent.

17.10.020 Definitions.

17.10.030 ~~Inclusionary Ownership residential projects – inclusionary housing requirements.~~

17.10.031 *Repealed*

17.10.032 Residential projects – requirements for residential development projects.

17.10.031 ~~Inclusionary housing in lieu fee for small residential projects.~~ 17.10.032 ~~Development of on-site affordable dwelling units.~~

17.10.034 ~~Affordable~~ 17.10.034 Residential projects - affordable housing in lieu impact fee.

17.10.036 17.10.035 *Repealed.*

17.10.036 Development of off-site affordable units by affordable housing partnerships.

17.10.037 Existing unit conversion; program and Measure J trust fund.

17.10.038 *Repealed.*

17.10.039 Residential projects – rental affordable units permitted if consistent with Costa-Hawkins Act.

17.10.040 Priority processing.

17.10.050 ~~Investor owner (rental) unit requirements.~~ Initial sale and resale of ownership affordable units.

17.10.060 ~~Owner builder unit requirements.~~ *Repealed.*

17.10.070 Rentals by Measure J unit owners.



17.10.075 Repealed.

17.10.070 Ownership unit requirements.

17.10.075 Lease-purchase unit requirements.

17.10.080 Eligibility for rent or purchase.

17.10.083 Nonresidential projects – affordable housing impact fees.

17.10.087 Measure J trust fund.

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 and waivers.

17.10.130 Annual report and administration.

**17.10.010 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 both existing and 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. New development of higher cost housing which does not include affordable units aggravates the existing shortage of affordable housing by absorbing the supply of

available residential land. This reduces the supply of land for housing affordable to households of average and below average incomes and increases the price of remaining residential land. At the same time, new higher cost housing contributes to the demand for goods and services and increases local employment at average and below average income wage levels, which increases the demand for and exacerbates the shortage of housing available to persons and households with average or below average incomes. Similarly, new nonresidential development increases local employment at average and below average income wage levels, which also increases demand for and exacerbates the shortage of housing affordable to persons at those income levels.

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 of Santa Cruz 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~~ provided by the requirements for the Housing Element of the County General Plan and the Local Coastal Plan, ~~to make available, for the County to adopt land use policies that will accommodate an adequate supply of housing for persons of all economic segments of the community, and to ensure that such supply of and for local governments to use the powers vested in them to facilitate the development of housing for all income levels. The County further desires to ensure that affordable housing remains affordable to subsequent purchasers.~~

The purpose of this chapter is to enhance the public welfare, and to assure that future housing ~~residential and nonresidential development contributes~~ mitigates its impacts on the need for affordable housing by contributing 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 a 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. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 1, 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3039, 1981; Ord. 3025, 1980; Ord. 3002, 1980].

#### **17.10.020 Definitions.**

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

"Administering agency" means 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.

"Affordable housing" means housing which is affordable to average or below average sold or rented to moderate, low, very low, or extremely low income households, as at an affordable sales price or affordable rent, as applicable, and as defined, required, regulated, and allowed by this chapter, and by the affordable housing guidelines. "Affordable housing units" are the same as "inclusionary units" for the purposes of this chapter.

"Affordable housing guidelines" means the Santa Cruz County affordable housing guidelines adopted and revised from time to time by the Board of Supervisors to implement this chapter (previously entitled the "Santa Cruz County Affordable Housing Program Income, Asset, and Unit Price Guidelines")."

"Affordable rent" and "affordable sales price" are as defined in the affordable housing guidelines.

"Applicant" means any person, firm, partnership, association, joint venture, corporation, entity, or combination of entities seeking County permits and approval.

"Assisted housing" means any project receiving all or a portion of its development funding from any local, State or Federal governmental or nonprofit funding source which meets the criteria for affordable housing specified in the affordable housing guidelines.

"At one location" means 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.

"Assumed household size" means one person in a studio dwelling unit, two persons in a one bedroom dwelling unit, three persons in a two bedroom dwelling unit, and one additional person for each additional bedroom thereafter.

"Average (moderate) income households" means 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" has the same meaning as "moderate income households" for the purposes of this chapter corresponds to the definition of moderate income households for State and Federally assisted housing programs.

"Below average (lower) income households" means 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 chapter corresponds to the definition of low income households used for State and Federally assisted housing programs include extremely low, very low, and low income households.

"Congregate senior housing" means 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. "Decision-making body" means the body with the authority to approve a residential or nonresidential project, as applicable.

**"Dwelling unit" means a dwelling designed for occupancy by one family or household.**

**"Eligible purchaser" means 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 an ownership affordable unit; or a public body or non-profit entity providing affordable housing; or an investor-owner as defined in this section.**

**"Eligible renter" means 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 rental of a rental affordable unit; or a public body or non-profit entity providing affordable housing.**

**"Enhanced affordable" refers to the additional 25 percent affordable units required in the Regional Housing Need R-Combining District. These units may be rented at enhanced low income levels or sold at enhanced moderate income levels.**

**"Enhanced low income" means a household earning up to 100 percent of median income. Rental pricing for units designated as affordable to enhanced low income households is based on 80 percent of median income, as adjusted for household size.**

**"Enhanced moderate income" means a household earning up to 150 percent of median income. Sales pricing for units designated as affordable to enhanced moderate income households is based on 120 percent of median income, as adjusted for household size.**

**"Extremely low income households" means households whose income does not exceed the extremely low income limits applicable to Santa Cruz County as published annually pursuant to Title 25 of the California Code of**

Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

"Final inspection" means an inspection performed by the administering agency to verify completion of the housing a residential or nonresidential project per approved plans and to allow occupancy of the housing units or nonresidential development.

"Housing costs" means 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.

"HUD" means the U.S. Department of Housing and Urban Development.

"~~Inclusionary housing units~~" means housing dwelling units which are affordable to ~~average or below average moderate, low, very low, or extremely low~~ income households, as defined, required, regulated, and allowed by this chapter, Inclusionary housing and by the affordable housing guidelines, and which are included within a residential project or otherwise provided pursuant to this chapter. "Inclusionary units" are the same as "affordable housing units" for the purposes of this chapter.

"~~Investor owner~~" means an individual, partnership or corporation which develops or purchases affordable housing units for rental to below average income households

"Low income households" means households whose income does not exceed the low income limits applicable to Santa Cruz County as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

"Market rate unit" means a dwelling unit in a residential project which is not subject to the rental, sale or resale regulations of this chapter an affordable unit.

"Median income" means the median income, adjusted for the Santa Cruz PMSA, unless otherwise stipulated, as periodically determined by HUD. The current County median income figure is contained in the affordable housing guidelines family size, applicable to Santa Cruz County, as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

"Moderate income household" means households whose income does not exceed the moderate income limits applicable to Santa Cruz County as published annually pursuant to Title 25 of the California Code of Regulations.

Section 6932 (or its successor provision) by the California Department of Housing and Community Development.

**"New dwelling unit" means a dwelling unit that is newly constructed on a site or a newly created residential lot, but not replacement units.**

**"Owner-builder" means 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. Nonresidential project" means any development for which a discretionary permit or building permit is required, other than those developments involving solely residential projects, that includes the new construction of gross square feet of nonresidential space and the conversion of a residential use to a nonresidential use.**

**"Ownership housing residential project" means any residential project composed that includes the creation of one or more separately owned new dwelling units, that may be sold individually. A residential ownership project also includes the conversion of apartments to condominiums and any residential project with a recorded condominium plan or map.**

**"Project" means a residential development or land subdivision proposal for which County permits and approvals are sought.**

**"Rental housing project" means a multifamily housing structure under unified ownership, within which separate dwelling units are rented or leased. residential project" means any residential project that creates new dwelling units that cannot be sold individually.**

**"Resale controls" means legal restrictions by which the price of affordable units will be controlled by this chapter for a specified period of time. Residential project" means any development for which a discretionary permit or building permit is required that includes the creation of one or more new dwelling units or lots intended for residential development, conversion of nonresidential uses to dwelling units, or a condominium conversion. One residential project includes any of the following:**

- (1) An application for a residential development at one location, whether to be constructed at one time or in phases. "One location" includes 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 developed by applicants on adjacent properties either at one time or in phases. "Adjacent properties" 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 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 residential project contain no parties in whole or in 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 considered as separate residential projects upon a showing satisfactory to the decision-making body that neither residential project receives any direct financial benefit by virtue of the concurrent adjacent development.

(3) Sequential adjacent residential projects applied for by the same owner or applicant and developed on the same or adjacent properties either at one time or in phases. "Same owner or applicant" includes any person who participates in any development application as a full or part owner or applicant or a spouse of such person; "adjacent properties" 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" residential projects include all residential projects for which applications have been submitted to the County within a period of 10 years.

**"Section 8" means the major Federal housing program in which eligible ~~very low income and low income~~ householders ~~renters~~ receive financial assistance to rent housing ~~dwelling~~ units.**

**"Very low income households" means households with annual incomes less than 50 percent of median household ~~whose~~ 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 chapter does not exceed the very low income limits applicable to Santa Cruz County as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development. [Ord. 5133 § 1, 2012; Ord. 4879 § 1, 2007;**

Ord. 4876 § 1, 2007; Ord. 4755 §§ 1, 2, 2004; Ord. 4662 § 1, 2002; Ord. 4425 § 1, 1996; Ord. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 3, 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3002, 1980].

**17.10.030 Inclusionary housing requirements for Ownership residential development projects – inclusionary housing requirements.**

(A) Ownership Residential 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: An ownership residential project shall be subject to the inclusionary housing requirements of this chapter if it will result in the creation of:

- (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:~~ (a) Five or more new dwelling units;
- (b) Parcels providing building sites for a total of five or more new dwelling units; or
- (c) A combination of new dwelling units and parcels together providing for a total of five or more new dwelling units.

~~For purposes of this subsection, "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 or more new dwelling units, parcels providing building sites for a total of five or more new dwelling units, or a combination of new dwelling units and parcels together providing for a total of five 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 subsection: "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 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 in 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 or more new dwelling units, parcels providing building sites for a total of five or more new dwelling units, or a combination of new dwelling units and parcels together providing for a total of five 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 subsection, "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 10 years.

**(B) Inclusionary Housing Requirement.** ~~The {affordable housing obligation} for any project~~ Ownership residential projects identified in subsection (A) of this section shall be calculated by multiplying the provide affordable units equal to a minimum of 15 percent of the total number of new dwelling units or and new residential building sites by the affordable housing percentage for the type of project, as specified below. ~~Projects which generate an affordable housing obligation of less than a whole unit or a fractional amount more than a whole unit (c) shall contribute funds equivalent to the fractional amount above or below a whole unit to the Measure J trust fund, as specified in SCCC 17.10.034(E). The project developer may elect to construct {additional affordable unit}(s) instead of paying the fractional fee.} These projects which generate an affordable housing obligation equivalent to a whole unit or units of affordable housing shall construct the affordable dwelling unit(s) within the project pursuant in the residential project. All required affordable units shall be constructed within the residential project as required by SCCC 17.10.032. As an alternative to the requirements of SCCC 17.10.032, or alternately, shall meet the~~ this subsection (B), applicants may propose to meet their affordable housing requirement through the ~~options~~ alternatives provided in subsection (C) of this section; Ownership residential projects which generate a

fractional affordable housing obligation shall pay an affordable housing impact fee equivalent to the fractional amount, as specified in SCCC 17.10.034. The applicant may elect to construct an additional affordable unit instead of paying the fractional fee.]

~~(1) Standard Development. Standard development projects shall include the construction of affordable dwelling units equivalent in number to a minimum of 15 percent of the total number of new dwelling units and new undeveloped residential building sites in the project, or implement one of the alternative options described in SCCC 17.10.030(C);~~

~~(2) Bonus Density Development. Development projects qualifying for bonus zoning density pursuant to Chapter 17.12 SCCC shall designate five affordable dwelling units;~~

~~(3) Priority Processing Development. Development projects qualifying for priority processing shall meet the requirements of SCCC 17.10.040 (standard priority processing) by the construction of affordable dwelling units equivalent in number to a minimum of 25 percent of the total number of new dwelling units and new undeveloped residential building sites in the project, or development projects which are developed with bonus density and include the construction of affordable dwelling units equivalent in number to a minimum of 35 percent of the total number of new dwelling units and new undeveloped residential building sites in the project before the density bonus is applied shall be entitled to priority processing;~~

~~(4) Congregate Senior Housing Development. Congregate senior housing development projects developed pursuant to SCCC 13.10.324 shall designate affordable congregate care units equivalent in number to a minimum of 35 percent of the total number of congregate care units in the project;~~

~~(5) Nonresidential to Residential Rezoning and/or General Plan Amendment. Nonresidential parcels which as a result of a rezoning and/or General Plan amendment are rezoned or designated as residential shall be required to provide 40 percent of the total number of units as affordable in accordance with SCCC 13.10.215(A)(1), except that rezonings into the Regional Housing Need R-Combining District per SCCC 13.10.475 through 13.10.478 are exempt from this requirement. A minimum of one-half of the affordable units shall be affordable to below average (lower) income households. All affordable units must be constructed on-site. Development under these provisions shall only qualify for incentives and concessions relating to site standards as identified in SCCC 17.12.040 but are not eligible for additional density bonus units. If the~~

calculation of the affordable housing obligation under subsection (B) of this section results in any fractional obligation above a whole unit, the project developer shall contribute funds equivalent to the fractional amount to the Measure J trust fund as provided in SCCG 17.10.034. No alternative options for satisfying the affordable requirement are allowed.

~~(C) Regional Housing Need R-Combining District:~~

~~(a) The following requirements apply to sites designated in the Regional Housing Need R-Combining District:~~

~~(i) Sites shall first meet the requirements of subsection (B)(1) of this section.~~

~~(ii) An additional affordable housing requirement of 25 percent of the total number of new dwelling units is required. Units meeting the 25 percent requirement will be considered enhanced affordable units and shall meet the requirements of this subsection (B)(3).~~

~~(iii) Notwithstanding subsections (B)(6)(a)(i) and (ii) of this section, in the event that a developer believes that the affordable housing requirements for a project proposed for a site designated in the Regional Housing Need R-Combining District renders the project financially infeasible, the developer may request relief from a proportional amount of the affordability requirements. That request shall be submitted to the Planning Director with all supporting information, including the development pro forma for the project. The Planning Director shall analyze that request and make suitable recommendations to the Board of Supervisors. In the event that the Board finds that the developer has provided evidence that fulfillment of the affordable housing requirements renders the project financially infeasible, the Board shall grant an increase in the allowed unit resale price, above the price restrictions contained in subsections (B)(4) and (6) of this section, in an amount equal to that required to render the project financially feasible. In the event that such price modifications are granted, the developer shall grant the County of Santa Cruz the option to purchase units at the revised sales price for the purpose of writing them down to suitable levels of affordability.~~

~~(iv) All affordable units must be constructed on-site.~~

~~(v) Developments under these provisions are eligible for concessions relating to site standards as identified in SCCC 13.10.477(B)(3).~~

~~(vi) Developments under these provisions are eligible for incentives and concessions relating to site standards as identified in SCCC 17.12.040 where the percentage of affordable units provided exceeds 40 percent, but are not eligible for additional density bonus units.~~

~~(vii) No alternative options, including those set forth in subsection (C) of this section for satisfying the affordable housing requirement are allowed for projects within the Regional Housing Need R-Combining District.~~

**(C) Alternative Options Alternatives to Satisfy Inclusionary Housing Requirement.** As an alternative to the construction of each affordable dwelling unit units within an ownership residential project as required pursuant to by subsection (B)(1) of this section, the affordable housing requirements of this chapter requirement may be satisfied by one or a combination of the following options, pursuant to subsection (F)(3) of this section alternatives, if approved by the decision-making body at the time of the approval of the residential project:

- (1) Payment of an in-lieu affordable housing impact fee pursuant to SCCC 17.10.034 in place of constructing a required affordable dwelling unit; or
- (2) Participation in the existing unit conversion program pursuant to SCCC 17.10.037; or
- (3) Financial contribution to a nonprofit sponsored affordable housing project pursuant to SCCC 17.10.036 in place of constructing a required affordable dwelling unit on site on a different site as specified in SCCC 17.10.036. Where an applicant proposes to satisfy the affordable housing requirement through participation with a nonprofit housing developer for the construction of affordable residential units on a different site, the this alternative, the total affordable unit requirement shall be based on the total number of new dwelling units and new undeveloped residential building sites included at both sites; or

~~Use of these alternative options requires approval by the approving body at the time of the development approval.~~

(4) Provision of rental affordable units on site pursuant to SCCC 17.10.039.

**(D) Ownership Unit Affordability Requirements.**

(1) **Term of Restrictions.** ~~Affordable ownership and rental units shall be subject to the requirements of this chapter.~~ remain affordable to the required income level for the life of the unit.

(2) **Sales Price.** ~~The maximum allowable sales price for affordable housing units created pursuant to subsection (B)(4) of this section shall be limited to be sold at a sales price 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 Chapter 17.12 SCCG and/or public funding programs. For affordable units in the Regional Housing Need R-Combining District, the enhanced affordable units shall have a maximum allowable sales price limited to be affordable to enhanced moderate income households unless otherwise required to be affordable at a lower income level.~~ **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 affordable housing units created pursuant to subsection (B)(1) 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 Chapter 17.12 SCCG and/or public funding programs. For affordable units in the Regional Housing Need R-Combining District, the enhanced affordable units shall have a maximum allowable rental price that shall be affordable to enhanced low income households unless otherwise required to be affordable at a lower income level. 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.** ~~For units developed pursuant to subsection (B)(1) of this section, 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 Chapter 17.12 SCCG and/or public funding programs. For enhanced affordable units (subsection (B)(6) of this section), the income and assets of owner-occupant households shall not exceed the limits for an enhanced moderate income household, and for tenant households, shall not exceed the limits for an enhanced low income household, unless more stringent limits are required by funding sources.~~ The income and assets of eligible purchasers shall not exceed the limits for a moderate income household. **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, Sale and occupancy of**

affordable units shall not be allowed until the purchasing and/or occupying household buyer is certified by the County as meeting the established income and asset limits or its administering agency as an eligible purchaser.

**(E) Development Permit and Tentative Map Procedures.**

**(1) Development Application.** All appropriate maps and other materials submitted with an application for approval of any 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 residential 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) of this section that the developer will utilize to fulfill the requirements of this chapter. The identification of. The applicant may propose an alternative to the provision of on-site units as permitted by subsection (C) of this section, but shall in all cases identify sufficient affordable units and/or parcels within the residential project shall be provided to ensure compliance with the requirement requirements of subsection (B) of this chapter section regardless of which of the affordable housing options alternative is approved by the approving body.

**(2) Development Conditions.** The conditions of approval of a residential development permit and/or tentative map shall indicate how the development will meet the inclusionary housing requirements of this chapter project subject to this section shall designate the alternative for satisfying the affordable housing requirements. Those residential projects that will include construction of affordable units on site shall identify those residential units and/or residential parcels within the residential project adequate to that will satisfy the project's affordable housing requirements. Such identification of affordable units shall be provided to ensure compliance with the requirement of this chapter.

**(3) Application for a Density Bonus.** An application for a density bonus or any incentives, parking reductions, or waivers under Chapter 17.12 shall be submitted concurrently with the application for the first discretionary permit or other permit required for the residential project and shall be processed concurrently with that application. If the applicant proposes to use affordable units that qualify a project for a density bonus to meet the requirements of this chapter, those affordable units must meet the requirements of both Chapter 17.12 and this chapter.

**(F) Participation Agreement Procedures.** Prior to the recording of the final subdivision or parcel 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 holder of trust deeds ~~on all owners of~~ 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 Residential Project Site. The participation agreement shall contain the affordable housing requirements established for the residential project pursuant to this chapter and shall encumber the entire property on which the residential project is to be developed with the obligation to fulfill ~~such~~those 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 residential project where the in-lieu affordable housing impact fee option~~alternative~~ is chosen, to allow for collection of an in-lieu affordable housing impact fee pursuant to SCCC 17.10.034 regardless of the option~~alternative~~ selected to satisfy the affordable housing requirement for the residential project. This lien is intended to allow for collection of such in-lieu the affordable housing impact fee(s) if needed to enforce compliance with the requirements of this chapter and shall be released by the County upon fulfillment of the project's affordable housing obligations pursuant to this chapter.

(3) ~~Selection of Affordable Housing Option. The approving body shall designate the option for satisfying the affordable housing requirements of this chapter and the designated option shall be included in the participation agreement. The developer may submit~~Modification of Affordable Housing Alternative. The applicant may submit to the Planning Director a request to change the manner in which the affordable housing requirement is being met to. If the Planning Director, who may, upon finding finds that the proposed revision is consistent with and meets the requirements of the selected alternate option pursuant to alternative prescribed by this chapter, the Director may approve the amendment. The approving decision-making body shall be informed of the Planning Director's decision within 14 days of that determination. In approving an amendment, the and may request to hear the proposed modification within 10 days of receiving notice of the Planning Director's decision. The County may impose reasonable conditions upon the applicant to ensure compliance with the provisions of this chapter. In the event of such an amendment, and, if required, a new participation agreement shall be executed and recorded in accordance with the requirements of this section to reflect the new option selected.

(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 project and by the County.

(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 permit the County to enforce the agreement by any proceeding or method permitted at law or equity or authorized by this chapter.

~~(C) Rental Housing Projects. A rental housing project of five or more new dwelling units is a residential development subject to the inclusionary housing requirements of this chapter, and, notwithstanding any other provision of this code, shall satisfy the affordable housing obligations required by this chapter as follows:~~

~~(1) The affordable housing obligation shall be calculated by multiplying the number of new dwelling units by the affordable housing percentage for the type of project, as specified in subsections (B)(1) through (B)(5) of this section.~~

~~(2) For a rental housing project of seven new dwelling units or more, where such calculation results in a fractional number, the number of units shall be determined by rounding down to the nearest whole number.~~

~~(3) A rental housing project shall not be subject to an inclusionary housing in-lieu fee.~~

~~(4) An alternative option authorized by subsection (C) of this section may not be used to satisfy an inclusionary housing obligation for a rental housing project.~~

~~(5) If a rental housing project is later converted to an ownership housing project, it shall be subject to any applicable inclusionary housing fees in effect at that time. [Ord. 5133 § 2, 2012; Ord. 5123 § 1, 2012; Ord. 4879 §§ 2, 3, 4, 2007; Ord. 4876 § 2, 2007; Ord. 4843 § 2, 2006; Ord. 4817 § 3, 2006; Ord. 4783 § 4, 2005; Ord. 4767 § 4, 2004; Ord. 4662 § 2, 2002; Ord. 4509 § 2, 1998].~~



~~17.10.031 Inclusionary housing in-lieu fee for small residential projects.~~ 17.10.031  
**inclusionary housing in-lieu fee for small residential projects.**

This section is intended to provide a mechanism for small residential projects to contribute toward the development of affordable housing through payment of an in-lieu fee.

~~(A) Projects Subject to the Inclusionary Housing In-Lieu-Fee for Small Residential Projects. 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 in-lieu fee for small projects as set forth in this section:~~

~~(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 inclusionary housing in-lieu fee for small residential projects imposed by this section if it will result in the creation of:~~

~~(a) Three or four new dwelling units;~~

~~(b) Parcels providing building sites for a total of three or four new dwelling units; or~~

~~(c) A combination of new dwelling units and parcels together providing for a total of three or four or more new dwelling units.~~

~~For purposes of this subsection, "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 three or four new dwelling units, parcels providing building sites for a total of three or four dwelling units, or a combination of new dwelling units and parcels together providing for a total of three or four new dwelling units, developed by applicants on adjacent properties either at one time or in phases shall be subject to the requirements of this section. For purposes of this subsection, "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 applicant; and "concurrent" applications shall include all applications which have been submitted 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 inclusionary housing in-lieu fee for small residential projects imposed by this section 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 three or four new dwelling units, parcels providing building sites for a total of three or four new dwelling units, or a combination of new dwelling units and parcels together providing for a total of three or four new dwelling units, developed on the same or adjacent properties either at one time or in phases shall be subject to the inclusionary housing in-lieu fee for small residential projects imposed by this section. For purposes of this subsection, "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 10 years.

(B) ~~Payment of Inclusionary Housing In-Lieu Fee for Small Residential Projects.~~ Those projects identified in subsection (A) of this section and not identified in SCCC 17.10.030(A) shall pay the inclusionary housing in-lieu fee for small residential projects to the County for each new unit or new parcel in the project. Payment of this fee shall be a condition of project approval for the land division and associated development permits and also a condition of building permit issuance.

(1) ~~Exemptions.~~ For a project of three or four new units, two of the new units shall be exempt from this fee requirement.

(C) ~~Lien on Designated Parcels.~~ Prior to the recording of the final parcel map creating the new parcels, an agreement creating an enforceable lien in the applicable fee amount on the third and fourth parcels in the project

shall be executed and recorded in the official records of Santa Cruz County. This agreement shall be signed by the owners of the property and any existing holders of trust deeds on the property, and by the Planning Director or his/her designee on behalf of the County, and shall be binding on all heirs, assigns and successors in interest of the property owner. The agreement shall require the following provisions:

- (1) ~~Payment of the inclusionary housing in-lieu fee for small residential projects for each parcel prior to issuance of a building permit or transfer of ownership, whichever occurs first.~~
- (2) ~~Payment of the { fee at the rate in effect at time of payment } as shown in the then current affordable housing guidelines and/or unified fee schedule.~~
- (3) ~~The County shall record a release of this lien for each subject parcel upon receipt of fee payment for the respective parcel.~~

~~{Alternatively, the project }developer{ may opt to pay this fee for the subject parcel(s) prior to recordation of the final }parcel map{ rather than record the agreement }specified above.~~

~~(D) — Fee Rate. The inclusionary housing in-lieu for small residential projects shall be that amount set forth in the affordable housing guidelines that is in effect on the date of the fee payment. The fee may be adjusted as deemed necessary by the Board of Supervisors as described in subsection (E) of this section.~~

~~(E) — Adjustment of In-Lieu Fee for Small Residential Projects. The inclusionary housing in-lieu fee for small residential projects shall be shown in the affordable housing guidelines and shall be a part of the County's unified fee schedule. At the time of the biannual review of the unified fee schedule, the rate for the inclusionary housing in-lieu fee for small residential projects may be reviewed and may be adjusted at that time.~~

~~(F) — Measure J Trust Fund. All inclusionary housing in-lieu fees for small residential projects and accrued interest received pursuant to this section shall be deposited into a trust fund known as the Measure J 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. {Ord. 4662 § 3, 2002}.~~

Repealed by Ord. \_\_\_\_\_

#### **17.10.032 Development of Residential projects – requirements for on-site affordable dwelling units.**

**(A) Applicability.** The requirements in this section are applicable to all on-site affordable units, including ownership affordable units and rental affordable units.

**(B) Affordable Unit Standards.** ~~Except as otherwise defined in SCCC 13.10.477(2)(3) for projects in the Regional Housing Need R-Combining District, affordable dwelling~~ **Affordable units may include reduced interior amenities compared to the market rate units; provided, that the affordable units comply with all requirements in the affordable housing guidelines as well as the following 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:~~

- (a)** Significant topographic or other constraints exist rendering such distribution infeasible; or
- (b)** Substantially improved site design will result from such waiver; or
- (c)** Substantially improved building design and an approved unit amenity level will result from such waiver; or
- (d)** 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. Affordable units located in projects in the Regional Housing Need R-Combining District shall be allowed to average 0.5 of a bedroom less than the average number of bedrooms in the market rate units.~~

**(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 percent of the average size of market rate units, ~~except that all affordable units in the Regional Housing Need R-Combining District shall not be (less than 70 percent of the average) size of the market rate units, unless a smaller unit size is allowed by~~ unless the decision-making body at the time

of project approval and with the written findings finds that a smaller unit size will provide adequate and decent affordable housing, the affordable units will provide housingdwelling units compatible with the remainder of the development, and thatmarket rate units, and a larger unit size would impose a financial hardship on the project developerapplicant. In no case shall an affordable unit size be lesssmaller than the minimum specified by the affordable housing guidelines.

~~(B)(C)~~ Timing of Completion. All affordable units shall be constructed prior to or concurrently with the construction of market rate units. Affordable units shall be made available for occupancy either prior to or concurrently with the date that the market rate units in the residential 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 25 percent 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 residential project with a 15 percent affordable housing requirement, at least one affordable unit shall receive a final building permit inspection clearances concurrently with or prior to the final clearanceinspection of every sixthsix market rate unit constructed in the projectunits until all of the required affordable housing units required in the project have been constructedunits have received a final inspection. The Planning Director may approve modifications to these timing requirements based on approved project phasing. In no case shall the last market rate unit in the residential project receive a final building permit inspection clearances until the last affordable unit in the project has received a final building permit clearanceinspection.

~~(C)–D)~~ Recording of Declaration of Restrictions. Prior to the issuance of a building permit for anAt the initial sale of the 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 programunit, the buyer shall sign a declaration of restrictions which subjectsand other documents as approved by County Counsel, which may include without limitation options and deeds of trust, which subject 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 units pursuant to SCCC 17.10.030(D)-17.10.030. 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. [Ord. 4879 § 5, 2007; Ord. 4662 § 4, 2002; Ord. 4509 § 2, 1998].

#### 17.10.034 Affordable Residential projects – affordable housing in-lieu feeimpact fees.

~~(A) Fee Authorization. An in-lieu fee may be paid for each affordable unit required pursuant to SCCC 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.~~ Fee Authorization. Affordable housing impact fees for residential projects may be established by resolution of the Board of Supervisors and amended from time to time as appropriate. Any such fees shall be part of the County's unified fee schedule. Such fees shall not exceed the cost of mitigating the impact of market rate housing on the need for affordable housing in the County.

~~(B) In-Lieu 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 average sales price of the market rate dwelling units and/or parcels in a project sold to bona fide purchasers for value according to the then-current affordable housing fee schedule, shown in Section 13 of the affordable housing guidelines and/or in the County's unified fee schedule in effect at the time of fee payment.~~

~~(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-unit project with a 15 percent 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 of the in-lieu fee based on the sales price of each unit. All in-lieu fee payments shall be nonrefundable once they have been received by the County.~~ B) Residential Projects Subject to Affordable Housing Impact Fee. An affordable housing impact fee shall be paid for the following residential projects if such a fee has been established by resolution of the Board of Supervisors:

(1) Ownership residential projects which will result in the creation of four or fewer new dwelling units, lots, or combination of lots and units, unless the owner has elected to construct one affordable unit on site.

(2) Rental residential projects, unless rental affordable units are provided as required by SCCC 17.10.039.

(3) Fractional affordable housing obligations for ownership residential projects creating five or more new dwelling units or lots or combination of lots and units, unless the owner has elected to construct one additional affordable unit on site.

(C) Affordable Housing Impact Fee as an Alternative to On-Site Inclusionary Requirements. An applicant for an ownership residential project subject to the requirements of SCCC 17.10.030 and required to construct on-site affordable units may request the decision-making body to allow payment of the adopted affordable housing impact fee as an alternative to provision of some or all of the required on-site affordable units. The decision-making body may approve or conditionally approve the request if the decision-making body determines, based on substantial evidence, that payment of the affordable housing impact fees is consistent with the County general plan and housing element and may be used to create as much or more affordable housing at the same or lower income levels.

(D) Payment of Affordable Housing Impact Fees.

(1) For any residential project of four units or less, any required affordable housing impact fee shall be paid prior to issuance of a building permit, unless the Planning Director approves payment of the fee at final inspection based on hardship. The amount of any affordable housing impact fee shall be based upon the fee schedule in effect at the time of payment.

(2) For any residential project of five units or more subject to the payment of an affordable housing impact fee, prior to approval of any final map or final parcel map or issuance of any building permit, whichever occurs first, a participation agreement creating an enforceable lien in the applicable fee amount shall be signed by the Planning Director or designee on behalf of the County and by all owners of the property. The participation agreement shall encumber all parcels subject to payment of the affordable housing impact fee, 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 agreement shall contain the following provisions:

(a) Payment of the affordable housing impact fee for each parcel prior to transfer of ownership.

(b) Payment of the affordable housing impact fee at the rate in effect at time of payment].

(3) [Alternatively, the project ] developer applicant[ may opt to pay this fee for the subject parcel(s) prior to recordation of the final ] parcel map map or final parcel map or issuance of the building permit, whichever occurs first, [ rather than record the agreement ] specified above described in this section. If the

affordable housing impact fee alternative is approved for a residential project that must record a participation agreement described in SCCC 17.10.030(F), the participation agreement shall incorporate the provisions contained above.

(E) Fee Payments Nonrefundable. All affordable housing impact fee payments shall be nonrefundable once they have been received by the County.

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

(F) Measure J Trust Fund. All affordable housing in-lieu fees and accrued interest received pursuant to this chapter shall be deposited into a separate trust fund, known as the Measure J 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. The in-lieu fee is determined by the affordable housing fee schedule, which shall be a part of the County's unified fee schedule. At the time of the biannual review of the unified fee schedule, 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 and the current affordable unit prices. If determined to be necessary by the Board of Supervisors, the affordable housing fee schedule shall be adjusted at that time and updated in the new unified fee schedule. [Ord. 4662 § 5, 2002; Ord. 4599 § 1, 2000; Ord. 4509 § 2, 1998].

#### **17.10.035 Affordable housing requirements and incentives for land division.**

*Repealed by Ord. 4509. [Ord. 4081, 1990].*

#### **17.10.036 Development of off-site affordable units by affordable housing partnerships.**

(A) A developer of a market-rate an ownership residential project may meet the project's affordable housing obligation off-site in an affordable housing development undertaken in partnership with a nonprofit developer when approved by the Board of Supervisors decision-making body based on the following findings:

- (1) The off-site affordable housing project receiving a financial contribution from the market-rate developer of the ownership residential project contains more than the number of affordable units which would otherwise have been required for the combined projects (beyond the 15 percent affordable



housing requirement), or an equal number of affordable units required by both projects but at a ~~greater~~deeper level of affordability (i.e., affordable to households with lower incomes);

(2) Based on a review of the financial and legal agreements between the ~~market-rate developer of the ownership residential project~~ and the non-profit partner, the County has determined that the ~~market-rate developer of the ownership residential project~~ 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~~obligations of the ownership residential project;

(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~~ a complete application initiating the land use review process ~~has been deemed complete~~has been submitted to the County for all discretionary entitlements needed for the affordable housing project;

(5) The nonprofit affordable housing developer has obtained ~~full legal~~enforceable commitments for all necessary financing for the project, or the County has approved a feasible plan for the financing of the project;

(6) The affordable housing project can reasonably be expected to be constructed and occupied within two years of completion of the associated ~~market-rate~~ownership residential 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 in the market-rate~~residential ownership project for that portion of the affordable housing project receiving the financial contribution from the ~~market-rate developer of the ownership residential project~~; or the nonprofit 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 of the ownership residential project~~ 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 the affordable housing project is not constructed within a two-year period of the completion of the ~~market-rate~~ownership residential project, or if, prior to the termination of the two-year period, the County ~~either is~~reasonably

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 Measure J trust fund established pursuant to SCCC 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 ownership residential project. [Ord. 4509 § 2, 1998].

#### **17.10.037 Existing unit conversion program and Measure J trust fund.**

(A) Existing Unit Conversion Program. As a manner of meeting requirements of SCCC 17.10.030(B), a developer of a project with an obligation for a whole unit or units of When approved by the decision-making body, the developer of an ownership residential project may meet the project's affordable housing may fulfill the requirements of SCCC 17.10.030(B) obligation by participating in the existing unit conversion program described in this section. This program allows developers to satisfy their inclusionary affordable housing requirement requirements through the purchase of existing units for fair market value and sale of existing housing dwelling units as at an affordable unit sales price pursuant to the following requirements and the applicable sections of the affordable housing guidelines:

(1) ~~The use of the existing unit conversion option shall be approved by the approving body as a part of the original development permit, and the option selected may subsequently be changed pursuant to SCCC 17.10.030(F)(3).~~ (2) ~~Developers shall convert at~~ At least two existing market rate units shall be converted to an affordable unit for each inclusionary unit that would otherwise be required to be built on-site.

(32) The converted units shall be located in the same planning area as the market rate development ownership residential project. The Planning Director may approve exceptions to this requirement upon written request from a developer and a determination the applicant, provided that the Director finds that the exception is consistent with the intent and purposes of this chapter.

(4B) Recording of Declaration of Restrictions. ~~The execution and recording of the standard affordable housing declaration of restrictions shall be required of the purchasing household as~~ As a condition of sale, the the purchasers of the converted units 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 units pursuant to SCCC 17.10.030(D). The declaration of restrictions shall be permanently binding on all heirs,

~~assigns and successors in interest of the property owner, and shall be recorded in the official records of Santa Cruz County.) shall execute~~ The execution and recording of the standard affordable housing declaration of restrictions described in SCCC 17.10.050 and shall otherwise be subject to the requirements of that section.

(5C) Timing of Completion. Converted units shall be made available for occupancy either prior to or concurrently with the date that the market rate units in a the residential 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 residential project with a 15 percent affordable housing requirement, at least two converted units shall be transferred to eligible purchasers concurrently with or prior to the final ~~clearance~~ inspection of every ~~sixth~~ six market rate unit ~~constructed in the project~~ units until all of the converted units required by ~~for the residential~~ project have been sold. ~~For a project with 20 percent at an affordable housing requirement, at least two converted units shall be transferred to eligible purchasers concurrently with or prior to the final clearance of every fourth market rate unit constructed in the project until all of the converted units required by the project have been constructed.~~ sales price to eligible purchasers. In no case shall the last market rate unit in the residential project receive a final building permit inspection clearances until the last converted unit in the residential project has been sold to an eligible purchaser. at an affordable sales price.

~~(D) Measure J Trust Fund. A trust fund shall be established and shall be known as the Measure J trust fund. 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, or (for other activities which increase the affordable housing stock in the County). All fractional amounts of the affordable housing obligation and accrued interest received pursuant to this chapter shall be deposited into a trust fund known as the Measure J trust fund, to be maintained by the County. The amount of the contribution to this fund from applicable development shall be the fractional amount of the inclusionary housing unit obligation as determined by SCCC 17.10.030(E) and shall be based on the affordable unit fee schedule, as adopted and amended by the Board of Supervisors as part of the unified fee schedule.~~

~~(1) Fee Payment Process. A proportionate part of the fractional unit fee shall be paid out of the sales escrow for the sale to a bona fide purchaser for value of each market rate dwelling unit or parcel in the project for which the fee requirement was established. For example, for a five-unit project with a 15 percent affordable housing requirement resulting in an obligation to provide 0.75 affordable units, a partial fee shall be paid out of the sales escrow for each of the units sold in the amount of one-fifth of the fractional fee based on the applicable fee rate shown in Section 13 of the then-current affordable housing guidelines. All fractional fee payments shall be nonrefundable once they have been received by the County.~~

~~(2) Release of Project Encumbrances. Concurrent with the partial payment of a fractional 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.~~

~~(3) Annual Adjustment of Fee Schedule. At the time of the annual update of the income and rent indices in the affordable housing guidelines, the affordable unit fee schedule shall be reviewed and may be adjusted by the administering agency. [Ord. 5123 § 1, 2012; Ord. 4662 § 6, 2002].~~

#### **17.10.038 Dedication of residential parcels.**

*Repealed by Ord. 4662. [Ord. 4509 § 2, 1998].*

#### **17.10.039 Residential projects – rental affordable units permitted if consistent with Costa-Hawkins Act.**

(A) Provision of Rental Affordable Units. As an alternative to providing affordable units on-site as required by SCCC 17.10.030 or paying affordable housing impact fees for rental housing as required by SCCC 17.10.034, an applicant may propose to provide fifteen percent of the dwelling units in the residential project as rental dwelling units available at affordable rent for low income households for the life of the unit, unless a shorter term is required by a government-provided mortgage financing assistance program, rental subsidy program, or similar financial assistance program. To ensure compliance with the Costa-Hawkins Act (Chapter 2.7 of Title 5 of Part 4 of Division 3 of the Civil Code), the County may only approve such a proposal if the applicant agrees in a rent regulatory agreement with the County to limit rents in consideration for a direct financial contribution or a form of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code. On-site rental affordable units shall conform with the standards in SCCC 17.10.032.

(B) Rent Regulatory Agreement. Prior to the recording of a final or parcel map or the issuance of any building permits, a rent regulatory agreement shall be signed by the Planning Director, or designee, on behalf of the County and by all owners of the property. The rent regulatory agreement shall be permanently binding on all heirs, assigns and successors in interest of the property owner and shall be recorded in the official records of Santa Cruz County.

The rent regulatory agreement shall include, at the minimum, the following provisions:

(1) Number, type, location, approximate size, and construction scheduling of all dwelling units;

(2) Required rent levels and means for determining rents;

(3) Provision for income certification and screening of potential occupants of affordable units and ongoing monitoring;

(4) Provisions for marketing the affordable units;

(5) Compliance with the Costa Hawkins Act; and

(6) Such additional terms as reasonably required to ensure affordability in perpetuity of the rental affordable units.

(C) Timing of Completion. Rental affordable units shall be made available for occupancy either prior to or concurrently with the date that the market rate units in the residential project are made available for occupancy and in the same ratio as the affordable unit requirement. For example, for a residential project with a 15 percent affordable housing requirement, at least one rental affordable unit shall receive a final inspection concurrently with or prior to the final inspection of every six market rate units until all of the rental affordable units required for the residential project have received a final inspection. In no case shall the last market rate unit in the residential project receive a final inspection until the last rental affordable unit in the residential project has received a final inspection.

(D) Marketing of Rental Affordable Units. The developer shall submit to the administering agency a certification of the availability of the [affordable rental unit] rental affordable units [prior to final inspection]. In the event of a subsequent vacancy, the owner shall notify the administering agency, 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] eligible renters, as [certified by the administering agency]. 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] rental [affordable units as to all other tenants, and no other or additional fees are charged.] All households renting rental affordable [units shall be offered leases of at least 12 months in duration.]

(E) Monitoring Fee. For each rental affordable unit provided, the owner may be required to pay to the County an annual monitoring fee that does not exceed the County's costs to monitor the affordable unit, if such a fee is adopted by resolution of the Board of Supervisors.

#### **17.10.040 Priority processing.**

**Applications for approval of tentative maps and residential development permits which projects that meet the requirements below shall qualify for priority processing by the County, which provides that once 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 ~~nonpriority~~ 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~~ decision-making body or bodies. The following residential development projects consisting of either the construction of residential units and/or the creation of residential parcels projects shall be eligible for priority processing:

(A) **Standard Density Projects.** ~~Projects~~ Residential projects which are developed within the standard density limits of the applicable zone districts; and in which 25 percent or more of the ~~project~~ new dwelling units or lots are proposed to be 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 that are developed with bonus density and include the construction of affordable dwelling units equivalent in number to a minimum of 35 percent of the total number of new dwelling units and new undeveloped residential building sites in the project before the density bonus is applied shall be entitled to priority processing of the discretionary permits required for the development.~~ Bonus Projects. Residential projects which have requested a density bonus under Chapter 17.12 and in which 35 percent or more of the new dwelling units or lots, excluding the bonus units, are proposed to be affordable to moderate, lower or very low income households. Priority processing shall be considered an incentive as defined in SCCC 17.12.040. [Ord. 4817 § 4, 2006; Ord. 4509 § 2, 1998].

~~17.10.050 Investor owner (rental) unit requirements.~~ 17.10.050 Initial sale and resale of ownership affordable units.

~~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. The sale of units to investor owners shall be in accordance with SCCC 17.10.070 and with the provisions of the affordable housing 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) Except as otherwise provided in this subsection, 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 affordable housing guidelines. The owner shall also record an amended declaration of restrictions stating that the unit is a rental unit as defined and governed by this chapter and the affordable housing guidelines. Notwithstanding the foregoing, an owner of an affordable unit who is determined by the administering agency to have rented the unit for rents in excess of the amounts permitted under this chapter shall only be eligible to convert the unit to a rental unit if the owner, within 30 days after receipt of notice from the administering agency, cures the violation by paying to the administering agency the amount of the excess rents collected by the owner, and by recording an amended declaration of restrictions stating that the unit is a rental unit as defined and governed by this chapter and the affordable housing guidelines. If the owner fails to cure the violation within the 30-day period, the owner shall submit to the administering agency a written irrevocable offer to sell the unit to the County in a form approved by the administering agency for a price not in excess of the maximum sales price set in accordance with the resale price provisions of the affordable housing guidelines, and subject to all the other resale price provisions of the guidelines, including the provisions for an inspection and for owner responsibility for certain repairs.~~

~~(D) All affordable rental units shall be rented either:~~

~~(1) To households participating in the Housing Authority of the County of Santa Cruz Section 8 housing assistance program;~~

~~(2) To any households earning below average income;~~

~~(3) 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 affordable~~

housing guidelines of the affordable housing program established by Board of Supervisors resolution as required by SCCC 17.10.080. ~~{ 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 household 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 affordable housing 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 affordable housing guidelines in effect at the time of the sale. } { Ord. { 4755 § 3, } 2004; Ord. 4425 § { 4, } 1996; Ord. 4084, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § { 6, } 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3234 § 3, 1982; Ord. 3002, 1980. }~~

#### ~~17.10.060 Owner-builder unit requirements.~~

(A) ~~— An owner-builder who meets the eligibility criteria established by the affordable housing guidelines shall be eligible to obtain an affordable housing building permit. Ownership affordable units, including converted units, shall be sold by the developer at a price that does not exceed an affordable sales price to eligible purchasers. An affordable housing declaration of restrictions and other documents as approved by County Counsel, which may include without limitation options and deeds of trust, all consistent with the requirements of this chapter, shall be entered into by the Planning Director or designee on behalf of the County and by the purchaser concurrent with the sale of the units. The declaration of restrictions and other documents shall be permanently binding on all heirs, assigns and successors in interest of the property owner and shall be recorded in the official records of Santa Cruz County.~~

(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. 4755 § 4, 2004; Ord. 4425 § 5, 1996; Ord. 4084, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 7, 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3002, 1980. }~~



~~17.10.070 Ownership unit requirements.~~ (A) ~~The owner of an of an ownership 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 provisions contained in the affordable housing guidelines eligible purchaser at a price that does not exceed an affordable sales price. (B) — Prior to offering at the affordable 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 affordable sales price. Prior to the close of the sale, the owner shall notify the administering agency of the proposed sales price, and the administering agency shall review the proposed sale to assure conformance with this chapter and with the affordable housing guidelines.

(C) — ~~Upon The purchaser of the sale of an affordable housing unit, the purchaser shall be required to enter into a~~ new an affordable housing declaration of restrictions and/or other documents which incorporates incorporate all current policies contained within the affordable housing ordinance and in this chapter and the affordable housing 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 additional 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 units,~~ except for administrative fees charged by the administering agency established in the affordable housing guidelines.

(E) ~~The purchaser~~ All purchasers 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 SCCC 17.10.050 or rented to an eligible below average low, very low, or extremely low income household as certified by the administering agency in accordance with the requirements of SCCC 17.10.050(C) and (D); 17.10.070.

(F) The following transfers of title or any interest therein shall not be treated as a sale or resale under the 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, surviving joint tenant, or childrenchild; 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~~ in connection with marriage; or

(43) 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 under 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. 4755 § 5, 2004; Ord. 4425 § 6, 1996; Ord. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 8, 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3234 § 4, 1982; Ord. 3002, 1980].~~

#### ~~17.10.075 Lease-purchase~~

#### 17.10.060 Owner-builder unit requirements.

~~Affordable units may be marketed on a lease-purchase basis~~

~~Repealed by Ord. \_\_\_\_\_~~

#### 17.10.070 Rentals by Measure J Unit Owners.

(A) The administering agency may permit the owner-occupant of an ownership affordable unit to rent the unit, 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. 1) \_\_\_\_\_ The owner-occupant shall file a request to rent with the administering agency prior to offering ] a unit for rent and the unit for rent.~~

(2) \_\_\_\_\_ The administering agency may deny the request to rent if the proportion of units rented in the residential project exceeds twenty-five percent or if the unit is included in a residential project that was assisted by the former redevelopment agency's Low and Moderate Income Housing Fund.

~~(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 affordable housing guidelines for ownership units.) The owner of an affordable unit who is determined by the administering agency to have rented the unit without the consent of the administering agency or for rents in excess of the amounts permitted under this chapter shall only be eligible to convert the unit to a rental unit if the owner, within 30 days after receipt of notice from the administering agency, cures the violation by paying to the administering agency the amount of ] any[ excess rents collected by the owner] and by recording an amended declaration of restrictions as described in subparagraph (4) below]. If the owner fails to cure the violation within the 30-day period, the ]County may exercise its option to purchase the unit in conformance with the declaration of restrictions and other documents and the affordable housing guidelines.

(C) Rental payments for lease of a lease-purchase unit may exceed the amount set forth in the affordable housing 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 12 months. If, at the end of the 12-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 affordable housing guidelines.) If the administering agency approves the request to rent;

(1) The owner shall record an amended declaration of restrictions stating that the unit is a rental unit subject to this chapter and the affordable housing guidelines and acknowledging that the limitation on rents is consistent with the Costa-Hawkins Act. The owner] shall be bound by the requirements of this ]chapter and the affordable housing guidelines.

(F) Escrow proceedings for lease-purchase units shall not exceed the 12-month option period by more than an additional 60 days. 2) The unit shall be rented at affordable rent either:

(a) ]To households participating in the Housing Authority of the County of Santa Cruz Section 8 housing assistance program;]

(b) To eligible renter households earning low, very low, or extremely low incomes.

(3) For the initial and any subsequent vacancy, the owner shall notify the administering agency, using a notice of intent to rent, that the unit is available for rental. The unit shall be rented to eligible renters, as certified by the administering agency. The owner shall have discretion in the selection of eligible renters. No additional fees may be charged other than affordable rent.

(4) All households renting rental affordable units shall be offered leases at least 12 months in duration. The rent stipulated in this lease shall not be higher than affordable rent.

(C) At the expiration of the tenant's lease, the owner of the affordable unit may re-occupy the unit. The owner shall notify any tenants and the administering agency at least 120 days prior to the owner's re-occupancy of the unit, and the owner and the administering agency may release the amended declaration of restrictions.

(G) If a lessee-purchaser does not exercise the purchase option on a lease-purchase unit and does not involuntarily vacate the premises, the lesser-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 lesser-seller is not reasonably performing said obligation, the County may commence appropriate legal action to require the lease-purchaser to vacate said unit. The lesser-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. D) If the owner determines to sell the unit, the owner shall notify the administering agency, in writing, of the owner's intent to sell. The sales price shall be set at the level allowed under the affordable housing guidelines in effect at the time of the sale. ]Ord. The owner may sell the unit to an eligible purchaser as described in SCCC 17.10.050. If, and only if, the amended declaration of restrictions explicitly allows, the owner may also sell the unit to an investor-owner in accordance with SCCC 17.10.050 and with the provisions of the affordable housing guidelines, except that the income of investor-owners is not restricted and the investor-owner may not occupy the unit. Units sold to investor-owners must be rented to eligible renters at affordable rent. The purchaser of the affordable unit shall be required to enter into a declaration of restrictions and/or other documents which incorporate all current policies contained in this chapter and the affordable housing guidelines and acknowledges that the restriction on rents is consistent with the Costa Hawkins Act.

(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. 4755 § 6, [Ord. [4755 § 3,] 2004; Ord. 4425 § 7-[4.]

1996; Ord. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 9, 1986; Ord. 3666 § 1, 1985; [6, 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3234 § 3, 1982; Ord. 3002, 1980].

**17.10.075 Lease-purchase unit requirements.**

*Repealed by Ord. \_\_\_\_\_.*

**17.10.080 Eligibility for rent or purchase.**

(A) ~~The~~As part of the affordable housing guidelines, the County shall establish, by resolution, income requirements for average or below average ~~moderate, low, very low, or extremely low~~ income households; asset requirements for purchasers or renters of affordable units; and formulas for establishing maximum housing ~~dwelling~~ unit monthly rents and maximum sales prices. In establishing ~~levels of~~ guidelines for extremely low, very low, below average ~~(lower)~~ low, and average ~~(moderate)~~ 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 the 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. 4425 § 8, 1996; Ord. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 10, 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3002, 1980].

**17.10.083 Nonresidential projects – affordable housing impact fees.**

(A) Fee Authorization. Affordable housing impact fees for nonresidential projects may be established by resolution of the Board of Supervisors and amended from time to time as appropriate. Any such fees shall be part of the County's unified fee schedule. Such fees shall not exceed the cost of mitigating the impact of market rate housing on the need for affordable housing in the County.

(B) Payment of Fee. Any required affordable housing impact fee shall be paid prior to issuance of a building permit, unless the Planning Director approves payment of the fee at final inspection based on hardship. The amount of any affordable housing impact fee shall be based upon the fee schedule in effect at the time of payment.

(C) Provision of Affordable Units. As an alternative to payment of the affordable housing impact fee, an applicant for a nonresidential project may submit a request to mitigate the affordable housing impacts of such development through the construction of affordable units. The decision-making body may approve or conditionally approve such an alternative if the decision-making body determines, based on substantial evidence, that provision of the affordable units is consistent with the County general plan and housing element and will provide as much or more

affordable housing at the same or lower income levels. Any affordable units provided under this section shall comply with all provisions for affordable units contained in this chapter.

#### **17.10.087 Measure J trust fund.**

All affordable housing impact fees received pursuant to this chapter and all earnings from investment of the fees shall be deposited into a separate trust fund, known as the Measure J trust fund, maintained by the County. The trust funds shall be expended at the discretion of the Board of Supervisors for the purposes of developing or preserving affordable units in the County, for other activities which increase the affordable housing stock in the County, and for reasonable administrative costs.

#### **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 ownership affordable unit pursuant to the provisions of this chapter, the County, or that has been sold to an eligible purchaser approved by the administering agency, County~~ shall have the option to purchase the unit following the recording of the notice of default, and the failure of the owner to cure the default within the statutory reinstatement period ~~(i.e., the period commencing with the date of recordation of the notice of default until five business days prior to the date of sale set forth in the recorded notice of sale. The purchase,~~ The sales price for the defaulted unit shall be the amount that the owner would have received on the date of the foreclosure sale under the resale price provisions of the affordable housing guidelines. In addition, all of the other resale price provisions of the guidelines shall apply including the provisions for an inspection of the premises and for, including owner responsibility for certain repairs. The eligible purchaser, approved by the administering agency, or the County may exercise the option to purchase by ~~(paying any amounts due to holders of liens, including but not limited to encumbrance(s), taxes and assessments; and paying, or the unrestricted fair market value, whichever is less. If the County exercises its option, it will pay to the owner any balance of the funds remaining after [paying any amounts due to holders of liens, ]payment of the costs of sale, and any costs of repairs chargeable to the owner. The County may assign its option to an eligible purchaser.~~ The administering agency is authorized to act on behalf of the County to exercise and complete options to purchase under this section.

(B) ~~In the event the County or an approved eligible purchaser does not exercise an its option to purchase the completed single-family dwelling, townhouse, or condominium unit an ownership affordable unit that has been sold to an eligible purchaser 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 (C) of this section. Single family units which have not been completed for occupancy and multiple family apartments shall not be released from the restrictions of this chapter through, except as subsection (C) may apply. In the event of a trustee's sale or judicial foreclosure for ownership affordable units that have not been sold to an eligible purchaser or for rental affordable units, the conditions of project approval and this chapter shall continue to apply to the affordable units.~~

(C) In the event of the occurrence of any of the circumstances described in subsection (C)(1) of this section, any surplus proceeds remaining after payment of ~~encumbrances~~liens on the unit shall be distributed as directed in subsection (C)(2) of this section.

(1) This subsection shall apply to any affordable unit which is:

- (a) Sold at a trustee's sale or judicial foreclosure; or
- (b) Destroyed and insurance proceeds are distributed to ~~grantee~~the owner instead of being used to rebuild; or
- (c) Condemned and the proceeds thereof are distributed to the owner, or in the event of ~~termination of the eminent domain action~~, the proceeds thereof are distributed to owner; or
- (d) ~~A condominium or townhouse unit and there is a liquidation of the~~Liquidation of a homeowners association and distribution of the assets of the association to the~~its~~ members thereof, including the owner;

(2) Surplus proceeds from an affordable unit subject to this subsection shall be distributed as follows:

- (a) To the owner up to, but not to exceed, the net amount (after the payment of ~~encumbrances~~liens, costs of sale, and any cost of repairs chargeable to the owner) that the owner would have received under the resale price provisions of the affordable housing 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.
- (b) The balance of such surplus shall be distributed to the County and shall be held in the Measure J trust fund.

(D) In the event that the unit is destroyed, or condemned, or the ~~condominium~~homeowners 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~~the declaration of restrictions for the remaining term of the resale restrictions.

(E) 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 affordable housing guidelines unless specifically allowed in writing by the County. [Ord. 4755 § 7, 2004; Ord. 4425 § 9, 1996; Ord. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 11, 1986; Ord. 3502 § 1, 1984; Ord. 3357 § 1, 1983; Ord. 3329 § 1, 1982; Ord. 3234 § 5, 1982; Ord. 3002, 1980].

#### **17.10.100 Conflict of interest.**

Following are those individuals 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 Housing Authority of the County of Santa Cruz by the authority of their position, policy-making 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. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 11, 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3002, 1980].

#### **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 SCCC 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 affordable sales 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 ~~sales~~ price or rent paid for an affordable unit would exceed the maximum ~~selling affordable sales price or maximum affordable rent prescribed for the affordable unit under this chapter.~~

(D) It shall be unlawful and a violation of this chapter for any person to ~~wilfully~~ wilfully 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. 4425 § 10, 1996; Ord. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 11, 1986; Ord. 3502 § 1, 1984].

#### **17.10.110 Enforcement.**

(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 shall 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 the provisions of subsection (A), (C), (D) or (E) of this section, the tenant(s), upon giving written notice to the administering agency, may file a civil action to recover from the owner the amount of any ~~excess rents and utilities charged in excess of those allowed by the provisions of this chapter and the affordable housing guidelines;~~ rent, if the tenant ~~met the income eligibility requirements of this chapter and the affordable housing guidelines;~~ was an eligible renter during the period of time for which the tenant seeks reimbursement of the ~~excess rents and utilities;~~ rent.

(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 \$500.00 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) The County may institute ~~injunction, mandamus, or any appropriate legal actions in law or proceedings equity~~ for the enforcement of this chapter; however, if the affordable unit is a multiple-family apartment, the County shall not institute a foreclosure action.

(E) In addition to any other available remedy, if it is determined that rents and utilities in excess of those allowed by operation of the ordinance codified in this chapter and the affordable housing guidelines rent have been charged to a tenant residing in ~~an affordable housing rental unit~~, the landlord shall be liable for a civil penalty in the amount of \$2,500, ~~and 2,500 plus any excess rent and utilities not recovered by a tenant under subsection (B) of this section.~~ If the County does not otherwise recover its reasonable attorney's fees and other legal costs from the landlord, the County shall deduct its reasonable attorney fees and other legal costs from the amounts collected pursuant to this section and deposit the balance into the Measure J trust fund. [Ord. 5043 § 1, 2009; Ord. 4755 § 8, 2004; Ord. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 11, 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3002, 1980].

#### **17.10.120 Appeals and waivers.**

(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 SCCC 18.10.320, 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 SCCC 18.10.310.

(C) As part of an application for the first approval of a residential project or nonresidential project, an applicant may apply for a reduction, adjustment, or waiver of the requirements of this chapter based upon a showing that applying the requirements of this chapter would result in an unconstitutional taking of property or would result in any other unconstitutional result. The applicant shall set forth in detail the factual and legal basis for the claim, including all supporting technical documentation, and shall bear the burden of presenting the requisite evidence to demonstrate the alleged unconstitutional result. The County may assume each of the following when applicable:

(1) The applicant will benefit from any incentives set forth in the County Code; and

(2) The applicant will provide the most economical affordable units feasible in terms of financing, construction, design, location and tenure.

The Board of Supervisors, based upon legal advice provided by or at the behest of County Counsel, may approve a reduction, adjustment, or waiver if it determines that applying the requirements of this chapter would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property. The reduction, adjustment, or waiver shall be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, and based on legal analysis and the evidence. If a reduction, adjustment, or waiver is granted, any change in the residential or nonresidential project shall invalidate the reduction, adjustment, or waiver, and a new application shall be required for a reduction, adjustment, or waiver pursuant to this section.

[Ord. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 11, 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3002, 1980].

#### **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 chapter.

(2) To provide for the administration of this chapter and to make recommendations to the Board of Supervisors regarding program changes. [Ord. 4425 § 11, 1996; Ord. 4081, 1990; Ord. 3881 § 1, 1987; Ord. 3802 § 11, 1986; Ord. 3502 § 1, 1984; Ord. 3329 § 1, 1982; Ord. 3002, 1980].

**Chapter 17.12**  
**RESIDENTIAL DENSITY BONUSES AND AFFORDABILITY INCENTIVES**

**Sections:**

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#### **17.12.010 Introduction Purpose.**

~~When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of the County, that County shall provide the applicant~~The purpose of this chapter is to provide incentives or concessions for the production of affordable housing units and child care facilities as prescribed in this and to comply with the provisions of Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the California Government Code, which mandates the adoption of a county ordinance specifying how the County will comply with that chapter. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

#### **17.12.020 Applicability of requirements Eligibility for regulatory incentives.**

~~The County~~A housing development shall grant~~the eligible for a density bonus and the regulatory incentives or concessions described in SCCC 17.12.040~~this chapter when the applicant for the housing development seeks and agrees to construct at least any one of the following: and the housing development provides at least the number of very low and lower income units required by SCCC 17.12.025, if applicable. Inclusionary units provided as required by Chapter 17.10 are eligible for a density bonus and the regulatory incentives described in this chapter if the housing development also meets all requirements for affordable units contained in this chapter.

- (A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code;
- (B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code;
- (C) A senior citizen housing development as defined in ~~Sections 54.2 and~~Section 54.1251.3 of the Civil Code, or mobile home park that limits residency based on age requirements for housing older persons pursuant to Section 798.76 or 799.5 of the Civil Code; or
- (D) Ten percent of the total dwelling units in a common interest development as defined in Section 1351 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code; provided, that all units in the development are offered to the public for purchase. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

**17.12.025 Eligibility for regulatory incentives – sites occupied by rental housing in past five years.**

(A) This section applies to housing developments for which an application for a density bonus or other incentives provided by this chapter is made after January 1, 2015 for property on which any of the following rental units are now located, or on which any of the following rental units were located at any time in the five-year period preceding the date of submittal of the application:

- (1) Rental units subject to a recorded covenant, ordinance, or law restricting rents to levels affordable to very low and lower income households;
- (2) Rental units subject to any form of public rent control; or
- (3) Rental dwelling units occupied by very low or lower income households.

(B) A housing development subject to this section will not be eligible for a density bonus or any other regulatory incentive provided by this chapter unless:

- (1) Each unit in the proposed housing development, exclusive of a manager's unit or units, is proposed to be affordable to and occupied by very low or lower income households; or
- (2) The proposed housing development contains either: (a) the percentage of affordable units specified in SCCC 17.12.020; or (b) the replacement affordable units specified in subsection (C) below, whichever is greater. All housing developments subject to this section must provide replacement units as specified in subsection (C) below.

(C) The units described in subsection (A) must be replaced as described in this subsection (C) for the housing development to be eligible for a density bonus or any other regulatory incentive provided by this chapter:

- (1) The housing development must replace all units that are occupied on the date of application by households with lower or very low incomes with units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, households in the same or lower income category as those occupying the units. Vacant units in a development with occupied units must be replaced with affordable units in the same proportion as the occupied units.
- (2) If all the rental units described in subsection (A) have been vacated or demolished in the five-year period preceding the application, the housing development must replace all units described in

subsection (A) that existed on the site when it contained the maximum number of units over the five-year period (the "highpoint") as follows:

(a) If the incomes of households occupying units at the highpoint are known, any units occupied on the date of the highpoint by households with lower or very low incomes must be replaced with units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, households in the same or lower income category as those occupying the units at the highpoint. Units that were vacant at the highpoint must be replaced with affordable units in the same proportion as the occupied units.

(b) If the incomes of households occupying units at the highpoint are not known, the County shall make the rebuttable presumption that lower income households occupied the units in the same proportion as lower income households comprised the total County households, as shown in the last decennial census. One-half of the required replacement units shall be made available at affordable rent or affordable housing cost to, and occupied by, lower income households, and one-half of the required replacement units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income households.

(3) The County shall assume that all units subject to a recorded covenant, ordinance, or law restricting rents to levels affordable to very low and lower income households are or were formerly occupied by households at the income levels required by the covenant, ordinance, or law.

(4) All units subject to this subsection (C) shall be subject to a recorded affordability restriction for at least 55 years. All replacement calculations resulting in fractional units shall be rounded up to the next whole number.

#### **17.12.030 Affordability restrictions.**

(A) An applicant shall agree to, and the County shall ensure, continued affordability of all low- and very low income rental units that qualified the applicant for the award of the density bonus for ~~30~~55 years or a longer period of time if required by ~~the~~a construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section ~~50051~~50052 of the Health and Safety Code ~~{ Owner-occupied units shall be available }~~ at an affordable housing cost as defined in Section ~~50052~~50053 of the Health and Safety Code.

(B) An applicant shall agree to, and the County shall ensure that, the initial occupant of the continued affordability of all moderate, low- and very low income for-sale units that are directly related to the receipt qualified the applicant for the award of the density bonus in the common interest development as defined in Section 1354 of the Civil Code are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered perpetuity unless a different period of time is required by a construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program Owner-occupied units shall be available at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The County shall recapture any initial subsidy, as defined below, and its proportionate share of appreciation, as defined below, which amount shall then be used within five years for any of the purposes described in subdivision (E) of Section 33334.2 of the Health and Safety Code that promote homeownership. For purposes of this subsection, the County's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value. For purposes of this subsection, the County's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale. [Ord. 5062 § 1, 2009; Ord. 4846 § 1, 2006].

#### **17.12.040 Request for incentive or concession.**

(A) An applicant for a density bonus may submit a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the County. The County shall grant the concession or incentive requested by the applicant unless the County makes a written finding, based upon substantial evidence, of any of the following:

(1) ~~The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in SCCC 17.12.030.~~

(2) ~~The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (e) of Section 65580.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse~~



~~impact without rendering the } (development unaffordable to low) and moderate income households.~~

~~(3) — The concession or incentive would be contrary to State or Federal law.~~

(B) The applicant ~~shall receive~~ may request the following number of incentives or concessions:

(1) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least five percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(2) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(3) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006]

~~(C) — The applicant may initiate judicial proceedings if the County refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subsection shall be interpreted to require a local government to grant an incentive or concession that has a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subsection shall be interpreted to require the County to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The County shall establish procedures for carrying out this section that shall include legislative body approval of the means of compliance with this section. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006]. ["Concession" or "incentive," as used in this chapter, means any of the following:]~~

[(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and

square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.]

[(2) ] [Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.]

(3) Incentives and concessions provided for developments in the Regional Housing Need R Combining District as provided in SCCC 13.10.477(B)(3).

(4) Priority processing as provided in SCCC 17.10.040.

(5) [Other regulatory incentives or concessions proposed by the developer or the County that result in identifiable, financially sufficient, and actual cost reductions. ]

(D) [The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Local Coastal Plan amendment, zoning change, or other discretionary approval.] ~~[Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006]~~

(E) [This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the County, or the waiver of fees or dedication requirements. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].]

#### **17.12.050 Request for waiver or reduction of standard.**

~~(A) —In no case~~An applicant may the County apply seek a waiver of any development standard that will have the effect of physically precluding the construction of a housing development meeting the criteria of SCCC 17.12.020 ~~at and SCCC 17.12.025 with the densities~~density bonus or with the concessions or incentives permitted by this section. ~~An applicant may submit a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of SCCC 17.20.020 at the densities or with the concessions or incentives permitted under this section, and~~chapter. An applicant may request a meeting with the County. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this section shall be interpreted to require the County to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of

~~Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.~~

~~(B) —Nothing in this section shall be interpreted to require the County to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to State or Federal law.~~ (C) —A proposal for the waiver or reduction of development standards pursuant to this subsection shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to SCCC 17.12.040. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

#### **17.12.060 Density bonuses.**

(A) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the County. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in SCCC 17.12.020.

(1) For housing developments meeting the criteria of SCCC 17.12.020(A), the density bonus shall be calculated as follows:

<b>Percentage Low Income Units</b>	<b>Percentage Density Bonus</b>
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of SCCC 17.12.020(B), the density bonus shall be calculated as follows:

<b>Percentage Very Low Income Units</b>	<b>Percentage Density Bonus</b>
5	20
6	22.5

Percentage Very Low Income Units	Percentage Density Bonus
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of SCCC 17.12.020(C), the density bonus shall be 20 percent of the number of senior housing dwelling units.

(4) For housing developments meeting the criteria of SCCC 17.12.020(D), the density bonus shall be calculated as follows:

Percentage Moderate Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11

Percentage Moderate Income Units	Percentage Density Bonus
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27

Percentage Moderate Income Units	Percentage Density Bonus
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(E) Calculations of density bonuses are subject to the following provisions:

(1) Each housing development is entitled to only one density bonus. Where a housing development qualifies for a density bonus under more than one category as described in subsection (A) above, the category under which the density bonus is granted shall be elected by the applicant, and density bonuses from more than one category may not be combined.

(2) All calculations of density bonus units resulting in fractional units shall be rounded up to the next whole number. All calculations of affordable units required to qualify for the density bonus resulting in fractional units shall be rounded up to the next whole number.

(3) The applicant may request a lesser density bonus than the housing development is entitled to, but no reduction will be permitted in the percentages of required affordable units as described in SCCC 17.12.020 and 17.12.025. Regardless of the number of affordable units, no housing development shall be entitled to a density bonus of more than thirty-five percent.

(4) The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, Local Coastal Plan amendment, zoning change, or other discretionary approval. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

#### **17.12.070 Land donations.**

When an applicant for a tentative subdivision map, parcel map, or other residential housing development approval donates land to the County as provided for in this section, the applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density for the entire development density bonus as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26



Percentage Very Low Income	Percentage Density Bonus
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

This increase shall be in addition to any increase in density mandated ~~bonus~~ allowed by SCCC

~~47.12.020-17.12.060~~ up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the ~~increased density bonus~~ required pursuant to this section and that allowed by SCCC

~~47.12.020-17.12.060~~ All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this section shall be construed to enlarge or diminish the authority of the County to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this section if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or ~~residential~~ housing development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate General Plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Government Code Section ~~65583.2~~ for development as affordable housing 20 units per acre, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the County may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 of the Government Code if the design is not reviewed prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with ~~SCCC 17.12.030(A) and (B)~~ 17.12.030, which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the County. The County shall require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the County agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or ~~residential~~ housing development application. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

#### **17.12.080 Child care facilities.**

(A) When an applicant proposes to construct a housing development that conforms to the requirements of SCCC 17.12.020 and 17.12.025 and includes a child care facility that will be located on the premises of, as part of, or adjacent to the project, the County shall grant either of the following:

- (1) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.
- (2) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(B) ~~The city, County, or city and County~~ shall require, as a condition of approving the housing development, that the following occur:

(1) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to SCCC 17.12.030.

(2) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income ~~pursuant to SCCC 17.12.020~~ in the housing development.

(C) Notwithstanding any requirement of this section, the County shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(D) "Child care facility," as used in this chapter, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

#### **17.12.090 Parking.**

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(A) Upon the request of the developer, the County shall require a vehicular parking ratio, inclusive of disabled and guest parking, of a development meeting the criteria of ~~subsection (B) of this section~~ SCCC 17.12.020 and 17.12.025 that exceeds the following ratios:

(1) Zero to one bedrooms: one on-site parking space;

(2) Two to three bedrooms: two on-site parking spaces;

(3) Four and more bedrooms: two and one-half parking spaces.

(B) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subsection, a development may provide "on-site parking" through tandem parking or uncovered parking, but not through on-street parking.

(C) This subsection shall apply to a development that meets the requirements of ~~subsection (B) of this section~~ SCCC 17.12.020 and SCCC 17.12.025 but only at the request of the applicant. An applicant may request

additional parking incentives or concessions beyond those provided in this section, ~~subject to SCCC 17.12.040,~~  
[Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

#### **17.12.100 Condominium conversions.**

Condominium conversions may be eligible for a density bonus or incentive under the requirements set forth in Government Code section 65915.5.

#### **17.12.110 Application procedures.**

(A) All requests for density bonuses and all other regulatory incentives permitted by this chapter shall be submitted concurrently with the application for the first discretionary permit or other permit required for the housing development and shall be processed concurrently with such application.

(B) An applicant's request for any density bonuses, incentives, parking reductions, and/or waivers permitted by this chapter shall include the following information:

(1) A site plan depicting the number and location of all proposed market rate units, affordable units, and density bonus units, if any.

(2) A calculation of the maximum number of dwelling units permitted by the County's zoning ordinance and general plan for the housing development, excluding any density bonus units.

(3) The income level of the proposed affordable units.

(4) A description of any requested incentives, waivers of development standards, or parking reductions and evidence that any requested incentive or concession results in identifiable, financially sufficient, and actual cost reductions to the housing development and is necessary to provide affordable rents or affordable sales prices.

(5) A description of all rental units existing on the site in the five-year period preceding the date of submittal of the application; income of all residents of currently occupied units; if no units are currently occupied, income of residents occupying units when it contained the maximum number of units in the five-year period preceding the date of submittal of the application; and any recorded covenant, ordinance, or law restricting rents to levels affordable to very low and lower income households applicable to the property in the five-year period preceding the date of submittal of the application.

(6) For any requested waiver of a development standard, evidence that the development standard for which the waiver is requested will have the effect of physically precluding the construction of the housing development with the density bonus, incentives, and concessions requested.

(7) If a mixed use building or project is proposed as an incentive, evidence that nonresidential land uses will reduce the cost of the housing development and that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area.

(8) If a density bonus is requested for a land donation, the applicant shall show the location of the land to be dedicated, provide proof of site control, and provide evidence that each of the requirements included in SCCC 17.12.070 can be met.

(9) If a density bonus or incentive is requested for a child care facility, evidence that all of the requirements included in SCCC 17.12.080 can be met.

10. If a density bonus or incentive is requested for a condominium conversion, evidence that all of the requirements included in Government Code Section 65915.5 can be met.

#### **17.12.120 Review procedures.**

All requests for density bonuses, incentives, parking reductions, and/or waivers permitted by this chapter shall be considered and acted upon by the approval body with authority to approve the housing development, with right of appeal to the Board of Supervisors, if applicable.

(A) Before approving an application that includes a request for a density bonus, incentive, parking reduction and/or waiver, the decision-making body shall make the following findings, as applicable:

(1) The housing development is eligible for the density bonus and any incentives, concessions, parking reductions or waivers requested.

(2) Any requested incentive or concession will result in identifiable, financially sufficient, and actual cost reductions.

(3) If the density bonus is based all or in part on donation of land, a finding that all the requirements included in SCCC 17.12.070 have been met.

(4) If the density bonus or incentive is based all or in part on the inclusion of a child care facility, a finding that all the requirements included in SCCC 17.12.080 have been met.

(5) If the density bonus or incentive is based all or in part on the inclusion of affordable units as part of a condominium conversion, a finding that all the requirements included in Government Code Section 65915.5 have been met.

(6) If an incentive includes mixed-use development, a finding that nonresidential land uses will reduce the cost of the housing development and that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area.

(7) If a waiver is requested, a finding that the development standards for which the waiver is requested would have the effect of physically precluding the construction of the housing development with the density bonus and incentives and concessions permitted.

(B) If the findings required by subsection (A) of this section can be made, the decision-making body may deny an application for an incentive, concession, or waiver requested only if it makes one of the following written findings, supported by substantial evidence:

(1) That the incentive, concession, or waiver would have a specific, adverse impact upon public health or safety or the physical environment and[ there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the ]housing [development unaffordable to low] and moderate income households. For the purpose of this subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete; or

(2) That the incentive, concession, or waiver would have an adverse impact on real property listed in the California Register of Historic Resources; or

(3) That the incentive, concession, or waiver is contrary to state or federal law; or

(4) That the incentive or concession is not required to provide for affordable rents or affordable sales prices; or

(5) That the development standards for which the waiver is requested would not have the effect of physically precluding the construction of the housing development with the density bonus and incentives and concessions permitted.

C. If the findings required by subsection (A) of this section can be made, the decision-making body may deny an application for a density bonus or incentive that is based on the provision of child care only if it makes a written finding, based on substantial evidence, that the county already has adequate child care facilities.

D. If any density bonus, incentive, parking reduction, or waiver is approved pursuant to this chapter for a housing development, the applicant shall enter into an affordable housing agreement with the County in a form acceptable to the Planning Director and County Counsel. The affordable housing agreement shall be a legally binding agreement between the applicant and the County to ensure that the requirements of this chapter are satisfied and may be combined with the participation agreement required by Chapter 17.10. The executed affordable housing agreement shall be recorded against the housing development prior to final or parcel map approval, or, where a map is not being processed, prior to issuance of building permits for the housing development. The affordable housing agreement shall be binding on all future owners and successors in interest.

E. Unless otherwise by the affordable housing agreement, all required affordable units shall be constructed prior to or concurrently with the construction of market rate units. No final inspection for any new market rate unit in a housing development shall be issued until final inspections have been issued for the required affordable units

#### **17.12.130 Housing development—Defined.**

"Housing development," as used in this chapter, means a development project for five or more residential units. For the purposes of this chapter, "housing development" also includes a subdivision or common interest development as defined in Section 1351 of the Civil Code, approved by the County and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

#### **17.12.140 Concession or Incentive—Defined.**

~~["Concession" or "incentive," as used in this chapter, means any of the following:]~~

~~{(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards~~

Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.}

~~{(P)}~~—{Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.}

~~(C)~~—{Other regulatory incentives or concessions proposed by the developer or the County that result in identifiable, financially sufficient, and actual cost reductions.}[This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the County, or the waiver of fees or dedication requirements. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].}

#### ~~17.12.140~~ **17.12.140 Development standard—Defined.**

"Development standard," as used in this chapter, includes a site or construction condition including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an on-site open space requirement, or a parking ratio that apply ~~applies~~ to a residential housing development pursuant to any ordinance, General Plan element, specific plan, charter amendment, or other local condition, law, policy, resolution, or regulation. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

#### ~~17.12.150~~ **17.12.150 Maximum allowable residential density—Defined.**

"Maximum allowable residential density," as used in this chapter, means the density allowed under the zoning ordinance and land use element of the General Plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the General Plan, the General Plan density shall prevail. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

#### ~~17.12.160~~ **17.12.160 Interpretation of provisions.**

~~{The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Local Coastal Plan amendment, zoning change, or other discretionary approval.}~~ [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

#### ~~17.12.150~~ **17.12.160 Coastal Act applicability.**



Nothing in this chapter shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

~~17.12.100~~ **17.12.170 County retained discretion.**

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Nothing in this chapter shall be construed to prohibit the County at its sole discretion from granting a density bonus greater than what is described in this section for a development that ~~meets~~ exceeds the affordability requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this chapter. [Ord. 5062 § 1, 2009; Ord. 4816 § 1, 2006].

## **Article VIII-A. Regional Housing Need R Combining District**

### **13.10.475 Purposes of the Regional Housing Need R Combining District.**

The purpose of the Regional Housing Need R Combining District is to increase the supply of affordable housing by designating sites for development at 20 units per acre in order to meet the requirements of the regional housing needs allocation as required by ~~State Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the California Government Code Section 65584.~~ Development projects on sites designated with the Regional Housing Need R Combining District shall be required to provide 40 percent of the units as affordable housing, as defined in ~~SCCC 17.10.030(B)(1) and (B)(5).~~ [Ord. 4878 § 1, 2007].

### **13.10.476 Designation of the Regional Housing Need R Combining District.**

The Regional Housing Need R Combining District shall only be applied to those parcels designated by the Board of Supervisors ~~in advance of housing element adoption, as part of the housing element or as part of the implementation of housing element policies.~~ [Ord. 4878 § 1, 2007].

### **13.10.477 Use and development standards in the Regional Housing Need R Combining District.**

(A) Site Selection Criteria. For sites to be designated under the Regional Housing Need R Combining District, the site must ~~meet the following criteria:~~ be approved by the Board of Supervisors based on the County's housing needs.

~~(1) Site must be identified by the County to satisfy the regional housing need. A private landowner may not apply for designation under the Regional Housing Need R Combining District without the concurrence of the Board of Supervisors prior to application.~~

(B) Development Standards.

(1) Density. Sites designated under the Regional Housing Need R Combining District shall be developed at 20 units per acre. Development at the required density shall be by right for sites zoned as provided in Section 13.10.478. For the purposes of calculating density under these provisions, the developable area of each site designated under the Regional Housing Need R Combining District shall be determined at the time the site is designated. Such developable acreage shall be calculated in accordance with SCCC 13.10.700-D definition of "developable land" and SCCC 13.10.700-S definition of "site area, net" except that roadways and driveways shall be included in the developable acreage calculation for the purposes of determining net developable acreage. The number of potential units will

be determined by multiplying the developable acreage by 20. Where such calculation results in a fractional number, the number of units shall be determined by rounding down to the nearest whole number.

(2) Master Planning. Where contiguous or adjacent parcels are designated under the Regional Housing Need R Combining District, any development proposal for one parcel may be required to include a master plan for development of all contiguous or adjacent parcels which are also designated under the Regional Housing Need R Combining District. The purpose of the master plan is to define interior circulation patterns, exterior site access, fire access to all parcels, infrastructure improvements, common area location and amenities.

(3) Incentives and Concessions. ~~Development~~Residential projects proposed under the Regional Housing Need R Combining District ~~will be~~are entitled to all of the following alternative development standards: If the applicant requests any incentives or concessions under Chapter 17.12, each of these alternative development standards shall be considered as one incentive or concession if incorporated into the residential project.

(a) Parking requirements: 1.5 spaces per studio or one-bedroom units; 2.0 spaces for two-bedroom units; 2.5 spaces for three-bedroom units; 3.0 spaces per four-bedroom units. An additional 20 percent of the total number of parking spaces is required to accommodate guest parking. Modifications of these standards can be approved for individual sites in the R Combining District as part of an approved PUD for each site, based on unique site and design factors;

(b) Height (up to 35 feet measured from pre-construction natural grade) and up to three stories exclusive of subsurface parking. Modifications of these standards can be approved for individual sites in the R Combining District as part of an approved PUD for each site, based on unique site and design factors;

(c) ~~Let limits on lot~~Lot coverage and floor area ratio do not apply; and

(d) ~~Reduced size~~Size of affordable units not [less than 70 percent of the average] size of the market rate units (see SCCC 17.10.032(A)(4)), and reduction in average number of bedrooms (see SCCC 17.10.032(A)(3)) 0.5 bedroom less than the average number of bedrooms in the market rate units;

(e) Clustering of affordable units;

(f) Where garages are provided for market rate units, garages are not required for affordable units, but in such cases affordable units shall have a minimum of 218 cubic feet of private storage space per unit which shall be accessed from the outside of the unit; and

(g) Maintain standard riparian buffer but eliminate 10-foot additional riparian construction buffer; ~~(h) For projects eligible for concessions under State density bonus law, a project developer may request additional concessions as set forth in Chapter 17.12 SCCC.~~

~~(4) Affordability Requirements under the Regional Housing Need R-Combining District. All development proposals on parcels designated under the Regional Housing Need R-Combining District shall be required to provide 40 percent of the total number of units as affordable: 15 percent shall be affordable under the requirements for all development projects in SCCC 17.10.030(B)(1) and an additional 25 percent shall be affordable under the requirements for enhanced affordable units as described in SCCC 17.10.030(B)(6). The number of affordable units at each affordability level will be calculated upon determination of the developable acreage of a site. Where fractional numbers result, a fractional in lieu fee will be required for the fractional amount that is attributable to the 15 percent affordability requirement. For fractional numbers in the 25 percent enhanced affordable category, affordable housing obligation will be derived by rounding to the nearest whole number, such that 0.5 will be rounded up.~~

~~(5) Encourage energy efficiency, and environmentally sensitive design and building materials. [Ord. 4878 § 1, 2007].~~

(4) Developments shall encourage energy efficiency, and environmentally sensitive design and building materials. [Ord. 4878 § 1, 2007].

#### **13.10.478 By-right development. Amended Ord. 5180**

~~When required by State law, notwithstanding~~ Notwithstanding the requirements of the residential uses chart in SCCC 13.10.322, when required by State law, and in the event that the current adopted housing element includes a program to rezone sites to appropriate densities to address the inadequacy of suitably zoned sites required to meet the regional housing need, those sites identified to fulfill that program shall be ~~developed~~ developable by right, in that the use and density for the site are not discretionary. For these sites, the following standards and alternative process shall also apply:

(A) The developable acreage of the site will be determined and the site will be assigned a number of units equivalent to 20 units per acre at the time the site is designated under the Regional Housing Need R Combining District.

(B) Environmental review, as required by the California Environmental Quality Act, will be completed as part of the process for rezoning of such sites into the Regional Housing Need R Combining District. No further environmental review ~~is~~ will be necessary for development of the sites except for development projects requiring a coastal permit or those requiring approval of a tentative map (see subsection (E)(1) and (2) of this section).

(C) A planned unit development permit outlining site-specific development standards and any CEQA mitigation measures will be adopted, in accordance with SCCC 18.10.180 et seq., for each site at the time the site is rezoned into the R Combining District.

(D) Development proposals shall undergo a design review process and public hearing limited to design issues only. No discretionary permit is necessary for the density or use of the site. For development proposals under these "by-right" provisions, applicants must apply for a Level VII design review.

(E) If a coastal permit or tentative map approval is required, it must be included in the application.

(1) Coastal Permit Requirements. Where a site is located in the Coastal Zone and requires a coastal permit for development, the provisions of Chapter 13.20 SCCC apply. Wherever possible, the environmental review performed at the time the site was designated under the Regional Housing Need R Combining District will be utilized in the processing of the coastal permit.

(2) Subdivisions. Development that includes approval of a tentative map is subject to the provisions of the Subdivision Map Act and Chapter 14.01 SCCC. Where a tentative map is proposed, the public hearing may be expanded to address findings necessary under the Subdivision Map Act. Wherever possible the environmental review performed at the time the site was designated under the Regional Housing Need R Combining District will be utilized in the processing of the subdivision. [Ord. 4878 § 1, 2007].

### **13.10.215 Zoning plan amendment.**

(A) Amendment Policy. The County zoning plan ~~is~~ and map are intended to ~~be~~ reflect a comprehensive, detailed appraisal assessment and projection of the County's present and future needs for land-use allocation various types of land uses and developments, which are shown broadly on the adopted General Plan and Local Coastal Program Land Use Maps and Zoning Maps. In order to maintain a stable, desirable, well-balanced pattern of development throughout the unincorporated County area, amendments to the zoning plan and map are to be discouraged and made only upon adequate justification.

~~(1) To further this intention and to address the housing needs of County residents, the County shall require that within the urban services line, any rezoning from a nonresidential zone district to a residential zone district meet the following criteria:~~

~~(a) A minimum of 40 percent of all residential units or parcels resulting from the rezoning shall be affordable. At least one-half of the affordable units shall be affordable to low income households. For parcels on which 100 or more units will be created, the units affordable to low income households shall include at least one-half that are affordable to very low income households, resulting in a minimum of 10 percent of the total units being available to very low income households. If more than 10 percent of the units will be constructed for very low income households, the aggregate of very low and low income affordable units must total a minimum of 20 percent of the total units. All required affordable units shall be located on-site. If the calculation of the affordable housing obligation under SCCC 17.10.030(B) results in any fractional obligation above a whole unit, the project developer shall contribute funds equivalent to the fractional amount to the Measure J Trust Fund as provided in SCCC 17.10.034.~~

~~(b) These affordable units shall meet the requirements of Chapter 17.10 SCCC, as applicable.~~ (B) Amendment Initiation. Amendment to the zoning plan or map may be initiated by a resolution of intention adopted by the Board of Supervisors upon its own motion or upon the recommendation of the Planning Commission, or an application by a property owner or other interested party having the owner's authorization.

(C) Amendment Procedures. Amendments to the County zoning plan or map shall be processed as an approval Level VII project legislative action requiring a recommendation by the Planning Commission and approval by the Board of Supervisors pursuant to Chapter 18.10 SCCC and in accordance with the requirements of this section.

(D) **Planning Commission Recommendation.** After a public hearing, which may be continued from time to time, the Planning Commission shall send a written recommendation to the Board within 90 days after the first notice of the hearing, unless the time limit has been extended by mutual agreement of the applicant and the Commission. The Commission's recommendation shall include the reasons for the recommendation, the relationship of the proposed zoning amendment to the General Plan, and a statement regarding compliance with the California Environmental Quality Act. The Planning Commission shall recommend approval of a rezoning only if it determines that:

(1) The proposed zone district will allow a density of development and types of uses which are ~~consistent~~compatible with the objectives, policies, programs, and land- use designations of the adopted General Plan and Local Coastal Program; and

(2) The proposed zone district is ~~appropriate to~~compatible with the level of utilities and community services available to the land; and

(3) One or more of the following findings can be made:

(a) The character of development in the area where the land is located has changed or is changing to such a degree that the public interest will be better served by a different zone district;

(b) The proposed rezoning is necessary to provide for a community-related use which was not anticipated when the zoning plan was adopted;

(c) The present zoning is the result of an error; or

(d) The present zoning is inconsistent with designation on the General Plan; or

(e) The proposed rezoning is in the best interests of the County's health, safety, or welfare.

(E) **Planning Commission Recommendation Against Amendment.** If the Planning Commission recommends against a proposed amendment, their action shall be final unless the matter is subsequently considered upon appeal or special consideration by the Board of Supervisors, or unless the action is being processed concurrently with a project which ~~that~~ requires Level VII approvalreview by the Board of Supervisors.

(F) **Board of Supervisors Action.** The Clerk of the Board shall set a public hearing before the Board of Supervisors within 30 days after the receipt of the report recommending a zoning amendment from the Planning

Commission. The Board may approve, modify, or disapprove the Planning Commission's recommendation; provided, that any modification of the proposed zoning amendment (including the imposition of regulations which are less restrictive than those proposed by the Commission or changes in proposed dwelling density or use) which was not previously considered by the Planning Commission shall be referred to the Planning Commission for ~~their~~<sup>its</sup> report and recommendation. The Planning Commission is not required to hold a public hearing on the referral, and ~~their~~<sup>its</sup> failure to respond within 40 days shall ~~constitute~~<sup>be deemed to be</sup> approval of the proposed modification. Any public hearing of the Board of Supervisors may be continued from time to time, as determined by the Board.

(G) Finality of Action on Amendments. No new application for a zoning amendment shall be filed for the same or substantially the same purpose or project on the same parcel within one year after its denial without the consent of the Planning Commission if no appeal was made, or without the consent of the Board of Supervisors if denied by the Board. A denial without prejudice shall allow the filing of a new application at any time for the same or substantially the same purpose or project. [Ord. 5119 § 2, 2012; Ord. 4843 § 1, 2006; Ord. 4817 § 2, 2006; Ord. 4783 § 3, 2005; Ord. 4767 § 3, 2004; Ord. 4764 § 3, 2004; Ord. 3593 § 1, 1984; Ord. 3432 § 1, 1983].



# **Santa Cruz County Affordable Housing Guidelines**

May 2014 – April 2015 Edition

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# **Santa Cruz County Affordable Housing Guidelines**

May 2014 – April 2015 Edition

These Santa Cruz County Affordable Housing Guidelines are adopted by Resolution of the Santa Cruz County Board of Supervisors pursuant to County Code Chapter 17.10, Affordable Housing Requirements. These Guidelines constitute and were formerly entitled the Santa Cruz County Affordable Housing Program Income, Asset and Unit Price Guidelines from their inception as referenced in the Santa Cruz County Code, including but not limited to Chapter 17.10 and in all documents executed pursuant thereto. These Guidelines are annually revised, updated and adopted by the County to accomplish the objectives of the County's Affordable Housing Program, and establish regulations in addition to all other applicable State and County laws and regulations governing the sale or rental of residential properties. These Guidelines provide supplemental regulations and administrative guidelines for the County's Affordable Housing Program and implement the intent and specific provisions of Chapter 17.10 by providing income and asset limits for participating households, sales and for affordable units, eligibility requirements for purchasing or renting affordable units and development and marketing standards for affordable units.

Second units, authorized and occupied pursuant to County Code Section 13.10.681 ("Second Units"), are also subject to the maximum rents set forth in Section 6, b) of these Guidelines.

## **1. DEFINITIONS**

As used in these Affordable Housing Guidelines, unless the context requires otherwise, the following words and terms have the meanings set forth below:

"Administering Agency" shall mean the Planning Department of the County of Santa Cruz, or other department as authorized by the County Board of Supervisors.

"County" shall mean the County of Santa Cruz, a political subdivision of the State of California.

"First Time Home Buyer" shall mean a Principal Occupant (see definition below) who:

- a) Has not held an Ownership Interest (see definition below), whether whole or part, in residential property during the three-year period immediately prior to their certification of eligibility by the Administering Agency to purchase an affordable unit; or
- b) Is a "displaced homemaker" who has not within the past two years worked on a full time basis as a member of the labor force, but has, during such years, worked primarily without remuneration to care for the home and family, and is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment and does not have an Ownership Interest in residential property; or
- c) Is a single parent who is unmarried or legally separated from a spouse, and is pregnant or has sole or joint custody of at least one minor child, and does not have an Ownership Interest in residential property; or
- d) Is a current owner-occupant of a mobile home that does not meet local codes and cannot be brought into compliance with codes for less than the cost of construction of a new home.

Owners of mobile homes in mobile home parks who do not hold fee simple title would be considered First Time Home Buyers.

"Household" shall mean all occupants of the affordable unit including the Principal Occupants ~~(see definition below), children, foster children or other persons related by blood, marriage, operation of law, or stable family relationship.~~

"Ownership Interest" shall mean any of the following interests whether whole or part in residential property:

Fee simple estate, joint tenancy, tenancy in common, tenancy by the entirety, ~~interest in Trust~~ inter vivos Trust where the Principal Occupants are the trustor, trustee, and beneficiary, life estate or land sales contract.

Ownership Interest does not include a remainder interest, or a leasehold interest with or without an option to purchase unless the leasehold interest has been in effect continuously for more than thirty-five (35) years.

"Owner-Occupied" shall mean an affordable unit that is continuously occupied by at least one Principal Occupant for at least 10 months out of each calendar year.

"Principal Occupant(s)" shall mean those members of the Household whose names appear on the property lease or title.

## 2. ELIGIBILITY REQUIREMENTS

### Residency

In order to be eligible to purchase or rent any Measure J affordable unit, at least one Principal Occupant must currently reside within Santa Cruz County (including its incorporated cities); or at least one Principal Occupant must be employed within Santa Cruz County (local employment must be their primary employment and source of income). Principal Occupants for affordable units must provide the Administering Agency with documentation that they have resided and/or been employed within Santa Cruz County for at least 60 days prior to their application to purchase or rent an affordable unit. Measure J units within Redevelopment Agency (RDA) assisted, 100% affordable for sale housing projects must remain owner occupied at all times and cannot be used as rental housing. (Resolution no. 308-2010)

### Minimum Household Size \*

In order to be eligible to purchase or rent a Measure J affordable unit, the Household must be of a size equal to the number of bedrooms in the unit. For instance, in order to be eligible to purchase a three-bedroom unit, a Household must be made up of at least three members. Please see Table One for further clarification. Households must provide the Agency Administering Agency with documentation to verify the Household size claimed.

**Table One: Minimum Household Size**

<b>Unit Size</b>	<b>Minimum Household Size</b>
Studio/One Bedroom	1
2 Bedrooms	2
3 Bedrooms	3
4 Bedrooms	4
5 Bedrooms	5

Applications by smaller-sized Households for larger units will only be considered by the Administering Agency based on documentation by the Principal Occupant that there are unique and compelling individual circumstances that justify a greater number of bedrooms than the number of persons in the Household or if the County grants a reasonable accommodation under federal or state fair housing laws.

**\*Temporary Adjustment in Minimum Household Size Requirement**

For a period of five years, beginning on June 5th, 2010 and ending on June 5th, 2015, the minimum household size requirement for two-bedroom units and larger has been adjusted to one less person than the number of bedrooms to assist with affordable housing transactions during a difficult real estate and lending market. (Resolution no. 107-2010)

**First Time Home Buyer Requirement for Purchase of Owner-Occupied Units**

All Principal Occupants purchasing Owner-Occupied units must be certified by the Administering Agency as First Time Home Buyers. Exceptions to the First Time Home Buyer requirement shall be made by the Administering Agency in any of the following circumstances:

- i. The First Time Home Buyer requirement does not apply to buyers of units in the two existing "senior only" affordable housing developments commonly know as "Vista Prieta" and "Casa La Familia," or any future "senior only" development that becomes part of the Measure J Program.;
- ii. Principal Occupants of an affordable unit may sell the unit and purchase another affordable unit that has been marketed to the public for at least 30 days and has not received a valid purchase offer from an eligible Household, provided that their Household meets all current eligibility requirements and that their current affordable unit is sold to another eligible Household; or
- iii. Principal Occupants of an affordable unit may sell their unit and purchase another affordable unit, based on changes in the composition or conditions of their Household, provided that their Household meets all other current eligibility requirements, and that their current affordable unit is sold to another eligible Household. Conditions that warrant consideration for

purchase of another affordable unit include marriage, divorce, birth, death, medical conditions, and other conditions due to individual circumstances beyond the control of the Principal Occupant(s). Individual circumstances will be considered, and approved or denied, by the Administering Agency upon submission of documentation to the Administering Agency by the Principal Occupant(s).

Persons that are Ineligible to Purchase, Rent or Occupy a Measure J Affordable Unit:

The following persons are ineligible to purchase, rent or occupy an affordable unit:

- i. 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 Santa Cruz County housing programs.
- ii. The developer or owner of the affordable unit to be purchased or rented.
- iii. 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.

### 3. HOUSEHOLD INCOME LIMITS

To establish the eligibility of individuals participating in the County's Affordable Housing Program, limits are set on the amount of income Households can earn. These limits are based on median ~~household incomes and income estimates~~limits for Santa Cruz County ~~issued~~published annually by ~~the Federal Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD). HUD and HCD (pursuant to in Section 6932, Title 25, §6932 of the California Code of Regulations) further establish.~~HCD establishes household income ranges by household size into ~~four~~five income categories. The ~~four~~five household income categories commonly used for the administration of affordable housing programs are as follows:

- "Extremely Low Income" households are those with incomes generally equal to or less than 30% of median household income.
- "Very Low Income" households are defined as those with incomes ~~equal to or less~~generally greater than 30% and up to 50% of median household income;
- "Lower Income" households are defined as those with incomes generally greater than 50% and up to 80% of median household income. HUD adjusts the upper income limit for lower income households in high cost and high income areas such as Santa Cruz County, so that it may not equal exactly 80% of median income every year;
- "Median Income" households are defined as those with incomes equal to 100% of median household income; and
- "Moderate Income" households are defined as those with incomes greater than 80% and up to 120% of median household income.

Table Two defines the maximum annual Household income limits for each income category, by Household size, for Santa Cruz County affordable housing programs. The applicable income limits for larger Household sizes may be obtained from the Administering Agency.

**Table Two: Maximum Annual Household Income Limits for 2014**

<b>Income Limits</b> (effective 5/1/2014)								
<b>Income Category (Percent income)</b>	<b>Number of Persons in Household</b>							
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
<u>Extremely Low (30%)</u>	<u>\$21,200</u>	<u>\$24,200</u>	<u>\$27,250</u>	<u>\$30,250</u>	<u>\$32,700</u>	<u>\$35,100</u>	<u>\$37,550</u>	<u>\$39,950</u>
	\$35,300	\$40,350	\$45,400	\$50,400	\$54,450	\$58,500	\$62,500	\$66,550
	\$56,500	\$64,550	\$72,600	\$80,650	\$87,150	\$93,600	\$100,050	\$106,500
	\$60,900	\$69,600	\$78,300	\$87,000	\$93,950	\$100,900	\$107,900	\$114,850
	\$73,100	\$83,500	\$93,950	\$104,400	\$112,750	\$121,100	\$129,450	\$137,800

Household size is defined to include all occupants of the affordable unit ~~consisting of the principal occupant(s) appearing on the property lease or title, foster children, and other persons related by blood, marriage, operation of law, or other stable family relationship who reside in the unit.~~ At the time a Household first occupies an affordable unit, the Household's income shall not exceed the following annual income limits:

a) Rental Units:

- i. The annual income of a Household renting an affordable unit, other than those designated for Very Low Income, shall not exceed the maximum limit for Lower Income Households; and
- ii. The annual income of a Household renting an affordable unit designated for Very Low Income shall not exceed the maximum limit for Very Low Income Households.

b) Owner-Occupied Units:

- i. The annual income of a Household purchasing a designated Moderate Income affordable unit for owner-occupancy shall not exceed the maximum limit for Moderate Income Households;
- ii. The annual income of a Household purchasing a designated Lower Income affordable unit for owner-occupancy shall not exceed the maximum limit for Lower Income Households; and

- iii. The annual income of a Household purchasing a designated Very Low Income affordable unit for owner-occupancy shall not exceed the maximum limit for Very Low Income Households.

Households shall be certified as meeting the above income limitations by the Administering Agency prior to occupying an affordable rental or Owner-Occupied unit. Purchasers of affordable units to be utilized as investor-owned affordable rental units are not subject to income limitations if the amended declaration of restrictions allows sale of the unit to an investor-owner whose income is not restricted.

Where affordable housing units are developed with State or federal housing program assistance, the income limitations of the State or federal housing program shall supersede the income limitations of these Guidelines where they are more stringent.

#### **4. HOUSEHOLD INCOME DEFINITION**

For income eligibility purposes, for Households purchasing or renting an affordable unit, gross "annualized" income or monetary benefits before deductions or exemptions from all members of the Household 18 years of age or older will be considered. Annualized income shall be determined by calculating the applicant's current monthly income and projecting it over twelve months (multiplying the current monthly income by 12). In the event that current monthly income deviates by more than 15% from the preceding 12-month average, annual income will be determined by combining the preceding half year's income with one-half year's income at the current level. (Resolution no. 297-2008)

##### **Income includes, but is not limited to:**

- a) All wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services, before payroll deductions;
- b) The net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness or any allowance for depreciation of capital assets);
- c) Interest and dividends (including income from assets excluded below);
- d) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including any lump sum payment for the delayed start of a periodic payment;
- e) Payments in lieu of earnings, such as unemployment and disability compensation and severance pay;
- f) The maximum amount of public assistance available to the above persons other than the amount of any assistance specifically designated for shelter and utilities;
- g) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
- h) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse; and



- i) Any earned income tax credit to the extent that it exceeds income tax liability.

**The following are specifically excluded from the definition of income:**

- a) Casual, sporadic or irregular gifts;
- b) Amounts that are specifically for or in reimbursement of medical expenses;
- c) Lump sum additions to Household assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal losses;
- d) Amounts of educational scholarships paid directly to students or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books, and equipment. Any amounts of such scholarships or payments to veterans not used for the above purposes are to be included in income;
- e) Special pay to a serviceman head of a family away from home and exposed to hostile fire;
- f) Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- g) Foster childcare payments;
- h) The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1977;
- i) Payments to volunteers under the Domestic Volunteer Service Act of 1973;
- j) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes;
- k) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;
- l) Payments received from the Job Training Partnership Act;
- m) Income derived from the disposition of funds of the Grand River band of Ottawa Indians; and
- n) The first \$2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims.

**5. DETERMINATION OF INCOME FROM ASSETS**

To determine Household income eligibility for purchase or rent of an affordable unit, a percentage of the Households assets (as defined below) shall be added to the Household income only when the Household's assets exceed the maximum annual Household income by Household size.

When total assets exceed the maximum annual income for the Household, then the amount of income attributed to these assets shall be computed as follows:

- a) The actual annual income generated from the assets; or
- b) Annual income based on a percentage yield that equal to the average mortgage interest rate from Freddie Mac's "Weekly Primary Mortgage Market Survey" used in the Resale Price Formula in Section 9 for new units or Section 10 for existing units, below. Whichever calculation yields a greater amount of income will be added to the Household's annual income, and this combined amount must be less than the maximum annual income for the Household.

For households consisting of at least one senior citizen 62 years of age or older, the first \$60,000 of assets shall be excluded from the above calculation.

For the Second Unit Program, the equity in the property occupied by the senior Household shall not be counted in the asset calculations, but actual income from rent as described above, will be counted as income. (Resolution no. 118-2006)

Households shall be certified as meeting the above asset limitations by the Administering Agency prior to occupying an affordable rental or Owner-Occupied unit. Purchasers of affordable units to be utilized as investor-owned affordable rental units are not subject to these asset limitations.

Where affordable housing units are developed with State or federal housing program assistance, the asset limitations of the State or federal housing program shall supersede the asset limitations of these Guidelines where they are more stringent.

## **6. ASSET DEFINITION**

Assets are defined as:

- a) Cash savings, including but not limited to bank accounts, credit union accounts, certificates of deposit, and money market funds;
- b) Marketable securities, stocks, bonds and other forms of capital investment;
- c) Inheritance and lump sum insurance payments, already received;
- d) Settlements for personal or property damage already received;
- e) Equity in real estate, except as stated below; and
- f) Other personal property that is readily convertible into cash.

**The following are not considered assets:**

- a) Ordinary household effects including furniture, fixtures, and personal property;
- b) Automobiles used for personal use;

c) Equity in the parcel or lot on which an owner-builder unit is to be built; and

d) Cash, securities, stocks, bonds and other forms of capital held in a tax deferred retirement plan recognized by the Federal Internal Revenue Service.

## 7. MAXIMUM RENTS

### Affordable Rental Units

The maximum rents for Measure J Rental Units shall be set at a level affordable to Lower and Very Low income Households as provided in Table Three. Except as otherwise provided in this section, the maximum rents for an affordable unit shall be determined based on 1) a housing allowance of 30% of gross income for a Household size of one person more than the number of ~~bedroom~~bedrooms in the affordable unit, and 2) a Household income of 60% of median, except for those units which are designated for Very Low Income occupancy in which case a Household income of 50% of median shall be used. Investor Owner units may charge rent calculated for 80% AMI households as described below for those units whose affordability restrictions are in effect in perpetuity. A Measure J homeowner of a unit whose restrictions will expire can charge rents at 80% AMI if they choose to sign new restrictions.

"Rent" includes monthly rent paid to the property owner, utilities and all fees for parking and other housing services. A reasonable utility allowance, as determined by the tables published annually by the Santa Cruz County Housing Authority, [ ~~shall be deducted from the~~ ] maximum monthly rents for those utilities paid by the tenant.

**Table Three: Maximum Monthly Rents for Affordable Rental Units**

<b>Measure J Rental amounts</b>			
<b>Unit Size</b>	<b><del>Very Low (50%)</del></b>	<b><del>Very Low (60%)</del></b>	<b><u>Lower Eligible Owner-Investor Units (80%)</u></b>
Studio	<u>\$882.50</u>	\$913.00	\$1,218.00
1	<u>\$1,008.75</u>	\$1,044.00	\$1,392.00
2	<u>\$1,135.00</u>	\$1,174.00	\$1,566.00
3	<u>\$1,260.00</u>	\$1,305.00	\$1,740.00
4	<u>\$1,361.25</u>	\$1,409.00	\$1,879.00
5	<u>\$1,462.50</u>	\$1,513.00	\$2,018.00

Where affordable housing units are developed with State or federal housing program assistance, the rental price requirements of the State or federal housing program shall supersede the price limitations of these Guidelines where they are more stringent. Notwithstanding the foregoing, ~~for the next five years, to until~~ March ~~20, 2017, allow~~20, 2017, Measure J Investor-Owners ~~to may~~ participate in the Section 8 and similar programs and accept the rent levels allowed by those programs.

The maximum rents for affordable units and maximum Household income limits shall be revised annually by the Administering Agency following the annual publication of ~~HUD/HCD area median income estimates~~ limits for Santa Cruz County. For affordable rental units initially occupied before August 26, 1986, rents shall not be increased by more than 10 percent annually.

For affordable units in congregate senior housing projects providing services beyond basic shelter, the Board of Supervisors shall, at the time of project approval, provide for payments beyond the rent levels to account for the additional cost of providing such additional services. Unless the Board of Supervisors decides otherwise with respect to a particular congregate senior project, charges allowed for congregate care services in addition to the basic rent charge may not exceed the limits provided in Table Four, which are based on 35% of total Household income for a single person, or 45% of total Household income for a couple, at an income level of 60% of median.

**Table Four: Maximum Congregate Care Service Charges**

<b>Household Size</b>	<b>Maximum Monthly Service Charge</b>
1	\$1,065.00
2	\$1,566.00

## 8. UNIT STANDARDS

Standard quality units must be finished to allow occupancy and shall have:

a) The minimum sizes as specified by Table Five:

**Table Five: Minimum Affordable Unit Size**

<b>Unit Type</b>	<b>Senior Congregate Care</b>	<b>All Other Units</b>
SRO	Comparable to unit size of Market unit	Comparable to unit size of market unit
Studio	400 square feet	400 square feet
1 Bedroom	550 square feet	550 square feet
2 Bedrooms	700 square feet	850 square feet
3 Bedrooms	Not Applicable	1,050 square feet
4 Bedrooms	Not Applicable	1,250 square feet

c) Washer and dryer connections within the units or access to a common laundry facility within the project;

c) Garage or paved parking area and sidewalk leading from the parking area to the unit;

- d) At least 1-1/2 bathrooms for units with three or more bedrooms.

The County of Santa Cruz Planning Department Director ("Planning Director") may allow minor variations from these standards if the unit is otherwise of superior design or amenity level.

The size of the Household renting or purchasing an affordable unit shall not exceed that allowed by the State Uniform Housing Code, or other applicable State laws based on the unit size and number of bedrooms in the unit.

## **9. MAXIMUM SALES PRICE FOR NEW MEASURE J AFFORDABLE UNITS**

New affordable units shall be sold, on their first sale, for a price that is no more than the maximum sales price set according to the formula established in this section. The maximum sales price shall be determined at the time of filing of the original "Notice of Intent to Sell" for the affordable unit by the developer.

The maximum sales prices for new affordable units shall be set at a level affordable to Moderate, Lower and Very Low Income Households based on 1) a housing allowance of 30% of the gross income of a Household having one person more than the number of bedrooms in the affordable unit, and 2) a gross Household income as indicated below for the designated type of affordable unit.

### **Formula to Determine the Maximum Sales Price of a New Affordable Unit:**

- a) Determine the annual income for a Household based on whether the unit is designated for occupancy by a Moderate Income, Lower Income or Very Low Income Household:
  - i. Determine the Median Income for a Household size that is one person more than the number of bedrooms in the affordable unit from Table Two; then
  - ii. Multiply the Median Income derived by the above method from Table Two by:
    - ~~100~~110% for an affordable unit designated for a Moderate Income Household occupancy;
    - 70% for an affordable unit designated for a Lower Income Household occupancy; or
    - 50% for an affordable unit designated for a Very Low Income Household occupancy.
- b) Determine the monthly household allowance available for a mortgage payment:
  - i. Multiply annual income from step a) by 0.30 to obtain an annual housing allowance of 30% of income;
  - ii. Divide the housing allowance by 12 to obtain a monthly housing allowance;
  - iii. Deduct ~~20% off from~~ the monthly housing allowance ~~for the monthly costs of property taxes, insurance and a reasonable allowance for utilities, and deduct 70% of the monthly homeowner's association (HOA) fees to obtain a net allowance available for mortgage payments. (Note: For the purposes of the amount of HOA fees included in this formula, and for all future transactions, HOA fees shall be set as of September 1, 2006 at their actual amount~~

~~plus an annual COLA increase based on CPI. If future HOA fees are less than this set amount, then the lesser amount will be used in the formula and thereafter. For new units, the actual amount of HOA dues shall be used and shall become the base amount, with the same formula for the annual COLA increases. In addition, if HOA fees include property taxes, hazard insurance costs or individual unit utility costs, these costs { shall be deducted from the } set HOA fee amount used in the formula.)~~

c) Determine the maximum mortgage that can be financed:

- i. Determine the prevailing interest rate for a 30-year fully amortized fixed-rate home mortgage that is equal to the previous year's average mortgage interest rates from Freddie Mac's "Weekly Primary Mortgage Market Survey." This rate shall be adjusted annually, effective May 1<sup>st</sup>, by the Administering Agency to coincide with the changes in median income by ~~HUD and~~ HCD;
- ii. Determine the maximum home mortgage that can be financed at the prevailing interest rate based on a mortgage payment as determined in step b).

(d) Determine a maximum unit sales price assuming a mortgage of 90% of sales price by dividing the maximum mortgage amount determined in step c) by 0.9.

~~The maximum sales prices of Measure J units within Redevelopment Agency (RDA) assisted, 100% affordable for sale housing projects can be set by the provisions of California Redevelopment Law. (Resolution no. 308-2010)~~

## 10. MAXIMUM RESALE PRICE OF EXISTING MEASURE J AFFORDABLE UNITS

(a) Affordable units shall be sold, at the time of resale, for a price that is no more than the maximum sales price established by either of the following two methods that generates the greater resale price:

- i. The maximum unit price as determined in Section 9 above at the time of receipt by the Administering Agency of a Principal Occupant's Notice of Intent to Sell, plus the increased value of the unit created by improvements that the Principal Occupant has made to the unit as determined in Section 11 below; or
- ii. The maximum unit price that represents the sum of the Principal Occupant's purchase price, plus the Principal Occupant's non-recurring purchase closing costs, plus the increased value of the unit created by improvements that the Household has made to the unit as determined in Section 11 below.

(b) Where a Principal Occupant has made improvements to an existing affordable housing unit which results in an increase in the number of bedrooms, as evidenced by a valid Building Permit issued and receiving final inspection by the County, the maximum resale price of the unit shall be based on a total bedroom count which included the additional bedroom(s) and on the method in Section 9 a) above which produces the higher resale price limit.

(c) Where the Administering Agency determines that the Principal Occupant through neglect, abuse or lack of adequate maintenance has created damage to an affordable unit which jeopardizes the integrity of the unit and/or the viability of maintaining the unit as part of the County's Affordable Housing Program, the Administering Agency may require that repairs be made to the unit at the Principal Occupant's expense and paid for either prior to sale or out of the proceeds of escrow as follows:

- i. Upon notice of sale, an inspection of the premises may be made by the Administering Agency. Damage done to the premises, beyond normal wear and tear, shall be identified by the inspector, and the cost to repair the damage estimated. The Principal Occupant shall then have the option, exercisable prior to the close of escrow, of either repairing the identified damage or having the cost to repair the damage deducted from the proceeds of the sale and held in escrow to be used to pay for the repairs.
- ii. The Principal Occupant may also be required to obtain and pay for a structural pest control report and to pay for any necessary corrective repairs. The Principal Occupant shall not be obligated to perform preventative work beyond the repair of damage, but the new Principal Occupant shall have the option to perform such work at his or her expense.

## **11. ADJUSTMENTS TO RESALE PRICE**

The maximum resale price of an affordable unit as determined in Section 10, a), ii above may include the increase in unit value created by improvements made to the property by the Principal Occupant based on the following criteria:

- a) The improvements shall constitute substantial structural or permanent fixed improvements that cannot be removed without substantial damage to the premises or substantial or total loss of value of said improvements;
- b) The improvements shall not increase the resale price by more than ten percent. No improvements shall be deemed substantial unless the aggregate, actual, initial costs of the improvements to the Principal Occupant exceed one percent of the purchase price paid by the Principal Occupant for the premises except as provided below; The Principal Occupant's portion of the cost of improvements to the common areas of a condominium made by a mandatory assessment by the homeowners association shall be considered the same as an improvement made directly by the Principal Occupant. The one percent minimum expenditure requirement shall not apply to such assessments;
- c) The replacement of appliances, fixtures and equipment which were originally sold as part of the unit shall be deemed substantial improvements if the replacement is required by the non-operative or deteriorated nature of the original appliance, fixture, or equipment. The replacement must be of comparative value. The one percent minimum expenditure requirement shall not apply to such replacements;
- d) No adjustment shall be made for the value of any improvements unless the Principal Occupant shall present to the County valid written documentation of paid receipts from vendors for the cost of said improvements and all necessary permits and inspections for the improvements have been obtained; and

e) The amount by which the sales price shall be adjusted shall be the estimated market value of the improvements when considered as additions or fixtures to the premises (i.e., the amount by which said improvements enhance the market value of the premises) at the time of sale. The Administering Agency shall have an estimate made by a qualified individual of its choice to establish the market value. A qualified individual shall be one who has, as a minimum, experience in residential construction. The Principal Occupant may also have an appraisal made by an appraiser, of his or her choice and subject to approval of the Administering Agency, to establish the market value. If agreement cannot be reached between the parties, the average of the two estimates shall become the market value of the improvements.

## **12. ACTIVELY MARKETING UNITS**

The maximum resale price of new and existing affordable units is valid for only sixty days after written notification of the maximum resale price by the Administering Agency to the Principal Occupant(s). Extensions will be granted at the discretion of the Administering Agency for active marketing efforts or for pending transactions. Actively marketing the unit shall include some or all of the following activities:

- a) Use of a Realtor.
- b) Listing of the home for sale in the MLS.
- c) Returning telephone inquiries about the house.
- d) Holding a series of "open houses".
- e) Considering purchase offers from income eligible buyers.

## **13. FINANCING FOR MEASURE J OWNERS**

### **(a) Maximum Mortgage Debt for New Owners**

The total mortgage debt on a unit must be financed using a conventional fixed rate mortgage fully amortized and subject to standard underwriting criteria. No negative amortization or adjustable rates are permitted.

### **(b) Maximum Mortgage Debt for Existing Owners**

The maximum mortgage debt (or combined loan-to-value) secured by an existing Measure J unit, cannot exceed 90% of the maximum sales price or fair market value of the Measure J unit, whichever is less, as of the date of the proposed refinancing or other loan. The financing for these loans must be conventional fixed rate mortgages fully amortized and subject to standard underwriting criteria. No negative amortization or adjustable rates are permitted.

## **14. MARKETING OF AFFORDABLE UNITS LAST SOLD PRIOR TO APRIL 5, 1984**

For affordable units which were last sold on or before April 5, 1984, and which have a recorded Declaration of Restrictions that requires that the unit be sold within a limited period of time after being placed on the market or the affordability restrictions will be released, the Principal Occupant shall provide a bona fide marketing program when the unit is offered for the sale. A bona fide marketing



program shall be defined to be the equivalent of the complete marketing program and full services available through a reputable real estate brokerage firm for comparable residential property, including placement on the Multiple Listing Service. This marketing effort may be provided by the Principal Occupant, by a real estate brokerage or other representative selected by the Principal Occupant, or by the Administering Agency or its designee for the County's Affordable Housing Program. In every case, this marketing program shall be fully specified and documented by the Principal Occupant, and approved by the Administering Agency prior to the acceptance of a Notice of Intent to Sell for the unit. As an alternative to providing the above bona fide marketing program, the Principal Occupant may execute and submit to the Administering Agency a notarized written waiver of the recorded Declaration of Restrictions' time limit for the sale of the unit.

## 15. FEES

Upon the resale or refinance of an affordable unit, the Principal Occupant shall be charged a fee by the administrative agency for the preparation of new Declarations of Restrictions and Requests for Notice of Default as may be required, and for the monitoring and processing of the transactions. In addition, the Administering Agency may charge each prospective purchaser and renter of an affordable unit a fee for the determination of eligibility. For units marketed by the Administering Agency, ~~a fee as a percent of the unit sales price~~ an additional fee shall be charged to the Principal Occupant. Fee amounts for these and other fees necessary to implement the County's Affordable Housing Program shall be established by the County's Unified Fee Schedule, which is adopted by resolution of the Board of Supervisors.

## 16. EXISTING UNIT CONVERSION PROGRAM GUIDELINES

~~[This section applies only to developers of affordable housing units in effect since May 24, 2002, with additional amendments to the fee schedule effective August 28, 2002.]~~

A developer of a new housing development may opt to participate in the Existing Unit Conversion Program in lieu of constructing inclusionary units if the requirements of SCCC 17.10.037 and the following conditions are met:

- a) The Approving Body approves the use of this optional alternative as part of the original development permit;
- b) Two existing market-rate units must be converted to affordable unit status in lieu of constructing each affordable units for each inclusionary unit that would otherwise be required of the project to be built on-site; and
- c) The units to be converted must meet the minimum physical standards for all inclusionary units as described above in Section 7: Unit Standards, as well as the following additional standards for converted units:
  - i. Bedroom Count. The average bedroom count of the converted units shall not be less than the average bedroom count in the market rate units in the project. Alternatives may be considered on a case-by-case basis, as outlined in subsection (g) below.
  - ii. Size. The size of converted units shall not be less than 75% of the average size of the market rate units. In no case shall an affordable unit size be less than the minimum specified by the Affordable Housing Guidelines.

iii. The Planning Director may grant exceptions to the standards of subsections c), i and ii where developers propose to provide a greater number of units or enhanced affordability, if it is infeasible to provide comparably sized units. For example, if a developer building a project of 4 bedroom homes cannot locate existing 4 bedroom units to convert, ~~so~~ the developer ~~proposes~~may propose to substitute two 2-bedroom units (or a 3-bedroom unit and a 1-bedroom unit) for each 4-bedroom affordable unit required.

iv. Physical Quality

- 1) Units must meet current HUD Section 8 rent subsidy Program Housing Quality Standards (HQS) to ensure that the units and their sites are decent, safe and sanitary.
- 2) Units must have been built and permitted under the 1973 or later building and related codes. Or, units must have been substantially rehabilitated, as reasonably determined by an Administering Agency rehabilitation specialist, to meet the 1973 or later building and related codes.
- 3) Developer must deliver to the Administering Agency a Wood Destroying Pests and Organisms Inspection Report on the unit with a follow-up SECTION 1 ITEM inspection and clearance.
- 4) As reasonably determined by the rehabilitation specialist, the following building components must have a useful remaining life, with routine maintenance, of at least 10-years:
  - Roof coverings and roofing accessories, including but not limited to gutters and downspouts, metal flashings, jacks and caps
  - Heating system
  - Exterior doors
  - Windows
  - Floor coverings
  - Kitchen and bathroom counter tops
  - Tub and/or shower enclosures including glass doors

As reasonably determined by the rehabilitation specialist, the following building components must have a useful remaining life, with routine maintenance, of at least 5-years:

- Exterior painted or stained surfaces
- Water heaters
- Built-in kitchen appliances

Developer must deliver to the Administering Agency a housing inspection report, prepared by a certified housing inspector, that details the condition of ~~the~~ all building and site components including but not limited to: the roof and structural components; foundation and exterior paved surfaces, electrical, mechanical, heating/ventilation, and plumbing systems; windows, doors, and chimneys; paint and other moisture sealants; floor coverings; and any existing fencing, porches, railings, etc. This report must identify any hazards, health and safety code violations, or major deferred maintenance issues that may be found, or certify that no such problems were found.

The rehabilitation specialist will evaluate the inspection report, personally inspect the unit and produce and deliver to the developer a list of deficiencies (if any) needing repair, renovation, alteration or reconstruction. After correcting all deficiencies, the developer shall notify the Agency rehabilitation specialist who will do a final inspection and approve the unit for inclusion in County Affordable Housing Program. The developer shall then submit a "Notice of Intent to Sell" to the Administering Agency for further sale processing.

d) The units to be converted must be located within the same Planning Area as the proposed project, except that the Planning Director may approve exceptions to the Planning Area requirement, based on the merits of a proposed alternative if the request is consistent with the intent and purposes of the County's Affordable Housing Ordinance (Chapter 17.10).

e) The units to be purchased must not be subject to any rent limits, resale price restrictions, or other affordable housing restrictions imposed by any government or non-profit agency or land trust at the time of purchase for use under this program. Conversion of multi-family rental property to condominium ownership will not be approved as part of the project.

f) If the units to be converted are occupied and rented by Moderate or Lower Income Households at the time of conversion, the occupying tenants must be given the first right of refusal to purchase the units if they meet the eligibility requirements under these Guidelines, and can obtain necessary financing within 60 days of being notified of the sale by the Principal Occupant. If tenants cannot be certified as eligible to purchase or cannot obtain necessary financing, relocation benefits must be provided to the tenants by the developer as a condition of project approval. These relocation benefits shall consist of the immediate payment of three months' fair market value rent for a unit of comparable size, as established by the most current federal Department of Housing and Urban Development schedule of fair market rents, or three months of the tenant's actual rent at the time of relocation, whichever is greater.

g) Alternative Options

The Approving Body may approve, on a case-by-case basis, the use of any other alternatives to satisfy the requirements of the Existing Unit Conversion program if the alternative proposed is deemed to be a preferable contribution to the affordable housing stock, by providing a greater number of rental units and/or an equal number of units at a greater level of affordability. These alternatives may include, but are not limited to, a scenario likesuch as the following: A developer proposes to purchase a multi-family rental property and donate it to a local non-profit housing provider for rental to Very Low Income Households.

## **17. AFFORDABLE UNITHOUSING RESIDENTIAL IMPACT FEE SCHEDULE**

This fee is due from developers of residential projects where payment of affordable housing in-lieu impact fees and/or fractional unit fees was included as a condition of project approval in the project's development permit (or in another contract with the County), in accordance with County Code Chapter 17.10. The in-lieu fee and/or fractional fee amount due from a project shall increase as the average sale price of the market rate units increases. This slightly progressive rate structure is designed to avoid adding extra costs to lower-priced market rate units that may be passed on to consumers. The fee amount due per each whole affordable unit required of a project shall be a percentage of the average sales price of the market rate units in the project, according to the rates shown in Table 17.10 and the County's Unified Fee Schedule. The fee amount due is shown in Tables Six through Eight below:

## Residential Ownership Projects with Five or More Units

**Table Six: ~~In-lieu Fee and Fractional~~ Affordable Housing Impact Fee Schedule (Ownership Projects of Five or More Units)**

<u>Ownership Projects of Five or More Units</u>	<u>Impact Fee Per Habitable Sq. Ft.</u>
<u>Where approved by decision-making body and fractional units</u>	<u>\$15</u>

Residential projects with five or more units are required to provide affordable units on site unless the decision-making body approves payment of an affordable housing impact fee, or calculations of the required on-site units result in a fraction. [Projects with fractional] obligations may either provide one additional on-site affordable unit or pay an affordable housing impact fee for the fractional unit. The fees may be paid either: (a) prior to the recordation of the final map or the final parcel map, or issuance of the building permit, whichever occurs first; or (b) prior to transfer of each parcel, if the developer enters into a participation agreement that encumbers all parcels subject to payment of the affordable housing impact fee.

To determine the amount of the affordable housing impact fee for a fractional unit and for projects which provide some required units on-site and pay an affordable housing impact fee for others, the following procedure must be followed:

1. Calculate the project's affordable housing requirement by multiplying the number of units in the project by 15% (the required percentage of affordable units).
2. Determine the total affordable housing impact fee for the entire project (assuming that impact fees will be paid rather than on-site units provided) by multiplying the total number of units in the project by the average home size times the impact fee of \$15/sq. ft.
3. Divide the total affordable housing impact fee by the number of required affordable units to determine the impact fee per affordable unit.
4. Multiply the impact fee per affordable unit by any fractional amount plus any units not provided on-site to determine the actual impact fee owed by the project.
5. Divide the actual impact fee owed by the number of market-rate units in the project to determine the fee per market-rate unit. This amount will be secured by a lien against each home until the amount is paid by the developer.

### Example

Assume a project with 25 units and an average unit size of 2,000 sq. ft. Using the five steps above, the fee per market-rate home would be determined as follows.

1. The project's affordable housing requirement equals  $25 \text{ units} \times 15\% = 3.75 \text{ units}$ . The project is required to provide 3 affordable units on-site and to pay a fee for the fractional 0.75 unit, unless



the decision-making body approves payment of an impact fee instead of providing all 3 units on the site.

2. The total affordable housing impact fee for the entire project (assuming impact fees are paid for all units rather than providing any on site) would equal 25 units x 2,000 sq. ft. [average home size] x \$15/sq. ft. = \$750,000.
3. Divide the total affordable housing impact fee of \$750,000 by the affordable housing requirement of 3.75 units to obtain an impact fee of \$200,000 for each required affordable unit.
4. For the fractional unit, the impact fee is .75 x \$200,000 = \$150,000.
5. Of the 25 units in the project, 22 are market-rate and 3 are affordable units. To determine the impact fee per market-rate units, divide \$150,000 by 22 = \$6,818.18 per market-rate unit. This amount will be secured by a lien against each market-rate home and will be paid by the developer when the home is sold to the homeowner.

<b>Average Sale Price Of Market-rate Units in Project (or appraised value, if greater)</b>	<b>In-Lieu Fee (% of average sale price)</b>
Up to and including \$600,000	40%
More than \$600,000 but less than \$1,000,000	45%
\$1,000,000 or more	50%

<b>Average Sale Price Of Market-rate lots (or appraised value, if greater)</b>	<b>In-Lieu Fee (% of average sale price)</b>
Up to and including \$600,000	100%
More than \$600,000 but less than \$1,000,000	100%
\$1,000,000 or more	100%

### **Residential Ownership Projects with Three or Four Units**

~~{Projects with fractional}~~ unit requirements shall pay an amount equal to the applicable in-lieu fee amount for a whole unit, multiplied by the fractional requirement.

~~This rate shall be reviewed and may be adjusted as necessary during the update of the County's Unified~~

### **Table Seven: Affordable Housing Impact Fee Schedule— (Ownership Projects of Three or Four Units)**

~~Fee Calculation Examples. The following two examples are provided to illustrate how to use the fee schedule:~~

<b><u>Ownership Projects of Three or Four</u></b>	<b><u>Impact Fee Per</u></b>
---	------------------------------

<u>Units</u>	<u>Habitable Sq. Ft.</u>
First 1,500 sq. ft. per unit	\$5
Next 1,500 sq. ft. per unit	\$10
All sq. ft. above 3,000 sq. ft. per unit	\$15

Affordable housing impact fees shall be paid at the time of issuance of a building permit for each unit in a 3 or 4 unit project, unless the Planning Director approves payment of fees at occupancy based on hardship, based on the fee schedule above.

#### Example 1: Project paying fractional fees

Assume a project with 4 units where 2 homes have 2,000 sq. ft. and 2 homes have 2,500 sq. ft. The fees for the homes will be calculated as follows:

2,000 sq. ft. homes: The fee for each home is calculated as follows:

~~Project 1 is a ten unit project with a standard inclusionary requirement of 1.5 affordable units (15% x 10 units = 1.5 affordable units required). The project will include nine market rate units with an average sale price of \$500,000, one affordable unit, and pay a fractional fee for 0.5 units. The fractional fee amount due from this project is calculated as follows:~~

~~1,500 sq. ft. @ \$5/sq. ft. = \$ 7,500~~

~~500 sq. ft. @ \$10/sq. ft. = \$ 5,000~~

~~Average Sale Price of Market Rate Units x (times) In-Lieu Fee Rate in Schedule x Fractional unit requirement = Fractional fee due from project.~~

~~Total fee = \$12,500~~

~~\$500,000 x 40% x 0.5 = \$100,000~~ 2,500 sq. ft. homes: The fee for each home is calculated as follows:

1,500 sq. ft. @ \$5/sq. ft. = \$ 7,500

1,000 sq. ft. @ \$10/sq. ft. = \$ 10,000

Total fee = \$17,500

#### Residential Rental Projects

Table Eight: Affordable Housing Impact Fee Schedule (Rental Projects)

<u>Rental Projects</u>	<u>Impact Fee Per Habitable Sq. Ft.</u>
All market-rate rental units	\$2

Affordable housing impact fees shall be paid at the time of issuance of a building permit for each unit in a rental project, unless the Planning Director approves payment of fees at occupancy based on hardship, based on the fee schedule above.

### Example 2: Project utilizing In-lieu fee option

Assume a project with 10 units where each unit has 1,000 sq. ft. The fees for the development will be calculated as follows:

The fee for each unit is calculated as follows:

$$1,000 \text{ sq. ft.} @ \$2/\text{sq. ft.} = \$ 2,000$$

$$\text{Total fee} = \$20,000 (10 \text{ units} \times \$2,000/\text{unit})$$

### 18.AFFORDABLE HOUSING NON-RESIDENTIAL IMPACT FEE SCHEDULE

This fee is due from developers of non-residential projects that result in a net increase of commercial Floor Area, exclusive of government or institutional uses, where payment of affordable housing impact fees and/or fractional unit fees was included as a condition of project approval in the project's development permit (or in another contract with the County), in accordance with County Code Chapter 17.10 and the County's Unified Fee Schedule. The fee amount due is shown in Table Nine below:

~~Project 2 is a seven-unit project with a standard inclusionary requirement of 1.05 affordable units (15% x 7 units = 1.05 affordable units required). The project has been approved to pay fees rather than provide an affordable unit. The average sale price of the units is \$700,000. The in-lieu fee due from this project is calculated as follows:~~

#### Non-Residential Projects

~~Average Sale Price of Market Rate Units x (times) In-Lieu Rate in Schedule x Inclusionary units required = In-lieu fee due from project.~~

Table Nine: Affordable Housing Impact Fee Schedule

$$\$700,000 \times 45\% \times 1.05 = \$330,750$$

<u>Non-Residential Projects</u>	<u>Impact Fee Per Net Increase Sq. Ft. of Floor Area</u>
<u>All non-residential development other than government or institutional uses</u>	<u>\$2</u>

Affordable housing impact fees shall be paid at the time of issuance of a building permit for the non-residential project, unless the Planning Director approves payment of fees at occupancy based on hardship, based on the fee schedule above.

~~Payment procedure. Fractional unit fees shall be paid to the County in accordance with the procedure described in 17.10.037(b)(1). Whole unit in-lieu fees shall be paid in accordance with County Code 17.10.034(c).~~

#### Example

Assume a non-residential project that will demolish 10,000 square feet of existing Floor Area and construct 15,000 square feet of Floor Area in its place. The fees for the development will be calculated as follows:

Net increase of Floor Area:

$$\underline{15,000 \text{ sq. ft.} - 10,000 \text{ sq. ft.} = 5,000 \text{ sq. ft.}}$$

Inclusionary Housing In-lieu Fee for Small Residential Projects

~~The Inclusionary Housing In-lieu Fee for Small Residential Projects as defined in Section 17.10.031(a) of the County Code shall be paid at a rate of \$15,000 per new residential unit or parcel that is subject to the requirements of Section 17.10.031. Payment shall be made in accordance with the requirements of Section 17.10.031. This rate shall be reviewed and may be adjusted as necessary during the update of the County's Unified Fee Schedule.~~

$$\underline{\text{Total fee} = \$10,000 (5,000 \text{ net increase sq. ft.} \times \$2/\text{sq. ft.})}$$



### ANALYSIS OF ESTIMATED IMPACT FEE REVENUE

In order to study the effect of the proposed Affordable Housing Impact Fees on different development types, Building Permit activity for a two year period was analyzed. The period of time reviewed was Fiscal Years 2012-13 and 2013-14. These periods were selected because data is readily available through the County's relatively new land use management system. The square footage of the Building Permits issued in those periods was calculated, and then the proposed fees were applied in order to project potential fee revenue and impacts.

Development During Study Period. The following chart summarizes all construction activity during the two-year period. As shown, construction activity was dominated by the development of one and two unit single family homes. There were 40 rental units developed during the period; all were deed restricted affordable units within the Aptos Blue project, and such a project would not pay impact fees.

Figure 1: Development Pattern during Two Year Study Period			
	Number of Units, FY 2012/13 and 2013/14	Avg. Square Feet	Total SF
Residential, One and Two-Unit Projects	55	2,699	148,467
Residential, 3 and 4 unit Projects	3 projects, 11 units	2,527	58,315
Ownership Residential, 5+ unit Projects	1 projects, 17 units	1,816	30,872
Rental Residential, 5+ Unit Projects	1 project, 40	1,043	41,724
Accessory Dwelling Units	41	700	57,400
Commercial Development	22	2,726	58,963

Estimated Revenue with Proposed Program. As shown on the following chart, assuming that construction activity in the future is similar to the level of activity over the past two years, it is estimated that the program will generate approximately \$162,000 of annual impact fee.

Figure 2: Estimated Annual Fees with Proposed Program			
	Est. Annual Number of Units (SF)	Est. Avg. Unit Size	Estimated Annual Fee Revenue
1 and 2 Unit Projects	35 Units. EXEMPT From Affordable Housing Obligation - \$0 Fee		
3 and 4 Unit Projects	About 6	2,527 SF	\$103,000
5+ Unit Projects			\$0 - nominal (required to provide on-site units)
Rental Projects	0 to nominal		\$0
Commercial Projects	29,500 SF	2,808	\$59,000
<b>Total Estimated Annual Fee Revenue</b>			<b>\$162,000</b>

**Scaled Fees Applied to 1 and 2 Unit Projects.** If residential projects of 1 and 2 units were subject to the same mitigation requirements as projects with 3 and 4 units, they would generate approximately \$441,000 of annual impact fee revenue, which is almost three times the revenue generated by all of the other construction components combined.

FIGURE 3: Annualized Affordable Housing Fee Revenues for 1 and 2 unit projects				
Size of House		Up to 1500 SF	1500-2,999 SF	over 3000 SF
		Scaled Housing Impact Fee		
<i>In square feet</i>		\$ 5.00	\$ 10.00	\$ 15.00
<i>Largest Home</i>	5,683	\$ 7,500	\$ 15,000	\$ 40,245
<i>Smallest Home</i>	1,008	\$ 5,040		\$ 5,040
<i>Median Home</i>	2,206	\$ 7,500	\$ 7,060	\$ 14,560
ANNUAL REVENUE POTENTIAL FOR THIS SCENARIO				\$ 440,725

**Annual Revenue Estimate for Staff and Consultant's Recommended Alternate Program**

FIGURE 4: Annual Impact Fee Revenue based on Alternate Program		
1 and 2 unit Projects	Assumes scaled fee schedule based on square footage of units	\$440,725
3 and 4 unit projects	Scaled fee schedule	\$103,000
5+ Units	Occasional projects of 5 or more units will be allowed to pay a fee rather than provide a unit but it will be hard to predict.	
ADUs	\$2 per square foot, unless affordability restrictions are recorded on the deed	\$28,700
Rental Projects	\$2 per square foot unless deed restricted as affordable units	nominal
Commercial Projects	\$2 per square foot	59,000
One Year Projected Revenues based on actual permits		\$631,425

## SUMMARY OF CURRENT AFFORDABLE HOUSING RESOURCES

### Loss of Redevelopment

The dissolution of Redevelopment has resulted in the loss of about \$8 million of annual affordable housing revenue that played an important role in enhancing the County's Measure J program. These revenues were used as critical local funding matches to leverage federal subsidy dollars to construct affordable rental projects and ownership projects throughout the County. Over 1,600 units have been constructed or financed with these funds since the early 1990's. Without the County's local affordable housing funds, these projects would not have been developed. It is important to note that these projects serve Extremely Low, Very Low and Low income households, the households that market rate developers are generally unable to serve.

Measure J's on-site requirements for ownership projects has been an effective tool for generating housing to serve Moderate Income households, and in that time period provided 491 units. Measure J does not provide affordable rental housing or housing to serve lower income households. Public investment is needed to provide housing for these lower income groups.

With the dissolution of redevelopment, the Housing Impact Fee revenue to be generated by the Measure J program will be the primary source of revenue to leverage other funding sources for new affordable projects and staffing the Measure J program.

One of staff's key objectives to continue to use funds to leverage funds from the Low Income Housing Tax Credit (LIHTC) program to build rental housing affordable to Extremely Low to Low Income households. Affordable housing financing tools are vital to creating affordable rental housing -- the type of housing that provides community stability by providing affordable workforce housing for families living and working in our community. Insufficient supply of affordable housing causes long commutes, family instability and many other challenges. The market can't meet this need and in order to leverage the financing tools to build it jurisdictions must be able to provide "local match", often referred to as "tie-breaker" funds. For instance, if two projects equal in every way are competing for low income housing tax credits, the project with the greatest "tie-breaker" will receive the funding. Even projects with substantial local match are likely to have to compete in numerous funding rounds. (Schapiro Knolls received tax credits the fourth time it competed, even with \$115,000 per unit in local subsidy).

Obviously, the projected annual fee revenue of **\$162,000** per year under a program consistent with the Board's August 19<sup>th</sup> direction is only a small fraction of the \$8 million of funds available in previous years, and the loss of funding will have a significant deleterious impact on the County's program to construct affordable rental units. The County will have to accumulate funds over multiple years in order to have sufficient funds to support a single tax credit application. Given the County's reduced resources, the County will explore opportunities for mixed-income rental projects, which will have fewer affordable units per project, but may accelerate the rate of construction. The rate of construction would be greatly enhanced with additional fee revenue. Under the alternate program recommended by staff and the consultants, projected annual fee revenue would be about **\$630,000** per year.

### Current County of Santa Cruz Affordable Housing Resources

Current affordable housing resources in the County can be broken down as follows:

- Measure J inclusionary units. The majority of the current portfolio of 491 inclusionary units are deed-restricted in perpetuity and will continue to be an important source of ownership housing for

median income families. In order to maintain the deed restrictions in perpetuity, the Program requires significant administrative actions, the County is involved every time a unit is bought, sold or refinanced. In addition, the County's Affordable Housing Preservation Program, which funded through the Housing Services contract with the Housing Authority of the County of Santa Cruz, continues to intervene in foreclosures in order to preserve affordability restrictions.

- Grant funded programs. The Housing Section of the Planning Department competes for grant funds at every opportunity and since 2009 has been awarded close to \$10 Million dollars. Grant funding has supported public facilities, public services and planning studies. It also enables the County to offer first time homebuyer, owner occupied rehabilitation and tenant based rental assistance programs.
- Redevelopment Re-Use funds. The former Redevelopment Agency of the County of Santa Cruz provided homebuyer assistance in the form of first-time homebuyer loans, owner-occupied rehabilitation loans and mobile home change-out loans. As those loans are repaid they are deposited into the Low and Moderate Income Housing Fund (LMIHF) and their re-use is strictly limited by State legislation. A limited amount of the LMIHF can be used for administration and monitoring of projects and programs funded by redevelopment and up to \$250,000 can be used for homeless prevention activities, but the majority of the funding must be targeted to affordable rental projects serving households of 60% AMI or less including housing for extremely low income households. While this fund is a finite resource, it will provide the opportunity to invest in at least one affordable rental project and can support a portion of the required monitoring and administration.
- Affordable Housing Fund. The Affordable Housing Fund is the fund associated with the Measure J program. While redevelopment funding was available to create new affordable housing, the fund was used to support other housing related activities such as emergency shelter and the Gemma program (the Gemma program is no longer funded in this manner). Going forward, staff recommends prioritizing the fund for the creation of new housing units, support of the Measure J portfolio, and other implementation activities associated with the Measure J program.

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**SANTA CRUZ COUNTY  
BOARD OF SUPERVISORS INDEX SHEET**

**ATTACHMENT 5**

**Creation Date:** 8/12/14

**Source Code:** PLANN

**Agenda Date:** 8/19/14

**INVENUM:** 69522

**Resolution(s):**

**Ordinance(s):**

**Contract(s):**

**Continue Date(s):** [1] 12/16/14

- Index:** – Letter of the Planning Director, dated July 21, 2014  
– July 2014 Draft Consultant Report - full copies provided to Board Members;  
Link to Full Report: <http://www.sccoplanning.com/PlanningHome/Housing.aspx>

- Item: 66.** CONSIDERED consultant recommendations for modifications to County Affordable Housing Program and Requirements; .  
Board of Supervisors received and discussed presentation by the consultants, and then provided the following direction to staff and the consultants:  
(1) draft amendments to Chapters 13.10, 17.10 and 17.12 and to the Affordable Housing Guidelines that reflect the staff and consultant findings and recommendations, as modified by the Housing Advisory Commission and the Board of Supervisors as described herein; and  
(2) upon completion of draft amendments, schedule public hearings during Fall 2014 before the Housing Advisory Commission and Planning Commission for developing recommendations to this Board and then return for a public hearing by December 16, 2014, before the Board of Supervisors for consideration of the amendments;  
3) with the additional directions that we: a) retain our 15% inclusionary zoning requirements as currently constructed; b) raise the allowable sales price for inclusionary units to 110 % of the area median income c) if the fee alternative is approved, set the impact fee at \$15 per square foot; d) remove any onsite inclusionary requirements for rental housing and direct staff to recommend an impact fee and consider a sliding scale for rental units based on size; e) include a \$2 per square foot fee for non-residential development; f) develop clear policies on rezonings from commercial to residential; g) set the inclusionary rates for rezoning and the R Combining District sites at 15%; h) assure the density bonus provisions are administered in accordance with State law; i) exclude residential additions and Accessory Dwelling Units from the inclusionary requirements; j) Planning staff to return in December 2014 with the results of the Housing Advisory Commission and Planning Commission process