Overview of Monterey County's Inclusionary Housing Ordinance 1980 - 2022

AFFORDABLE HOUSING REQUIREMENTS

The County's current affordable housing requirements are codified at Chapter 18.40 of the County Code and the policies are found in the 2010 General Plan Land Use Element at Land Use Policy LU-2.13. Collectively the County requires all projects with 3 or more new units to restrict 25% of the units as affordable distributed as: 6% very low-, 6% low-, 8% moderate-, and 5% workforce-income. Projects with less than five new units may pay a fractional in-lieu fee. Projects with five or more new units are expected to provide on-site affordable units. Table 1 illustrates the affordability requirements for projects with different numbers of proposed new units.

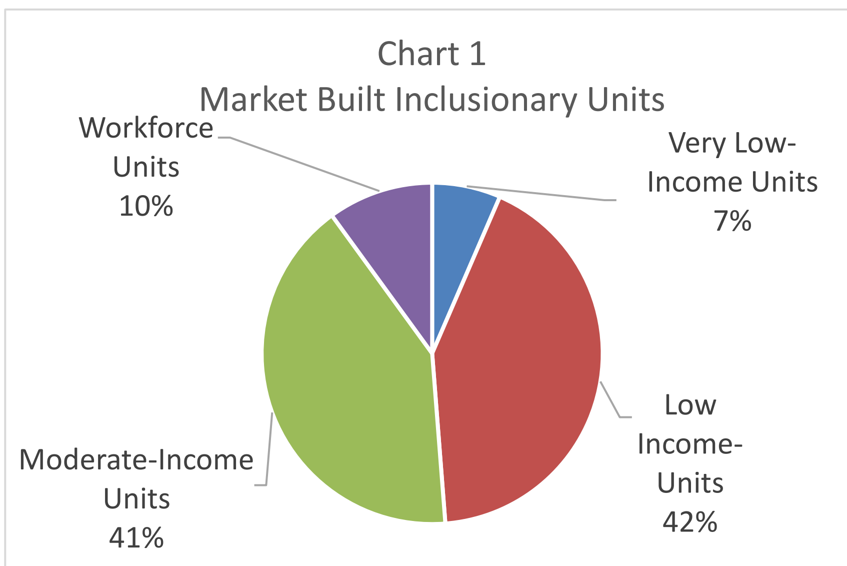
Table 1
Affordable Unit Production by Project Size

New Units	Very Low-Income Units	Low-Income Units	Moderate-Income Units	Workforce Units	Total Affordable Units
5 – Units			1	0.25	1.25
10 – Units		1	1	0.5	2.5
15 – Units		1	2	0.75	3.75
16 – Units		1	2.2	0.8	4
20 - Units	1	1	2	1	5
25 - Units	1	2	2	1.25	6.25
30 - Units	1	2	3	1.5	7.5
35 - Units	2	2	3	1.75	8.75
40 - Units	2	2	4	2	10
45 - Units	2	3	4	2.25	11.25
50 - Units	3	3	4	2.5	12.5
56 - Units	3	3	5.2	2.8	14

Project applicants have the choice of paying fractional in-lieu fees or providing the next whole unit. Applicants are encouraged to consider voluntarily restricting at least 5% of the total units to very low-income households. Doing so qualifies the applicant for a 20% density bonus and concession from the County under the state Density Bonus law (Gov. Code. Section 65915).

In-lieu fees are assessed based on County Planning Area of the project. The current in-lieu fee schedule has not been updated since 2000. The current in-lieu fee schedule is found at the end of this document.

State law requires jurisdictions with affordable or inclusionary housing ordinances to allow project applicants to comply with the requirements in ways other than building on-site affordable units. Compliance in Monterey County has been through payment of in-lieu fees, land donations and voluntarily restricting more new units than required to create "credits" that maybe used to offset affordable housing obligations of other projects.



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PAST PERFORMANCE

Staff has identified more than 250 project that have been required to comply with the Inclusionary Housing Ordinance since 1980, when the County adopted its first Inclusionary Housing Ordinance. Compliance with the Inclusionary Housing Ordinance has resulted in the private market building more than 750 affordable units distributed as shown in the chart to the right. The Ordinance has also led to the payment of in-lieu fees of more than $5.57 million.

Table 2

	Affordable Units Assisted	Grant Amounts	Loan Amounts
For Sale - Rehabilitation	35		$140,000
For Sale - Purchase Assist	71		$384,380
Homeless Facilities	51	$366,000	$50,000
Rental Units	455		$352,000
Feasibility Studies		$75,000	
Supportive Housing	201	$1,034,997	$450,000
Grand Total	**813**	**$1,475,997**	**$1,376,380**

At least $2.8 million in-lieu fees have been used to subsidize the construction and/or rehabilitation of more than 600 units and land donations in-lieu have been used to construct of 209 affordable units. Table 2 shows the types of units subsidized through these means. All the assisted housing units were assumed to be affordable to very low- and low-income households[i]. At least $1.9 million has been used to manage the Inclusionary Housing Program, prepare housing elements, and preparing the Annual Housing Element Progress Report.

The affordable assisted units are a mix of assisting income eligible households with purchasing a home, rehabilitating owner-occupied homes, rental units, permanent and temporary supportive housing, and emergency housing units. The Ordinance has allowed in-lieu fees to be used for a variety of uses that did not always result in affordable units. These uses included preparing studies to determine if projects were feasible and to improve the quality of life for presumed low and moderate-income households.

Compliance with the Inclusionary Housing Ordinance has led to the direct and indirect development of more than 1,500 affordable housing units since 1980. Table 3 and the chart below illustrate several important features associated with units directly and indirectly constructed through the Inclusionary Housing Program and inform future policy decisions to achieve desired goals. These key points include:

Table 3

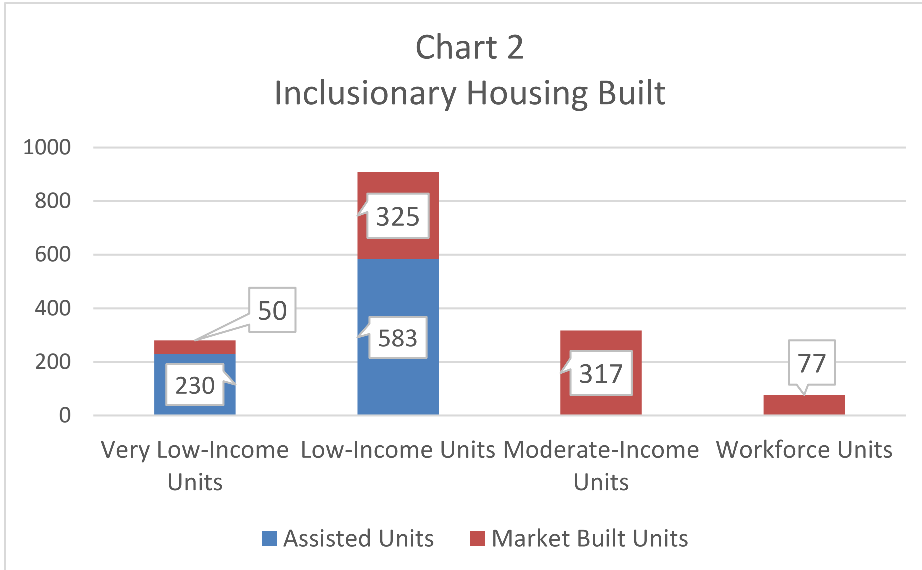
	Affordable Units Built	Affordable Units "Lost"
Assisted Units	**813**	**172**
For Sale - Rehabilitation	35	35
For Sale - Purchase Assist	71	71
Homeless Facility	51	
Rental Units	455	66
Supportive Housing	201	
Market Built Units	**769**	**266**
For Sale Units	422	166
Rental Units	347	100
Total	**1,582**	**438**

- Market rate projects produced a higher percentage of for-sale units and all the units for moderate- and workforce-income units.
- Projects assisted through the Inclusionary Housing Program subsidized a higher percentage of rental units and had deeper levels of affordability.

- A higher percentage of market rate units have been "lost" from the program than assisted units. Units are "lost" for a variety of reasons including, expiring terms of affordability and foreclosures.

APPLICABILITY OF ORDINANCE

The Inclusionary Housing Ordinance has undergone four significant amendments that changed either the size of projects subject to the requirements of the Ordinance and the affordability distribution requirements. Table 4 includes the requirements of 2010 General Plan Land Use Policy 2.13 which have not been incorporated into the Ordinance but included in affordability calculations since 2011.



Because the project records are incomplete it is not possible to assess the impact of the Ordinance by the affordability requirements each project needed to meet. The date the application is deemed complete fixes the applicable Ordinance and the in-lieu fee schedule that the project must comply with. The 250+ projects that have complied with the Ordinance since 1980 have these characteristics:

- 25.3 – Average number of new units proposed.
- 3 – Median number of new units proposed.
- 30 projects purchased or used inclusionary credits from other projects to, at least partially, satisfy current inclusionary obligations.
- 199 projects paid in-lieu fees to, at least partially, satisfy current inclusionary obligation.

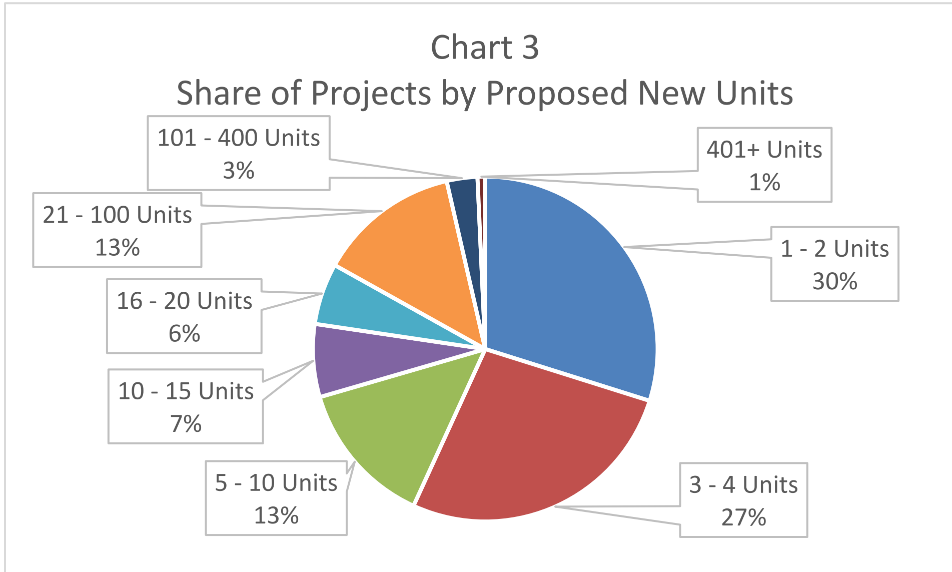
The number of units in a proposed project is an important consideration in designing the Inclusionary Housing Ordinance. Chart 3 shows the relative percentage of

Table 4

Applicable Period	Project Size	Total Affordability %	Affordability Distribution: Very Low-Income %	Low-Income %	Moderate-Income %	Workforce 1 %
1980-1985	1 Unit	2%				
	2 Units	4%				
	3 Units	9%				
	4 Units	12%				
	5+ Units	15%	Negotiated			
1986-2003	7+ Units	15%	Negotiated			
2003-2010	3+ Units	20%	6%	6%	8%	Negotiated
2011-2022	3+ Units	25%	6%	6%	8%	5%

projects by the proposed number of new units since 1980.

Under the current Ordinance, 30% of these projects would be categorically exempt from the program. An additional 27% are only required to pay in-lieu fees. The median sized project (16-units) will produce 1-low-income, 2.2-moderate-income, and 0.8-workforce income units. Table 4 illustrates the potential production of affordable units under the current General Plan and Inclusionary Housing Ordinance requirements. The current production requirements for the average (56-units) and median (16-units) sized projects since 1980 are shown for comparison.



Geographic Distribution of Projects

A major concern with the implementing the Inclusionary Housing Ordinance is attempting to integrate affordable units into market rate projects close to employment centers and, what the California Tax Credit Allocation Committee (TCAC) refers to as, high opportunity areas. These are areas characterized by higher educational achievement, standardized test scores, household-income, and better environmental conditions. Monterey County residents typically associate these areas being within the Greater Monterey Peninsula and Carmel Valley planning areas.

Table 5 illustrates the distribution of the more than 8,300 units that have been proposed for development since 1980 by County Planning Area. One thing that is not highlighted by the available data is the nature of projects proposed in Monterey County. Approximately 70% of the units proposed are in subdivisions that will sell improved lots for subsequent construction of custom built homes by a third party making it all but impossible to assess in-lieu fees based on the

Table 5
Distribution of Proposed New Units & Actual Affordable Units

Planning Area	Proposed New Units	Affordable Units Constructed
Carmel Valley, incl. Cachagua	732	221
Central Salinas Valley	189	189
Fort Ord	1,400	115
Greater Monterey Peninsula	1,226	326
Greater Salinas	1,344	337
North County, incl. Castroville	1,206	147
South County	443	10
Toro	1,527	67
Not Specified	267	170
Grand Total	**8,334**	**1,582**

square footage of the finished units during the project entitlement stage.

Projects in these high resource areas accounted for just under one-quarter of all new units but 35% of the affordable units built (although this is skewed by a land donation that was ultimately developed with 200-low-income units with tax credit assistance in Carmel Valley).

Five projects, Butterfly Village/Rancho San Juan (Greater Salinas), East Garrison (Fort Ord), Las Palmas Ranch I & II (Toro), Quail Hills (South County), and Santa Lucia Preserve (Greater Monterey Peninsula) accounted for more than 52% of the total proposed units.

FINANCING AFFORDABLE UNITS

One challenge that was repeatedly voiced by the development community was the challenge of financing the construction of affordable units, whether through on-site construction or payment of in-lieu fees. Many projects in the unincorporated areas of the County rely on private road, water and sewage systems financed through community facility district or homeowner association assessments. The East Garrison development, for example, established a Community Facilities District to finance these improvements and provide services for the community. The actual assessment is based on the square footage of the home but for inclusionary units will be between $1,800 and $1,900 in fiscal 2022-23. The net effect is that inclusionary homeowners at East Garrison have $150 a month less available to support a mortgage and reducing the sale price of the unit. When preparing financial projections, these factors must either be spread to the market rate units or reduce the sale price of affordable units.

Referring to Chart 2 and Table 2, affordable units developed with financial assistance possible through in-lieu fee payments have produced a greater percentage of the very low- and low-income units. These units are frequently located in the cities of Monterey and Salinas, and, are rentals. Many of these affordable developments rely on a local source of financing to leverage state, federal, and private contributions to fully fund their construction and ongoing operation.

As noted earlier, over the last 40-years, there have been several 100% affordable projects built to provide "credits" so that other projects could be constructed without having on-site affordable units. In cases where these projects achieved deeper levels of affordability, the affordability was achievable because the units were in urbanized areas with existing infrastructure and lower land costs (e.g., Castroville). In the case of Canada Woods/Tehama and Monterra Ranch, the developer was able to achieve a better economy of scale by producing all the affordable units (42-moderate-income units) in one community than would have been possible if each project attempted to integrate affordable units in otherwise large-lot subdivisions with custom built homes.

COMMUNITY FEEDBACK

In February 2019, and February and March 2022, the County held a series of community meetings to collect feedback on how the Inclusionary Housing Ordinance fit into the affordable housing puzzle. Comments during these sessions came from three distinct groups: home builders; affordable housing advocates; and, affordable housing developers and operators.

The first session was held in February 2019 and was convened specifically to address the release of the Financial Feasibility Analysis of the County's Inclusionary Housing Ordinance. Home builders and affordable housing advocates were the primary audience for this meeting. During the meeting and in written comments, builders of market rate projects cautioned that the affordable housing requirements may make some projects financially infeasible, especially for smaller projects. This group felt that a minimum project size of at least 10-units would be more appropriate. This was a concern echoed by LandWatch who commented that the requirements "can distort markets" and increase the cost of market rate housing. The affordable housing developer/operators stressed the need for in-lieu fees to continue being available to support their projects and that the County should retain flexibility to fund projects within cities.

Five community outreach sessions and on-line survey were conducted in February and March 2022. Participants in these sessions included housing advocates, developers, and residents. The key take aways from the survey were: 1) a slight preference to require fewer inclusionary units but with deeper levels of affordability; and, 2) a slight preference for providing fewer affordable units in high resource areas. Comments received reinforced these preferences by requesting that the County look at increasing opportunities for home ownership for low-income households. There was little support for reducing the affordability requirements, outside the development community, except for possibly eliminating the workforce affordability level. There was also strong support for requiring the continued on-site, integrated, development of affordable housing within projects.

Off-site compliance and the collection and use of in-lieu fees generated a lot of discussion. Generally, most commentors thought the County should require off-site compliance to be accomplished within the same planning area as the project that triggered the affordable housing requirements.

CONCLUDING THOUGHTS

The County's Inclusionary Housing Ordinance has been an important tool to providing affordable housing in the unincorporated areas of the County since it was first adopted in 1980.

- The Ordinance has led to the construction of more than 400 units of for sale affordable housing and subsidized the purchase of and/or rehabilitation of an additional 100 owner occupied homes. More than 160 of these owner-occupied units have purchased by low-income households.
- The Ordinance has also supported the construction of nearly 1,000 rental units for very low- and low-income households.
- Based on the historic construction, the Ordinance has not been as successful at encouraging the private market to develop at supporting the development of ownership opportunities for very low- and low-income households.
- The historic trend for most development projects to propose finished lots as opposed to constructing units makes it very difficult for the County to assess in-lieu fees on the proposed square footage of homes.
- In-lieu fee revenue is an important source of funding for affordable housing developers, and they need to have flexibility in applying for and locating projects.
- The County is in the process of establishing the Monterey County Local Housing Trust Fund and the Board of Supervisors has pledged in-lieu fee revenue as a source of ongoing funding and capitalization for the MCLHTF. This will allow the County to leverage additional local and state funds for affordable housing and place a 10% limit on the amount that the County may use for administrative costs.

IN LIEU FEE SCHEDULE EFFECTIVE DECEMBER 8, 2000

Planning Area	In-Lieu Fee - 1 On-Site Unit
Cachagua	$25,729
Central Salinas Valley	$29,173
Coast	$729,320
Greater Monterey Peninsula	$275,392
Greater Salinas	$47,021
North County	$67,813
Redevelopment Areas	$23,402
South County	$22,950
Toro	$160,610

DISCLAIMER: Staff has worked diligently to verify all available information related to the past compliance, affordable housing production, the payment and use of in-lieu fee revenues to assess the impacts of the Inclusionary Housing between 1980 and 2022. However, the documentary record is incomplete and/or subject to different interpretations of historical data. The most challenging aspect of compiling this history is that between approximately 1980 and 1994, the County partnered with the Housing Authority of Monterey County (HACM) to implement the Inclusionary Housing Program, including the receipt and use of in-lieu fees. HACM records indicate that it used in-lieu fees to subsidize down payment assistance and rehabilitation assistance for income qualified households without any additional information as to income level, subsidy amounts, or whether these units were subject to ongoing affordability restrictions.

[i] Where possible staff consulted loan or grant agreements, and tax credit staff reports to determine the appropriate level of affordability. However, many of these units were administered by the HACM. In these cases, it was assumed that the units were subject to low-income affordability requirements consistent with the limits of the U.S. Department of Housing and Urban Development Section 8 program.