

Inclusionary Housing Policy Direction
Staff Recommendations

Below are the staff's recommendations that were distributed as part of the November 9, 2022, HAC packet. These recommendations have been marked up with comments supplied by members of the HAC and public. Where appropriate, staff responses have been inserted as well.

APPLICABLE PROJECT SIZE (PROPOSED LOTS/UNITS)

1. Apply to all projects which result in 1 or more new units per existing lot of record.
2. Projects with less than 20 new units may satisfy obligations through payment of in-lieu fees by right.

Public Comment:

Now less than 5. Should it be increased at all or increased to just 10?

Staff Response:

The current Ordinance applies to all projects with 3 or more new lots/units. The Ordinance also allows projects that result in 3 or 4 new lots/units to satisfy their Inclusionary obligation through the payment of in-lieu fees. The intent here not to exempt projects that will result less than 20 new lots/units, it is to allow these projects to satisfy their Inclusionary obligation by paying an in-lieu fee.

3. Projects zoned "Farmlands" or "Grazing" resulting in lots of not less than 40-acres in size may satisfy obligations through payment of in-lieu fees by right.

AFFORDABILITY REQUIREMENTS

HAC Comment:

A member of the HAC expressed that they were uncomfortable with a one-size-fits-all approach to affordability requirements vis differential costs of development within County subregions. Concern is that this will encourage developers to pursue constructing affordable units separate from the project incurring the Inclusionary obligation thereby concentrating development in already affordable areas of the County and not affirmatively further fair housing.

A member of the HAC expressed a desire to encourage income integrated communities should be the goal. Evidence from other communities indicates better social outcomes, particularly for lower-income households living in mixed-income units.

1. On-site compliance by either:
 - a. 15% Affordability – 7.5% Very Low-Income and 7.5% Low-Income.

Public Comment:

Good

- b. 20% Affordability - 10% Low-Income and 10% Moderate-Income.

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Public Comment:

Not as good. This seems like it would lead developers to b. vs a., which will be bad for county re loss of VLI units. Perhaps a 5% VLI, 10%L, and 10% MI would be better.”

Staff Response:

Based on comments received over the last two-years, staff is concerned that the subsidies required for very low-income units are not feasible when combined with subsidies for low- and moderate-income units. The intent here is to provide the opportunity to offset the larger subsidies for very low- and low- income units by requiring fewer total affordable units. This is similar to what the City of Seaside does by allowing developers to construct 1 very low-income unit in-lieu of 2 moderate-income units or 1 low-income unit in-lieu of 1.5 moderate-income units. Projects proposing to develop affordable units off-site of primary project will be required to build affordable units within the same planning areas as project triggering Inclusionary obligation.

2. Off-Site Compliance - 20% affordability – 5% Very Low-Income, 10% Low-Income, and 5% Moderate-Income.
3. By right In-Lieu Fee, Off-site and/or use of alternative compliance mechanisms must pay in-lieu fees equal to 20% of the Development.

Public Comment:

At what the dollar amounts? Are these being updated?

Staff Response:

The in-lieu fee schedule is being updated and will be adopted as part of the Ordinance when the Board of Supervisors acts. The Board will also be asked to approve a mechanism for updating the in-lieu fees annually.

4. Applicants who comply with the Inclusionary requirements by burdening the development with an Employer Sponsored Housing Permit, must provide 20% affordability – 7.5% Very Low-Income, 7.5% Low-Income, and 5% Moderate-Income.

Public Comment:

What is the accountability mechanism here? Annual reporting or something stronger such as on-site audits?

Staff Response:

Ensuring units are rented to income qualified households is a two-step process. First the applicant must refer potential tenants to the County to income qualify the household. Income eligible households are allowed to enter leases with the property owner. Second, on an annual basis the County monitors all inclusionary units to ensure that they are still occupied by the originally income qualified household.

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Term of Affordability

1. For Sale Units – 45-years with term of affordability renewing at each transfer of title and/or refinancing.

Public Comment:
Good.

Staff Response:
Staff would agree.

2. Rentals – 55-years

DEVELOPMENT EXEMPT FROM ORDINANCE

1. Residential developments which form part of a larger residential development as to which the requirements of this chapter have previously been fully satisfied and as to which there is no default in continuing obligations under this chapter, where the new residential development results in no increase in the number of previously approved lots or units.
2. Development as to which the applicant demonstrates during consideration of a first approval that there is no reasonable relationship between the development and the requirements imposed by this chapter, that the requirements of this chapter would take property in violation of the Federal or California Constitution, or that as a result of unusual or unforeseen circumstances, it would not be appropriate to apply, or would be appropriate to modify, the requirements of this chapter, provided that the Appropriate Authority who makes the determination to approve or disapprove an exemption or modification makes written findings, based on substantial evidence, supporting that determination.

HAC Comment:
A member of the HAC expressed concern that this exemption may allow applicants to convince 3 out of 5 Board members to waive/change requirements on a case-by-case basis.

Public Comment:
Will this be more defined?

Staff Response:
County Counsel will provide a verbal response at the HAC's December 21, 2022 meeting.

3. Development subject to an Employer Sponsored Housing Permit.
 - a. Projects shall be required to execute and record an Inclusionary Housing Developer Agreement memorializing how the Project will meet its Inclusionary Housing obligations if the Employer Sponsored Housing Permit is not renewed by either the Owner or the appropriate regulatory agency.

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Public Comment:

Good. Will the inclusionary requirement be that in use when the project was entitled or at conversion?

Staff Response:

At the time the original project application (first land use or building permit) was deemed complete. The requirements are memorialized in an inclusionary housing developer agreement that is recorded on title and that runs with the land at the time the final map is recorded or issuance of the first building permit. This is consistent with how the County currently determines which Ordinance is applicable to projects.

4. Mobile home park development.