

ORDINANCE NO. 3383

AN ORDINANCE AMENDING TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE, THE COASTAL ZONE LAND USE ORDINANCE, RELATING TO INCLUSIONARY HOUSING

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1. Chapter 4 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by revising Section 23.04.096 as follows:

- a. **Purpose statement.** The purpose and intent of this Section is to:
- (1) Implement Housing Element Program HE 1.9 - Require Development of Affordable Housing.
 - (2) Fulfill the responsibility of the County under State Housing Law (California Government Code Section 65580 et seq.) to provide housing opportunities for all economic segments of the County.
 - (3) Address the shortage of affordable housing in the County for households with incomes below 160 percent of median.
 - (4) Provide opportunities for persons who work throughout the County to live closer to employment centers in order to reduce the length and number of vehicle trips.
 - (5) Promote the vitality of local businesses by ensuring that housing affordable to their employees is available near the place of business.
- b. **Applicability and Exemption.** When development is subject to the provisions of this Section or Section 23.04.092 (Affordable Housing Required in the Coastal Zone), the applicant shall comply with the more restrictive code. The more restrictive code shall be the one that requires the highest number of affordable housing units to be provided. Should a conflict arise between this Section or Section 23.04.092 or with a community planning standard regarding the number of affordable housing units to be provided, then the section or standard that requires the highest number of affordable housing units shall prevail.

When development is subject to the provisions of this Section or Section 23.04.092, the applicant may choose instead to comply with the density bonus provisions of Government Code 65915 or Section 23.04.090 (Affordable Housing Density Bonus). If a conflict arises between the state and county density bonus codes, the state code shall prevail.

Nothing in this Section shall be construed to supersede or in any way alter or lessen the effects or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code.

- (1) **Applicability.** The following development is subject to the requirements of this Section:
 - (i) Residential development with one or more dwelling units.

- (ii) Commercial/industrial development with a cumulative floor area of 5,000 s.f. or more.
 - (iii) Mixed-use development.
 - (iv) Subdivision of land.
- (2) **Exemptions.** The following development is exempt from the requirements of this Section:
- (i) Development that is non-residential or non-commercial in nature, such as educational facilities (i.e., schools and museums), religious institutions, public facilities and public infrastructure.
 - (ii) Rental housing.
 - (iii) Dwelling unit(s) of less than 2,200 square feet in size (each).
 - (iv) Residential addition, repair or remodel work that does not increase the number of existing residential dwellings.
 - (v) Commercial structure repair or maintenance. Commercial structure addition or conversion to different commercial uses, cumulatively not exceeding 5,000 square feet.
 - (vi) Reconstruction of any structures destroyed by fire, flood, earthquake or other acts of nature provided that the reconstruction of the site does not increase the number of residential units or size of non-residential floor area beyond County approved pre-existing conditions.
 - (vii) Affordable housing development where all housing units will conform to Section 23.04.094 – Housing Affordability Standards for low and very low income households.
 - (viii) Residential development that provides affordable housing units in conformance with California Government Code Section 65915 et seq. (the “State density bonus law”) will simultaneously satisfy the requirements of this Section.
 - (ix) A condominium conversion of an existing residential structure that does not increase the number of dwelling units.
 - (x) A condominium conversion of an existing commercial or industrial structure that does not increase the structural floor area or convert to a more intensive commercial use (i.e. convert to a commercial use that would require payment of a higher fee amount as set forth in the housing impact fee schedule.)
 - (xi) A subdivision of land in any Non-Residential land use category or in the Residential Multi-Family land use category that creates vacant, undeveloped parcels (s). All future development or change of use on the subdivided parcels shall be subject to this Section.

- (xii) A subdivision of developed non-residential or developed Residential Multi-Family zoned land if the subdivision does not increase the non-residential floor area or number of dwelling units or create a more intensive non-residential use (e.g. a commercial use with a higher fee amount in the housing impact fee schedule). All future development or change of use on the subdivided parcels shall be subject to this Section.
- (xiii) Residential care-taker units.
- (xiv) Residential care facilities.
- (xv) Farm support quarters.
- (xvi) Employee housing units (deed restricted for very low, low, moderate and/or workforce households).
- (xvii) Secondary dwelling units.
- (xviii) Residential mobilehome park development and/or expansion, or the condominium conversion of a rental mobilehome park into to a resident ownership mobilehome park.

c. **Inclusionary housing requirements for residential development.** For all residential development subject to this Section, the base density shall be determined at the time of application submittal pursuant to Subsection c.6, and a portion of that base density shall be restricted for occupancy by workforce, moderate, low or very-low income households as follows:

- (1) **Required inclusionary housing by income group.** Applicants may choose to provide inclusionary housing unit(s) or pay an in-lieu fee. For projects which provide inclusionary housing units, a minimum of 8% of the base density shall be designated as inclusionary housing. Inclusionary housing units shall be provided for each income group as follows:

Percentage of Base Density that Shall be Inclusionary Housing Units

| Income Group | % |
|----------------------------|----|
| Workforce households | 2% |
| Moderate income households | 2% |
| Low income households | 2% |
| Very low-income households | 2% |
| Project Total | 8% |

Income groups and income limits are defined by Section 23.04.094.b. (Eligible Household Definitions).

- d. **Alternative methods for residential projects.** One or more alternative methods, such as construction the inclusionary housing units on site or off-site, payment of an in-lieu fee or donation of land may be used to satisfy the requirements of this Section. Pursuant to Subsection j below the applicant shall submit a statement that includes a description of the required number of inclusionary housing units and any alternative methods proposed to meet the requirements of this Section.
- (1) **On-site inclusionary housing units.** The applicant may choose to provide all or a portion of the required inclusionary housing units on-site, provided that the inclusionary housing units are not constructed on prime agricultural soil.
 - (2) **In-lieu fee.** The applicant may propose to pay an in-lieu fee instead of providing inclusionary housing unit(s). The fee may be paid when construction permits are issued or be deferred. An Inclusionary Housing Agreement is required when fee payment is deferred until after construction permit issuance or subdivision map recordation, pursuant to Subsections j(3) and j(4). Fee payment may be deferred until the time of sale of individual ownership residential units or prior to final permit approval for occupancy for individual residential units. The in-lieu fee schedule is found in Title 29 Section 29.04.020.b (Calculation of Fees).
- e. **Inclusionary housing requirements for commercial, industrial and mixed-use development.** Commercial and industrial development of 5,000 square feet or more of floor area for commercial or industrial use requires the payment of a housing impact fee or construction of inclusionary housing units.
1. **Establishing the inclusionary housing requirement.** For all commercial, industrial, and mixed-use development the inclusionary housing requirement is established at the time of the following events, whichever occurs first:
 - a. Upon approval of the land use permit; or
 - b. At the time of tentative map approval for a commercial/industrial subdivision when such approval is granted after January 10, 2009 (the effective date of this Section).
 2. **Payment of housing impact fee.** The fee may be paid when the construction permit is issued. An Inclusionary Housing Agreement is required when fee payment is deferred until after construction permit issuance or subdivision map recordation, pursuant to Subsections j(3) and j(4). Fee payment may be deferred until final permit approval for occupancy for new structures, structural additions, and/or for any remodel work or conversion of existing structures to a new or different commercial or industrial use. For commercial subdivisions, fee payment may be deferred no later than the occupancy or sale of individual units. If no construction permit is issued then the housing impact fee shall be paid prior to approval of any land use permit for new or converted commercial or industrial structure(s). The housing impact fee schedule is found in Title 29 Section 29.04.020.b (Calculation of Fees).

j. Compliance Procedures.

4. Inclusionary Housing Agreement and/or trust deed. The provision of inclusionary housing units on-site or off-site, or the deferment of fees as described in Subsection J.3 (Payment of fees), or the use of any alternative method(s) described in Subsection D (Alternative methods for residential projects), or in Subsection F (Alternative methods for commercial/industrial projects) are subject to this Subsection. Project compliance shall be secured with an Inclusionary Housing Agreement, except that deferred fees on vacant, subdivided parcels shall be secured by trust deed(s). The Inclusionary Housing Agreement or trust deed(s) shall be prepared by County Counsel.

- a. The Inclusionary Housing Agreement shall be executed and recorded to the County's satisfaction prior to any construction permit issuance or subdivision map recordation, whichever comes first. If no construction permit or subdivision map is required, then the Inclusionary Housing Agreement shall be executed and recorded prior to the approval of any land use permit. Any deferred fee amount shall be based on the fee schedule described above in Subsections C.3 and E.3. (Determining the fee schedule).
- b. The relevant terms and conditions of the Inclusionary Housing Agreement shall be recorded as deed restrictions on the inclusionary housing units. All deferred fee amount(s) shall be recorded as a lien against the project site. In cases where the requirements of this Section are satisfied through a donation of land or development of off-site inclusionary housing units the Inclusionary Housing Agreement must simultaneously be recorded against the property to be donated or where the off-site units are to be developed.
- c. If a subdivision will create vacant parcels for sale and the payment of in-lieu or housing impact fee(s) will be deferred to a time after map recordation, then a trust deed shall be recorded on each parcel when the map is recorded. The deferred fee amount shall be determined at the time that construction permit(s) are issued on the parcel and fee payment shall occur prior to final permit approval for occupancy or unit sale. The trust deed(s) shall indicate that future fee schedule(s) will be used to calculate deferred fee amounts. Pursuant to Title 29, future fee schedules will be approved by resolution of the Board of Supervisors.
- n. **Annual Report.** The Planning Director shall prepare an annual report for the Board of Supervisors and present the report at an agenda meeting. The report shall describe the progress made during the prior reporting period with regards to providing affordable housing pursuant to this ordinance. The Planning Commission may make recommendations regarding the ordinance or its implementation.
- o. **Reevaluation of Inclusionary Housing Ordinance and Affordable Housing Fund.** Within 3 years of the effective date of the tiered rate structure in Section 29.04.020.a (Calculation of Fee), the Board shall hold a hearing to re-evaluate the Inclusionary Housing Ordinance and Affordable Housing Fund and shall repeal the Inclusionary Housing Ordinance and Affordable Housing Fund if broad based funding options have been successfully established.

SECTION 2. That this project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption].

SECTION 3. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4. This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 12th day of March, 2019, by the following roll call vote, to wit:

AYES: Supervisors Bruce S. Gibson, John Peschong, Adam Hill, Lynn Compton, and Chairperson
Debbie Arnold

NOES: None

ABSENT: None

ABSTAINING: None


Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

TOMMY GONG
County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

By: Annette Ramirez
Deputy Clerk