

Proposed Amendments to Title 22 (Land Use Ordinance)

Inclusionary Housing Ordinance
Public Review Draft (December 2018)

Item #1 – Proposed amendments to Section 22.12.080.B.1.a:

Apply the ordinance to residential projects with one or more dwelling units rather than two or more.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

B. Applicability and Exemptions.

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

Item #2 – Proposed amendments to Section 22.12.080.B.2.c:

Increase the size of exempt dwelling units from 900 square feet to 2,200 square feet.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

B. Applicability and Exemptions.

2. **Exemptions.** The following development is exempt from the requirements of this Section:
 - c. Dwelling unit(s) of less than ~~900~~ 2,200 square feet in size (each).

Item #3 – Proposed amendments to Section 22.12.080.C.1:

Regarding the required number of inclusionary housing units (when the developer chooses to provide housing instead of paying fees), remove the 5-year chart and 4% to 20% housing requirement and replace it with a single 8% requirement. This means that the project must designate 8% of its units as affordable units.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

C. Inclusionary housing requirements for residential development.

- 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	Year 1	Year 2	Year 3	Year 4	Year 5
Workforce households	1%	2%	3%	4%	5%
Moderate income households	1%	2%	3%	4%	5%
Low income households	1%	2%	3%	4%	5%
Very low income households	1%	2%	3%	4%	5%
Project Total	4%	8%	12%	16%	20%

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

~~This phase-in period shall coincide with the five-year phase-in period for the affordable housing fee schedules of Title 29 – Affordable Housing Fund, Section 29.04.040.~~ Income groups and income limits are defined by Section 22.12.070.B. (Eligible Household Definitions).

Item #4 – Proposed amendments to Section 22.12.080.D.2:

Remove reference to annual updates of the inclusionary housing fee schedules.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

D. Alternative methods for residential projects.

- 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 ~~updated annually by resolution of the Board of Supervisors and can be found located~~ in Title 29. Refer to Title 29 Section 29.04.020.a (Calculation of Fees).

Item #5 – Proposed amendments to Section 22.12.080.E.2:

Remove reference to annual updates of the inclusionary housing fee schedules.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

E. Inclusionary housing requirements for commercial, industrial and mixed-use development.

- 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 ~~updated annually by resolution of the Board of Supervisors and can be found located~~ in Title 29. Refer to Title 29 Section 29.04.020.b (Calculation of Fees).

Item #6 – Proposed amendments to Section 22.12.080.N:

Remove requirement to submit annual progress reports to Planning Commission.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

N. Annual Report. The Planning Director shall prepare an annual report for the Planning Commission and 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.

Proposed Amendments to Title 23 (Coastal Zone Land Use Ordinance)

Inclusionary Housing Ordinance
Public Review Draft (December 2018)

Item #1 – Proposed amendments to Section 23.04.096.b(1)(i):

Apply the ordinance to residential projects with one or more dwelling units rather than two or more.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

b. Applicability and Exemptions.

1. Applicability. The following development is subject to the requirements of this Section:

- i. Residential development with ~~two or more dwelling units~~ one or more dwelling units.

Item #2 – Proposed amendments to Section 23.04.096.b(2)(iii):

Increase the size of exempt dwelling units from 900 square feet to 2,200 square feet.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

b. Applicability and Exemptions.

2. Exemptions. The following development is exempt from the requirements of this Section:

- iii. Dwelling unit(s) of less than ~~900~~ 2,200 square feet in size (each).

Item #3 – Proposed amendments to Section 23.04.096.c(1):

Regarding the required number of inclusionary housing units (when the developer chooses to provide housing instead of paying fees), remove the 5-year chart and 4% to 20% housing requirement and replace it with a single 8% requirement. This means that the project must designate 8% of its units as affordable units.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

c. Inclusionary housing requirements for residential development.

- 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	Year 1	Year 2	Year 3	Year 4	Year 5
Workforce households	1%	2%	3%	4%	5%
Moderate income households	1%	2%	3%	4%	5%
Low income households	1%	2%	3%	4%	5%
Very low income households	1%	2%	3%	4%	5%
Project Total	4%	8%	12%	16%	20%

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

~~This phase-in period shall coincide with the five-year phase-in period for the affordable housing fee schedules of Title 29 – Affordable Housing Fund, Section 29.04.040.~~ Income groups and income limits are defined by Section 22.12.070.B. (Eligible Household Definitions).

Item #4 – Proposed amendments to Section 23.04.096.d(2):

Remove reference to annual updates of the inclusionary housing fee schedules.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

d. Alternative methods for residential projects.

- 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 ~~updated annually by resolution of the Board of Supervisors and can be found located~~ in Title 29. [Refer to Title 29 Section 29.04.020.a \(Calculation of Fees\).](#)

Item #5 – Proposed amendments to Section 23.04.096.e(2):

Remove reference to annual updates of the inclusionary housing fee schedules.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

e. Inclusionary housing requirements for commercial, industrial and mixed-use development.

- 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 ~~updated annually by resolution of the Board of Supervisors and can be found located~~ in Title 29. [Refer to Title 29 Section 29.04.020.b \(Calculation of Fees\).](#)

Item #6 – Proposed amendments to Section 23.04.096.n:

Remove requirement to submit annual progress reports to Planning Commission.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

- n. Annual Report.** The Planning Director shall prepare an annual report for the Planning Commission ~~and~~ 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.

Proposed Amendments to Title 29 (Affordable Housing Fund)

Public Review Draft (December 2018)

Item #1 – Proposed amendments to Section 29.04.020.a:

Remove the fixed in-lieu fee schedule (Table 29.1) and replace with a tiered fee schedule. This fee applies to residential projects.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough. The deleted Table 29.1 is not shown.

29.04.020 Calculation of Fees

- a. ~~The Planning Director shall use Table 29.1 to calculate the in-lieu fees for residential development projects.~~ calculate in-lieu fees for residential development projects as shown in subsections i. through v. below. In the Coastal Zone, projects that include 11 or more dwelling units, and that provide moderate and/or low-income units pursuant to Section 23.04.092, shall be exempt from paying in-lieu fees.

Residential Development

- i. The first 2,200 square feet of the unit shall be exempt from paying fees.
ii. The portion of the unit between 2,200 and 2,500 square feet shall be subject to a fee of \$8 per square-foot.
iii. The portion of the unit between 2,500 and 3,500 square feet shall be subject to a fee of \$12 per square-foot.
iv. The portion of the unit above 3,500 square feet shall be subject to a fee of \$16 per square-foot.
v. The maximum fee for any single unit shall not exceed \$7 per square-foot as calculated using the entire square footage of the residence. Units greater than 4,622 square feet in size would pay a rate of \$7 per square-foot instead of the fee resulting from the above rate schedule.

Item #2 – Proposed amendments to Section 29.04.040:

Remove the section regarding the annual adjustment and five (5) year phase-in period for the fee schedules. Retain the language regarding the periodic five-year review of the fee schedules and the required findings for impact fee adjustments pursuant to AB 1600.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough.

29.04.040 ~~Phase-in and Annual Adjustment of Fee Schedules~~

- a. ~~The fee schedules in Tables 29.1 and 29.2 shall be phased in over a five year period. The amount, or percentage, of fees in Tables 29.1 and 29.2 that the County shall collect will be as follows:~~

Table 29.3 – Phasing of In-Lieu and Housing Impact Fees

Year	Year 1	Year 2	Year 3	Year 4	Year 5
Percentage of fee collected	20%	40%	60%	80%	100%

Table 29.4 – Examples of Phasing of Fees

Sample Project	Year 1	Year 2	Year 3	Year 4	Year 5
In-Lieu Fee— 2,100 s.f. Residence	\$3,990	\$7,980	\$11,970	\$15,960	\$19,950
Housing Impact Fee— 10,000 s.f. Commercial Retail building	\$4,210	\$8,420	\$12,630	\$16,840	\$21,050

- b. ~~The fee schedules set forth in Tables 29.1 and 29.2 shall be adjusted each year. This annual adjustment shall be approved by resolution of the Board of Supervisors concurrently with the adjustment of the County's construction permit fees. In adopting each resolution the Board of Supervisors shall:~~

- ~~(1) Identify the purpose of the fees.~~
- ~~(2) Identify the use to which the fees are to be put, in accordance with the Affordable Housing Fund Action Plan.~~
- ~~(3) Determine that there is a reasonable relationship between the fees' use and the type of development project on which the fees are imposed.~~
- ~~(4) Determine that there is a reasonable relationship between the County wide need for affordable housing and the type of development projects on which the fees are imposed.~~
- ~~(5) Determine that there is a reasonable relationship between the amount of the fees and the cost of providing affordable housing that has been attributed to the type of development projects on which the fees are imposed.~~

~~The fees shall be increased or decreased by the percentage change in the Construction Cost Index for the San Francisco Bay Area for the prior year, as reflected in the Engineering News Record published by McGraw-Hill. The in-lieu and housing impact fees shall be adjusted and a new schedule published by the Planning Director on July 1 of each year. This adjustment will offset the effects of inflation related to construction cost increases or deflation-related cost decreases. If the Construction Cost Index is discontinued, the Planning Director shall use a comparable index for determining the changes in the median home costs for San~~

~~Luis Obispo County. The fees shall be annually reviewed and updated at least every five (5) years to reflect any changes in the funding gaps for very low, low, moderate income and workforce households.~~

- ~~c. In addition to the annual adjustment, the amount of the fees established by this Title may be revised periodically by resolution of the Board of Supervisors.~~

29.04.040 Five-Year Nexus Study

a. The fee schedules set forth in Sections 29.04.020(a) and (b) shall be updated at least every five (5) years to reflect any changes in the funding gaps for very low, low, moderate income and workforce households. This update shall be conducted pursuant to a nexus study (or update of prior nexus study) and the fee adjustments shall be approved by resolution of the Board of Supervisors. All new fee schedules shall be published by the Planning Director on July 1 of the effective year. In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fees.
- (2) Identify the use to which the fees are to be put, in accordance with the Affordable Housing Fund Action Plan.
- (3) Determine that there is a reasonable relationship between the fees' use and the type of development project on which the fees are imposed.
- (4) Determine that there is a reasonable relationship between the County-wide need for affordable housing and the type of development projects on which the fees are imposed.
- (5) Determine that there is a reasonable relationship between the amount of the fees and the cost of providing affordable housing that has been attributed to the type of development projects on which the fees are imposed.

b. The amount of the fees established by this Title may be revised periodically by resolution of the Board of Supervisors.

Item #3 – Proposed amendments to Section 29.05.020:

Require the County to prepare its Affordable Housing Fund Action Plan concurrently with the Action Plan for federal funds from the U.S. Department of Housing & Urban Development.

Note: Proposed text is shown as underlined text, whereas proposed deletion of text is shown with strikethrough. The deleted Table 29.1 is not shown.

Concurrent with preparation of the [U.S. Department of Housing and Urban Development \(HUD\) Action Plan regarding the use of federal funds Annual Report](#) the Planning Director shall also prepare an Affordable Housing Fund Action Plan and present it to the Board of Supervisors for approval. The Affordable Housing Fund Action Plan shall guide the use of the [County's](#) Affordable Housing Fund and its individual accounts. This document shall plan for the current fiscal year or other appropriate time frame to ensure accurate and effective planning and budgeting of fund revenues. The Action Plan shall include:

[END OF REVISIONS]