

SCC NO. 1549

**AN ORDINANCE OF THE SACRAMENTO COUNTY CODE RELATING TO
AFFORDABLE HOUSING**

The Board of Supervisors of the County of Sacramento, State of California,
ordains as follows:

SECTION 1. Sections 22.35.010 through 22.35.180 of Chapter 22.35, Title 22,
of the Sacramento County Code are repealed.

SECTION 2. Sections 22.35.010 through 22.35.110 are added to Chapter 22.35,
Title 22, of the Sacramento County Code to read as follows:

22.35.010 Purpose.

A. It is a public purpose of the County and a policy of the State to achieve a diverse and balanced community with housing available for households of all income levels. The County is committed to implementing policies and regulatory actions that will increase the supply of housing affordable to low, very low and extremely low income households. Because of a variety of factors and economic circumstances, including, but not limited to, increasing development costs, new residential development does not always provide housing for these economic groups. Further, the consumption of the remaining supply of suitable and available land exacerbates the County's on-going efforts to encourage and facilitate the production of housing that is affordable to persons of all income levels, including low, very low and extremely low income households.

B. Housing Element Policy HE-5.2 (E3) provides that the County will review and amend as appropriate its Affordable Housing Ordinance to consider its effectiveness in producing affordable housing, its impact on the production of market rate housing, the current and projected future need for affordable housing in the County and the market's ability to meet that need, and options to streamline and/or clarify the Ordinance.

C. The Legislature of the State of California has found that the lack of affordable housing is a critical problem which threatens the economic, environmental and social quality of life in California.

D. To implement Policy HE-5-2 (E3), to carry out the policies of the State of California, to achieve the benefits of economic diversity for the residents of the County and to assist in making affordable housing available in the County for all income levels, it is essential that new residential development contain housing opportunities to households of low, very low and extremely low income, and that the County provide a regulatory framework which provides opportunities for development of a supply and mix of new housing to meet the future housing needs of all income segments of the community.

E. The Board of Supervisors finds and determines that the Residential Nexus Analysis prepared by Keyser Marston Associates, Inc. in August 2013 meets the requirements of Government Code for the implementation of an impact fee in that newly constructed units represent new households and new income in Sacramento County. These households will consume goods and services, either through purchases of goods and services or by "consuming" governmental services. New consumption translates to new jobs; a portion of the jobs are at lower compensation levels. Low compensation jobs translate to lower income households that cannot afford market rate units in the County and therefore need affordable housing. The affordability fee established herein is below the ceiling identified in the Residential Nexus Analysis which ranges from \$13.36 per square foot to \$24.20 per square foot depending on the unit type for eight prototype developments in the County for the impact fee requirement placed on market rate development.

F. The Board of Supervisors finds and determines that, based upon the above purposes and findings, there is a reasonable relationship between the need for affordable housing and the type of development projects that may meet their affordable obligation pursuant to this Chapter by payment of affordability fees.

22.35.020 Definitions.

"Affordability fee" means the fee required by Section 22.35.050.

"Affordable" means rented at an affordable rent or sold at an affordable housing price.

"Affordable housing price" means a sales price at which low income or very low income households can qualify for the purchase of for-sale affordable units. Qualification shall be based on no more than thirty-five (35) percent of income at eighty (80) percent, and fifty (50) percent of the median income applicable to Sacramento County, respectively for low income and very low income households, being applied to housing expenses, which shall include mortgage principal and interest, taxes, insurance, assessments, and homeowner fees, as applicable.

"Affordable housing plan" means the plan setting forth the elements of a development project's affordable housing requirements and the manner in which the affordable housing is to be implemented.

"Affordable housing unit" or "affordable unit" means an ownership or rental dwelling unit developed to be occupied at an affordable housing price or an affordable rent.

"Affordable rent" means: (1) for a unit whose occupancy is restricted to low income households, a monthly rent consisting of a maximum of one-twelfth of thirty (30) percent of eighty (80) percent of the median income applicable to Sacramento County; (2) for a unit whose occupancy is restricted to a very low income household, a monthly rent consisting of a maximum of one-twelfth of thirty (30) percent of fifty (50) percent of the median income applicable to Sacramento County. In all cases the median income applicable to Sacramento County is as determined annually by the United States Department of Housing and Urban Development. Maximum rent is adjusted for household size appropriate to the unit, less a reasonable allowance for utilities, as published by SHRA.

"Buy-down" means the subsidy needed to pay the difference in price between a very low income affordable unit and an extremely low income affordable unit.

"Construct" means to build or cause to be built.

"County" means the County of Sacramento.

"Credits for affordable housing units" means unit credits, purchased by SHRA prior to the effective date of this ordinance, for the construction of affordable housing units in excess of a previous affordable housing obligation.

"Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities that seeks County's approvals for all or part of a development project. "Developer" includes "owner."

"Development agreement" means an agreement entered into pursuant to Government Code sections 65864 et seq.

"Development project" means any real estate development project in the unincorporated County that includes at least one dwelling unit. Projects at one location developed by the same owner or developer undertaken in phases, stages or otherwise developed in distinct sections shall be considered a single development project for purposes of this Section. "Development project" includes units and acreage associated with the affordable housing component

"Dwelling unit" means a residential unit within a development project.

"Extremely low income" or "ELI" means a household whose income does not exceed thirty (30) percent of the median income, adjusted for household size, applicable to the County, as published and periodically updated by the United States Department of Housing and Urban Development.

"Large development project" means a development project that includes at least 100 acres designated for residential units and includes at least 750 residential units.

"Market rate" means not restricted to an affordable housing price or affordable rent.

"Mobilehome park" has the same meaning as set forth in Zoning Code Section 130-126 or any successor section.

"Multifamily" means residential units planned, approved, or built on land planned or zoned for other than single-family residential.

"Newly constructed" means the habitable square footage of any primary residential unit that has not been previously occupied for any purpose, as set forth in Section 1107A, 14-N of the 2010 California Building Code, California Code of Regulations Title 24 Part 2, Volume 1 of 2. For the purposes of this Chapter, exceptions from this definition include accessory dwelling units, remodel or enlargement, or restoration of a dwelling unit which has been damaged or partially destroyed due to fire, flood, or earthquake.

"Regulatory agreement" means a written agreement incorporating affordable housing prices or affordable rent and occupancy restrictions, recorded as a lien on the affordable housing units.

"SHRA" means Sacramento Housing and Redevelopment Agency, a joint powers agency.

"Very low income" means a household whose income does not exceed fifty (50) percent of the median income, adjusted for household size, applicable to the County, as

published and periodically updated by the United States Department of Housing and Urban Development.

22.35.030 Standard Affordable Housing Component.

- A. Development projects shall:
1. Pay an affordability fee on all newly constructed market rate units pursuant to Section 22.35.050(A); or
 2. Comply with the development project's approved affordable housing plan; if one exists, or
 3. Enter into a development agreement or other form of agreement with the County which provides for a fee credit for land dedication, construction of affordable dwelling units, or other mechanism which leads to the production of affordable housing, in an amount at least equivalent to the affordability fee established by Section 22.35.050(A).
 - a. Land dedicated pursuant to section 22.35.030(A)(3) must be a site that is approved and accepted by SHRA and consistent with the guidelines prepared pursuant to section 22.35.100.
 - b. Regulatory agreements shall be recorded and monitored by SHRA on all affordable housing units constructed pursuant to section 22.35.030(A)(3).
- B. Development projects may purchase credits for affordable housing units banked with SHRA prior to the effective date of this ordinance. Credits may be purchased in combination with payment of fees pursuant to section 22.35.030(A)(1) or land dedication, construction of units or other mechanism which leads to the production of affordable housing pursuant to section 22.35.030(A)(3).
- C. Development projects with a tentative subdivision map which was approved prior to the effective date of this ordinance and which contain density bonus units allowed pursuant to the repealed version of this Chapter may build according to that subdivision map.
- D. Development projects may enter into an agreement with the County that allows construction of new market rate housing without payment of an affordability fee if the developer has constructed affordable unit in advance of construction of market rate units pursuant to an affordable housing plan adopted prior to the effective date of this ordinance. The number of market rate units not subject to the affordability fee shall be calculated by dividing the number of affordable units by nine percent.

22.35.040 Exempted Development Projects.

The following development projects are exempt from this Chapter and generate no affordable housing obligation:

- A. Conversion of nonresidential buildings to residential use;
- B. Mobilehome parks;
- C. Market rate and affordable units in a mixed-income development on a newly created multifamily site located on-site built at a density of 17 units per acre or more where at least twenty (20) percent of the units are affordable to low income renters or buyers. Affordable housing units shall have a regulatory agreement recorded and monitored by SHRA;

D. A new single-family residential structure built by an owner-builder on his or her property, provided that (1) the new home is not intended for sale within two years of completion of construction; (2) the owner has not utilized the exemption set forth in this Section 22.35.040 within two years of applying for a building permit for the new structure; and (3) the owner personally performs the work, or the owner directly contracts with a contractor to complete the project.

22.35.050 Affordability Fees.

A. The affordability fee is an amount equal to \$2.50 per habitable square foot of each market rate unit.

B. The affordability fee shall be paid concurrently with the payment of building permit fees for the development project in accordance with the fee schedule in effect at the time of building permit application.

C. The affordability fee, including the maximum amount of the fee, shall be adjusted annually based on the Building Cost Index 20-City Average published by Engineer News-Record/McGraw Hill. County shall publish the fee schedule.

D. At least ten (10) percent of the affordability fees collected pursuant to this Section shall be used to buy down or produce ELI units.

E. At least fifty (50) percent of the affordability fees collected shall be used to produce affordable housing in large development projects. The implementation of this provision shall be detailed in the Guidelines prepared pursuant to section 22.35.100.

22.35.060 Establishment and Administration of Fund for Affordability Fees.

A. There is hereby created by the Office of the County Auditor-Controller in the County Treasury a special interest-bearing fund entitled the Fund for Affordability Fees. All fees collected pursuant to Section 22.35.050 and interest shall be placed in said fund and shall be expended solely to purchase land for affordable housing, produce or substantially rehabilitate affordable units, or buy down ELI units.

B. The affordability fees collected shall be transferred to SHRA and administered by the SHRA Executive Director who shall have the authority to govern the fund consistent with this Chapter, established priorities pursuant to section 22.35.060(C), and the guidelines prepared pursuant to section 22.35.100. Transfer of affordability fees to SHRA shall occur no less than quarterly. A portion of the funds may be used to cover reasonable administrative expenses. SHRA and County administrative expenses shall be approved by the Board of Supervisors through the SHRA and County annual budget processes.

C. The Board of Supervisors shall establish priorities for the use of the Fund. The SHRA Executive Director, in consultation with the County Director of Community Development, shall recommend priorities for the use of the funds for Board of Supervisors' approval on a biennial basis.

D. The Executive Director of SHRA, in consultation with the County Director of Community Development, shall report biennially on the performance of the affordable housing program, including the number of units produced, the amount of funds collected and the amount of funds expended. The report shall also include the levels of affordability in units constructed pursuant to this Chapter.

22.35.070 Quality.

Affordable units constructed using affordability fees paid pursuant to this Chapter, or constructed through a development agreement or other form of agreement pursuant to section 22.35.030(A)(3) shall be visually compatible with the market rate units and accommodate diverse family sizes by including units with different numbers of bedrooms, as determined by the approval authority, upon recommendation of the SHRA Executive Director. External building materials and finishes, front yard landscaping and amenities shall be of the same type and quality for affordable units as for market rate units.

22.35.080 Accessibility.

A minimum of five (5) percent of the dwelling units (but not less than one (1) unit) in a multifamily project constructed using affordability fees paid pursuant to this Chapter shall be made accessible for persons with disabilities.

22.35.090 Occupancy and Affordability Requirement.

A. Any person who rents or owns an affordable unit shall occupy that unit as his or her principal residence.

B. Rental affordable units shall remain affordable for a period of no less than fifty-five (55) years from recordation of the notice of completion for the rental units.

C. For-sale affordable units shall remain affordable for a period of not less than thirty (30) years from the first sale of an individual property and from the date of any resale to an income-eligible buyer made at a time the affordable unit is subject to affordability restrictions under this Chapter.

22.35.100 Guidelines.

The Executive Director of SHRA, in consultation with the County Director of Community Development, shall prepare guidelines to ensure compliance with this Chapter. The guidelines shall be adopted by resolution of the Board of Supervisors.

22.35.110 Severability.

The Board of Supervisors of the County of Sacramento declares that should any section, paragraph, sentence, or word of this Chapter be declared for any reason to be invalid, it is the intent of the Board of Supervisors that it would have passed all other portions of this Chapter, independent of the provision declared invalid.

SECTION 3. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors on February 11, 2014, and on February 25, 2014, further reading was waived by the unanimous vote of the Supervisors present.

This ordinance shall take effect and be in full force on and after thirty (30) days

from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Supervisors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Supervisor Serna, seconded by Supervisor MacGlashan, the foregoing ordinance was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, this 25th day of February 2014 by the following vote:

- AYES: Supervisors, MacGlashan, Peters, Serna, Yee
- NOES: Supervisors, Nottoli
- ABSENT: Supervisors, None
- ABSTAIN: Supervisors, None



Jimmie Ryee
Chair of the Board of Supervisors
of Sacramento County, California

In accordance with Section 25103 of the Government Code of the State of California a copy of this document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on

FEB 25 2014
By Kevin Row
Deputy Clerk, Board of Supervisors

ATTEST: Cyndi Lee
Clerk, Board of Supervisors

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FILED
FEB 25 2014
BOARD OF SUPERVISORS
BY Cyndi Lee
CLERK OF THE BOARD