

Chapter 1600

Sutter County
Affordable Housing Program

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1600-100 Purpose of the Affordable Housing Program; Findings

The purpose of this ordinance is to create an Affordable Housing Program which will assist the County in its efforts to facilitate the provision of decent, safe, and affordable housing for persons of very low, low, and moderate income living within the County.

In adopting this ordinance, the Board of Supervisors finds and determines that:

- (a) It is difficult for persons of very low, low, and moderate income living within the County to secure affordable housing.
- (b) The County is seeking to meet its regional fair share need for housing affordable to very low, low, and moderate income households.
- (c) It is the goal of the County to achieve an adequate housing supply with a balanced inventory of dwelling types and densities at all economic levels to meet the needs of present and future residents of the County.
- (d) The availability of affordable units for large sized, very low, low, and moderate income families is limited within the County.

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- (e) The provision of housing affordable to very low, low, and moderate income persons is important to ensuring the availability of the labor force needed by the County's businesses and industries.
- (f) The Housing Element of the Sutter County General Plan includes goals and policies for an affordable housing program for very low, low, and moderate income households.
- (g) This program is intended to supplement the other policies and programs within the Housing Element of the Sutter County General Plan which will result in the production of affordable housing units.

1600-200 Definitions

TERMS	DEFINITIONS
(a) Affordable Housing	Housing that is available to target income households at a monthly cost that does not exceed 30% of their monthly gross incomes.
(b) Affordable Rent	Monthly rent, including utilities and all fees for housing services, equal to or less than 30% of the gross monthly income for the specified target income household. Affordable Rent shall be based on presumed occupancy levels of one person in a studio unit, three persons in a one bedroom unit, five persons in a two bedroom unit, and two additional persons for each additional bedroom thereafter.
(c) Affordable Sales Price	The maximum purchase price that will be affordable to the specified target income household. A maximum purchase price shall be considered affordable only if each Monthly Housing Payment is equal to or less than 30% of the gross monthly income for the specified target income household. In setting the Affordable Sales Price, realistic assumptions regarding down payment, mortgage interest rate and term will be required and those assumptions must demonstrate that targeted income families can reasonably qualify. Affordable Sales Price shall be based upon presumed occupancy levels of one person in a studio unit, three persons in a one bedroom unit, five persons in a two bedroom unit, and two additional persons for each additional bedroom thereafter.
(d) Affordable Unit	Dwelling unit which is affordable to very low, low or moderate income households as defined in this ordinance.
(e) Affordable Housing Trust Fund	A fund established by this ordinance to which all in-lieu fees will be paid and used for the funding of affordable below market rate units. The fund is administered by the Housing Authority.

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TERMS	DEFINITIONS
(f) Annual Household Income	The combined annual income from all sources of all members of a household who contribute to the household maintenance.
(g) Applicant	Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks County real property development permits or approvals.
(h) Below Market Rate Unit	An ownership or rental housing unit affordable by households with very low, low or moderate incomes as defined in this ordinance.
(i) County	All unincorporated areas of Sutter County.
(j) Density Bonus	Entitlement to build additional residential units above the maximum number of units permitted pursuant to existing general plan, applicable specific plan and zoning designations.
(k) Development	The construction of facilities for residential purposes.
(l) Development Project	A formal plan or action to construct facilities for residential purposes.
(m) Dwelling Unit (du)	A structure designed and built for residential occupancy in accordance with the County's codes and regulations.
(n) Feasible	Capable of being financed, built, and marketed given the economic conditions prevailing at the time of project approval and the sources of financing, public funding and other assistance available.
(o) For-Sale Units	Housing units which provide an ownership opportunity, including, but not limited to single family units, condominiums, cooperatives and mutual housing associations, except in circumstances where the unit is converted to rental use.
(p) Household	An individual or two or more related or unrelated persons occupying a dwelling unit and living together as a single housekeeping unit in which each resident has access to all parts of the dwelling and where the adult residents share expenses for food or housing.
(q) Housing Authority	The Consolidated Area Housing Authority of Sutter County.
(r) In-Lieu Fees	Fees paid to the Affordable Housing Trust Fund by residential project applicants as an alternative to the on-site construction of residential units to facilitate the construction of affordable housing for target income groups.

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TERMS	DEFINITIONS
(s) Low Income Household	Household earning a gross income of more than 50 percent and not greater than 80 percent of the median household income for Sutter County, adjusted for household size, as periodically published in Section 6932 of Title 25 of the California Code of Regulations.
(t) Market Rate Unit	Unit available for sale or rent at unrestricted rates within the private market place.
(u) Moderate Income Household	Household earning a gross income of more than 80 percent and not greater than 120 percent of the median household income for Sutter County, adjusted for household size, as periodically published in Section 6932 of Title 25 of the California Code of Regulations.
(v) Rental Units	Housing units available for occupancy based on a monthly rental charge.
(w) Residential Project	The construction of any dwelling unit located within the boundaries of the County for which a discretionary permit is issued by the County.
(x) Target Income Groups	Very low, low and moderate income households as defined in this ordinance.
(y) Very Low Income Household	Households earning a gross income of not greater than 50 percent of the median household income for Sutter County, adjusted for household size, as periodically published in Section 6932 of Title 25 of the California Code of Regulations.

1600-300 Applicability

- (a) **Development Project Type and Size.** This ordinance applies to residential development projects of 10 or more dwelling units.
- (b) **Excluded Development Projects.** The following development projects are exempted from the requirements of this ordinance:
 - (1) Developments for which it can be demonstrated to the satisfaction of the Planning Commission that compliance with this ordinance will render a project infeasible because it is incapable of being financed, built, and marketed given the economic conditions prevailing at the time and the sources of financing, public funding, and other assistance available.
 - (2) Residential projects for very low, low, or moderate income households, including farmworker housing.
- (c) **Implementation.** All development projects to which this ordinance applies must demonstrate that the proposed project complies with this ordinance at the time of application submittal (e.g., tentative map, rezoning, General Plan amendment, specific plan, development agreement, and/or use permits) to the County, as well as ensuring that housing opportunities are open to all without regard to race, color, age, sex, religion, national origin, family status or physical handicap. The residential development project application shall include a plan for the provision of affordable housing and must identify:
 - (1) Number of market rate units proposed;
 - (2) Number of each type of affordable unit proposed;
 - (3) The location of each type of affordable unit within the proposed development, as shown on the site plan for the project.

No building permit shall be issued for development projects which do not comply with the requirements of this ordinance.

The Board of Supervisors shall seek to enter into a contract with the Consolidated Area Housing Authority of Sutter County wherein the Authority will covenant to perform the functions assigned to it in the ordinance. In the event that such a contract is not executed between the County and the Authority, the Board of Supervisors shall assume those functions of the Authority set forth in this Chapter.

- (d) **Effective Date.** This ordinance shall become effective thirty (30) days after adoption by the Board of Supervisors and shall apply to all projects with applications deemed accepted as complete after the ordinance becomes effective.

1600-400 Residential Development Projects

(a) **For-Sale Affordable Units**

- (1) **Set-Aside Requirement.** Every for-sale residential development project of ten (10) or more dwelling units (either single-family detached or attached units, or a combination thereof) shall provide five percent (5%) of the units for sale at an affordable price to moderate or low income households. To the maximum extent feasible, these units shall be constructed on-site. All or a portion of this requirement may be satisfied by constructing rental units at affordable rents for moderate or low income households. If the set-aside calculation results in partial units, this partial unit obligation may be satisfied by paying a percentage of the in-lieu fee, as set forth in Section 1600-600 of this ordinance, equal to the percentage of the partial unit.
- (2) **Density Bonus or Credit.** For every affordable housing unit constructed on-site beyond the set-aside requirement, the Planning Commission shall provide the project applicant with either (a) a one-for-one density bonus of one additional market rate unit for every affordable unit built beyond the set-aside requirement or; (b) a one-for-one credit of one affordable unit for every affordable unit built beyond the set-aside requirement. If the credit option is chosen, the credit(s) may be banked and used to fulfill affordable housing requirements for future development applications. A density bonus granted under this ordinance for a specific project may not exceed 25 percent of the maximum density otherwise allowed under the existing General Plan, applicable specific plan, and zoning designations. Any density credit earned pursuant to this chapter in excess of 25 percent must be taken as a credit.

- (3) **Sales Price Establishment.** The units shall be affordable to households earning not greater than one-hundred twenty percent (120%) of the County median annual income adjusted for family size. The maximum sales prices shall be determined by the Consolidated Area Housing Authority of Sutter County (Housing Authority) on an annual basis. The maximum sales prices will be adjusted by the Housing Authority as income limits for the target income groups are periodically adjusted, and shall account for mortgage interest rates and terms in effect at the time.
- (4) **Unit Distribution.** Affordable units for moderate and low income households constructed on-site shall include a mix of unit sizes within the development as approved by the Community Services Director or his/her designee. Affordable units shall not be unreasonably clustered together in any building, complex, or area of the development. For each affordable unit that is provided which contains four or more bedrooms, the total number of affordable units otherwise required shall be reduced by one unit.
- (5) **Timing of Occupancy.** The issuance of certificates of occupancy for affordable units shall occur concurrently with those for market rate units, and shall be issued in proportion to the total number of market rate unit certificates issued. The number of certificates of occupancy issued for affordable units shall not fall below five percent (5%) of the total number of certificates issued for market rate units.
- (6) **Design Standards.** Affordable units shall be compatible in appearance to market rate units on the exterior and shall comply with all applicable development standards except as specifically provided in the section "Reduction of Design and Development Standards" below. Interior amenities of affordable units may differ from those offered in market rate units.
- (7) **Affordability Agreement.** All for-sale units shall be maintained affordable for a period of five (5) years from the date of the initial sale. Deed restrictions shall be in effect on all affordable units for this time period and shall be enforced by the Housing Authority. The deed restrictions shall stipulate that during this period, affordable units may only be sold at affordable prices to potential purchasers that qualify as low or moderate income under the County's guidelines in effect at that time.

- (8) **Lack of Eligible Buyers.** If the project applicant is unable to locate an eligible target income buyer within two (2) months from the date of issuance of a certificate of occupancy, or an affordable unit owner is unable for a period of two (2) months to resell an affordable unit, the project applicant or an affordable unit seller shall extend to the Housing Authority and two non-profit housing corporations a right of first refusal to purchase the unit for resale or rental to a target income household. If the project applicant or an affordable unit seller is unable to locate a target income buyer within the two (2) month period and the Housing Authority and two non-profit housing corporations decline to purchase the unit within thirty (30) days after the offer of right of first refusal is made, the project applicant or an affordable unit seller may sell the unit to a non-target income purchaser at a market rate price without any restrictions. The project applicant or an affordable unit seller must provide documentation to the Housing Authority that he/she has completed the following actions:

- (i) Advertised the availability of the affordable unit in a local newspaper for a continuous period of 30 days.
- (ii) Distributed written information in the form of flyers, brochures, posters or pamphlets, to at least five (5) local lending institutions, one public library, the Housing Authority, and other County governmental offices.

(b) **Rental Affordable Units**

- (1) **Set-Aside Requirement.** Every multi-family rental development of ten (10) or more dwelling units shall provide five percent (5%) of the units at affordable rents for very low and low income households. To the maximum extent feasible, these units shall be constructed on-site. If the set-aside calculation results in partial units, this partial unit obligation may be satisfied by paying a percentage of the in-lieu fee, as set forth in Section 1600-600 of this ordinance, equal to the percentage of the partial unit.

- (2) **Density Bonus or Credit.** For every affordable rental unit constructed on-site beyond the set-aside requirement, the Planning Commission shall provide the project applicant either (a) a one-for-one density bonus of one additional market rate unit for every extra affordable unit or; (b) a one-for-one credit of one affordable unit for every extra affordable unit. This credit may be banked and used to fulfill affordable housing requirements for future development applications. A density bonus granted under this ordinance for a specific project may not exceed 25 percent of the maximum density otherwise allowed under the existing General Plan, applicable specific plan, and zoning designations. Any density credit earned pursuant to this chapter in excess of 25 percent must be taken as a credit.
- (3) **Rental Price Establishment.** For very low income target households, the units must be affordable to households earning not greater than fifty percent (50%) of the area median income. For low income target households, the units must be affordable to households earning more than fifty percent (50%) but not greater than eighty percent (80%) of the area median income. An equal number of the affordable units shall be set-aside for both target income groups. The affordable rent for each unit will be determined by the Housing Authority on an annual basis.
- (4) **Unit Distribution.** Affordable units constructed on-site shall include a mix of unit sizes dispersed throughout the entire development as approved by the Community Services Director or his/her designee. Affordable units shall not be clustered together in any building, complex, or area of the development. For each affordable unit which contains three or more bedrooms, the total number of affordable units otherwise required shall be reduced by one unit.
- (5) **Timing of Occupancy.** The issuance of certificates of occupancy for affordable units shall occur concurrently with those for market rate units, and shall be issued in proportion to the total number of market rate unit certificates issued. The number of certificates of occupancy issued for affordable units shall not fall below five percent (5%) of the total number of certificates issued for market rate units.
- (6) **Design Standards.** Affordable units shall be compatible in appearance to market rate units on the exterior and shall comply with all applicable development standards except as specifically provided in the section "Reduction of Design and Development Standards" below. Interior amenities of affordable units may differ from those offered in market rate units.

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- (7) **Affordability Agreement.** All rental units shall be maintained affordable for five (5) years, except when Affordable Housing Trust Funds are used to facilitate the provision of such units. In such instances, the rental units shall be affordable in perpetuity. Deed restrictions shall be placed on all units and enforced by the Housing Authority. In the case of conversion of the unit from rental to for-sale, the potential purchaser must qualify as very low or low income under the County's guidelines in effect at that time. Deed restrictions shall be placed on units converted from rental to for-sale and the units shall be affordable for a period of five (5) years from the date of sale.
- (8) **Non-Profit Agency and Housing Authority Participation.** A project applicant may request the Planning Commission's approval allowing the project applicant to work with non-profit agencies or the Housing Authority in creating affordable housing units on another site. A plan describing such a partnership and the project must be submitted to the County for review by the Planning Commission. The number of affordable units proposed in such a partnership project must be at least equal to the number of units required to be built by the project applicant if such a partnership did not exist.
- (c) **Annual Report and Certification.** The Housing Authority shall submit an annual report to the Board of Supervisors by the 15th of every August documenting program progress for the previous fiscal year and certifying the continued affordability of units.
- (d) **Mobile Home Park Conversions.** Notwithstanding other provisions of this code applicable to the conversion of existing mobile home parks to mobile home subdivisions or owner-occupied stock cooperative parks, five percent (5%) of the spaces or lots within the mobile home subdivision or stock cooperative park shall be available at sale prices or rental rates affordable to target income group households.

1600-500 Development Incentives and Regulatory Relief

- (a) **Priority or Fast Track Processing.** All development projects involving the construction of on-site affordable units will receive priority processing status at all County levels of review. Such applications shall be reviewed prior to other applications.
- (b) **Fee Waivers.** The Board of Supervisors may waive or reduce planning permit application fees to facilitate the construction of on-site affordable units.
- (c) **Density Bonus.** As an alternative to credit banking, a project applicant may request a density bonus of one market rate unit for each additional affordable unit to be constructed on-site beyond a proposed project's affordable housing requirement. This bonus shall also apply to development projects normally not applicable under this ordinance such as residential development projects consisting of less than ten (10) dwelling units. This density bonus may be requested by the project applicant as an alternative to credit banking. A density bonus provided under this section shall not exceed 25 percent of the maximum density otherwise allowed under the existing General Plan, applicable specific plan and zoning designations and shall be counted toward any density bonus otherwise required by Section 65915 of the Government Code. Where a density bonus for a specific project would exceed 25 percent, the excess credit earned beyond 25 percent must be taken as a credit.
- (d) **Reduction of Design and Development Standards.** The Planning Commission, upon request by the project applicant, may modify the following design and development standards for development projects providing on-site affordable housing units:
 - (1) Setbacks
 - (2) Lot Size
 - (3) Lot Configurations
- (e) **Infrastructure Improvements.** The Board of Supervisors may accelerate the schedule for public works projects in its Capital Improvement Program that will facilitate, or are critical to, the development of affordable housing.

- (f) **Technical and Financial Assistance.** The County may assist project applicants in meeting their affordable housing requirement to the extent possible by providing technical and financial assistance. Technical assistance may be in the form of resolutions of support, grant application assistance, and the identification of various local, state and federal funding mechanisms. Financial assistance may be in the form of fee reductions or waivers, participation in the County's Mortgage Credit Certificate Program, or utilization of the Affordable Housing Trust Fund.

1600-600 Alternatives to On-Site Construction

- (a) **General Requirements.** For residential development projects in which the on-site construction of affordable units is not feasible, as defined in Section 1600-200 of this ordinance, a project applicant may request approval from the Planning Commission of an alternative, or combination of alternatives, for the development of such units. In no case shall the number of required affordable dwelling units be decreased from the original number otherwise required by the proposed residential development project.
- (1) **Requests.** If the project applicant wishes to seek approval of an alternative, or combination of alternatives, to on-site construction of affordable units, he/she shall submit such request and plan at the time of application submittal (e.g., tentative parcel map, subdivision map, rezoning, General Plan amendment, specific plan, development agreement and/or use permit) to the Community Services Department.
- (2) **Approval.** The Planning Commission may approve, conditionally approve, or reject such a request. If the Planning Commission rejects such a request, the project applicant shall be required to meet the obligations of this ordinance by other means set forth in this ordinance.
- (b) **Off-Site Construction Request.** As an alternative to the construction of affordable units on the same site as the proposed market rate development, a project applicant may request the Planning Commission approve off-site construction of affordable units. The units may be constructed on land previously dedicated to the County or to a non-profit housing corporation engaged in the development of affordable housing within the unincorporated area of the County, or on property owned by the project applicant elsewhere within the unincorporated area of the County.

- (c) **Irrevocable Offer to Dedicate Land.** As an alternative to on-site construction of affordable units, a project applicant may irrevocably offer to dedicate sufficient land zoned for and approved for residential development at a density consistent with the General Plan. Such site must be of sufficient size to allow for development of a number of affordable units at least equal to the number otherwise required by this ordinance. The land that is dedicated must be at least of equal value to the in-lieu fee that would otherwise be paid, as supported by a appraisal performed by a State certified appraiser.
 - (1) The project applicant must identify the land to be dedicated at the time the project applicant applies for project approval, but in no event later than the application for a tentative subdivision or parcel map.
 - (2) Such request is subject to County analysis of the appropriateness of such dedication and an agreement between the project applicant and the County.
- (d) **In-Lieu Fee Request.** As an alternative to on-site construction of residential units or the dedication of land, the Planning Commission, upon request by the project applicant, may approve the payment of an in-lieu fee to an established Affordable Housing Trust Fund for the future construction of affordable units. The in-lieu fee amount shall be sufficient to enable the County or its designee to satisfy the affordable housing requirement under this ordinance by providing sufficient funds for the development of the required units, as set forth in the fee schedule in effect at the time of payment of the fee as determined by the Board of Supervisors. The fee schedule shall be adopted and periodically amended by resolution of the Board of Supervisors. The in-lieu fee shall be paid prior to the issuance of a certificate of occupancy for the market rate units in the residential development.
- (e) **Credit Transfer Request.** As an alternative to on-site construction, a project applicant may request the Planning Commission's approval of a transfer of affordable housing credits from one site to another.
 - (1) **Establishment of Credit.** The County shall credit project applicants for units actually constructed and set-aside as affordable in excess of the affordable unit requirement for that project. A one-for-one credit will be given for each affordable unit in excess of the requirement.

(2) Minimum Criteria. All transfers of credit must meet the following criteria:

- (i) The transfer of credit must be determined to be consistent with the County's goal of creating, preserving, maintaining, and protecting housing for very low, low, and moderate income households.
- (ii) A credit shall not be transferred more than once.
- (iii) The affordable units for which credit is transferred must be certified for occupancy concurrently with, or prior to, occupancy of the market rate units in the project for which credit is granted.
- (iv) Deed restrictions shall be placed on such units to ensure they are affordable for five (5) years.

(3) Credit Banking. Credits may be banked by project applicants for subsequent transfer under the following conditions:

- (i) Authorization to bank credits for subsequent transfer must be obtained at the time of, or prior to, final approval of the project from which such credits originate.
- (ii) Project applicants may transfer banked credits for a maximum period of ten (10) years from the date of authorization to bank credit is obtained.
- (iii) The banked credit may be purchased from the project applicant by other project applicants for use for any market rate project. The Community Services Department shall maintain an inventory of the banked credits that are available to each project applicant.

- (4) **Non-Profit Agency and Housing Authority Participation.** As an alternative to the on-site construction of affordable housing units, a project applicant may request the Planning Commission's approval to allow the project applicant to work with non-profit agencies or the Housing Authority in creating affordable housing units on another site. A plan describing such a partnership and the project must be submitted to the Community Services Department for review by the Planning Commission. The number of affordable units proposed in such a partnership project must be at least equal to the number of units required to be built by the project applicant if such a partnership did not exist.
- (5) **Dedication and Conversion of Existing Units.** As an alternative to on-site construction, a project applicant may request the Planning Commission's approval to dedicate and convert existing market rate units to affordable units. Such a request is subject to County analysis of the appropriateness of such a dedication and conversion and an agreement between the project applicant and the County. This dedication shall be made either to the Housing Authority or a non-profit agency.
- (6) **Affordable Unit Credit.** Existing units used to fulfill the affordable housing requirement of this section shall be deemed to meet the requirement on a one-for-one basis. In approving or disapproving such applications, the Planning Commission may consider all relevant factors, including but not limited to, the type and location of such units, whether repairs are required to meet existing code requirements, and whether approval would involve the displacement of occupants. The project applicant shall perform any needed rehabilitation work prior to the dedication or conversion of the units.

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1600-700 Affordable Housing Trust Fund

- (a) Establishment of Fund. An Affordable Housing Trust fund is hereby established for the purpose of funding the development and preservation of affordable housing. All residential in-lieu fee payments shall be made to the Affordable Housing Trust Fund established by this Chapter. Fees deposited with the Affordable Housing Trust Fund may be used for the following purposes: below market rate loans to non-profit housing corporations; land acquisition; construction of affordable units; installation of needed off-site improvements; housing rehabilitation; transitional housing; farmworker housing; special needs housing or housing for the homeless, as well as the administration of the affordable housing programs, and such other uses that the Board of Supervisors determines are consistent with the purposes of this Chapter.
- (b) Implementing Guidelines. The County shall promulgate guidelines for the administration and utilization of the fees deposited in the Affordable Housing Trust Fund.
- (c) Annual Review of Fund. Prior to the 15th of every August, the Housing Authority shall submit a report to the Board of Supervisors on the collection and disbursement of fees deposited in the Affordable Housing Trust Fund throughout the previous fiscal year.

1600-800 Appeals

- (a) **Notice of Appeal.** The project applicant or any aggrieved person may appeal from any action of the Planning Commission to the Board of Supervisors by filing a notice thereof in writing with the Clerk to the Board of Supervisors within ten (10) days after such action is taken. Such notice shall set forth in detail the action and grounds upon which the appeal is based. The notice of appeal shall be accompanied by the filing fee set by resolution of the Board of Supervisors.
- (b) **Report of the Clerk.** The Clerk to the Board of Supervisors shall report the filing of the notice of appeal to the Community Services Department and the Public Works Director.
- (c) **Action on Appeal.** Upon receipt of an appeal, the Board of Supervisors shall set the matter for hearing. The hearing shall be held within thirty (30) days after the date of filing the appeal. Upon conclusion of the hearing, the Board of Supervisors shall declare its findings based upon the evidence presented within thirty (30) days. The Board of Supervisors may overrule, sustain, or modify the decision, determination, or requirement appealed from and make any such orders as are in harmony with the spirit and purposes of this chapter.

(Ord. 1225, Sec. 1; Oct. 10, 1995)