

Chapter 21-02 HOUSING ALLOCATION PLAN

21-02.010 Determinations.

The City declares that the provision of a decent home in a suitable living environment for all residents is a priority of the highest order and is consistent with state, regional and national policies. The goal of the City is to achieve a balanced community with housing available for persons of all income levels. There exists within the City a shortage of housing that is affordable to households of lower income. Federal and State housing finance subsidy programs are not sufficient by themselves to satisfy lower-income housing needs. The City finds that the high cost of housing in new developments has exacerbated, and will continue to exacerbate, the lower-income housing shortage by reducing the supply of developable land that is needed to satisfy the total community need for housing for all income levels. The City finds that the housing shortage for households of lower income is detrimental to the public health, safety and welfare and, further, that it is a public purpose of the City to seek assistance and cooperation from the private sector in making available an adequate supply of housing for persons of all economic segments of the community. (Ord. 2961 § 1 (part), 1992)

21-02.020 Purpose.

The purpose of this chapter is to enhance the public welfare and assure the compatibility between future housing development and the housing element of the general plan of the City through increasing the production of housing units affordable to households of lower income. It is the purpose of this chapter to meet the land use goal in the general plan, LUR-1, "To provide a variety of housing types and residential environments in order to satisfy the needs of all segments of Santa Rosa's population. To maintain the varied neighborhoods traditionally associated with Santa Rosa, and to avoid the large areas of undifferentiated living environments and housing types that characterize many rapidly growing cities." It is also the City's purpose to meet the general plan housing element goal, H-3, "To encourage construction of new affordable housing that will help the City attain its fair share goals." (Ord. 2961 § 1 (part), 1992)

21-02.030 Definitions.

(A) "Affordable rent" means:

(1) In the case of an allocated unit to be occupied by a very low-income household, a monthly rent which does not exceed 30 percent of 50 percent of the median annual income, adjusted to the level of 1.5 persons per bedroom, and divided by 12, less a monthly allowance for tenant paid utilities.

(2) In the case of an allocated unit to be occupied by a low-income household, a monthly rent which does not exceed 30 percent of 60 percent of the median annual income, adjusted to the level of 1.5 persons per bedroom, and divided by 12, less a monthly allowance for tenant paid utilities.

(3) "Rent," as used in this chapter, means and includes the costs of all taxes and assessments on the real property of which the allocated unit is a part, including, but not limited to, homeowners association fees, dues and assessments, and casualty insurance on the real property including the dwelling unit, but excludes the costs of utilities serving the allocated unit, including water, sewer, telephone, electricity and gas, required garbage collection service, and insurance on personal property of the lessee.

(B) "Affordable sales price" means the amount which a low-income household, adjusted to the level of 1.5 persons per bedroom, with an income of 80 percent of the median income, can pay, using 30 percent of 80 percent of the median income for equal monthly installments credited to principal and interest on a loan equal to

90 percent of the sales price, at the average fixed interest rate, amortized for 30 years:

(C) “Allocated unit” means either:

(1) A newly constructed “for rent” dwelling unit which is (1) provided by a developer under the provisions of this chapter; (2) to be made available and occupied by a household of low-income, as required under the provisions of this chapter; (3) subject to occupancy and affordable rent controls for a period of 30 years; (4) reasonably compatible in exterior appearance to other units in the residential housing development of which it is a part, and which (5) contains at least two bedrooms and 800 square feet of living area; or

(2) A newly constructed “for sale” dwelling unit which is (a) provided by a developer under the provisions of this chapter, (b) to be sold to one or more members of, and occupied by, a first-time household whose income does not exceed that of a low income household, as required under the provisions of this chapter, (c) subject to recorded occupancy and sale price agreements and/or other mechanisms, as approved by the City Council, (d) reasonably compatible in exterior appearance to other units in the residential housing development of which it is a part, and which (e) contains at least two bedrooms and 800 square feet of living area.

Allocated units in a development shall be exempt from the requirements of containing at least two bedrooms and 800 square feet of area if each such allocated unit has no less living area and number of bedrooms than the largest of the non-allocated units within the development.

(D) “Community care facility” means a facility, place or building which is maintained and operated to provide nonmedical residential care, day care, and home finding services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired or incompetent persons, developmentally disabled, mentally disordered children and adults, court wards and dependents, neglected or emotionally disturbed children, alcohol or drug-addicted children or adults, battered adults or children and aged persons.

(E) “Core area” means the area which extends from Brookwood Avenue on the east, between College Avenue and Sonoma Avenue, to U.S. Highway 101. On the west side of the freeway, the area is bounded by Ninth Street, Donahue Street, Adams Street, Sixth Street and Santa Rosa Creek.

(F) “First-time homebuyer” means a household that has not owned a home in the preceding three-year period.

(G) “For rent” or a “rental unit” means an allocated unit which is required to be made available at an affordable rent to a household not exceeding low income and which is subject to one or more occupancy and rent level controls as required by this chapter.

(H) “For-sale unit” means an allocated unit which, under the provisions of this chapter, has been made available for purchase by a first-time homebuyer of which the household members’ combined income does not exceed low income and sold at an affordable sales price which is subject to occupancy and sale price agreements and/or other mechanisms as required under this chapter.

(I) “Health care facility” means a facility, place or building which is maintained and operated to provide medical care. “Health care facility” shall include, but not be limited to, hospitals, nursing homes, intermediate care facilities, clinics and home health agencies, all of which are licensed by the State Department of Health Services and defined in the California Health and Safety Code, Division 2, Chapter 1, Section 1200.

(J) “Improved land” means land which is served with facilities meeting current City standards including all of the following: sewer, water and drainage facilities, other utilities (electricity, gas and telephone) and street(s). A subdivision lot which will be improved by a developer as part of the City final map approval process shall qualify as improved land.

(K) “In-lieu fee” means a fee paid as an alternative to providing an allocated unit or a fraction of an allocated unit.

(L) “Income” or “household income” and words of similar import when used in conjunction with such terms as “low-income households” or “very low-income households” means the combined gross income of all household members living in a dwelling unit.

(M) “Low-income household” means a household with an annual income, adjusted for household size, of not more than 80 percent of the area median income, as established from time to time by the United States Department of Housing and Urban Development for the Petaluma-Santa Rosa Primary Metropolitan Statistical Area, but more than the maximum income permitted of a very low-income household of comparable size.

(N) “Lower-income household” is a general term which refers to households in the very low- and low-income classifications.

(O) “Median income” means the annual median household income, adjusted for household size, as established, from time to time, by the United States Department of Housing and Urban Development for the Petaluma-Santa Rosa Primary Metropolitan Statistical Area. (See Section 21-02.160(C).)

(P) “Mixed-use development” means a development in which residential uses are combined with uses such as office of commercial in a single building.

(Q) “Moderate-income household” means a household with an annual income, adjusted for household size, of not more than 120 percent, but more than 80 percent of the median income.

(R) “Owner/builder” means an individual who obtains a building permit to construct a single-dwelling unit on a single lot as his or her residence and who may not be issued another residential building permit as an “owner/builder” for a period of five years following the issuance of such a permit and the completion of construction of the dwelling unit authorized thereunder.

(S) “Rent level control” and “resale control” means one or more mechanisms required by the City by which an allocated unit will be maintained in the low-income housing stock, for a period of time, as required under the provisions of this chapter.

(T) “Residential development” or “development” means a project containing at least one residential unit.

(U) “Single-room occupancy” means a development (including replacement or rehabilitation developments) containing efficiency units, each of which includes a living area and a complete private bath and kitchen, but not a separate bedroom, or SRO units each of which contain a living area and may include a private bathroom or kitchen, but not both.

(V) “Very low-income household” means a household with an annual income of not more than 50 percent of the area median income, adjusted for household size, as established from time to time by the United States Department of Housing and Urban Development for the Petaluma-Santa Rosa Primary Metropolitan Statistical Area. (Ord. 3561 § 1, 2001; Ord. 3229 § 1, 1995; Ord. 2961 § 1 (part), 1992)

21-02.040 Applicability.

The provisions of this chapter apply to all residential developments within the City and to all residential developments which are rezoned by the City. (Ord. 2961 § 1 (part), 1992)

21-02.050 Allocation requirements.

(A) All residential developments, except as set forth in this chapter, shall provide allocated units equal to 15 percent of the total dwelling units in the development if the allocated units are physically situated within and are part of the development (“on-site units”). If the allocated units are permitted to be provided off-site (“off-site units”) under the provisions of this chapter, the number of allocated units to be provided shall equal 20 percent of the total number of dwelling units in the development, which shall be determined by counting the units located both on-site and off-site.

(B) Each allocated unit required to be provided under this chapter shall be available for occupancy only by households whose income does not exceed that of a low-income household. The developer has the option of providing each allocated unit either as a for-rent unit or as a for-sale unit. A for-sale unit shall be available for purchase only by low-income, first-time homebuyers who will own and occupy the home. Each allocated rental

unit shall remain available for occupancy only by households whose income does not exceed that of a low-income household at an affordable rent for a term of at least 30 years from the date of the first rental of the unit. Each allocated for-sale unit shall remain available for occupancy only by households whose income does not exceed that of a low-income household at an affordable sales price, for a term established by an occupancy agreement approved by the City Council prior to project approval. The Director of the Department of Housing and Redevelopment is authorized to make the calculation, in each instance, of the affordable sales price or the affordable rent.

(C) Notwithstanding subsection (B), an allocated unit may be rented to a household of very low-income, at a rent affordable to a low-income household, adjusted for the unit's size.

(D) A developer or management firm shall give preference to prospective low-income tenants or homebuyers who live or work in the City of Santa Rosa who apply to occupy an allocated unit. (Ord. 3561 § 2, 2002; Ord. 2961 § 1 (part), 1992)

21-02.060 In-lieu fee for certain projects.

(A) In-lieu of providing one or more allocated units, a residential development of 15 gross acres or less may choose the payment of in-lieu fees as established by resolution of the City Council.

(B) A developer may provide the number of allocated units otherwise required by this chapter, rather than subjecting the development, or a portion of the development, to the in-lieu fee imposed by this section. (Ord. 3561 § 3, 2002; Ord. 3229 § 2, 1995; Ord. 3085 § 1, 1993; Ord. 2961 § 1 (part), 1992)

21-02.070 Allocated units provided off-site.

A development of 20 gross acres or less may provide allocated units off-site in accordance with the provisions of subsection (A) of Section 21-02.050, subject to the following requirements:

(A) All allocated units must be provided entirely off-site;

(B) Allocated units provided off-site must be located in the same quadrant of the City as the unallocated units of the development. The quadrants of the City are formed by the intersection of Highway 101 and Santa Rosa Creek;

(C) At the time of approval of a development proposing to provide off-site allocated units, the approving body must find that the proposed location of the allocated units will not overly impact the surrounding area, unless the off-site units are to be located in the core area. If the approving body does not make such a finding, the allocated units must be provided on-site.

(D) An allocated unit provided off-site may not be counted as a targeted or qualifying dwelling unit in a development receiving a density bonus, regulatory concession and/or a financial equivalent under Government Code Sections 65915 et seq. A density bonus, as defined under these Government Code Sections, shall not be subject to the provisions of this chapter. (Ord. 2961 § 1 (part), 1992)

21-02.080 Exemptions.

The following residential developments are exempt from the provisions of this chapter:

(A) The construction of a dwelling unit to replace a previously existing dwelling unit situated on the same lot if the previous dwelling was demolished or destroyed within five years of the date the building permit application for the replacement unit is submitted to the Department of Community Development;

(B) The construction of homeless shelters, community care/health care facilities, single-room occupancy units

and units which, under agreement with the City or a City agency, are only available for occupancy by very low and low-income households at affordable rents or affordable sales prices for a period of not less than 30 years;

(C) The construction of second units and units in mixed use developments.

(D) A unit constructed under a building permit issued to an owner/builder;

(E) Construction of single-family units in the Oakmont Planned Community, provided the in-lieu fee established in Council Policy 200-15 is paid or land is provided for each allocated unit or partial unit which would otherwise be required under this chapter. (Ord. 3561 § 4, 2002; Ord. 3183 § 2, 1995; Ord. 2961 § 1 (part), 1992)

21-02.090 Land dedication or conveyance alternative.

A residential development may offer to dedicate or convey land to the City, situated on-site or off-site, to meet its obligations under this chapter in accordance with the following:

(A) (1) Offers of on-site parcels may be permitted for developments of more than 20 gross acres, provided land equal to 7.5 percent of the development's net acreage is offered to the City. Land offered on-site shall be improved land and shall not be less than one-half acre in area.

(2) Offers of off-site parcels may be permitted for developments of 20 gross acres or less, provided land equal to 10 percent of the development's on-site net acreage is offered to the City. Land offered off-site may be improved or unimproved land and shall not be less than one net acre in area.

(B) Land offered to the City under this section must be within the City's boundaries and must be designed for low, medium or medium-high density residential development by the general plan. Low-density sites offered shall be no larger than three acres and shall qualify as an infill site by general plan policy. Land of any general plan designation located in the core area may also be offered.

(C) Land conveyed under this section shall be used for the development of affordable housing for households of very low or low income.

(D) The City may exchange any land which has been dedicated or conveyed to it under this section for other land, at the discretion of the City Council. The land acquired in such an exchange shall be used for development of affordable housing for households of very low or low income.

(E) Land shall be offered for dedication or conveyance prior to approval of the development. The City Council shall, prior to development approval, accept or reject the offer. If the offer is rejected, the developer shall fulfill the requirements of this chapter in another manner which shall be approved prior to development approval. (Ord. 3561 § 5, 2002; Ord. 2961 § 1 (part), 1992)

21-02.100 Establishment and payment of the in-lieu fee.

The City Council, by resolution, shall establish the amounts and calculation of the in-lieu fee. The in-lieu fee shall be paid prior to the issuance of each building permit relating to a development or prior to the initiation of a residential use which requires a conditional use permit or other permit or approval authorizing the use, but for which no building permit is required. The Council, by resolution, may provide for an exemption in the in-lieu fee for small market rate dwelling units, as described in the resolution, and for an annual adjustment of the fee, based upon the annual changes in an identified, generally recognized, and reasonably related construction cost index. (Ord. 3561 § 6, 2002; Ord. 2961 § 1 (part), 1992)

21-02.110 Rounding.

A development providing allocated units shall have its allocated unit obligation rounded to the next lower whole number and shall discharge the fractional unit balance of its obligation through the payment of a fee. The amount of the fee that shall be paid under this section shall be an amount equal to the fractional portion of the

allocated unit not built, multiplied by a developer's contribution amount as established by resolution of the City Council. This fee shall be paid prior to the issuance of the first building permit relating to the development.” (Ord. 3561 § 7, 2002; Ord. 2961 § 1 (part), 1992)

21-02.120 Impaction determination.

Each site proposed for construction of one or more off-site allocated units shall be evaluated as to whether the placement of such units will overly impact an area with lower income units. The Housing Authority shall evaluate the proposed site for impaction and shall make a recommendation to the Planning Commission for its consideration during project review. If the site is within 1,000 feet of one or more existing or approved developments in which more than 50 percent of the units are, or will be, restricted to occupancy by households of very low or low incomes, impaction shall be found, unless the existing or approved development is located within the core area. The Housing Authority and Planning Commission may override a determination of impaction by making findings that local schools, services and adjacent uses will not be negatively impacted by the construction of allocated units at the proposed site. (Ord. 2961 § 1 (part), 1992)

21-02.122 Innovation encouraged.

Innovative approaches to providing affordable housing not anticipated by the housing allocation plan shall be considered by the Planning Commission on a case by case basis. Substitute programs shall be permitted providing, at the determination of the Planning Commission, or City Council on appeal, is that the objectives of the housing allocation plan are being met with the alternate proposal. (Ord. 3229 § 3, 1995)

21-02.130 Exemption of previously approved developments.

All residential developments which were approved prior to July 24, 1991, whether or not fully built out, or whose development applications were deemed complete by the Department of Community Development prior to July 24, 1991, are exempt from any obligation under this chapter. Developments whose applications are deemed complete after July 24, 1991, and prior to December 29, 1995, shall be subject only to the in lieu fee requirement of this chapter. (Or. 3229 § 4, 1995; Ord. 2961 § 1 (part), 1992)

21-02.140 Procedures.

(A) At the time of the submittal of an application for a residential development to the Department of Community Development, if allocated units are required by the development, the developer shall also submit a statement as to whether the development's required allocated units will be provided on or off site and whether they will be rental or for-sale units.

(B) Plans for locating required allocated units off site shall be submitted to the Department of Community Development as part of the application papers for the development. The plans shall include identification of the site where the allocated units are proposed and the design and arrangement of the off site allocated units. The developer shall also submit evidence that the developer owns, or has an irrevocable option to purchase, the site where the off site allocated units are proposed to be located, or the developer shall submit evidence that the developer has a binding agreement with other developers or agencies to provide units equivalent to 20 percent of the total units of has an irrevocable option to purchase, or owns the site where the off site units are proposed to be located.

(C) If a developer proposes to offer to dedicate land under the provisions of Section 21-02.090, he or she shall submit a written statement to that effect with the application for the development to the Department of Community Development. The statement shall indicate whether the proposed dedication will be on site or off site and shall, in either case, be accompanied by a diagram clearly showing the location of the proposed dedication.

(Ord. 3229 § 5, 1995; Ord. 2961 § 1 (part), 1992)

21-02.150 Timing of construction of allocated units.

(A) If the allocated units are provided on-site, no occupancy shall be allowed to more than five of the development's nonallocated units for each required allocated unit that is constructed and made ready and available for occupancy.

(B) If the allocated units are provided off-site, no occupancy shall be allowed to more than four of the development's nonallocated units for each required allocated unit that is constructed and made ready and available for occupancy. (Ord. 2961 § 1 (part), 1992)

21-02.160 Administration.

(A) The City Council, by resolution, may from time to time adopt procedures, policies, rules and requirements, including the adoption of processing and administrative fees, to implement, administer and/or enforce the provisions of this chapter.

(B) The Director of the Department of Community Development is authorized to make a determination of the number of dwelling units contained within a particular residential development, if a determination is needed to resolve a disagreement.

(C) The City's Department of Housing and Redevelopment shall keep on file and available for public review a copy of the current income schedules referred to in subsections (B) and (C) of Section 21-02.030. (Ord. 2961 § 1 (part), 1992)

21-02.170 Interpretation of chapter.

When a question arises regarding the meaning, or requires an interpretation of any provision of this chapter to any specific circumstances or situation, the Director of Community Development is authorized to render a decision thereon in writing and such decision shall decide the matter unless the decision is appealed to the City Council in accordance with the procedures and requirements and within the time limitation set forth in Chapter 20-62 of this code. (Ord. 2961 § 1 (part), 1992)

21-02.180 Annual review.

(A) At least once each calendar year, the Department of Community Development shall prepare a report on the housing allocation plan which shall include the following:

- (1) The number of allocated units, both on and off-site, approved during the time period covered by the report;
- (2) The number of qualifying units, owner/builder units, second units, very low and low income units and mixed-use units approved during the time period covered by the report;
- (3) The amount of in-lieu fees collected;
- (4) The amount of acreage by land use category dedicated to the City;
- (5) A listing of any significant problems which arose during the time period covered in administering the housing allocation plan;
- (6) A listing of any staff recommendations, with regard to changes or revisions to the adopted program to improve its effectiveness and/or administration;
- (7) A recommendation, if any, together with factual supporting data, as to whether the housing allocation plan should be substantially revised or discontinued.

(B) The staff report shall be submitted to the Planning Commission as an agendaed item at a regular meeting

of the Planning Commission for review and comment.

(C) Following the Planning Commission review, the staff report, together with any comments and recommendations made thereon by the Planning Commission, shall be submitted to the City Council as an agendaed item at a regular meeting of the Council. (Ord. 2961 § 1 (part), 1992)

21-02.190 Recorded controls on allocated units.

All allocated units provided under the requirements of this chapter shall be subject to written controls that shall be recorded with the County Recorder to ensure that the requirements of this chapter as to each such unit are fulfilled. The recorded controls shall include such documents as may be approved by the City Council for such purposes and shall be timely executed and acknowledged, if so required by the City Council, by the developer and all owners of interests in the real property upon which each allocated unit is to be situated. The document or documents shall be recorded prior to or concurrently with the recording of any final map required for the development, or if no final map is required, upon the approval of any conditional use permit required for the development. If neither a final map nor a conditional use permit is required, the document(s) shall be recorded prior to the issuance of any building permit for the development. (Ord. 2961 § 1 (part), 1992)

21-02.200 Appeal.

The developer or owner of any development which is subject to the requirements of this chapter may appeal to the City Council for a reduction, adjustment or waiver of the requirements based upon the absence of any reasonable relationship between the impact of the development and either the amount of the in-lieu fee charged or the allocation requirements set forth in this chapter. The appeal shall be in writing and filed with the City Clerk not later than 60 days after the requirements of this chapter are imposed upon a development. The appeal shall set forth in detail all factual and legal bases for the claim of waiver, reduction or adjustment. The City Council shall consider the appeal at the public hearing within 60 days after the filing of the appeal and shall decide the appeal within two weeks following the close of the public hearing or at its next regular meeting following the end of the two-week period. The appellant shall bear the burden of presenting substantial evidence to support the appeal, including comparable technical information to support the appellant's position. The decision of the Council shall be final. If a reduction, adjustment, or waiver is granted, any change of use within the development shall invalidate the waiver, adjustment, or reduction of the in-lieu fee or allocation requirements. (Ord. 3561 § 8, 2002)

21-02.210 Use of in-lieu fees.

All in-lieu fees paid under this chapter shall be paid to the City and shall be used by the City or the City's Housing Authority, as authorized by the City Council, only for the development of housing, situated within the City that is affordable to households of low and very low incomes, including, but not limited to, the acquisition of property, costs of construction, including costs associated with planning, administration and design, as well as actual building or installation costs. Such housing may be made subject to conditions, as established by the Council, to insure its continued availability as housing affordable to lower income households and for such period(s) of time as determined by the Council. (Ord. 3561 § 9, 2002)