

# **San Luis Obispo County**

## **Inclusionary Housing Ordinance Implementation Guidelines Manual**

Adopted: December 9, 2008

Revised: \_\_\_\_\_

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## **Chapter 1: Introduction**

The guidelines in this document supplement and support the Inclusionary Housing Ordinance of the County of San Luis Obispo. The County's Inclusionary Housing Ordinance is established by Land Use Ordinance Section 22.12.080 and Coastal Zone Land Use Ordinance Section 23.04.096, which are in Title 22 and Title 23, respectively of the San Luis Obispo County Code. In the case of a conflict or discrepancy between these guidelines and the Ordinance, the Inclusionary Housing Ordinance shall prevail.

Refer also to Title 29 – Affordable Housing Fund, of the San Luis Obispo County Code. Title 29 provides standards for calculation, collection and deposit of all Inclusionary housing fees. Title 29 establishes the amount of the Inclusionary housing fees, including in-lieu fees and housing (linkage) impact fees. These fees are adjusted annually, pursuant to Title 29 Section 29.04.040 – Phase-in and Annual adjustment of Fee Schedules. If there is a conflict or discrepancy between these guidelines and Title 29, then Title 29 shall prevail

The guidelines in this document may be amended and revised by the County as needed. Such amendments or revisions may be made concurrently with the County's annual review of the Inclusionary Housing Ordinance and Title 29, pursuant to the applicable sections of those ordinances.

## Chapter 2: Residential Development

### 2.1: Sample Residential Project

- A. Sample Project. A 20 unit project with two small units of 850 s.f. in size. Units below 900 s.f. are exempt, so the 18 units that are larger than 900 s.f. each are subject to the Inclusionary Housing Ordinance.
- B. Affordability Requirement. 20% of the 18 units must be affordable.  $20\% \times 18 \text{ units} = 3.6$  Inclusionary housing units. The affordability requirement will be phased in over the five year period following the County's adoption of the Inclusionary Housing Ordinance. During this period, the percentage of the base project that shall be affordable is as follows:

#### Phasing of Inclusionary Housing Requirement

Year	Year 1	Year 2	Year 3	Year 4	Year 5
Inclusionary Requirement	4%	8%	12%	16%	20%

#### Required Number of Inclusionary Housing Units

Sample Project	Year 1	Year 2	Year 3	Year 4	Year 5
18 unit project	0.72 unit	1.44 units	2.16 units	2.88 units	3.6 units

- C. On-Site Option. If all of the Inclusionary housing units are built on-site then the affordability requirement is reduced by 25%. Example:  $3.6 \text{ units} \times 75\% = 2.7$  Inclusionary housing units. The applicant may round up and build 3 Inclusionary housing units. Or build 2 Inclusionary housing units and pay the in-lieu fee on the 0.7 fraction of a unit. Refer to the in-lieu fee schedule and the fee for a median sized unit. The median size of residential units built in the County in 2007 was 2,100 s.f., and the in-lieu fee is \$19,950. Therefore,  $0.7 \times \$19,950 = \$13,965$ . (The actual number of units and fee amounts will be adjusted during the five year phase-in period.) The sequence of Inclusionary housing units to be provided is as follows: first unit is for workforce income households, the second unit is for moderate income households, if a third unit is built it will be for low income households. Refer to the design standards for Inclusionary housing units. One bonus unit (market rate unit) is granted on-site for every Inclusionary housing unit that is built on-site or off-site.
- D. Off-Site Option. The 3.6 Inclusionary housing units may be built off-site. The 25% reduction from the affordability requirement is not granted unless all of the off-site units are built within an incorporated city of the county. This reduction is an incentive to encourage urban infill development. The 3.6 unit requirement may be satisfied by building four Inclusionary housing units (rounding up) or by building some of the units and paying an in-lieu fee on the others, including the 0.6 fractional unit. The sequence of Inclusionary housing units by income will be the same for both on-site and off-site units. Refer to design standards for Inclusionary housing units. One bonus unit (market rate unit) is granted on-site for every Inclusionary housing unit that is built on-site or off-site.
- E. In-Lieu Fee Option. The in-lieu fee may be paid instead of constructing the Inclusionary housing units. Calculating the in-lieu fees for the 3.6 Inclusionary housing units depends on the size of the project's 18 market-rate units. This is because the in-lieu fee schedule is based on unit size to encourage smaller (more affordable) market-rate units. Calculating the in-lieu fee on the 0.6 fractional unit is explained above in Section 3 – On-Site Option. The fee amount is based on the median sized (2,100 s.f.) unit built in the County, and  $0.6 \times \$19,950 = \$11,970$ . The fee amount for the 3.0 Inclusionary housing units depends on the size of the market-rate units. In the Sample Project there are 18 market rate units that have

the affordability requirement: six of the market-rate units are 3000 s.f. in size, six units are 2000 s.f. in size, and six units are 1,000 s.f. in size. The in-lieu fee amount for each of these units is as follows:

3,000 s.f. unit = \$28,500 in-lieu fee per unit  
 2,000 s.f. unit = \$19,000 in-lieu fee per unit  
 1,000 s.f. unit = \$9,500 in-lieu fee per unit

One Inclusionary housing unit is required for every five market-rate units (20% affordability), and the fee for the fractional 0.6 unit has already been calculated (\$11,970). Of the 18 market-rate units, the fee for the fractional unit meets the affordability requirements for three of the market-rate units. The developer chooses which of the remaining 15 units to pay in-lieu fees for. Choosing the smallest market-rate units yields the following results:

Six 1,000 s.f. units + six 2,000 s.f. units + six 3,000 s.f. units = 18 units  
*(Select 15 units to pay in-lieu fees for)*  
 Six 1,000 s.f. units + six 2,000 s.f. unit + three 3,000 s.f. units = 15 units

6 X \$9,500 = \$57,000 (1,000 s.f. units)  
 6 X \$19,000 = \$114,000 (2,000 s.f. units)  
 3 X \$28,500 = \$85,500 (3,000 s.f. units)

\$ 57,000 (1,000 s.f. units)  
 \$114,000 (2,000 s.f. units)  
 \$ 85,500 (3,000 s.f. units)  
\$ 11,970 (0.6 fractional unit)  
 \$268,470 Total In-Lieu Fees

(The actual fee amounts will be adjusted during the five year phase-in period). Prior to the issuance of construction permits or map recordation, the in-lieu fees must be paid or an Inclusionary Housing Agreement or trust deed must be recorded.

- F. Land Donation Option. Developable land may be donated instead of constructing Inclusionary housing units. The appraised land value must be equal or greater than the dollar value of the in-lieu fees that would be paid. A 25% reduction in the affordability requirement is granted when the donated land is located inside an incorporated city of the county. See the criteria for donated land in Land Use Ordinance Section 22.12.080.H.6, and Coastal Zone Land Use Ordinance Section 23.04.096.h(6).
- G. Revised Projects – Recalculation. For projects located in a residential land use category, the maximum number of housing units allowed by site zoning is the base density. A project’s Inclusionary housing requirement is calculated using the base density. However, if the County approves a project with fewer units than the base density then the Inclusionary Housing Ordinance requirement shall be applied to the actual number of units approved, not to the base density number. The Inclusionary housing requirements do not apply to bonus units or exempt units (i.e., units below 900 s.f.).
- H. Housing Market Areas. Inclusionary housing units that are produced as a result of the Inclusionary Housing Ordinance shall be located in the same Housing Market Area as the contributing project (unless a special finding is made). This includes Inclusionary units built off-site or on donated land. Please see the attached Housing Market Area map.

- I. Complete Application. The application shall include an Inclusionary housing proposal, pursuant to Title 22 Section 22.12.080.J.1, and/or Title 23 Section 23.04.096.j(1). The Planning Director shall determine if the application and proposal are complete. The proposal shall include: (1) a description of the project's Inclusionary housing requirement, and (2) a proposal for satisfying the Inclusionary housing requirement (with adequate detail).

2.2: In-Lieu Fee Schedule

See the fee schedule on the following page. It is also posted on the website of the County's Planning and Building Department at [www.sloplanning.org](http://www.sloplanning.org). Go to the Department's website and select "Housing & Economic Development/ Affordable Housing."

The fee schedule will be phased in over the five year period following the County's adoption of the Inclusionary Housing Ordinance. The amount, or percentage, of fees that the County shall collect will be as follows:

**Phasing of Inclusionary Housing Fees**

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

**Example of Phasing of Fees**

Sample Project	Year 1	Year 2	Year 3	Year 4	Year 5
In-Lieu Fee – 2,100 sf Residence	\$3,990	\$7,980	\$11,970	\$15,960	\$19,950

The fees are adjusted each year by the County, pursuant to Title 29 – Affordable Housing Fund. The fees adjustments will reflect the fluctuations in construction costs that are posted in the Construction Cost Index for the San Francisco Bay Area for the prior year. The adjusted fee schedule is published by the Planning Director on July 1 of each year. The fees are periodically reviewed and updated at least every five (5) years to reflect the actual costs to the County of producing Inclusionary housing with the in-lieu fees and other funding.

Appeal - The applicant may appeal the Planning Director's determination of in-lieu fees amounts pursuant to Title 29 Section 29.05.040 – Appeal.

**Table 1 – In-Lieu Fee Schedule**

Unit Size (SF)	Per Unit Fee	Fee for one IHU*
Under 900 SF Exempt		
900	\$8,550	\$42,750
1,000	\$9,500	\$47,500
1,100	\$10,450	\$52,250
1,200	\$11,400	\$57,000
1,300	\$12,350	\$61,750
1,400	\$13,300	\$66,500
1,500	\$14,250	\$71,250
1,600	\$15,200	\$76,000
1,700	\$16,150	\$80,750
1,800	\$17,100	\$85,500
1,900	\$18,050	\$90,250
2,000	\$19,000	\$95,000
2,100	\$19,950	\$99,750
2,200	\$20,900	\$104,500
2,300	\$21,850	\$109,250
2,400	\$22,800	\$114,000
2,500	\$23,750	\$118,750
2,600	\$24,700	\$123,500
2,700	\$25,650	\$128,250
2,800	\$26,600	\$133,000
2,900	\$27,550	\$137,750
3,000	\$28,500	\$142,500
3,100	\$29,450	\$147,250
3,200	\$30,400	\$152,000
3,300	\$31,350	\$156,750
3,400	\$32,300	\$161,500
3,500	\$33,250	\$166,250
3,600	\$34,200	\$171,000
3,700	\$35,150	\$175,750
3,800	\$36,100	\$180,500
3,900	\$37,050	\$185,250
4,000	\$38,000	\$190,000

Source: San Luis Obispo County Inclusionary Zoning Ordinance Financial Analysis. December 21, 2007.

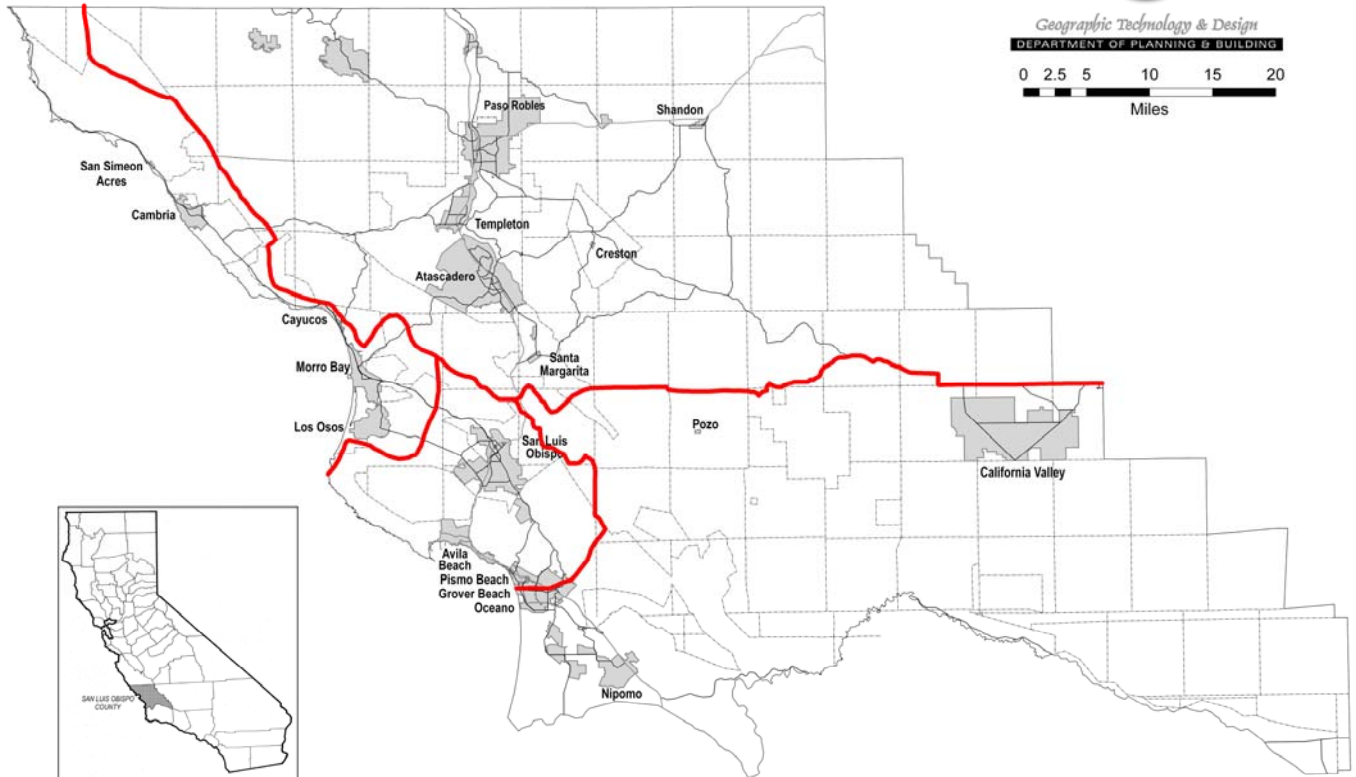
\*IHU = Inclusionary Housing Unit. With a 20% inclusionary requirement, one affordable unit must be produced with every five market-rate units.

Note: Table 1 fees shall be phased in and thereafter adjusted annually, pursuant to Title 29 - Affordable Housing Fund.

# San Luis Obispo County



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## HOUSING MARKET AREAS

Area 1: North County, Area 2: South County, Area 3: Central County, Area 4: North Coast

Figure 1: Housing Market Areas Map

Area 1: North County – includes Santa Margarita, Atascadero, Creston, Templeton, Paso Robles and Shandon.

Area 2: South County – includes Oceano, Nipomo, Woodlands, Pozo and California Valley

Area 3: Central County – includes San Luis Obispo, Avila Beach and Arroyo Grande

Area 4: North Coast – includes Los Osos, Morro Bay, Cayucos, Cambria and San Simeon



## **Chapter 3: Commercial Development**

### **3.1: Sample Commercial/Industrial Project**

- A. **Sample Project.** A commercial/industrial project with 1,000 sf of office floor area, 2,000 sf of retail floor area and 7,000 sf of warehouse storage area (10,000 sf total).
- B. **Fee Requirement.** Refer to Fee Schedule on the next page for how the housing impact fees are calculated for the Sample Project. See also the Housing Impact Fee Matrix.
- C. **Projects Subject to Inclusionary Housing Ordinance.** All commercial and industrial development is subject to the inclusionary housing ordinance where the cumulative floor area approved for development after the adoption date of the ordinance is equal or greater than 5,000 s.f. Development includes, but is not limited to, new structures, remodels, structural additions, and conversion to new uses. See Title 29 Section 29.04.020.b regarding the calculation of housing impact fees.

### 3.2: Housing Impact Fee Schedule

See the fee schedule below. It is also posted on the web-site of the County’s Planning and Building Department at [www.sloplanning.org](http://www.sloplanning.org). Go to the Department’s website and select “Housing & Economic Development/ Affordable Housing.”

#### Housing Impact Fee Schedule

<b>Nonresidential Land Use</b>	<b>Fee per square foot</b>
Commercial/Retail	\$2.11
Commercial Service/Offices	\$2.46
Hotel/Motel	\$2.11
Industrial/Warehouse	\$0.98
Other Non-Residential	\$1.84

The fee schedule will be phased in over the five year period following the County’s adoption of the Inclusionary Housing Ordinance. The amount, or percentage, of fees that the County shall collect will be as follows:

#### Phasing of Inclusionary Housing Fees

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

#### Examples of Phasing of Fees

Commercial Retail	Year 1	Year 2	Year 3	Year 4	Year 5
Housing Impact Fee - 10,000 sf Commercial Retail building	\$4,210	\$8,420	\$12,630	\$16,840	\$21,050

#### Examples of Phasing of Fees

Sample Project	Year 1	Year 2	Year 3	Year 4	Year 5
Housing Impact Fee - 10,000 sf commercial building					
• 1,000 sf office	\$ 492	\$ 984	\$1,476	\$ 1,968	\$ 2,460
• 2,000 sf retail	\$ 844	\$1,688	\$2,532	\$ 3,376	\$ 4,220
• <u>7,000 sf warehouse</u>	<u>\$1,372</u>	<u>\$2,744</u>	<u>\$4,116</u>	<u>\$ 5,488</u>	<u>\$ 6,860</u>
10,000 sf total	\$2,708	\$5,416	\$8,124	\$10,832	\$13,540

The fees are adjusted each year by the County pursuant to Title 29 – Affordable Housing Fund. The fees adjustments will reflect the fluctuations in construction costs that are posted in the Construction Cost Index for the San Francisco Bay Area for the prior year. The adjusted fee schedule is published by the Director of Planning and Building on July 1 of each year. The fees are periodically reviewed and updated at least every five (5) years to reflect the actual costs to the County of producing Inclusionary housing units with the in-lieu fees and other funding.

Appeal - The applicant may appeal the Planning Director’s determination of in-lieu fees amounts pursuant to Title 29 Section 29.05.040 – Appeal.

## HOUSING IMPACT FEE MATRIX

### Fee Categories

CR	Commercial Retail	\$2.11/sf
CS/O	Commercial Service & Offices	\$2.46/sf
H/M	Hotel/Motel	\$2.11/sf
IND.	Industrial	\$0.98/sf
OTHER	Other uses	\$1.84/sf
E/S	Exempt or Special (case by case review)	

\*\* Fees are calculated on building floor area only, not on usable outdoor area.

<b>Agriculture, Resources and Open Space Uses</b>						
Specific Use	CR	CS/O	H/M	IND.	OTHER	E/S
Ag processing (except wineries)						E
Agricultural accessory structures						E
Animal facilities (i.e., livestock auction, riding academies, poultry ranches, dairies)						E
Animal hospitals & veterinary facilities		X				
Animal keeping						E
Crop production and grazing						E
Electricity generation						S
Kennels						E
Mines and quarries **						S
Nursery specialties (including commercial greenhouses) **				X		
Petroleum extraction **						S
Winery – offices		X				
Winery – production, including bottling						E
Winery – storage						E
Winery tank area & crush pads **						E
Wine tasting room, visitors center, conference or dining rooms	X					
<b>Industry, Manufacturing and Processing Uses</b>						
Specific Use	CR	CS/O	H/M	IND.	OTHER	E/S
Apparel products (i.e., clothing production)				X		
Cabinet shops				X		
Chemical products manufacturing				X		
Concrete batch plant **				X		
Concrete, gypsum & plaster products **				X		
Electronics, equipment & appliance production				X		
Food and beverage production				X		
Furniture & fixture production				X		
Machine shop				X		
Manufacturing (equipment, lumber, metal, machinery, paper, petroleum, textiles, etc.)				X		
Recycling collection station **				X		
Recycling & scrap yard **				X		
Small scale manufacturing				X		
Warehousing & mini-storage **				X		
Wholesaling & distribution				X		
Wrecking yard **				X		

<b>Recreation, Education and Public Assembly Uses</b>						
<b>Specific Use</b>	<b>CR</b>	<b>CS/O</b>	<b>H/M</b>	<b>IND.</b>	<b>OTHER</b>	<b>E/S</b>
Church						E
Indoor amusement & recreation facilities					X	
Libraries and museums (nonprofit, open to public)						E
Marinas **					X	
Outdoor sports & recreational facilities **					X	
Public assembly & entertainment facilities						S
Religious facilities						E
Rural recreation and camping **						S
Schools (private)						S
Schools (public)						E
Sports assembly						S
<b>Residential Uses</b>						
<b>Specific Use</b>	<b>CR</b>	<b>CS/O</b>	<b>H/M</b>	<b>IND.</b>	<b>OTHER</b>	<b>E/S</b>
Nursing & personal care		X				
Residential care - 6 or fewer boarders						E
Residential care - 7 or more boarders						S
Residential care - nonprofit						E
<b>Retail Trade Uses</b>						
<b>Specific Use</b>	<b>CR</b>	<b>CS/O</b>	<b>H/M</b>	<b>IND.</b>	<b>OTHER</b>	<b>E/S</b>
Auto, mobile home & vehicle dealers **	X					
Auto service stations/gas stations **	X					
Bakery & baked goods stores	X					
Building materials and hardware **	X					
Convenience & liquor stores	X					
Farm equipment & supplies sales **	X					
Fuel dealers **	X					
Furniture, home furnishings & equipment	X					
General retail	X					
Grocery stores & food stores/delicatessen	X					
Mail order & vending	X					
Outdoor retail sales **	X					
Pharmacies	X					
Restaurants	X					
Retail nurseries & plant sales **	X					
Roadside stands						E
Sales lots **	X					
Swap meets						E
<b>Services</b>						
<b>Specific Use</b>	<b>CR</b>	<b>CS/O</b>	<b>H/M</b>	<b>IND.</b>	<b>OTHER</b>	<b>E/S</b>
Appliance repair shop		X				
Auto & vehicle repair service & rental **		X				
Banks & financial services		X				
Business support services (i.e., copying)		X				
Car wash - full service **		X				
Car wash - self-service						E
Child day care - family day care homes						E
Child day care centers		X				
Cleaners (laundry & dry cleaning services)		X				
Construction contractors **				X		
Consumer product repair services		X				
Correctional institutions						S
Equipment rental **		X				

Furniture repair & upholstery		X				
Health care services (i.e., medical offices & laboratories)		X				
Health club & fitness facilities **		X				
Hospitals & major medical care facilities						S
Laundries & dry cleaning plants				X		
Lodging - bed & breakfast inns			X			
Lodging - hotels & motels			X			
Lodging - recreational vehicle parks			X			
Mortuaries & funeral parlors		X				
Offices		X				
Personal services (i.e., beauty salon)		X				
Public safety facilities (i.e. fire stations)						E
Research & development laboratory		X				
Social service organizations (for profit)						S
Social service organizations (nonprofit)						E
Storage - outdoor storage yards **		X				
Waste disposal sites (i.e. landfills) **				X		
<b>Transportation, Communications and Utilities</b>						
<b>Specific Use</b>	<b>CR</b>	<b>CS/O</b>	<b>H/M</b>	<b>IND.</b>	<b>OTHER</b>	<b>E/S</b>
Airfields & heliports (private)						E
Airfields & heliports (public) **						S
Broadcasting studios					X	
Communications facilities (unmanned)						E
Wireless communication facilities (unmanned)						E
Parking garage (unmanned)						E
Public utility facilities						E
Transit stations & terminals (public)						E
Transit stations & terminals (private)						S
Truck stops **	X					
Vehicle & freight terminals **				X		
Vehicle storage **		x				

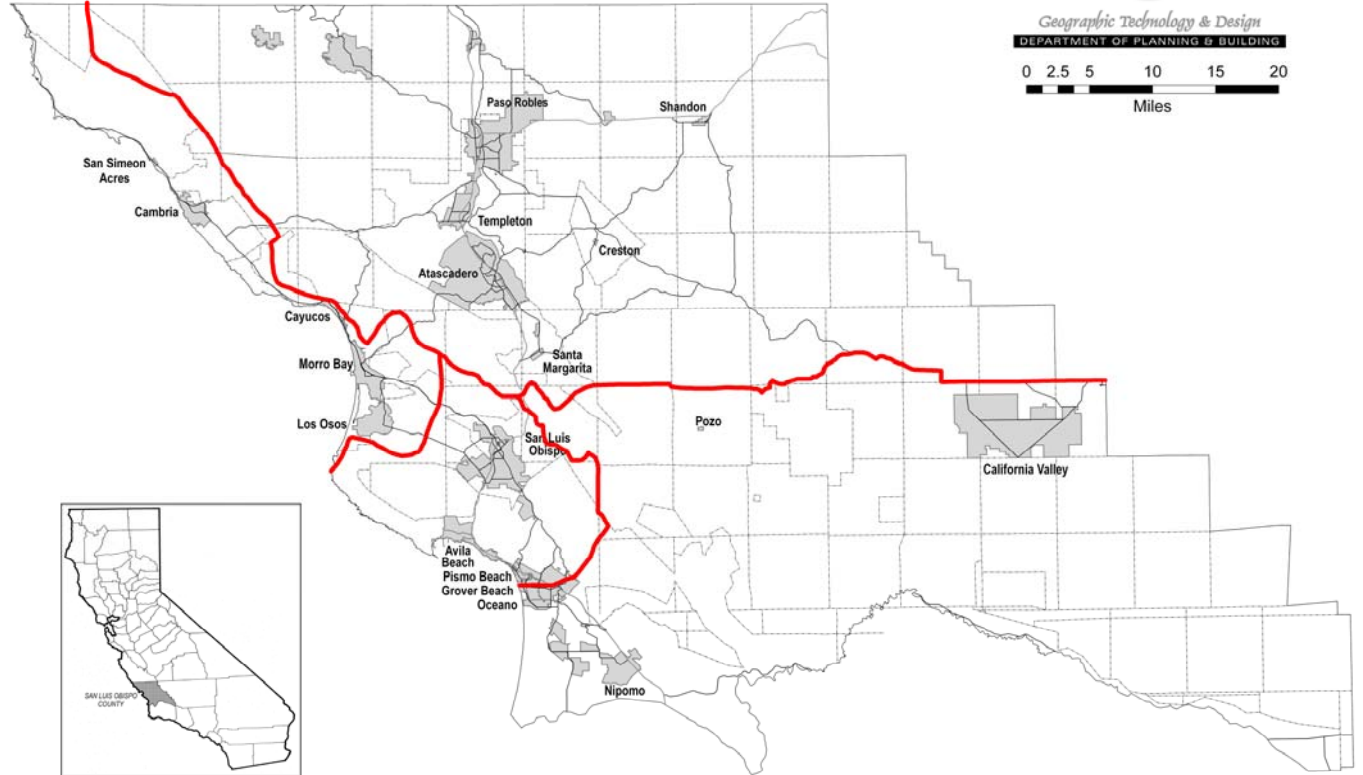
\*\* Fees are calculated on building floor area only, not on usable outdoor area

Note: Non-commercial development is exempt (i.e., schools, museums, religious institutions, public facilities & public infrastructure). Unmanned facilities are exempt (i.e., cell phone antenna sites, parking garages).

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## HOUSING MARKET AREAS

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Figure 1: Housing Market Areas Map

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Area 4: North Coast – includes Los Osos, Morro Bay, Cayucos, Cambria and San Simeon

## **Chapter 4: Inclusionary Housing Standards**

### **4.1: Criteria for Land Donation**

Refer to the standards and criteria for donated land in Land Use Ordinance Section 22.12.080.H.6, and Coastal Zone Land Use Ordinance Section 23.04.096.h(6). In addition, the following standards shall also be applied:

- A. **Transfer of Ownership.** Title for donated land shall be transferred from the project applicant to a nonprofit or for-profit developer that is acceptable to the County and that will develop affordable housing on the land. The deed of trust for the donated land shall provide a covenant for the County that includes a provision granting the County a right to purchase the property for \$1.00 if the property has not been developed with affordable housing unit(s) within a specific period of time. The time limit shall be determined on a case-by-case basis but shall not exceed five (5) years. The County may approve a one-year extension if the developer demonstrates reasonable progress towards the development of on-site affordable housing units.
- B. **County Action.** If the land is purchased by the County as described above, the County shall donate the land to another County-approved nonprofit or for-profit developer that is willing to develop affordable housing on the land within the time limit set by the County.
- C. **Developable Site.** Adequate documentation shall be submitted showing that the land is not subject to environmental constraints, hazardous materials, public health and safety concerns, public service constraints, agricultural resource constraints or other factors that would significantly impede or restrict use of the site for residential development.
- D. **Compliance.** Site development shall comply with the requirements of Land Use Ordinance Section 22.12.080.H, and Coastal Zone Land Use Ordinance Section 23.04.096.h – Development standards for Inclusionary housing.

### **4.2: Distribution of Inclusionary Housing Units**

If it is feasible, inclusionary housing units should be distributed evenly among the development's market-rate housing units, and not be isolated or segregated from other housing units.

## Chapter 5: Eligible Residents

### 5.1: Eligibility List

The County may, at its discretion, maintain an active list of households that are eligible to rent or buy Inclusionary housing units. The County or other housing provider designated by the County (its designee) will conduct a preliminary income screening of all applicants for the eligibility list. The County shall then assign all available Inclusionary housing units to the households that are on the eligibility list. The County may choose to assign the Inclusionary housing units either by conducting a lottery of household from the eligibility list, or by assigning priority to households that have been on the eligibility list for the longest period of time, or by geographical or other equitable basis. When Inclusionary housing units become available the County will notify the number of buyers or renters for whom units are available. If any household that is selected does not meet all of the income eligibility requirements of the Inclusionary Housing Ordinance then the County (or its designee) will review the next available household from the eligibility list.

### 5.2: Lottery

A project applicant may request, or the County may require, that a lottery be used to allocate the Inclusionary housing unit(s) of a specific project. The County or other housing provider (“designee”) designated by the County shall conduct the lottery. All lottery applicants shall meet the income eligibility requirements of the Inclusionary Housing Ordinance. Whenever feasible, priority should be given to eligible households who live or work in San Luis Obispo County. A lottery may be modified, on a case-by-case basis, to give preference to households with individual(s) who work within the same Housing Market Area or an adjacent Housing Market Area to where the Inclusionary housing unit(s) is located. Lottery applicants shall submit a County lottery application and the following financial information to the County:

- Proof of residency or employment in San Luis Obispo County.
- Three years of tax returns including W-2's.
- Statements from all open bank accounts.

The lottery application materials shall be kept confidential. The County or its designee will conduct a preliminary income screening of all lottery applications. Applicants who submit complete applications and pass the preliminary income screening are eligible for the lottery. The lottery is conducted using random number selection in EXCEL. A witness from the County Auditor-Controller’s office is present and signs a declaration that the lottery was conducted according to procedures and was completely random. The County or its designee will post the lottery results for ten days and notify the number of buyers or renters for whom units are available. If any household that is selected by lottery does not meet all of the income eligibility requirements of the Inclusionary Housing Ordinance then the County (or its designee) will review the next available household from the lottery list. The project applicant is not obligated to continue using the lottery list once all of project’s the Inclusionary housing units are occupied concurrently by income qualified households that were chosen through the lottery.

### 5.3: Gifts for Home Buyers

During the income verification process, the prospective buyer(s) of an Inclusionary housing unit shall identify all gifts and certify that the gift(s) do not exceed 25% of the purchase price of the Inclusionary housing unit.



## Chapter 6: Compliance Procedure

### 6.1: Application Process

- A. Submittal. Upon submittal of the first application for land use development or a subdivision the applicant may indicate that the Inclusionary housing fees will be paid upon permit approval or may submit an Inclusionary housing proposal.
  - 1. If the applicant wishes to meet all inclusionary housing requirements by paying inclusionary housing fees then a fee estimate should be calculated as soon as all necessary project information is submitted. However, the actual fee amount will be based on the fee schedule in place at the time of construction permit issuance or final map recordation, whichever comes first.
- B. Application Review. During the application review process the Planning Director may require from the applicant any additional information that is reasonably necessary to clarify and supplement the application or to determine the conformance of the proposed project with the requirements of the Inclusionary Housing Ordinance.
  - 1. For payment of (commercial) housing impact fees this may include, but is not limited to: clarification of the types of commercial and industrial uses by floor area.
  - 2. For an Inclusionary housing proposal this may include, but is not limited to: site plan(s), floor plans, elevation drawings and other exhibits depicting the location of the Inclusionary housing units, building layout, parking, and other site features.
- C. Review of Inclusionary Housing Proposal.
  - 1. Determination of Conformance. The Planning Director's evaluation of an Inclusionary housing proposal shall include, but is not limited to, a review of the number of Inclusionary housing units and assessment of unit design, calculation of fees, the value and suitability of proposed land donations, and consideration of requested project incentives.
  - 2. Incomplete Applications. Whenever an applicant's Inclusionary housing proposal is incomplete the project application will be returned to the applicant along with a list of the deficiencies or the information required.
  - 3. Complete Applications. The Planning Director shall respond to completed applications by identifying: a) the issues and factors which may affect the Review Authority's decision to approve or deny the proposed method(s) of fulfilling a project's Inclusionary housing requirements; b) incentives which the County may support with the approval of a project; and c) the procedures which must be followed to comply with the Inclusionary housing requirement.
- D. Approval of Inclusionary Housing Proposal.
  - 1. Concurrent Processing. An Inclusionary housing proposal shall be considered and approved or denied concurrent with a project's land use permit or tentative subdivision map.

## 6.2: Fee Payment or Inclusionary Housing Agreement

The applicant shall pay all required Inclusionary housing fees or shall execute and record an Inclusionary Housing Agreement prior to issuance of any construction permit or recordation of a final subdivision map, or prior to the approval of a project's land use permit when no construction permit or subdivision map is required. For a land subdivision creating vacant parcels the applicant shall pay all required Inclusionary housing fees prior to final map recordation or record a trust deed on each parcel at the time of final map recordation. All Inclusionary housing agreements and trust deeds shall be prepared by County Counsel.

## 6.3: Tracking of Subdivisions (vacant parcels)

When a land subdivision map is recorded that creates vacant parcels, and the applicant has paid the total amount of in-lieu or housing impact (linkage) fees at the time of map recordation, then County staff must track the newly created parcels. The applicant has paid the fees at the time of map recordation, and future parcel owners do not need to pay in-lieu or housing impact fees. The new parcels are exempt from the Inclusionary housing ordinance.

## Chapter 7: Rental Units

All Inclusionary housing rental units allocated to low and very low income households shall be operated and maintained by a non-profit housing agency or other housing provider acceptable to the County for the duration of the affordability period. Regardless of the income level that a rental unit is allocated to, all Inclusionary housing rental units shall be operated in conformance with the following standards:

### 7.1: Eligible Tenants and Rental Rates

- A. **Eligible Tenants.** The tenant's household shall meet the eligibility requirements for the income level applicable to each rental unit, pursuant to Land Use Ordinance Section 22.12.080.I – Eligible residents, or Coastal Zone Land Use Ordinance Section 23.04.096.i – Eligible residents.
- B. **Rental Rates.** The rental rates and long term affordability period for rental units shall comply with Land Use Ordinance Section 22.12.070 – Housing Affordability Standards, or Coastal Zone Land Use Ordinance Section 23.04.094 – Affordable Housing Standards.

### 7.2: Annual Report

- A. **Annual Report.** The rental unit owner shall submit an annual report to the County summarizing the occupancy of each Inclusionary housing unit for the year, demonstrating the continuing income-eligibility of the tenants and documenting the monthly rental rate that was charged for each unit.

### 7.3: Changes in Household Income

- A. **One Year Grace Period.** If, after moving into an Inclusionary housing rental unit the tenant's household income exceeds the limit for that unit, the rental unit owner shall take the following actions:
  - 1. The tenants shall be given one year's notice to vacate the unit. If the tenant's household income does not exceed the income limits of other Inclusionary housing units in the residential development, the owner may, at the owner's option, allow the tenants to remain in the original unit and re-designate the unit as affordable to households of a higher income level, as long as the next vacant unit is re-designated for the income category previously applicable to the tenant's household. If during the year, an Inclusionary housing unit becomes available and the tenant's household meets the income eligibility requirement for that unit, the owner shall allow the tenants to apply for that unit.
  - 2. If there are no units designated for a higher income category within the development that may be substituted for the original unit, the tenants shall be given one year's notice to vacate the unit. If within that year another unit in the development is vacated, the owner may, at the owner's option, allow the tenants to remain in the original unit and raise the tenants' rent to market-rate and designate the newly vacated unit as an Inclusionary housing unit affordable at the income-level previously applicable to the unit converted to market rate. The newly vacated unit must be comparable in size (for example, number of bedrooms, bathrooms, square footage, etc.) as the original unit.

## Chapter 8: Ownership Units

### 8.1: Purchase Agreement

- A. Option to Purchase at a Restricted Price Agreement. Prior to the sale or transfer of title of an Inclusionary housing unit to an eligible household the eligible buyer(s) shall execute and record, to the County's satisfaction, an Option to Purchase at a Restricted Price Agreement, pursuant to Land Use Ordinance Section 22.12.070 or Coastal Zone Land Use Ordinance Section 23.04.094.
- B. Resale Restriction. The resale of any Inclusionary housing unit shall conform to the provisions of the Option to Purchase at a Restricted Price Agreement, as recorded on title of the unit.

### 8.2: Annual Verification of Owner Occupancy

- A. Occupancy Status Report. Once a year the County shall send a notice to the owner(s) of each Inclusionary housing unit requesting an Occupancy Status Report. The letters, sent via certified mail, shall include "Do Not Forward" and/or "Owner-Signature Only" notices. The owner will not receive the letter if he or she is not living in the Inclusionary housing unit and is not able to provide a signature to the postal worker.
- B. Investigation. If the County receives no response within 10 days of the Owner Status Report's delivery, or if the County hears of an alleged violation of the owner occupancy requirement, the County may open an investigation, notifying the owner via certified letter that the County may take one or more of the following investigative actions:
  - Visit the Inclusionary housing unit at random times of the day to determine occupancy.
  - Solicit testimony from neighbors regarding who is occupying the owner's unit; and/or
  - Require the owner to submit copies of most recent paycheck stubs (or other verification from employer) demonstrating the owner's current place of employment and any other information deemed by the County to be reasonably necessary to determine the owner's place of residence.

If the above steps do not reveal the occupancy status, the County may seek entry into the unit and, if not granted, may seek an inspection warrant. If warranted after further investigation, the County may issue notices of default to owners of Inclusionary housing units found in violation of the terms and covenants of their Inclusionary Housing Agreement with the County. The County's enforcement abilities include, but are not limited to, repayment and financial penalties for any unauthorized rents collected and a requirement that the home be sold by the owner not in compliance.

### 8.3: Hardship and Temporary Rental

Hardships, as defined in the Inclusionary Housing Agreement between the unit owner and County, may enable an owner to rent their unit while attempting to sell it. Owners must apply to the County for a "hardship exemption." These may be granted by the County when one or more of the specific circumstances outlined in the Inclusionary Housing Agreement result in an economic hardship (i.e., staying in the unit would result in a substantial and irrevocable loss). The County must make its determination within 30 days of receiving a request. Hardship circumstances include:

- Long-term illness or injury of owner or member of the immediate family;
- The death of the owner or a member of the immediate family;
- A job transfer or loss of job;
- Insurance will not compensate for the loss; or
- Liquidation of the owner's assets would create a "severe financial hardship" as well.

#### 8.4: Change in Title

Title in an Inclusionary housing unit may change due to changes in circumstances, including death, marriage or divorce. If a change in title is caused by events that change the financial situation of the resident household so that it is no longer income-eligible, then the property must be sold to an income-eligible household within one year. Upon the death of one of the owners, title in the property may transfer to the surviving joint tenant without respect to the income-eligibility of the resident household. Upon the death of a sole owner or all owners and inheritance of the Inclusionary housing unit by a non-income-eligible child or stepchild of one or more owners, there shall be a one year compassion period between the time when the estate is settled and the time when the property must be sold to an income-eligible household. Inheritance of an Inclusionary housing unit by any other person whose household is not income-eligible shall require resale of the unit to an income-eligible household within one year.

## **Chapter 9: Enforcement**

### **9.1: Penalty for Violation**

It shall be a misdemeanor to violate any provision of this Section. Without limiting the generality of the foregoing, it shall also be a misdemeanor for any person to sell or rent to another person an Inclusionary housing unit under this Section at a price or rent exceeding the maximum allowed under this Section or to sell or rent an Inclusionary housing unit to a household not qualified under this Section. It shall further be a misdemeanor for any person to provide false or materially incomplete information to the County or to a seller or lessor of an Inclusionary housing unit to obtain occupancy of housing for which he or she is not eligible.

### **9.2: Legal Action**

The County may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Section, including: (1) actions to revoke, deny or suspend any permit, including a construction permit, certificate of occupancy, or discretionary approval; (ii) actions to recover from any violator of this Section civil fines, restitution to prevent unjust enrichment from a violation of this Section, and/or enforcement costs, including attorneys fees; (iii) eviction or foreclosure; and (iv) any other appropriate action for injunctive relief or damages. Failure of any official or agency to fulfill the requirements of this Section shall not excuse any person, owner, household or other party from the requirements of this Section.

### **9.3: Misdemeanors or Infractions**

Violations of County ordinance are misdemeanors unless they are made to be infractions.