

# **Santa Cruz County Affordable Housing Guidelines**

June 2019 Edition

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# **Santa Cruz County Affordable Housing Guidelines**

March 2018 Edition

## **I. APPLICABILITY AND DEFINITIONS**

### **A. APPLICABILITY**

These Santa Cruz County Affordable Housing Guidelines provide operational guidelines for Santa Cruz County Affordable Housing Programs including the Measure J Inclusionary Housing Program, the Density Bonus Program and the Accessory Dwelling Unit Loan Program. The Guidelines are adopted by Resolution of the Santa Cruz County Board of Supervisors and fulfill requirements of County Code Chapter 17.10, Affordable Housing Requirements.<sup>1</sup>

These Guidelines are periodically revised, updated and adopted by the County to accomplish the objectives of the County's Affordable Housing Program, and establish regulations in addition to all other applicable State and County laws and regulations governing the sale or rental of residential properties. They will be updated administratively when the published Area Median Income is adjusted by the State Department of Housing and Community Development or when the Board of Supervisors makes changes to applicable fees. These Guidelines provide supplemental regulations and administrative guidelines for the County's Affordable Housing Program and implement the intent and specific provisions of each Program by providing income and asset limits for participating households, eligibility requirements for purchasing or renting Affordable Units and development and marketing standards for Affordable Units. In the event that the affordable housing guidelines do not provide specifically for a situation that arises and there is more than one possible interpretation or application of the AHG guiding principles, it is the intent of the Board of Supervisors that staff choose and follow the interpretation/application that best preserves the stock of affordable housing units and furthers their availability to those who qualify.

### **B. DEFINITIONS**

As used in these Affordable Housing Guidelines, unless the context requires otherwise, the following words and terms have the meanings set forth below:

“Administering Agency” shall mean the Planning Department of the County of Santa Cruz, or other department as authorized by the County Board of Supervisors.

“Accessory Dwelling Unit” (ADU) shall mean a unit built in compliance with California Government Code Section 65852.2, an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

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<sup>1</sup> These Guidelines constitute and were formerly entitled the Santa Cruz County Affordable Housing Program Income, Asset and Unit Price Guidelines from their inception as referenced in the Santa Cruz County Code, including but not limited to Chapter 17.10 and in all documents executed pursuant thereto.

“Affordable Unit” shall mean a housing unit within Santa Cruz County, including its cities, that is deed restricted as to affordable resale price, including a Measure J Unit, a Density Bonus Unit or a unit assisted with former redevelopment funds or through the ADU Loan Program.

“County” shall mean the County of Santa Cruz, a political subdivision of the State of California.

“Density Bonus Program” shall mean either rental or ownership units developed under Santa Cruz County Code Chapter 17.12.

“First Time Home Buyer” shall mean a Principal Occupant (see definition below) who:

Has not held an Ownership Interest (see definition below), whether whole or part, in residential property during the three-year period immediately prior to their certification of eligibility by the Administering Agency to purchase an Affordable Unit; or

Is a “displaced homemaker” who has not within the past two years worked on a full time basis as a member of the labor force, but has, during such years, worked primarily without remuneration to care for the home and family, and is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment and does not have an Ownership Interest in residential property; or

Is a single parent who is unmarried or legally separated from a spouse, and is pregnant or has sole or joint custody of at least one minor child, and does not have an Ownership Interest in residential property; or

Is a current owner-occupant of a mobile home that does not meet local codes and cannot be brought into compliance with codes for less than the cost of construction of a new home.

Owners of mobile homes in mobile home parks who do not hold fee simple title would be considered First Time Home Buyers.

“Household” shall mean all occupants of the Affordable Unit including the Principal Occupants.

“Household Income” shall mean gross annualized income as further defined in Section III.2.

“Ownership Interest” shall mean any of the following interests whether whole or part in residential property:

Fee simple estate, joint tenancy, tenancy in common, tenancy by the entirety, intervivos Trust where the Principal Occupants are the trustor, trustee, and beneficiary, life estate or land sales contract.

Ownership Interest does not include a remainder interest, or a leasehold interest with or without an option to purchase unless the leasehold interest has been in effect continuously for more than thirty-five (35) years.

“Owner-Occupied” shall mean an Affordable Unit that is continuously occupied by at least one Principal Occupant for at least 10 months out of each calendar year.

“Principal Occupant(s)” shall mean those members of the Household whose names appear on the property lease or title.

### C. MONITORING

The Administering Agency has the authority to monitor all Affordable Units under the jurisdiction of the County on an annual basis to ensure compliance with all applicable State of California and County statutes, ordinances, and regulations. Upon the request of the Administering Agency, program participants shall furnish to the Administering Agency documents verifying occupancy of the Affordable Unit, rental amounts, and verifying that there have been no changes in the way title to the Affordable Unit is held. Such documents may include, but are not limited to, copies of utility bills, mortgage or account statements, and rental agreements reflecting owner’s name and the address of the home.

## II. PROGRAMS COVERED BY THESE GUIDELINES

### A. MEASURE J INCLUSIONARY HOUSING PROGRAM

Santa Cruz County’s Inclusionary Housing Program has been called “The Measure J Program” since the initiative that established it was passed by voters in 1978. The affordable housing component of Measure J commits the County to establish policies that ensure that 15% of residential development is affordable to average income homeowners. Santa Cruz County Code Section 17.10 enacts the affordable housing provisions of Measure J.

The majority of Measure J homes are owner occupied for- sale units whose resale price is restricted as further defined in these Guidelines. Measure J rental units are known as “Investor-Owner” units and the rental and occupancy limits are further defined by these Guidelines.

### B. DENSITY BONUS PROGRAM

The creation of Affordable Units through the Density Bonus Program occurs through use of provisions in Santa Cruz County Code Chapter 17.12. These Guidelines are intended to implement the affordability requirements for affordable units created under the Code. Approval of Density Bonus Units will require developers to enter into an Affordable Housing Participation Agreement that will identify the targeted affordability level of the units and whether the units are rental or for sale. Occupancy, eligibility and enforcement of the Density Bonus Units will be determined by these Guidelines.

### **C. ADU FORGIVABLE LOAN PROGRAM**

The ADU Forgivable Loan Program is intended to provide assistance to homeowners interested in building ADUs who agree to enter into a funding deed restriction that will ensure the ADU provides affordable housing to qualifying households. County financial assistance is in the form of a three percent (3%) simple interest loan, deferred and forgiven after 20 years provided the unit is held and occupied by low income households for the term of the loan. The Board of Supervisors authorized development of the ADU Loan Program on August 22, 2017.

## **III. ELIGIBILITY AND INCOME QUALIFICATION REQUIREMENTS**

### **A. RESIDENCY**

In order to be eligible to purchase or rent any Affordable Unit, at least one Principal Occupant must currently reside within Santa Cruz County (including its incorporated cities); or at least one Principal Occupant must be employed within Santa Cruz County (local employment must be their primary employment and source of income). Principal Occupants for Affordable Units must provide the Administering Agency with documentation that they have resided and/or been employed within Santa Cruz County for at least 60 days prior to their application to purchase or rent an Affordable Unit. Measure J units within Redevelopment Agency (RDA) assisted 100% affordable for sale housing projects must remain owner occupied at all times and cannot be used as rental housing unless approved by the Administering Agency pursuant to County Code Section 17.10.070. (Resolution no. 308-2010). The Administering Agency may make exceptions on a case by case basis due to legal or economic circumstances provided the effort has been made to market the unit as demonstrated by an active listing on the MLS for at least 90 days.

### **B. HOUSEHOLD SIZE**

In order to be eligible to purchase or rent an Affordable Unit the Household must be of a size equal to the number of bedrooms in the unit. For instance, in order to be eligible to purchase a three-bedroom unit, a Household must be made up of at least three members. Households must provide the Administering Agency with documentation to verify the Household size claimed.

Applications by smaller-sized Households for larger units will only be considered by the Administering Agency based on documentation by the Principal Occupant that there are unique and compelling individual circumstances that justify a greater number of bedrooms than the number of persons in the Household or if the County grants a reasonable accommodation under federal or state fair housing laws.

Maximum household size for Affordable Units is two people per bedroom plus one, so the maximum number of people in a household at time of purchase of a two bedroom unit is five.

### **C. FIRST TIME HOMEBUYER REQUIREMENT**

All Principal Occupants purchasing Owner-Occupied units must be certified by the Administering Agency as First Time Home Buyers. Exceptions to the First Time Home Buyer requirement shall be made by the Administering Agency in any of the following circumstances:

1. The First Time Home Buyer requirement does not apply to buyers of units in the two existing “senior only” affordable housing developments commonly known as “Vista Prieta” and “Casa La Familia,” or any future “senior only” development that contains Affordable Units, however such buyers cannot retain an ownership interest in other residential property after they purchase a home at a senior only development;
2. Principal Occupants of an Affordable Unit may sell the unit and purchase another Affordable Unit that has been marketed to the public for at least 30 days and has not received a valid purchase offer from an eligible Household, provided that their Household meets all current eligibility requirements and that their current Affordable Unit is sold to another eligible Household; or
3. Principal Occupants of an Affordable Unit may sell their unit and purchase another Affordable Unit, based on changes in the composition or conditions of their Household, provided that their Household meets all other current eligibility requirements, and that their current Affordable Unit is sold to another eligible Household. Conditions that warrant consideration for purchase of another Affordable Unit include marriage, divorce, birth, death, medical conditions, and other conditions due to individual circumstances beyond the control of the Principal Occupant(s). Individual circumstances will be considered, and approved or denied, by the Administering Agency upon submission of documentation to the Administering Agency by the Principal Occupant(s).

### **D. REQUIREMENT FOR HOMEBUYER EDUCATION**

All First Time Homebuyers are required to attend a County-approved homebuyer education class prior to close of escrow. The homebuyer education class will cover such topics as the following: preparing for homeownership; available financing; credit analysis; loan closing; homeownership responsibilities; home maintenance; impact of refinancing and loan servicing. Contact the Administering Agency for further information on Homebuyer Education.

### **E. INELIGIBILITY FOR AN AFFORDABLE UNIT**

The following persons are ineligible to purchase, rent or occupy an Affordable Unit:

1. All employees and officials of the County of Santa Cruz or the Administering Agency who have, by the authority of their position, policymaking authority or influence affecting Santa Cruz County housing programs.
2. The developer or owner of the Affordable Unit to be purchased or rented.
3. The immediate relatives, employees, and anyone gaining significant economic benefit from a direct business association with public employees, officials, developers, or owners who are not eligible to purchase or rent an inclusionary unit.

## ***F. INCOME ELIGIBILITY***

### **1. Household Income Limits**

To establish the eligibility of individuals participating in the County's Affordable Housing Program, limits are set on the amount of income Households can earn. These limits are based on median incomes and income limits for Santa Cruz County published annually by the California Department of Housing and Community Development (HCD) in Section 6932, Title 25, California Code of Regulations. HCD establishes household income ranges by household size into five income categories. The five household income categories commonly used for the administration of affordable housing programs are as follows:

- a) "Extremely Low Income" households are those with incomes generally equal to or less than 30% of median household income.
- b) "Very Low Income" households are defined as those with incomes generally greater than 30% and up to 50% of median household income;
- c) "Lower Income" households are defined as those with incomes generally greater than 50% and up to 80% of median household income;
- d) "Median Income" households are defined as those with incomes equal to 100% of median household income; and
- e) "Moderate Income" households are defined as those with incomes greater than 80% and up to 120% of median household income.

Table One defines the maximum annual Household income limits for each income category, by Household size, for Santa Cruz County affordable housing programs. The applicable income limits for larger Household sizes may be obtained from the Administering Agency.

**Table One: Maximum Annual Household Income Limits for 2019 (effective 5/6/19)**

Income Category (Percent income)	Number of Persons in Household							
	1	2	3	4	5	6	7	8
Extremely Low (30%)	\$25,800	\$29,450	\$33,150	\$36,800	\$39,750	\$42,700	\$45,650	\$48,600
Very Low (50%)	\$42,950	\$49,100	\$55,250	\$61,350	\$66,300	\$71,200	\$76,100	\$81,000
Lower (80%)	\$68,900	\$78,750	\$88,600	\$98,400	\$106,300	\$114,150	\$122,050	\$129,900
Median (100%)	\$68,600	\$78,400	\$88,200	\$98,000	\$105,850	\$113,700	\$121,500	\$129,350
Moderate (120%)	\$82,300	\$94,100	\$105,850	\$117,600	\$127,000	\$136,400	\$145,800	\$155,250

Household size is defined to include all occupants of the Affordable Unit. At the time a Household first occupies an Affordable Unit, the Household's income shall not exceed the following annual income limits:

2. Rental Units:

- a) The annual income of a Household renting an Affordable Unit, other than those designated for Very Low Income, shall not exceed the maximum limit for Lower Income Households; and
- b) The annual income of a Household renting an Affordable Unit designated for Very Low Income shall not exceed the maximum limit for Very Low Income Households.

3. Owner-Occupied Units:

- a) The annual income of a Household purchasing a designated Moderate Income Affordable Unit for owner-occupancy shall not exceed the maximum limit for Moderate Income Households;
- b) The annual income of a Household purchasing a designated Lower Income Affordable Unit for owner-occupancy shall not exceed the maximum limit for Lower Income Households; and
- c) The annual income of a Household purchasing a designated Very Low Income Affordable Unit for owner-occupancy shall not exceed the maximum limit for Very Low Income Households.

Households shall be certified as meeting the above income limitations by the Administering Agency prior to occupying an Affordable rental or Owner-Occupied Unit. Purchasers of Affordable Units to be utilized as investor-owned Affordable rental Units are not subject to income limitations if the amended declaration of

restrictions allows sale of the unit to an investor-owner whose income is not restricted.

Where affordable housing units are developed with State or federal housing program assistance, the income limitations of the State or federal housing program shall supersede the income limitations of these Guidelines where they are more stringent.

#### 4. Determination of Household Income

For income eligibility purposes, for Households purchasing or renting an Affordable Unit, gross "annualized" income or monetary benefits before deductions or exemptions from all members of the Household 18 years of age or older will be considered. Annualized income shall be determined by calculating the applicant's current monthly income and projecting it over twelve months (multiplying the current monthly income by 12). In the event that current monthly income deviates by more than 15% from the preceding 12-month average, annual income will be determined by combining the preceding half year's income with one-half year's income at the current level. (Resolution no. 297-2008)

- a) Income includes, but is not limited to:
  - (1) All wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services, before payroll deductions;
  - (2) The net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness or any allowance for depreciation of capital assets);
  - (3) Interest and dividends (including income from assets excluded below);
  - (4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including any lump sum payment for the delayed start of a periodic payment;
  - (5) Payments in lieu of earnings, such as unemployment and disability compensation and severance pay;
  - (6) The maximum amount of public assistance available to the above persons other than the amount of any assistance specifically designated for shelter and utilities;
  - (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

- (8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse; and
  - (9) Any earned income tax credit to the extent that it exceeds income tax liability.
- b) Excluded from the definition of income:
- (1) Casual, sporadic or irregular gifts;
  - (2) Amounts that are specifically for or in reimbursement of medical expenses;
  - (3) Lump sum additions to Household assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal losses;
  - (4) Amounts of educational scholarships paid directly to students or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books, and equipment. Any amounts of such scholarships or payments to veterans not used for the above purposes are to be included in income;
  - (5) Special pay to a serviceman head of a family away from home and exposed to hostile fire;
  - (6) Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
  - (7) Foster childcare payments;
  - (8) The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1977;
  - (9) Payments to volunteers under the Domestic Volunteer Service Act of 1973;
  - (10) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes;
  - (11) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;
  - (12) Payments received from the Job Training Partnership Act;

(13) Income derived from the disposition of funds of the Grand River band of Ottawa Indians; and

(14) The first \$2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims.

c) Determination of Income from Assets

To determine Household income eligibility for purchase or rent of an Affordable Unit, a percentage of the Household's assets (as defined below) shall be added to the Household income only when the Household's assets exceed the maximum annual Household income by Household size.

When total assets exceed the maximum annual income for the Household, then the amount of income attributed to these assets shall be computed as follows:

(1) The actual annual income generated from the assets; or

(2) Annual income based on a percentage yield that equal to the average mortgage interest rate from Freddie Mac's "Weekly Primary Mortgage Market Survey" used in the Resale Price Formula in Section 9 for new units or Section 10 for existing units, below. Whichever calculation yields a greater amount of income will be added to the Household's annual income, and this combined amount must be less than the maximum annual income for the Household.

For households consisting of at least one senior citizen 62 years of age or older, assets equal to the area median income adjusted for households size shall be excluded from the above calculation.

Households shall be certified as meeting the above asset limitations by the Administering Agency prior to occupying an affordable rental or Owner-Occupied unit. Purchasers of Affordable Units to be utilized as investor-owned affordable rental units are not subject to these asset limitations.

Where affordable housing units are developed with State or federal housing program assistance, the asset limitations of the State or federal housing program shall supersede the asset limitations of these Guidelines where they are more stringent.

Assets are defined as:

(1) Cash savings, including but not limited to bank accounts, credit union accounts, certificates of deposit, and money market funds;

(2) Marketable securities, stocks, bonds and other forms of capital investment;

- (3) Inheritance and lump sum insurance payments, already received;
- (4) Settlements for personal or property damage already received;
- (5) Equity in real estate, except as stated below; and
- (6) Other personal property that is readily convertible into cash.

The following are not considered assets:

- (1) Ordinary household effects including furniture, fixtures, and personal property;
- (2) Automobiles used for personal use;
- (3) Equity in the parcel or lot on which an owner-builder unit is to be built; and
- (4) Cash, securities, stocks, bonds and other forms of capital held in a tax deferred retirement plan recognized by the Federal Internal Revenue Service.

## **IV. AFFORDABLE RENTAL UNIT PROGRAM GUIDELINES**

### **A. MAXIMUM RENTS**

The maximum rents for Affordable Rental Units shall be set at a level specified in the Affordable Housing Participation Agreement or the restrictions recorded for the property. Unless otherwise specified, rents shall be affordable to Lower and Very Low income Households as provided in Table Two. Except as otherwise provided in this section, the maximum rents for an Affordable Unit shall be determined based on 1) a housing allowance of 30% of gross income for a Household size of one person more than the number of bedrooms in the Affordable Unit, and 2) a Household income of 60% of median, except for those units which are designated for Very Low Income occupancy in which case a Household income of 50% of median shall be used.

"Rent" includes monthly rent paid to the property owner and all fees for parking and other housing services.

**Table Two: Maximum Monthly Rents for Affordable Rental Units**

Unit Size	Very Low (50% AMI)	Low (60% AMI)
Studio	\$1,074	\$1,029
1	\$1,228	\$1,176
2	\$1,381	\$1,323
3	\$1,534	\$1,470
4	\$1,658	\$1,588
5	\$1,780	\$1,706

Where affordable housing units are developed with State or federal housing program assistance, the rental price requirements of the State or federal housing program shall supersede the price limitations of these Guidelines where they are more stringent.

Notwithstanding the foregoing, owners of County Affordable Units may participate in the Section 8 Housing Choice voucher Program and similar housing subsidy programs and accept the rent levels allowed by those programs.

The maximum rents for Affordable Units and maximum Household income limits shall be revised annually by the Administering Agency following the annual publication of HCD income limits for Santa Cruz County. For affordable rental units initially occupied before August 26, 1986, rents shall not be increased by more than 10 percent annually.

For Affordable Units in congregate senior housing projects that are deed restricted prior to January 2015, that are providing services beyond basic shelter, the Board of Supervisors shall, at the time of project approval, provide for payments beyond the rent levels to account for the additional cost of providing such additional services. Unless the Board of Supervisors decides otherwise with respect to a particular congregate senior project, charges allowed for congregate care services in addition to the basic rent charge may not exceed the limits provided in Table Three, which are based on 35% of total Household income for a single person, or 45% of total Household income for a couple, at an income level of 60% of median.

**Table Three: Maximum Congregate Care Service Charges**

Household Size	Maximum Monthly Service Charge
1	\$1,065.00
2	\$1,566.00

## **B. AFFORDABLE RENTAL UNIT STANDARDS**

Standard quality units must be finished to allow occupancy and shall have:

1. The minimum unit size for congregate senior projects shall be comparable to the unit size of market units for all types and bedroom sizes, consistent with Santa Cruz County Code Chapter 17.10.032.
2. Washer and dryer connections within the units or access to a common laundry facility within the project;
3. Garage or paved parking area and sidewalk leading from the parking area to the unit;
4. At least 1-1/2 bathrooms for units with three or more bedrooms.

The County of Santa Cruz Planning Department Director (“Planning Director”) may allow minor variations from these standards if the unit is otherwise of superior design or amenity level.

The size of the Household renting or purchasing an Affordable Unit shall not exceed that allowed by the State Uniform Housing Code, or other applicable State laws based on the unit size and number of bedrooms in the unit.

## **C. TEMPORARY RENTAL OF AFFORDABLE UNITS**

Temporary Rental of some Affordable Units, including Measure J Units, may be permitted without conversion to Investor-Owner status in circumstances detailed below:

1. Owner's Principal Residence: Owner shall occupy the Home as Owner's principal place of residence. Owner shall be considered as occupying the Home if Owner is living in the unit for at least ten (10) months out of each calendar year.
2. To account for unexpected changes in life circumstances that may justify the temporary rental of an Affordable Unit, owners may rent their home for up to one year under the following circumstances as determined by the Planning Director in his/her sole discretion based on reasonable evidence.:
  - a) An owner of an Affordable Unit who has resided therein for at least one year is unable to continue to occupy the home either temporarily or permanently by reason of illness or absence from the area for other than vacation purposes; or
  - b) An owner or person in a fiduciary capacity who has received title to an Affordable Unit as a result of the death of the previous owner, or due to bankruptcy or foreclosure procedures and requires time to arrange for the sale of the Affordable Unit to an eligible purchaser or to arrange for occupancy of the Affordable Unit by the owner.

Short term rental of Affordable Units, defined as any rental of less than 30 days in duration, whether owner occupied or investor owned, is expressly forbidden.

The penalty for violation of any of the rental provisions shall be requirement to sell unit to an eligible buyer plus a penalty payment of 1.5 times the value of the invalid rents.

#### **D. CONVERSION OF AFFORDABLE UNITS**

Notwithstanding anything to the contrary, the Administering Agency may deny applications for conversion to Investor-Owner status for Affordable Units in residential projects that exceed 25% rental, or that exceed 10% ownership by a single person or entity.

### **V. AFFORDABLE HOMEOWNERSHIP PROGRAM GUIDELINES**

#### **A. MAXIMUM SALES PRICE FOR NEW AFFORDABLE UNITS**

New Affordable Units shall be sold, on their first sale, for a price that is no more than the maximum sales price set according to the formula established in this section. The maximum sales price shall be determined at the time of filing of the original "Notice of Intent to Sell" for the Affordable Unit by the developer.

1. The maximum sales prices for new Affordable Units shall be set at a level affordable to Moderate, Lower and Very Low Income Households based on:
  - a) A housing allowance of 30% of the gross income of a Household having one person more than the number of bedrooms in the Affordable unit, and
  - b) A gross Household income as indicated below for the designated type of Affordable unit.
2. The maximum sales price is determined by applying steps a) through d) below:
  - a) Determine the annual income for a Household based on whether the unit is designated for occupancy by a Moderate Income, Lower Income or Very Low Income Household:
    - (1) Determine the Median Income for a Household size that is one person more than the number of bedrooms in the Affordable Unit; then
    - (2) Multiply the Median Income derived by the above method from Table Two by:
      - i. 110% for an Affordable unit designated for a Moderate Income Household occupancy;

- ii. 70% for an Affordable unit designated for a Lower Income Household occupancy; or
- iii. 50% for an Affordable unit designated for a Very Low Income Household occupancy.

b) Determine the monthly household allowance available for a mortgage payment:

- (1) Multiply annual income from step a) by 0.30 to obtain an annual housing allowance of 30% of income;
- (2) Divide the housing allowance by 12 to obtain a monthly housing allowance;
- (3) Deduct from the monthly housing allowance the monthly costs of property taxes, insurance, a reasonable allowance for utilities, and monthly homeowner's association (HOA) fees to obtain a net allowance available for mortgage payments.

c) Determine the maximum mortgage that can be financed:

- (1) Determine the prevailing interest rate for a 30-year fully amortized fixed-rate home mortgage that is equal to the previous year's average mortgage interest rates from Freddie Mac's "Weekly Primary Mortgage Market Survey." This rate shall be adjusted annually, effective May 1st, by the Administering Agency to coincide with the changes in median income by HCD;
- (2) Determine the maximum home mortgage that can be financed at the prevailing interest rate based on a mortgage payment as determined in step b).

d) Determine a maximum unit sales price assuming a mortgage of 90% of sales price by dividing the maximum mortgage amount determined in step c) by 0.9.

#### ***B. MAXIMUM RESALE PRICE OF EXISTING AFFORDABLE UNITS***

Affordable Units shall be sold, at the time of resale, for a price that is no more than the maximum sales price established by either of the following two methods that generates the greater resale price:

1. The maximum unit price as determined above at the time of receipt by the Administering Agency of a Principal Occupant's Notice of Intent to Sell, plus the increased value of the unit created by improvements that the Principal Occupant has made to the unit as determined below; or
2. The maximum unit price that represents the sum of the Principal Occupant's purchase price, plus the Principal Occupant's non-recurring purchase closing costs, plus the increased value of the unit created by improvements that the Household has made to the unit as determined in below.
  - a) Where a Principal Occupant has made improvements to an existing affordable housing unit which results in an increase in the number of bedrooms, as evidenced by a valid Building Permit issued and receiving final inspection by the County, the maximum resale price of the unit shall be based on a total bedroom count which included the additional bedroom(s) and on the method in Section V.A above which produces the higher resale price limit.
  - b) Where the Administering Agency determines that the Principal Occupant through neglect, abuse or lack of adequate maintenance has created damage to an Affordable Unit which jeopardizes the integrity of the unit and/or the viability of maintaining the unit as part of the County's Affordable Housing Program, the Administering Agency may require that repairs be made to the unit at the Principal Occupant's expense and paid for either prior to sale or out of the proceeds of escrow as follows:
  - c) Upon notice of sale, an inspection of the premises may be made by the Administering Agency. Damage done to the premises, beyond normal wear and tear, shall be identified by the inspector, and the cost to repair the damage estimated. The Principal Occupant shall then have the option, exercisable prior to the close of escrow, of either repairing the identified damage or having the cost to repair the damage deducted from the proceeds of the sale and held in escrow to be used to pay for the repairs.
  - d) The Principal Occupant may also be required to obtain and pay for a structural pest control report and to pay for any necessary corrective repairs. The Principal Occupant shall not be obligated to perform preventative work beyond the repair of damage, but the new Principal Occupant shall have the option to perform such work at his or her expense.

### C. ADJUSTMENTS TO RESALE PRICE

The maximum resale price of an Affordable Unit as determined in Section 10, a), ii above may include the increase in unit value created by improvements made to the property by the Principal Occupant based on the following criteria:

1. The improvements shall constitute substantial structural or permanent fixed improvements that cannot be removed without substantial damage to the premises or substantial or total loss of value of said improvements;
2. The improvements shall not increase the resale price by more than ten percent. No improvements shall be deemed substantial unless the aggregate, actual, initial costs of the improvements to the Principal Occupant exceed one percent of the purchase price paid by the Principal Occupant for the premises except as provided below; The Principal Occupant's portion of the cost of improvements to the common areas of a condominium made by a mandatory assessment by the homeowners association shall be considered the same as an improvement made directly by the Principal Occupant. The one percent minimum expenditure requirement shall not apply to such assessments;
3. The replacement of appliances, fixtures and equipment which were originally sold as part of the unit shall be deemed substantial improvements if the replacement is required by the non-operative or deteriorated nature of the original appliance, fixture, or equipment. The replacement must be of comparative value. The one percent minimum expenditure requirement shall not apply to such replacements;
4. No adjustment shall be made for the value of any improvements unless the Principal Occupant shall present to the County valid written documentation of paid receipts from vendors for the cost of said improvements and all necessary permits and inspections for the improvements have been obtained; and
5. The amount by which the sales price shall be adjusted shall be the estimated market value of the improvements when considered as additions or fixtures to the premises (i.e., the amount by which said improvements enhance the market value of the premises) at the time of sale. The Administering Agency shall have an estimate made by a qualified individual of its choice to establish the market value. A qualified individual shall be one who has, as a minimum, experience in residential construction. The Principal Occupant may also have an appraisal made by an appraiser, of his or her choice and subject to approval of the Administering Agency, to establish the market value. If agreement cannot be reached between the parties, the average of the two estimates shall become the market value of the improvements.

#### **D. ACTIVELY MARKETING UNITS**

The maximum resale price of new and existing Affordable Units is valid for only sixty (60) days after written notification of the maximum resale price by the Administering Agency to the Principal Occupant(s). Extensions will be granted at the discretion of the Administering Agency for active marketing efforts or for pending transactions. Actively marketing the unit shall include some or all of the following activities:

1. Use of a Realtor.
2. Listing of the home for sale in the MLS.
3. Returning telephone inquiries about the house.
4. Holding a series of "open houses".
5. Considering purchase offers from income eligible buyers.
6. List on County Website Affordable Homes for Sale.

#### ***E. FINANCING FOR AFFORDABLE UNITS***

##### **1. Loan Requirements**

The total mortgage debt on a unit must be financed using a conventional or FHA fixed rate mortgage fully amortized and subject to standard underwriting criteria. No negative amortization or adjustable rates are permitted.

##### **2. Maximum Mortgage Debt for Affordable Units**

The maximum mortgage debt (or combined loan-to-value) secured by an existing Affordable Unit, cannot exceed 90% of the maximum sales price or fair market value of the Affordable Unit, whichever is less, as of the date of the proposed refinancing or other loan. The financing for these loans must be conventional or FHA fixed rate mortgages fully amortized and subject to standard underwriting criteria. No negative amortization or adjustable rates are permitted.

#### ***F. MARKETING OF AFFORDABLE UNITS LAST SOLD PRIOR TO APRIL 5, 1984***

For Affordable Units which were last sold on or before April 5, 1984, and which have a recorded Declaration of Restrictions that requires that the unit be sold within a limited period of time after being placed on the market or the affordability restrictions will be released, the Principal Occupant shall provide a bona fide marketing program when the unit is offered for the sale. A bona fide marketing program shall be defined to be the equivalent of the complete marketing program and full services available through a reputable real estate brokerage firm for comparable residential property, including placement on the Multiple Listing Service. This marketing effort may be provided by the Principal Occupant, by a real estate brokerage or other representative selected by the Principal Occupant, or by the Administering Agency or its designee for the County's Affordable Housing Program. In every case, this marketing program shall be fully specified and documented by the Principal Occupant, and approved by the Administering Agency prior to the acceptance of a Notice of Intent to Sell for the unit. As an alternative to providing the above bona fide marketing program, the Principal Occupant may execute and submit to the Administering Agency a notarized written waiver of the recorded Declaration of Restrictions time limit for the sale of the unit.

## **G. FEES**

Upon the resale or refinance of an Affordable Unit, the Principal Occupant shall be charged a fee by the administrative agency for the preparation of new Declarations of Restrictions and Requests for Notice of Default as may be required, and for the monitoring and processing of the transactions. In addition the Administering Agency may charge each prospective purchaser and renter of an Affordable Unit a fee for the determination of eligibility. For units marketed by the Administering Agency, an additional fee shall be charged to the Principal Occupant. Fee amounts for these and other fees necessary to implement the County's Affordable Housing Program shall be established by the County's Unified Fee Schedule, which is adopted by resolution of the Board of Supervisors.

## **H. ALLOWABLE TRANSACTION COSTS**

The following customary and reasonable costs associated with the sale of an Affordable Unit shall be allocated between seller and purchaser as follows:

1. Real estate commissions shall be paid by seller;
2. Seller and purchaser shall each pay 50% of the escrow fee and title insurance.

No additional charges or fees shall be imposed by the seller on the purchaser of an Affordable Unit.

## **I. EXISTING UNIT CONVERSION PROGRAM GUIDELINES**

A developer of a new housing development may opt to participate in the Existing Unit Conversion Program in lieu of constructing inclusionary units if the requirements of SCCC 17.10.037 and the following conditions are met:

1. The Approving Body approves the use of this alternative as part of the original development permit;
2. Two existing market-rate units must be converted to Affordable Units for each inclusionary unit that would otherwise be required to be built on-site; and
3. The units to be converted must meet the minimum physical standards for all inclusionary units as described above in Santa Cruz County Code Section 17.10.032: Unit Standards, as well as the following additional standards for converted units:
  - a) Bedroom Count. The average bedroom count of the converted units shall not be less than the average bedroom count in the market rate units in

the project. Alternatives may be considered on a case-by-case basis, as outlined in subsection (g) below.

b) Size. The size of converted units shall not be less than 75% of the average size of the market rate units. In no case shall an Affordable Unit size be less than the minimum specified by the Affordable Housing Guidelines.

c) The Planning Director may grant exceptions to the standards of subsections c), i and ii where developers propose to provide a greater number of units or enhanced affordability, if it is infeasible to provide comparably sized units. For example, if a developer building a project of 4 bedroom homes cannot locate existing 4 bedroom units to convert, the developer may propose to substitute two 2-bedroom units (or a 3-bedroom unit and a 1-bedroom unit) for each 4-bedroom Affordable Unit required.

d) Physical Quality

(1) Units must meet current HUD Section 8 Housing Choice Voucher Program Housing Quality Standards (HQS) to ensure that the units and their sites are decent, safe and sanitary.

(2) Units must have been built and permitted under the 1973 or later building and related codes. Or, units must have been substantially rehabilitated, as reasonably determined by an Administering Agency rehabilitation specialist, to meet the 1973 or later building and related codes.

(3) Developer must deliver to the Administering Agency a Wood Destroying Pests and Organisms Inspection Report on the unit with a follow-up SECTION 1 ITEM inspection and clearance.

(4) As reasonably determined by the rehabilitation specialist, the following building components must have a useful remaining life, with routine maintenance, of at least 10-years:

- i. Roof coverings and roofing accessories, including but not limited to gutters and downspouts, metal flashings, jacks and caps
- ii. Heating system
- iii. Exterior doors
- iv. Windows
- v. Floor coverings
- vi. Kitchen and bathroom counter tops
- vii. Tub and/or shower enclosures including glass doors

(5) As reasonably determined by the rehabilitation specialist, the following building components must have a useful remaining life, with routine maintenance, of at least 5-years:

- i. Exterior painted or stained surfaces
- ii. Water heaters
- iii. Built-in kitchen appliances

Developer must deliver to the Administering Agency a housing inspection report, prepared by a certified housing inspector, that details the condition of all building and site components including but not limited to: the roof and structural components; foundation and exterior paved surfaces, electrical, mechanical, heating/ventilation, and plumbing systems; windows, doors, and chimneys; paint and other moisture sealants; floor coverings; and any existing fencing, porches, railings, etc. This report must identify any hazards, health and safety code violations, or major deferred maintenance issues that may be found, or certify that no such problems were found.

The rehabilitation specialist will evaluate the inspection report, personally inspect the unit and produce and deliver to the developer a list of deficiencies (if any) needing repair, renovation, alteration or reconstruction. After correcting all deficiencies, the developer shall notify the Agency rehabilitation specialist who will do a final inspection and approve the unit for inclusion in County Affordable Housing Program. The developer shall then submit a "Notice of Intent to Sell" to the Administering Agency for further sale processing.

4. The units to be converted must be located within the same Planning Area as the proposed project, except that the Planning Director may approve exceptions to the Planning Area requirement if the request is consistent with the intent and purposes of the County's Affordable Housing Ordinance (Chapter 17.10).

5. The units to be purchased must not be subject to any rent limits, resale price restrictions, or other affordable housing restrictions imposed by any government or non-profit agency or land trust at the time of purchase for use under this program. Conversion of multi-family rental property to condominium ownership will not be approved as part of the project.

6. If the units to be converted are occupied and rented by Moderate or Lower Income Households at the time of conversion, the occupying tenants must be given the first right of refusal to purchase the units if they meet the eligibility requirements under these Guidelines and can obtain necessary financing within 60 days of being notified of the sale by the Principal Occupant. If tenants cannot be certified as eligible to purchase or cannot obtain necessary financing, relocation benefits must be provided to the tenants by the developer as a condition of project approval. These relocation benefits shall consist of the immediate payment of three months' fair market value rent for a unit of comparable size, as established by the most current federal Department of Housing and Urban Development schedule of fair

market rents, or three months of the tenant's actual rent at the time of relocation, whichever is greater.

## 7. Alternative Options

The Approving Body may approve, on a case-by-case basis, the use of any other alternatives to satisfy the requirements of the Existing Unit Conversion program if the alternative proposed is deemed to be a preferable contribution to the affordable housing stock, by providing a greater number of rental units and/or an equal number of units at a greater level of affordability. These alternatives may include, but are not limited to, a scenario such as the following: A developer proposes to purchase a multi-family rental property and donate it to a local non-profit housing provider for rental to Very Low Income Households.

# VI. AFFORDABLE HOUSING IMPACT FEE SCHEDULE

This fee is due from developers of new residential and non-residential dwelling units and/or square footage in accordance with County Code Chapter 17.10 and the County's Unified Fee Schedule. The fee amount due is shown in Tables Five through Seven below:

## A. RESIDENTIAL OWNERSHIP PROJECTS

**Table Five: Affordable Housing Impact Fee Schedule for Residential Projects**

	1 Unit Projects	Additions, Remodels and Replacements - for Net new square footage greater than 500	2-4 Unit Projects	5+ Unit Projects
Up to 2,000 square feet	\$2	\$2	\$7	\$15
2,001-2,500 square feet	\$3	\$3	\$8	\$15
2,501-3,000 square feet	\$5	\$5	\$10	\$15
3,001-4,000 square feet	\$10	\$10	\$12	\$15
4,001 square feet and up	\$15	\$15	\$15	\$15

Affordable housing impact fees shall be paid at the time of issuance of a building permit. The Planning Director may approve payment of fees at occupancy based on hardship, based on the fee schedule above.

## Example

Assume a project with 4 units where 2 homes are 2,000 sq. ft. each, 1 home is 2,500 sq. ft., and 1 home is 5,500 sq. ft. The fees for the homes will be calculated as follows:

2,000 sq. ft. homes: The fee for each home is calculated as follows:

2,000 sq. ft. @ \$7/sq. ft.	=	\$ 14,000
Total fee	=	\$ 28,000 (\$14,000/unit x 2 units)

2,500 sq. ft. home: The fee for the home is calculated as follows:

2,500sq. ft. @ \$ 8/sq. ft.	=	\$20,000
Total fee	=	\$20,000

5,500 sq. ft. home: The fee for the home is calculated as follows:

5,500 sq. ft. @ \$ 15/sq. ft.	=	\$82,500
Total fee	=	\$82,500

## Fractional Fee Calculation

To determine the amount of the affordable housing impact fee for a fractional unit and for projects which provide some units on-site and pay an affordable housing impact fee for others, the following procedure must be followed:

1. Calculate the project's affordable housing requirement by multiplying the number of units in the project by 15% (the required percentage of Affordable units).
2. Determine the total affordable housing impact fee for the entire project (assuming that impact fees will be paid rather than on-site units provided) by multiplying the total number of units in the project by the average home size times the impact fee of \$15/sq. ft.
3. Divide the total affordable housing impact fee by the number of required Affordable units to determine the impact fee per Affordable unit.
4. Multiply the impact fee per Affordable unit by any fractional amount plus any units not provided on-site to determine the actual impact fee owed by the project.
5. Divide the actual impact fee owed by the number of market-rate units in the project to determine the fee per market-rate unit. This amount will be secured by a lien against each home until the amount is paid by the developer.

Example (affordable housing impact fee calculation)

Assume a project with 25 homes with a unit size of 2,000 sq. ft. If the applicant chooses to pay an affordable housing impact fee without providing any Affordable units on-site, the fee would be determined as follows.

2,000 sq. ft. homes: The fee for each home is calculated as follows:

2,000 sq. ft. @ \$15/sq. ft.	=	\$ 30,000
Total fee	=	\$750,000 (25 units x \$30,000/unit).

This amount will be secured by a lien against each market-rate home and will be paid by the developer when the home is sold to the homeowner.

#### Example (fractional unit calculation)

Assume a project with 25 units and an average unit size of 2,000 sq. ft. Using the five steps above, the fee per market-rate home would be determined as follows.

1. The project's affordable housing requirement equals  $25 \text{ units} \times 15\% = 3.75$  units. The project is required to provide 3 Affordable Units on-site and to pay a fee for the fractional 0.75 unit.
2. The total affordable housing impact fee for the entire project (assuming impact fees are paid for all units rather than providing any on site) would equal  $25 \text{ units} \times 2,000 \text{ sq. ft.} [\text{average home size}] \times \$15/\text{sq. ft.} = \$750,000$ .
3. Divide the total affordable housing impact fee of \$750,000 by the affordable housing requirement of 3.75 units to obtain an impact fee of \$200,000 for each required Affordable Unit.
4. For the fractional unit, the impact fee is  $.75 \times \$200,000 = \$150,000$ .
5. Of the 25 units in the project, 22 are market-rate and 3 are Affordable Units. To determine the impact fee per market-rate units, divide \$150,000 by 22 = \$6,818.18 per market-rate unit. This amount will be secured by a lien against each market-rate home and will be paid by the developer when the home is sold to the homeowner.

#### Example (partial affordable housing impact fee calculation)

Assume a project with 25 units and an average unit size of 2,000 sq. ft. Using the five steps above, 3.75 Affordable Units are required. If the applicant chooses to provide 2 on-site units and pay an affordable housing impact fee for 1.75 units, the fee would be determined as follows.

1. Using the five steps above, the impact fee is \$200,000 for each required Affordable Unit.
2. For the 1.75 units, the impact fee is  $1.75 \times \$200,000 = \$350,000$ .
3. Of the 25 units in the project, 23 are market-rate and 2 are Affordable Units. To determine the impact fee per market-rate units, divide \$350,000 by 23 = \$15,217.18 per market-rate unit. This amount will be secured by a lien against each market-rate home and will be paid by the developer when the home is sold to the homeowner.

## B. *RESIDENTIAL RENTAL PROJECTS*

<b>Table Six: Affordable Housing Impact Fee Schedule (Rental Projects)</b>	
Rental Projects	Impact Fee Per Habitable Sq. Ft.
All market-rate rental units, (excluding ADUs)	\$2

Affordable housing impact fees shall be paid at the time of issuance of a building permit for each unit in a rental project, unless the Planning Director approves payment of fees at occupancy based on hardship, based on the fee schedule above.

### Example

Assume a project with 10 units where each unit has 1,000 sq. ft. The fees for the development will be calculated as follows:

The fee for each unit is calculated as follows:

$$\begin{array}{lcl} 1,000 \text{ sq. ft.} @ \$2/\text{sq. ft.} & = & \$2,000 \\ \\ \text{Total fee} & = & \$20,000 \text{ (10 units} \times \$2,000/\text{unit}) \end{array}$$

## C. *AFFORDABLE HOUSING NON-RESIDENTIAL IMPACT FEE SCHEDULE*

This fee is due from developers of non-residential projects that result in a net increase of commercial Floor Area, exclusive of government or institutional uses, such as schools, public buildings or public facilities. In accordance with County Code Chapter 17.10 and the County's Unified Fee Schedule. The fee amount due is shown in Table Seven below:

<b>Table Seven: Affordable Housing Impact Fee Schedule for Net Increase in Sq. Ft. of Floor Area for Non-Residential Projects</b>	
Industrial/Manufacturing	\$3
Office, Including Medical Office	\$3
Agricultural—barn housing animals or machinery continue to pay lower fee	\$1
Agricultural greenhouses, processing facilities and other structures used for agriculture	\$3
Other non-residential	\$3
Hotel/Motel	\$3
Retail	\$3

Affordable housing impact fees shall be paid at the time of issuance of a building permit for the non-residential project, unless the Planning Director approves payment of fees at occupancy based on hardship, based on the fee schedule above.

#### Example

Assume a non-residential project that will demolish 10,000 square feet of existing Floor Area and construct 15,000 square feet of Floor Area in its place. The fees for the development will be calculated as follows:

Net increase of Floor Area:

$$\begin{array}{lcl} 15,000 \text{ sq. ft.} - 10,000 \text{ sq. ft.} & = & 5,000 \text{ sq. ft.} \\ \text{Total fee} & = & \$10,000 \text{ (5,000 net increase sq. ft.} \times \$2/\text{sq. ft.)} \end{array}$$