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bond or entered into an alternative agreement ensuring provision of the affordable housing units, subject to approval by the Office of County Counsel and the Director of the County Department of Planning and Building. In any case, the period of time for provision of the new or replacement housing units required by this section shall not exceed that established by Section 65590 of the California Government Code.

[Added 1992, Ord. 2579; Amended 2004, Ord. 3001; 2004, Ord. 2995; 2006, Ord. 3109]

23.04.094 - Housing Affordability Standards:

- a. **Applicability:** Affordable housing units provided as a result of one or more of the following County actions shall be subject to the standards of this Section:
- (1) Approval of a density bonus under Section 23.04.090 of the Coastal Zone Land Use Ordinance, Title 23 of the County Code, or
 - (2) Approval of an exemption from growth management provisions under Subsection 26.01.034b of the Growth Management Ordinance, Title 26 of the County Code, or
 - (3) Deferment of the public facilities fees as described in subsection 18.04.010a(1) of the Public Facilities Fees Ordinance, Title 18 of the County Code, or
 - (4) Requiring provision of affordable housing under Section 23.04.092 of the Coastal Zone Land Use Ordinance, Title 23 of the County Code, or
 - (5) Provision of direct financial assistance in the form of a grant (not a loan) to the development of affordable housing.
- b. **Eligible Household Definitions:** Households eligible to become renters or owner-occupants of affordable housing under provisions of the County Code must have incomes not exceeding one of the following income ceilings. The County will consider actual income and imputed income from assets when determining eligibility.
- (1) Extremely low-income: no more than 30 percent of median income.
 - (2) Very low-income: no more than 50 percent of median income.
 - (3) Lower-income: no more than 80 percent of median income.
 - (4) Moderate-income: no more than of 120 percent of median income.
 - (5) Workforce: no more than 160 percent of median income.
- c. **Determination of initial affordable housing sales prices:** The following procedure is designed to determine sales prices which will enable purchase of the affordable housing units by the eligible households without their monthly housing costs exceeding thirty or thirty-five percent of their gross incomes. The Planning and Building Department shall use this procedure to determine maximum sales

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prices for each proposed land use permit or land division using estimates of actual costs of financing, property taxes, homeowner association fees, and insurance and shall publish typical examples quarterly.

- (1) **Determine median income.** First, find the applicable median income based on the household size. This information is published in Section 6932 of Title 25 of the California Code of Regulations. Both the household size and the size of the housing unit shall be used to determine the affordable housing sales price, as follows:
 - (i) **Studio:** use the median income for a one-person household.
 - (ii) **One-bedroom unit:** use the median income for a two-person household.
 - (iii) **Two-bedroom unit:** use the median income for a three-person household.
 - (iv) **Three-bedroom unit:** use the median income for a four-per household.
 - (v) **Four bedroom unit:** use the median income for a five-person household.
- (2) **Determine maximum housing costs.** Maximum housing costs by size of housing unit and income group shall be calculated as the following percentages of the median income amounts determined in step 1 above, as follows:
 - a. Extremely low-income: 30 percent of 30 percent of median household income as determined under Subsection c.1.
 - b. Very low-income: 30 percent of 50 percent of median income as determined under Subsection c.1.
 - c. Lower-income: 30 percent of 70 percent of median income as determined under Subsection c.1.
 - d. Moderate-income: 35 percent of 110 percent of median income as determined under Subsection c.1.
 - e. Workforce: 35 percent of 150 percent of median income as determined under Subsection c.1.
- (3) **Estimate housing costs other than payments on mortgage loan principal and interest.** The actual costs of property taxes, insurance and homeowner association dues shall be estimated by the Planning and Building Department for affordable housing units in each proposed land use or land division.
- (4) **Determine amount of income** available for payments of mortgage loan principal and interest. The amount of income available for payments of mortgage principal and interest shall be determined by deducting the amounts for property taxes, insurance and homeowners associations dues estimated by Subsection c.3. from the maximum housing costs determined by Subsection c.2.

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- (5) **Determine mortgage interest rate.** The Planning and Building Department shall determine the annual percentage rate of conventional mortgage financing, amortized over thirty years, currently available in California at the time of building permit issuance.
 - (6) **Determine the maximum affordable sales price.** The Planning and Building Department shall determine the maximum affordable sales price using the income available for payment of mortgage loan principal and interest determined by Subsection c.4., the mortgage interest rate determined by Subsection c.5., and assuming the buyer can pay a down payment of 5 percent of the sales price.
- d. **Non-Sales:** In cases where no sale will occur, such as when an owner-builder is involved (a landowner who wishes to construct his primary residence on his own property), the sales price that would apply pursuant to Subsection c of this section shall be used in meeting the long-term housing affordability provisions of Subsection f.
- e. **Rental Units:** Rent levels of the affordable units, including allowances for the costs of utilities as determined by the Housing Authority of the City of San Luis Obispo, are not to exceed the following:
- (1) **Extremely low-income units:** 30 percent of 30 percent of the median household income as determined under Subsection c(1).
 - (2) **Very low-income units:** 30 percent of 50 percent of the median household income as determined under Subsection c(1).
 - (3) **Lower-income units:** 30 percent of 60 percent of the median household income as determined under Subsection c(1).
 - (4) **Low or moderate-income units:** 30 percent of 110 percent of the median household income as determined under Subsection c(1).
 - (5) **Workforce housing units:** 30 percent of 150 percent of the median household income as determined under Subsection c(1) of this Section.
- f. **Continued availability of affordable housing:** Affordable housing units which are subject to the standards of this section shall continue to be reserved as affordable housing as follows:
- (1) **For sale units:** Prior to issuance of any project construction permits the property owner and the County shall enter into and record a Master Affordable Housing Agreement, prepared by County Counsel, assuring that the project will provide designated affordable housing unit(s). When a designated affordable housing unit is first sold to an eligible buyer, or when the owner-builder of a designated affordable housing unit requests final permit approval for occupancy of his residence, the buyer and county or the owner-builder and county shall enter into an Option to Purchase at Restricted Price Agreement which shall be recorded as an encumbrance on the property, and secured by a recorded deed of trust. The said Option to Purchase at Restricted Price Agreement shall supercede the Master Affordable Housing Agreement. Under the terms of the Option to Purchase at Restricted Price Agreement, the maximum resale price

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of the housing unit shall be limited for a period of 45 years to the same formula used to determine the initial sales price, except that current information regarding median income, mortgage financing interest rate, taxes, insurance and homeowners association dues shall be applied. Adjustments to the maximum resale price as determined by the Planning and Building Department shall be made to ensure that the resale price is not lower than the original sales price, to increase the maximum resale price by the value of structural improvements made by the owner, and to comply with requirements of State or Federal mortgage lenders as necessary. Ownership of the property may only be transferred to party that agrees to execute a new Option to Purchase at Restricted Price Agreement with a term of 45 years.

- (2) **Inclusionary housing units:** For any Inclusionary housing unit that is subject to Section 23.04.096 of this title and will be sold as an ownership unit, if there is a sales price difference of 10% or less between the current appraised market value of the unit and the affordable sales price established by this Section then that Inclusionary housing unit shall be reserved as affordable housing for a period of thirty (30) years in the following manner. When the Inclusionary housing unit is first sold to an eligible buyer, or when the owner-builder of a designated Inclusionary housing unit requests final permit approval for occupancy of his residence, the buyer and the County or the owner-builder and the County shall enter into an Option to Purchase at Restricted Price Agreement which shall be recorded as an encumbrance on the property and secured by a recorded deed of trust. The said Agreement and deed of trust shall establish the monetary difference between the initial affordable purchase price and the initial appraised market value as a loan payable to the County. Said loan shall accrue interest at a rate equal to 4.5 points added to the 11th District Cost of Funds as currently published by the Federal Home Loan Bank, amortized over 30 years. The monthly payments of principal and interest shall be waived by the County as long as the owner who was previously approved by the County as an eligible buyer or as an owner-builder continues to own and reside in the Inclusionary unit as his or her principal residence, and also continues to be a legal resident of the County of San Luis Obispo. Upon resale to a non-eligible buyer the County loan amount shall be determined by the Planning and Building Department and shall be adjusted to ensure that the resale price is not lower than the original affordable price, and to allow recovery of any downpayment and value of structural improvements.

The provisions of this section shall not impair the rights of a first mortgage lender secured by a recorded deed of trust. The purchase money lender(s) shall have a higher priority than the County's loan. The County's security shall be prioritized as a second mortgage. This first priority applies to the purchase money lender's assignee or successor in interest, to:

- (i) Foreclose on the subject property pursuant to the remedies permitted by law and written in a recorded contract or deed of trust; or
- (ii) Accept a deed of trust or assignment to the extent of the value of the unpaid first mortgage to the current market value in lieu of foreclosure in the event of default by a trustor; or

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- (iii) Sell the property to any person at a price consistent with the provisions of this Section subsequent to exercising its rights under the deed of trust.

In addition, the following types of transfers shall remain subject to the requirements of the County's loan and right of first refusal: transfer by gift, devise, or inheritance to the owner's spouse; transfer to a surviving joint tenant; transfer to a spouse as part of divorce or dissolution proceedings; or acquisition in conjunction with a marriage; or transfer as a result of foreclosure.

- (3) **Rental units:** Prior to issuance of any project construction permits the property owner and the County shall enter into and record a Rent Limitation Agreement Agreement, prepared by County Counsel, assuring that the project will provide designated affordable housing unit(s). Rent levels shall be based on the same criteria as those used to compute the original rent ceiling in subsection e of this section for a period of at least 55 years. Such rent levels will be enforced through the Review Authority imposing applicable conditions at the time of land use permit or subdivision approval for the project. If ownership of the property is transferred during the initial 55 years period, then a new Rent Limitation Agreement shall be executed with a term of 55 years.

g. **Exceptions to initial sales price limitations and resale restrictions:** The Director of the Planning and Building Department may grant an exemption to the initial sales price limitation and resale restrictions for housing units that meet all of the following criteria:

- (1) The housing units are provided in a development consisting exclusively of housing for very low income, lower income or moderate income households; and
- (2) The housing units are constructed with at least 50 percent of the work performed by volunteers and/or households purchasing the housing; and
- (3) The Director of the Planning and Building Department has determined that the home purchase financing provided will be affordable to the purchasing households for at least 30 years.

[Added 1992, Ord. 2579, Amended 2004, Ord. 2995; 2006, Ord. 3109, Amended 2011, Ord 3170]

23.04.096 - Inclusionary Housing

a. **Purpose statement.** The purpose and intent of this Section is to:

- (1) Implement Housing Element Program HE 1.9 - Require Development of Affordable Housing.
- (2) Fulfill the responsibility of the County under State Housing Law (California Government Code Section 65580 et seq.) to provide housing opportunities for all economic segments of the County.
- (3) Address the shortage of affordable housing in the County for households with incomes below 160 percent of median.