



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Submitted on:
(COB Stamp)

Department Name: Community Services
Department No.: 057
Agenda Date: February 11, 2025
Placement: Set-Hearing
Estimated Time: 30 minutes for 3/4/25
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director(s):
Jesús Armas, Director, Community Services Department (CSD), (805) 568-2467
Lisa Plowman, Director, Planning and Development (P&D), (805) 568-2086
Contact Info:
Joe Dzonik, Deputy Director, Housing and Community Development (HCD),
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Lucille Boss, HCD Housing Programs Manager, (805) 568-3533
SUBJECT: Ordinance to Amend County Code Chapter 46A – Inclusionary Housing

County Counsel Concurrence

As to form: Yes

Other Concurrence: Planning and Development

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

Set a 30-minute hearing for March 4, 2025 to consider recommendations regarding an ordinance to amend County Code Chapter 46A revising sections 46A-2, 46A-3, 46A-4, 46A-5, and 46A-6.

That the Board of Supervisors on March 4, 2025:

- a) Consider the introduction (First Reading) of an Ordinance amending County Code Chapter 46A, sections 46A-2, 46A-3, 46A-4, 46A-5, and 46A-6 and implement the specific actions described in Program 4 of the County of Santa Barbara 2023-2031 Housing Element Update (HEU) (Attachment A);
- b) Determine that the proposed action does not constitute a “project” within the meaning of the California Environmental Quality Act (CEQA), pursuant to section 15378(b)(5) of the CEQA Guidelines, because it consists of an organizational or administrative activity of government which will not result in direct or indirect physical changes in the environment; and
- c) Continue to the Administrative Agenda of March 18, 2025, to consider recommendations as follows:

That the Board of Supervisors on March 18, 2025:

- i. Consider the adoption (Second Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara to amend County Code Chapter 46A to amend sections 46A-2, 46A-3, 46A-4, 46A5, and 46A-6 and implement the specific actions described in Program 4 of the County of Santa Barbara 2023-2031 Housing Element Update (HEU); and
- ii. Determine that the proposed action does not constitute a “project” within the meaning of the California Environmental Quality Act (CEQA), pursuant to section 15378(b)(5) of the CEQA Guidelines, because it consists of an organizational or administrative activity of government which will not result in direct or indirect physical changes in the environment.

Summary Text:

The Board of Supervisors adopted County Code Chapter 46A – Inclusionary Housing (Inclusionary Housing Ordinance, or IHO) more than a decade ago. Since that time the county’s need for affordable housing has increased and the state legislature has passed many new state housing laws. Program 4 of the County’s 2023-2031 Housing Element Update (HEU) requires the County update the IHO to help increase the supply of affordable housing and reflect current state housing laws. Specifically, Program 4 requires the County amend the IHO as follows:

1. Replace the residential second unit provision to include Accessory Dwelling Units (ADUs),
2. Increase the length of time the unit retains the sales price restriction from 45 to 90 years,
3. Consider applying the IHO to rental housing developments, and
4. Make any other changes required to comply with state law.

County Code Section 46A-4(b) describes alternative means for a developer to satisfy Inclusionary Housing Requirements including the construction of what is presently described as Onsite Residential Secondary Units (RSU). The IHO proposed amendment replaces reference to RSU with Accessory Dwelling Unit and associated definition.

The purpose and intent of the IHO is to retain the long-term affordability of its deed-restricted units used to meet the housing needs of all economic segments of the community. Steps to preserve the longevity and availability of these units are necessary to enhance the diversity of the housing supply and create economic integration within the region. Extending the sales price restriction for the Inclusionary Housing property’s ownership units to 90 years will help achieve this Goal.

Staff recommends an amendment to County Code chapter 46A-3 (Attachment A) to require, as a condition of the development of rental units, that the development include a certain percentage of residential units affordable to, and occupied by, households with incomes that do not exceed the average median income (AMI) limits for moderate income (80% to 120% of AMI), lower income (50% to 80% of AMI) , very low income (30% to 50% of AMI), or extremely low-income (15-30% of AMI) households. The precise percentage of residential rental units required to be offered as “affordable” by this amendment will be proposed by staff at a later date.

County Code Section 46A-3 describes Projects that qualify for the provisions of State Density Bonus Law (SDBL) by providing price restricted affordable housing units, to be exempt from the County’s Inclusionary Housing Requirements. The SDBL was amended in 2014 to require an equity-sharing agreement between the local governments and only the initial owner occupants for the affordable ownership units that qualified the project for a density bonus under SDBL. Staff recommends that

Section 46A-3 of the IHO be amended to provide that projects that qualify under the SDBL must use the County's existing form of Covenant including a recommended 90-year resale restriction described under the recommended amended Section 46A-4(c)(3).

Background:

In 2024, the County adopted its 6th Cycle Housing Element (HEU) to ensure we appropriately plan and accommodate for enough housing across all income levels and special needs groups. Within the HEU, Goals and Policies were identified to enhance the affordability, diversity, quantity and quality of the County's housing supply. The recommended actions to amend the County's IHO will assist in accomplishing these Goals.

ADUs. In 2017, the state legislature passed the first of several laws which promote and facilitate the construction of ADUs. At that time, the County's zoning ordinances referred to ADUs as "residential second units" (RSUs). The County subsequently amended its zoning ordinances to comply with state ADU laws, which included replacing the term "residential second unit" (RSUs) with "accessory dwelling unit" (ADU). Chapter 46A uses the term "residential second unit" (RSU). The proposed ordinance amendments replace the term RSU with ADU. They also add a definition of ADU.

Rental Units. The Board of Supervisors adopted the IHO in May 2013. At that time, case law (*Palmer/Sixth Street Properties, L.P. v. City of Los Angeles* (2009) 175 Cal.App.4th 1396) prohibited cities and counties from applying inclusionary housing requirements to rental units. Assembly Bill (AB) 1505 (2017) subsequently reversed the case law; it authorizes cities and counties to adopt inclusionary housing ordinances that apply to rental units affordable to lower- and moderate-income households (Government Code section 65850(g)). The proposed ordinance amendments apply the IHO to rental units.

Annual Adjustment of Requirements for Rental Units. An IHO requirement for residential rental developments to provide affordable housing units allows for all market rate housing development contribute to the Goals of HEU policies by creating units or paying in lieu fees that can be used to build additional affordable housing in the County. Included within its annual In Lieu Fee Update, staff will annually update IHO requirements for applicable residential rental projects by comparing the Area Median Income for each Income Category to the Median rent from each Housing Market Area. When the maximum affordable monthly rental payment for each IHO income category is greater than or equal to the median rent for an HMA in any given year, the IHO requirements for that income category within the rental project may be waived.

Price Restriction Requirements. Currently, the IHO's Resale Restrictive Covenant (Covenant) term has a duration of forty-five years, restarting for up to ninety years upon resale of the affordable housing unit. The expiration of the Covenant's term has led to a significant reduction of deed restricted units. By extending the term, the units remain affordable for a longer period, and the need to utilize public funds to preserve these units (by exercising the first right of refusal and option to purchase prior to the Covenant's expiration) represents an additional benefit.

State Density Bonus Law (SDBL) Ownership Units. SDBL was amended in 2014 to require an equity-sharing agreement between the local governments and only the initial owner occupants for the affordable ownership units that qualified the project for a density bonus under SDBL. Staff recommends that Section 46A-3 of the IHO be amended to provide that projects that qualify under the SDBL must use the County's existing form of Covenant including a recommended 90-year resale restriction described under the recommended amended Section 46A-4(c)(3).

Performance Measure:

P&D works closely with CSD to ensure applicable housing affordability requirements are met via recorded agreements to provide affordable housing and applicable resale restrictions of homeownership units and, as applicable, rental units.

Staff monitors all properties for the duration of the affordability period, assists homeowners with reselling their units, and enforces owner-occupancy and other requirements.

Special Instructions:

The Clerk of the Board shall publish the hearing ordinance countywide in accordance with Government Code section 25124.

Attachments:

Attachment A – Chapter 46A Amendment

Attachment B – Chapter 46A Amendment (redlined)

Attachment C – Hearing Notice

Authored by:

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