

Capitola City Council

Agenda Report



Meeting: August 24, 2023
From: Community Development Department
Subject: Chapter 18.02 Affordable (Inclusionary) Housing

Recommended Action: Introduce, by title only, waiving further reading of the text, an ordinance of the City of Capitola amending Chapter 18.02 of the Capitola Municipal Code, Affordable (Inclusionary) Housing.

Background: The City’s Inclusionary Housing Ordinance (IHO), codified under Capitola Municipal Code (CMC) Chapter 18.02, requires housing developers to include affordable housing as a component of residential developments. “Affordable housing” means housing capable of being purchased or rented by households at a variety of income levels, including those with very low, low, or moderate incomes. These are defined as households that earn a specified percentage of the Area Median Income (AMI) for Santa Cruz County ranging from 50% of the AMI for very low-income households up to 120% of the AMI for moderate-income households.

Under the IHO, the price for an affordable housing unit is based on a household’s ability to make the payments necessary to obtain housing. For example, for-sale housing in the IHO is considered affordable when a household pays no more than thirty-five percent of its gross monthly income for housing, including utilities, and rental housing is considered affordable when a household pays no more than thirty percent of its gross monthly income for rent.

The IHO was originally adopted in 2004 and was amended in 2013 and 2021. Since that time, staff has identified necessary edits to the ordinance to clarify terms and reflect current practices.

Discussion: Since adopting the amended IHO in 2021, staff has identified four needed edits to clarify terms and reflect current practices.

1. Add Definition and Exemption for Primary Residence

The IHO requires purchasers of affordable units to occupy the unit as their primary place of residence. The ordinance does not define the term “primary residence” and does not include any exceptions to the term primary residence. Currently, inclusionary units are subject to the definition of “primary residence” that varies on a case-by-case basis. The existing development agreements have different definitions of primary residents, ranging from a residence that is lived in a minimum of 10 months per year or more than half of the days of the year. The development agreement is the ruling document for existing inclusionary units; therefore, the modification to the IHO will not impact the current agreements. Future affordable housing developments will have to comply with the IHO.

Jurisdictions in the region have a variety of definitions for primary residence. The most common definition for a primary residence is the requirement the owner occupy the residence at least ten months of the calendar year.

Location	Definition of Primary Residence
County of Santa Cruz	Primary residence consists of residing in the home (and not residing in any other home) for at least ten months of each calendar year.
Watsonville	Occupy the home as their principal place of residence
Scotts Valley	Living in the unit for at least ten months out of each calendar year
Santa Cruz	Occupy the property as the principal residence of the owner.

San Francisco	Household members on title or lease who live in the unit at least ten out of twelve months of each calendar year.
---------------	---

To create consistency in the future, staff recommends primary residence be defined, and an exception added to allow residents some flexibility under extenuating circumstances, as follows:

Primary Residence: A dwelling unit a person physically occupies and lives in at least ten months of the calendar year.

Exception: After residing in the unit as a Primary Residence for a minimum of one year, under unique temporary circumstances that require the owner to temporarily vacate the unit, the owner may rent out the unit with the prior written approval of the Community Development Director for a period of up to one year and still qualify as a Primary Residence.

The following conforming changes would be made to CMC § 18.02.070(E):

The purchaser of an affordable ownership unit shall occupy the unit as a ~~his or her primary place of residence~~ their Primary Residence. If the unit ceases to function as a ~~primary residence~~ Primary Residence, it shall be sold according to the requirements of this chapter.

2. Amend Definition of “Qualified Retirement Plan”

Section 18.02.020 of the Capitola Municipal Code defines a qualified retirement plan as “a retirement plan recognized by the Internal Revenue Service (IRS) where investment income accumulates tax-deferred. Common examples include individual retirement accounts (IRAs), pension plans and Keogh plans.” Not all retirement plans are tax-deferred. Staff recommends the definition be amended to remove the term “tax-deferred.”

3. Amend For-Sale Housing Units Sales Price and Procedures to Reflect Current Practices

Section 18.02.060(A)(3) of the Capitola Municipal Code outlines the sales price and procedures for mobile home parcels. The section states that the resale of an inclusionary mobile home parcel is restricted to sale to a median income household adjusted by household size. This does not reflect current practices. The current practice is to restrict sales to low to moderate income households. Staff recommends replacing the term “median” with “low to moderate”.

4. Amend Eligibility Requirements

Section 18.02.070(B)(2) and (C)(2) of the Capitola Municipal Code reference allowed inflation tied to the Consumer Price Index on January 1st of each year. Staff updates eligibility requirements for inclusionary units each year when the official state income limits are published, typically in the spring. Staff recommends modifying the CPI adjustment to also take place when the state income limits are published to simplify the annual calculation. Staff recommends the following changes to each section, as shown with underline and strikeout, as follows:

CMC §18.02.070.(B)(2): “ Assets in a qualified retirement plan up to five hundred thousand dollars, which amount shall be increased on ~~January 1, 2023, and every January 1st~~ the first day of the month following the annual release of Official State Income Limits by the California Department of Housing and Community Development, and every year thereafter by a percentage of equal to the percentage increase in the Consumer Price Index over the same time period”.

CMC §18.02.070.(C)(2): “Assets up to one million dollars, which amount shall be increased on ~~April 1, 2021, and every April 1st~~ the first day of the month following the annual release of Official State Income Limits by the California Department of Housing and Community Development, and every year thereafter by a percentage equal to the percentage increase in the Consumer Price Index over the same time period.”

Fiscal Impact: There are no fiscal impacts associated with the proposed ordinance.

Attachments:

1. Draft Ordinance

Report Prepared By: Katie Herlihy, Community Development Director

Reviewed By: Julia Moss, City Clerk

Approved By: Jamie Goldstein, City Manager