



PLANNING COMMISSION STAFF REPORT

MEETING DATE: June 13, 2023

AGENDA ITEM TITLE: Amendments to Chapter 16, Article XIII of the Salida Municipal Code regarding Inclusionary Housing

AGENDA SECTION: Public Hearing

BACKGROUND:

The City originally adopted its Inclusionary Housing requirements and regulations in 2018.

Since the adoption and subsequent amendments to Chapter 16, Article XIII, recent changes in the market as well as practicalities in enforcement of the regulations has prompted City staff to evaluate and recommend where certain updates could be made to the Code, especially now that new affordable units are becoming available.

Within the attached Ordinance are the proposed amendments to Chapter 16, Article XIII of the Code, as it relates to Inclusionary Housing.

STAFF RECOMMENDATIONS:

Staff is recommending that Planning Commission recommend City Council approve the proposed text amendments included in Ordinance 2023-10.

RECOMMENDED MOTIONS:

- A. "I make a motion to recommend that City Council approve the proposed text amendments to Chapter 16, Article XIII of the Salida Municipal Code regarding Inclusionary Housing."

Attachments:

Ordinance 2023-10
Proof of Publication

CITY OF SALIDA, COLORADO
ORDINANCE NO. 10
(Series of 2023)

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
COLORADO AMENDING CHAPTER 16, ARTICLE XIII OF THE SALIDA
MUNICIPAL CODE, REGARDING INCLUSIONARY HOUSING, TO FURTHER
PROMOTE AND ASSIST THE DEVELOPMENT OF WORKFORCE HOUSING**

WHEREAS, the City of Salida, Colorado (the “City”) is a statutory city, duly organized and existing under the laws of the State of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-23-301 *et seq.*, the City, by and through its City Council, possesses the authority to adopt and enforce zoning regulations; and

WHEREAS, under such authority, the City Council previously adopted regulations related to inclusionary housing, codified as Chapter 16, Article XIII of the Salida Municipal Code (the “Code”); and

WHEREAS, the City Council remains committed to the promotion of inclusionary housing, such that all residents and workforce have a meaningful opportunity to afford housing in the City; and

WHEREAS, the City of Salida still recognizes the need for affordable housing across a diversity of income levels to be addressed by the inclusionary housing policy; and

WHEREAS, deed restrictions remain the primary tools to ensure permanent affordability so that units will not go from affordable to unaffordable with a simple sale of property; and

WHEREAS, since the adoption and subsequent amendments to Chapter 16, Article XIII, recent changes in the market as well as practicalities in enforcement of the regulations has prompted City staff to evaluate and recommend where certain updates could be made to the Code, especially now that new affordable units are becoming available; and

WHEREAS, the Planning Commission held a public hearing on the code changes on June 13, 2023, and recommends the amendments set forth in this Ordinance; and

WHEREAS, after consideration at a public hearing held on July 3, 2023, the City Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its residents, workforce, local businesses and customers to amend Chapter 16, Article XIII of the Code, as it relates to the promotion of inclusionary housing in the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE
CITY OF SALIDA, COLORADO AS FOLLOWS:**

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. Section 16-13-20 of the Code, concerning general inclusionary housing requirements, is hereby amended to read as follows:

Sec. 16-13-20. - General inclusionary housing requirements.

- (a) Any application brought under the annexation or planned development sections of this Code; condominium plats of any size; duplex conversion subdivisions; and minor and major subdivision sections of this Code, as well as multi-family residential projects of five (5) or more units are required to include at least sixteen and seven-tenths (16.7) percent of the total number of residential dwelling units as affordable dwelling units, pursuant to requirements set forth in this Article, and subject to the following standards:
- (1) The prices for sale or rents charged for permanently affordable priced dwelling units shall not exceed a price that is affordable to a household earning the applicable percentage of Area Median Income (AMI) for Chaffee County as defined annually by the Colorado Housing Finance Authority (CHFA), at the time such unit is sold or rented, and as further specified in Sections 16-13-60 and 16-13-70.
 - (2) Affordable dwelling units shall be permanently restricted ~~as defined by the administrative regulations, or~~ unless a different timeframe is required as a part of a Low Income Housing Tax Credit project.
 - (3) If the calculation for inclusionary housing results in a fraction of a dwelling unit, the fraction of the unit shall be provided as a complete affordable unit or a fee-in-lieu shall be provided per Section 16-13-40.
 - (4) The proportion of required affordable units, whether for-sale or rental, shall follow the proportion of for-sale and rental market rate units, unless otherwise approved by the decision-making body. For example, if the project includes one hundred (100) percent for-sale units, then one hundred (100) percent of the required affordable units shall be for-sale units. If the project includes fifty (50) percent for-sale units and fifty (50) percent rental units, that same percentage of for-sale and rental affordable units shall be provided.
- ~~(b) The City Administrator is authorized to adopt administrative regulations to be utilized in the enforcement of the provisions of this Article.~~
- ~~(c)~~(b) Units built as affordable in the project should be comparable to the market rate housing units in exterior finish and design and integrated into the overall project.
- ~~(d)~~(c) Income Eligibility Required. No person shall sell, rent, purchase or lease an affordable dwelling unit created pursuant to this Article except to a program eligible household. A private owner of a single affordable unit may rent the unit in accordance with the provisions of this Article as set forth in Section 16-13-60 "Program Requirements for For-Sale Units." All sales, rentals, purchases and leases shall comply with the provisions of this Article.
- ~~(e)~~(d) Deed Restriction Required. No person offering an affordable dwelling unit for rent or sale pursuant to this Article shall fail to lawfully reference in the grant deed conveying title of any such unit, and record with the Chaffee County Clerk and Recorder, a ~~covenant or declaration of restrictions~~ deed restriction in a form provided and approved by the City Attorney and applicable Housing Authority. Such deed restriction ~~covenant or declaration of restrictions~~ shall reference applicable contractual arrangements, deed restrictions ~~restrictive covenants~~ and resale restrictions as are necessary to carry out the purposes of this Article.

~~(f)~~(e) Good Faith Marketing Required. All sellers or owners of affordable dwelling units shall engage in good faith marketing and public advertising efforts each time an affordable dwelling unit is rented or sold such that members of the public who are qualified to rent or purchase such units have a fair chance to become informed of the availability of such units.

~~(g)~~(f) Required Agreements. Those applicants creating residential developments under this Chapter shall enter into an inclusionary housing development agreement with the City Council. Such agreements may be part of a development agreement, annexation agreement or subdivision agreement and shall document how the applicant will meet the requirements of this Article including:

- (1) Defining the inclusionary housing development, including the total number of units; the total number of affordable housing units required; and the total number of affordable housing units provided;
- (2) The application of allowed density, parking and development standards allowed for projects that provide one hundred (100) percent of the inclusionary housing requirements, as provided in Section 16-13-50;
- (3) Design standards to assure the affordable units will be comparable to market rate units and are integrated into the development;
- (4) The requirement that each required affordable housing unit must receive its certificate of occupancy before development of every sixth market-rate housing unit within the development, unless an alternative schedule is approved by the City; and
- (5) The deed restrictions ~~restrictive covenants~~ and additional agreements, in a form acceptable to the City, as necessary to carry out the purposes of this Article.

~~(h)~~(g) Accessory dwelling units shall not be considered inclusionary housing for the purpose of compliance with the requirements of this Article.

(h) An applicant shall not be eligible to submit for a building permit until the applicable affordable housing agreement ~~and any required restrictive covenants are~~ is approved by the City Council and such agreement is recorded with the Chaffee County Clerk and Recorder. Additionally, a property shall not receive a certificate of occupancy until the required deed restrictions are recorded with the Chaffee County Clerk and Recorder.

Section 3. Section 16-13-30 of the Code, concerning options for satisfaction of the inclusionary housing requirement, is hereby amended to read as follows:

Sec. 16-13-30. - Options for satisfaction of inclusionary housing requirement.

An applicant may seek an alternative to providing the required percentage of affordable housing under this Article by any of the following methods:

- (a) Providing the Required Housing Off-Site. This may be met only through the dedication of land to the City or a qualified non-profit housing developer for the required development of such units as approved by the City, with the guarantee that the land to be dedicated will allow for, and be developed with a minimum number of twenty-five (25) percent of the total units in the subject development as affordable housing.

- (b) Dedicating Land Within the Project. Provided it is large enough and located appropriately to accommodate at least the minimum number of required affordable units, land within a project may be dedicated to the City or a qualified non-profit housing developer for the required development of such units, as approved by the City. The units to be built within the project shall be comparable to the market rate housing units in exterior finish and design to blend into the overall project. **Each lot shall have sufficient area devoid of environmental or other constraints to allow construction of the required development of such units. All public infrastructure improvements to support development of the required units shall be in place prior to conveyance, or sufficient security in accordance with the Municipal Code shall be provided. Dedication of the lots shall occur at the same time as plat or other applicable recordation.**
- (c) Paying a Fee in Lieu of Providing Units as Defined in Section 16-13-40. This alternative is only available if the calculation for inclusionary housing results in a fraction of a dwelling unit or if the development is for five (5) units **or lots** or less.
- (d) Providing fewer units, but which are affordable to households earning sixty (60) percent or less of the AMI for Chaffee County for rental projects, or one hundred (100) percent or less of the AMI for Chaffee County for for-sale projects. For the purposes of this option, an affordable dwelling unit at the above AMI levels shall equal one and one-half (1.5) inclusionary housing units at any other AMI level specified in Sections 16-13-60 and 16-13-70 below.

Section 4. Section 16-13-60 of the Code, concerning program requirements for for-sale units, is hereby amended to read as follows:

Sec. 16-13-60. – Program requirements for for-sale units.

- (a) Affordable Unit Price. The prices charged for any affordable units shall not exceed prices greater than what is affordable to households earning one hundred twenty (120) percent, one hundred forty (140) percent, or one hundred sixty (160) percent of the Area Median Income (AMI) for Chaffee County. Furthermore, for-sale affordable units shall be subject to the following additional requirements:
 - (1) The average sales price of all affordable housing units shall not exceed a price affordable to households earning one hundred forty (140) percent or less of the AMI for Chaffee County; and
 - (2) For projects providing multiple affordable units, and to create parity across levels of affordability, the total number of affordable units deed-restricted at one of the applicable AMI levels shall not exceed the total number of affordable units deed-restricted at any of the other applicable AMI levels by more than one unit.
 - (3) Studio units above one hundred twenty (120) percent AMI for Chaffee County and one-bedroom units above one hundred forty (140) percent AMI for Chaffee County shall not be eligible to satisfy inclusionary housing requirements.
 - (4) **The specific affordable unit price charged for the applicable AMI level shall be based on the current maximum sale price as identified by the Chaffee Housing Authority and/or the City Administrator or their designee.**

- (b) Approved Purchasers for Affordable Dwelling Units. A developer or owner shall sell to a qualified purchaser after completing a good faith marketing and selection process approved by the City and applicable housing authority.
- (c) Sale Restriction. No person shall sell an affordable dwelling unit except to a person that meets the income, asset and other eligibility requirements of this Article or any asset and income eligibility requirement that is included in any applicable contract, ~~covenant or declaration of restrictions~~ **deed restriction** or any other agreements to which the City is a party or beneficiary.
- (d) Resale Restrictions. All affordable ownership dwelling units developed under this Article shall be subject to the resale restrictions itemized within the deed restriction required pursuant to Section 16-13-20(e).
- (e) Ownership Associations. When accepting a for-sale unit as meeting the inclusionary housing obligation, the City Administrator and/or applicable housing authority will review the condominium association declarations to assess the impact on buyers of affordable units. The City Administrator and/or applicable housing authority is authorized to establish rules regarding allowable terms in condominium declarations in order to ensure that the purposes of this Article are accomplished.
- (f) Rental Restriction. The owner of an affordable unit may rent the unit to an income eligible renter by a method that complies with the ~~administrative regulations and/or~~ applicable deed restriction **and/or regulations**. At no point shall such rent price exceed a price that is affordable to a household earning one hundred (100) percent of the Area Median Income (AMI) for Chaffee County, as defined annually by CHFA.
- (g) **Income Cap. The City shall allow a ten percent (10%) buffer between the price cap and the income cap to provide flexibility for homebuyers to qualify for financing without being cost burdened. For example, if a unit shall not exceed a price greater than what is affordable to households earning one hundred twenty (120) percent of the Area Median Income for Chaffee County, households earning incomes of up to one hundred thirty (130) percent of the AMI can qualify for such unit.**

Section 5. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING on this 20th day of June, 2023, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this 20th day of June, 2023, and set for second reading and public hearing on the 3rd day of July 2023.

INTRODUCED ON SECOND READING FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on this 3rd day of July, 2023.

City of Salida

Mayor Dan Shore

ATTEST:

City Clerk/Deputy City Clerk