



PLANNING COMMISSION STAFF REPORT

MEETING DATE: June 24, 2024

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. The City has periodically modified the Inclusionary Housing requirements to be responsive to changes in the market as well as practicalities in enforcement of the regulations. However, the purpose of the Inclusionary Housing Ordinance remains the same:

- (a) Promote the construction of housing that is affordable to the community's workforce;
- (b) Retain opportunities for people that work in the City to also live in the City;
- (c) Maintain a balanced community that provides housing for people of all income levels;
and
- (d) Ensure that housing options continue to be available for very low-income, low-income, moderate, and middle-income residents, for special needs populations and for a significant proportion of those who work and live in the City.

PROPOSAL:

The proposed amendments to Chapter 16, Article XIII of the Code, consist of:

- (a) Minor clarifications, edits or added/modified verbiage that do not change the substance of the Ordinance; such as clarifying the utility allowance; and
- (b) Addition of language to address inclusionary housing scenarios not clearly identified in the current ordinance, such as LIHTC projects, community land trusts, and other scenarios; and
- (c) Four substantive updates that address current market trends and align with administrative realities:

- 1) **Increase the ownership unit AMI income buffer from 10% (currently) to 19%.** Current interest rates are proving to be a challenge to finding qualified buyers. The larger buffer is intended to offset that challenge. With this change, a household earning up to 119% AMI would qualify for a unit restricted to 100% AMI maximum sales price; a household earning up to 139% AMI would qualify for a unit restricted to 120% AMI maximum sales price; and a household earning up to 159% AMI would qualify for a unit restricted to 140% AMI maximum sales price;
- 2) **Modification of the AMI range targeted by the ownership units.** With the increases in the Chaffee County AMI (14.6% over last 2 years), and with some market rate housing being offered in the 150% and up AMI range, units at the 160% AMI range are competing with the lower end of market prices, and therefore are not a critical component of missing-middle housing at this time. Additionally, continuing deed-restrictions at the 160% AMI level may be setting unrealistic sales price expectations for developers who commit to building the IH units, or for the qualified owners who purchase them and resell in the future. (This has proven to be an issue in other communities similar to Salida). Therefore, this update proposes adjusting the AMI range to 100% through 140%, but with a 130% maximum average that takes affect after the first built IH unit.

Because this proposal incorporates 100% AMI into the required range, it removes the current incentive for a 100% AMI unit to count as 1.5 units. (Note that the incentive for rental units at 60% AMI remains; they will still count as 1.5 units). With this modification, coupled with the increase in the allowed income buffer noted in item 1, the intention is to provide criteria that would create favorable conditions for a pool of qualified buyers for the 100% AMI units. The chart below represents how this proposal differs from the current ordinance:

Current Ordinance	Ownership Unit Max Price AMI	Proposed Ordinance	Ownership Unit Max Price AMI
AMI Range	120% to 160%	AMI Range	100% to 140%
Required Average	140% or less	Required Average	130% or less after 1 st unit
First 5 built units:	1 st : 140% 2 nd : 120% 3 rd : 160% 4 th : 140% 5 th : 120%	First 5 built units:	1 st : 140% 2 nd : 120% 3 rd : 100% 4 th : 140% 5 th : 120%

- 3) **Timing of Fee-in-lieu Payment.** The fee schedule has always required that the fee-in-lieu of a built unit be set at the time of building permit application, and this was always the intent of the ordinance. However, due to some vagaries of the language in the Ordinance, as well as language utilized in IH agreements, this has not been the

practice. The proposed updates are to provide clarity on timing of payment, and to provide two different scenarios for payment of the FIL:

- a. For projects of 5 or fewer units, the FIL is set at the time a complete building permit application is received. Half of the payment would be due at the time of building permit and the remaining half at time of C.O. This is the same payment structure that is currently utilized for System Development Fees and that structure is well understood and works well, therefore we suggest replicating what is working.
- b. For developments of 6 or more units, the entire FIL (which is the fractional payment of any fractional unit required) would be required to be paid no later than the first building permit being issued in the development. The FIL could be paid as early as recordation of the plat, but Staff believes requiring that would be unnecessarily burdensome; this timeline offers flexibility while ensuring that payment does not wait until the very last lots apply for permits, as it is not unusual for developments to have a handful of vacant lots decades after initial construction begins.

- 4) Reduce maximum household AMI for renting an ownership unit.** The current code specifies that when an ownership unit is rented (per conditions allowable in the code and/or deed restriction), it can be rented at a price affordable to a household making 100% AMI. This proposal changes that to 80% AMI.

STAFF RECOMMENDATIONS:

Staff is recommending that Planning Commission recommend City Council approve the proposed text amendments included in Ordinance 2024-07.

RECOMMENDED MOTIONS:

“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 2024-07

Proof of Publication

CITY OF SALIDA, COLORADO
ORDINANCE NO. 07
(Series of 2024)

**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 24, 2024, and recommends the amendments set forth in this Ordinance; and

WHEREAS, after consideration at a public hearing held on July 16, 2024, 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. Chapter 16, Article XIII. of the Code, concerning inclusionary housing requirements, is hereby amended to read as follows:

ARTICLE XIII. INCLUSIONARY HOUSING

Sec. 16-13-10. Purpose and objectives.

- (a) Promote the construction of housing that is affordable to the community's workforce;
- (b) Retain opportunities for people that work in the City to also live in the City;
- (c) Maintain a balanced community that provides housing for people of all income levels; and
- (d) Ensure that housing options continue to be available for very low-income, low-income, mode rate, and middle-income residents, for special needs populations and for a significant proportion of those who work ~~or~~ and live in the City.

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 rental projects of five (5) or more units are required to ~~include~~ provide at least sixteen and seven-tenths (16.7) percent (i.e. 1/6th) of the total number of new residential dwelling units or lots 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 unless a different timeframe is required as a part of a Low Income Housing Tax Credit project or otherwise time restricted by federal or state grant funds.
 - (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 for-rental, shall follow the proportion of for-sale and for-rental market rate units, unless otherwise approved by the decision-making body. For example, if the project includes ~~one hundred (100) percent~~ all for-sale units, then ~~one hundred (100) percent~~ all of the required affordable units shall be for-sale units. If the project includes ~~fifty (50) percent~~ half for-sale units and ~~fifty (50) percent~~ half for-rental units, that same percentage of for-sale and for-rental affordable units shall be provided.
- (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.
- (c) Income Eligibility Required. ~~No person shall sell, rent, purchase or lease a~~ An affordable dwelling unit created pursuant to this Article ~~except~~ shall be purchased, owned, leased or occupied exclusively by or 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.

- (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 deed restriction in a form provided and approved by the City Attorney ~~and applicable Housing Authority~~. Such deed restriction shall reference applicable contractual arrangements, deed restrictions and resale restrictions as are necessary to carry out the purposes of this Article.
- (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.
- (f) Required Agreements. Those applicants creating residential developments under this Chapter shall enter into an inclusionary housing development agreement with the approving body ~~City Council~~. Such agreements may be part of a development agreement, annexation agreement, or subdivision agreement, and/or noted on the recorded plat or planned development plan, 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 or lots; 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) ~~Where applicable,~~ 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 and additional agreements, in a form acceptable to the City, as necessary to carry out the purposes of this Article.
- (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 is approved by the ~~City Council~~ applicable approving body 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.

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, if approved by the City, 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. 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 of the development.
- (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 of the development.
- (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 above a whole number, or if the development is for five (5) units or lots or less.
- (d) ~~P~~ For rental units only, 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 rental unit at 60% AMI or less 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.

Sec. 16-13-40. In-lieu fee.

- (a) For developments of five (5) or fewer lots or units. If an in-lieu fee is permitted and chosen for all or part of the inclusionary housing required for the project, the applicable fee shall be calculated at the time of complete building permit submittal as described in the City's fee schedule, established, adopted and amended by City Council from time

to time, and be due prior to issuance of the certificate of occupancy. No building permit shall be issued until one-half (1/2) of the in-lieu fee required has been paid. The remaining half of the in-lieu fee shall be paid prior to issuance of the Certificate of Occupancy.

(b) For developments of six (6) or more lots or units. When an in-lieu fee is being paid to meet a fractional unit requirement, the entire fee shall be paid prior to the first building permit being issued for the development, and where applicable, shall be based upon the average single-family dwelling size in Salida as utilized in the current Fee Schedule fee-in-lieu calculation.

Sec. 16-13-50. Density, parking and development incentives for inclusionary housing developments.

Residential development within the zoning districts of C-1, R-2, R-3, R-4 and RMU; and portions of a planned development with the underlying zoning districts of C-1, R-2, R-3, R-4 and RMU; that are subject to inclusionary housing development requirements and are providing one hundred (100) percent of the required affordable housing within the development, may increase the allowed density and utilize the lowered dimensional standards stated in Table 16-F, Schedule of Dimensional Standards, within these districts and utilize the reduced parking requirements for multi-family dwellings stated in Table 16-J, Off-Street Parking Standards by Use. To ensure the integration of the affordable residential units into the development, these standards shall apply to all of the residential units of the subject development within parcels with the above zoning or underlying zoning, that include a minimum of sixteen and seven-tenths (16.7) percent affordable housing.

Sec. 16-13-60. Program requirements for for-sale (ownership) units.

(a) Affordable Unit Price. The prices charged for any affordable for-sale (ownership) units shall not exceed prices greater than what is affordable to households earning one hundred (100) percent, one hundred twenty (120) percent, or 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) After the first provided inclusionary housing unit, tThe average sales price of all affordable housing units provided in a project shall not exceed a price affordable to households earning one hundred ~~forty~~ thirty (130) percent or less of the AMI for Chaffee County;
- (2) For projects providing multiple affordable for-sale 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, with the exception of units built on land dedicated to the City or to a qualified non-profit developer, as part of a LIHTC project, or unless otherwise specifically approved by City Council;

-
- (3) ~~No~~ ~~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; and
- (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, and as annually published on the City of Salida's website and on file with the Community Development Department in City Hall.
- (b) Approved Purchasers for Affordable ~~Dwelling~~ **For-Sale** 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~~ **for-sale** 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 or deed restriction or any other agreements to which the City is a party or beneficiary.
- (d) Resale Restrictions. All affordable **for-sale/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)~~**(d)**.
- (e) Ownership Associations. When accepting an **affordable** for-sale unit as meeting the inclusionary housing obligation, the City Administrator and/or applicable housing authority will review the **homeowner or** 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 **qualified**-owner of an affordable unit may rent the unit to an income eligible renter by a method that complies with the 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 eighty~~ **eighty** (100~~80~~) percent of the Area Median Income (AMI) for Chaffee County, as defined annually by CHFA.
- (g) Income Cap. The City shall allow a ~~ten~~ **nineteen** (10~~19~~) percent 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 **nine** (13~~90~~) percent of the AMI can qualify for such unit.

Sec. 16-13-70. Program requirements for rental units.

Maximum Rent. Rents charged for any affordable unit shall not exceed a price greater than what is affordable to households earning eighty (80) percent or one hundred (100) percent of the AMI for Chaffee County, as defined by CHFA. Maximum rental rates provided by CHFA are inclusive of utilities, as defined by CHAF's utility allowance policy. Furthermore, affordable rental units shall be subject to the following additional requirements:

(a) At least ~~fifty (50) percent~~ **half** of all provided units shall be rented at prices affordable to households earning eighty (80) percent or less of the AMI for Chaffee County.

(b) **No** Studio units rented above eighty (80) percent AMI for Chaffee County shall ~~not~~ be eligible to satisfy inclusionary housing requirements.

(c) Qualified Household. Rental units shall only be rented to or occupied by an income-qualified household as defined in the deed restriction and as approved by the City and/or the applicable housing authority.

Sec. 16-13-80. Administrative regulations.

To the extent the City Administrator deems necessary, rules and regulations pertaining to this Article will be developed and approved by the City Council, and thereby maintained and enforced in order to assure that the purposes of this Article are accomplished. No person shall violate any rule or regulation issued by the City Administrator under this Article.

Section 3. *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 2nd day of July, 2024, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this 2nd day of July, 2024, and set for second reading and public hearing on the 16th day of July, 2024.

INTRODUCED ON SECOND READING FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on this 16th day of July, 2024.

City of Salida

Mayor Dan Shore

ATTEST:

City Clerk/Deputy City Clerk

**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING BEFORE
THE PLANNING COMMISSION AND
CITY COUNCIL FOR THE CITY OF
SALIDA CONCERNING A PROPOSED
AMENDMENT TO CHAPTER 16, ARTICLE
XIII OF THE SALIDA MUNICIPAL CODE
REGARDING INCLUSIONARY HOUSING
TO ALL MEMBERS OF THE PUBLIC
AND INTERESTED PERSONS: PLEASE
TAKE NOTICE**

that on MAY 28, 2024 at or about the hour of 6:00 p.m., a public hearing will be conducted by the City of Salida Planning Commission at City Council Chambers, 448 East First Street, Suite 190, Salida, Colorado and online at the following link: <https://attendee.gotowebinar.com/rt/1909092342220683277>

The hearing is regarding proposed changes to Chapter 16, Article XIII of the Salida Municipal Code regarding Inclusionary Housing.

Any recommendation by the Planning Commission shall be forwarded to the City Council for review and a public hearing scheduled for JULY 2, 2024 at or about the hour of 6:00 p.m. at City Council Chambers and online at the following link: <https://attendee.gotowebinar.com/register/6382995264411204366>.

Interested persons are encouraged to attend the public hearings. Further information on the application may be obtained from the Community Development Department, (719) 530-2631.

*Please note that it is inappropriate to personally contact individual Planning Commissioners or City Councilors outside of the public hearing while an application is pending. Such contact is considered ex parte communication and will have to be disclosed as part of the public hearings on the matter. If you have any questions/comments, you should email or write a letter to staff, or present your concerns at the public meeting via the above GoToWebinar link so your comments can be made part of the record.

Published in The Mountain Mail May 10, 2024