

ATTACHMENT 2

**FEE DEFERRALS FOR AFFORDABLE HOUSING, EMERGENCY SHELTERS AND
TRANSITIONAL AND SUPPORTIVE HOUSING**

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF HUMBOLDT AMENDING CHAPTER 2 TO DIVISION 1 OF TITLE III
OF THE HUMBOLDT COUNTY CODE ALLOWING FEE DEFERRALS FOR
AFFORDABLE HOUSING, EMERGENCY SHELTERS, AND TRANSITIONAL AND
SUPPORTIVE HOUSING**

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. TITLE

This ordinance will be known and cited as “Fee Deferrals for Affordable Housing, Emergency Shelters, and Transitional and Supportive Housing.”

SECTION 2. PURPOSE

The County of Humboldt encourages residential projects with affordable rents or affordable housing costs for low and very low-income households in the County unincorporated area. The County Board of Supervisors finds that early payment of certain residential development fees may impede development and hereby defers payment of certain fees.

The County will defer payment of all or part of certain processing fees for qualifying projects that meet or exceed Realistic Capacity or are wholly located in a Housing Opportunity Zone. Realistic Capacity is the number of units that can realistically be accommodated on that site during the planning period as described in Government Code Section 65583.2(c). Housing Opportunity Zones are designated areas where the approval of residential subdivisions is streamlined. The County Board of Supervisors finds that this deferral program is consistent with General Plan Housing Element policy HP-39 and goals and necessary for the health and welfare of County residents.

SECTION 3. Chapter 2 of Division 1 of Title III of the Humboldt County Code is hereby amended by inserting a new subsection 5.3 to Section 312-5 as follows:

**312-5.3 FEE DEFERRALS FOR AFFORDABLE HOUSING, EMERGENCY SHELTERS,
AND TRANSITIONAL AND SUPPORTIVE HOUSING**

5.3.1 DEFINITIONS

Affordable Housing. This term is used in two ways. When referring to homes “affordable” to lower income households, it means that the household is paying no more than 35% of their income on housing costs, including utilities. When referring more generally to housing of any income group, “affordable” means housing that costs less to construct.

Area Median Income (“AMI”). For purposes of this Ordinance Area Median Income means the same as the California State Income Limits that the State Department of Housing Community Development is required to set in accordance with California Health and Safety Code Section 50093.

Emergency Shelter. Temporary housing as defined in Section 314-177.1 of this Code, with or without supportive services for persons experiencing homelessness which may be in the form of dormitory or congregate housing, or individual shelters. Emergency Shelter may include Day Shelters, Low Barrier Navigation Centers, or Safe Parking or Safe Shelter sites consisting of tents or other structures as described in this Code.

Housing Unit. A house, apartment, mobile home, manufactured home, accessory dwelling unit, tiny house, moveable tiny house, group of rooms, or single room occupied as a separate living quarter or, if vacant, intended for occupancy as a separate living quarter. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building or through a common hall.

Low income households. Households that make between 51% - 80% of the area median income.

Supportive Housing. Housing as defined in Section 314-154 of this Code with no limit on the length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

Transitional Housing. ~~Boarding or lodging services provided by a public or non-profit organization for the purpose of helping persons find more stable living arrangements where the majority of people utilizing such services remain for periods of less than three (3) months.~~ Rental housing that operates under a rental assistance program with a period of at least six months, but where the space is re-occupied by another program recipient after a set period. The housing may be integrated with other social services and counseling programs to assist in the transition to income and permanent housing.

Very-low income households. Households that make between 31% - 50% of area median income.

5.3.2 FEE DEFERRAL PROCESSING PROGRAM

5.3.2.1 Qualified Residential Development Projects

A qualifying project must be one of the following as defined in Section 5.3.1 and in the Zoning Ordinance:

- (a) Units that are guaranteed to be affordable to lower income households for a minimum of thirty (30) years and at least five (5%) percent of the units are guaranteed to be affordable to very-low income, or twenty (20%) percent of the units are for low income households; and
- (b) Single Room Occupancy Housing, housing that is one room with shared common space; and
- (c) Supportive Housing, housing that offers services in addition to housing; and
- (d) Transitional Housing, housing that is available to lower-income persons to be able to live for a specified period of time; and

(e) Emergency Shelter used to house houseless persons temporarily.

5.3.2.2 Application Requirements

An applicant with a qualified residential project may file an application with the Planning and Building Department to request deferral of fees included in the qualified residential project. The application must be in a form approved by the Planning and Building Director and must include the following:

- (a) Application form executed by the applicant and property owner(s); and
- (b) Copies of all approvals and entitlements for project development; and
- (c) A preliminary title report less than six (6) months old; and
- (d) A copy of the building permit site plan, tentative or final subdivision or parcel map clearly identifying all units for which deferral is sought (applies to single-family qualified residential projects which plan to sell or rent units both at market rate and for very low-income households); and
- (e) Any other data and information deemed necessary by the Planning and Building Director, or their designee, for application consideration.

5.3.2.3 Considerations

The applicant must submit a request for fee deferral to the Department. The Planning and Building Director or their designee, will approve or deny all applications for processing fee deferrals. In reviewing the applications, the Planning and Building Director, or their designee, must consider the following factors:

- (a) Whether granting the request for a deferred fee would impose an undue financial burden on the County; and
- (b) The demonstrated need for a fee deferral and extent to which a fee deferral affects project financial feasibility; and
- (c) Special consideration will be given to projects that have secured other government funding.

5.3.2.4 Payable Fees and Adjustment

The County will offer and defer until occupancy fees for building permits, discretionary land use permits, parkland dedication fees, and review fees charged by the Department of Environmental Health and Public Works for housing that has long-term covenants and restrictions that require the units to be available to and occupied by lower income households for at least 30 years. The County will also offer and defer until occupancy fees for building permits and discretionary land use permits, and review fees charged by the Department of Environmental Health and Public Works for Single Room Occupancy developments, Supportive, Transitional Housing, and Emergency Shelter housing projects. All deferred fees are required to be paid prior to issuance of a certificate of occupancy.

Fees imposed by other entities or agencies must be paid in accordance with applicable statutes, resolutions, ordinances, and regulations.

5.3.2.5 Fee Deferral Approval

Approval of any fee deferral is subject to the availability of fee deferral funds as set forth in Section 5.3.4. Processing fees not eligible for deferral must be paid at the same time as any required fee deferral application and administrative processing fees. Processing fees which are approved for deferral are due in full prior to issuance of a certificate of completion by Building Department.

5.3.2.6 Approval of Required Documents

Processing of fee deferral(s) approved by the Planning and Building Director are conditional and subject to the agreement required pursuant to Section 5.3.3.

5.3.2.7 Deferred Fees Deadline

Fees that are approved for deferral pursuant to Section 5.3.2 are due and payable prior to issuing certificate of occupancy or three years whichever is earlier.

5.3.2.8 Transfer of Deferral

Processing of a fee deferral approval for a qualified residential project is not transferable to another project regardless of whether the applicant is the same for both projects.

5.3.3 DEFERRAL AGREEMENTS

5.3.3.1 Fee Deferral Agreement Content

The applicant must enter into a fee deferral Agreement with the County of Humboldt on a form approved by County Counsel, including, at minimum:

- (a) Site and project specifics; and
- (b) Parcel number and address or location of the real property.

5.3.3.2 Separate Agreements

A separate agreement must be entered for each qualified residential project whether or not the applicant is the same for multiple projects.

5.3.4 PROCESSING FEE DEFERRAL CAP

5.3.4.1 Fee Deferral Funds

The cumulative deferred fee amount for all projects approved pursuant to this chapter must not exceed the amount of deferral funds reserved and available for use within any given fiscal year. Subject to adoption of this ordinance, the funds for the first 3 years (beginning in fiscal year 2022—2023) must not exceed a total of \$38,000, per year.

If the total amount of fee deferrals approved in 2022-2023 is less than the average yearly reserved amount for the given fiscal year, the remaining average yearly reserved amount will be rolled over to the next fiscal year. If the amount of fee deferrals approved in years 2023/24, 2024/25, exceeds the average yearly reserved amount for the given fiscal year, the amount over and above the average yearly reserved amount will be credited to the subsequent years.

However, in no event may the total amount of fee deferrals exceed \$114,000 for such 3-year period.

After the expiration of the initial 3-year period, the reserved fee deferral funds for the next three fiscal years will be determined by resolution of the Board of Supervisors.

5.3.4.2 Application Priority

The date an application for a fee deferral is deemed complete by the Planning and Building Director will establish application priority for fee deferral funds. Any subsequent applicant fee deferral request for the same project will require project application resubmittal, including application processing fees payment as set forth in Section 5.3.5.

5.3.5 PENALTIES FOR NON-PERFORMANCE

5.3.5.1 Failure to Pay Fees

Failure of applicant to pay deferred fees, as defined in Section 5.3.2.7 above, will result in not obtaining a certificate of occupancy.

5.3.5.2 Failure to Obtain Certificate of Occupancy

Failure of applicant to construct and obtain a certificate of occupancy within the maximum fee deferral period for which a fee deferral was approved will subject the applicant to:

5.3.5.2.1 A ten percent (10%) penalty assessed annually until the unit is constructed; a certificate of occupancy is obtained; and applicable fees and penalties are paid in full; and

5.3.5.2.2 A subordinate lien placed on the property.

5.3.6 FEE DEFERRAL APPLICATION AND PROCESSING FEES

A non-refundable Substantial Conformance fee, pursuant to the Humboldt County Fee Schedule adopted by the Board of Supervisors, must be paid at the time of application for a fee deferral pursuant to this chapter.

SECTION 4. California Environmental Quality Act (“CEQA”). The Board of Supervisors finds this ordinance is exempt from CEQA (California Public Resources Code Section 21000 et seq.) review under 14 Cal. Code Regs., CEQA Guidelines Section 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; and pursuant to Section 15378(b)(5) as an administrative activity of governments that will not result in direct or indirect physical changes in the environment; and pursuant to Section 15061(b)(3) because the activity is covered by the common sense exemption, where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 5. Effective Date. This ordinance will take effect and be in force thirty (30) days from the date of its passage. A summary will be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It will be published once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2023.

AYES: Supervisors—

NOES: Supervisors--

ABSENT: Supervisors—

Steve Madrone
Chair of the Board of Supervisors of
the County of Humboldt, State of California

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
County of Humboldt
