

ORDINANCE NO. 2003-10

AN ORDINANCE ADOPTING SECTION 18.102 OF THE HEBER CITY MUNICIPAL CODE, AFFORDABLE HOUSING

PROMOTING AND SETTING FORTH REQUIREMENTS FOR AFFORDABLE HOUSING FOR LOWER-INCOME HOUSEHOLDS AND FEES IN-LIEU OF BUILDING

BE IT ORDAINED BY THE HEBER CITY COUNCIL AS FOLLOWS: There is hereby added to the Heber City Municipal Code Section 18.102 which reads as follows:

Section 18.102 Affordable Housing Ordinance

18.102.010 Title:

This Ordinance shall be known as the Affordable Housing Ordinance.

18.102.020 Findings:

The Heber City Council makes the following findings:

- A. Utah Code requires Cities to prepare an Affordable Housing Plan; and
- B. Heber City has developed a moderate housing element of the General Plan which looks at the estimated existing supply, the estimated five year need, a survey and evaluation of zoning's affect on affordable housing, and a description of Heber's programs to encourage an adequate supply of affordable housing;
- C. The study performed for Wasatch County and the municipalities shows that new development which does not include or provide for affordable housing serves to aggravate the current affordable housing shortage, by reducing the supply of residential land available for affordable housing development, and creating larger numbers of service oriented, low-paying jobs, creating a greater demand for affordable housing by increasing the numbers of lower wage earners; and
- D. A continuing shortage of affordable housing is detrimental to the public health, safety and welfare as it contributes to overcrowded and substandard conditions for lower-income families, and the inability of industry to find and retain a quality labor supply; and
- E. A requirement of ten percent (10%) of all new development units being created as affordable housing

units, is strongly recommended by the County-wide Affordable Housing Plan; and

- F. A requirement to contribute to affordable housing can be off-set by allowing reasonable density bonuses to help the developer recover the cost of such affordable housing requirement.

18.102.030 Purpose and Intent:

It is an objective of the City to ensure that all development provide a range of housing opportunities for all identifiable economic segments of the population, including households of low and moderate income. It is the policy of the City to focus its affordable housing efforts on monitoring the need and providing opportunity for low to moderate income families to obtain housing that meets their needs and not focus merely on building low income units; to provide a variety of housing types for our elderly or senior citizens including assisted care, independent care, and targeted senior retirement communities; and recognize the need for special target groups for affordable housing, namely: families in crisis; handicapped and other special need groups. It has therefore become a requirement of development in Heber City:

- A. To require all developments of 10 units or more to provide units equal to ten percent (10%) of the Equivalent Residential Units proposed for their project as affordable housing units within the development, or to pay a fee-in-lieu to the Wasatch County Housing Authority to be used to assist in other ways to create affordable housing within Wasatch County and/or the municipalities.
- B. When approved by Heber City and the Wasatch County Housing Authority, to allow alternatives to onsite construction in order to provide a special use deemed necessary and appropriate to accomplish the purposes of affordable housing.

18.102.040 Requirements:

This ordinance shall apply to all development of 10 equivalent residential units or more as defined in this ordinance. "Development" shall include the receipt of final approval for the creation of lots for sale or the construction of residential units.

- A. This ordinance shall not apply to:
- 1) Developments consisting of less than 10 lots;
 - 2) Existing buildings which are altered, improved, restored, repaired, expanded, extended, provided that the number of Equivalent Residential Units is not increased;
 - 3) The re-construction of units that were destroyed not more than one year prior to the application for a building permit to re-build the structure, provided that the number of Equivalent Residential Units (ERU's) does not increase.
 - 4) Any development who, after having performed an impact study which has been reviewed and approved by the City, at the expense of the development, can show there is no rational nexus or rough proportionality between the requirements of this ordinance and the impacts of" the development. If such impact study is to be performed, it must be completed and approved prior to receipt of preliminary approval of such development.
- B. An equivalent of ten percent (10%) of each development to which this ordinance applies, shall be affordable housing through either construction of affordable housing units on-site within the development being proposed or offsite when meeting a planning objective such as in-fill, or by payment of a fee-in-lieu of construction.
- C. Heber City shall grant additional density to such development in an amount intended to allow the developer to recapture some or all of the funds expended for such affordable housing requirement. Such additional density will be calculated based upon the intended sales price of a market rate unit in the development and the amount of any fee-in-lieu paid, so that when the additional density units sell the developer will be reimbursed in whole or in part the approximate cost of such affordable housing requirement. (Example: if a developer elects to pay a fee-in-Lieu of '\$45,000.00, and his market rate lots each sell for \$45,000.00, he will be allowed one additional unit to sell as market rate. If a market rate unit sells for \$500,000.00 and the developer pays \$400,000.00 as a fee-in-lieu, it is likely he will also be granted only one additional unit to sell at market rate. If a developer builds a required affordable housing unit, rather than paying the fee-in-lieu, the bonus shall be calculated in the same manner. This section is a specific exception to provisions of the code limiting density in certain developments, to the

extent necessary to meet the affordable housing requirements. The calculations of density bonuses will be determined by the Planning Staff using this formula. The Planning Staff recommendation will be considered by the Planning Commission as part of the preliminary approval of the development.

- D. All lots within developments shall meet the minimum area and frontage requirements of the underlying zone. However, additional lots allowed through density bonuses may be incorporated into the development or offsite through the construction of cottage homes. Cottage homes shall meet all of the requirements of Chapter 18.85 "Cottage Overlay District", but the City Council, in approving the development with the affordable housing element, may make an exception to the requirement of Section 18.85.010 which permits Cottage Homes only within the Cottage Overlay District, and to the 300 foot separation required in 18.85.070, subject to the City council making the finding that (1) the proposed Cottage Homes and development meets the objectives of this chapter and the general plan; (2) the cottage homes are part of the affordable housing strategy for the subdivision; (3) the proposal does not unduly concentrate density of dwelling units and is consistent with the purposes and objectives of the underlying zone; and (4) the characteristics of the zone in which the development and cottage homes are located will be maintained.

18.102.050 Standards:

- A. The affordable housing units should be built within the development project site to allow for a blending of such units with market rate units. Affordable Housing obligations should be met onsite within respective jurisdictions in Wasatch County; Heber City should not be the primary source for affordable housing obligations from other jurisdictions.
- B. The affordable housing units should be built concurrently with market-rate units.
- C. Affordable rental units shall remain restricted and affordable to the designated income group of qualified individuals for the life of the unit. Notwithstanding anything to the contrary, no affordable rental unit shall ever be approved for rental in an amount which exceeds ninety percent (90%) of the rent charged at that point in time, for a comparable market unit in the same development, if any. Actual rent to be charged and later increases shall be determined in an

Affordable Housing Agreement to be entered into prior to receiving final approval on any project.

- D. The design of units shall be reasonably consistent or compatible with the design of the total project development in terms of appearance, materials and finished quality.
- E. One affordable housing unit shall normally be consistent in size with a residence intended for a family of four. If the developer wishes to provide any smaller units for single tenants, no such unit shall be less than 500 square feet per tenant in size and shall receive credit for the affordable housing requirements based upon the ERU classification for that unit. Therefore it may take three or more single units to equal one unit of affordable housing.
- F. Affordable housing units shall provide a mix of number of bedrooms in the affordable dwelling units in response to affordable housing demands identified by the Wasatch County Housing Authority, so that the total ERU's provided for affordable housing equal 10% of the ERU's contained in the project, and the traits being provided are of a size necessary to meet the current demand.
- G. No building permit shall be issued and no final approval granted which does not meet the requirement of this ordinance.
- H. If a developer intends to build his required amount of affordable housing units at a time which is not concurrent with the building of the market-rate units, and a later construction schedule is agreed upon as part of the development approval process (not to exceed one year), a bond or other financial assurance equal to 110% of the current fee-in-lieu, shall be placed with Heber City to ensure the building of the affordable housing units within the time agreed upon or one year from final approval, whichever is sooner.
- I. The City, during the development approval process, may approve alternatives to the construction of new affordable housing units contained within the development, where the proposed alternative supports specific housing policies and goals, and assists the City in meeting those goals. Alternatives may include acquisition and rehabilitation of affordable housing units, conversion of existing market-rate units to affordable units, construction of special needs projects or shelters.

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18.106.060 Fees Paid in Lieu of Construction:

- A. Contributions of fees-in-lieu are considered a viable choice to building on-site, so that public and private dollars can be leveraged for more affordable housing good.
- B. The fee to be paid for each market-rate unit shall be determined by the subsidy needed to make a market-rate unit affordable to a low-income household. This subsidy shall be based upon a determination of the average subsidy that would be required to make a typical new starter home consisting of three Bedrooms/two baths affordable to a family earning 80% of the median gross income of the metropolitan statistical area for households of the same size.
- C. The actual fee to be charged and the method of payment shall be fixed by a schedule adopted periodically, by resolution of the Wasatch County Housing Authority, based upon current costs of construction and interest rates. Said fee shall be assessed against the market-rate lots/units of a development and shall be paid by the developer.
- D. All fees-in-lieu shall be deposited in a Housing Trust Fund. Said fund shall be administered by the Wasatch County Housing Authority and shall be used for the purpose of providing funding assistance for the provision of affordable housing of both for rent and for sale units, the alternatives approved under Section 3(I) of this ordinance, and reasonable costs of administration consistent with the policies and programs of the Wasatch County Housing Authority.
- E. At the discretion of the Heber City Council and the Housing Authority, a developer may make an irrevocable dedication of land or other non-monetary contributions of a value not less than the sum that would have been due as a fee-in-lieu, if it is determined that the non-monetary contribution will be helpful in furthering the goals and policies of the Heber City Moderate Housing Element and the Housing Authority. Any costs associated with such appraisal shall be borne by the developer.

18.106.070 Affordable Housing Agreement as a Condition of
Development:

- A. Developers subject to this ordinance shall demonstrate compliance by executing an Affordable Housing Agreement prepared by the Housing Authority and submitted to the developer for execution. Agreements shall be reviewed by the Heber City Planning Department for ERU compliance and density bonus calculations, the Executive Director of the Housing Authority for completeness and approved by the Chairman of the Board of the Housing Authority. The approval and execution of the Affordable Agreement shall take place prior to the final approval of the development. Agreements which involve special concessions or incentives shall require the recommendation of the Housing Authority Board and the Heber City Council prior to execution. An Affordable Housing Agreement, for which the housing requirement will be satisfied through new construction of affordable housing units, shall establish, but not be limited to, the following:
- 1) The total number of units proposed in the project,
 - 2) The average selling price of a unit for each of the phases of the development,
 - 3) The number of affordable units proposed,
 - 4) The square footage, calculated ERU's and numbers of bedrooms,
 - 5) The proposed location of the units,
 - 6) The schedule for production of dwelling units, both affordable and market rate,
 - 7) Production cost associated with dwelling construction
 - 8) Appraisals for units,
 - 9) Providing copies of plans for such units,
 - 10) Security posted or to be posted prior to recording of final plat, for building of units, if construction of such units will not take place at the same time as the market rate units in a proportionate manner.

- B. An Affordable Housing Agreement will not be required for projects which will be satisfying their affordable housing requirements through payment of a fee-in-lieu, provided such payment is made prior to final plat approval. The developer is required to provide the Planning Department with a statement of the average anticipated selling price for a unit in each planned phase of the development.
- C. An Affordable Housing Agreement for which affordable housing requirements will be satisfied all or in part through an in-lieu contribution other than Money, shall include the method of determination, schedule and value of total in-lieu contributions, which must be approved by the City Council and Housing Authority.

18.106.080 Enforcement:

- A. The provisions of this ordinance shall apply to all developers and their agents, successors and assigns proposing any development in Heber City of more than 10 units, unless an impact study performed as described in section 2 B(4), above, has performed and approved.
- B. The City and/or the Housing Authority may institute any appropriate legal actions or proceedings necessary to ensure compliance with this ordinance, including but not limited to actions to revoke, deny or suspend an) permit or development approval.
- C. It shall be a class "B" misdemeanor for any individual or entity to sell or rent a restricted affordable housing unit for a sum in excess of the affordable housing rate set forth in the affordable housing agreement governing that unit. Excess proceeds of an unlawful sale or unlawful rental shall be forfeited shall be paid to the Housing Authority Trust Fund.

18.106.090 Severability:

If any of the provisions of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

18.106.100 Definitions:

The following words shall have the described meaning when used in this ordinance. If any words are used in this ordinance that are not defined herein, the definitions contained in Section 18.08 shall control. In the event of a conflict between section 18.08 and this section, this section shall control. If there is no definition

contained in either this section or section 18.08 the ordinary meaning contained in the dictionary shall be the meaning intended, unless a contrary meaning is apparent from the context of the word.

- A. Affordable: Housing that costs no more than thirty percent (30%) of a household's income.
- B. Affordable Housing: Housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the metropolitan statistical area for households of the same size. Such housing cannot cost more than 30% of a household's income.
- C. Affordable Housing Agreement: A legally binding agreement between a Developer and Heber City and the Wasatch County Housing Authority which ensures that the requirements of this ordinance are satisfied.
- D. Allowable Housing Expense: The total monthly or annual recurring expenses required of a household to obtain shelter. These expenses include loan principal and interest, property and mortgage insurance, property taxes, homeowners association dues, etc. In a rental unit only, this amount would include the cost of obtaining basic public utility services.
- E. Affordable Housing Unit: A dwelling unit that will be offered for rent or sale exclusively to, and which shall be affordable to, lower-income households as required by this ordinance.
- F. Base Residential Units: The number of lots or equivalent residential units associated with each development from which are calculated the number of affordable units to be provided or the amount of the fee-in-lieu to be paid.
- G. Conversion: The change of status of a dwelling unit from a purchased unit to a rental unit or vice versa.
- H. Equivalent Residential Unit (Also known as an "ERU"): A unit size which represents the size of an average single family home which comfortably houses at least four people. Smaller units shall represent a portion of an equivalent residential unit (ERU). The Planning Staff shall make a determination of ERU calculations using this chart as a guide, which shall be subject to review by the Planning Commission and established as part of preliminary approval. For obvious reasons affordable housing needs shall be met with residential

ERU's.

CONFIGURATION	NOTES	ERU' S
One Bedroom Apartment	not to exceed 700 sf including bathroom areas but not corridors outside of rooms	.33
One Bedroom Apartment or Two Bedroom Apartment	not to exceed 1000 sf and not to exceed 1 ½ baths	.50
Apartment/Condo	not to exceed 1500 sf	.75
All other residential uses**	up to 5000 sf, plus an incremental increase based on impacts to the District	1.0

** Incremental increase will be .10 ERU per 500 square feet.

- I. Financial Assistance: Assistance to include, but not be limited to, the subsidization of fees, infrastructure, land costs, or construction costs, the use of Community Development Block Grant (CDBG) Funds, down payment assistance, interest buy-downs, or the provision of other direct financial aid or other monetary compensation, by Heber City or the Wasatch County Housing Authority.
- J. Low Income: Eighty percent (80%) or less of median family income for Wasatch County.
- K. Market Rate Unit: A dwelling unit where the rent, at rate or sales price is not restricted by requirements imposed by local, state or federal affordable housing programs.
- L. Moderate Income: 81% to 120% of median family income for Wasatch County.
- M. Qualified Applicants: Applicants for Low-Income units must make 80% or less than median family income for Wasatch County. Applicants for Moderate-Income units must make between 81% and 120% of median family income for Wasatch County. If all other requirements are equal, first preference shall be given to public service employees employed within Wasatch County,

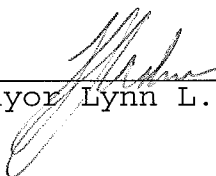
including municipal, county, school district, state, and federal employees. Second preference shall be given to applicants who have been residents of Wasatch County for at least one year prior to application. Third preference shall be given to applicants who reside elsewhere, but are employed full-time in Wasatch County. Fourth preference shall be given to applicants who neither work or live in Wasatch County.

This ordinance shall take effect and be in force from and after (a) a copy has been deposited in the office of the City Recorder, (b) a copy has been deposited in the office of the City Recorder, and (c) a short summary of it has been published in the Wasatch Wave or a complete copy has been posted in three public places within Heber City.

ADOPTED AND PASSED by the City Council of Heber City, Utah this 7 day of August, 2003, by the following vote:

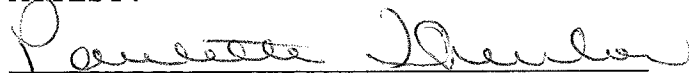
	AYE	NAY	
Councilman Terry Wm. Lange	<u>X</u>	_____	
Councilman Vaun Shelton	<u>X</u>	_____	
Councilman David R. Phillips	<u>X</u>	_____	
Councilman John Burns	_____	_____	<i>Absent</i>
Councilman Michael Thurber	<u>X</u>	_____	

APPROVED:



 Mayor Lynn L. Adams

ATTEST:



 RECORDER
 (Seal)

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