

RESOLUTION NO. 2022-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPROVING A REGIONAL HOUSING NEEDS
ALLOCATION UNIT PRODUCTION PLAN TO
SUPPORT THE PRODUCTION OF AFFORDABLE
HOUSING UNITS**

WHEREAS, the City of Merced, a California Charter Municipal Corporation, (“Applicant”), hereby consents to, adopts and ratifies the following resolution:

WHEREAS, Article XI, Section 7 of the California Constitution grants each city the power to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws and the Planning and Zoning Law (Government Code 6500 to 66305) sets forth minimum standards for cities to follow in land use regulation, and the State of California’s (the “State”) intent to provide only a minimum of limitation in order that city’s may exercise the maximum degree of control over local zoning matters; and,

WHEREAS, the State has required all jurisdictions to meet the housing needs of everyone in the community by adopting Housing Elements as part of their General Plan pursuant to Government Code 65580; and,

WHEREAS, General Plans serve as the local government’s “blueprint” for how a city will grow and develop. In order to create a housing plan or Housing Element showing it can meet the local housing needs, a jurisdiction must first know how much housing it must plan for and estimate how much will be needed at a variety of affordability levels in order to match the needs of the people who will live there. This is determined through the regional housing needs assessment process; and,

WHEREAS, the State of California Department of Housing and Community Development (“HCD”) is responsible for determining the regional housing needs assessment by income levels for each region’s planning body known as a “Council of Governments” (“COG”). HCD starts with demographic population information from the California Department of Finance and uses a formula to calculate a figure for each region - COG. Each COG uses its own demographic figures to calculate what it believes the regional housing need is. Each COG then

coordinates with HCD, taking into account factors not captured in the calculations, to arrive at a final figure. This final figure is the regional housing needs allocation ("RHNA"); and,

WHEREAS, the Merced County Association of Governments ("MCAG") is the local COG and is responsible for preparing the county wide RHNA for Merced County and each Housing Element Cycle; and,

WHEREAS, the City is required to demonstrate the ability to accommodate the specific number of units by income level through land which is zoned to accommodate development; and,

WHEREAS, the City of Merced has updated its Housing Element of the General Plan in 2016 and the element is currently in compliance with requirements of HCD. However, a new Housing Element Cycle will begin in 2023 and new RHNA calculations are being undertaken by MCAG; and,

WHEREAS, the City and other jurisdictions within Merced County are cooperating on the preparation of the RHNA as well as considering a County Wide Housing element utilizing funding from the Regional Early Action Planning Grant ("REAP") provided directly to MCAG to support housing planning activities; and,

WHEREAS, the City Council of the City of Merced is required by the State to affirmatively further affordable housing and has received public testimony indicating there is a high need to provide support for the production of affordable housing units to help achieve production of units under the City's RHNA requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. The City of Merced adopts the Regional Housing Needs Allocation Unit Production Plan, attached hereto as Exhibit "A," to provide for the production of affordable housing units.

SECTION 2. The City Manager or Deputy City Manager is hereby authorized to take actions necessary to implement the Regional Housing Needs Allocation Unit Production Plan on behalf of the City of Merced.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2022, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEPHANIE R. DIETZ, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Rimber C Madany 3/18/22
City Attorney Date

City of Merced
Regional Housing Needs Allocation Unit Production Plan
April 4, 2022

Intent

This Plan shall serve as guidance and as a bridge policy until specific language related to affordable housing production to assist in the production of housing units towards the City's Regional Housing Needs Allocation (RHNA) is incorporated into the City's Zoning Code, Housing Element of the General Plan, or other policy documents as necessary to ensure the intent of the City Council's direction is implemented.

Background

On September 20, 2021 the City Council of the City of Merced discussed a variety of tools to assist in the production of affordable housing units. Members of the public also provided public comments in support of potential tools and enforcement mechanisms.

The goal of the discussion was to develop a mechanism or process requiring the production of affordable housing units as part of new market rate development projects to help meet the City's goals under RHNA.

The State requirements under RHNA are outlined in the City's Housing Element and are updated periodically. The requirements are not related to production of units. They are more specifically tied to demonstrating the availability of adequate land and sites zoned to accommodate the RHNA units. As part of the discussion and direction the City Council sought to utilize tools to move beyond identifying and zoning land into affordable housing unit production. The intent was to utilize a tool which would achieve this goal but not through an Inclusionary Zoning Ordinance.

Production of Units towards RHNA Income Levels

The City Council provided direction that new land use entitlement applications for residential development or mixed-use development shall provide affordable housing units across the various income affordability levels identified in the City's RHNA obligation. That range includes the following affordability levels:

- Extremely Low
- Very Low
- Low
- Moderate

*Income limits will be based upon the most recent annual update provided by the State Department of Housing and Community Development (HCD).

The City Council did not provide direction on a set or specific target allocation of affordable units under each income category. Discretion and the ability to negotiate the number of units under the specific income levels was deferred to Staff.

There should however be a minimum of Ten Percent (10%) of the total number of proposed units within a development project subject to this plan which shall be affordable and shall be spread across the Extremely Low, Very Low-, Low, and Moderate income levels.

These production requirements shall apply to both rental and ownership projects or any combination projects containing both unit types. They also apply to multifamily and single-family residential as well as mixed use - containing commercial or other nonresidential uses.

Implementation of Affordable Housing

This production plan will be facilitated on a project-by-project basis where the City Council has discretionary authority over specific land use entitlements. More specifically the production of affordable units would be implemented when land use entitlements require the execution of the following discretionary actions:

- Pre-Annexation Development Agreement (PADA)
- Development Agreement (DA)
- Legislative Action Agreement

The PADA and DA process is articulated in Chapter 20.86 of the City's Zoning Code. The use of a PADA is a standard requirement for any new land territory to be annexed and rezoned into the City. A DA may be enacted when requested by a private developer for assistance to implement a development project.

Legislative Action agreements are specified in Chapter 20.72.040 of the Zoning Code. They are required when specific land use entitlements are requested. Those include:

- General Plan Amendment
- Zoning Ordinance Amendment – Zone Change
- Establishment of a Planned Development District (PD) and Site Utilization Plan specific to that (PD) also a modification to a PD or Site Utilization Plan
- Other legislative actions subject to the applicant entering into an agreement with the City of Merced.

Exemptions – Exclusions

The following land use entitlements are not subject to the requirement of affordability production under this production plan:

- Any instance where an executed DA or PADA limit or exclude applying any new entitlement requirements to the project
- When an amendment to a DA or PADA is only for the purposes of a Time Extension or a Minor Amendment as defined with the DA or PADA
- Approval of a Site Utilization Plan or Revision to an existing PD which involves only nonresidential uses

- Any Permitted, "By Right," Site Plan, Conditional Use Permit (CUP), and non-discretionary entitlements
- Any residential development project undertaken by a public entity separate from the City of Merced
- Any proposed project wherein the City Council at their sole discretion determines that meeting the production requirements is infeasible due to costs or other factors such as health and safety issues
- A proposed project which consists of less than thirty-six (36) Multi Family Units
- A proposed project which consists of less than 60 Single Family Residential Units

Affordability Term

To ensure affordability of the units remains in place over time the City Council direction was to include regulatory agreements or covenants to be included as part of the PADA, DA, or Legislative Action Agreement. Those shall be in a term of a minimum of 55 years for rental units and 45 years for ownership units.

Other Options to meet RHNA Production Goals

Direction was also provided by the City Council to allow for a variety of options to help meet RHNA production goals. In addition to the production of housing units by the project developer other means of satisfying the requirement may also include:

- Land Dedication within the development project area to an affordable housing nonprofit which shall also include a production plan, financial proforma, and development schedule
- Purchase – Acquisition of regulatory covenants on existing housing units within the City of Merced – must meet affordability term
- Rehabilitation of existing housing units in exchange for regulatory covenants within the City of Merced - must meet affordability term
- Payment of an In-Lieu Fee to be determined on a case-by-case basis which shall be defined based on a Nexus Study prepared by the City
- Other means subject to City Council Approval

These options may be combined along with unit production to leverage the maximum benefit to the City towards meeting RHNA production goals. The City Council at their sole discretion will determine if a Density Bonus can be combined with a Payment of An In-Lieu Fee.

Funds derived from the payment of an In-Lieu Fee for mitigation shall be held in a specific Fund to support affordable housing. The City Council at their sole discretion will determine eligible activities and commitment amounts as well as the form of support from the fund.

City Assistance

To assist in the production of Affordable Housing under this Production Plan the City is committed to cooperate with project developers. That may be in the form of entitlement streamlining as well as other activities which may assist in affordable unit financing. The following is a current list of some financial assistance programs and is provided for representative purposes.

Financial Assistance Programs - HCD

Programs administered by the State of California Department of Housing and Community Development (HCD). These may include over the counter and competitive based funding programs. The developer shall bear the cost to prepare any applications materials and the City shall assist in the processing.

Tax Exempt Financing issued by the California Tax Credit Allocation Committee (CTAC) and Bond Financing issued by the California Debt Limit Advisory Committee (CDLAC)

The City shall support those efforts including holding a TEFRA hearing if necessary and executing other documents which may be necessary as a sponsor.

Community Facilities District Financing (CFD)

The City has adopted resolutions authorizing financing under the SCIP and BOLD programs. These programs allow eligible public infrastructure and some fees to be financed and repaid through the use of Community Facility Districts (CFD).

Density Bonus

The developer of any project a may seek a Density Bonus consistent with Chapter 20.56 of the Zoning Code and the most recent state statutes. This tool may allow the project to exceed the General Plan density to provide for greater economy of scale to help meet the RHNA project goals. The tool can also assist in providing waivers or concessions to City standards or other provisions which may ordinarily inhibit the production of affordable housing units.

City Programs

- Affordable Housing Development projects may seek a Waiver of and/or Deferral of Public Facility Finance Program fees (PFFP) consistent with Administrative Policy A-32.
- Other City fees may be modified and deferred on a project-by-project basis through the use of PADA or DA process.
- As an entitlement community the City receives an annual allocation directly from the United States Department of Housing and Urban Development (HUD). Projects in eligible census tracts or meeting income-based qualifications may request financial assistance to support affordable housing units subject to program qualifications, underwriting, environmental, and funding availability.
- The City receives on going resources in support of affordable housing under SB2 through the City Permanent Local Housing Allocation – PLHA administered by HCD. Project developers may request financial assistance subject to program qualifications, underwriting, environmental, and funding availability.
- As the Housing Successor Agency to the former Redevelopment Agency the City retained some assets which may assist in affordable housing production. Use of funding is limited to qualifying projects underwriting, environmental, and funding availability.

Financial Assistance from the collected In-Lieu Fee for mitigation for the RHNA Unit Production Plan subject to program qualifications, underwriting, environmental, and funding availability.