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11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN FRANCISCO/OAKLAND DIVISION**

14  
15 JESSICA PILLING,

16 Plaintiff,

17 v.

18 CITY OF HEALDSBURG, a municipality,

19 Defendant.

No. 3:24-cv-6254

**COMPLAINT FOR VIOLATION  
OF CIVIL RIGHTS,  
42 U.S.C. § 1983**

## INTRODUCTION

1  
2           1.       Jessica Pilling brings this complaint against the City of Healdsburg  
3 (City) to challenge the application of its “inclusionary housing” ordinance, Healdsburg  
4 Muni. Code (HMC) § 20.20.030, (Ordinance), to unlawfully exact over \$20,000 as a  
5 condition of constructing a new single-family home and accessory dwelling unit  
6 (Project). Mrs. Pilling therefore seeks a declaration that the Ordinance represents an  
7 unconstitutional condition as applied to her Project and a refund of those same funds  
8 paid under protest to the City.

9           2.       The Ordinance establishes a program of exactions requiring property  
10 owners who build new residential units to either dedicate property or pay a fee to the  
11 City for the purpose of creating affordable housing. The City imposed a fee of  
12 \$20,134.75 as a condition of approving Mrs. Pilling’s Project without any  
13 demonstration of an essential nexus nor a rough proportionality between the  
14 anticipated impacts of Project and the purpose of the exaction.

15           3.       Federal law and the U.S. Constitution prohibit the City from using its  
16 land-use permitting authority to exact money or other property from permit  
17 applicants unless the exaction is designed to mitigate the anticipated negative public  
18 impacts of the proposed development.

19           4.       Mrs. Pilling’s Project does not have any negative impact on the  
20 affordability of homes in the City. On the contrary, elementary principles of economics  
21 demonstrate that by building new housing units, the Project increases supply and  
22 therefore lowers—not raises—prices. Moreover, Mrs. Pilling’s own household qualifies  
23 for affordable housing under the City’s definition. Because they intend to occupy the  
24 new unit themselves, the Project literally provides affordable housing on its own.

25           5.       Mrs. Pilling’s Project utilizes two vital tools specifically created by the  
26 State of California to ease the state’s housing affordability crisis.

27           6.       First, it is proposed on a lot created by SB 9, a bill designed to “open up  
28 opportunities for homeowners to help ease our state’s housing shortage” and to “help

our communities welcome new families to the neighborhood and enable more folks to set foot on the path to buying their first home.” Press Release, Office of Governor Gavin Newsom, *Governor Newsome Signs Historic Legislation to Boost California’s Housing Supply and Fight the Housing Crisis*, <https://www.gov.ca.gov/2021/09/16/governor-newsom-signs-historic-legislation-to-boost-californias-housing-supply-and-fight-the-housing-crisis/> (quoting Senate Pro Tem Toni G. Atkins).

7. Second, it proposes an accessory dwelling unit in addition to the new primary residence. Accessory dwelling units “offer low cost housing to meet the needs of existing and future residents[,]” and “provide housing . . . at below market prices within existing neighborhoods.” Gov’t Code § 66310(b), (g). They are therefore an “essential component of California’s housing supply.” *Id.* at § 66310(h).

8. Mrs. Pilling seeks a declaration that the City’s application of its Ordinance to her Project is an unlawful exaction pursuant to the Fifth and Fourteenth Amendments to the U.S. Constitution. She further seeks an order instructing the City to refund the unlawfully exacted inclusionary housing fee, and an award of attorney fees and costs incurred in this action. Accordingly, Mrs. Pilling alleges as follows:

### **JURISDICTION AND VENUE**

9. This suit is brought under 42 U.S.C. § 1331 (federal question), as this action arises under the Constitution and laws of the United States, and pursuant to 28 U.S.C. § 1343(a)(4) (civil rights), as this action seeks redress for civil rights violations under 42 U.S.C. § 1983.

10. A remedy is also sought under the Declaratory Judgment Act, 28 U.S.C. § 2201.

11. This Court has supplemental jurisdiction to hear Mrs. Pilling’s state law claims under 28 U.S.C. § 1367(a).

12. The property that is the subject of this action and the civil rights violations alleged herein occurred in Healdsburg, California. Therefore, venue is

proper in this judicial district.

## **PARTIES**

13. Jessica Pilling is an individual citizen of the United States. She is domiciled and resides in Healdsburg, California, where she lives with her husband and their three children. As the owner of real property in Healdsburg seeking to build a home, she is subject to the Ordinance.

14. Defendant City of Healdsburg is a political subdivision in the state of California, the local governing authority in Healdsburg, and the party who promulgates and enforces the unconstitutional policies, customs, and practices alleged herein.

## **LEGAL BACKGROUND**

### **The Takings Clause and Land Use Permit Exactions**

15. Under the Takings Clause of the Fifth Amendment to the United States Constitution, no government agency may take private property for a public use without paying just compensation. U.S. Const. amend. V (Takings Clause); XIV (applying Takings Clause to state and local governments). As a corollary to this rule, a government agency imposing a land-use permit condition that requires the dedication of private property, including money, “must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development.” *Dolan v. City of Tigard*, 51 U.S. 374, 391 (1994); see *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595 (2013) (holding that monetary exactions are subject to the same requirement). Specifically, the agency must carry the burden of showing that the exaction bears an “essential nexus” and “rough proportionality” to the public impacts of the proposed project, lest the exaction be nothing more than an “out-and-out plan of extortion.” *Nollan v. California Coastal Comm’n*, 483 U.S. 825, 837 (1987); *Dolan*, 512 U.S. at 391.

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## Healdsburg's Inclusionary Housing Ordinance

16. The Ordinance, codified at HMC § 20.20.030, sets out the City's inclusionary housing program and imposes conditions on all new residential development. A true and correct copy of the red-lined version of the Ordinance and corresponding fee schedule, as amended in April 2024 and adopted by the City Council, is attached as **Exhibit A**. A true and correct copy of the relevant municipal code provisions, available by link from the City's website, is attached as **Exhibit B**. This copy was downloaded from [codepublishing.com/CA/Healdsburg](https://codepublishing.com/CA/Healdsburg) on August 15, 2024, which is linked to on the city's official website at [Healdsburg.gov/182/Healdsburg-Municipal-Land-Use-Codes](https://Healdsburg.gov/182/Healdsburg-Municipal-Land-Use-Codes). These municipal code provisions do not appear to have been updated to reflect the most recent amendments to the Ordinance.

17. For projects with four or fewer dwelling units, like Mrs. Pilling's Project, applicants must either pay an inclusionary housing fee or utilize an alternative compliance method. HMC § 20.20.030(C)(2).

18. Alternative compliance methods include (1) in-lieu land dedications; (2) off-site construction of inclusionary units; (3) conversion of existing market-rate units to inclusionary units; (4) construction of a single-family dwelling along with an accessory dwelling unit; and (5) some other method determined by the City, at its sole discretion, to meet the Ordinance's goals and objectives. Utilization of these alternative compliance methods is subject to the approval of the City Council. HMC § 20.20.030(D).

19. Under the Ordinance, inclusionary units are to be governed by "regulatory agreements" between the project applicant and the City. HMC § 20.20.030(H). According to communications with the City, and consistent with guidance documents issued by the City, inclusionary units must be burdened with a deed restriction to last fifty-five years.

20. Under the Ordinance, inclusionary units may only be occupied by low-,

1 moderate-, and middle-income households. HMC § 20.20.030(H). These terms are  
2 defined with reference to the median income for Sonoma County as established  
3 annually by the U.S. Department of Housing and Urban Development. HMC  
4 § 20.28.310.

5 21. Under the Ordinance, the amount of the inclusionary housing fee (also  
6 called an “in-lieu fee”) is to be updated annually by resolution of the City Council  
7 “based upon the annual changes in an identified, generally recognized construction  
8 cost index to reflect changing housing conditions within the community, including the  
9 actual costs of providing affordable housing.”

10 22. All such fees are to “be deposited by the City into the inclusionary  
11 housing deposit account and used only for the purpose of providing affordable housing  
12 programs and services in the community[.]”

13 23. Prior to April 2024, the Ordinance and attendant fee schedule  
14 distinguished between “rental” units and “for-sale” units. Neither term was defined in  
15 the Ordinance nor elsewhere in the Healdsburg Municipal Code. It was therefore  
16 unclear how the Ordinance and fee schedule applied to a property that would neither  
17 be rented nor sold, for example, an owner-occupied property.

18 24. Prior to April 2024, the Ordinance did not apply to single-unit projects.  
19 Under HMC § 20.20.030, the Ordinance applied to “new residential and the residential  
20 component of mixed-use development projects.” Under HMC § 20.28.310, prior to April  
21 2024, the term “residential development project” is defined as a “project consisting of  
22 two or more dwelling units or lots, including, but not limited to single-family  
23 dwellings, multifamily dwellings, condominiums, townhouses, conversion of  
24 apartments to condominiums and residential land subdivisions.”

25 25. On April 15, 2024, the Ordinance was amended to extend its application  
26 to projects consisting of only a single unit. At the same time, the Title-wide definition  
27 of “residential development project” in HMC § 20.28.310 was amended to include  
28 projects consisting of “one or more” units. Also at that time, the term “Multi-Family

1 Rental Housing” was added to the Ordinance; a definition of that term was added to  
2 the Title-wide definitions; and the fee schedule was revised to distinguish between  
3 “For-Sale and Single-Family Rental,” on the one hand, and “Multi-Family Rental,” on  
4 the other. The term “For-Sale” remains undefined.

### 5 **FACTUAL ALLEGATIONS**

6 26. Mrs. Pilling resides with her family at 440 Lincoln Street (the “Property”)  
7 in Healdsburg, California. In 2021, the Property was an approximately  $\frac{1}{4}$  acre lot with  
8 an existing duplex.

9 27. In 2021, Mrs. Pilling, who raises three children with her husband, began  
10 to contemplate how the family might afford a larger home for her growing family.

11 28. In 2021, California passed SB 9, a state law meant to increase housing  
12 supply, simplify permitting, and increase housing density across the state.

13 29. SB 9 authorized as a matter of state law, among other things, the  
14 subdivision of small urban properties like Mrs. Pilling’s, which were previously  
15 indivisible pursuant to local land use controls.

16 30. With the enactment of SB 9, Mrs. Pilling realized that she could split her  
17 Property into two lots, one containing her existing duplex, and one which was  
18 undeveloped land, and build a home for her family on the undeveloped lot.

19 31. Between 2022 and 2023, Mrs. Pilling subdivided the Property pursuant  
20 to SB 9 into two lots and began to plan for construction on the newly created,  
21 undeveloped lot.

### 22 **Application and Imposition of Inclusionary Housing Fee**

23 32. Mrs. Pilling hired architects, engineers, and other consultants who drew  
24 plans for the Project consisting of a single-family residence (primary residence) with  
25 a floor area of 2,108 sq. ft. and an attached accessory dwelling (ADU) unit with a floor  
26 area of 759 sq. ft.

27 33. On or about April 17, 2023, Mrs. Pilling submitted building plans to the  
28 City pursuant to its procedures which require review of building and site plans prior

1 to the issuance of a building permit.

2 34. Mrs. Pilling incurred significant expenses preparing the information  
3 required by the City for its preconstruction review of her project and paid several  
4 thousand dollars in fees to the City for the review of her proposed Project.

5 35. Prior to her submittal of the plans, Mrs. Pilling sent an email to City  
6 officials inquiring about the fees which may be charged in connection with approving  
7 Mrs. Pilling's Project. A true and correct copy of this email and the ensuing  
8 communications between the Parties is attached as **Exhibit C**.

9 36. City planning staff supplied a fee schedule and informed Mrs. Pilling  
10 that because she planned to occupy the primary residence with her family, it would  
11 be considered "for sale housing" rather than "rental housing."

12 37. The fee schedule indicated that the City imposed an inclusionary  
13 housing fee of \$40,269.50 for units between 2,101 sq. ft. and 2,150 sq. ft., like Mrs.  
14 Pilling's proposed primary residence.

#### 15 **Discussions with the City**

16 38. Mrs. Pilling objected to the high fee, describing it as "prohibitive" and  
17 commenting that "[t]he city complains on end about the lack of housing, yet this is  
18 exactly why nobody is able to build."

19 39. In an effort to qualify for the lower "rental housing" fee rather than the  
20 higher "for sale housing" fee, Mrs. Pilling indicated that she would change her plans  
21 by continuing to reside in the duplex on the neighboring Property and renting out the  
22 primary residence on the newly created parcel, rather than occupying it with her  
23 family. The fee schedule indicated that a "rental housing" unit of more than 1,200 sq.  
24 ft., such as the proposed primary residence, would incur a fee of only \$4,140.00.

25 40. In subsequent communications, City indicated that the term "rental  
26 housing" in the fee schedule only applied to multifamily projects such as apartment  
27 buildings, and therefore that Mrs. Pilling's proposed primary residence could not  
28 qualify for the "rental housing" fee under any circumstances.



1           41.     Mrs. Pilling also offered several alternative proposals, including setting  
2     aside one of the existing duplex units on the neighboring lot at below-market rates.  
3     The parties were not able to reach agreement on any alternative proposal.

4           42.     On July 14, 2023, the City, through Community Development Director  
5     Scott M. Duiven, sent Mrs. Pilling a letter via email. A true and correct copy of this  
6     email and the subsequent communications described in ¶ 40 and ¶¶ 43–45 is attached  
7     as **Exhibit D**.

8           43.     In the letter, Mr. Duiven explained that the Ordinance “serves to further  
9     important State and local housing goals by requiring that new residential  
10    development provide for or contribute to affordable housing options for Healdsburg  
11    residents.” A true and correct copy of this letter is attached as **Exhibit E**.

12          44.     In response, Mrs. Pilling requested a copy of any nexus study that the  
13    City had done to justify the Ordinance. She also sent Mr. Duiven a three-page letter  
14    with additional arguments why the Ordinance should not apply to her Project. A true  
15    and correct copy of this letter is attached as **Exhibit F**.

16          45.     In particular, she argued that, by allowing her family to move into the  
17    proposed single-family home, “our project is designed to create two additional rental  
18    units [because the family would vacate the existing duplex unit which it then occupied  
19    in the neighboring lot, and because the Project would create an accessory dwelling  
20    unit available for rent] in downtown Healdsburg . . . , thereby contributing to the city’s  
21    housing availability”; that under the Ordinance “our household is eligible for  
22    affordable housing,” and therefore that “we are the demographic that the affordable  
23    housing ordinance seeks to assist”; and that “by creating our own housing, we are not  
24    taking an affordable housing unit from the market that another family could use.”

25          46.     Furthermore, she argued that the Ordinance did not apply to her Project  
26    since the Ordinance only applied to “residential development projects” consisting of  
27    two or more units. Given that accessory dwelling units “shall not be subject to the”  
28    Ordinance, HMC § 20.20.030(B)(4), Mrs. Pilling argued that her Project consisted of

1 only one unit for purposes of the Ordinance—the proposed primary residence on the  
2 newly subdivided lot.

3 47. Mr. Duiven responded that “[a] nexus study was not prepared for the  
4 current in-lieu fee and unlike development impact fees is not required,” and he  
5 reaffirmed the City’s position that the Ordinance applied to Mrs. Pilling’s Project.

6 48. Mrs. Pilling again indicated her plans to rent out the primary residence  
7 rather than occupy it herself, thereby hoping to qualify for the lower “rental housing”  
8 fee.

9 49. Mr. Duiven explained the City’s position that the “intent of the rental  
10 housing category is for units within a multi-family project (e.g. an apartment building)  
11 which are rented and cannot be offered for sale. I cannot adjust the fee as previously  
12 assigned to your project.”

13 50. Due to the prohibitively high expense of the inclusionary housing fee,  
14 Mrs. Pilling obtained extensions on her permit applications to try and devise  
15 alternative solutions and obtain funding for the Project.

### 16 **The April 2024 Amendments**

17 51. In February, 2024, the City commenced a process to amend the  
18 Ordinance in direct response to Mrs. Pilling’s arguments that it did not apply to single-  
19 unit projects (including single-unit projects with accessory dwelling units, since the  
20 latter are exempt from the Ordinance’s operation) and that the Ordinance provided  
21 no guidance for determining the appropriate fees for owner-occupied properties that  
22 would neither be sold nor rented.

23 52. According to a series of staff reports, the proposed amendments would  
24 “clarif[y] that the Ordinance applies to single units” and “add[] language clearly  
25 restricting the rental housing rate to multi-family developments.” A true and correct  
26 copy of the latest of these staff reports is attached as **Exhibit G**.

27 53. In a series of written and oral public comments submitted at the  
28 planning commission stage of the amendment process, Mrs. Pilling urged the City to

1 modify the proposed amendments by adding an exemption for lots created under SB 9  
2 from the Ordinance. She also objected to the notion that the City’s proposed  
3 amendments were “clarifying” the application of the Ordinance to single-unit projects,  
4 since the Ordinance as written—and considered in the context of the statutory  
5 scheme—unambiguously did not apply to single-unit projects. A true and correct copy  
6 of one of these written public comments is attached as **Exhibit H**.

7 54. Due to a malfunction with the City’s email system, some of the written  
8 comments submitted to the City’s planning commission were not received by the  
9 commission in time for the public hearings to which they related. This email  
10 malfunction was only discovered when Mrs. Pilling inquired at a planning commission  
11 meeting on February 13, 2024, why the commissioners had not received her written  
12 comments.

13 55. At the February 13 meeting, commission chair Phil Luks criticized the  
14 Ordinance, observing that “the very people who are trying to solve the housing  
15 problem in Healdsburg are the people who get taxed [referring to the inclusionary  
16 housing fees]. It’s almost mind-boggling; it makes no sense.” Mr. Luks opined that  
17 “the main reason the inclusionary housing fees are acceptable is essentially a political  
18 reason.” Mr. Luks distinguished between the inclusionary housing fee and other  
19 housing impact fees, noting that other fees “at least have a rational connection to why  
20 they’re being charged. You know, you are impacting the school system so there ought  
21 to be a fee there . . . but I just don’t see the connection between wanting to build a  
22 house and having to build someone else’s house.” A video recording of this meeting is  
23 available at [healdsburgca.iqm2.com/Citizens/SplitView.aspx?Mode=Video&Meeting](https://healdsburgca.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2247&Format=Minutes)  
24 [ID=2247&Format=Minutes](https://healdsburgca.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2247&Format=Minutes). Mr. Luks’s comments begin at approximately 27 minutes  
25 and 10 seconds into the video.

26 56. At a March 26, 2024, meeting of the planning commission, Commissioner  
27 Tom Gerlach explained his understanding of the Ordinance’s justification: “The  
28 reality is that we have a longstanding in-lieu fee we have required, for reasons that

we don't have to go into but I think are not unfounded, that if you build a single-family house, if you're fortunate enough to be able to do that, you're creating a wealth opportunity for yourself or for others, in addition to housing." A video recording of this meeting is available at <https://healdsburgca.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2323&Format=Minutes#>. Commissioner Gerlach's remarks begin at approximately 31 minutes and 50 seconds into the video.

57. On April 15, 2024, the City Council voted to adopt the proposed amendments, extending its reach to single-unit projects and providing that only multi-family rental housing could qualify for the "rental" fee schedule, while single-family rental housing units are subject to the same schedule as "for sale" housing. *See Exh. A.*

58. At the same time, although it did not adopt the SB 9 exemption advocated by Mrs. Pilling, the City Council did adopt a revised fee schedule which included a 50% reduction of inclusionary housing fees on projects created under SB 9, like Mrs. Pilling's Project. *See Exh. B.*

### **Final Imposition of Fee and Payment Under Protest**

59. As a result of the April 2024 Amendments and revised fee schedule, the City took a definitive and final position of imposing an inclusionary housing fee of \$20,134.75 as a condition on Mrs. Pilling's permit. This fee represents the Condition challenged in this Complaint.

60. On July 15, 2024, Mrs. Pilling paid the affordable housing fee "under protest" pursuant to Cal. Gov. Code § 66020(a) and collected a building permit for the Project. A true and correct copy of the permit and protest language is attached as **Exhibit I.**

61. The Condition was an absolute prerequisite to Mrs. Pilling receiving a building permit to build a home for her family. Had Mrs. Pilling not paid the fee, no building permit would have issued, and Mrs. Pilling would not be allowed to proceed with the Project.

62. The inclusionary housing fee is in addition to approximately \$60,000 in other fees charged by the City in approving the building permit. Mrs. Pilling does not here challenge these other fees.

### **FIRST CLAIM FOR RELIEF**

#### **Unconstitutional Exaction of Property – 42 U.S.C. § 1983, 28 U.S.C. § 2201**

63. All preceding allegations of this Complaint are incorporated by reference in this section as though fully set forth herein.

64. The Civil Rights Act of 1871, 42 U.S.C §1983 states that a person “shall be liable to the injured party” when, acting under the authority of a statute or an ordinance, he or she deprives an individual of a right secured by the U.S. Constitution.

65. The City is a person under 42 U.S.C §1983.

66. The City acted under color of an ordinance when it conditioned Mr. Pilling’s building permit upon a requirement that she pay a \$20,134.75 inclusionary housing fee.

67. The City has an established policy or custom of applying the ordinance to exact fees for the purpose of promoting affordable housing from permit applicants seeking to create housing units.

68. The doctrine of unconstitutional conditions, as set out by *Nollan v. California Coastal Commission* 483 U.S. 825 (1987), *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and *Koontz v. St. Johns River Water Management District*, 570 U.S. 595 (2013), is a federal doctrine designed to enforce the primacy of the Fifth and Fourteenth Amendments of the U.S. Constitution against state and local governments in the land-use permitting context. As such, a violation of the doctrine of unconstitutional conditions is actionable under 42 U.S.C §1983.

69. The City’s actions herein are subject to 42 U.S.C §1983.

70. The City imposed an unconstitutional condition on Mrs. Pilling’s building permit.

71. The City initially applied its Inclusionary Housing Ordinance to demand

1 an inclusionary housing fee of \$40,269.50 as a condition of approving Mrs. Pilling's  
2 application for a building permit for her Project. After revising its fee schedule on  
3 April 15, 2024, the amount demanded changed to \$20,134.75.

4 72. Money is protected property under the Fifth Amendment to the U.S.  
5 Constitution, and the inclusionary housing fee imposed on Mrs. Pilling's building  
6 permit is a monetary exaction subject to *Nollan*, *Dolan*, and *Koontz*.

7 73. The only alternative compliance methods available to Mrs. Pilling under  
8 the Ordinance would require her to dedicate land to the City or to execute a deed  
9 restriction setting aside one of her units at below-market rates for a period of 55 years.  
10 These demands, too, seek a confiscatory interest in protected property and represent  
11 exactions subject to *Nollan*, *Dolan*, and *Koontz*.

12 74. Under *Nollan*, *Dolan*, and *Koontz*, the government may demand  
13 property, such as money, from property owners like Mrs. Pilling, as a condition to  
14 approving a land use permit, only if:

- 15 a. The property is needed to directly mitigate a public impact directly caused  
16 by the development if it were permitted (the "essential nexus" test); and  
17 b. The amount of property is roughly proportionate in both nature and degree  
18 to the public impact(s) (the "rough proportionality" test).

19 75. The "essential nexus" and "rough proportionality" tests require  
20 heightened constitutional scrutiny.

21 76. To meet this burden, the government must make "some sort of  
22 individualized determination that the required dedication is related both in nature  
23 and extent to the impact of the proposed development." *Dolan*, 512 U.S. at 391.

24 77. The City declined to meet this constitutional requirement when asked to  
25 do so by Mrs. Pilling. Nor can it meet this requirement through post-hoc argument:  
26 The Ordinance provides that the amount of the fee is not to be based on the anticipated  
27 impacts that a given project or class of projects will have on the need for affordable  
28 housing, but is instead "based upon the annual changes in an identified, generally

1 recognized construction cost index to reflect changing housing conditions within the  
2 community, including the actual costs of providing affordable housing.”

3 78. A demand for property which lacks such “essential nexus” and “rough  
4 proportionality” subjects the property owner to an unconstitutional condition.

5 79. The Condition fails constitutional standards, as applied, because the  
6 Project:

- 7 a. Neither creates nor contributes to the need for affordable housing;  
8 b. Does not cause anybody else to be unable to afford housing;  
9 c. Alleviates the need for affordable housing by creating new housing; and  
10 d. Provides housing for Mrs. Pilling’s household, which because of its  
11 annual income qualifies for affordable housing under the Ordinance.

12 80. The Condition also fails because:

- 13 a. Denying the permit would not serve to further the purpose of creating  
14 affordable housing; and  
15 b. Such other reasons as discovery may reveal which show that the Project  
16 does not create any impacts which are mitigated by the Condition.

17 81. Mrs. Pilling did not have, and the City did not provide, any other lawful  
18 alternative to the Condition.

19 82. Mrs. Pilling suffered a cognizable constitutional injury the moment the  
20 City demanded that she accede to the unconstitutional demand as a condition on the  
21 issuance of her building permit.

22 83. Because of the City’s unconstitutional demand for property, Mrs. Pilling  
23 has suffered damages in an amount to be proven at trial.

24 84. Mrs. Pilling is entitled to damages and equitable relief as allowed by 42  
25 U.S.C. § 1983, and she is additionally entitled to declaratory relief under 28 U.S.C.  
26 § 2201.

27 ///

28 ///

**SECOND CLAIM FOR RELIEF**

**Unlawful Exaction of Property — Cal. Gov. Code § 66001**

85. The allegations contained in Paragraphs 1 through 62 of this Complaint are incorporated by reference in this section as though fully set forth herein.

86. Under California State Law, to impose a fee as a condition of approval for a development project, a local agency must “determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.” Cal. Gov. Code § 66001(b). Moreover, “[a] fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.” *Id.* § 66001(g).

87. The City exacted a fee from Mrs. Pilling in the amount of \$20,134.75 as a condition of issuing a building permit for her Project.

88. The City failed to establish, and cannot establish, that the fee bears a reasonable relationship to impacts on housing affordability caused by Mrs. Pilling’s Project. Moreover, the fee seeks to mitigate costs attributable to existing deficiencies in housing affordability that are not caused by Mrs. Pilling’s Project.

89. As a consequence, the City’s imposition of the \$20,134.75 fee violates section 66001 of the California Government Code.

**RELIEF SOUGHT**

WHEREFOR, Plaintiff prays for judgment from this Court as follows:

1. A judgment that the City has not shown, and cannot show, that the Project will have a negative public impact on housing affordability;
2. A declaratory judgment that the Condition violates *Nollan*, *Dolan*, and *Koontz* and the unconstitutional conditions doctrine as applied to Mrs.



Pilling and that the Ordinance and Condition are therefore invalid and unenforceable against Mrs. Pilling;

3. A declaratory judgment that the Condition violates section 66001 of the California Government Code;
4. A judgment that Mrs. Pilling suffered a violation of her civil rights when the City conditioned the approval of her Project on her forfeiture of the right to just compensation for property taken;
5. An award of economic damages and compensatory damages in amount equal to or greater than the amount Mrs. Pilling paid in unconstitutional fees;
6. An award to Mrs. Pilling of reasonable attorneys' fees and expert fees for bringing and maintaining this action. 42 U.S.C. § 1988;
7. An award to Mrs. Pilling of costs of suit pursuant to Fed. R. Civ. P. 54(d); and
8. Any other relief that the Court deems just and proper under the circumstances.

DATED: September 5, 2024.

Respectfully submitted,

DAVID J. DEERSON  
BRIAN T. HODGES\*  
AUSTIN WAISANEN\*

By /s/ David J. Deerson  
DAVID J. DEERSON

*Attorneys for Plaintiff*  
*\*pro hac vice pending*

# EXHIBIT A

## EXHIBIT A

## CITY OF HEALDSBURG

## ORDINANCE NO. -2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEALDSBURG MAKING CLARIFYING UPDATES TO THE HEALDSBURG MUNICIPAL CODE BY AMENDING SECTION 20.20.030: INCLUSIONARY HOUSING AND SECTION 20.28.310: DEFINITIONS, AND FINDING THAT ADOPTION OF THE ORDINANCE IS EXEMPT FROM CEQA

WHEREAS, the City of Healdsburg (“City”) Municipal Code (“HMC”) Chapter 20 Land Use Code regulates allowable uses and development standards within the City; and

WHEREAS, the City recognizes the continued need for affordable housing within the City; and

WHEREAS, HMC Section 20.20.030: Inclusionary Housing, requires residential development in the City of Healdsburg (“City”) provide for dwelling units that are affordable to low-, moderate- and/or middle-income households through the allocation of units or the payment of an in-lieu fee; and

WHEREAS, the City desires to adopt an ordinance amending HMC Section 20.20.030: Inclusionary Housing and Section 20.28.310: Definitions, as provided herein (the “Amendments”); and

WHEREAS, the proposed Amendments 1) clarify that the inclusionary housing requirements apply to single residential units, 2) update the definition of “residential development project”, 3) add a definition of “rental housing”, 4) add language clearly restricting the rental housing in-lieu fee to multifamily developments, and 5) add a verification mechanism for the rental housing in-lieu fee; and

WHEREAS, the Planning Commission held a duly noticed public hearing on February 13, 2024, at which time it reviewed the proposed Amendments and considered all public comments, written and oral, on the Amendments and the related CEQA exemption and continued the item to a date uncertain; and

WHEREAS, the Planning Commission held a duly noticed public hearing on March 26, 2024, at which time it reviewed the proposed Amendments and considered all public comments, written and oral, on the Amendments and the related CEQA exemption; and

WHEREAS, the Planning Commission made the following affirmative findings pursuant to HMC Section 20.28.280 in support of the proposed Amendments and recommended the City Council adopt an ordinance approving them:

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- A. The Amendments are consistent with the Healdsburg 2030 General Plan including the goals, and policies, in that no conflicts with any goals, policies, programs or measures of the Healdsburg General Plan 2030 have been identified.
- B. The Amendments are consistent with the objectives of HMC Section 20.04.010 given that: a) adoption of the proposed Amendments will continue to protect and promote the public health, safety and general welfare of the community by providing updated standards; and b) the Amendments will implement the goals, policies, and programs contained in the Healdsburg 2030 General Plan.
- C. The Planning Commission has conducted a public hearing on the draft Amendments with hearing notices provided as prescribed in HMC Section 20.28.080, including newspaper publication at least 10 days prior to the hearing date.
- D. Adoption of the proposed ordinance the Amendments is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines (the “common sense exemption”) because it can be seen with certainty that there is no possibility that the Amendments will have a significant effect on the environment. The proposed Amendments are clarifying changes to the Municipal Code and will not allow for, nor encourage, any more development than is already anticipated under the City’s General Plan, or otherwise allow for or promote physical changes in the environment and, therefore, there is not a possibility that the proposed Amendments may have a significant effect on the environment.

Moreover, none of the CEQA exceptions apply. The Amendments will not impact any environmental resources of hazardous or critical concern. The Amendments are primarily procedural in nature with no impacts to critical resources. The Amendments will also not contribute to cumulative impacts or have a significant effect due to unusual circumstances. The Amendments make clarifying procedural changes to the municipal code and would not create unusual circumstances or contribute to cumulative impacts. Lastly, the Amendments will not impact scenic highways, will not involve hazardous waste sites, and will not impact historical resources.

WHEREAS, based upon the Planning Commission’s findings and recommendation, and after conducting a public hearing and considering all public comments, written and oral, the City Council finds that the Amendments are consistent with the General Plan including the Goals, Policies, and Implementation Measures of the Housing, Land Use, and Economic Development Elements of the adopted General Plan, and that the Amendments are internally consistent with all other provisions of the Municipal Code.

NOW, THEREFORE, the City Council of the City of Healdsburg does ordain as follows:

**Section 1.** Findings.

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The above recitals are hereby declared to be true and correct findings of the City Council of the City of Healdsburg.

**Section 2.** Title 20, Section 20.20.030 Inclusionary Housing shall be amended to read as follows (additions underlined, deletions ~~strikethrough~~):

**20.20.030 Inclusionary housing**

The following standards shall govern the provision of inclusionary housing:

A. Applicability.

1. The provisions of this section shall apply to any discretionary or ministerial approvals for new residential development projects (one or more dwelling units) and the residential component of mixed-use development projects.
2. Projects approved prior to July 17, 2019, and required to provide inclusionary dwelling units on site shall be subject to the inclusionary housing requirements in place at the time the City granted the approval. Projects approved prior to July 17, 2019, and required to pay an in-lieu fee shall pay the fee in effect at the time of building permit issuance.
3. Projects approved prior to July 17, 2019, pursuant to a development agreement or vesting tentative map that address inclusionary housing requirements are subject to the inclusionary provisions of the development agreement or applicable to the vesting tentative map, prior to recordation of the final map.

B. Exemptions. The following shall not be subject to the provisions of this section:

1. Existing ~~residences~~ residential dwelling units that are altered, improved, restored, repaired, expanded or extended; provided, that the number of dwelling units is not increased and that the existing floor area of the dwelling unit is not increased by greater than 850 square feet ~~or more~~. ~~These units~~ Dwelling units that are increased by greater than 850 square feet will be subject to a fee per square foot for any increase in square footage greater than 850 square feet.
2. New residential dwelling units of 850 square feet or less.
3. The construction of a new residential structure which replaces a residential structure that was destroyed by fire or natural disaster or demolished within five years prior to the application for a building permit for the new residential structure; provided, that the number of residential units is not increased from the number of residential units of the destroyed residential structure ~~or~~ and that the replacement dwelling is not more than 850 square feet larger than the original dwelling. These units will be subject to a fee per square foot for any increase in square footage greater than 850 square feet.

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4. Accessory dwelling units constructed pursuant to HMC 20.20.010.

C. Inclusionary Requirements.

1. Residential development projects or mixed-use development projects with five or more dwelling units shall include at least 20 percent of the total number of new dwelling units that are affordable to low-, moderate- or middle-income households, as defined in HMC 20.28.310. The requirement for the portion of a project including units for sale is 15 percent affordable to moderate-income households and five percent affordable to middle-income households. The requirement for the portion of a project including rental units is five percent affordable to low-income households and 15 percent affordable to moderate-income households.

Fractional units that may result from the application of these requirements may be satisfied by either of the following methods, at the discretion of the applicant:

- a. Any fraction of a unit may be rounded up and treated as a whole unit; or
- b. The applicant may pay the portion of the required fractional unit as an in-lieu fee as described in subsection (C)(2) of this section.

2. Residential development projects or mixed-use development projects with four or fewer dwelling units, including single-family residential units, shall comply in either of the following ways, at the discretion of the applicant:

- a. Payment of a fee pursuant to subsection (J) of this section; or
- b. Alternative compliance method, pursuant to subsection (D) of this section.

D. Alternative Compliance. Subject to the approval of the City Council, residential or mixed-use development projects identified in subsection (C)(1) or (C)(2) of this section may meet the requirements of this section in the following alternative ways, or combinations thereof:

1. In-Lieu Land Dedications. In lieu of constructing required inclusionary units on site, an applicant may satisfy inclusionary housing requirements by an irrevocable offer of dedication of land within the City limits, to the City, to be used for affordable housing purposes, such as acquisition of property, planning and design and construction costs. The applicant shall identify the land to be dedicated prior to approval of the discretionary permit for the residential development project or mixed-use development project.

In addition to any other findings required by statute, ordinance, or otherwise, any approval for an in-lieu land dedication shall include a finding that the land to be dedicated is not subject to liens, is served or proposed to be served by municipal services, including water, sewer, roads, electricity, telephone and other similar customary services, and contains no unusual planning or development constraints.

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The applicant shall dedicate the land to the City. The amount of land shall be as much as necessary, as determined by the City, to provide for the equivalent number of required inclusionary units in accordance with subsection (C)(1) of this section. The City Council may approve, conditionally approve or reject such offer of dedication. If the City Council rejects such offer of dedication, the applicant shall be required to meet the inclusionary housing requirement by other means set forth in this section.

2. Off-Site Construction of Inclusionary Units. In lieu of constructing required inclusionary units on site, an applicant may satisfy inclusionary housing requirements by constructing some or all of the required inclusionary units on another site or sites within the City. The resultant linked project sites shall be considered a single combined project and shall be reviewed concurrently by the City. Off-site inclusionary units shall be constructed and available for occupancy concurrently with the project's market-rate units, unless an alternative schedule based on extenuating circumstances, as determined by the City, is adopted as part of the project approval.

In addition to any other findings required by statute, ordinance or otherwise, any approval of the linked project sites shall include the following findings:

- a. Practical difficulties exist with providing the required inclusionary units on the original development site;
- b. The proposed location for the off-site inclusionary units will not result in an unreasonable concentration of affordable housing units in one geographic area of the City;
- c. All other provisions of this section have been or will be complied with, as guaranteed through the imposition of conditions of approval.

3. Conversion of existing market-rate units to inclusionary units, in an amount equal to the inclusionary housing requirements, including any needed rehabilitation to ensure compliance with building, health and safety standards.

4. Construction of a single-family dwelling along with an accessory dwelling unit pursuant to HMC 20.20.010, restricted to occupancy by a household earning no more than 80 percent of the Sonoma County area median income, with rent restricted to 30 percent of monthly income and adjusted for household size, and guaranteed through a regulatory agreement executed prior to building permit issuance. Such single-family dwelling units will not be required to pay an in-lieu fee and shall not be included in the total number of project units subject to the inclusionary housing calculation, in accordance with subsection (C)(1) or (C)(2) of this section.

5. At the City's sole discretion, the City may accept, in fulfillment of an applicant's inclusionary housing requirement, any other approach proposed by the applicant which, as determined by the City, meets City housing goals and objectives and where the applicant

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demonstrates to the City's satisfaction equivalency to the requirements of subsection (C)(1) or (C)(2) of this section, as applicable.

E. Affordable Housing Incentives. An applicant may request the City provide regulatory, procedural or financial incentives, including but not limited to a density bonus or an increase in lot coverage, to meet or exceed the inclusionary housing requirement set forth in this section. The request for such incentives must be included as part of the project application materials and include the rationale for the incentives sought, including a detailed description of the incentives sought, financial feasibility information and a description of resulting public benefits. Requests for incentives shall be considered by the City Council.

F. Inclusionary Unit Development Standards. In addition to other development standards and requirements set forth in this title, the following standards shall be met for the construction of inclusionary units:

1. Inclusionary units shall be constructed and available for occupancy concurrently with the project's market-rate units, unless an alternative schedule based on extenuating circumstances, as determined by the City, is adopted as part of the project approval.
2. Inclusionary units shall be distributed throughout the residential project site to the extent practicable.
3. Inclusionary units shall reflect the range of number of bedrooms provided in the residential project as a whole. To make this determination for subdivisions where individual lots will be sold, the type and tenure of market rate units shall be used. For residential or mixed-use development projects that are required to provide 10 or more inclusionary units, at least 10 percent of the inclusionary units shall have three or more bedrooms.
4. The square footage, configuration, quality of finishes and amenities of inclusionary units shall be substantially similar to the market rate units. To make this determination for subdivisions where individual lots will be sold, adopted, applicable design guidelines shall be used.
5. Residents of inclusionary units shall have access to the project's common open spaces or recreational amenities.
6. Accessory dwelling units shall not be counted toward meeting a project's inclusionary housing requirements.
7. Inclusionary units may be for-sale or rental units.

G. Submittal of Inclusionary Housing Information. Any application for a residential development project or mixed-use development project including residential dwelling units submitted to the City shall include the proposed method of satisfying inclusionary housing requirements, including any alternative compliance method pursuant to subsection (D) of this section, and the total number of units being requested for City approval, the number of



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inclusionary units included within the project, the level of affordability of proposed inclusionary units, whether inclusionary units will be for sale or for rent, proposed methods for income screening of prospective residents and other information deemed necessary by the City. The proposal shall be reviewed as part of the development process.

H. Inclusionary Housing Regulatory and Resale Agreements. The following shall govern the occupancy of inclusionary units and the future resale of such units:

1. Only low-, moderate- and middle-income households may occupy inclusionary units during the term of any regulatory agreement. The City or its designee shall notify all potential purchasers of inclusionary units to ensure adherence to applicable income restrictions.
2. Applicants proposing to meet the inclusionary requirement through the provision of for-sale inclusionary units shall enter into a regulatory agreement with the City prior to final map recordation for the project. All buyers of inclusionary units shall enter into a resale agreement with the City prior to close of escrow for such inclusionary unit. The resale agreement shall specify the income restriction on the household purchasing and occupying the inclusionary unit, the number of years that the inclusionary unit shall remain affordable to the target household income, an option for the City or its designee to designate an eligible purchaser, the City's right of first refusal to purchase the inclusionary unit, and a calculation of future equity assignment upon sale of the inclusionary unit. The resale agreement shall be recorded against each applicable unit.
3. Applicants proposing to meet the inclusionary requirement through the provision of inclusionary multi-family or single-family rental units shall enter into a regulatory agreement with the City prior to the issuance of a certificate of occupancy for the project. The regulatory agreement shall specify income restrictions on the households occupying the inclusionary units and the number of years that the inclusionary units shall remain affordable to the target incomes.
4. The City shall identify and periodically update the housing prices and rents that qualify as affordable for very low-, low-, moderate-, and middle-income households, utilizing the latest area median income for Sonoma County, adjusted for household size for the unit.

I. Management and Monitoring of Inclusionary Units.

1. Inclusionary rental units shall be professionally managed and/or operated by the owner of the residential complex or the authorized agent of the owner in accordance with a management and monitoring plan prepared by the owner and approved by the City. Each owner of one or more inclusionary rental unit(s) shall submit an annual tenant income certification report to the City Manager or his or her designee, no later than March 1st, for the previous calendar year, identifying monthly rental rates, vacancy status of each inclusionary unit, income status for each resident and any other related data deemed necessary by the City while ensuring privacy for all residents.

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2. If, upon recertification, a tenant's income has increased and exceeds the qualifying income for an inclusionary rental unit, such tenant's rent may be increased to a qualifying income for an inclusionary rental unit in a higher income category, if applicable to the project, and the project owner shall rent the next available inclusionary unit to the lower income category to restore the affordable unit mix required by the regulatory agreement. If, upon recertification, a tenant's income has increased and exceeds the qualifying income for all inclusionary units in a project, such tenant shall, upon expiration of the tenant's lease, and if so permitted by local and state law, after a 180-day period beginning on the date of lease expiration, be required to vacate the inclusionary unit.

J. Updating and Use of the In-Lieu Fee. The amount of the fee shall be set by resolution of the City Council and shall be updated annually based upon the annual changes in an identified, generally recognized construction cost index to reflect changing housing conditions within the community, including the actual costs of providing affordable housing. Fees collected for this purpose shall be deposited by the City into the inclusionary housing deposit account and used only for the purpose of providing affordable housing programs and services in the community, which includes the acquisition of property, planning and design, construction costs and program administration. Fees shall be payable at the time of building permit issuance. The multi-family rental housing rate identified in the fee schedule shall only apply to multi-family residential development projects in which all units are available for rent.

1. A Deed Restriction shall be required for all multi-family development projects requesting the multi-family rental housing rate. The Deed Restriction shall be recorded with the County of Sonoma and a copy provided to the City of Healdsburg and shall include the following restrictions:

a. The Dwellings shall be maintained as rental units only and may not be owner-occupied.

b. Should any Dwelling become owner-occupied, the Property Owner is required to pay the City the difference between the Inclusionary Housing In-Lieu Fee paid at the time of building permit issuance and the Inclusionary Housing In-Lieu Fee for owner-occupied projects in effect at the time of owner-occupancy, including the addition of any interest. Interest shall be calculated based on the amount of the owner-occupancy in-lieu fee in effect at the time of building permit issuance.

c. The restrictions shall be binding upon any successor in ownership of the Property and lack of compliance shall result in legal action against the Property Owner.

**Section 3.** Title 20, Section 20.08.310, Definitions shall be amended to read as follows (additions underlined, deletions ~~strikethrough~~):

Attachment: Att 1 Inclusionary Housing Ordinance and Exhibit A (4419 : Inclusionary Housing Ordinance Update)

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Multi-Family Rental Housing: a building or structure with two or more dwelling units all of which are intended for use as rented residential premises.

Residential development project: A project consisting of one ~~two~~ or more ~~single-family~~ dwelling unit(s) or lot(s), including, but not limited to single-family dwelling(s), multifamily dwelling(s), condominium(s), townhouse(s), conversion of apartments to condominium(s) and residential land subdivision(s). Residential development projects include for sale or rental units.

#### **Section 4.** Environmental Compliance.

The City Council finds that the proposed ordinance Amendments are exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines (the “common sense exemption”) because it can be seen with certainty that there is no possibility that the Amendments will have a significant effect on the environment. The proposed Amendments are clarifying changes to the Municipal Code and will not allow for, nor encourage, any more development than is already anticipated under the City’s General Plan, or otherwise allow for or promote physical changes in the environment and, therefore, there is not a possibility that the proposed Amendments may have a significant effect on the environment.

Moreover, none of the CEQA exceptions apply. The Amendments will not impact any environmental resources of hazardous or critical concern. The Amendments are primarily procedural in nature with no impacts to critical resources. The Amendments will also not contribute to cumulative impacts or have a significant effect due to unusual circumstances. The Amendments make clarifying procedural changes to the municipal code and would not create unusual circumstances or contribute to cumulative impacts. Lastly, the Amendments will not impact scenic highways, will not involve hazardous waste sites, and will not impact historical resources.

#### **Section 20.** Severability.

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

#### **Section 21.** Effective Date and Publication.

This Ordinance of the City of Healdsburg shall be effective thirty (30) days after the date of its passage. Before expiration of fifteen (15) days after its passage, this Ordinance or a summary thereof as provided for in Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the City of Healdsburg, along with the names of the City Council members voting for and against its passage.

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INTRODUCED by the City Council of the City of Healdsburg on the 15th day of April, 2024, and PASSED and APPROVED at a regular meeting of the City Council on the \_\_\_\_ day of \_\_\_\_, 2024, by the following vote:

AYES: Councilmembers: ( )

NOES: Councilmembers: ( )

ABSENT: Councilmembers: ( )

ABSTAINING: Councilmembers: ( )

SO ORDERED:

ATTEST:

\_\_\_\_\_  
David Hagele, Mayor

\_\_\_\_\_  
Raina Allan, City Clerk

Dated:\_\_\_\_\_

Attachment: Att 1 Inclusionary Housing Ordinance and Exhibit A (4419 : Inclusionary Housing Ordinance Update)

## CITY OF HEALDSBURG

## RESOLUTION NO. \_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
HEALDSBURG AMENDING RESOLUTION NO. 81-2019  
ESTABLISHING IN-LIEU INCLUSIONARY HOUSING FEES  
AS PROVIDED FOR IN SECTION 20.20.030(J) OF THE CITY  
OF HEALDSBURG MUNICIPAL CODE

WHEREAS, the State of California continues to face a shortage of affordable housing; and

WHEREAS, Government Code section 65850(g) allows cities to require, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code; and

WHEREAS, Government Code section 65850(g) requires cities to provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units; and

WHEREAS, Healdsburg Municipal Code section 20.20.030 (J) provides for the establishment and update of in-lieu inclusionary housing fees by City Council resolution, the proceeds of which are to be deposited into an inclusionary housing deposit account for the purpose of providing affordable housing programs and services in the community, including acquisition of property, planning and design, construction costs and program administration; and

WHEREAS, section 20.20.030 (J) allows for an update to the fees to reflect changing housing conditions within the community, including the actual costs of providing affordable housing and based upon the annual changes in an identified, generally recognized construction cost index; and

WHEREAS, the need for affordable housing continues to be a pressing need in the City of Healdsburg; and

WHEREAS, funding for affordable housing, including from an inclusionary housing fee, helps support the development of affordable housing in the City of Healdsburg; and

WHEREAS, based upon the percentage of inclusionary units required and the level of affordability targeted by the City's Inclusionary Housing Ordinance as outlined in Subsection 20.20.30 (C), the City has determined the need to clarify and update the in-lieu inclusionary housing fee categories to ensure that fees are correctly collected; and

WHEREAS, on March 26, 2024 the Planning Commission held a public hearing where it recommended the City Council approve amendments to the Inclusionary Housing Ordinance and

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consider a provision for a 50% reduction in the in-lieu inclusionary housing fee for new residential units created under Senate Bill 9 (Government Code Sections 65852.21 and 66411.7, as may be amended from time to time); and

WHEREAS, the City Council has adopted amendments via Ordinance 2024-XX to the Inclusionary Housing Ordinance to better clarify inclusionary housing requirements and the application of the inclusionary housing fee in lieu; and

WHEREAS, Exhibit A reflects the updated in lieu fee categories as well as the Planning Commission's recommendation to encourage housing development projects under Senate Bill 9 (Government Code Sections 65852.21 and 66411.7, as may be amended from time to time); and

WHEREAS, adoption of the updated fee schedule is not a project pursuant to the California Environmental Quality Act (CEQA) because it can be seen with certainty that the fee schedule update would not have the potential to either (1) cause a direct physical change in the environment or (2) cause a reasonably foreseeable indirect physical change in the environment. Even if the fee schedule update were to be considered a project under CEQA, it would be exempt pursuant to CEQA Guidelines Section 15061(b)(3). The fee update is an administrative adjustment to fee categories involving no physical change in the environment and does not enable or otherwise effect development. Therefore it can be seen with certainty that there is no possibility that the fee schedule update may have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Healdsburg does hereby amend in its entirety Resolution No. 81-2019, a resolution establishing in-lieu inclusionary housing fees; and

BE IT FURTHER RESOLVED that the City Council does hereby find that adoption of the updated fee schedule is not a project pursuant to the California Environmental Quality Act (CEQA) because it can be seen with certainty that the fee schedule update would not have the potential to either (1) cause a direct physical change in the environment or (2) cause a reasonably foreseeable indirect physical change in the environment. Even if the fee schedule update were to be considered a project under CEQA, it would be exempt pursuant to CEQA Guidelines Section 15061(b)(3). The fee update is an administrative adjustment involving no physical change in the environment and does not enable or otherwise effect development. Therefore it can be seen with certainty that there is no possibility that the fee schedule update may have a significant effect on the environment.

BE IT FURTHER RESOLVED that the City Council does hereby update the categories of in-lieu inclusionary housing fees for new residential developments in the amounts as set forth in Exhibit A, which is made a part of this Resolution, in accordance with Subsection 20.20.030 (J) of the Healdsburg Municipal Code and Government Code section 65850(g); and

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BE IT FURTHER RESOLVED that the City Council does hereby direct that any in-lieu fees collected under authorization of this resolution shall be placed in the City's Inclusionary Housing Deposit account; and

BE IT FURTHER RESOLVED that the City Council does hereby direct that the in-lieu inclusionary housing fees shall be automatically adjusted annually each year on July 1 in accordance with the most recent annual change in the Engineering News Record 20-Cities Construction Cost Index (20-cities CCI); and

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on the 15th day of April, 2024, by the following vote:

AYES: Councilmembers: ( )

NOES: Councilmembers: ( )

ABSENT: Councilmembers: ( )

ABSTAINING: Councilmembers: ( )

SO ORDERED:

ATTEST:

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David Hagele, Mayor

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Raina Allan, City Clerk

Attachment: Att 2 CC Reso - Inclusionary Housing Fee Schedule (4419 : Inclusionary Housing Ordinance Update)



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### Exhibit A – Inclusionary Housing In-Lieu Fee Schedule

<u>NEW FOR-SALE HOUSING AND SINGLE-FAMILY RENTAL HOUSING</u>			<u>NEW MULTI-FAMILY RENTAL HOUSING</u>		
Unit Size Range (square foot)		Fee per unit \$19.66 (per square foot)	Unit Size Range (square foot)		Fee per unit \$7.24 (per square foot)
Low to	High	Based on top of range	Low to	High	Based on top of range
0 - 850		Exempt	0 - 850		Exempt
851 - 900		8,847.00	851 - 900		3,258.00
901 - 950		9,338.50	901 - 950		3,439.00
951 - 1000		9,830.00	951 - 1000		3,620.00
1001 - 1050		10,321.50	1001 - 1050		3,801.00
1051 - 1100		10,813.00	1051 - 1100		3,982.00
1101 - 1150		11,304.50	1101 - 1150		4,163.00
1151 - 1200		11,796.00	1151 - 1200		4,344.00
				Above 1200	\$4,344.00
1201 - 1250		24,575.00			
1251 - 1300		25,558.00			
1301 - 1350		26,541.00			
1351 - 1400		27,524.00			
1401 - 1450		28,507.00			
1451 - 1500		29,490.00			
1501 - 1550		30,473.00			
1551 - 1600		31,456.00			
1601 - 1650		32,439.00			
1651 - 1700		33,422.00			
1701 - 1750		34,405.00			
1751 - 1800		35,388.00			
1801 - 1850		36,371.00			
1851 - 1900		37,354.00			
1901 - 1950		38,337.00			
1951 - 2000		39,320.00			
2001 - 2050		40,303.00			
2051 - 2100		41,286.00			
2101 - 2150		42,269.00			
2151 - 2200		43,252.00			
2201 - 2250		44,235.00			
2251 - 2300		45,218.00			
2301 - 2350		46,201.00			
2351 - 2400		47,184.00			
2401 - 2450		48,167.00			
2451 - 2500		49,150.00			
Above 2500		49,150.00			

Notes:

1. Fees for new units of 851 to 1200 square feet, shaded grey, are calculated at 50% of full fee.

2. New residential units created under SB9 are calculated at 50% of the full fee

3. Fee is calculated based on high square footage in range. New units falling within the range are charged this fee.

4. The applicable fee depends on whether the unit will be sold or rented. There is not a direct link between the unit type (single family or multifamily) and whether the unit is sold or rented, i.e., multifamily units such as attached condominiums may be sold.

5. Additions of more than 850 square feet to an existing unit are subject to a \$19.66 or \$7.24 fee for each square foot above 850.

6. Replacement units where the new unit is more than 850 square feet larger than the original unit are subject to a \$19.66 or \$7.24 fee for each square foot above 850.

Attachment: Att 2 CC Reso - Inclusionary Housing Fee Schedule (4419 : Inclusionary Housing Ordinance Update)



# EXHIBIT B

**EXHIBIT B****20.20.030 Inclusionary housing**

The following standards shall govern the provision of inclusionary housing:

A. Applicability.

1. The provisions of this section shall apply to any discretionary or ministerial approvals for new residential and the residential component of mixed-use development projects.
2. Projects approved prior to July 17, 2019, and required to provide inclusionary dwelling units on site shall be subject to the inclusionary housing requirements in place at the time the City granted the approval. Projects approved prior to July 17, 2019, and required to pay an in-lieu fee shall pay the fee in effect at the time of building permit issuance.
3. Projects approved prior to July 17, 2019, pursuant to a development agreement or vesting tentative map that address inclusionary housing requirements are subject to the inclusionary provisions of the development agreement or applicable to the vesting tentative map, prior to recordation of the final map.

B. Exemptions. The following shall not be subject to the provisions of this section:

1. Existing residences that are altered, improved, restored, repaired, expanded or extended; provided, that the number of dwelling units is not increased and that the existing floor area of the dwelling is not increased by 850 square feet or more. These units will be subject to a fee per square foot for any increase in square footage greater than 850 square feet.
2. New dwelling units of 850 square feet or less.
3. The construction of a new residential structure which replaces a residential structure that was destroyed by fire or natural disaster or demolished within five years prior to the application for a building permit for the new residential structure; provided, that the number of residential units is not increased from the number of residential units of the destroyed residential structure or that the replacement dwelling is not more than 850 square feet larger than the original dwelling. These units will be subject to a fee per square foot for any increase in square footage greater than 850 square feet.
4. Accessory dwelling units constructed pursuant to HMC 20.20.010.

C. Inclusionary Requirements.

1. Residential or mixed-use development projects with five or more dwelling units shall include at least 20 percent of the total number of new dwelling units that are affordable to low-, moderate- or middle-income households, as defined in HMC 20.28.310. The requirement for the portion of a project including units for sale is 15 percent affordable to moderate-income households and five percent affordable to middle-income households. The requirement for the portion of a project including rental units is five percent affordable to low-income households and 15 percent affordable to moderate-income households.

Fractional units that may result from the application of these requirements may be satisfied by either of the following methods, at the discretion of the applicant:

- a. Any fraction of a unit may be rounded up and treated as a whole unit; or
  - b. The applicant may pay the portion of the required fractional unit as an in-lieu fee as described in subsection (C)(2) of this section.
2. Residential or mixed-use development projects with four or fewer dwelling units shall comply in either of the following ways, at the discretion of the applicant:
- a. Payment of a fee pursuant to subsection (J) of this section; or
  - b. Alternative compliance method, pursuant to subsection (D) of this section.

D. Alternative Compliance. Subject to the approval of the City Council, residential or mixed-use development projects identified in subsection (C)(1) or (C)(2) of this section may meet the requirements of this section in the following alternative ways, or combinations thereof:

1. In-Lieu Land Dedications. In lieu of constructing required inclusionary units on site, an applicant may satisfy inclusionary housing requirements by an irrevocable offer of dedication of land within the City limits, to the City, to be used for affordable housing purposes, such as acquisition of property, planning and design and construction costs. The applicant shall identify the land to be dedicated prior to approval of the discretionary permit for the residential or mixed-use development project.

In addition to any other findings required by statute, ordinance, or otherwise, any approval for an in-lieu land dedication shall include a finding that the land to be dedicated is not subject to liens, is served or proposed to be served by municipal services, including water, sewer, roads, electricity, telephone and other similar customary services, and contains no unusual planning or development constraints.

The applicant shall dedicate the land to the City. The amount of land shall be as much as necessary, as determined by the City, to provide for the equivalent number of required inclusionary units in accordance with subsection (C)(1) of this section. The City Council may approve, conditionally approve or reject such offer of dedication. If the City Council rejects such offer of dedication, the applicant shall be required to meet the inclusionary housing requirement by other means set forth in this section.

2. Off-Site Construction of Inclusionary Units. In lieu of constructing required inclusionary units on site, an applicant may satisfy inclusionary housing requirements by constructing some or all of the required inclusionary units on another site or sites within the City. The resultant linked project sites shall be considered a single combined project and shall be reviewed concurrently by the City. Off-site inclusionary units shall be constructed and available for occupancy concurrently with the project's market-rate units, unless an alternative schedule based on extenuating circumstances, as determined by the City, is adopted as part of the project approval.

In addition to any other findings required by statute, ordinance or otherwise, any approval of the linked project sites shall include the following findings:

- a. Practical difficulties exist with providing the required inclusionary units on the original development site;
- b. The proposed location for the off-site inclusionary units will not result in an unreasonable concentration of affordable housing units in one geographic area of the City;
- c. All other provisions of this section have been or will be complied with, as guaranteed through the imposition of conditions of approval.

3. Conversion of existing market-rate units to inclusionary units, in an amount equal to the inclusionary housing requirements, including any needed rehabilitation to ensure compliance with building, health and safety standards.

4. Construction of a single-family dwelling along with an accessory dwelling unit pursuant to HMC 20.20.010, restricted to occupancy by a household earning no more than 80 percent of the Sonoma County area median income, with rent restricted to 30 percent of monthly income and adjusted for household size, and guaranteed through a regulatory agreement executed prior to building permit issuance. Such single-family dwelling units will not be required to pay an in-lieu fee and shall not be included in the total number of project units subject to the inclusionary housing calculation, in accordance with subsection (C)(1) or (C)(2) of this section.

5. At the City's sole discretion, the City may accept, in fulfillment of an applicant's inclusionary housing requirement, any other approach proposed by the applicant which, as determined by the City, meets City housing goals and objectives and where the applicant demonstrates to the City's satisfaction equivalency to the requirements of subsection (C)(1) or (C)(2) of this section, as applicable.

E. Affordable Housing Incentives. An applicant may request the City provide regulatory, procedural or financial incentives, including but not limited to a density bonus or an increase in lot coverage, to meet or exceed the inclusionary housing requirement set forth in this section. The request for such incentives must be included as part of the project application materials and include the rationale for the incentives sought, including a detailed description of the incentives sought, financial feasibility information and a description of resulting public benefits. Requests for incentives shall be considered by the City Council.

F. Inclusionary Unit Development Standards. In addition to other development standards and requirements set forth in this title, the following standards shall be met for the construction of inclusionary units:

1. Inclusionary units shall be constructed and available for occupancy concurrently with the project's market-rate units, unless an alternative schedule based on extenuating circumstances, as determined by the City, is adopted as part of the project approval.
2. Inclusionary units shall be distributed throughout the residential project site to the extent practicable.
3. Inclusionary units shall reflect the range of number of bedrooms provided in the residential project as a whole. To make this determination for subdivisions where individual lots will be sold, the type and tenure of market rate units shall be used. For residential or mixed-use development projects that are required to provide 10 or more inclusionary units, at least 10 percent of the inclusionary units shall have three or more bedrooms.
4. The square footage, configuration, quality of finishes and amenities of inclusionary units shall be substantially similar to the market rate units. To make this determination for subdivisions where individual lots will be sold, adopted, applicable design guidelines shall be used.
5. Residents of inclusionary units shall have access to the project's common open spaces or recreational amenities.

6. Accessory dwelling units shall not be counted toward meeting a project's inclusionary housing requirements.

7. Inclusionary units may be for-sale or rental units.

G. Submittal of Inclusionary Housing Information. Any application for a residential or mixed-use development project including residential submitted to the City shall include the proposed method of satisfying inclusionary housing requirements, including any alternative compliance method pursuant to subsection (D) of this section, and the total number of units being requested for City approval, the number of inclusionary units included within the project, the level of affordability of proposed inclusionary units, whether inclusionary units will be for sale or for rent, proposed methods for income screening of prospective residents and other information deemed necessary by the City. The proposal shall be reviewed as part of the development process.

H. Inclusionary Housing Regulatory and Resale Agreements. The following shall govern the occupancy of inclusionary units and the future resale of such units:

1. Only low-, moderate- and middle-income households may occupy inclusionary units during the term of any regulatory agreement. The City or its designee shall notify all potential purchasers of inclusionary units to ensure adherence to applicable income restrictions.

2. Applicants proposing to meet the inclusionary requirement through the provision of for-sale inclusionary units shall enter into a regulatory agreement with the City prior to final map recordation for the project. All buyers of inclusionary units shall enter into a resale agreement with the City prior to close of escrow for such inclusionary unit. The resale agreement shall specify the income restriction on the household purchasing and occupying the inclusionary unit, the number of years that the inclusionary unit shall remain affordable to the target household income, an option for the City or its designee to designate an eligible purchaser, the City's right of first refusal to purchase the inclusionary unit, and a calculation of future equity assignment upon sale of the inclusionary unit. The resale agreement shall be recorded against each applicable unit.

3. Applicants proposing to meet the inclusionary requirement through the provision of inclusionary rental units shall enter into a regulatory agreement with the City prior to the issuance of a certificate of occupancy for the project. The regulatory agreement shall specify income restrictions on the households occupying the inclusionary units and the number of years that the inclusionary units shall remain affordable to the target incomes.

4. The City shall identify and periodically update the housing prices and rents that qualify as affordable for very low-, low-, moderate-, and middle-income households, utilizing the latest area median income for Sonoma County, adjusted for household size for the unit.

I. Management and Monitoring of Inclusionary Units.

1. Inclusionary rental units shall be professionally managed and/or operated by the owner of the residential complex or the authorized agent of the owner in accordance with a management and monitoring plan prepared by the owner and approved by the City. Each owner of one or more inclusionary rental unit(s) shall submit an annual tenant income certification report to the City Manager or his or her designee, no later than March 1st, for the previous calendar year, identifying monthly rental rates, vacancy status of each inclusionary unit, income status for each resident and any other related data deemed necessary by the City while ensuring privacy for all residents.

2. If, upon recertification, a tenant's income has increased and exceeds the qualifying income for an inclusionary rental unit, such tenant's rent may be increased to a qualifying income for an inclusionary rental unit in a higher income category, if applicable to the project, and the project owner shall rent the next available inclusionary unit to the lower income category to restore the affordable unit mix required by the regulatory agreement. If, upon recertification, a tenant's income has increased and exceeds the qualifying income for all inclusionary units in a project, such tenant shall, upon expiration of the tenant's lease, and if so permitted by local and state law, after a 180-day period beginning on the date of lease expiration, be required to vacate the inclusionary unit.

J. Updating and Use of the In-Lieu Fee. The amount of the fee shall be set by resolution of the City Council and shall be updated annually based upon the annual changes in an identified, generally recognized construction cost index to reflect changing housing conditions within the community, including the actual costs of providing affordable housing. Fees collected for this purpose shall be deposited by the City into the inclusionary housing deposit account and used only for the purpose of providing affordable housing programs and services in the community, which includes the acquisition of property, planning and design, construction costs and program administration. Fees shall be payable at the time of building permit issuance. (Ord. 1201 § 2 (Exh. A), 2020; Ord. 1191 § 2, 2019; Ord. 1159 §§ 13, 14, 2016; Ord. 1069 § 1, 2008; Ord. 1029 § 2 (Exh. A § 18115), 2006; Ord. 1018 § 2 (Exh. A § 18115), 2004; Ord. 950 § 2 (Exh. A § 18115), 1998.)

# EXHIBIT C





Jessica Pilling &lt;send2jess@gmail.com&gt;

## Fees?

35 messages

**Jessica Pilling** <send2jess@gmail.com>

Mon, Apr 17, 2023 at 7:44 AM

To: jfisher &lt;jfisher@healdsburg.gov&gt;

Morning Jeff,

We are finally here! Our plans are complete and being printed, and I plan to submit later today or tomorrow. I understand when I drop off the plans I need to pay a building permit fee, but I'm wondering what other fees are required before picking up the permit once it's approved?

We have 2832 total sq ft, 724 of this is attached ADU, the remainder the SFR. Can you help me figure this out?

Thanks so much,  
Jess

**Jeff Fisher** <jfisher@healdsburg.gov>

Tue, Apr 18, 2023 at 8:47 AM

To: Jessica Pilling &lt;send2jess@gmail.com&gt;

Cc: Erica Christopherson &lt;EChristopherson@healdsburg.gov&gt;

Hi Jess,

Contact Erica at our Building Dept. She can help you with the fees. I've copied her on this email.

**JEFF FISHER | Assistant Planner**

City of Healdsburg | Community Development Center

401 Grove Street, Healdsburg, CA 95448

Office: (707) 431-3332

[jfisher@healdsburg.gov](mailto:jfisher@healdsburg.gov) | [healdsburg.gov](http://healdsburg.gov)

**Building Inspection service is available Monday-Friday 8:30 to 3:00 (except City holidays)**

**City Hall Hours are Monday-Thursday 7:30am-5:30pm, Friday 8:00am-5:00pm, closed every other Friday**

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**Jessica Pilling** <send2jess@gmail.com>

Tue, Apr 18, 2023 at 10:02 AM

To: Jeff Fisher <jfisher@healdsburg.gov>

Cc: Erica Christopherson <EChristopherson@healdsburg.gov>

Great, thanks Jeff. Erica, can you please let me know what the fees would be?

Thanks,  
Jess

[Quoted text hidden]

---

**Jessica Pilling** <send2jess@gmail.com>

Tue, Apr 18, 2023 at 12:18 PM

To: Jeff Fisher <jfisher@healdsburg.gov>

Cc: Erica Christopherson <EChristopherson@healdsburg.gov>

Also, can you guys confirm we're not subject to the GMO ordinance and building allocation limit as we're building under SB9 (SFR with attached ADU)?

[Quoted text hidden]

---

**Jeff Fisher** <jfisher@healdsburg.gov>

Tue, Apr 18, 2023 at 12:22 PM

To: Jessica Pilling <send2jess@gmail.com>

Cc: Erica Christopherson <EChristopherson@healdsburg.gov>

Jess,

The City Attorney is actually reviewing that question. Check back with me in a couple weeks.

~Jeff

[Quoted text hidden]

---

**Jessica Pilling** <send2jess@gmail.com>

Tue, Apr 18, 2023 at 12:26 PM

To: Jeff Fisher <jfisher@healdsburg.gov>

Cc: Erica Christopherson <EChristopherson@healdsburg.gov>

I don't think we fall under it, especially as the ADU isn't subject to it (pretty sure) and it's attached to the house.

But if we submit our plans today and then have only six months to start building from issuance of permit, that causes a problem if so.

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**Jessica Pilling** <send2jess@gmail.com>  
To: Jeff Fisher <jfisher@healdsburg.gov>  
Cc: Erica Christopherson <EChristopherson@healdsburg.gov>

Tue, Apr 18, 2023 at 12:27 PM

Are there still spaces available if needed?

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---

**Jeff Fisher** <jfisher@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>  
Cc: Erica Christopherson <EChristopherson@healdsburg.gov>

Tue, Apr 18, 2023 at 12:28 PM

Yes. There are lots available.

### JEFF FISHER | Assistant Planner

City of Healdsburg | Community Development Center

401 Grove Street, Healdsburg, CA 95448

Office: (707) 431-3332

[jfisher@healdsburg.gov](mailto:jfisher@healdsburg.gov) | [healdsburg.gov](http://healdsburg.gov)



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**From:** Jessica Pilling <[send2jess@gmail.com](mailto:send2jess@gmail.com)>  
**Sent:** Tuesday, April 18, 2023 12:28 PM  
**To:** Jeff Fisher <[jfisher@healdsburg.gov](mailto:jfisher@healdsburg.gov)>  
**Cc:** Erica Christopherson <[EChristopherson@Healdsburg.gov](mailto:EChristopherson@Healdsburg.gov)>  
**Subject:** Re: Fees?

Are there still spaces available if needed?

On Tue, Apr 18, 2023, 12:26 PM Jessica Pilling <[send2jess@gmail.com](mailto:send2jess@gmail.com)> wrote:

I don't think we fall under it, especially as the ADU isn't subject to it (pretty sure) and it's attached to the house.

But if we submit our plans today and then have only six months to start building from issuance of permit, that causes a problem if so.

On Tue, Apr 18, 2023, 12:22 PM Jeff Fisher <[jfisher@healdsburg.gov](mailto:jfisher@healdsburg.gov)> wrote:

Jess,

The City Attorney is actually reviewing that question. Check back with me in a couple weeks.

~Jeff

**JEFF FISHER | Assistant Planner**

City of Healdsburg | Community Development Center

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**From:** Jessica Pilling <[send2jess@gmail.com](mailto:send2jess@gmail.com)>  
**Sent:** Tuesday, April 18, 2023 12:18 PM  
**To:** Jeff Fisher <[jfisher@Healdsburg.gov](mailto:jfisher@Healdsburg.gov)>  
**Cc:** Erica Christopherson <[EChristopherson@Healdsburg.gov](mailto:EChristopherson@Healdsburg.gov)>  
**Subject:** Re: Fees?

Also, can you guys confirm we're not subject to the GMO ordinance and building allocation limit as we're building under SB9 (SFR with attached ADU)?

On Tue, Apr 18, 2023, 10:02 AM Jessica Pilling <[send2jess@gmail.com](mailto:send2jess@gmail.com)> wrote:

Great, thanks Jeff. Erica, can you please let me know what the fees would be?

Thanks,  
Jess

On Tue, Apr 18, 2023 at 8:47 AM Jeff Fisher <[jfisher@healdsburg.gov](mailto:jfisher@healdsburg.gov)> wrote:

Hi Jess,

Contact Erica at our Building Dept. She can help you with the fees. I've copied her on this email.

**JEFF FISHER | Assistant Planner**

City of Healdsburg | Community Development Center

401 Grove Street, Healdsburg, CA 95448

Office: (707) 431-3332

[jfisher@healdsburg.gov](mailto:jfisher@healdsburg.gov) | [healdsburg.gov](https://healdsburg.gov)

***Building Inspection service is available Monday-Friday 8:30 to 3:00 (except City holidays)***

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**Jessica Pilling** <[send2jess@gmail.com](mailto:send2jess@gmail.com)>

Tue, Apr 18, 2023 at 12:29 PM

To: Jeff Fisher <[jfisher@healdsburg.gov](mailto:jfisher@healdsburg.gov)>

Cc: Erica Christopherson <[EChristopherson@healdsburg.gov](mailto:EChristopherson@healdsburg.gov)>

Ok, no problems then. Thanks

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**Erica Christopherson** <EChristopherson@healdsburg.gov>

Tue, Apr 18, 2023 at 1:11 PM

To: Jessica Pilling <send2jess@gmail.com>, Jeff Fisher <jfisher@healdsburg.gov>

Hi Jessica,

I just want to let you know that a building permit expires 1 year from issuance date (not 2 months, as you stated below). Additionally, a passing building inspection pushes out your expiration date 6 months (with a 3 year limit).

Best regards,

Erica Christopherson

---

**ERICA CHRISTOPHERSON | Development Services Technician II**

City of Healdsburg | Community Development Center

401 Grove Street, Healdsburg, CA 95448

Office: (707) 431-3387

[echristopherson@healdsburg.gov](mailto:echristopherson@healdsburg.gov) | [healdsburg.gov](http://healdsburg.gov)



**City Hall Hours are Monday - Thursday 7:30 am - 5:00 pm**

**Friday 8:00 am - 5:00 pm, closed every other Friday**

**Apply for Building Permits and Schedule Inspections Online!**

**\*Applications for new permits not eligible for on-line application must be submitted before 4:30 p.m.**

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**Jessica Pilling** <send2jess@gmail.com>  
To: Erica Christopherson <EChristopherson@healdsburg.gov>  
Cc: Jeff Fisher <jfisher@healdsburg.gov>

Tue, Apr 18, 2023 at 1:15 PM

Thanks, Erica. Can you let me know the fees when you get a chance?

Thanks,  
Jessica

[Quoted text hidden]

---

**Erica Christopherson** <EChristopherson@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Tue, Apr 18, 2023 at 1:23 PM

Hi Jessica,

Are you building a new single-family dwelling with an ADU or are you demoing an existing and rebuilding new? Also, I need a valuation of the project.

Thanks.

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**Building Inspection service is available Monday-Friday 8:30 to 3:00 (except City holidays)**

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**Jessica Pilling** <send2jess@gmail.com>  
To: Erica Christopherson <EChristopherson@healdsburg.gov>

Tue, Apr 18, 2023 at 1:25 PM

New SFR with attached ADU (under SB9). Project valuation is just preliminary bids at this point, but is \$300 sq ft. ADU is 724 sq ft, so \$217,200. Main house is 2108 sq ft so \$632,400.

If you can let me know not just for the building permit, but the other fees required before we can pick up the approved building permit, that would be great.

Thanks!  
Jessica



[Quoted text hidden]

---

**Jessica Pilling** <send2jess@gmail.com>

Wed, Apr 19, 2023 at 8:31 AM

To: Erica Christopherson <EChristopherson@healdsburg.gov>

Morning Erica,

Any update on the fees?

Thank you,  
Jessica

[Quoted text hidden]

---

**Erica Christopherson** <EChristopherson@healdsburg.gov>

Wed, Apr 19, 2023 at 8:32 AM

To: Jessica Pilling <send2jess@gmail.com>

Good morning Jessica,

I can provide you with a rough estimation for your project outlined below, please keep in mind I am not able to calculate plan review, new utility cost, or impact fees, that will be added when plans have been submitted and reviewed.

Rough project estimated building permit cost is \$20,000.

I hope this helps.

Kind regards,

[Quoted text hidden]

---

**Jessica Pilling** <send2jess@gmail.com>

Wed, Apr 19, 2023 at 8:35 AM

To: Erica Christopherson <EChristopherson@healdsburg.gov>

Hi Erica,

Is that due when we submit our plans? Can you show me how you came up with that?

Also, are the other fees you listed the only fees due upon pick up?

Thank you,  
Jessica

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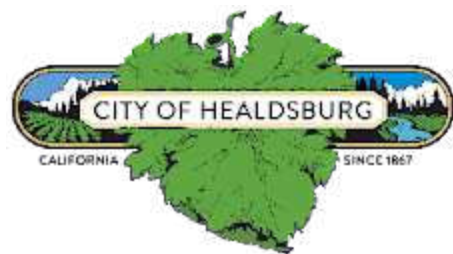
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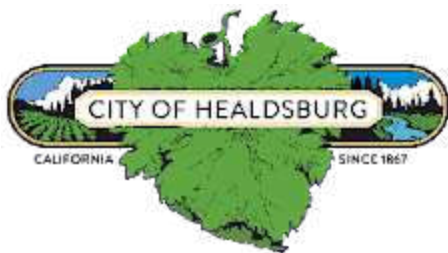


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**Jessica Pilling** <send2jess@gmail.com>

Wed, Apr 19, 2023 at 8:38 AM

To: jfisher <jfisher@healdsburg.gov>

Hey Jeff,

Erica can't specify any fees it seems. Can you please clarify for me? I need to know what's due when I drop off the plans and what is due when I pick up the approved permit. I need to coordinate with the bank and our savings account.

SQ footage in total is 2832. 724 SQ ft is ADU, rest is main house. We are not in area A.

Thanks,  
Jess

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#### 12 attachments



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**Jessica Pilling** <send2jess@gmail.com>  
To: jfisher <jfisher@healdsburg.gov>

Wed, Apr 19, 2023 at 8:40 AM

Also valuation is \$300/SQ ft.

[Quoted text hidden]

---

**Jessica Pilling** <send2jess@gmail.com>  
To: jfisher <jfisher@healdsburg.gov>

Wed, Apr 19, 2023 at 9:14 AM

We can come in person to figure it out also around 11:30 if that works? We would like to submit the plans but need to make sure our funding is all in line.

Thanks,  
Jess

[Quoted text hidden]

---

**Jeff Fisher** <jfisher@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Wed, Apr 19, 2023 at 9:15 AM

Sure, you can in and talk to Erica. I don't get involved in building permit fees. I only do Planning stuff. I'm sure you'll get it worked out with Erica.

#### **JEFF FISHER | Assistant Planner**

City of Healdsburg | Community Development Center

401 Grove Street, Healdsburg, CA 95448

Office: (707) 431-3332

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**Building Inspection service is available Monday-Friday 8:30 to 3:00 (except City holidays)**

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**City Hall Hours are Monday - Thursday 7:30 am - 5:00 pm**

**Friday 8:00 am - 5:00 pm, closed every other Friday**

**[Apply for Building Permits and Schedule Inspections Online!](#)**

***\*Applications for new permits not eligible for on-line application must be submitted before 4:30 p.m.***

---

**From:** Jessica Pilling <[send2jess@gmail.com](mailto:send2jess@gmail.com)>

**Sent:** Tuesday, April 18, 2023 1:26 PM

**To:** Erica Christopherson <[EChristopherson@Healdsburg.gov](mailto:EChristopherson@Healdsburg.gov)>

**Subject:** Re: Fees?

New SFR with attached ADU (under SB9). Project valuation is just preliminary bids at this point, but is \$300 sq ft. ADU is 724 sq ft, so \$217,200. Main house is 2108 sq ft so \$632,400.

If you can let me know not just for the building permit, but the other fees required before we can pick up the approved building permit, that would be great.

Thanks!

Jessica

On Tue, Apr 18, 2023 at 1:23 PM Erica Christopherson <[EChristopherson@healdsburg.gov](mailto:EChristopherson@healdsburg.gov)> wrote:

Hi Jessica,

Are you building a new single-family dwelling with an ADU or are you demoing an existing and rebuilding new? Also, I need a valuation of the project.

Thanks.

Erica Christopherson

---

**ERICA CHRISTOPHERSON | Development Services Technician II**

City of Healdsburg | Community Development Center

401 Grove Street, Healdsburg, CA 95448

Office: (707) 431-3387

[echristopherson@healdsburg.gov](mailto:echristopherson@healdsburg.gov) | [healdsburg.gov](https://healdsburg.gov)

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**To:** Erica Christopherson <[EChristopherson@Healdsburg.gov](mailto:EChristopherson@Healdsburg.gov)>  
**Cc:** Jeff Fisher <[jfisher@Healdsburg.gov](mailto:jfisher@Healdsburg.gov)>  
**Subject:** Re: Fees?

Thanks, Erica. Can you let me know the fees when you get a chance?

Thanks,

Jessica

On Tue, Apr 18, 2023 at 1:11 PM Erica Christopherson <[EChristopherson@healdsburg.gov](mailto:EChristopherson@healdsburg.gov)> wrote:

Hi Jessica,

I just want to let you know that a building permit expires 1 year from issuance date (not 2 months, as you stated below). Additionally, a passing building inspection pushes out your expiration date 6 months (with a 3 year limit).

Best regards,

Erica Christopherson

---

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---

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Wed, Apr 19, 2023 at 9:24 AM

To: Jeff Fisher <jfisher@healdsburg.gov>

She's already said she doesn't know any of the fees beyond 20k to drop off (which is 10k higher than I saw when I looked online.)

Is there someone who can help me with this? Surely people need to know amounts for planning purposes. Online it says to contact planning.

[Quoted text hidden]

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**12 attachments**



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**image003.png**  
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**image004.png**  
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image001.png

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1K

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Wed, Apr 19, 2023 at 9:28 AM

To: Jeff Fisher &lt;jfisher@healdsburg.gov&gt;

Here's what I've found online, but it is from 2018.

**DUE WITH APPLICATION FOR BUILDING PERMIT:****Planning Department Approvals**

The applicant shall obtain all necessary planning approvals prior to issuance of the building permit. Planning approvals may include:

- \$ 537 - Minor design review
- \$1,612 - Major design review
- \$ 530.40 - Growth management allocation

**Building Department Plan Check & Inspection**

- Varies - Building permit plan review & inspection fee is dependent on the valuation of the proposed work and type of structure (per the California Building Code)
- \$1,800 - Geotechnical peer review by the City Geologist (applies if property is within an identified area of geologic instability)

**DUE PRIOR TO ISSUANCE OF BUILDING PERMIT:****In-Lieu Housing Fees**

- Varies - Contact Planning Department at 707/431-3348 for information

**Fire System Plan Check & Inspection**

- Varies - Fire system plan review & inspection fee is dependent on type of inspection (see Fire Department fee schedule on the City's website under Fire Department / Fire Prevention page)

**Public Works Plan Check & Inspection**

- Varies - Plan review & inspection fee is based on the valuation of the proposed site improvements

**Electrical Development Impact Fees<sup>(1)</sup>**

- \$975 (up to 125 amps) **or**
- \$1,473 (up to 200 amps) **or**
- \$2,925 (up to 400 amps)

**Fire System Development Impact Fees<sup>(1)</sup>**

- \$193 - Fire System

**Public Works Development Impact Fees<sup>(1)</sup>**

- \$ 6,386- Water System Capacity<sup>(1)(2016)</sup>
- \$ 10,591 - Sewer System Capacity<sup>(1)(2016)</sup>
- \$ 3,108- Streets & Traffic Controls
- \$ 3,108 - Park System
- \$ 3,348 - Storm Drain System

**Water Meter Install Fee (per meter)**

Meter Size	1" or smaller	1.5"	2"	3"	4"
Fee	\$474	\$779	\$1,006	\$3,129	\$4,692

**School District Fees**

New dwelling units and additions over 500 sq-ft are subject to school fees that are paid directly to the school district (forms are available from the Building Department). Please contact the Healdsburg Unified School District office at 707/431-3407 for more information.

- \$2.97 per sq-ft **or** \$5.25 per sq-ft (properties within Area A)

Single Family 2/2016

**DUE PRIOR TO CONSTRUCTION OF SITE IMPROVEMENTS:****Public Works Encroachment Permit**

City encroachment permit required for all work within the right-of-way or City easements.

- \$129 - Processing fee
- Varies - Plan review & inspection fee is based on time required to inspect the public improvements

**NOTES:**

- All City fees, deposits and charges are subject to change in accordance with the City Code.

(1) Fee eligible for deferral program. See fee deferral handout.

[Quoted text hidden]

**Jeff Fisher** <jfisher@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Wed, Apr 19, 2023 at 9:38 AM

Are you referring to Planning applications? Like design review? Other than that, I won't charge you anything except my hourly rate for building permit plan review, which should only be a couple hundred dollars at the most.

And as we discussed earlier, we cannot require design review applications for SB9 projects. And I'm not sure about GMO applications. If it is required, that fee is \$946.12.

**JEFF FISHER | Assistant Planner**

City of Healdsburg | Community Development Center

401 Grove Street, Healdsburg, CA 95448

Office: (707) 431-3332

[jfisher@healdsburg.gov](mailto:jfisher@healdsburg.gov) | [healdsburg.gov](http://healdsburg.gov)



**Building Inspection service is available Monday-Friday 8:30 to 3:00 (except City holidays)**

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Is there someone who can help me with this? Surely people need to know amounts for planning purposes. Online it says to contact planning.

On Wed, Apr 19, 2023, 9:15 AM Jeff Fisher <jfisher@healdsburg.gov> wrote:

Sure, you can in and talk to Erica. I don't get involved in building permit fees. I only do Planning stuff. I'm sure you'll get it worked out with Erica.

**JEFF FISHER | Assistant Planner**

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**Building Inspection service is available Monday-Friday 8:30 to 3:00 (except City holidays)**

[Quoted text hidden]

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**Jessica Pilling** <send2jess@gmail.com>

Wed, Apr 19, 2023 at 10:15 AM

To: Jeff Fisher <jfisher@healdsburg.gov>

That's great re your stuff. What about In-lieu fees? Do we have to pay those? And the impact fees, etc - how do we get those determined? It seems like we could have to be prepared to pay upwards of 50k when we pick up the permit, so I need to be able to coordinate with the bank. Who can tell me if it's not your domain?

Thanks!

[Quoted text hidden]

---

**Jeff Fisher** <jfisher@healdsburg.gov>

Wed, Apr 19, 2023 at 10:19 AM

To: Jessica Pilling <send2jess@gmail.com>

In-lieu fees attached. Erica said she will email you shortly

[Quoted text hidden]

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 **DOC004.PDF**  
56K

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**Jessica Pilling** <send2jess@gmail.com>

Wed, Apr 19, 2023 at 10:26 AM

To: Jeff Fisher <jfisher@healdsburg.gov>

Thanks re Erica. Hopefully she will have more info than before. Think you attached the wrong attachment. Are we subject to in-lieu fees or is that just developers?

[Quoted text hidden]

---

**Erica Christopherson** <EChristopherson@healdsburg.gov>

Wed, Apr 19, 2023 at 10:26 AM

To: Jessica Pilling <send2jess@gmail.com>

Hi Jessica,

Upon permit submittal a Building Permit Plan Review Fee will be due. I can tell you that fee would be if everything you provided me below is exactly what you submit, it would be \$6,600.

Please let me know if you have any additional questions.

[Quoted text hidden]

---

**Jeff Fisher** <jfisher@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Wed, Apr 19, 2023 at 10:28 AM

Those fees are for everyone. Check the square footage of your new house and you'll find the corresponding fee.

[Quoted text hidden]

---

**Jessica Pilling** <send2jess@gmail.com>  
To: Jeff Fisher <jfisher@healdsburg.gov>

Wed, Apr 19, 2023 at 10:28 AM

Ok. Can you please reattach? You sent me something for 1583 Clear Ridge by accident.

[Quoted text hidden]

---

**Jeff Fisher** <jfisher@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Wed, Apr 19, 2023 at 10:36 AM

Sorry about that. See attached.

[Quoted text hidden]

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 **DOC000.pdf**  
368K

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**Erica Christopherson** <EChristopherson@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>  
Cc: Jeff Fisher <jfisher@healdsburg.gov>

Wed, Apr 19, 2023 at 10:36 AM

Hi Jessica,

You will need to reach out to Public Works and City Electric Departments for additional fee information. Contact info below.

Public Works - Curt Bates – [cbates@healdsburg.gov](mailto:cbates@healdsburg.gov)

Electric Utility – Randy Long – [rlong@healdsburg.gov](mailto:rlong@healdsburg.gov)

[Quoted text hidden]

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**Jessica Pilling** <send2jess@gmail.com>  
To: Jeff Fisher <jfisher@healdsburg.gov>

Wed, Apr 19, 2023 at 10:56 AM

Thanks. I don't see how we apply as it specifies 'for sale' and 'for rent' and we are building to live in it. Who charges the fee? Planning dept? Or who would I talk to about that?

[Quoted text hidden]

---

**Jeff Fisher** <jfisher@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Wed, Apr 19, 2023 at 11:01 AM

For sale housing is the same if you're going to live in it. The Planning Dept imposes that fee.

[Quoted text hidden]

---

**Jessica Pilling** <send2jess@gmail.com>

Wed, Apr 19, 2023 at 11:33 AM

To: Jeff Fisher <jfisher@healdsburg.gov>

Wow. So I have to pay \$41,206 to the city (in addition to tens of thousands of other fees) for a 2,108 sq ft build (the ADU is exempt) to fund other affordable housing projects? (The people actually creating housing have to pay for more housing? Tell me how this makes sense.) This is prohibitive. This is 6.5% of our total cost to build the house at \$300/sq ft. I am going to rent it out in that case, and pay the \$4,140 instead (which is still outrageous). The city complains on end about the lack of housing, yet this is exactly why nobody is able to build.

[Quoted text hidden]

---

**Jessica Pilling** <send2jess@gmail.com>

Tue, Aug 8, 2023 at 12:59 PM

To: Erica Christopherson <EChristopherson@healdsburg.gov>

Hi Erica,

Just checking in on the timing. Has our building permit been "issued" yet? We are still working on our financing so are not able to pay the fees to pick it up yet. Just making sure we understand deadlines here so we don't miss anything. I know you said below that the building permit expires 1 year from issuance date. Is that when we pick it up? How long do we have to pick it up?

Thank you,  
Jessica

On Tue, Apr 18, 2023 at 1:11 PM Erica Christopherson <EChristopherson@healdsburg.gov> wrote:

[Quoted text hidden]

## City of Healdsburg

## Inclusionary Housing Ordinance Fee Requirements

All residential units and residential units in mixed use projects are subject to Healdsburg's Inclusionary Housing Ordinance requirements. For those units subject to a fee, the following applies.

**New Residential Dwelling Unit**

A new residential dwelling unit is subject to the in-lieu fee in effect when the building permit is issued, no matter when the project was approved. In-lieu fees are based on occupiable dwelling unit square footage, are shown on the City's fee schedule and may change annually in July when the City revises its fees based on a standard index.

**New Replacement Residential Dwelling Unit**

A new residential dwelling unit replacing a residential unit that was demolished or destroyed by fire or natural disaster within 5 years prior to application for a building permit for the new dwelling unit is subject to a fee per square foot if the replacement unit is more than 850 square feet larger than the original dwelling unit. A per square foot fee will apply for each square foot greater than 850. The fee per square foot (\$18.73 for for-sale and \$6.73 for rental units) is shown on the City's fee schedule and may change annually in July when the City revises its fees based on a standard index. A new residential dwelling unit replacing a residential unit that was demolished or destroyed by fire or natural disaster more than five years from the application for a building permit for the replacement unit is subject to the in-lieu fee in effect when the building permit is issued.

Example:

A 1,300 square foot house was demolished in 2018. In 2019, the owner applies for a building permit for a new, 2,500 square foot house. The replacement house is 1,200 square feet larger than the original house; this is 350 square feet larger than 850, so the fee is \$5,845 (350 square feet x \$16.70). There is no 50% discount.

**Addition to an Existing Residential Dwelling Unit**

Additions to an existing residential dwelling unit of more than 850 square feet are subject to a fee per square foot. A per square foot fee will apply for each square foot greater than 850. The fee per square foot (\$18.73 for for-sale and \$6.73 for rental units) is shown on the City's fee schedule and may change annually in July when the City revises its fees based on a standard index.

Example:

An owner of an existing 1,200 square foot home wishes to build a 950 square foot addition. This is 100 square feet more than 850, so the fee is \$1,670 (100 square feet x \$16.70). There is no 50% discount.

**Condominium Conversions**

Apartment conversion to condominiums would pay the difference in fees prior to recordation of the final map.



**CITY OF HEALDSBURG****Additional fees charged by the City****July 1, 2022**

The items on this page are approved fees, charges or rates, however they are not for services and thus are not included in the Master Fee Schedule.

**This schedule is meant to be a resource for City Staff only and is not a complete list of fees and penalties.**

<b>Service/Activity Category &amp; Description</b>	<b>Fee</b>
<b>Business License Fees, Healdsburg Municipal Code Section 5.04.090</b>	Refer to code section
<b>Transient Occupancy Tax (TOT), Healdsburg Municipal Code Section 3.12.010</b>	Refer to code section
<b>Utility Rates, Resolution 34-2016 water and sewer, and Resolution 9-2016 electric</b>	Refer to resolutions
<b>Building without a Permit, Ordinance 1158</b>	Two times the amount of normal permit
<b>Code Violations, Ordinance 985, 996 and 1194</b>	Refer to ordinances
<b>Quimby Fees In-Lieu, Ordinance 1085</b>	Refer to ordinance
<b>Hydrant Meter Deposit for Equipment Rentals</b>	\$415.00
<b>Parking In-Lieu, Resolution 87-2015</b>	
<b>New construction</b>	\$17,144.66
<b>Change of Use</b>	\$7,091.08
<b>Inclusionary Housing In-Lieu Fee, Resolution 81-2019, Ordinance 1191 (Rescinded Resolution 116-2005)</b>	
<b>For-Sale Housing</b>	
Fee per Unit, per square foot	\$18.73
Unit Size Range (square foot)	
0-850 square feet	\$0.00
851-900 square feet	\$8,428.50
901-950 square feet	\$8,896.75
951-1,000 square feet	\$9,365.00
1,001-1,050 square feet	\$9,833.25
1,151-1,100 square feet	\$10,301.50
1,101-1,150 square feet	\$10,769.75
1,151-1,200 square feet	\$11,238.00
1,201-1,250 square feet	\$23,412.50
1,251-1,300 square feet	\$24,349.00
1,301-1,350 square feet	\$25,285.50
1,351-1,400 square feet	\$26,222.00
1,401-1,450 square feet	\$27,158.50
1,451-1,500 square feet	\$28,095.00
1,501-1,550 square feet	\$29,031.50
1,551-1,600 square feet	\$29,968.00
1,601-1,650 square feet	\$30,904.50
1,651-1,700 square feet	\$31,841.00
1,701-1,750 square feet	\$32,777.50
1,751-1,800 square feet	\$33,714.00
1,801-1,850 square feet	\$34,650.50
1,851-1,900 square feet	\$35,587.00
1,901-1,950 square feet	\$36,523.50
1,951-2,000 square feet	\$37,460.00
2,001-2,050 square feet	\$38,396.50
2,051-2,100 square feet	\$39,333.00
2,101-2,150 square feet	\$40,269.50



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<b>Service/Activity Category &amp; Description</b>	<b>Fee</b>
2,151-2,200 square feet	\$41,206.00
2,201-2,250 square feet	\$42,142.50
2,251-2,300 square feet	\$43,079.00
2,301-2,350 square feet	\$44,015.50
2,351-2,400 square feet	\$44,952.00
2,401-2,450 square feet	\$45,888.50
2,451-2,500 square feet	\$46,825.00
Above 2,500	\$46,825.00
<b>Rental Housing</b>	
Fee per Unit, per square foot	\$6.90
Unit Size Range (square foot)	
0-850 square feet	\$0.00
851-900 square feet	\$3,105.00
901-950 square feet	\$3,277.50
951-1,000 square feet	\$3,450.00
1,001-1,050 square feet	\$3,622.50
1,151-1,100 square feet	\$3,795.00
1,101-1,150 square feet	\$3,967.50
1,151-1,200 square feet	\$4,140.00
Above 1,200	\$4,140.00

**Accessory Dwelling Unit Development Impact Fees, Resolution 62-2020****(Rescinded Resolutions 62-2019 and 11-2017)**

<b>Tier 1, up to 850 square feet</b>	<b>\$0.00</b>
Drainage/Storm Drain	updated with Resolution 2-2021, see below
Electric Development Fee	\$0.00
Fire	\$0.00
Park	\$0.00
Streets and Traffic	updated with Resolution 2-2021, see below
Wastewater System Capacity	\$0.00
Water System Capacity	\$0.00
<b>Tier 2, between 851 and 1,200 square feet</b>	
Drainage/Storm Drain	updated with Resolution 2-2021, see below
Electric Development Fee	Calculation
Fire	Calculation
Park	Calculation
Streets and Traffic	updated with Resolution 2-2021, see below
Wastewater System Capacity	Calculation
Water System Capacity	Calculation

Fees for Tier 2 ADUs are based on the proportionate size of the ADU as compared to the "primary unit," which may be single family or multifamily. If the ADU square footage / primary unit square footage is > 50%, a maximum of 50% of the applicable impact fee shall be charged. If the ADU square footage / primary unit square footage is < 50%, the exact proportion shall be multiplied by the single family or multiple family impact fee to determine the ADU fee. In no case will the fee be greater than 50% of the primary unit rate.

Tier 2 Fee Calculation where Primary Unit is Single Family

**CITY OF HEALDSBURG****Additional fees charged by the City****July 1, 2022**

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Service/Activity Category & Description	Fee
The ADU fees are based on the impact fees for a single family unit. See Development Impact Fees below for those fees. The calculation is (single family impact fee rate) x (ADU square footage / single family unit square footage (up to 50%)) = fee.	
Note: When an ADU is proposed within an existing single family unit or accessory structure, no water or wastewater capacity fees are charged.	
<u>Tier 2 Fee Calculation where Primary Unit is Multifamily</u>	
The ADU fees are based on impact fees for a multifamily unit. See Development Impact Fees below for those fees. Since a multifamily site generally contains more than one unit, the first step is to determine the square footage of the primary unit. The square footage of all multifamily units on or proposed on the site must be provided in order to determine the site's average unit size, which is used for the fee calculation.	
The calculation is (multifamily impact fee rate) x (ADU square footage / average square footage of all multifamily units on site (up to 50%)) = fee.	
<b>Development Impact Fees</b> (rates below reflect current annual CPI increased amount)	
<b>Electric Impact Fees, Resolution 75-1997</b>	
Electric Single Family Residential, per dwelling unit, up to 125 amp	\$975.00
Electric Single Family Residential, per dwelling unit, up to 200 amp	\$1,473.00
Electric Single Family Residential, per dwelling unit, up to 400 amp	\$2,925.00
Electric Multi-Family Residential Impact 2-8 units	\$975.00
Electric Multi-Family Residential Impact 9-50 units	\$780.00
Electric Commercial and Industrial Impact Fee, less than 600 volts	No charge
<b>Fire System Development Impact Fees, Resolution 129-2002</b>	
Fire System Development Single Family Residential Impact Fee	\$193.00
Fire System Development Multi-Family Impact Fee	\$193.00
Fire System Development Commercial and Industrial Impact Fee	\$0.15 per square foot
<b>Park Development Impact Fees, Resolution 74-1997</b>	
Park System Single Family Planned Unit Development Impact Fee	\$2,057.00
Park System Multi-Family Residential Dwelling Unit Impact Fee	\$2,057.00
Park System Commercial and Industrial Impact Fee	\$0.35 per square foot
<b>Traffic Facilities Impact Fees, Resolution 2-2021</b> (Rescinded Resolutions 74-1997 and 104-1983)	Effective 7/1/22 Effective upon the closure of the City emergency declaration for Covid-19
Residential (per dwelling unit)	
Single Family	\$3,366.30 \$4,488.75
Multi-Family	\$2,244.90 \$2,992.50
Non-Residential (per 1,000 Building Sq. Ft. or Hotel Room)	
Commercial	\$4,223.10 \$5,630.10
Office	\$5,373.90 \$7,165.20
Industrial	\$3,188.85 \$4,251.45
Hotel Room	\$1,978.20 \$2,637.60
<b>Storm Drain Facilities Impact Fees, Resolution 2-2021</b> (Rescinded Resolutions 74-1997 and 104-1983)	
Residential (per dwelling unit)	
Single Family	\$4,507.65 \$6,010.20
Multi-Family	\$1,803.90 \$2,404.50
Non-Residential (per 1,000 Building Sq. Ft. or Hotel Room)	
Commercial	\$1,202.00 \$1,682.10
Office	\$1,932.00 \$2,704.80
Industrial	\$1,846.00 \$2,584.05
Hotel Room	\$1,417.00 \$1,983.45
<b>Wastewater System Capacity Charges, Resolution 98-2013</b>	

**CITY OF HEALDSBURG****Additional fees charged by the City****July 1, 2022**

The items on this page are approved fees, charges or rates, however they are not for services and thus are not included in the Master Fee Schedule.

**This schedule is meant to be a resource for City Staff only and is not a complete list of fees and penalties.**

<b>Service/Activity Category &amp; Description</b>		<b>Fee</b>
Residential:		
Single Family (per Dwelling Unit)		\$12,233.13
Multi-Family (per Dwelling Unit)		\$11,009.16
Non -Residential:		
up to 1" meter		
	Low	\$20,430.46
	Medium	\$30,223.36
	High	\$44,716.98
1 1/2" meter		
	Low	\$40,744.03
	Medium	\$60,271.39
	High	\$89,169.32
2" meter		
	Low	\$65,219.11
	Medium	\$96,471.27
	High	\$142,725.39
3" meter		
	Low	\$122,367.71
	Medium	\$181,003.82
	High	\$267,783.63
4" meter		
	Low	\$203,989.18
	Medium	\$301,735.15
	High	\$446,397.94
Sewer Capacity Charge Formula		
Sewer Capacity Charge = Flow x [\$41.51 + \$0.0736 x BOD + \$0.0884 TSS]		
Where: Flow = Wastewater flow in gallons per day		
BOD = Biochemical oxygen demand in milligrams per liter		
TSS = Total suspended solids in milligrams per liter		
<b>Water System Capacity, Resolution 98-2013</b>		
Residential:		
Single Family (per Dwelling Unit)		\$7,375.83
Multi-Family (per Dwelling Unit)		\$4,423.95
Non -Residential:		
up to 1" meter		\$12,316.94
1 1/2" meter		\$24,563.30
2" meter		\$39,320.47
3" meter		\$73,773.70
4" meter		\$122,987.41

# EXHIBIT D



Jessica Pilling &lt;send2jess@gmail.com&gt;

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## 440 Lincoln In-lieu Housing Fee

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**Scott Duiven** <sduiven@healdsburg.gov>

Fri, Jul 14, 2023 at 2:39 PM

To: "send2jess@gmail.com" &lt;send2jess@gmail.com&gt;

Dear Ms. Pilling:

Please find the attached letter. While you and I have not communicated directly on this issue I wanted to circle back with you in regard to clarifying the applicability of the in-lieu fee to your project at 440 Lincoln Street. I also understand that you are working with Curt Bates on deferral of applicable fees and I hope that helps with the financing of your project. I understand the burden that these fees can impose on a project, particularly small projects, as we attempt to balance the overall needs of the community and implement City Council goals and policies.

If you have any questions, feel free to reach out.

Best Regards,

-Scott

---

**SCOTT DUIVEN | Community Development Director**

City of Healdsburg | Community Development Center

401 Grove Street, Healdsburg, CA 95448

Office: (707) 431-3482

[sduiven@healdsburg.gov](mailto:sduiven@healdsburg.gov) | [healdsburg.gov](http://healdsburg.gov)



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 **440 Lincoln In-lieu Housing Fee Letter.pdf**  
301K



Jessica Pilling &lt;send2jess@gmail.com&gt;

**RE: [EXTERNAL] - Re: 440 Lincoln In-lieu Housing Fee**

21 messages

**Scott Duiven** <sduiven@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Mon, Jul 31, 2023 at 1:44 PM

Hi Jessica-

Happy to, I couldn't locate it in the files I have access to so have asked a colleague to track it down. I'll forward it to you as soon as I get it.

Best Regards,

-Scott

---

**From:** Jessica Pilling <send2jess@gmail.com>  
**Sent:** Monday, July 31, 2023 10:36 AM  
**To:** Scott Duiven <sduiven@Healdsburg.gov>  
**Subject:** [EXTERNAL] - Re: 440 Lincoln In-lieu Housing Fee

**[CAUTION:]** This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Mr. Duiven,

Will you please send me a copy of the Nexus study?

Many thanks,

Jessica

On Tue, Jul 18, 2023 at 10:52 AM Jessica Pilling &lt;send2jess@gmail.com&gt; wrote:

Dear Mr. Duiven,



We appreciate your consideration and look forward to hearing from you.


Best,  
Jessica

[Quoted text hidden]

---

## 2 attachments

 **Request for Exemption 8.2.23.pdf**  
52K

 **Exhibit A.pdf**  
122K

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**Scott Duiven** <sduiven@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Wed, Aug 2, 2023 at 2:42 PM

Hi Jessica-

Sorry for not getting back to you sooner, we had to do some research on the current in-lieu fee. A nexus study was not prepared for the current housing in-lieu fee and unlike development impact fees is not required. As for an exemption, as outlined in my letter sent to you on July 14<sup>th</sup> your project is not eligible. The Inclusionary Housing Ordinance is being consistently and equitably applied to your project the same as others.

Best Regards,

-Scott

---

**SCOTT DUIVEN | Community Development Director**

City of Healdsburg | Community Development Center

401 Grove Street, Healdsburg, CA 95448

Office: (707) 431-3482 Mobile: (707) 955-9762

[sduiven@healdsburg.gov](mailto:sduiven@healdsburg.gov) | [healdsburg.gov](http://healdsburg.gov)





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**Jessica Pilling** <send2jess@gmail.com>  
To: Scott Duiven <sduiven@healdsburg.gov>

Wed, Aug 16, 2023 at 2:20 PM

Hi Scott,

Thank you for the clarification on the nexus study and sorry for the delay in getting back to you, we've been out of town. We plan to rent out the main unit and either remain in our current unit or reside in the ADU. Can you please adjust the fees accordingly?

Many thanks,  
Jessica

[Quoted text hidden]

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### 23 attachments



**image001.png**  
1K



**image002.png**  
8K



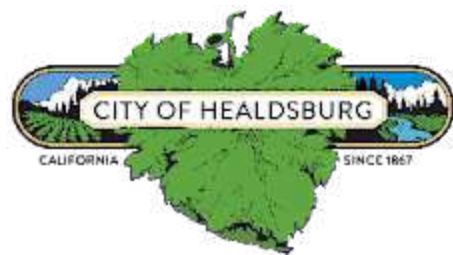
**image003.png**  
1K



**image004.png**  
2K



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**image006.png**  
16K



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9K

**Scott Duiven** <sduiven@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Thu, Aug 17, 2023 at 1:31 PM

Hi Jessica-

Your project is a single-family dwelling unit with an accessory dwelling unit. Stating that it will be rented does not qualify it as 'rental housing' for the purposes of calculating the inclusionary housing in-lieu fee. The intent of the rental housing category is for units within a multi-family project (e.g. an apartment building) which are rented and cannot be offered for sale. I cannot adjust the fee as previously assigned to your project.

[Quoted text hidden]

**Jessica Pilling** <send2jess@gmail.com>  
To: Scott Duiven <sduiven@healdsburg.gov>

Thu, Aug 17, 2023 at 2:10 PM

Hi Scott,

I read the ordinance in entirety and did not see any definitions for what constitutes 'for rent' or 'for sale.' Can you please show me where this is in the code?

Regardless, we are considered multi-family by Healdsburg's code 20.28.310 'Definitions', found at <https://www.codepublishing.com/CA/Healdsburg/html/Healdsburg20/Healdsburg2028.html#20.28.310>: "Dwelling, multi-family. A structure containing more than one dwelling unit." We are a single structure containing two dwelling units. The

purpose of SB9 is to create four units on one lot previously designated for one, creating multi-family housing, housing for multiple families. That is what we are doing. As for the definition of 'for rent', I have spoken to the State HCD and have discussed this with them. The definition of rental housing is simply a unit that is rented the majority of the year. FYI, there is no requirement that 'for rent' be an apartment building. To your statement that apartment units are rented and cannot be offered for sale, our units cannot be sold separately, either, per the ADU covenant we signed with the City of Healdsburg (attached - see #1). The covenant also notes that the ADU may be rented to a separate household independently from the occupant(s) of the primary residence (aka multi-family), see #3.

I am working within the ordinance and agreeing to pay the in-lieu fee per our multi-family rental. I think it's in both of our interests to accept that we're working within the ordinance and paying in per our project, and move on. I really don't want to have to get an attorney or the State involved further, but I will if necessary.

Thank you,  
Jessica

[Quoted text hidden]



**Pilling ADU Covenant Recorded.pdf**  
1809K

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**Jessica Pilling** <send2jess@gmail.com>  
To: sduiven@healdsburg.gov

Thu, Aug 24, 2023 at 12:58 PM

Hi Scott,

Following up.

Thank you,  
Jessica

[Quoted text hidden]

---

**Scott Duiven** <sduiven@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Thu, Aug 24, 2023 at 1:00 PM

Hi Jessica-

I am having the attorney's office review for their advice.

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

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**From:** Jessica Pilling <[send2jess@gmail.com](mailto:send2jess@gmail.com)>

[Quoted text hidden]

[Quoted text hidden]

Mon, Sep 11, 2023 at 2:53 PM

Thank you,  
Jessica  
[Quoted text hidden]

Mon, Sep 11, 2023 at 4:17 PM

Thanks,

[Quoted text hidden]

Tue, Sep 26, 2023 at 8:05 PM

Thank you,  
Jessica  
[Quoted text hidden]

Thu, Sep 28, 2023 at 3:09 PM

[Quoted text hidden]

Fri, Oct 6, 2023 at 9:30 AM

To: Jessica Pilling <send2jess@gmail.com>

Hi Jessica-

We have determined that the best method for documenting your project as a rental for the purposes of establishing the appropriate Inclusionary Housing In-lieu Fee is via a recorded deed restriction. In order to prepare that deed restriction I will need the assessor parcel number and address of the new parcel. It does not appear that you have completed your final map which you will need to have recorded in advance of building permit issuance as well. What is the status of your final map?

[Quoted text hidden]

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**Jessica Pilling** <send2jess@gmail.com>  
To: Scott Duiven <sduiven@healdsburg.gov>

Fri, Oct 6, 2023 at 10:08 AM

Hi Scott,

The final map was recorded in February and is fully complete. The APN will be issued this month by the County, and the address subsequently by the City of Healdsburg.

I'd like to see the recorded deed restrictions that every single other project that paid an inclusionary housing in-lieu fee has had to file. As you noted in your letter to me dated July 13, "the City has a duty to apply regulations equally to all applicants." Please forward them to me.

Thank you,  
Jessica

[Quoted text hidden]

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**Scott Duiven** <sduiven@healdsburg.gov>  
To: Jessica Pilling <send2jess@gmail.com>

Fri, Oct 6, 2023 at 11:13 AM

Hi Jessica-

Your project is a single-family dwelling unit with an attached accessory dwelling unit. Other single-family projects have not had to record a deed restriction because they paid the fee based on their intended use as either a for-sale or owner-occupied unit. Subsequent to the review and approval of your project you stated that you will not be selling or occupying the primary unit and that it will instead be a rental and hence should be subject to the lower fee. Your situation is unprecedented and unique and the restriction is necessary to both verify and ensure that the unit's use is consistent with the fee paid and your intended use. Should a similar situation arise in the future, we would take the same approach and require a deed restriction on the primary unit requiring that it be maintained as a rental unit and should at some future point in time the primary unit is sold or becomes owner-occupied that the difference in fee would be required.

[Quoted text hidden]

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**Jessica Pilling** <send2jess@gmail.com>  
To: Chris Pilling <pilling.christopher@gmail.com>

Fri, Oct 6, 2023 at 11:23 AM

[Quoted text hidden]

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**Jessica Pilling** <send2jess@gmail.com>  
To: Dad <tpbinca@gmail.com>

Fri, Oct 6, 2023 at 11:53 AM

My proposed reply. Thoughts?

# EXHIBIT E



## CITY OF HEALDSBURG COMMUNITY DEVELOPMENT DEPARTMENT

401 Grove Street  
Healdsburg, CA 95448-4723

Phone: (707) 431-3346  
Fax: (707) 431-2710

Visit us at [www.healdsburg.gov](http://www.healdsburg.gov)

July 14, 2023

Jessica Pilling  
440 Lincoln Street  
Healdsburg, CA 95448

*Sent via email.*

Dear Ms. Pilling:

While we have not communicated directly on this topic, I understand that you have requested clarification regarding the implementation of the City's Inclusionary Housing Ordinance ("Ordinance") and its applicability to your application for a lot split and construction of a single family residence and associated ADU located at 440 Lincoln St. ("Project"). Pursuant to Healdsburg Municipal Code ("HMC") Section 20.04.030(F), this letter is intended to provide the requested clarification and resolve any uncertainty regarding the Ordinance's application.

The Inclusionary Housing Ordinance, which is codified in HMC Section 20.20.030, serves to further important State and local housing goals by requiring that new residential development provide for or contribute to affordable housing options for Healdsburg residents. The Ordinance applies to all new residential projects and the residential component of mixed-use development projects, subject to certain exemptions. Because your Project does not fall under one of the exemptions, it is subject to the Ordinance.

The Ordinance's exemptions section makes clear its applicability to the construction of an individual single-family residence. For example, the Ordinance exempts the expansion of an existing dwelling unit of up to 850 square feet as well as the construction of a new dwelling unit of 850 square feet or less. (HMC Section 20.20.030(B)(1, 2).) An expansion greater than 850 square feet is charged an inclusionary housing fee per square foot. Given that your Project consists of a new, 2,108 square foot single-family dwelling, it neither qualifies for the expansion exemption nor the new dwelling unit square footage exemption. In addition, the Ordinance exempts the construction of a new residential structure that replaces a residential structure destroyed by fire, natural disaster, or otherwise demolished within the past five years. (HMC Section 20.20.030(B)(3).) Conversely, the construction of a residential structure that does not replace a demolished residential structure is subject to the Ordinance. The last exemption, for accessory dwelling units, means that the accessory dwelling unit portion of your Project is exempt. (HMC Section 20.20.030(B)(4).) If the Ordinance did not apply to the construction of your Project, there would be no need for these exemptions.



Lastly, the City has a duty to apply regulations equally to all applicants and has consistently applied the Ordinance to individual single-family residence applications. To not apply the Ordinance to your particular Project would result in inequitable treatment of applicants.

To conclude, the City has determined that your Project is subject to the Ordinance. Compliance can be achieved by paying the applicable inclusionary housing fee or satisfying an alternative compliance method as provided in HMC Section 20.20.030(C)(2)(b). Please note that payment of the inclusionary housing fee is due prior to building permit issuance and is not eligible for deferral or financing under HMC Chapter 17.32.

Please feel free to contact me with any additional questions or concerns.

Best Regards,

A handwritten signature in black ink that reads "Scott M. Duiven". The script is cursive and fluid.

Scott M. Duiven  
Community Development Director

# EXHIBIT F

8/2/23

Subject: Request for Project Exemption from City's Affordable Housing Ordinance

Dear Mr. Duiven,

Thank you for your email and letter. We are writing to express our concerns regarding the city's affordable housing ordinance, specifically its application in our unique circumstance, and are asking for an exemption.

The affordable housing ordinance, as we understand, was designed to ensure for-profit, market-rate developers contribute meaningfully to affordable housing. The ordinance, followed by the subsequent increase in in-lieu fees, targets developers building a substantial number of units, those who might evade the responsibility of contributing their share to affordable housing. We are concerned that the in-lieu fee is being misapplied in our situation. This is because we are subject to the restrictions of SB9, exempt from the city's GMO, eligible for this very same affordable housing we are being levied to contribute \$40,269.50 to, creating more rental units in the city, and as owner-builder Healdsburg residents, we intend to occupy the house.

When the affordable housing ordinance was enacted, SB9 was not yet in effect, and hence, its regulations were not considered. Governed by the stipulations of SB9, our project markedly differs from the traditional market-rate developments that the ordinance targets. Typical market-rate developments, constructed with the intent of immediate sale for profit, fuel an increase in speculative, for-profit development. This speculative, for-profit development can have various impacts on the housing market and the local community, including potentially driving up property prices and displacing lower-income residents as Healdsburg has borne witness to. Our project, however, diverges from this approach by prioritizing the augmentation of the local housing supply in Healdsburg without immediate profit-making motivations. SB9 mandates an owner-occupancy requirement for at least three years. This safeguard inherently encourages residents, such as ourselves, to build and live within their communities, rather than incentivizing developers seeking quick sales. If we were to abandon the project, the potential for housing development on this lot would be nullified. Considering these factors, it is evident that our project does not align with the typical profit-oriented, market-rate "for-sale" housing that the ordinance aims to regulate. Consequently, it seems clear that our project should be exempt from the ordinance designed to regulate commercial, profit-oriented market-rate for-sale housing.

Furthermore, due to SB9's restrictions, our project is exempt from the Growth Management Ordinance (GMO) per the City Attorney (see Exhibit A attached to this email). Accordingly, we are not prohibiting the building of any other affordable housing by building our home as we are not subject to the GMO's annual building limits. As the GMO was established before SB9, the exemptions outlined under the ordinance do not explicitly include projects like ours. The stated GMO exemptions apply only to "low income and affordable residential units." We are in that same category by means of exemption, yet are seemingly wrongly being levied with the in-lieu fee. In the same vein, the assumption that our project is subject to an in-lieu fee due to lack of

explicit exemption in the affordable housing ordinance, as referenced in your letter, is baseless. Additionally, as previously noted to the City, the Healdsburg ordinance references 'residential development projects' (and has historically since its inception) in its applicability. This term appears exclusively in the context of development projects subject to the affordable housing ordinance. There is no other reference to this definition elsewhere on the Healdsburg website, leading me to infer that this definition exists specifically for the application of the Ordinance. Interestingly, the term defines projects as comprising two or more units. Our project, however, involves only one unit, a single family residence (as our ADU is exempt). Therefore, if the term 'residential development projects' as stated in the Ordinance and defined by the City is meant to apply to projects of two or more units, it seems that our project is, by definition, exempt from the Ordinance.

In addition, a review of the laws enacted by our neighboring cities shows a different, unified application, with most imposing the ordinance on developments of 5+ units. Our closest neighbors, Windsor and Cloverdale, have applied the ordinance to 10+ and 5+ units, respectively. Sebastopol and Petaluma also with 5+ units. Santa Rosa, even though applying the ordinance to projects of one or more units, has included an owner/builder exemption, likely as they want to encourage residents to build and live within their community, a goal Healdsburg shares. Healdsburg appears an outlier in the application of the law.

Furthermore, our project is designed to create two additional rental units in downtown Healdsburg, our current unit and the attached ADU, thereby contributing to the city's housing availability. Unfortunately, financial constraints, including the \$40,269.50 in-lieu fee, may force us to rent out the newly constructed home in order to afford it, assuming we can even move forward with the project given the 100k price tag to pick up the building permit alone. Contrary to being for-profit developers blessed with huge budgets, developmental financial assistance, and state tax breaks, we are a young family of five constructing this project as owner-builders to limit our incurred costs. In fact, with our annual income, we ourselves are eligible for Healdsburg's affordable housing.

The Housing Element plan notes that the goal is to provide housing for all income levels, and to ensure housing production is not unduly constrained. An extra \$40,269.50 fee on our project acts as a significant constraint and seems counterintuitive to the plan's intentions. We represent the 'missing middle' worker households, a demographic that the plan specifically aims to support. Imposing a fee on our project, where we ourselves are eligible occupants, seems incongruous. Furthermore, by creating our own housing, we are not taking an affordable housing unit from the market that another family could use.

As the Housing Element notes, the city's policies and regulations, including impact fees and inclusionary housing programs, while intended to maintain service standards and support affordable housing, can inadvertently deter development by escalating costs. We understand the importance of balance and competing interests, but believe it's crucial to reassess the applicability of these constraints in different scenarios, such as ours.

The Mitigation Fee Act and the passage of AB602 mandate that the City, among other things, determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed. Given our project's uncommon circumstances, there is no reasonable relationship between the in-lieu fees and our project. Hence, we urge you to exempt our project.

We fully acknowledge the city's commitment to equitable treatment of all applicants, including those that have been levied an in-lieu fee for a single family residence in the past, despite their overlooking the specific definition of a residential development project comprising two or more units. However, we respectfully assert that an equitable application of regulations also necessitates an understanding of the distinctive circumstances associated with certain projects. Our project, specifically, is governed by SB9, imposing an owner-occupancy requirement for a minimum of three years. This stipulation significantly sets our single-family residence apart from traditional profit-oriented, market-rate for-sale housing developments. Further, as long-standing Healdsburg residents intending to live in the house we are building, we are contributing to the city's owner-occupied housing stock, which reinforces the regulations and goals of SB9, as well as those of the city. We are also creating two more rental units in town. Additionally, our project falls under the exemption from the Growth Management Ordinance (GMO) as confirmed by the city attorney (please refer to Exhibit A). Finally, our household is eligible for affordable housing, our income barely exceedin the limit for 'low-income' housing qualification, underlining that we are the demographic that the affordable housing ordinance seeks to assist rather than the profit-oriented developers it aims to regulate. By highlighting these factors, our goal is to ensure that the city's regulations are applied considering the unique circumstances of projects like ours. An exemption for our project wouldn't constitute preferential treatment or inequitable application, but rather an appropriate and nuanced application of the ordinance that respects our unique conditions. We appreciate your understanding and careful consideration of these points in this matter.

In conclusion, we kindly request your understanding and consideration of our circumstances for an exemption. Imposing the ordinance and the associated \$40,269.50 fee may inadvertently prevent us from contributing valuable housing to our community. We look forward to your response and thank you for your attention to this matter.

Sincerely,

Jessica and Christopher Pilling

# EXHIBIT G



## **CITY OF HEALDSBURG CITY COUNCIL AGENDA STAFF REPORT**

**MEETING DATE:** April 15, 2024

**SUBJECT:** Inclusionary Housing Ordinance Update

**PREPARED BY:** Ellen McDowell, Senior Planner

**STRATEGIC INITIATIVE(S):**

Establish Proactive Policies/Programs to Continue to Promote Economic Diversity & Sustainable Growth

Provide Effective Governance

---

**RECOMMENDED ACTION(S):**

1. Introduce for first reading, by title only, waiving further reading of the text, an ordinance amending Healdsburg Municipal Code Section 20.20.030 Inclusionary Housing; and Section 20.28.310 Definitions and find that the ordinance amendments are exempt from the California Environmental Quality Act (CEQA).
2. Adopt a Resolution rescinding Resolution No. 81-2019 and establishing in-lieu inclusionary housing fees as provided for in subsection 20.20.030(J) of the City of Healdsburg Land Use Code and include a 50% reduction in the in-lieu housing fee for new residential units created under SB 9.

---

**BACKGROUND:**

Inclusionary housing programs require developers of market rate residential projects to sell or rent a specified percentage of the project's units to lower-income households. Variations of this basic requirement can include off-site provision of affordable units, dedication of land, and/or payment of fees in lieu of providing affordable units.

Healdsburg's existing Inclusionary Housing Ordinance requires development projects with five or more dwelling units to include at least 20 percent of the new dwelling units to low-, moderate- or middle-income households. The requirement for the portion of a project including units for sale is 15 percent affordable to moderate-income households and five percent affordable to middle-income households. The requirement for the portion of a project including rental units is five percent affordable to low-income households and 15 percent affordable to moderate-income households. Residential development projects or mixed-use projects with four or fewer dwelling units can comply with the Inclusionary Housing Ordinance by payment of an in-lieu fee. The in-

lieu fee is due at time of building permit issuance.

The Ordinance requires residential development applicants to demonstrate how the project complies with inclusionary housing requirements upon submittal of the development application. Developers must construct inclusionary units concurrently with other project units, and the units must have a similar exterior appearance to other project units. The Ordinance requires inclusionary units to be distributed throughout a project as much as possible. Residential projects required to provide 10 or more inclusionary units must provide 10% of these as units with three or more bedrooms. Accessory dwelling units do not count as inclusionary units.

Inclusionary units are governed by affordability agreements that ensure the units' long-term affordability. These include a resale agreement for for-sale inclusionary units and an inclusionary housing agreement for rental projects. The City of Healdsburg uses the land trust model for ownership inclusionary units, whereby parcels dedicated to the City are then deeded to the Housing Land Trust, which holds the land in trust as a community benefit, leasing land to buyers and thereby helping them purchase homes.

The proposed action amending the Inclusionary Housing Ordinance clarifies that the Ordinance applies to single units, adds definitions of residential development projects to further clarify the applicability of the Ordinance, and adds language clearly restricting the rental housing rate to multi-family developments. The amendments will help ensure that the Inclusionary Housing requirements and in lieu fees are being applied equitably amongst all residential development projects.

On February 13, 2024 the Planning Commission held a public hearing and considered a Resolution for the Amendments to the Inclusionary Housing Ordinance. The Planning Commission continued the item and requested staff look into possible exemptions for single-unit projects, as well as Senate Bill 9 ("SB 9") projects.

On March 26, 2024 the Planning Commission held a public hearing and adopted a Resolution amending the Inclusionary Housing Ordinance and recommending that the City Council adopt an Ordinance making clarifying updates to the Healdsburg Municipal Code by amending sections 20.20.030: Inclusionary Housing and Section 20.28.310 Definitions. Additionally, the Commission recommended that the City Council consider a provision for a 50% reduction in the in-lieu housing fee for new residential units created under SB 9. The Resolution included in attachment 2 includes a provision for a 50% reduction in the in-lieu housing fee for new residential units created under SB 9 as well as updating the fee schedule to include the annual fee increases to the fee schedule since the initial adoption in 2019.

## **PROJECT DESCRIPTION AND ANALYSIS:**

### ***Title 20, Land Use Code, Section 20.20.030 (Inclusionary Housing)***

- **20.20.030 (A)(1)** *The recommended additional language clarifies that residential development projects comprise one or more dwelling units.*
- **20.20.030 (B)(1), (2), (3)** *The recommended additional language clarifies the*



*Ordinance's applicability to residential dwelling units and clarifies thresholds for increases in square footage.*

- **20.20.030 (C)(1), (2)** *The recommended additional language clarifies this section's applicability to single-family residential units.*
- **20.20.030 (D)(1)** *The recommended additional language makes minor clarifying edits.*
- **20.20.030 (G)** *The recommended additional language makes minor clarifying edits*
- **20.20.030 (H)(3)** *The recommended additional language clarifies this section's applicability to multi-family and single-family rental units.*
- **20.20.030(J)** *The recommended additional language clarifies that the (lower) rental housing rate would only apply to multi-family residential development projects. Multi-family rental housing would now be required to submit a deed restriction recorded with the County of Sonoma recording that the dwellings will not be owner-occupied.*

***Title 20, Land Use Code, Section 20.28.310 (Definitions)***

- **20.08.310** *The recommended amendment adds a definition for Multi-Family Rental Housing and adds clarifying language to the definition of a Residential Development Project.*

**GENERAL PLAN ANALYSIS:**

General Plan Consistency

The proposed Inclusionary Housing Ordinance amendments are consistent with the following goals, policies, and implementation measures of the General Plan:

Policy 3.8 Sustain long-term maximum rents and sale price restriction contracts on affordable housing units developed with City assistance and also on the inclusionary units provided by private developers and encourage owners of affordable housing units to preserve affordable housing units to preserve affordable housing through refinancing and the extension of affordability covenants.

Policy 4.4 Continue to require on-site production of low- and moderate-income housing units within new residential development projects consistent with the City's Inclusionary Housing Ordinance.

In addition, Housing Program 5 (1) specifies that the City continue to implement the Inclusionary Housing Ordinance and develop, act upon, and implement amendments to the Inclusionary Housing Ordinance by 2025.

**RECOMMENDATION:**

Adopt an Ordinance amending Healdsburg Municipal Code Section 20.20.030 Inclusionary Housing; and Section 20.28.310 Definitions as attached and find that adoption of the ordinance is exempt from CEQA.

Adopt a Resolution rescinding resolution No. 81-2019 and establishing in-lieu inclusionary housing fees as provided for in subsection 20.20.030(J) of the City of Healdsburg Land Use Code and include a 50% reduction in the in-lieu housing fee for new residential units created

under SB 9.

**ALTERNATIVES:**

After public comment and deliberation, the City Council may consider alternatives to address any issues raised and propose revisions to the ordinance or resolution.

**ENVIRONMENTAL REVIEW:**

The proposed amendments to the Municipal Code are exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) in that the proposed amendments will not allow for or encourage any more development than is already anticipated under the City's existing General Plan, or otherwise allow for or promote physical changes in the environment and, therefore, it can be seen with certainty that there is no possibility that the proposed amendments may have a significant effect on the environment.

Moreover, none of the CEQA exceptions apply. The Amendments will not impact any environmental resources of hazardous or critical concern. The Amendments are primarily procedural in nature with no impacts to critical resources. The Amendments will also not contribute to cumulative impacts or have a significant effect due to unusual circumstances. The Amendments make clarifying procedural changes to the municipal code and would not create unusual circumstances or contribute to cumulative impacts. Lastly, the Amendments will not impact scenic highways, will not involve hazardous waste sites, and will not impact historical resources.

**ATTACHMENT(S):**

Att 1 Inclusionary Housing Ordinance and Exhibit A

Att 2 CC Reso - Inclusionary Housing Fee Schedule

# EXHIBIT H

March 26, 2024

Dear Commissioners,

In quickly reviewing the staff report from Ms. McDowell, we would like to provide a few further thoughts below.

Ms. McDowell provided a chart of the Sonoma County Jurisdictions, but it has a number of inaccuracies that should be noted:

- 1) Not mentioned in 'Sonoma County' is the general exemption: "Residential projects that can demonstrate that they will not contribute to the demand for affordable housing in the County or adversely impact the County's ability to meet its affordable housing needs" ([https://library.municode.com/ca/sonoma\\_county/codes/code\\_of\\_ordinances?nodeId=C\\_H26SOCOZORE\\_ART89AFHOPRREIN\\_S26-89-040AFHOREREDE](https://library.municode.com/ca/sonoma_county/codes/code_of_ordinances?nodeId=C_H26SOCOZORE_ART89AFHOPRREIN_S26-89-040AFHOREREDE))
  - a) SB9 projects do not adversely impact the County's ability to meet its affordable housing needs. In Healdsburg this is also true as they are not subject to the GMO, not taking an allocated building space.
- 2) Windsor's IHO only applies to 10+ units, as we stated in our original letter, not 4, as Ms. McDowell states:
  - a) See <https://www.townofwindsor.com/DocumentCenter/View/28387/2023-2031-Housing-Element---Adopted-August-16-2023>: "As currently adopted, developers building 10 or more housing units are required to provide for affordable housing, as follows: 10 percent of units set aside for moderate-income households, 7.5 set aside for low-income households, or 5 percent set aside for very low-income households"
  - b) We also confirmed this via email with Windsor's Community Development Director on March 26, 2024:
    - i) "Hi Jessica,

You are correct, the Inclusionary Housing Ordinance, and the associated housing impact fee or in-lieu fee, is applicable to residential projects of 10 or more units.

Cheers,  
Patrick"

**Patrick N. Streeter, AICP | Community Development Director**  
Town of Windsor | 9291 Old Redwood Highway, Bldg. 400 | Windsor, CA 95492  
707 838-1000 Main via Text or Phone | 707 838-5313 Direct | 707 838-7349 Fax

[www.townofwindsor.com](http://www.townofwindsor.com)

- 3) Ms. McDowell states that Healdsburg's fees are \$37,460 for a 2,000 sq ft house (see the chart on p66 of the agenda packet with \$18.73/sq ft). This is inaccurate and outdated. The 2023-2024 fee schedule, in effect from last July, notes the fees are \$39,320 for a 2,000 sq ft house, \$19.66/sq ft as we noted at the Feb 12 meeting. You can also see this pasted below and attached. She notes the City Council will separately consider an amendment (increase) to the IHO fee schedule. As you can see, the fees are already significantly higher than anywhere else.

**CITY OF HEALDSBURG**

**Additional Fees (Impact Fees) Charged by the City**

July 1, 2023

The items on this page are approved fees, charges or rates, however they are not for services and thus are not included in the Master Fee Schedule.

**This schedule is meant to be a resource for City Staff only and is not a complete list of fees and penalties.**

Service/Activity Category & Description	Fee
1,851-1,900 square feet	\$37,354.00
1,901-1,950 square feet	\$38,337.00
1,951-2,000 square feet	\$39,320.00
2,001-2,050 square feet	\$40,303.00
2,051-2,100 square feet	\$41,286.00
2,101-2,150 square feet	\$42,269.00
2,151-2,200 square feet	\$43,252.00
2,201-2,250 square feet	\$44,235.00
2,251-2,300 square feet	\$45,218.00
2,301-2,350 square feet	\$46,201.00
2,351-2,400 square feet	\$47,184.00
2,401-2,450 square feet	\$48,167.00
2,451-2,500 square feet	\$49,150.00
Above 2,500	\$49,150.00
<b>Rental Housing</b>	
Fee per Unit, per square foot	\$7.24
Unit Size Range (square foot)	
0-850 square feet	\$0.00
851-900 square feet	\$3,258.00
901-950 square feet	\$3,439.00
951-1,000 square feet	\$3,620.00
1,001-1,050 square feet	\$3,801.00
1,151-1,100 square feet	\$3,982.00
1,101-1,150 square feet	\$4,163.00
1,151-1,200 square feet	\$4,344.00
Above 1,200	\$4,344.00

- 4) Ms. McDowell includes a column for SB9 exemption showing no exemptions in other cities. I'd like to remind you that, like Healdsburg, these Inclusionary Housing Ordinances were put into effect prior to SB9, so there would not be a stated exemption for SB9 unless they've been updated since 2022. Rather, Housing and Community Development at the State of California notified us that many municipalities issue exemptions for SB9 and directed us to write a letter expressly requesting an exemption from the City of Healdsburg. We did this, and it was immediately denied by Mr. Duiven.

Beyond the inaccuracies noted above, we feel the below is important to consider:

- 1) Crucially, the report notes that the changes requested are to “clarify” that the Ordinance applies to single units. This is false. **The definition of a ‘residential development project’ clearly states applicability to TWO or more single family dwelling units, not one.** There is no “clarifying” that two means one, it is changing the definition and language. This is being changed in direct response to us pointing this out and noting this fee clearly does not apply to our single family residence.

Further, as Mr. McKay noted on Feb 12, developers are not normal residents. Trying to apply the same to individuals as to the developers of Montage, or Saggio Hills, for example, is apples to oranges. If you look back through the history of City Council meetings and past versions of the ordinance, you will see that the intention was never to apply to single family homes:

**Section 3.** Title 20, Section 20.08.310, Definitions shall be amended to read as follows (additions underlined, deletions ~~strikethrough~~):

Multi-Family Rental Housing: a building or structure with two or more dwelling units all of which are intended for use as rented residential premises.

Residential development project: A project consisting of one ~~two~~ or more ~~single-family~~ dwelling unit(s) or lot(s), including, but not limited to single-family dwelling(s), multifamily dwelling(s), condominium(s), townhouse(s), conversion of apartments to condominium(s) and residential land subdivision(s). Residential development projects include for sale or rental units.

- 2) Similarly, changing the definition of multi-family rental housing to require that all units are intended for use as rented residential premises precludes owners from living in a unit and renting the other, as is currently allowable under the definition of multi-family housing. I would be leery of changing this definition too (and forcing a deed restriction) as it is restrictive.
- 3) The fee schedule has a column ‘for sale’ and a column ‘for rent’. There is no applicability for owner-occupied. SB9 has regulations that restrict us from selling, we are to live on the property. This should not apply in the first place to SB9 projects. Mr. Duiven has not responded to my numerous requests to show me the definitions of ‘for sale’ or ‘for rent’ in the ordinance. As you can see, there is no fee column for owner occupied.
- 4) One other general improvement you can make to the ordinance (separate from exemptions) is the time of payment for the in-lieu fee. While Commissioner Luks said on Feb 12 it would make sense to pay at the time of sale if at all, if the city is going to collect this fee prior, we urge you to consider copying Santa Rosa’s ordinance, which states “payment for a for-sale unit shall be no later than the close of escrow or one-year following the final inspection, whichever is sooner.” Right now, the payment is required to pick up the building permit, another hurdle for construction loan borrowers who have

to front the money and pay high construction loan interest on the amount for the duration of the build. It is also a catch-22 as you cannot get a loan until you have picked up the permit, yet you have to have the money to pick up the permit.

Overall, we want to remind you that SB9 has its own regulations and restrictions in place, and imposing more would be a burden. In considering further restrictions with regard to owner/builder, imposing any deed restrictions on small projects in general may nullify the project funding as banks may not fund projects with deeds, and will eliminate the possibility of building for normal people. Instead of a long-term deed restriction, perhaps the city can utilize something similar to Santa Rosa's language for a five year requirement if desired:

P. "Owner/builder" means an individual who obtains a building permit to construct a single dwelling unit on a single lot as his or her residence and who may not be issued another residential building permit as an "owner/builder" for a period of five years following the issuance of such a permit and the completion of construction of the dwelling unit authorized thereunder.

All of the proposed possible exemptions in the staff report note they would result in decreased revenue to support affordable housing. What is not stated, is that exemptions will result in an increased supply of housing, which ultimately reduces rental costs helping affordability (as Mr. Gerlach noted on Feb 12), and supports the 'missing middle'. While the affordable housing in-lieu fund may have a decrease in revenue, the 'missing middle' will have more tangible housing. Both are goals of the City of Healdsburg. SB9 is a means to support the 'missing middle'.

Instead of imposing excessive fees and deterring individuals trying to build a house in Healdsburg, where we are in a well-known housing crisis, we urge the city to encourage and incentivize SB9 building to increase the housing stock.

Sincerely,

Jessica and Chris Pilling

# EXHIBIT I





## City of Healdsburg

### Building (Residential) Permit

**Permit #:** BLDR-0105-2023  
**Issued Date:**  
**Project Address:** 440 Lincoln St  
 Healdsburg, CA 95448

**Parcel #:** 002-073-025  
**Project:**  
**Valuation:** \$849,600.00

**Description:** Build new SFD with attached ADU at 440 Lincoln St, new lot split, new address and APN to be assigned.  
**Owner:** Jessica Pilling  
**Address:** 440 Lincoln St  
 Healdsburg, CA 95448  
**Phone:** 5037760103

**Contractor:** *Owner/Builder*  
**Address:**  
**Phone:**  
**License Number:**

#### Permit Fees

Name	Amount	Paid	Due
Building Permit Plan Review Fee	\$6,583.38	\$6,583.38	\$0.00
Public Works Engineering Plan Check: \$5,001 to \$50K	\$1,204.36	\$1,204.36	\$0.00
Building Permit Base Rate Fee	\$10,128.27	\$10,128.27	\$0.00
Water Meter Install (1" or smaller) Fee	\$521.19	\$521.19	\$0.00
Fire System Development Impact Single Family Res	\$193.00	\$0.00	\$193.00
New Construct Inspect-Electrical, Residential	\$513.41	\$513.41	\$0.00
Water Meter Install (1" or smaller) Fee	\$521.19	\$521.19	\$0.00
Plan Retention Fee, Large Format Plans	\$50.61	\$50.61	\$0.00
New Construct Inspect-Plumbing, Residential	\$513.41	\$513.41	\$0.00
Electrical Development Fees SF Res pdu Impact 125amp	\$975.00	\$0.00	\$975.00
New Construct Inspect-Mechanical, Residential	\$513.41	\$513.41	\$0.00
Planning and Building Dept Hourly Rate	\$55.87	\$55.87	\$0.00
Strong Motion Instrumentation Res less 3 stories	\$110.45	\$110.45	\$0.00
Sewer Lateral Condition Assmnt Initial Video Revw	\$246.82	\$246.82	\$0.00
Plan Retention Fee, Small Format 8.5" X 11"	\$14.61	\$14.61	\$0.00
BSC (Building Standards Commission) Fee	\$34.00	\$34.00	\$0.00
In-Lieu Housing Fee	\$20,134.75	\$20,134.75	\$0.00
Single-phase 400A panel - Overhead	\$1,973.41	\$1,973.41	\$0.00
Fire Dept. Plan Review Fee	\$365.82	\$365.82	\$0.00
Park System SF Res pdu Impact Fee	\$2,057.00	\$0.00	\$2,057.00
Storm Drain Facilities Impact Fees Residential SF	\$6,500.61	\$0.00	\$6,500.61
Traffic Facilities Impact Fee Residential SF	\$4,855.01	\$0.00	\$4,855.01
Water System Capacity, SF Residential per dwelling	\$7,945.98	\$0.00	\$7,945.98
Wastewater System Capacity SF Res pdu	\$13,178.75	\$0.00	\$13,178.75
<b>Totals:</b>	<b>\$79,190.31</b>	<b>\$43,484.96</b>	<b>\$35,705.35</b>

CALL A MINIMUM OF 1 DAY IN ADVANCE FOR ALL INSPECTIONS: (707) 431-3346

- Application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing. One - 180 day extension may be granted (for full text see HMC 15.04.020).

- Permits expire and become invalid unless the work on the site authorized by such permit is commenced within 1 year after its issuance. One - 90 day extension may be granted (for full text see HMC 15.04.020).

- Maximum 3 year permit term limit: building permit construction activity is limited to a maximum term of 3 years from the date of issuance of the permit (for full text see HMC 15.04.020).

Pursuant to California Government Code Section 66020, the attached payment for the inclusionary housing fee is tendered under protest. This fee violates the doctrine of unconstitutional conditions, as it lacks an essential nexus and a rough proportionality to the impact of my development. In particular, this development does not contribute to the existing housing affordability problem in Healdsburg to which the fee is directed. On the contrary, by adding additional housing supply to be used by my own moderate-income family, my development helps to alleviate this problem.

Jessica Pilling

June Pay ~~\$124~~ 7/15/24

Included with payment for building  
permit.

BLDR-0105-2023

**JOB COPY**

**RECEIVED**

BLDR-0105-2023  
JUL 15 2024

Planning & Building Dep.  
CITY OF HEALDSBURG