

## **Ordinance No. 646**

### **An Ordinance of the City of Jackson Establishing a Resource Allocation Program Limiting Development within the City of Jackson (uncodified)**

The City Council of the City of Jackson does hereby ordain as follows:

#### **Section 1. Findings**

A. The City of Jackson is facing significant limitations on its ability to provide sewer, water, road capacity, and other infrastructure and services necessary to support the development of private property within the City,

B. It is necessary for the protection of the environment and the public health, safety and welfare of the citizens of Jackson that the timing and amount of new development allowed is consistent with the available resources and the provisions of the City General Plan,

C. It is required by both state law and city policy that road, water, and sewer capacity be available to support the construction of housing affordable to those who live and work in the City.

D. Any allocation system must accommodate those with an existing, ministerial right to develop their property the opportunity to do so before any new discretionary development approvals are allowed.

E. Based upon the above findings of fact and the evidence contained in the administrative record of the proceeding, the City Council finds and determines that the adoption of this ordinance is categorically exempt from California Environmental Quality Act under Section 15308 (Actions by Regulatory Agencies for the Protection of the Environment).

#### **Section 2. Definitions**

Affordable dwelling unit means either a “low income dwelling unit,” or a “very low income dwelling unit,” or a “moderate income dwelling unit” as defined by the State Department of Housing and Community Development.

Applicant means the person applying for discretionary review.

Development project means any project undertaken for the purpose of development, as defined in the Subdivision Map Act (Government Code sections 66410, et seq.), and shall specifically include any tentative parcel map, tentative subdivision map, final parcel map, final subdivision map, preliminary development plan, or final development plan of five or more lots.

Dwelling means a building or structure, or portion thereof, designed for residential occupancy with facilities for cooking, sleeping, and bathing; provided, however, dwelling shall not mean any building or structure designed primarily for transient residents, such as hotels or motels.

Dwelling unit means one or more rooms in a dwelling designed for occupancy by one person, or group of people, with a common entry and a common cooking facility.

HEUs means “Housing Equivalent Units,” and are an allotment made by the City in accordance with this policy which must be obtained by an applicant by allocation prior to applying for any new discretionary development.

Reasonable Certainty means that the applicant has provided documentation, to the satisfaction of the Planning Commission and City Council, which establishes that the financing necessary for the public facilities and services required to serve the development project is secured and which feasibly provides the required public facilities and services in a timely manner. In analyzing “reasonable certainty,” the Planning Commission and City Council shall consider: (a) the availability of interim capacity in existing public facilities, including an analysis of the amount of unused and unallocated capacity, and the City’s obligation to provide the unused and unallocated capacity to reasonably foreseeable future applicants or users; and (b) the availability of financing for the permanent public facilities which will serve the applicant’s development project, including an analysis of financing from the applicant and financing which will come from other development projects which benefit from the public facilities; and (c) the anticipated date of completion of construction of the permanent public facilities which will serve the applicant’s development project.

### **Section 3. Applicability and Exceptions**

The provisions of this ordinance shall apply to all new development of private property within the City, which requires discretionary approval by the Planning Commission or City Council except as specifically set forth in this section.

Exceptions:

1. Variances for existing structures;
2. Conditional Use Permits for existing structures;
3. Boundary Line Adjustments;
4. Amendments to a Planned Unit Development (PUD) or Planned Development overlay (pd) which do not increase project size, allowable level of development, or require the use of any additional water, sewer or road capacity;
5. Any discretionary action for affordable housing projects intended for very-low, low, and moderate income persons;
6. Subdivision of parcels with existing structures (i.e. subdividing duplexes parcels for individual ownership);
7. Subdivision of four or less parcels assuming the subdivision utilizes the entire property (no “remainder” lots), the intended use is consistent with the General Plan Land Use Designation and Zoning, further subdivision is prohibited, and the subdivision does not require extension of public facilities or infrastructure;

8. Expansion of community medical facilities necessary to the provision of emergency care and treatment for residents of the City;
9. Such other exceptions as the City Council may approve by resolution after a public hearing; and
10. Exceptions required by the order of a court of competent jurisdiction.

#### **Section 4. Establishment of Housing Equivalent Units**

In January of each year the City Council with recommendations from the Planning Commission shall establish by resolution the Housing Equivalent Units (HEUs) that will be available each year. HEUs would be based upon the public facility and resource constraints that exist in the City of Jackson and the status of planned infrastructure improvements. Infrastructure improvements would be those prescribed in the City's Circulation Element of the General Plan, the Amador County Regional Transportation Plan, the Amador Water Agency's Urban Water Resource Plan, and the City's Waste Water Treatment Plant Facilities Plan. Other facility and resource management plans should be used if available. Unused HEUs from previous years should be considered when establishing the current year HEUs.

As part of the HEUs establishment process, the City Council shall determine what percentage of HEUs shall be available for ministerial projects. This percentage shall be based on analysis of the likelihood that vacant properties within the City of Jackson will develop which do not require discretionary review given the historical rate of development of these types of properties.

#### **Section 5. Development Criteria for Allocation of Housing Equivalent Units**

The City Council shall also annually establish by resolution development criteria for allocation of HEUs. The development criteria will apply to projects intending to request an HEU allocation. The criteria will consist of but not be limited to the following:

- Economic benefit or detriment to the City of Jackson of the proposed project;
- Improvements to be provided as a result of the proposed development which help to alleviate existing infrastructure constraints including:
  - Road improvements to preserve or enhance levels of service,
  - Recreational amenities (especially recreational fields) for use by the public,
  - Sewer treatment plant improvements or new facilities,
  - Preservation of the environment including trees, open space, wetlands, and views from public streets and rights of way,
  - School facilities;
- Provisions of affordable and workforce housing in excess of minimum requirements ;
- Projects which in-fill around existing development;
- Site development constraints; and/or
- Sensitivity to historic features

### **Section 6. Notice of Intent to Develop Required**

Immediately following the establishment of the available annual Housing Equivalent Units and Development Criteria, the Planning Department will advertise in the local newspaper along with at least one metropolitan newspaper (i.e. Stockton Record or Sacramento Bee) availability of housing equivalent units and will begin accepting Notices of Intent to Develop.

The Notice of Intent to Develop shall be required for each project subject to this policy and seeking development approval in the calendar year specified in the developer's notice. Developers intending to apply for more than one project must complete a separate Notice of Intent to Develop for each development project. The Planning Department will work with applicants of proposed commercial developments to determine the appropriate HEU allotment to request.

Completed Notices of Intent to Develop shall be submitted to the Planning Department by March 31 of each year. Each Notice shall be signed by the property owner or his/her authorized agent. In order to meet the minimum standards required to obtain an allocation, the applicant shall provide documentation to the satisfaction of the Planning Commission and City Council that the public facilities and services required to serve the development project, including each of the elements outlined below, are (1) included in existing capacity funded by the applicant, or (2) there is reasonable certainty that the needs of the development project will be satisfied at the time that the need arises. The term "reasonable certainty" is defined in Definitions section of this document. The public facilities and services to be analyzed by the Planning Commission and City Council for each notice shall include the following information:

1. Project size (number of housing units or square footage of commercial structures, and acreage) and type of use (single-family residential, professional office, commercial, etc.);
2. Phasing (geographic and/or chronologic if over more than the applicable calendar year);
3. Number of bedrooms per housing unit or suites for commercial or office buildings;
4. Anticipated price or rental range;
5. Project amenities (private or public);
6. Public improvements (on and off-site);
7. Notice submittal date;
8. Estimated development application submittal date;
9. Number of HEUs requested (for commercial developments staff will work with the developer to determine this number);
10. A brief narrative describing how the proposed project satisfies the City Council's Development Criteria; and
11. Any other information considered pertinent by the Planning Director.

The number of HEUs requested on the Notice of Intent to Develop shall not be construed as a guarantee that the developer will either receive that number of allotments from the City Council or that the project will be approved for that number of units.

### **Section 7. Allocation of Housing Equivalent Units**

By April 30th of each year, the Planning Commission shall have reviewed all Notices of Intent to Develop submitted for consistency with the Development Criteria established by the City Council and made recommendations for the allotment of HEUs. Along with the Development Criteria, all Notices of Intent to Develop shall be reviewed to determine their impact upon the following public facilities and services:

1. The water system to be utilized (including supply source, storage, treatment, and distribution);
2. The wastewater system to be utilized (including conveyance and treatment);
3. The storm drainage system (including permanent facilities and interim ponds prior to construction of the permanent facilities);
4. The roadway system (including regional highways, streets and interchanges, transit, bikeways, local streets, traffic signals, and other public right-of-way improvements);
5. The park system (including mini parks, neighborhood parks, and community parks);
6. Public buildings (including buildings for city hall, police, fire, public works maintenance, community meeting facilities, libraries, and aquatics);
7. Police protection services and facilities;
8. Fire protection services and facilities; and
9. School facilities.

By May 31st of each year the City Council shall have reviewed all Notices of Intent to Develop submitted and the recommendations of the Planning Commission and will award an allotment of the HEUs.

The allocation of HEUs to a specific project is not a commitment in any way that the Planning Commission or City Council will eventually approve the project, nor is it a commitment by the City Council to grant additional allotments to said project in future years. Projects receiving allocations must be designed to be constructed as a complete unit with no requirement that future allotments be granted to complete the project.

### **Section 8. Entitlement Applications**

Upon receiving an allocation, developers shall submit all applications for the entitlements they are requesting no later than December 31 of the year that the developer received the allotment of HEUs. Failure to do so will result in a forfeit of their HEU allotment.

A development project that has forfeited its allotment may submit a new Notice of Intent to Develop during subsequent years notice periods, however, a prior allotment that has been forfeited is not a guarantee of return of the allotment.

Once an application has been submitted and deemed complete by the Planning Director, a project must complete the development review and entitlement process (including certification of any environmental documents) on or before December 31 of the year following the year for which the HEU was granted or said HEU allotment shall be forfeited.

Early in each calendar year the City Council shall review the status of projects with HEU allocations allotted the previous year. The City Council may, at its discretion, and with appropriate findings, extend the December 31 deadline for project approvals and forfeiture of allotments at any time. Allocations will, however, automatically expire upon expiration of the tentative parcel or subdivision map.

Projects completing the development review process within the appropriate time frame set forth above shall be considered by the City to have received the necessary allocations.

### **Section 9. Ordinance Amendment Process**

Any proposals to amend this ordinance shall require, the following actions:

1. Proposed amendments to the policy shall be reviewed at a Planning Commission public hearing. The Planning Commission shall forward a recommendation regarding the proposed amendments to the City Council;
2. The City Council shall hold a public hearing and consider Planning Commission recommendation prior to taking action on the proposed amendment; and
3. Proposed amendments to the policy shall be noticed in the local newspaper a minimum of ten days prior to the Planning Commission and the City Council public hearings.

### **Section 10. Competitive Process**

When more Housing Equivalent Units are requested than are available the City Council will determine which proposed project(s) best meet the needs of the City of Jackson and its citizens. If a competitive process is to be used proposed projects will be evaluated and ranked based upon the development criteria identified in the annual resolution adopted by the City Council, which may include, but not be limited to, the following:

- overall project quality – outstanding, good, average, below average
- environmental and site constraints
- internal and external street circulation and layout
- open space preservation
- landscaping and architectural design quality
- contribution to City facilities

- affordable/workforce housing contribution
- economic impact on the City
- environmental and historic preservation features

The project or projects with the highest ranking will receive priority for allocation use. If a higher priority project does not proceed the allocation will be made available to the next priority project.

### **Section 11. Violations of Ordinance and Penalties**

No person or entity shall construct or cause to be constructed any development on private property within the City without compliance with the terms of this ordinance. Violations of this ordinance shall be punishable as set forth in Section 1.20 of the Jackson City Code or any successor section thereto.

The foregoing ordinance was introduced and the title thereof read at the meeting of the City Council the 14th day of February, 2005, and by unanimous vote of the Council members present, further reading was waived.

On a motion by Councilmember Nunes, seconded by Councilmember Stidger, the foregoing ordinance was duly passed and adopted by the City Council of the City of Jackson at a meeting thereof held on this 28<sup>th</sup> day of February, 2005 by the following vote:

**AYES:** Lewis, Nunes, Pryor, Rodriguez, Stidger  
**NOES:** None  
**ABSENT:** Lewis  
**ABSTAIN:** None

CITY OF JACKSON

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RosaLee Pryor Escamilla, Mayor

ATTEST:

APPROVED AS TO FORM:

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Gisele L. Cangelosi, City Clerk

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Richard Holt, City Attorney