



**AGENDA**  
**CITY OF SALIDA PLANNING COMMISSION**

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**MEETING DATE:** Tuesday, August 14, 2018  
**MEETING TIME:** 6:00 p.m.  
**MEETING LOCATION:** City Council Chambers, 448 East First Street, Salida, CO

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**AGENDA SECTION:**

- I. CALL TO ORDER BY CHAIRMAN – 6:00 p.m.**
- II. ROLL CALL**
- III. UNSCHEDULED CITIZENS**
- IV. AMENDMENT(S) TO AGENDA**
- V. UPDATES**
- VI. PUBLIC HEARINGS-**

- 1. Amendment to Chapter 16, Land Use Code -** The proposed amendment is for the addition of new Article XIII - Inclusionary Housing to require standards for the provision of affordable housing in areas that are proposed for annexation, planned development overlay or subdivision; and increased density in certain zone districts when affordable housing is being provided.

City Council remanded the recommendation back to the Planning Commission at their July 17, 2018 meeting. The publication for this public hearing and the City Council public hearing on August 21, 2018 was posted in the Mountain Mail newspaper on July 30, 2018.

- |                                |                          |
|--------------------------------|--------------------------|
| A. Continue Public Hearing     | E. Public Input          |
| B. Proof of Publication        | F. Close Public Hearing  |
| C. Staff Review of Application | G. Commission Discussion |
| D. Applicant's Presentation    | H. Commission            |

- VII. UNFINISHED BUSINESS-**
- VIII. NEW BUSINESS**
- IX. COMMISSIONERS' COMMENTS**
- X. ADJOURN**



## PLANNING COMMISSION STAFF REPORT

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**MEETING DATE:** August 14, 2018

**AGENDA ITEM TITLE:** 1. Amendment to Chapter 16, Addition of new Article XIII.  
Inclusionary Housing

**AGENDA SECTION:** Public Hearing

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### **UPDATE:**

On June 25, 2018, the Planning Commission voted to recommend the Council not approve the proposed inclusionary housing ordinance, partially because of the Commission's collective belief that a linkage or impact fee would be fairer, and would generate more opportunities to develop truly affordable housing.

On July 17, 2018 a presentation was made by housing consultant Willa Williford comparing the impact of inclusionary housing requirements against linkage fees. Later that evening the City Council remanded the draft ordinance back to the Planning Commission with the direction to consider revisions to the ordinance and make a recommendation for Council consideration at their August 28 meeting.

On July 23, 2018 the Planning Commission held a work session prior to the regular meeting and informally recommended approximately twenty changes to the ordinance (see Exhibit A).

Staff has re-advertised the public hearings on the ordinance for tonight and Council's meeting of August 21, 2018. We have also extended an invitation to tonight's meeting to 17 individuals who represent our local developers and builders.

### **BACKGROUND:**

Council directed staff to prepare amendments to the Land Use and Development Code to ensure the request for affordable housing be part of future annexations and planned developments. Staff has been working with the City Attorney to prepare the amendments. We have included the provision that future major subdivisions and condominium plats of five units or more be included in the requirements.

Attached to this report is Ordinance No. 2008-33, adopted in December, 2008, which amended the code in a similar manner. The ordinance required 12% of the units proposed in an annexation to be affordable for households earning 80% or less of the Area Median Income (AMI). This ordinance also gave some options to meeting the requirements such as providing the housing in another location, paying an in-lieu fee, providing more units above 80% AMI, or less units below 80% AMI.

It appears these requirements were part of the Land Use and Development Code within Article XVI. Annexation from its adoption in December of 2008 until the code was re-adopted after an

overhaul in September, 2012. Though this section did not appear in versions of the code after 2012, the requirement did appear in annexation agreements as recently as 2016.

**DISCUSSION:**

The current draft ordinance:

- Any new annexation, planned development, condominium plats of eight (8) or more units, or major subdivisions of eight (8) or greater lots, provide 12.5% of the units as permanently affordable.
- Permanently affordable shall mean the sale price or rents shall be affordable for households earning 80% of the Area Median Income for Chaffee County.
- Affordable units within a subdivision or development shall have comparable exterior finishes and blend in with the market rate units in the development.
- The options to meeting the requirements include dedicating land within a project, or another site in Salida to the city or an approved non-profit housing organization; providing an in-lieu fee based on percent of affordable housing provided within the development; or providing fewer units at 60% or less AMI.
- Provides for density bonuses for residential projects within the C-1, R-3 and R-4 district that are required to provide affordable housing.
- Provides the program standards for the sale and resale of affordable units.
- Requires the creation of special housing fund.

Staff believes we have addressed the majority of the concerns raised by the Commission at the July 23, 2018 work session.

According to Chapter 16, a text amendment should comply with the following standards:

- (1) Consistency with Purposes. The proposed amendment shall be consistent with the purposes of this Chapter.
- (2) No Conflict with Other Provisions. The proposed amendment shall not conflict with any other applicable provisions of this Chapter, or shall repeal or amend provisions of this Chapter which are inconsistent, unreasonable or out-of-date.
- (3) Consistency with Comprehensive Plan. The proposed amendment shall be consistent with the Comprehensive Plan, shall implement a new portion of the Comprehensive Plan or shall implement portions of the Comprehensive Plan which have proven difficult to achieve under the existing provisions of this Land Use Code.
- (4) Public Health, Safety and Welfare. The proposed amendment shall preserve the public health, safety, general welfare and environment and contribute to the orderly development of the City.

**STAFF RECOMMENDATION:**

Staff believes the proposed changes to the Land Use and Development Code complies with the above standards and will help move Salida towards the goals outlined in the recent housing study (see Exhibit B).

Therefore, staff recommends the Planning Commission make a recommendation to the City Council to adopt the proposed changes to Chapter 16 by adding new Article XIII. Inclusionary Housing.

**RECOMMENDED MOTION:**

“I make a motion to recommend the City Council approve the proposed changes to Chapter 16 to add new Article XIII. Inclusionary Housing as presented by staff.”

Attachments:

Exhibit A: PC Score Sheet from July 23, 2018

Exhibit C: Housing Goals from Chaffee County Housing Needs Assessment and Strategy

Proposed ordinance adding new Article XIII. Inclusionary Housing  
Advertisement

<b>What would improve the proposed IH ordinance?</b> <b>July 23, 2018</b> Red lettering and strikeouts indicate changes made at the July 23 meeting		Planning Commission	
		Yes	No
1	Do not have City Administrator (staff) authorized to adopt or create pricing categories.	7	0
2	Do not have City Administrator (staff) responsible for accepting alternatives to providing IH.	7	0
3	Do not have City Administrator (staff) be charged with creating the administrative rules.	7	0
4	The “fee-in-lieu” price or formula should be defined in the ordinance.	7	0
5	Projects that are less than eight units should be exempt from inclusionary housing requirements.	5	2
6	Do not allow more housing units at 120% AMI as meeting the goal for housing at 80% AMI.	5	2
7	The ordinance should provide an incentive for housing at the 60% AMI level.	7	0
8	State that in-lieu funds will be deposited in dedicated housing fund to expand housing options <b>at 80% AMI or less.</b>	7	0
9	Do not allow the option to build affordable housing requirement off-site.	3	4
10	Affordable units should be equal to market rate units, in exterior quality and access to amenities.	7	0
11	State 12.5% is a MINIMUM and add incentives to build more units and/or below 80% AMI.	7	0
12	<del>Do not</del> Apply IH to major subdivisions.	7	0
13	<del>Do not</del> Apply IH to condominiums of five units or greater.	7	0
14	<del>Do not</del> Apply IH to rental apartments <b>in planned developments and annexations.</b>	7	0
15	<del>Do not</del> Have affordability requirement as “permanent” <b>for 25 years; and may be extended for an additional 25 years by the City Council after a public hearing.*</b>	5	2
16	<b>Allow additional density when affordable housing required.</b>	7	0
17	<b>Recommend to Council to continue research into linkage fees.</b>	7	0

What would improve the proposed IH ordinance?		Planning Commission	
		Yes	No
18	Have a developer forum on inclusionary housing on August 14.	7	0
19	Do not adopt inclusionary housing requirements.	3	4
20	The options for meeting the affordable housing requirements include: a. Build units within project; b. Pay in-lieu fee; c. Dedicate land off site that is appropriate for affordable housing; and d. Dedicate land within the project that is appropriate for affordable housing.	7	0
*	The Commission discussed renewal. Staff found this language in another deed restriction.		

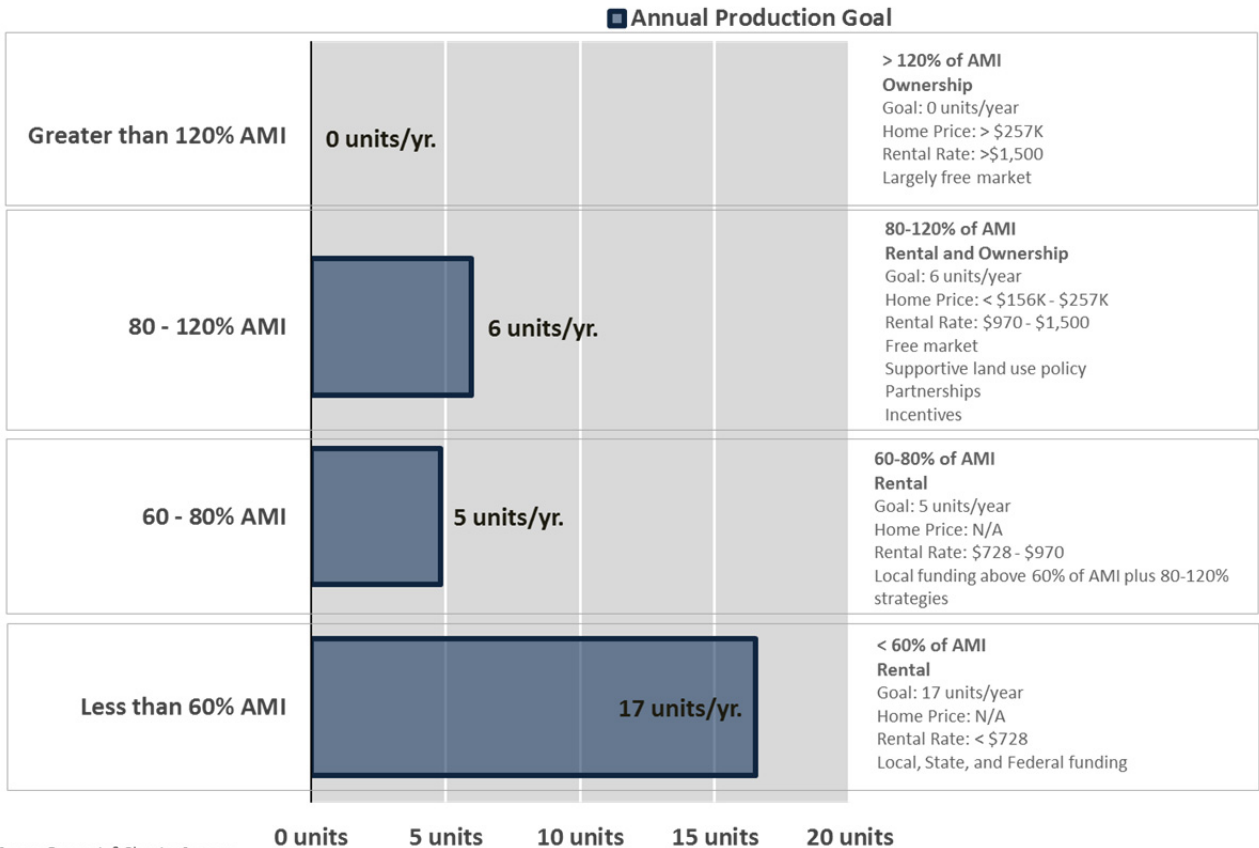
**Table 20**  
**10 Year Housing Production Goals**

AMI Level	Existing Need				Future Need					Total Annual Production
	Need	Priority	10 Year	Units/ Year	Need		Priority	10 Year	Units/ Year	
			Goal		Jobs	Households		Goal		
			10% of need					10% of need		
< 60%	1,262	Y	126	13	561	351	Y	35	4	17 units
60 - 80%	372	Y	37	4	131	82	Y	8	1	5 units
80 - 120%	462	Y	46	5	153	96	Y	10	1	6 units
>120%	330	--	0	0	44	28	--	0	0	0 units
<b>Total</b>	<b>2,426</b>		<b>243</b>	<b>22</b>	<b>889</b>	<b>556</b>		<b>53</b>	<b>5</b>	<b>27 units</b>

Source: Economic & Planning Systems

H:\163001-Chaffee County Housing Needs\Data\1 [Combined Housing Goals.xlsx] Updated 2

**Figure 22**  
**Annual Housing Production Goal by AMI Range**



Source: Economic & Planning Systems

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**ORDINANCE NO. 14**  
**(Series of 2018)**

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,  
COLORADO ADDING A NEW ARTICLE XIII TO CHAPTER SIXTEEN OF  
THE SALIDA CITY CODE REGARDING INCLUSIONARY HOUSING**

**WHEREAS**, the City of Salida, Colorado (“City”) is a statutory city, duly organized and existing under the laws of the state of Colorado; and

**WHEREAS**, pursuant to C.R.S. § 31-23-301 *et seq.*, the Salida City Council (“Council”) possesses the authority to adopt and enforce zoning regulations; and

**WHEREAS**, under such authority, the Council previously adopted land use and zoning regulations, codified as Chapter 16 of the Salida Municipal Code (“Code”); and

**WHEREAS**, pursuant to this authority, the City Council desires to adopt certain rules and regulations to address the need for a diverse and affordable housing stock within the community; and

**WHEREAS**, the Council wishes to ensure that applications for new residential and mixed-use annexations, planned developments, condominiums of eight (8) or more units and major subdivisions of eight (8) or more units shall include affordable housing;

**WHEREAS**, residential units including single-family, multi-family, duplexes and townhouses can provide a market driven affordable housing opportunity in the community; and

**WHEREAS**, the City of Salida City Council finds it in the best interest of the general health, safety and welfare of its citizens to adopt this new Article XIII to Chapter 16 of the Code concerning inclusionary housing.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE  
CITY OF SALIDA, COLORADO as follows:**

**Section One**

That a new article XIII be added to Chapter Sixteen of the City of Salida Municipal Code, concerning Land Use and Development to read as follows:

**ARTICLE XIII– Inclusionary Housing**

**Sec. 16-13-10. – Purpose and objectives.**

- (a) Promote the construction of housing that is affordable to the community's workforce;
- (b) Retain opportunities for people that work in the city to also live in the city;
- (c) Maintain a balanced community that provides housing for people of all income levels; and



- (d) Ensure that housing options continue to be available for very low-income, low-income, moderate, and middle-income residents, for special needs populations and for a significant proportion of those who work or live in the city.

**Sec. 16-13-20. – General Inclusionary Housing Requirements.**

- (a) Any application brought under the annexation or planned development sections of this Code; or condominium plats and major subdivision sections of this Code that include eight (8) or more residential units or lots is required to include at least twelve and a half percent (12.5%) of the total number of residential dwelling units as affordable dwelling units, subject to the following standards:
  - (1) The prices for sale or rents charged for affordable priced dwelling units shall not exceed a price that is affordable to a household earning eighty percent (80%) of Area Median Income (AMI) for Chaffee County as defined annually by the United States Department of Housing and Urban Development (HUD).
  - (2) Affordable dwelling units shall be restricted for a period of twenty-five (25) years, after which the City Council may extend for another term after a public hearing.
  - (3) If the calculation for inclusionary housing results in a fraction of a dwelling unit, the fraction shall be considered a whole unit.
- (b) The city administrator is authorized to adopt administrative regulations to be utilized in the enforcement of the provisions of this article.
- (c) Units designated as affordable in the project should be comparable to the market rate housing units in exterior finish and design to blend into the overall project.
- (d) **Income Eligibility Required:** No person shall sell, rent, purchase or lease an affordable dwelling unit created pursuant to this article except to a program eligible household. A private owner of a single affordable unit may rent the unit in accordance with the provisions of this article as set forth in Section 16-13-60 "Program Requirements for For-Sale Units." All sales, rentals, purchases and leases shall comply with the provisions of this article.
- (e) **Deed Restriction Required:** No person offering a affordable dwelling unit for rent or sale shall fail to lawfully reference in the grant deed conveying title of any such unit, and record with the county recorder, a covenant or declaration of restrictions in a form approved by the City. Such covenant or declaration of restrictions shall reference applicable contractual arrangements, restrictive covenants and resale restrictions as are necessary to carry out the purposes of this article.
- (f) **Good Faith Marketing Required:** All sellers or owners of affordable dwelling units shall engage in good faith marketing and public advertising efforts each time an affordable dwelling unit is rented or sold such that members of the public who are qualified to rent or purchase such units have a fair chance to become informed of the availability of such units.

- (g) Required Agreements: Those applicants creating residential developments under this chapter shall enter into an affordable housing agreement with the City Council and shall execute such restrictive covenants and additional agreements, in a form acceptable to the City, as necessary to carry out the purposes of this article. Such agreements may be part of a development agreement or subdivision agreement and shall document how the applicant will meet the requirements of this article. An applicant shall not be eligible to submit for a building permit until the affordable housing agreement and any required restrictive covenants are approved by the City Council and recorded with the Chaffee County Recorder.

**Sec. 16-13-30. – Options for Satisfaction of Inclusionary Housing Requirement.**

An applicant may seek an alternative to providing the required percentage of affordable housing under this article by any of the following methods:

- (a) Providing the required housing off-site. This may be met only through the dedication of land to the City or qualified non-profit housing developer as approved by the City, with the guarantee that the land to be dedicated will allow for, and be developed with the number of required affordable housing.
- (b) Dedicating land within the project. Land within a project may be dedicated to the City or a qualified non-profit housing developer as approved by the City. The units to be built within the project shall be comparable to the market rate housing units in exterior finish and design to blend into the overall project.
- (c) Paying a fee in lieu of providing units as defined in Section 16-13-40.
- (d) Providing fewer units, but which are affordable to households earning sixty percent (60%) or less of the AMI for Chaffee County.
- (e) Any alternatives shall be approved by agreement with the City Council as defined in Section 16-13-20 (g).

**Sec. 16-13-40. – In-Lieu Fee.**

If an applicant chooses to pay an in-lieu fee for all or part of the inclusionary housing required for the project, the fee shall be calculated as described here.

- (a) If the applicant chooses to include less than 50% of the required inclusionary housing units within the project or off-site, the in-lieu fee shall be the lessor of \$15,748 per unit or \$7.87 per livable square footage of the principal residence and accessory dwelling unit (ADU).
- (b) If the applicant chooses to provide 50% or greater of the required inclusionary housing within the project or off-site, the in-lieu fee shall be the lessor of \$7,874 per unit or \$3.94 per livable square footage of the principal residence and ADU.

**Sec. 16-13-50. – Additional Density Allowance.**

Residential development within the zoning districts of C-1, R-3 and R-4; or portions of a planned development with the underlying zoning districts of C-1, R-3 and R-4; that are subject to inclusionary housing requirements and are providing one-hundred percent (100%) of the required inclusionary housing within the development, may increase the allowed density within these districts an additional ten percent (10%), or 2,160 of lot square feet per dwelling unit for R-3 and R-4; and 2,520 of lot square feet per dwelling unit for C-1.

**Sec. 6-13-60. – Program Requirements for For-Sale Units.**

- (a) Affordable Unit Price: The prices charged for affordable priced dwelling units shall not exceed a price that is affordable to a household earning eighty percent (80%) of the Area Median Income (AMI) for Chaffee County.
- (b) Approved Purchasers for Affordable Dwelling Units: A developer or owner shall sell to a qualified purchaser after completing a good faith marketing and selection process approved by the housing administrative regulations.
- (c) Sale Restriction: No person shall sell an affordable dwelling unit except to a person that meets the income, asset and other eligibility requirements of this article or any asset and income eligibility requirement that is included in any contract, covenant or any other agreement to which the city is a party or beneficiary.
- (d) Resale Restrictions: All affordable ownership dwelling units developed under this article shall be subject to the following resale restrictions:
  - (1) Approved Purchasers: A seller of an affordable dwelling unit must select an income-eligible purchaser by a method that complies with the good faith marketing and selection process defined by the housing administrative regulations. All purchasers of affordable dwelling units shall be part of program eligible households.
  - (2) Resale Price: The resale price of any affordable dwelling unit shall not exceed the purchase price paid by the owner of that unit with the following exceptions:
    - a. Closing Costs: Customary closing costs and costs of sale as reviewed and approved by the city administrator.
    - b. Permanent Capital Improvements: Consideration of eligible permanent capital improvements installed by the seller that have been approved in advance by the city administrator in accordance with rules or administrative guidance established by the city administrator.
    - c. Resale Price: The resale price may include an inflationary factor or shared appreciation factor as applied to the original sale price pursuant to rules as may be established by the city administrator to provide for such consideration. In developing rules, the city administrator may consider the purposes of this article, common private, nonprofit and governmental lending practices, as well as any applicable rules or

guidelines issued by federal or state agencies affecting the provision or management of affordable housing. In the event that the city has not adopted rules that contemplate a particular arrangement for the use of an inflationary factor or shared appreciation factor, the city administrator is authorized to approve a resale price formula that is consistent with the purposes of this article, common private, nonprofit and governmental lending practices, as well as any applicable rules or guidelines issued by federal or state agencies affecting the provision or management of affordable housing.

(3) Special Fees: The seller of an affordable dwelling unit shall neither levy nor charge any additional fees or any finder's fee nor demand any other monetary consideration other than provided in this article.

(e) Ownership Associations: When accepting a for-sale unit as meeting the inclusionary housing obligation, the city administrator will review the condominium association declarations to assess the impact on buyers of affordable units. The city administrator is authorized to establish rules regarding allowable terms in condominium declarations in order to ensure that the purposes of this article are accomplished.

(f) Rental Restriction: The owner of an affordable unit may rent the unit to an income eligible renter by a method that complies with the good faith marketing and selection process and the lease is approved by the city administrator.

**Sec. 16-13-70. – Program Requirements for Rental Units.**

(a) Maximum Rent: Rents charged for affordable units in any one development must be affordable to households earning no more than eighty percent (80%) of the AMI.

(b) Conversion of Rental Developments to Ownership Dwelling Units. A rental development may be converted to a for-sale development. If the inclusionary housing requirement for a rental development was met with a cash-in-lieu contribution and the rental development is converted to a for-sale development within five years of the issuance of a final Certificate of Occupancy, the property owner shall pay the city the difference between the cash-in-lieu amount paid and the amount that would have been due at the time of building permit issuance for a for sale development.

**Sec. 16-13-80. – Administrative Regulations.**

To the extent the city administrator deems necessary, rules and regulations pertaining to this article will be developed and approved by the City Council, and thereby maintained and enforced in order to assure that the purposes of this article are accomplished. No person shall violate any rule or regulation issued by the city administrator under this article.

**Section Two**

The City shall create a special Affordable Housing Fund wherein all inclusionary housing in-lieu fees collected will be deposited and used for the creation and maintenance of housing

opportunities in the City of Salida for very low-income, low-income, moderate and middle-income residents, for special needs populations and for a significant proportion of those who work or live in the City.

**Section Three**

The provisions of this ordinance are severable and the invalidity of any section, phrase, clause or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

**INTRODUCED ON FIRST READING, ADOPTED and ORDERED PUBLISHED IN FULL** in a newspaper of general circulation in the City of Salida by the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2018 and set for second reading and public hearing on the \_\_\_\_ day of \_\_\_\_\_

**INTRODUCED ON SECOND READING, FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY**, by the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF SALIDA

By:

\_\_\_\_\_  
Mayor

ATTEST:

(SEAL)

\_\_\_\_\_  
City Clerk

**PUBLISHED IN FULL** in the Mountain Mail after First Reading on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and **BY TITLE ONLY, OR IN FULL**, after Final Adoption on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By:

\_\_\_\_\_  
City Clerk

**PUBLIC NOTICE  
NOTICE OF PUBLIC HEARING BEFORE  
THE PLANNING COMMISSION AND  
CITY COUNCIL FOR THE CITY OF  
SALIDA CONCERNING A PROPOSED  
AMENDMENT TO CHAPTER 16  
LAND USE AND DEVELOPMENT  
OF THE SALIDA MUNICIPAL CODE  
REGARDING INCLUSIONARY HOUSING  
REQUIREMENTS**

**TO ALL MEMBERS OF THE PUBLIC  
AND INTERESTED PERSONS: PLEASE  
TAKE NOTICE:** that on **August 14, 2018**,  
at or about the hour of 6:00 p.m., a public  
hearing will be conducted by the City of  
Salida Planning Commission at City Council  
Chambers, 448 East First Street, Suite  
190, Salida, Colorado on the additions of  
new Article XIII. Inclusionary Housing, to  
Chapter 16 of the Salida Municipal Code.  
Article XIII will require standards for the  
provision of affordable housing in areas  
that are proposed for annexation, planned  
development overlay or subdivision. The  
Planning Commission may also make  
recommendations for increased density in  
certain zone districts.

If the Planning Commission makes a  
recommendation on the proposed ordinance  
at that time, the City Council will hold a  
public hearing on **August 21, 2018** at City  
Council Chambers, 448 East First Street,  
Suite 190, Salida, Colorado.

Interested persons are encouraged to attend  
the public hearing. Further information on  
the application may be obtained from the  
Community Development Department, (719)  
530-2631.

Published in The Mountain Mail July 30,  
2018